

Agenda

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West Area Planning Committee

Date: **Tuesday 13 June 2017**

Time: **6.00 pm**

Place: **Council Chamber, Town Hall**

For any further information please contact the Committee Services Officer:

Catherine Phythian, Committee and Member Services Officer

Telephone: 01865 252402

Email: democraticservices@oxford.gov.uk

New deadline for registering to speak at a planning committee

Those wishing to speak **must register with the Committee Services Officer by noon on the working day before the meeting***, giving their name, the application/agenda item they wish to speak on, and whether they are objecting to or supporting the application.

You can register to speak:

- on-line from the agenda webpage
- by e-mail to democraticservices@oxford.gov.uk
- by telephone using the contact details on the committee agenda

* For the avoidance of doubt **noon on the working day before the meeting** means 12 noon on Monday for a Tuesday meeting; 12 noon on a Tuesday for a Wednesday meeting.

If you intend to record the meeting, it would be helpful if you speak to the Committee Services Officer before the start of the meeting.

West Area Planning Committee

Membership

Councillor Louise Upton	North;
Councillor Jamila Begum Azad	St. Clement's;
Councillor Colin Cook	Jericho and Osney;
Councillor Jean Fooks	Summertown;
Councillor Alex Hollingsworth	Carfax;
Councillor Dan Iley-Williamson	Holywell;
Councillor Tom Landell Mills	St. Margaret's;
Councillor Jennifer Pegg	Northfield Brook;
Councillor Bob Price	Hinksey Park;

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

Copies of this agenda

Reference copies are available to consult in the Town Hall Reception. Agendas are published 6 working days before the meeting and the draft minutes a few days after.

All agendas, reports and minutes are available online and can be:

- viewed on our website – mycouncil.oxford.gov.uk
- downloaded from our website
- viewed using the computers in the Customer Services, St Aldate's, or
- subscribed to electronically by registering online at mycouncil.oxford.gov.uk

AGENDA

Pages

- | | | |
|----------|---|---------|
| 1 | Apologies for absence and substitutions | |
| 2 | Election of Chair for the Council year 2017-18 | |
| 3 | Election of Vice Chair for the Council year 2017-18 | |
| 4 | Declarations of interest | |
| 5 | 17/00250/FUL: Castle Mill, Roger Dudman Way, OX1 1AF | 13 - 82 |

Site address: Castle Mill, Roger Dudman Way, OX1 1AF

Proposal: Alterations for the continued use of the buildings as student accommodation comprising: External alterations to elevations and roofs of the existing buildings; tree planting (including containers and supporting structures); alterations to, and landscaping of the courtyards; new cycle stores; alterations to existing lighting; and the formation of pedestrian pathways on the east side of Blocks 5 and 8 and the three gatehouses.

Officer recommendation:

West Area Planning Committee is recommended to grant planning permission for the reasons stated in the report and subject to the following conditions:

1. Development to commence within 6 months of date of permission in accordance with Unilateral Undertaking.
2. Develop in accordance with approved plans and specifications within the ES and supporting documents.
3. Samples of all materials.
4. Landscaping carried out by completion.
5. Submission of the Prescription Fertilization Plan.
6. Revised Construction Traffic Management Plan and Phasing Plan.
7. Securing on-site ecological expertise during construction.
8. Badger run kept free from obstruction during construction.
9. Cycle storage to provided as approved.
10. Revised Land Contamination Report.
11. Noise Assessment recommendations carried out.
12. Mitigation measures for the supression of dust during

- construction.
13. Details of sustainable urban drainage methods for hard surfacing.
 14. Details of all external lighting.

6 17/00913/FUL: Oxford City Council Depot, South Park, Cheney Lane, Oxford

83 - 96

Site address: Oxford City Council Depot, South Park, Cheney Lane, Oxford

Proposal: Erection of Visitor Centre comprising cafe/restaurant, tasting room and bar for distillery and public conveniences (Use Class A3).

Officer recommendation:

That the West Area Planning Committee resolves to grant planning permission for the reasons stated in the report and subject to the following conditions:

1. Development begun within time limit.
2. Develop in accordance with approved plans.
3. Samples in Conservation Area - Headington Hill.
4. Contaminated Land 1.
5. Contaminated Land 2.
6. Travel Plan.
7. Construction Traffic Management Plan.
8. Cycle Parking.
9. Drainage Compliance 1.
10. Drainage Compliance 2.
11. Landscape plan required.
12. Landscape carry out by completion.
13. Landscape hard surface design – tree roots.
14. Landscape underground services – tree roots.
15. Tree Protection Plan (TPP) 2.
16. Arboricultural Method Statement (AMS) 2.
17. Biodiversity enhancements.
18. Roof detailing.
19. Railing and gate detail.
20. Furniture details.
21. Lighting details.
22. Noise – mechanical plant.
23. Machinery – restricted hours.
24. Hours of use.

7 16/02998/FUL: 7 And 9 Leys Place, Oxford, OX4 3DE

97 - 110

Site address: 7 And 9 Leys Place, Oxford, OX4 3DE

Proposal: Erection of 5 x 1-bed flats and 1 x 2-bed

flat (Use Class C3). Provision of bin and cycle store.

Officer recommendation:

The West Area Planning Committee is recommended to **refuse** planning permission for the reasons stated in the report.

8 17/00858/FUL: 40 St Thomas Street, Oxford, OX1 1JP

111 - 124

Site address: 40 St Thomas Street, Oxford, OX1 1JP

Proposal: Demolition of existing building. Erection of three storey building plus basement to provide 8 x 1-bed flats and 1 x 2-bed flats (Use Class C3).

Officer recommendation:

West Area Planning Committee is recommended to **refuse** the application for the reasons stated in the report.

9 17/00718/FUL: North Oxford Garage Limited, Wolvercote Roundabout, Woodstock Road, Oxford, OX2 8JP

125 - 134

Site address: North Oxford Garage Limited, Wolvercote Roundabout, Woodstock Road, Oxford, OX2 8JP

Proposal: Refurbishment to existing BMW dealership including an extension to the workshop and new MOT facilities for bikes and cars. A new construction is proposed north of the site to comprise of new wash bay, tyre store and valeting facilities.

Officer recommendation:

West Area Planning Committee is recommended to grant planning permission for the reasons stated in the report and subject to the following conditions:

1. Development begun within time limit.
2. Develop in accordance with approved plans.
3. Materials.
4. Surface Water Drainage.
5. No external lighting.
6. Construction Traffic Management Plan.
7. Landscaping.
8. Cycle parking for customers.
9. Biodiversity.

10 17/00719/RES: Westgate Centre And Adjacent Land, OX1 1NX

135 - 142

Site address: Westgate Centre and adjacent land, OX1 1NX

Proposal: The outline planning application (13/02557/OUT) was an Environmental Impact Assessment application and an Environmental Statement was submitted. This application seeks approval of amended reserved matters for the appearance of the southern elevation of Building 4 in respect of a revised window design, including the introduction of a door.

Officer recommendation:

West Area Planning Committee is recommended to grant planning permission for the reasons stated in the report and subject to the following conditions:

1. Development begun within time limit.
2. Develop in accordance with approved plans.
3. Materials as specified.

11 17/00460/RES: Westgate Centre And Adjacent Land, OX1 1NX

143 - 150

Site address: Westgate Centre and adjacent land, OX1 1NX

Proposal: The outline planning application (13/02557/OUT) was an Environmental Impact Assessment application and an Environmental Statement was submitted. Approval of all reserved matters was granted (14/02402/RES) under condition 5 of the outline planning permission. This application seeks approval of amended reserved matters in respect of the use and internal reconfiguration of floorspace located in Building 2 (Second Floor), Building 3 (Lower Ground, Upper Ground, First and Second Floors) and Building 4 (Lower Ground and Upper Ground Floors).

Officer recommendation:

West Area Planning Committee is recommended to grant planning

permission for the reasons stated in the report and subject to the following conditions:

1. Development begun within time limit.
2. Develop in accordance with approved plans.

12 Forthcoming applications

Items for consideration by the committee at future meetings are listed for information. They are not for discussion at this meeting.

Chiltern Line - East West Rail link - all applications		
16/02689/FUL: Unither House, 15 Paradise Street, Oxford, OX1 1LD (was Cooper Callas)	Major application – reserved matters	
17/00860/FUL: Greyfriars Court, Paradise Square, Oxford, OX1 1BE		
17/00874/FUL: 1A Cranham Street Oxford Oxfordshire OX2 6DD	Called in	
17/00873/FUL: 1A Cranham Street Oxford Oxfordshire OX2 6DD	Called in	
16/02945/FUL: Oxford Business Centre Osney Lane Oxford Oxfordshire OX1 1TB	Major application	
16/02745/CT3: Seacourt Park And Ride, Botley Road, Oxford	Major application Council application	
15/03524/FUL: Oxford Spires Four Pillars Hotel, Abingdon Road, Oxford, OX1 4PS	Major application	
16/01220/FUL & 16/01221/FUL: 16 Northmoor Road, Oxford, OX2 6UP	Called in	
16/01541/FUL: The Honey Pot, 8 Hollybush Row, OX1 1JH	Non-delegated application	
17/00758/FUL: St Catherine’s College, Manor Road, Oxford, OX1 3UJ	Conservation area / major app	
17/01144/FUL: Land to The Rear Of The University Club, 11 Mansfield Road, Oxford, OX1 3SZ	Conservation area / Major development	
17/01187/FUL: Plot K, Radcliffe Observatory Quarter, Woodstock Road, Oxford, OX2 6GG	Major application	
17/01021/FUL: 53 Sunderland Avenue, Oxford, OX2 8DT		

13 Minutes

151 - 158

To approve as a true and accurate record the minutes of the meeting held on 9 May 2017.

14 Dates of future meetings

The Committee will meet at 6.00pm on the following dates:

2017	2018
11 July 2017	16 January 2018
1 August 2017	21 February 2018
12 Sept 2017	13 March 2018
10 October 2017	10 April 2018
14 November 2017	21 May 2018
12 December 2017	12 June 2018

Councillors 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. Advice on bias, predetermination and declarations of interest is available from the Monitoring Officer.

The following minimum standards of practice will be followed.

At the meeting

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 (in accordance with the rules contained in the Planning Code of Practice contained in the Council's Constitution).
2. At the meeting the Chair may 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.

Preparation of Planning Policy documents – Public Meetings

4. 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.

Public requests to speak

5. Members of the public wishing to speak must notify the Democratic Services Officer by noon on the working day before the meeting, 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 in person, via e-mail or telephone, to the Democratic Services Officer (whose details are on the front of the Committee agenda).

Written statements from the public

6. Any written statements that members of the public and Councillors wish to be considered should be sent to the planning officer by noon two working days before the day of the meeting. The planning officer will report these at the meeting. Material received from the public at the meeting will not be accepted or circulated, as Councillors are unable to view give 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. Any such material will not be displayed or shown at the meeting.

Exhibiting model and displays at the meeting

7. 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 by noon, two working days before the start of the meeting so that members can be notified.

Recording meetings

8. 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 place to record. You are not allowed to disturb the meeting and the chair will stop the meeting if they feel a recording is disruptive.
9. 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.

Meeting Etiquette

10. 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.
11. 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.

Code updated to reflect Constitution changes agreed at Council in April 2017.

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West Area Planning Committee

13th June 2017

Application Number: 17/00250/FUL

Decision Due by: 24th May 2017

Proposal: Alterations for the continued use of the buildings as student accommodation comprising: External alterations to elevations and roofs of the existing buildings; tree planting (including containers and supporting structures); alterations to, and landscaping of the courtyards; new cycle stores; alterations to existing lighting; and the formation of pedestrian pathways on the east side of Blocks 5 and 8 and the three gatehouses.

Site Address: Castle Mill, Roger Dudman Way (**site plan: appendix 1**)

Ward: Jericho And Osney Ward

Agent: Mr Nik Lyzba

Applicant: Chancellor, Masters And
Scholars Of The University
Of Oxford

Recommendation:

The West Area Planning Committee are recommended to grant planning permission for the following reasons

Reasons for Approval

- 1 It is considered that the proposed design mitigation strategy for the existing buildings will, on balance, provide some mitigation for the harm that has been caused to the significance, in particular to the settings of a number of high value heritage assets. The Environmental Statement has assessed the strategy in respect of the landscape and visual impacts, historic environmental impacts, and impacts on ecology and nature conservation and considers that there will be some beneficial effects from the measures on these matters. Similarly it is not considered to give rise to any impacts with respect to highway matters, land contamination, air quality, and archaeology and any such matters could be addressed by appropriately worded planning conditions. The proposal is considered to be acceptable in terms of the aims and objectives of the National Planning Policy Framework, and relevant policies of the Oxford Core Strategy 2026, Sites and Housing Plan 2011-2026, and Oxford Local Plan 2001-2016

- 2 In considering the application, officers have had specific regard to the comments of third parties and statutory bodies in relation to the application. However officers consider that these comments have not raised any material considerations that would warrant refusal of the applications, and any harm identified could be successfully mitigated by appropriately worded conditions.

- 3 The Council considers that the proposal accords with the policies of the development plan as summarised below. It has taken into consideration all other material matters, including matters raised in response to consultation and publicity. Any material harm that the development would otherwise give rise to can be offset by the conditions imposed.

Conditions

- 1 Development to commence within 6 months of date of permission in accordance with Unilateral Undertaking
- 2 Develop in accordance with approved plans and specifications within the ES and supporting documents
- 3 Samples of all materials
- 4 Landscaping carried out by completion
- 5 Submission of the Prescription Fertilization Plan
- 6 Revised Construction Traffic Management Plan and Phasing Plan
- 7 Securing on-site ecological expertise during construction
- 8 Badger run kept free from obstruction during construction
- 9 Cycle storage to provided as approved
- 10 Revised Land Contamination Report
- 11 Noise Assessment recommendations carried out
- 12 Mitigation measures for the suppression of dust during construction
- 13 Details of sustainable urban drainage methods for hard surfacing
- 14 Details of all external lighting

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
- CP9** - Creating Successful New Places
- CP10** - Siting Development to Meet Functional Needs
- CP11** - Landscape Design
- CP13** - Accessibility
- CP17** - Recycled Materials
- CP18** - Natural Resource Impact Analysis
- CP19** - Nuisance
- CP20** - Lighting
- CP21** - Noise
- CP22** - Contaminated Land
- CP23** - Air Quality Management Areas
- TR1** - Transport Assessment
- TR4** - Pedestrian & Cycle Facilities
- NE6** - Oxford's Watercourses

NE13 - Water Quality
NE16 - Protected Trees
NE20 - Wildlife Corridors
HE1 - Nationally Important Monuments
HE3 - Listed Buildings and Their Setting
HE7 - Conservation Areas
HE9 - High Building Areas
HE10 - View Cones of Oxford

Core Strategy

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
CS17_ - Infrastructure and developer contributions
CS18_ - Urban design, town character, historic environment
CS19_ - Community safety
CS25_ - Student accommodation

Sites and Housing Plan

MP1 - Model Policy
HP5_ - Location of Student Accommodation
HP11_ - Low Carbon Homes
HP14_ - Privacy and Daylight
HP15_ - Residential cycle parking
HP16_ - Residential car parking

Relevant Planning History

11/02881/FUL - Extension to existing student accommodation at Castle Mill to provide additional 312 postgraduate units consisting of 208 student study rooms, 90 x 1 bed graduate flats and 14 x 2 bed graduate flats, plus ancillary facilities, 360 covered cycle spaces and 3 car parking spaces. (Amended Plans): Approved 13th August 2012.

14/03013/FUL - Environmental Statement for the Roger Dudman Way Development Castle Mill.

14/03013/CONSLT - Environmental Statement Addendum and Substantive Additional Information for the Castle Mill development, Roger Dudman Way.

Public Consultation

Statutory Consultees

- Cherwell District Council: No objection

- Oxford Preservation Trust

The Trust was invited to various consultations as these proposals progressed writing to the University at the time with our thoughts. The current application is in keeping with these proposals and OPT feels they are an improvement on the present situation as the buildings will now be less starkly defined in the long views

OPT has written to the University to ask them to commit to take down the buildings after 25 years of occupation, by the end of 2040. We also asked them to agree that any subsequent redevelopment on this site be well-designed and high-quality, enhancing the setting of Port Meadow and restoring the lost view from the Meadows to the spires of Oxford

This should be made a condition of this planning application, ensuring that this harm is not everlasting and will not be repeated in the future.

- Vale Of White Horse DC: No comment

- Environment Agency Thames Region

The proposal is unlikely to have a significant impact on groundwater quality given that this site has recently been developed and assessed environmentally. However, given that an oil pollution incident occurred in April 2013 in the area of the Badger Run we would request that a condition is imposed which seeks a watching brief for unexpected contamination.

- Oxfordshire County Council

The application proposes the alterations for the continued use of the buildings as student accommodation comprising: External alterations to elevations and roofs of the existing buildings; tree planting (including containers and supporting structures); alterations to, and landscaping of the courtyards; new cycle stores; alterations to existing lighting; and the formation of pedestrian pathways on the east side of Blocks 5 and 8 and the three gatehouses. It is noted that the number of off-street car parking spaces will remain the same. The application proposes there will be new cycle stores which will increase the number cycle parking spaces by 38. These appear to be located in an appropriate and easily accessible location and must be secure, enclosed and undercover.

We note a Construction Management Plan has been submitted. However, this will need to be amended to include the restriction of deliveries (restriction times 0730 - 0930 and 1630 - 1830). In addition there has to be a commitment to undertake a dilapidation survey of the junction between Roger Dudman Way and Botley road. This will need to be agreed with the Highways authority.

Therefore the county council does not object this application subject to a condition requiring a construction traffic management plan

- Natural England: No comments to make on the application

- Department of Communities and Local Government: No comment to make on the Environmental Statement

- Historic England

Historic England has concerns regarding the application on heritage grounds. However, we do not advise changes to the designs as they have been presented, which are an improvement on the existing.

This is of course a long-running case. The team submitting the current modifications to the Castle Mill buildings, Orme and Nicholas Pearson Associates, were not involved in the original application or design, and have done what they could to deliver 'Option 1' of the possible mitigation strategies for the design shortcomings of this poor scheme. HE agree that there would be some beneficial effect from the proposals, even on the setting St Barnabas Church, Jericho, which HE have identified as having suffered substantial harm to its significance through the effect on its setting. Still, that small beneficial effect must be set against the 'high adverse' effect identified by NPA from the current design: so this set of modifications is playing around at the edges of what has happened. In the case of St Barnabas, the colour range of the buildings would come closer to the colour range of the tower itself, rendering the contrast less stark; but the contrast in colour was not the worst thing about the juxtaposition of these large and repetitive buildings with the church. Their location and scale was, and will be, the main demerit of the buildings. Over time, the planting will soften, but not remove, this problem.

HE do not believe it is realistic to press for further amelioration of a scheme which remains misconceived - however much we understand how it came to be built. As the Preservation Trust has said, we must think of the future. Seeking an assurance that the buildings will eventually be demolished is one way (and not unthinkable in view of the short life of modern buildings). But having an eye to constructive conservation, we would hope that the Council could publish an account of the process which brought the design about and how in the future this can be avoided. It behoves all of us who work in conservation not to create a web of constraints so complicated and sticky that nothing can fly at all, and yet there has to be joined-up thinking when it comes to proposing new buildings in so complex a setting as the fringe of Oxford's centre. If HE can assist in that process of moving forward, for example in relation to the definition of the Views, please let us know.

- Network Rail

Access to Railway: All roads, paths or ways providing access to any part of the railway undertaker's land both temporary and permanent, shall be kept open at all times during and after the development. The proposal must not encroach onto any Network Rail, access roads, paths or ways of access to any part of Network Rail land. This also includes emergency vehicles ability to access and exit Network Rail land.

Landscaping: Where trees/shrubs are to be planted adjacent to the railway boundary these shrubs should be positioned at a minimum distance greater than their predicted mature height from the boundary. Certain broad leaf deciduous species should not be planted adjacent to the railway boundary. We would wish to

be involved in the approval of any landscaping scheme adjacent to the railway. Where landscaping is proposed as part of an application adjacent to the railway it will be necessary for details of the landscaping to be known and approved to ensure it does not impact upon the railway infrastructure. Any hedge planted adjacent to Network Rail's boundary fencing for screening purposes should be so placed that when fully grown it does not damage the fencing or provide a means of scaling it. No hedge should prevent Network Rail from maintaining its boundary fence. Lists of trees that are permitted and those that are not are provided and should be added to any tree planting conditions:

Fencing: If not already in place, the Developer/applicant must provide at their expense a suitable trespass proof fence (of at least 1.8m in height) adjacent to Network Rail's boundary and make provision for its future maintenance and renewal without encroachment upon Network Rail land. Network Rail's existing fencing / wall must not be removed or damaged and at no point either during construction or after works are completed on site should the foundations of the fencing or wall or any embankment therein be damaged, undermined or compromised in any way. Any vegetation on Network Rail land and within Network Rail's boundary must also not be disturbed.

Drainage: Additional or increased flows of surface water should not be discharged onto Network Rail land or into Network Rail's culvert or drains. In the interest of the long-term stability of the railway, it is recommended that soakaways/attenuation tanks should not be constructed within 20 metres of Network Rail's boundary. Any surface water run-off from the site must drain away from the railway boundary and must NOT drain in the direction of the railway as this could import a risk of flooding and / or pollution onto Network Rail land.

Safety: No work should be carried out on the development site that may endanger the safe operation of the railway or the stability of Network Rail's structures and adjoining land. Care must be taken to ensure that no debris or other materials can fall onto Network Rail land.

Site Layout: It is recommended that all buildings be situated at least 2 metres from the boundary fence, to allow construction and any future maintenance work to be carried out without involving entry onto Network Rail's infrastructure. Where trees exist on Network Rail land the design of foundations close to the boundary must take into account the effects of root penetration in accordance with the Building Research Establishment's guidelines.

Excavations/Earthworks: All excavations / earthworks carried out in the vicinity of Network Rail's property / structures must be designed and executed such that no interference with the integrity of that property / structure can occur. If temporary compounds are to be located adjacent to the operational railway, these should be included in a method statement for approval by Network Rail. Prior to commencement of works, full details of excavations and earthworks to be carried out near the railway undertaker's boundary fence should be submitted for approval of the Local Planning Authority acting in consultation with the railway undertaker and the works shall only be carried out in accordance with the approved details.

Where development may affect the railway, consultation with the Asset Protection Engineer should be undertaken.

Signalling: The proposal must not interfere with or obscure any signals that may be in the area.

Environmental Issues: The design and siting of buildings should take into account the possible effects of noise and vibration and the generation of airborne dust resulting from the operation of the railway.

Plant, Scaffolding, and Cranes: Any scaffold which is to be constructed adjacent to the railway must be erected in such a manner that, at no time will any poles or cranes over-sail or fall onto the railway. All plant and scaffolding must be positioned, that in the event of failure, it will not fall on to Network Rail land.

Lighting: Any lighting associated with the development (including vehicle lights) must not interfere with the sighting of signalling apparatus and/or train drivers vision on approaching trains. The location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway

- Cripley Meadow Allotment Association

Liaison Group during Construction: On-going effective liaison is crucial throughout the construction period due to our proximity. Such a group should involve the Contractor, the University and the Allotment Association.

Construction and phasing: The phasing and construction operations were difficult to follow and presumably will change when the Contractor is appointed. CMAA members would need to be kept advised. We understand that the start is 29 August 2017 and that the badger run steel work for blocks 8-5 is one of the first operations. The badger run itself cannot be used for construction access without ensuring there is no disturbance to the badgers. Disturbance here is likely to cause further explorations of routes through Cripley Meadow. Cripley Meadow and the badger run must remain secure at all times. These works would need to be done before December 2017 to comply with badger regulations. The Contractor would need to ensure that in working so close to the Allotments, litter, dust and any movement of soil was carefully controlled.

The plan to remove our palisade fence relies on us being assured that the steel frame and the facings that replace it are secure and badger proof. The grid fencing related to the badger space itself is fine as it will allow light and air into the badger run. The use of grid fencing above the badger space is unacceptable. The length of the palisade fence to be removed is the section adjacent to Phase 2 so we will need to know how the present palisade fence and the new boundary would marry together before this is agreed. There is no information on this in the design detail. We cannot see presently how our site will be kept secure during construction?

The water butts and their supply from the roofs was part of our initial mitigation from the university and should be maintained, both during construction and after.

There are no details about this. We are advised that the University will discuss this matter further with the Allotment Association.

Design: The changed design of the western boundary causes some concern. Where the planting containers with steel panels sit above the steel frame, badgers will not be able to climb up. However, steel panels are not a constant and we are concerned about the following:

We have serious concerns about the use of any grid fencing as a boundary except for the bottom of the badger run itself. We know badgers will climb grid fencing. We still have some incursions that we are following up. Knowing badgers determination to follow old habits, we must ensure that this is an effective barrier. We know sheet metal is effective. We do not think the changed design is badger proof and it must be considered further. We would like all the facing above the badger run space to be sheet metal. We are also concerned that there is no longer an internal fence so access through the planting is feasible?

Accessibility to the edge of the badger run – the boardwalk from the development now comes to the western edge with no internal fencing behind as was previously planned. This clearly compromises our security and is intrusive to the allotment holders, particularly the long run at the northern end by the turning head, where there are allotments next to the fence. The agreement to the removal of our fence (which can only be confirmed when we are assured of appropriately secure fencing replacement) cannot be accompanied by a loss of security and privacy for members. Previously there were 2 fences and a 2m gap. As the development has now moved so much closer we feel this will impinge more on our members and such overlooking and potential for access is unacceptable.

Bike shelters now come tight up to our boundary so lighting needs to be considered for us and the badgers. They also need to be badger proof. Presently it looks as though they may get underneath if the shelter does not come down to the ground as shown on the details.

We understand that the detailed design was still to be completed and design refinements may be possible.

Management of the Badger Run: There is, currently, an agreement with the University to spray out the base of our palisade fence and to manage the grass edge in the badger run – this should be retained. We are advised this could be included in the Landscape Management Plan for Softworks

Cripley Meadow Allotments/Oxford City Council Tree Management Plan: We are making progress with the tree management plan but progress to get to the agreed stating point was slower than we hoped and the initial pollarding for 2017 has not yet been completed. This must be completed in 2017 for The Tree Management Plan to be adopted by the Council and the Allotment Association. This has been discussed further with OCC Parks.

- Oxfordshire Badger Group

The Oxfordshire Badger Group have voiced their concerns in past consultations about the closure of badger setts and the increased isolation of the remaining sett, as a result of the construction of student accommodation at Castle Mill. The badgers now have to use a long run to access foraging areas because of loss of habitat.

We share the concerns of many Oxford residents and groups that the development has had a detrimental effect on the setting of Port Meadow and the views from the meadows to the spires of Oxford and any attempt to ameliorate the irreversible damage which has been caused by the development is clearly inadequate.

The planting of trees will have limited impact on reducing the visual intrusion of the student blocks but we feel that overall, the advice given relating to the impact this will have on the badger tunnel is proportionate to the predicted scale of impact. Using steel framing means that the tunnel will hopefully allow the badgers continued use, with no obstruction of movement.

We agree that it is 'crucial' that the western aspect will be meshed, so there will be an airflow into the tunnel. It is important that the badgers do not feel enclosed. It is also vital that the route is not blocked at the allotment end of the run, so the badgers can freely access the tunnel.

We have tried on a number of occasions to check the sett on Council owned land but, despite having permission from Cllr Price, the Allotment Association has not allowed us onto the site. We can find no record of an updated badger survey to gauge the impact of the development. As we monitored the setts in this area for a number of years prior to the development, we would be keen to update our records and will put in a Freedom of Information request to access this information.

We note that the Cripsey Meadow Allotment Association in their submission have objected to grid fencing above the badger space. We understand that the Allotment Association has already secured funding for badger proofing their area to keep the badgers out of the allotments. It is important that there should be no compromise in ensuring the tunnel is meshed to allow airflow and openness. It is a pity that there wasn't enough land next to the student accommodation or on the allotment side of the fencing which could have been used for planting, as this would have left the badger run which was part of the mitigation strategy, free from further interference.

We recognise that the proposals suggest a way to maintain the badger corridor whilst strengthening protection from above and ameliorating the artificial light spill from the existing university buildings. We would, however, be concerned at any intrusive lighting at the bike shelters.

We feel that a construction statement is important to ensure that the badger run cannot be used for construction access and that it is not blocked overnight with machinery or building equipment. It is essential that the badgers are not cut off from their foraging.

It seems that the natural environment and wildlife has had to pay a high price for this development. As there are urgent calls for action to reduce the devastating pressures on the environment and the loss of biodiversity in the county, outlined in the recent State of Nature report by Wild Oxfordshire, it is important that there are more safeguards in place in the planning process. We hope that the badgers of Cripsey Meadow will have a long term future and be allowed to live in peace.

Third Parties

Letters have been received from the following addresses whose comments can be summarised as follows

- 33 Bridge Street; 66 Warwick Street; 45 The Crescent, Rutherway; Ferry Cottage, 7 North Hinksey Village; 40 Edwin Court; 4 Cromwell Terrace, St Ives; 31, 35 Meadow Prospect; 12, 26 William Lucy Way; 24 Navigation Way; 102 Kingston Road; Middle Street, Islip; 58 St Bernards Road; 12 Stable Close, Rewley Park

Individual Comments:

The main points raised were:

Objection

- The development is a travesty
- The building should be demolished
- There is no doubt that this is an attempt to reduce the impact of the development which should not have received planning permission in the first place
- The changes may result in a possible reduction in the impact but it will in no way achieve what many of the hundreds of objectors wanted, which was to reduce the height and visual obtrusiveness of the development
- The public will never regain the views of Jericho and Oxford Spires from Port Meadow, including the Grade 1 Listed St Barnabas Tower
- This is not enough, nor is it quick enough
- The alterations are little more than window dressing
- The University has been allowed to offer as little as possible to improve the impact of Castle Mill on the Port Meadow skyline
- A clause should be added which stipulates that at least one floor is removed when the building needs to be rebuilt / refurbished
- I hope residents will be made aware of their responsibilities towards others wanting to enjoy the adjoining towpath. This means, inter alia, respecting the quiet and beauty of the area, and encouraging less privileged users of the towpath to show some respect. This includes picking up litter left by others
- It is important to remember the views of the Castle Mill blocks from William Lucy Way to the east too. The more greenery the better and a light lichen green colour scheme from this direction to merge with what tree cover that Network Rail has left us would be appreciated.
- The Council should consider releasing land from the allotments to enable more effective tree planting, with compensatory allotment land provided elsewhere
- There should have been a summary of the mitigation plans in amongst all of the documents
- The proposals make the buildings look less ugly because the applicant has been liberal with their paintbrushes when illustrating the 'abundant' leaf screening that

they claim the new trees will provide to the west elevation. This will not be the case in winter

- Proper tree planting will be required by a strict condition which can also grow high enough to screen Port Meadow and the Thames Path
- The proposals to deal with light spillage are inadequate
- Views from the canal towpath have also been affected and need addressing in an effective way
- As a resident in William Lucy Way, the work proposed for amending the appearance of Blocks 5 & 8, and Gatehouses 1 to 3 is appreciated. However Blocks 1-4, 6 & 7 still are very hard on the eye.

Support

- The mitigation proposals represent a good attempt with an inadequate budget to improve the situation, and are supportable, while also regretting the need for them and the fact that they do not go further.
- These proposals are the best that can be hoped for until the buildings are rebuilt
- The green walls will help reduce impact, but there are concerns that the facades are strong enough to bear the weight
- The western elevations have received careful attention

Pre-application discussions / ODRP

A Statement of Community Involvement has been submitted with the application which outlines the consultation that has been undertaken prior to the submission of the application.

The scheme has been developed following pre-application discussions with officers and a number of public consultation events.

The first of these was a Stakeholder Event in March 2016, which included the following attendees

- City and County Councillors
- Oxfordshire County Council Locality Manager
- Oxford City Council (Head of Planning & Regulatory Services)
- West Oxford Community Association
- Freemen of the City of Oxford
- Low Carbon Oxford
- Save Port Meadow Group
- Jericho Community Association
- Cripsey Meadow Allotments
- CPRE
- William Lucy Way Residents Association
- Berks, Bucks and Oxon Wildlife Trust
- Oxford Preservation Trust
- Tenants of Castle Mill

The purpose of the event was to discuss the brief for the mitigation proposals and discuss initial design ideas and techniques that could mitigate the adverse effects of the development. The participants were encouraged to describe their ideas for appropriate changes.

A number of public consultation events were held, the first being on the 1st and 2nd of July 2016; and the second on the 14th and 15th October 2017. The event was promoted by

- Emails to key stakeholders and interested parties
- Publication in local newspapers
- Display on 22 community noticeboards
- Display in 20 outdoor notice locations
- Via a leaflet drop to over 500 local residents.

The first event had 92 attendees, and following this 111 feedback forms and emails were completed and provided to the university. The second event had 127 attendees with a total of 108 feedback forms received.

The proposal has also been reviewed by the Oxford Design Review Panel on the 9th June 2016, and 13th October 2016. The responses of the panel are enclosed in **Appendix 2** of this report

Officers Assessment:

Background to Proposals

1. The application relates to the University of Oxford's Castle Mill (phase 2) Graduate Accommodation that was developed on the former railway land at Roger Dudman Way. It is bordered by Castle Mill (Phase 1) accommodation to the south, railway line to the east, Cripsey Meadow Allotments to the west, and Walton Well Road Car Park to the north (**appendix 1**).
2. In August 2012, planning permission was granted for the development of graduate accommodation comprising 8 blocks and 3 gatehouses, to provide 312 units of accommodation (326 bedrooms), and associated cycle and disabled parking space, outdoor space, and energy centre under 11/02881/FUL. The development was constructed in 2012/2013 and was occupied from September 2013.
3. Members will be familiar with the development's history since then, including the Judicial Review Proceedings undertaken by the Campaign for the Protection of Rural England (CPRE) and the independent review of the granting of planning permission for 11/02881/FUL overseen by Vincent Goodstadt. The original permission was the subject of a formal screening opinion of the Council to the effect that the development was not EIA Development – i.e. did not require an environmental statement. The CPRE sought to challenge that but the normal period for challenging the grant of permission based on that screening opinion had expired. The CPRE argued that there was an on-going duty to remedy breaches of European law (which it claimed had occurred) and that the only way to effect that remedy was by the Council being required to undertake discontinuance action in order to facilitate a retrospective EIA.
4. In February 2013, following the submission of a petition concerning the impacts of the development on views from the adjacent Port Meadow, the West Area

Planning Committee adopted a resolution which included the commitment to *'negotiate with the University of Oxford in order to ameliorate the size and impact of the development given planning permission'*.

5. In July 2013, the University agreed to undertake a retrospective Environmental Impact Assessment and submit a 'voluntary' Environmental Statement (VES) to the Council. In October 2014 this VES was submitted for public consultation and the Council's consideration (14/03013/CONSLT). The purpose of the VES was to replicate the requirements of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 as far as possible given that the assessment was retrospectively assessing the environmental effects of the development. The VES included three possible 'design mitigation' options that had been considered in response to the identified significant landscape / visual effects and effects on the historic environment. These were
 - Option 1: Building façade treatment and tree planting;
 - Option 2: Building façade treatment, tree planting, and modification of roof forms to hip and low level roofs;
 - Option 3: Building façade treatment, tree planting, and removal of a floor from six buildings and replacement roofs with low level roofs. (a total of 33 student rooms (38 bedrooms) would be lost under this option)
6. The Design Mitigation Strategy accompanying the VES was considered within the document with the implementation of Option 1 (building façade treatment and tree planting) considered the most suitable mitigation option for the development.
7. The VES was subject to public consultation which closed in December 2014. The Council commissioned consultants to conduct an independent review of the VES. That review accepted the contents in large measure but also identified some potential areas where further information and clarification should be sought. Further information was sought and an Environmental Statement Addendum was registered by the Council on September 2nd 2015. The assessment of the Environmental Statement Addendum by both the Council and its environmental consultants identified the need for some further additional information in relation to the geo environment and in particular land contamination. As a result further information was provided by the University on the 16th November 2015. A further public consultation was undertaken which commenced on 26th November 2015 and ran until Dec 18th 2015.
8. In February 2016, the West Area Planning Committee resolved that the VES was valid and complete, that all outstanding planning conditions of the planning permission reference 11/02881/FUL should be discharged, and that the proposed Design Mitigation Option 1 was appropriate. The Council and University subsequently agreed a Unilateral Undertaking to secure the mitigation measures described in principle in Option 1, as well as other works to reduce light spill from the study bedrooms and roof reflection glare, through a planning application that was to be submitted on or before the 31st January 2017. A copy of the report can be found in **appendix 3** of this report.
9. The application before Members has been submitted in accordance with the requirement of the Unilateral Undertaking and is seeking permission for the

following Design Mitigation Strategy and phasing plan.

- elevational treatments to the facades of the building;
- additional landscaping (in the form of tree planting);
- roof treatment to change the patina of the roof of the development in order to reduce the reflectivity of the roof; and
- Investigates window treatments to reduce light pollution from internal lights to the study rooms
- Phasing plan

10. The application has been accompanied by an Environmental Statement (ES) which considers the landscape and visual effects; historic environment; ecology and nature conservation impacts of the proposed development. The other matters relating to geo-environment; water environment; transport; air quality; noise; lighting; and socio-economic effects were scoped out of the ES as not having significant effects, although a number of these are considered in the supporting documentation with the application.

11. Officers consider that the principle determining issues in this case are as follows:

- Principle of Development
- Design Mitigation Strategy
- Impact on the Significance of Heritage Assets and their Setting
- Landscaping
- Ecology
- Phasing Plan
- Highways
- Other Environmental and Technical Considerations

Principle of Development

12. In February 2016 the West Area Planning Committee resolved to accept Option 1 of the mitigation measures that were proposed to ameliorate the impact of the development identified within the 2014 VES and the Unilateral Undertaking which committed the University to providing these mitigation measures.

13. The National Planning Policy Framework has a presumption in favour of delivering sustainable development, which it sees as meaning planning for economic, environmental, and social progress (paragraphs 6 & 7). The NPPF makes clear in Paragraph 14 that this presumption should be seen as the golden-thread running through plan-making and decision-taking, which for decision-taking means approving development proposals that accord with the development plan without delay.

14. The general principle of providing mitigation measures for the Phase 2 development have been established through the 2014 VES and the committee decision in February 2016. The acceptability of these mitigation measures will need to be considered against the relevant development plan policies

Design Mitigation Strategy

15. The strategy for mitigating the visual impact of the development has been developed following extensive public consultation, pre-application discussion with officers, and reviews by the Oxford Design Review Panel.
16. The Design and Access Statement sets out that the overall objectives of the proposals is to achieve the mitigation objectives set out within the 2014 Voluntary Environmental Statement which were to mitigate the environmental effects of the development with particular regard to the landscape and visual effects and effects on the historic environment. In order to achieve this aim, the design measures proposed for the building look to
- Reduce the impression of height
 - Alter the perception of scale
 - Introduce colour, texture and shadow to the critical facades of the building
 - Be visually integrated in short and long term views
 - Be effective in the short and long term
 - Enhance the existing environment
17. In developing the mitigation measures the design team have needed to have regard to the following constraints on site which have limited the design options available. The development is built above contaminated land and the need to prevent disturbance to the below ground mitigation measures has limited the potential for design proposals that involve any below ground works such as additional foundations or planting. Furthermore the existing buildings are constructed from a light gauge steel frame with a fitted façade, which means that only a limited amount of weight can be added to the facades. As a result the final Design Mitigation Strategy focuses upon elevational changes to the facades of the building in order to reduce their visual prominence and integrate them into the local and wider setting; roof treatments; and landscaping. These matters will be discussed in more detail below, with the landscaping proposals set out in detail within a separate section.

Elevational Treatments

18. Colour and Materials: The proposal seeks to replace the existing grey white rendered areas of the 8 primary blocks with a mid-tone buff colour. The use of painted render was considered to be the most suitable option given the weight restrictions on the façade.
19. A number of colour variations were tested through photo-montages and images for review at public consultation events, the ODRP workshops, and in discussions with officers. The ODRP in particular considered that painting the buildings in a muted colour will reduce their prominence and perception but also recommended utilising a mix of colours in order to help the break the buildings mass and read as a series of separate buildings. However if a single colour approach is adopted then the ODRP also suggested that one of the blocks could be painted and reviewed before painting the remaining blocks.

20. The Design and Access Statement includes a Colour Study Report which sets out all of the different colours considered and put to public consultation. The initial tests considered light, medium and dark tones of a buff, grey, brick red, and latterly green colours. Following this assessment, local precedents of buildings throughout the city were then colour matched in order to physically test on the buildings. A mid-buff colour was then chosen as the most suitable.
21. Having regard to the comments of the ODRP, the design team acknowledged the benefits of providing a variation of colour across the scheme but have ultimately chosen to continue with the single colour approach. This was because in their view the repetitive mass and volume of the buildings means that variation in colour appeared contrived in tests. The tone of the northern elevations of the primary blocks will change because of the shadowing within the courtyards to provide a natural difference in tone and that the other alterations to the buildings would help reduce the mass of the blocks. Officers do consider that the suggestion of a darker colour in the interior facades of the blocks would have helped break up the mass of the blocks and provide a strong visual backdrop for some interesting planting that would add delight to the courtyard areas between buildings. However not unsurprisingly given the history to this application the applicant has sought a more restrained colour scheme, and officers accept that this has been developed following a rigorous and intelligent modelling exercise and from the information provided in support of the application this would have some, albeit limited mitigation of the current harm to the significant settings of heritage assets including, importantly, views.
22. In addition to the above, the grey white rendered areas to the gatehouses are to be replaced with a dark grey colour. The Design and Access Statement sets out that this recessive colour enhances the courtyard spaces by providing a consistent backdrop by which to view the trees and planted areas within the new courtyard areas. The use of dark grey would be consistent with the brickwork common across the ground floor of the 8 primary blocks and ancillary buildings.
23. The orange duraclad imitation timber on the primary blocks are also to be removed and replaced with untreated natural western red cedar timber. This is to provide natural variation and texture to the elevations.
24. Window Surrounds: The window proportions are to be altered by the provision of bronzed and aluminium window surrounds and spandrel panels, with bronze anodised aluminium and western red cedar brise soleils across all elevations other than the eastern facing the railway line.
25. The intention of the projecting window surrounds is to provide texture and shadow to these elevations in order to provide visual interest. More importantly they will alter the proportions of the windows in order to reduce the amount of render visible on the elevations to the benefit of long and short views from the surrounding area. The provision of the brise soleil also has benefit in terms of cooling the rooms.
26. Stair Cores: The glazed stair cores within the primary blocks will have vertical timber sections added to them, with open jointed natural timber sections to

provide texture and shadow while also reducing solar gain and light spill to and from these stair cores.

27. Roof Gables: The western gables to blocks 1-4, 6 and 7 above the 4th floor level will have an aluminium louvres to match the dark grey roof tone. An overhanging verge detail will also be provided in order to provide an added roof edge.
28. While the ODRP were not convinced about the darkening of the gable ends, the Design and Access Statement sets out that the principle was to help reduce the perceived height of the buildings and this was well received through the public consultation events. The darkening of the gables would help make this part of the building appear as part of the roof and reduces the perceived height of the buildings. The louvres also allow passive ventilation of the building so have some benefit in sustainability terms. Overall officers would raise no objection to this part of the proposal.
29. Green facades and Walls: The scheme will provide green facades comprising of climbing plants, to the light shafts of blocks 1-4, 6 and 7 and the east facing gatehouse walls and to Blocks 5 and 8 left shafts. This would be achieved by aluminium mesh fixed to the structure and planters in front of the cladding.
30. The use of the green walls would help reduce the visual impact of the metallic blank lift shaft walls and soften the appearance of these parts of the building by providing texture and shadows. The ODRP considered the inclusion of green walls as a positive step as they would provide a degree of camouflage to the building from a distance as well as creating interests within the site and a habitat for wildlife.
31. Light Spillage: The proposals are to mitigate light spillage from the development by fitting automatic blinds to communal glazed areas which will cover these areas during darkness. All external lighting will be controlled, and include low level lighting. This is intended to provide more control to the lighting that exists at present within the scheme and thereby reducing pollution.

Roof Treatments

32. The Voluntary Environmental Statement identified the potential change to the roof treatment in order to alter the patina of the roof and reduce its reflectivity as a potential design solution.
33. This has been considered through the Roof Treatment Report, which analysed the issue and the constructional constraints which may limit solutions. This analysis included monitoring the roof glare over a period of time using a time-lapse camera in order to inform future decisions. This work identified that there was not a frequent problem of glare from the roofs, but that any glare was witnessed only in certain locations infrequently in certain weather and light conditions.
34. Following this analysis the most suitable and realistic option was to re-coat the roof with a 10% gloss paint finish to lessen the reflectivity without adding

significant maintenance issues.

35. The ODRP acknowledged the work that was being done to remedy this concern, and had also indicated that they did not consider that other treatments to the roof such as the addition of fins would reduce the perception of glare. Officers would support the work that has been done to consider this aspect of the scheme, and are of the view that repainting the roof would be the best solution to the matter.
36. In summary, officers recognise that the design team have undertaken a significant amount of analysis and public consultation in developing the mitigation proposals for the development. It is considered that the proposed external alterations to the elevations and also the roof would create an appropriate visual relationship with the buildings. When taken together they would alter the appearance to meet the aims identified in the VES to make the overall appearance of the blocks more varied, recessive in tone, and less visually dominant. Moreover the changes are also broadly supported by the ODRP in their letter (**appendix 2**). As such officers consider that they would satisfy the aims of the design policies of the Oxford Local Plan 2001-2016, Oxford Core Strategy 2026, and Sites and Housing Plan 2011-2026.

Impact on the Significance of the Heritage Assets and their Setting

37. The 2014 Voluntary Environmental Statement identified that among the 25 identified heritage assets surrounding the site, the existing development was considered to have a 'high adverse' impact on four heritage assets of high heritage value, namely:
- St Barnabas Church (Grade 1 Listed Building)
 - Port Meadow (a Scheduled Monument and Registered Common)
 - The River Thames and Towpath; and
 - The City of Oxford Skyline
38. The adverse impact related exclusively to the 'setting' of these heritage assets rather than a physical impact. The nature of these impacts included changes to the historic character, and to the direct loss and obstruction of views, including those of the Oxford skyline. The views to these heritage assets are considered to be kinetic, experienced, for example by people walking across an open landscape with a developing sequence of views.
39. The Environmental Statement submitted with the application has considered specifically the landscape and visual effects and impact on the historic environment from the detailed mitigation strategy. This has used the conclusions of the 2014 Voluntary Environmental Statement as a baseline. It concludes that the mitigation measures proposed within the scheme would have some beneficial impact in reducing the visual intrusion of the existing development on the setting of the four heritage assets of high heritage value, namely St Barnabas Church, Port Meadow, River Thames and Towpath and the Oxford Skyline. It also concludes that the detailed design mitigation strategy would have more benefit than originally envisaged within the Voluntary Environmental Statement. The mitigation would also have a beneficial impact on all but one of the other fifteen heritage assets assessed, and no negative impacts.

40. The ES also considers the impact of the development upon a number of landscape receptors, such as the Jericho, Binsey, and Wolvercote with Godstow Conservation Areas; Oxford Skyline; Residential Areas of William Lucy Way, Botley, and Castle Mill Stream Moorings; Road, Railway, Allotment, and Golf Course users; public footpaths throughout Port Meadow; Bossoms Marina Moorings; Other open access areas. The ES concludes that the proposed mitigation would result in beneficial effects to all of the visual receptor groups listed, and even where such effects are considered negligible, there will be improvements to the landscape character and visual amenity of the development and landscape context in which it is set as a result of the changes.
41. Historic England has raised no objection to the proposal. In doing so they have concluded that there would be some beneficial effects from the proposals, even on the setting St Barnabas Church, Jericho, which they have identified as having suffered substantial harm to its significance through the effect on its setting from the existing development. However that small beneficial effect must be set against the 'high adverse' effect identified from the current design. Therefore they consider that this set of modifications is playing around at the edges of what has happened for example, in the case of St Barnabas, the colour range of the buildings would come closer to the colour range of the tower itself, rendering the contrast less stark; but the contrast in colour was not the worst thing about the juxtaposition of these large and repetitive buildings with the church. Their location and scale was, and will be, the main demerit of the buildings, which although the planting will soften the buildings over time, will not remove this problem. Notwithstanding this Historic England do not believe it is realistic to press for further amelioration of a scheme which remains misconceived however much we understand how it came to be built.
42. Having regards to the history of the site and conclusions of the Environmental Statement, officers recognise that it will not be possible, without a more radical response, to reduce the acknowledged harm to the setting of assets such as St Barnabas' tower, historically prominent in the skyline to "less than substantial" where the decision maker is tasked with a balancing act of harm against public benefits. The harm in particular to views of other heritage assets, including the conservation areas of Jericho and the city from Port Meadow, both close views but perhaps more significantly in the longer views where a wider context introduces more heritage assets to be impacted upon, will defy mitigation. The well-intended and again carefully considered planting proposal will have limited mitigating impact due to the limitations on species and size of trees and will be unable to impact on the harmful massing of the upper parts of the buildings which is perhaps where the greatest harm arises. On the East facing side of the development where the large, unrelieved building facades present a stark appearance it is proposed to attach "green wall" to some of the smaller building elements and this will have the welcome effect of providing some visual relief as well as allowing the buildings to potentially make some contribution to the biodiversity and ecology of the area. This design change although small is considered to be beneficial in helping to alleviate the harsh visual appearance that the existing development has.

43. On balance, officers consider that the proposed design changes to the existing buildings will provide some mitigation for the not insubstantial harm that has been caused to the significance, in particular to the settings of a number of high value heritage assets. The mitigation will be insufficient to reduce the harm to a level that might be considered to be “less than substantial”, however it is recognised that possible alterations to the buildings are severely limited by the buildings’ original design and the constraints of the site and that an extremely rigorous and intelligent process exploring the possibilities has been undertaken by the design team. Care has been taken to improve the design of the spaces around the buildings, again constrained by the nature of the site and this will infinitely improve the quality of the “place” outside helping to provide somewhere pleasant for residents to be in appropriate weather. It is therefore considered that the design proposals should be supported in accordance with the relevant design policies of the Oxford Core Strategy 2026, Oxford Local Plan 2001-2016, and Sites and Housing Plan 2011-2026.

Landscaping

44. The Design Mitigation Strategy has also considered the implementation of additional landscaping throughout the development in order to mitigate the visual impact of the scheme upon long and short range views and improve the internal and external environment for occupants of the accommodation. These proposals have also evolved through pre-application discussions with officers, stakeholder consultation, and the Oxford Design Review Panel.

45. The landscaping proposals will comprise new tree planting located in a linear container along the western site boundary with the adjacent allotments, and alterations to the existing soft landscaping within the courtyard areas, including the removal of existing trees, new tree planting, and other soft landscaping.

46. The 2014 Voluntary Environmental Statement and Design Mitigation Strategy established the role of tree planting on the western boundary in the mitigation of the visual impact of the development. The purpose being to strengthen the ‘green urban edge’ of the development through colour, texture, shadow, and variety of species and thereby contributing to the visual integration of the building in certain external views, and partially concealing the buildings through the seasons, initially to the approximate height of the second floor level, and reducing light spillage up to the mid-level bedrooms.

47. The new trees are to be placed in containers above the badger run along the western boundary of the site and the courtyard spaces. In order to provide a meaningful effect on implementation semi-mature trees of approximately 6m-7.5m in height will be used. Along the western boundary the trees will have a mix of species and form and be planted at approximately 3.5m to 4m spacing in order to provide a more naturalistic effect that blends with the surrounding tree canopies. Within the courtyards areas the removal of the cycle storage will free up these spaces to allow them to be used as recreation areas for the occupants. The spaces will have a central grass space that is enclosed by tree planting in containers and additional shrub and herbaceous planting which is surrounding by paved areas and pathways. These areas will have semi-mature trees of 6m-7.5m

in the western end of the courtyards, and semi-mature trees of a smaller girth throughout the remainder of the courtyards. The trees will have a mixture of species that differs from the western boundary planting. The intention of this courtyard planting is to provide individual character and sense of place within these areas.

48. The ODRP were supportive of the landscape strategy for the development, considering that the planting will help reduce the prominence of the buildings and soften their visual impact from views on Port Meadow. In addition to providing screening of the development, the planting will play a bigger role at close quarters in terms of providing a more attractive and usable environment for residents.
49. Having reviewed the proposals, officers were initially concerned about planters being used to contain these trees and whether or not they would be large enough to provide adequate rooting volume to sustain their growth for the lifetime of the building and to deliver the screening that is intended. The applicant has provided evidence that the soil is highly shrinkable clay and planting in the ground on the western boundary places a high risk of damage to a gas main, which runs adjacent to the site boundary within the allotment, and other built structures by the trees if they are planted directly into the ground.
50. It is clear that trees planted in containers will require very careful maintenance with regular watering and fertilizing to ensure that their requirements for growth and good health are provided over the long term and that the trees perform their intended screening function. The Tree Planting Technical Paper submitted with the application includes details of an automatic irrigation system for these trees and the Landscape Management Plan for Softworks sets out that they are to be maintained in accordance with a detailed Prescription Fertilization Programme, which is to be prepared by Reading University and the Superintendent of the University Parks. A copy of the Prescription Fertilization Programme should be submitted by condition if planning permission is granted.
51. The Tree Species along the western boundary now include more native species such as field maple, hazel, and crab apple which fit better with the riparian/rural character of the wider landscape to the west and north of the application site and offer greater biodiversity benefits than previous iterations of the landscape plan. The removal and replacement of trees within the courtyard areas will benefit visual amenity; the additional canopy cover should act to soften the appearance of the lower part of the buildings at least in a variety of internal and external views. The new trees within these courtyard areas are ornamental species, which would also be appropriate for their location.
52. Therefore subject to appropriate conditions the landscaping proposals accords with Policies CP1, CP11, and NE15 of the Oxford Local Plan.

Ecology

53. The previous ecological investigations for the development concluded that other than badgers the site was of limited ecological interest. According to the Environmental Statement the original Castle Mill Phase Two development

resulted in the loss of an outlier badger sett, creation of a 'badger run' along the western boundary of the site. The proposed tree planting along the western boundary of the site would be located within the existing badger run and has been developed to ensure the continued functionality of the badger run. The design of badger run has been developed following pre-application discussions with independent badger experts, project ecologist, and the council ecologist.

54. The existing badger run will be retained and converted into a covered badger run approximately 300m long, approximately 2m wide, and an overall height of 800mm. The trees planting above the run will be placed on a raised steel platform that includes gridded 'light wells' every 30m in order to allow light and airflow into the run. The existing fence along the boundary with the allotments will be replaced with a badger proof barrier which allows light and airflow into the badger run and prevents badgers accessing the allotments.
55. Having reviewed the proposals, officers would raise no objection to this aspect of the development particularly with respect to the possible effects on badgers and the design of the badger run. It would be necessary to include a number of conditions to ensure that there will be no adverse impact. The first being that an ecological clerk of works is appointed to oversee this aspect of the development. Secondly, and having regards to the concerns raised by the Oxfordshire Badger, that the badger run be free from obstruction overnight during construction so that it can be used by badgers and that the works to modify the run are limited to the months of April – November to ensure minimum disruption to the badgers during the sow gestation and cub birthing seasons. There should also be no works access to be permitted through the artificial badger sett area, and that all works should be limited to daytime with no artificial lighting at night. Finally as recommended within the Environmental Statement, the use of the badger run shall be subject to appropriate monitoring before, during, and after construction. If there is any change in use of the badger run during these times, then construction methods will be adjusted accordingly.
56. With respect to other ecological matters scrub, trees and buildings on site offer suitable habitat for nesting birds. *All wild birds, their nests and young are protected during the nesting period under The Wildlife and Countryside Act 1981 (as amended)* and therefore it is important that the removal of vegetation and demolition of buildings shall be undertaken outside of bird nesting season. This is weather dependent but generally extends between March and August inclusive. If this is not possible then a suitably qualified ecologist shall check the areas concerned immediately prior to the clearance works to ensure that no nesting or nest-building birds are present. If any nesting birds are present then the vegetation or buildings shall not be removed until the fledglings have left the nest. This should also be secured by condition.
57. Subject to these conditions, officers would agree with the conclusions of the Environmental Statement and consider that the development would accord with the aims of Oxford Core Strategy Policy CS12.

Phasing Plan

58. The Unilateral Undertaking submitted by the University to secure the Design Mitigation Measures agreed to submit a phasing plan with any application for the works, and a commitment that work on any approved scheme would begin within 6 months of the date of planning permission and be undertaken in accordance with the phasing plan.
59. A Phasing Plan has been submitted with the application which gives an overview of the phasing for the project. The mitigation works will be undertaken in three phases
- Phase One – involves works to the north, west and south elevations of blocks 5-8 and gatehouse 3, and the tree planting and external realm works adjacent to blocks 5-8. The plan anticipates these works commencing in August 2017 and end in May 2018
 - Phase Two – involves works to the north, west and south elevations of blocks 1-4 and gatehouses 1 and 2, and tree planting and external realm works adjacent to blocks 1-4. This phase would commence in May 2018 and end in February 2019
 - Phase Three – involves works to the east elevations of blocks 1-8 and gatehouses 1-3, and the external realm works to the courtyard between blocks 2 and 3. This would commence in February 2019 and end in April 2019.
60. The phasing plan has been developed to reduce the impact on the existing accommodation and avoid the need to move occupants.
61. The phasing plan and Construction Traffic Management Plan have been submitted without a principal contractor and detailed design phase of the works being completed, and may therefore be subject to some change. They do however provide the broad principles for the works and as such should be conditioned accordingly with a caveat that written agreement is sought from the Council once these matters are resolved.

Highways

62. A Transport Assessment has been submitted with the application. The assessment sets out that the mitigation measures do not result in any increase in the numbers of beds within the accommodation, or changes to the approved site access or parking provision. The only changes to the development in transport terms would be
- The provision of improved pedestrian access to Blocks 5 and 8 and all three gatehouses; and
 - The expansion and relocation of cycle parking to provide an improved functional environment for residents; improved landscape; and cycle provision.
63. The assessment also considers the transport impacts from the construction traffic from the proposed mitigation works.

64. The cycle storage and circulation routes are to be reconfigured as part of the mitigation works in order to create more space in the courtyards for recreation space. The existing cycle storage in Phase 2 provides 314 spaces. The new storage will provide an additional 38 spaces to a total number of 352. The existing cycle stores within the external courtyards will be removed and moved to the edges of the courtyards and along the western boundary (over the badger run). The cycle ports will be of a curved steel frame with timber battens and polycarbonate panels. The location of the storage is considered to be appropriate.
65. The proposal will also include improvements to the pedestrian access to Blocks 5 and 8 and all gatehouses. The intention of these improvements is to minimise the potential conflict during the construction phase of the development between pedestrians and construction works in these locations, but also improve pedestrian access to the buildings on a permanent basis. At the present time the pedestrian access points to Blocks 5 and 8 and the three gatehouses are taken directly from Roger Dudman Way at road level. The proposals will widen the margins at these access points by reducing the carriageway to 3m and converting the remainder into ramped pedestrian accesses which are reinforced by bollards at key points. There would be no material reason to object to these improvements.
66. The Transport Assessment has included a Construction Traffic Management Plan (CTMP) which has been developed in conjunction with the phasing plan for the site and describes the site set up, materials storage, traffic management, and how other movements through and around the site will be managed during construction.
67. The CTMP sets out that the increase in vehicle traffic as a result of the construction works will be minimal and will not have an adverse impact upon the local highway. A site in Osney Mead will be used as a holding area for deliveries with a banksman on site to ensure that only vehicles of an appropriate size are able to proceed to Castle Mill. Any loads from larger vehicles will be off-loaded and transferred to an appropriately sized vehicle. Access to and from the site will also be controlled. The first two phases of the development will ensure that Roger Dudman Way would be available to public and resident's use, and only during Phase three will there need to be short sections of the access road on the eastern boundary will need to be closed to allow the provision of the green walls on Blocks 5, 8 and the 3 gatehouses. The road will however be available in the case of emergencies during this period.
68. The Local Highways Authority have raised no objection to the Construction Traffic Management Plan, subject to a condition which requires this to be amended to include a restriction on delivery times (restriction times 0730 - 0930 and 1630 - 1830), and commitment to undertake a dilapidation survey of the junction between Roger Dudman Way and Botley Road. The planning statement makes clear that this document is intended to be a live document and therefore a condition should be attached to ensure that a revised document is submitted to reflect these suggestions.

Other Environmental and Technical Considerations

69. Land Contamination: The Geoenvironmental and Geotechnical Study Report sets out the ground conditions and possible contamination issues in respect to the above new application for alterations to the landscaping and tree planting (as well as alterations to the roofs and bicycle stores) on the Castle Mill site.
70. It is noted that the report does not address all of the contamination matters for the whole application site, as it only refers to the badger run area and excludes existing landscaped areas that are included in the new application.
71. It is understood from the previous applications, that all landscaped areas on site currently have a clean cover layer installed above a Terram 1000 marker layer. The clean cover consists of a minimum of 300mm of certified clean imported topsoil and a minimum of 550mm of clean cover soils in shrub beds and 600mm within the tree pits. This is to reduce the exposure of site users to potential contaminants in the underlying soils and to provide a suitable growing medium. The details of the above cover system are set out in the report entitled "Verification Report" (Report no. R3089/VR dated August 2013 produced by ESG on behalf of Frankham Consultancy Group as required by condition no. 16 for Planning Permission 11/02881/FUL.
72. Firstly in terms of the works to the badger run, officers had raised concerns that burrowing animals could burrow through the capping layers exposing contaminated soils. In response to this the applicant has responded that within the Badger Run, where badger activity will be concentrated, it is unlikely that contaminated soils will be disturbed as a badger-proof mesh barrier is to be provided at the base of the run, which is an integral part of the badger proofing of the badger run itself. As previously noted, badger activity is likely to be concentrated in the Badger Run and therefore less likely across the rest of the University's Castle Mill site. However, to address concerns, the Landscape Management Plan for Softworks is to be updated to state that *'Any significant damage to soft landscape areas, including badger fencing, resulting from burrowing animals, will be repaired as soon as practicable by the University.'* This should be secured by condition.
73. In terms of the rest of the site, officers would recommend that the Geoenvironmental and Geotechnical Study Reports are updated to acknowledge that the existing landscaped areas have an agreed capping layer and that any works to these areas would ensure that any exposed contaminated materials are dealt with appropriately and the agreed capping layers reinstated. The new landscaped courtyards will need to be verified to demonstrate that the appropriate clean soil has been reinstated. These revisions should be secured by condition
74. Noise: The site is adjacent to the railway and has student accommodation in phase 1 of the Castle Mill development to the south. A Noise Impact Assessment has been submitted with the application which quantifies levels of internal and external noise to consider the impacts on the proposal. The report concludes that the external noise levels surrounding the development (including from the railway line) do not vary significantly from the assessment undertaken prior to the original permission and that the external fabric of the building is performing well in terms of noise insulation.

75. The report goes on to recognise that no neighbouring land uses would be adversely affected by the development and that during construction any noise from such activities would be abated. Overall officers would raise no objection to the conclusions of the report.
76. Air Quality: The site is located within a designated Air Quality Management Area. In considering the 2014 VES, it was noted that the development would not have a significant impact in air quality during the construction phase of the development or that occupation does not have an impact on local air quality and the occupants are not affected by local sources of air pollutants.
77. Notwithstanding this, an Air Quality Assessment has been submitted with the application to consider the impacts of the proposed mitigation measures on air quality. It considers that construction activities will be limited so as not to have significant effect on air quality. However it recognises that there would be the potential disturbance of made ground which could give rise to construction dust that needs to be mitigated. It therefore recommends that any Construction Management Plan includes appropriate mitigation measures and dust suppression measures are put in place during construction. A condition should secure this.
78. Officers also note that the assessment recommends that a monitoring survey to assess the impact on the existing development from idling trains adjacent to the development are carried out. It is understood that this recommendation has come about as a result of a request by the University to review this matter as part of their general estates management and does not relate to the design mitigation measures. As such this is not a material matter for the determination of this application, and will be dealt with separately by the Councils Air Quality Officers.
79. Drainage: The proposal does not include a substantial amount of new building works with any such works limited to alterations to the external elevations of the building. The alterations to the courtyards will mainly involve alterations to ground surfacing etc. Therefore a condition should be attached which states that any of these works are drained using sustainable drainage measures.
80. Archaeology: The mitigation measures are unlikely to have significant archaeological implications.

Other Matters

81. During the consultation process, Oxford Preservation Trust has suggested that there should be a commitment to commit to take down the buildings after 25 years of occupation, by the end of 2040 and that any subsequent redevelopment on this site should be well-designed and high-quality, enhancing the setting of Port Meadow and restoring the lost view from the Meadows to the spires of Oxford. It is suggested that this should be made a condition of this planning application however officers would make clear that such a condition would not be reasonable. The application is seeking full permission for the design mitigation and is not a temporary application, therefore is considered on that basis.

Conclusion:

82. The proposal is considered to be acceptable in terms of the aims and objectives of the National Planning Policy Framework, and relevant policies of the Oxford Core Strategy 2026, Sites and Housing Plan 2011-2026, and Oxford Local Plan 2001-2016 and therefore officer's recommendation to Members would be to approve the application.

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.

Contact Officer: Andrew Murdoch

Extension: 2228

Date: 3rd April 2017

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Nick Lyzba
JPPC Chartered Town Planners
Bagley Croft
Hinksey Hill
Oxford OX1 5BS

27 October 2016

Our reference: DCC/0775

Oxford City Council: Castle Mill, Roger Dudman Way

Dear Mr Lyzba,

Thank you for providing the opportunity for the Oxford Design Review Panel (ODRP) to advise on the proposal for Castle Mill, Roger Dudman Way at the Design Workshop on 13 October 2016.

It is evident that extensive work and analysis and thorough consultation and engagement with stakeholders have been undertaken since the last review in June 2016, particularly on the colour scheme for the blocks. This responds to the previous recommendations of the panel. The approach to planting and elevational amendments will reduce the visual impact of the buildings. Incorporating natural ventilation and brise-soleil to integrate sustainability objectives into the development is a positive design step, whilst the proposed landscape improvements to the courtyards provide a far more attractive and useable environment for residents.

However, there is still scope for refinement of the elevational treatment and the detailed planting/landscaping in order to strike a balance between alleviating the visual impact of the built form from long views and creating an attractive environment for the users of the building. Whilst the colour muting of the building significantly softens its impact from a distance, there is a concern that the elevations will appear homogenous due to the repeated pattern of materials, colour and fenestration. We would suggest further exploring ways to add more orders of interest and articulation that are subtle but legible from a distance to break up the overall mass of the built form, whilst also taking the appearance of the buildings close up into account.

Planting

The planting proposed would help to reduce the prominence of the buildings and soften their visual impact from long views on Port Meadow. Given the constrained nature of the site and the

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issues of contamination and drainage, the panel fully support the use of planters. With good maintenance there is no reason why trees could not thrive within this environment.

In addition to providing screening of the development, planting could play a bigger role in the creation of a stimulating place at close quarters. We would recommend exploring ways to create more diversity in the immediate landscape, for example by including small flashes of colour through different species selection, and the specification of landscaping and the colour of the planters themselves. The inclusion of green walls is a positive step as they would provide a degree of camouflage to the building from a distance as well as create interest within the site and a habitat for wildlife. The panel suggests that the detailed planting of the green walls is an opportunity to provide variety and interest to the elevations.

Painting of the Buildings

It is positive that the design team has consulted the wider public on this particular aspect and the painting of the buildings in a muted colour/s will reduce the prominence and perception of the buildings. However, the buildings still read as one single block, and due to their size will remain relatively conspicuous within the area. Utilising a mix of colours could help the blocks to be read as a series of separate buildings and break up their mass into smaller less imposing elements. Ultimately the panel encourage the design team to choose colour(s) that are appropriate to the setting and appearance of the buildings, close up, as well as from distant views. If a single colour approach is taken the panel suggest that one of the blocks could be painted and reviewed before proceeding with the painting of the remaining blocks.

Roof alterations

We understand that the shiny nature of the roofs in certain conditions is a matter of public concern, and that reflectivity tests are being undertaken at different times of the day, in different seasons and weather conditions. We recommend continuing to investigate how glare could be reduced, taking into account how this might impact the budget and structural integrity of the building. We are not convinced that the proposed roof fins will achieve a considerable reduction in the perception of glare.

We are also not convinced that the painting of the gable ends in a darker colour dramatically reduces the sense of height of the buildings and conversely, may make the roofs appear more prominent. Whilst we welcome the inclusion of natural ventilation, we recommend concealing the louvres (i.e. in the roof valleys) in order to reduce the overall visual prominence of the gables and avoid an industrial appearance.

Courtyards

The planting and re-arrangement of cycle storage within the courtyards is a considerable improvement to the scheme and will create much better amenity spaces and outlook from within

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the development. There are however opportunities to improve these areas further and to take a more dramatic approach to the detailing and landscaping within the courtyards to counter-balance the neutral nature of the painting scheme.

Careful consideration should be given to the location, height and canopy size of any trees planted within the courtyard area and how this may affect the quality of the internal environment in terms of daylight and outlook.

Thank you for consulting us and please keep us informed of the progress of the scheme. If there is any point of clarification, please telephone us.

Yours sincerely

Annabel Osborne

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cc

David Brock - Historic England (tbc)
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Edd Medicott - Orme Architecture
Tom Gascoyne - Orme Architecture
Gill Butter - Oxford City Council
Andrew Murdoch - Oxford City Council
Carolyn Puddicombe - University of Oxford
Rebecca Horley - University of Oxford

Review process

Following a site visit, and discussions with the design team and local authority and a pre-application review, the scheme was reviewed on 13 October 2016 by Keith Bradley – Chair, Alan Berman, Deborah Nagan and Jo van Heyningen. 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 cabe@designcouncil.org.uk.

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West Area Planning Committee

9 February 2016

This report relates to development approved under planning permission reference: **11/02881/FUL at Castle Mill, Roger Dudman Way, Oxford**, specifically the University's Voluntary Environmental Statement (VES) reference 14/03013/FUL and 14/03013/CONSLT (for the ES Addendum and additional substantive information). The development was approved in 2012 as an extension to existing student accommodation at Castle Mill to provide additional 312 postgraduate flats, consisting of 208 student study rooms, 90 x 1 bed graduate flats and 14 x 2 bed graduate flats, plus ancillary facilities, 360 covered cycle spaces and 3 parking spaces.

Ward : Jericho and Osney

Applicant : The University of Oxford

Recommendation : Committee is asked to:

1. Confirm that the submitted Voluntary Environmental Statement meets the requirements of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 as far as possible given that the assessment is retrospective and should be taken into account and inform the Council's decisions as set out in paragraph 3.26
2. Discharge and approve the outstanding planning conditions as set out in paragraphs 4.6 and Appendix B
3. Determine whether enforcement action should be taken as set out in paragraphs 4.8
4. Assess the mitigation options put forward by the University and note the unilateral legal agreement proposed as a commitment to bring forward option 1 as set out in paragraph 4.33
5. Consider whether it is appropriate to recommend discontinuance action for consideration by Council as set out in paragraphs 5.6, 5.48, 5.49 and 5.53 & 5.54

1.0 Background

1.1 On 7 November 2011 a planning application for the development described above at Castle Mill, Roger Dudman Way was submitted to Oxford City Council by the University of Oxford. The submitted proposals were not considered to require environmental impact assessment (EIA) and the planning application was considered by the West Area Planning Committee on 15th February 2012. Planning permission was granted for the reasons set out below; and the development has since been built and occupied.

1.2 Reasons for approval of the planning application¹

1. 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.

¹ From West Area Planning Committee minutes 15th February 2012 and Planning Permission 11/02881/FUL

Any material harm that the development would otherwise give rise to can be offset by the conditions imposed.

2. The development seeks to provide purpose built student accommodation at a site allocated for the purpose which is already partly built out for that use, and where the previous planning permission for the remainder of the site remains extant. The site is a brownfield one and lies adjacent to the main line railway into Oxford station to the south and was formerly used for railway related activities. Due to its linear form adjacent to the railway lines and its poor access from Botley Road, the site is ill suited to commercial development, family housing, or other uses which would generate significant levels of traffic. It is well suited to the needs of the University's graduate students however as it would enjoy good links by foot and cycle to the city centre, Walton Street and North Oxford. As such the development makes good and efficient use of the land. Whilst there is some impact in long distance views from Port Meadow, such impact falls to be weighed in the balance with the benefits of the development and the mitigation proposed in response.
 3. Many of the public comments received express concerns about cycle and pedestrian access to the site, either from Roger Dudman Way or via Walton Well Road to the north. The latter access is intended to be closed during construction. Although these concerns are acknowledged, measures are in hand to create alternative pedestrian routes and to improve current conditions along Roger Dudman Way. On other matters the buildings proposed on up to 5 floors are large but appropriate in height and scale at this location; issues of biodiversity and the relationships to the neighbouring allotments addressed; and the site safeguarded from flood risk. The site is sustainable with good levels of energy efficiency included within the development. There are no objections from statutory organisations
- 1.3 Since then the development's history has included the Judicial Review Proceedings undertaken by the Campaign for the Protection of Rural England (CPRE) and the independent review of the granting of planning permission overseen by Vincent Goodstadt.
 - 1.4 The development was the subject of a formal screening opinion of the Council to the effect that the development was not EIA Development – i.e. did not require an environmental statement. The CPRE sought to challenge that but the normal period for challenging the grant of permission based on that screening opinion had expired. The CPRE argued that there was an on-going duty to remedy breaches of European law (which it claimed had occurred) and that the only way to effect that remedy was by the Council being required to undertake discontinuance action in order to facilitate a retrospective EIA.
 - 1.5 On 9 July 2013 the University confirmed, that it would “*carry out an assessment of the environmental impact of the development on a voluntary basis following the processes of the Directive and the regulations so far as possible.*” The University also indicated that it would give consideration to additional mitigation to deal with the landscape and visual effects of the development. The Council stated that having received that voluntary EIA and detailed proposals for further mitigating the impact on Port Meadow and how these would be secured it would, following consultation ask the Committee whether:

- The development was constructed in accordance with the planning permission granted and, if not, whether it is expedient that any enforcement action be taken.
 - The University's applications to discharge planning conditions should be granted.
 - The Council should make a discontinuance order.
- 1.6 In the light of this the Judge refused to give the CPRE permission to seek judicial review. This was on the basis that even if the procedural deficiencies claimed by the CPRE occurred, what was being done would rectify them so far as possible. He explicitly expressed no view as to whether or not those errors actually occurred.
- 1.7 The discharge of some of the planning conditions on the planning permission for Castle Mill student accommodation was deferred in September 2013.
- 1.8 The Council also commissioned Mr Vincent Goodstadt to review:
- Whether material planning considerations were adequately assessed and described to the Planning Committee.
 - Whether best practice was adopted in informing and consulting residents and stakeholders.
 - Whether all the factors that could reasonably be considered by the Planning Committee were reported by officers and in a reasonable format.
- 1.9 Mr Goodstadt reported that although there was no obligation upon an applicant for planning permission to consult, best practice encouraged pre-application consultation and that, whilst the University's commitment to pre-application consultation was consistent in principle with best practice objectives, it had not been successful in meeting all of those objectives.
- 1.10 He concluded that the steps taken by the Council to consult were in accord with statutory procedures and in line with procedures generally used by the Council including its own relevant guidance. He further concluded that these procedures were consistent with practice generally in English planning authorities and in accordance with Government regulation.
- 1.11 As regards Committee reporting, Mr Goodstadt noted that the report recognised that:
- the location was close to Port Meadow, "a unique and sensitive location", and needed to be assessed against PPS5 'Planning for the Historic Environment'
 - views to and from the adjoining areas of the railway lines and public allotments would change dramatically but not be adversely impacted;
 - land at Port Meadow was more sensitive falling just within the "View Cone" from Wolvercote (policy HE10), which seeks to retain significant views and protect the green backcloth to the City from development within or close to a view cone which might detract from them;

- as with the extant permission, it would be seen to an extent from various vantage points within Port Meadow through and above the tree line, especially in winter months;
- the pre-eminent spires on the skyline from Port Meadow were not impacted to any great degree by the proposals;
- the campanile of St. Barnabas Church was seen as an exception to the previous point, as it is visible above the tree line and impact would not be dissimilar however to that created by the extant permission;
- the University had sought to mitigate the impact by lowering the overall height of the accommodation blocks by 1.2m and offering to fund landscaping;
- the University would examine again the choice of colours, textures and tones to materials for external elevations and roofs in order that the development sit more comfortably within views from Port Meadow;
- it was not the case that the development would be entirely hidden from view from Port Meadow or that there would be no impact from the development on the landscape setting and on public views;
- mitigation described was of a similar fashion to the extant permission. Mitigation through on and off site planting and in the judicious choice of materials and their colours, tones and textures would however assist the development in sitting more easily in these views; and
- the development would allow the University to meet and maintain the requirements of other recent permissions for academic floor space that no more than 3,000 of its students should live in open market housing. And that:

1.12 “a judgment has to be made as to whether the degree of change to the views and landscape setting in this direction would result from the development is sufficient to warrant refusal of planning permission taking into account other benefits and objectives to be weighed in the balance”

1.13 In this regard Mr Goodstadt reported:

“It is considered therefore that all relevant material policy considerations as interpreted at the time of the application were referred to in the committee report or the supporting documents. In addition those matters that have been raised subsequently were implicit in the discussion on the impacts of the development on the View Cones policy, albeit not fully discussed.”

“The survey of committee members has also confirmed that the members had no difficulty in accessing these documents and were all aware of their content. Part of the background to the concerns however relates to the fact that the assessments of matters presented in the committee report was limited to those matters that were considered critical to the decision. This however has been taken as evidence that there was a failure to have regard to all material considerations. It is however normal practice to focus a report on the issues that need to be debated.” And;

“It is therefore concluded that the papers sent to committee did list and thereby identify the need to have regard to all material policy considerations. It is however good practice to have a systematic record of the evaluation against all policies that are seen as material when dealing with major applications.”

1.14 He further stated:

“There is no question that the report to committee made clear the balancing that was required between the various material considerations, namely, the need for student accommodation and the visual impact, in the light of the established uses for the site in policy and extant consents.”

2.0 Purpose of this report

2.1 The first purpose of this report is to feedback to members on the environmental information derived from the Voluntary Environmental Statement (VES) and confirm both the Council’s consultants and Officer’s view that the VES together with the further information submitted in late 2015 can reasonably be described as an environmental statement within the meaning of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (“the EIA Regulations”).

2.2 The second purpose of this report is for members, with the benefit of the environmental information, to determine whether the schemes and details supplied under the various outstanding planning conditions are now acceptable.

2.3 Once these decisions have been made the report will advise members whether there are any outstanding breaches of planning control and whether if there are it would or would not be expedient to consider enforcement proceedings against the University.

2.4 The third purpose of this report is for members to consider the nature of the mitigation that the University is proposing to ameliorate the impact of the development and the further planning processes that would be involved in delivering the proposed scheme of mitigation.

2.5 The final purpose of the report is to advise members on the issue to be considered in relation to discontinuance action.

2.6 Although set out as discrete elements the issues set out above do overlap in the report that follows.

2.7 This report has a number of appendices as follows:

- Appendix A – Summary of Consultation Responses
- Appendix B – Planning Conditions Assessment
- Appendix C – The Independent Review by SLR Consultants December 2014
- Appendix D – The VES Non-Technical Summary
- Appendix E – SLR Consultants November 2015
- Appendix F – Screening Opinion Letter – Planning Conditions
- Appendix G – Goodstadt Review Report

3.0 The Voluntary Environmental Statement (VES)

- 3.1 On 29th October 2014 the City Council received a Voluntary Environmental Statement (VES) from the University of Oxford (to replicate the requirements of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 as far as possible given that the assessment is retrospective) assessing the environmental effects of the development. It included three possible mitigation options – that is to say going beyond anything which was required when the development was permitted.
- 3.2 This VES was subject to public consultation which closed in December 2014. The City Council commissioned consultants to conduct an independent review of the VES. That review accepted the contents of the VES in large measure but also identified some potential areas where further information and clarification should be sought. Further information was sought and an Environmental Statement Addendum was registered by the Council on September 2nd 2015.
- 3.3 The assessment of the Environmental Statement Addendum by both the Council and its environmental consultants identified the need for some further additional information in relation to the geo environment and in particular land contamination. As a result further information was provided by the University on the 16th November 2015. A further public consultation was undertaken which commenced on 26th November 2015 and ran until Dec 18th 2015.
- 3.4 The consultation undertaken for the various parts of the VES has exceeded the statutory requirements for publicising environmental statements because of the extent of public and stakeholder interest in this matter. All three sets of documents comprising the VES are available for inspection on the Council's planning public access system and a set of all documents is available for committee members in the member's room at the Town Hall. A summary of all the consultation responses is attached to this report as Appendix A.
- 3.5 The VES has covered a range of technical and other information contributing to the formal environmental assessment of the constructed development. The structure and scope includes assessments of alternative approaches to the development, the site's planning context and history, landscape and visual impact, the historic environment, ecological and nature conservation, geo environmental, flood risk, transport, air quality, noise and socio-economic issues. The process seeks to identify and assess individual impacts and appropriate mitigation across this range of issues. Three options for overall mitigation have been identified. The University is proposing to carry out the mitigation in Option 1 (see further below for an explanation of Option 1). The Council's independent consultant's review of the VES is attached at Appendix C.
- 3.6 The Council's approach when assessing the voluntarily submitted statement and the further information received has been to follow the processes of the EIA Regulations as if they applied, including where the Council required the provision of further information. The review of the original and further information submitted by the University has been to satisfy the following key question:

“Given the voluntary and retrospective nature of the exercise, can the VES together with the further information reasonably be described as an Environmental Statement as described by the EIA Regulations?”

- 3.7 That is the relevant test as established by the Courts. In answering this question it has been necessary for the consultant to determine whether the VES and ES Addendum would accord with Regulation 2(1) of the EIA Regulations, which states that:

““Environmental Statement” means a statement –

- (a) That includes such of the information referred to in Part 1 of Schedule 4 as is reasonably required to assess the environmental effects of the development and which the applicant can, having regard in particular to current knowledge and methods of assessment, reasonably be required to compile, but*
- (b) That includes at least the information referred to in Part 2 of Schedule 4.”*

Extracts from the VES – Non-Technical Summary

- 3.8 The VES comes with a non-technical summary (VESNTS). This is attached at Appendix D. Its purpose is to summarise the VES and provide an overview of the impacts and proposed mitigation. The following extracts are from the VESNTS where it summarises the key impacts and mitigation proposed.
- 3.9 Landscape, Visual and Heritage Assessment: The assessment determines that, in a considerable number of cases, the sensitivity of various landscape and visual receptors is judged to be moderate or high. The magnitude of effect upon them is judged to be medium or high, and the level of effect is considered to be moderate or substantially adverse. The VES considered the varying impacts upon 25 identified heritage assets. The development has a ‘high adverse’ impact on four heritage assets of high heritage value, namely:
- St. Barnabas church, a grade 1 listed building;
 - Port Meadow, a scheduled monument and registered common;
 - The river Thames and towpath; and
 - The Oxford skyline’.
- 3.10 The Design Mitigation Strategy (DMS): has identified six mitigation measures. “As a result of the assessment of the environmental effects of the development, additional measures have been identified and considered in order to mitigate the environmental effects, in particular in relation to landscape and visual effects and effects on the historic environment.
1. Elevational changes to the facades of the buildings;
 2. Tree planting in the badger run along the west boundary of the site;
 3. Introduction of a structural, planted boundary screen to increase the ‘green’ screening between the buildings and Port Meadow;
 4. Removal of some buildings entirely.
 5. Modifications to the form of the roofscape of the buildings, including to reduce height.
 6. Reduction in the height of various buildings through the removal of a floor”.
- 3.11 The DMS considers combinations of different measures to assess how best to mitigate the effects of development. Three options have been identified comprising:
- Option 1: Building façade treatment (design mitigation measure 1) and tree planting along western boundary of the site in the Badger run (measure 2);
 - Option 2: Building façade treatment (design mitigation measure 1), tree planting (measure 2) and modification of roof forms to hip and low level roofs (measure 5);

- Option 3: Building façade treatment (design mitigation measure 1), tree planting (measure 2), removal of a floor from six buildings and replacement of all roofs with low level roofs (measure 6). A total of 33 student residence units (38 bedrooms) would be removed.
- 3.12 The VES judged that the mitigation measures proposed result in the following effects:
- Option 1 measures result in a reduction in the level of effect of a limited number of landscape and visual impacts from substantial adverse to moderate adverse.
 - Option 2 measures result in a reduction in the level of effect of the majority of landscape and visual impacts from substantial adverse to moderate adverse.
 - Option 3 measures result in a reduction in the level of effect of the majority of landscape and visual impacts from substantial adverse to slight to moderate adverse, and to slight adverse when vegetation is in leaf.
- 3.13 Mitigation measures designed to address some of these impacts have beneficial effects, but it is considered that the ‘high adverse’ impacts on the high heritage value sites can only be reduced to ‘medium adverse’ by the reduction in height of all the buildings under the option 3 mitigation measures set out in the Design Mitigation Strategy’.
- 3.14 “The University has reviewed the implications of the options in the DMS, and proposes to undertake design mitigation measures 1 and 2 as included in Option 1 set out in the Design Mitigation Strategy. Following consideration of the VES by Oxford City Council, details of changes to the elevational treatments to the buildings suggested in option 1 in the Design Mitigation Strategy will be submitted in a new planning application at a later date. This would also include for all necessary pre-application consultation. Full details of the tree planting suggested in the Design Mitigation Strategy will be submitted to the City Council”.
- 3.15 Ecology: The development including the mitigation and enhancement measures (i) had regard for relevant legislation and current planning guidance; (ii) contributes to achieving the objectives of the planning policies relating to biodiversity;

Extracts from the Independent Review of the VES (undertaken on behalf of the council by SLR consultants²)

(i) December 2014 Report

- 3.16 Landscape and Visual impact:
The methodology used broadly accords with best practice, however there are several omissions which when combined, could result in a lack of clarity, inaccuracies or underestimates in the assessment of effects.... Although the impact assessment does not clearly identify which landscape and visual impacts are regarded as significant, it is clear from paragraph 7.4.24³ that the overall level of landscape and visual impacts is significant. In this context it is clear that a mitigation strategy is necessary in order to reduce the residual landscape and visual effects’.
- 3.17 Historic Environment: ‘Five key issues were identified that assist in defining and

² December 2014 report

³ October 2014 Voluntary ES

characterising the impacts of the development upon the historic environment....

- Issue 1: the development exclusively impacts upon the setting of heritage assets rather than the assets per se.
- Issue 2: The development has high adverse impacts upon the setting of four assets that have national and international heritage values (these are St Barnabas Church [Listed grade 1], Port Meadow [SSSI, SAC &SM], The Oxford Skyline [Internationally recognised silhouetted skyline] and the river Thames).
- Issue 3. The nature of the adverse impacts relates to both changes to historic landscape character, and to direct loss and obstruction of views, including those of the Oxford skyline.
- Issue 4. Views to the heritage assets are kinetic, experienced, for example by people walking across an open landscape with a developing sequence of views.
- Issue 5. The open landscape setting of heritage assets retains some inherent dynamics arising from seasonal changes, other development in Oxford, and landscape management by others. In summary, the impact assessment addressed all the potential issues raised and provided a fair and honest overview of the indirect impacts that might occur...The ES chapter has undertaken all necessary processes and assessment for this development and provided a comprehensive staged approach for addressing issues, in particular setting between heritage assets and the development’.

3.18 Ecology and Nature Conservation impact

SLR consultants ‘has identified a number of weaknesses...and so the conclusion that the impacts of development on ecology cannot be verified. The EclA as it stands is not robust. This is largely because the stated methodology for assessing the significance of effects has not been followed, and the stated effects are not supported by sufficient evidence. Whilst SLR is not challenging the scope of the surveys undertaken of the conclusions of the EclA the following information is required before the EclA can be verified.....’

3.19 Geo Environment:

‘With some modification, the chapter will confirm to common EIA practice...and the demands of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011’.

3.20 Flood Risk and Drainage

‘SLR has assessed the baseline conditions, impact assessment, mitigation measures, residual effects within ES chapter 11 to be appropriate, taking into account the nature of the development and its hydrological setting. The assessment provides adequate coverage of the generic subject matter albeit with some potential deficiencies within all aspects of the assessment. Whilst notable deficiencies and omissions in the assessment have been identified, no significant effects have been identified that are anticipated to require material amendment to the proposed development...the ES is sound in flood risk and drainage terms’.

3.21 Transport

‘SLR has raised a number of concerns with regard to the assessment and so the summary statement made, that the impacts of the development on transport and traffic are not considered to be significant, may not be accurate and cannot be verified by SLR. Further clarification and evidence will be required before the summary statement can be verified....it is considered that the conclusions made within the ES chapter are not substantiated...’

3.22 Air Quality

'No evidence of any assessment of emissions from the energy centre is available to support the statement: "the energy centre emissions would not have a detrimental impact upon local air quality"...SLR considers that quantification should be provided. Given the findings of the impact assessment and proposed mitigation measures, the residual effects are considered to be acceptable...the remaining summary effects are considered to be acceptable'.

3.23 Socio Economic Background

Provides contextual background to the design and mitigation options put forward. The assessment concludes that the social and economic implications of each would impose substantial financial costs ranging from preliminary estimates of £6 million under option 1 to £13.5 million with option 2 and £30 million with option 3..."all these figures are preliminary and subject to further investigation and development. These are substantial costs which would divert the University's resources and mean that investment in other projects would not occur or would be delayed. Options 2 and 3 would involve temporary displacement of students into alternative accommodation during building works. Option 3 would also involve the permanent loss of 33 units (38 bedrooms) on the top floor of the development, which comprise mainly 1 and 2 bedroom flats for small families and older students. The loss of this accommodation would not help the University comply with the City Council's 3000 student limit, and force those students to find accommodation elsewhere in the city, with consequent adverse social and economic impacts".

3.24 SLR Independent Review Conclusions (2014 Report)

In the main it is considered that the VES broadly accords with the requirements of the EIA Regulations, albeit the technical assessments, survey data and reporting in the VES are considered to contain areas of weakness, omissions and inconsistencies....it is recommended that the Council requests the submission of additional information as allowed by the Town and Country Planning (Environmental Impact Assessment) Regulations 2011'. Appendix C.

ii - SLR Independent Review Conclusions (November 2015 VES, VES Addendum and second VES Addendum)

3.25 The consultants have reviewed all the submitted information. 'SLR is of the view that the current submission can reasonably be described as an environmental statement as described by the EIA Regulations'. The letter provided by the consultant confirming this is attached as Appendix E.

3.26 The VES process having been concluded, and the Council's consultant having confirmed it accords with the relevant legislation officers have no further concerns to raise with this process. It is recommended that this work as undertaken is now accepted.

4.0 Discharge of Outstanding Planning Conditions

4.1 The attached report outlines the position on the agreed and outstanding planning conditions. Many of the conditions were to have been agreed pre commencement or pre-occupation and the situation has moved on as the buildings have been constructed and occupied. The report therefore addresses the conditions under current

circumstances and now recommends the approval and discharge of all of the outstanding conditions. To the extent that the environmental information and any consultation response (or any other representation) is relevant to the subject matter of a particular condition, that information has been taken into consideration in determining whether or not the particular condition should be discharged. This is noted in the attached report where applicable.

- 4.2 In August 2015 the Secretary of State issued a planning policy statement making intentional unauthorised development a material consideration that would be weighed in the determination of planning applications and appeals. This policy change is not applicable to the current applications. Regardless of whether non-compliance with a planning condition constitutes “unauthorised development” (the issue identified in the policy statement being “the development of land has been undertaken in advance of obtaining planning permission”) the policy statement is clear that the “policy applies to all new planning applications and appeals received from 31 August 2015”. All of the condition submissions and the permissions that they relate to predate that.
- 4.3 A question had been raised as to whether or not the Council can grant approvals after the time by which the original condition required that approval to have been obtained – e.g. can an approval that a condition requires prior to development commencing be granted after development has commenced. As a matter of domestic law a local planning authority can lawfully approve a scheme under a condition even where the time by which it should have been done has passed. Local planning authorities can discharge conditions in such circumstances in reliance upon exceptions to what is known as the **Whitley** principle. In **Whitley** it was said generally there needed to be compliance but that there were exceptions. One exception was that if a condition requires an approval before a given date and the developer has applied by then for the approval, which is subsequently given so that no enforcement action could be taken, work done before the deadline and in accordance with the scheme ultimately approved can amount to a start to development. Another instance where failure to comply with a pre-condition does not render the development unlawful is where “it would be unlawful, in accordance with public law principles, notably irrationality or abuse of power, for a local planning authority to take enforcement action to prevent development proceeding, the development albeit in breach of planning control is nevertheless effective to commence development” (see **R (Hammerton) v London Underground Ltd** [2003] J.P.L. 984 (Admin)).
- 4.4 The Courts have also held that the **Whitley** principle and its exceptions can be applied in an EIA case so as to allow the discharge of pre-commencement conditions where work has already commenced: see **Ellaway v Cardiff County Council** [2015] Env. L.R. 19. The **Whitley** case considered conditions requiring things to be done pre-commencement (e.g. to submit a scheme and have it approved) but which were not in fact complied with prior to commencement of development. The issue was when, despite this, the development could be said to have lawfully been commenced. In **Ellaway v Cardiff County Council** [2015] Env. L.R. 19 the court confirmed that this was also possible in an EIA case. The approval of the subsequent applications is therefore capable even in EIA cases of validating the implementation of the permission. It is though only exceptionally that this should be permitted in EIA cases, and members will need to consider whether in relation to the discharge of any conditions which should have been discharged pre-commencement and/or occupation that this test is met. These are considered in Appendix B below. It is also necessary to ensure that the developer has not obtained any unfair advantage in what has happened. In terms of

the EIA Regulations the submission of the VES ensures that there has been compliance with those Regulations.

- 4.5 Therefore, as a matter of domestic law a local planning authority can lawfully approve a scheme under a condition even where the time by which it should have been done has passed. Local planning authorities can discharge conditions in such circumstances in reliance upon exceptions to the Whitley principle. In **Ellaway** the court confirmed that this was also possible in an EIA case. The approval of the subsequent applications is therefore capable even in EIA cases of validating the implementation of the permission. It is though only exceptionally that this should be permitted in EIA cases, and members will need to consider whether in relation to the discharge of any conditions which should have been discharged pre-commencement and/or occupation that this test is met. These are considered in Appendix B below. It is also necessary to ensure that the developer has not obtained any unfair advantage in what has happened. In terms of the EIA Regulations the submission of the VES ensures that there has been compliance with those Regulations.
- 4.6 In this instance a further screening opinion was adopted by the Council in the context of the application for approval under condition 16. That is appended at Appendix F. For the reasons set out there and taking account of the subsequent environmental information received, the officer advice is that this is not an EIA case. In any event the attached report addressing the conditions addresses the issues of exceptionality and unfair advantage in treating this as if it were an EIA case. The attached report recommends that the outstanding conditions are agreed and discharged.

Consideration by the Local Planning Authority of the Expediency of Enforcement Action

- 4.7 If one or more of the outstanding planning condition submissions is not approved then the issue of enforcement action arises to be considered. An enforcement notice may not be issued simply to remedy a breach of planning control. It must also appear to the Council to be expedient to issue the notice having regard to the development plan and any other material considerations.
- 4.8 Consistent with the individual officer assessment of the discharge of conditions with the benefit of the full environmental information, officers do not consider that there is any reasonable basis for taking enforcement action.

Consideration of the Proposed Mitigation Measures set out in the Voluntary Environmental Statement (VES)

- 4.9 In the VES the University explained the investigation which had been taking place into mitigation of the significant adverse impacts of the constructed development. These relate primarily to the adverse visual impact upon the setting of heritage assets as described in section three above.
- 4.10 The landscape visual impact assessment and historic environment impact assessments, along with the design mitigation chapters in the VES are where assessment of the environmental effects of the development, additional design interventions and possible mitigation measures have been identified. These have focussed on what can be done to mitigate the environmental effects of the development, in particular in relation to landscape and visual effects and effects on the historic environment.

- 4.11 The development and its impacts can be summarised as follows. The development consists of eight blocks comprising the most recent parts of the Castle Mill, Roger Dudman Way scheme. The blocks are four and five storey in height, closely spaced, regular in form and layout. The blocks are of institutional scale and appearance, with a mainly uniform roofline along the length of the run of buildings. The facades of all the blocks have a common design style and architectural language in appearance and are mainly white rendered externally. The adverse landscape visual and heritage effects result from various combinations of the characteristics of the finished development which are broadly:
- Large scale and size
 - Highly visible appearance
 - White colour used in the render treatment
 - Repetitive elevation and profile
 - Lack of obscuring elements such as trees in front of the development
 - Skyline impacts
 - Effect on spires and towers (direct through concealment and indirect through the impact on their setting)
- 4.12 The assessments identify that the most significant detrimental impacts are from the visual prominence of the buildings particularly on views towards the city across Port Meadow. In these views, depending upon the view point proximity to the development itself, the large scale white rendered elevations and bulky, repetitive built form, largely unrelieved by intervening obscuring landscape elements, impact detrimentally upon the skyline and setting of this edge of the city. The visibility of key towers and spires in iconic views from Port Meadow towards the city is reduced the closer the viewpoint to Roger Dudman Way. The development is still visible but not as visually prominent in views from Botley and Wytham Woods.
- 4.13 The VES analysis comments: “height, form, layout and overall appearance of the development are such that they draw the eye...white is visible and is in certain views, perceived as being out of scale and character with its setting....”
- 4.14 The University has committed to mitigating the detrimental impact of the built development. The Design Mitigation Strategy (DMS) defines a number of informing principles and assesses the effectiveness of mitigation of the development in terms of its form, height and size. Six possible mitigation measures have been identified:
1. Elevational changes to the facades of the buildings;
 2. Tree planting in the badger run along the west boundary of the site;
 3. Introduction of a structural, planted boundary screen to increase the ‘green’ screening between the buildings and Port Meadow;
 4. Removal of some buildings entirely.
 5. Modifications to the form of the roofscape of the buildings, including to reduce perceptions of overall height.
 6. Reduction in the height of various buildings through the removal of a floor.
- 4.15 The DMS considers combinations of the different measures to assess how best to undertake the mitigation. Three alternative mitigation options were identified but Option1 is the package on offer.
- **Option 1:** Building façade treatment (design mitigation measure 1) and tree planting along western boundary of the site within the Badger run (measure 2);

- **Option 2:** Building façade treatment (design mitigation measure 1), tree planting (measure 2) and modification of roof forms to hip and low level roofs (measure 5);
- **Option 3:** Building façade treatment (design mitigation measure 1), tree planting (measure 2), removal of a floor from six buildings and replacement of all roofs with low level roofs (measure 6). A total of 33 student residence units (38 bedrooms) would be removed.

- 4.16 The mitigation options involve differing levels of intervention and cost. The DMS assesses the outcomes delivered by each option. The other parts of the VES also consider the role and impact of mitigation. The University has put forward Option 1 as the mitigation package and has proposed a unilateral undertaking (via s.106 of the Town and Country Planning Act 1990 (as amended) committing itself publically and contractually to the delivery of the mitigation measures once these have been agreed in detail. Enforcement of the implementation of the legal agreement would be by the Council. The unilateral undertaking will require the University to:
- Use best endeavours to secure agreement with the Council as to an acceptable mitigation scheme under Option1
 - Agree to the submission of any necessary planning applications within an agreed time period
 - If planning permission is granted for the mitigation scheme, to implement this within an agreed period
 - If planning permission is refused, to submit a modified planning application using their best endeavours to overcome the objections raised to the option 1 mitigation measures in the previous application.
- 4.17 Initial discussions have taken place with Council officers about the tree planting specification, management and maintenance. The planting mitigation in the original ES raises a number of issues all of which will need to be successfully overcome by the University to bring these measures forward. The proposed trees are expected to be between 6 and 9m in height when planted so come with considerable root ball volume to achieve successful establishment. The space available to plant new trees is heavily constrained by available width and depth and is realistically limited to the area within the badger run (1 – 2m wide). The measures undertaken to deal with the previous uses of the site and former contamination in this area may constrain how deeply new trees can be planted.
- 4.18 Officer negotiations have been aimed at securing a more naturalistic boundary planting using as far as possible native species, or at least cultivars of native species, which is more appropriate to the existing riparian landscape character of the area. Also, to secure planting at or as near as possible to existing ground level so that it is more sustainable and possibly removes the need for the retaining wall. The University's consultants continue to investigate this measure. It is not anticipated that the changes to the badger run to facilitate tree planting will lead to its abandonment by badgers however the local planning authority will also need reassurance on this point when the planning application is submitted.
- 4.19 The external elevational changes to the buildings (changing the render colour, applying brickwork etc) will need to be discussed in detail and will require a further planning application to be submitted to approve them for implementation. This is an understandable approach given the need for the Council to consider the matters set out in this report, before the University can move with certainty onto fully resolving the

precise details of the mitigation measures. Members will need to bear in mind that planning applications may come before them in future so should take care to avoid pre-determining themselves at this stage.

4.20 The University's suggested timeframe for delivery of proposed mitigation measures is set out below (dependent upon the decision reached by the committee on 9th February):

- First public consultation exercise on the precise detail of the mitigation measures by 15 July 2016
- Second public consultation exercise by 30 November 2016
- Application for full planning permission by 31st January 2017
- Commence (not completion) of the Mitigation Works within 18 months of the date of the planning permission
- If permission refused by the Council:
 - Revised application to be submitted
 - consult (x2)
 - submit revised planning application within 18 months of first refusal
 - if that approved commence mitigation works within 18 months of planning permission being granted

4.21 Whilst the VES has three possible mitigation options within it, the University has made clear that only Option 1 is being put forward. Members will therefore need to consider the merits of Option 1 alongside a range of relevant issues including:

- the planning policy context and history of the site's development including the extant 'commenced' planning permission;
- Benefits of the mitigation in terms of heritage, visual impact and landscape considerations;
- Economic and Socio-economic issues including opportunity costs for the University in undertaking the mitigation options
- Feedback from statutory bodies, interest groups and individuals.

4.22 Planning Policy considerations (summary)

- the development is in line with the current and previous local planning policy allocation for student housing development on the site;
- the development is supported by policies that encourage provision of purpose-built student accommodation, to help meet housing need and allow the Universities to continue their active roles in the economy;
- the development is assisting in meeting local planning policy objectives (currently Core Strategy policy CS25) that seeks to limit the number of University students living in the community to 3000 or less (and imposes restrictions on University academic developments until this figure is reached);
- the development accords with policies promoting the efficient use of land for development, the re-use of brownfield land, and the remediation of contaminated land, to take pressure away from greenfield sites;
- the need to read the development plan context as a whole and balance the development's contribution to delivering purpose built student accommodation against the impact upon protective policy designations for heritage and natural assets, view cones, setting of the city, open spaces and quality of new development

4.23 Planning history considerations

Some weight has to be given to the comparative impact of the extant ‘fallback’ position that would exist through building out the original planning permission (‘reserved matters application’ ref. 02/00989/RES, approved by the City Council in 2002). The original permission differed from the current development scheme as it included 85 fewer accommodation units, was lower in height with three and four storey buildings, and located the buildings differently on site with a large open area (drainage feature) in the centre. The mitigation option cannot be judged against a fall-back position of a vacant site with no committed development on it.

4.24 Benefits of the mitigation upon heritage, visual impact and landscape considerations

The height, form, layout and overall appearance of the development dominates in certain views. In these views the external appearance is perceived as being of a different scale and character than its setting. The views of the city edge skyline from Port Meadow are impacted by the prominence of the development. The visible campanile of St. Barnabas Church is above the tree line and between the groups of trees when viewed from the footpath from Medley, and at some points along that route is seen behind the new accommodation blocks.

The table below assesses the effect of mitigation option 1 (tree planting and elevational alterations) on the significant detrimental visual effects of the development. The development has had adverse effects on the landscape character and views, and the setting and significance of heritage assets. In these circumstances mitigation is required. Mitigation measures considered in the Design Mitigation Strategy options 1-3 would reduce the landscape and heritage impacts of the development to varying degrees; the reduction in height of a floor of most buildings as suggested in Option 3 would however have other undesirable planning impacts, including from the loss of 33 graduate accommodation units and the displacement of such students back into the community.

Table 1: Option 1 - Assessment against the identified significant detrimental visual impacts

As built impact identified in the VES	Anticipated heritage, visual impact and landscape mitigation effect from Option1
Large scale and size	<p>The proposed mitigation does not involve alterations to the building envelopes so the size and scale of the overall development will remain unchanged.</p> <p>The mitigation option relies upon on tree planting and elevational changes to more successfully ‘distract’ the eye from the impact of the overall scale and mass of development than at the present.</p>

Highly visible appearance	<p>The elevational changes proposed will alter the white rendered appearance, using combinations of new materials to make the overall appearance more varied, recessive in tone and less visually dominant.</p> <p>The tree planting will provide a natural intervening feature between the development and the foreground of Port Meadow. This will also reduce the visibility of the lower portion of the development.</p>
White colour used in the render treatment	The elevational changes proposed will alter the white rendered appearance using combinations of new materials to make the overall appearance more recessive and less visually dominant.
Repetitive elevation and profile	The introduction of a range of new materials in the elevations will enable a more varied texture and articulated appearance to be created. The greater diversity in the elevational treatment will be more sympathetic to the context and backdrop against which the development is seen.
Lack of obscuring elements such as trees in front of the development	<p>The tree planting proposals are for substantial semi-mature sized trees (6 - 9m in height at planting time). These will give an instant, tree screen effect along the Port Meadow and allotments frontage of the site (recognising that the new trees will then have to establish for a period of time as they settle into their new locations). The tree screen will be read against the bottom third to half way up the buildings.</p> <p>The boundary planting introduces an additional layer of vegetation in front of the development in views from Port Meadow which, in combination with the planting that has already been undertaken between the gaps in the trees along the south boundary of Port Meadow, will improve screening. These screening benefits will compound over time as the trees become established and mature and in conjunction with the Network Rail managed trees and the new trees planted at the edge of Port Meadow.</p> <p>Appropriate, native, deciduous species will be used, and scope for additional trees within the Castle Mill development itself will be explored. This more naturalistic planting that officers are negotiating will include trees with a diversity of heights and crown forms and that this informality could act as a useful visual foil to the blocky,</p>

	<p>repetitive elevations in views from Port Meadow which could work with the building façade measures. In combination these changes should make an appreciable difference to the appearance of the development.</p>
<p>Skyline impacts</p>	<p>The overall physical roofline, external building envelopes and mass of the development are not proposed to change under Option 1 mitigation.</p> <p>[Note: Mitigation measures designed to address some of these impacts will have beneficial effects, but it is noted that the ‘high adverse’ impacts on the high heritage value sites can only be reduced to ‘medium adverse’ by the reduction in height of all the buildings under the option 3 mitigation measures set out in the Design Mitigation Strategy’].⁴</p>
<p>Effect on spires and towers (direct through concealment and indirect through the impact of their setting)</p>	<p>The mitigation option relies upon on tree planting and elevational changes to help screen parts of the buildings and to more successfully ‘distract’ the eye from the impact of the overall scale and mass of development than at the present.</p>
<p><u>Historic Environment:</u> The development impacts upon the setting of heritage assets rather than the assets per se.</p> <p>The development has high adverse impacts upon the setting of four assets that have national and international heritage values (these are St Barnabas Church [Listed grade 1], Port Meadow [SSSI, SAC &SM], The Oxford Skyline [Internationally recognised silhouetted skyline] and the river Thames).</p> <p>The nature of the adverse impacts relates to both changes to historic landscape character, and to direct loss and obstruction of views, including those of the Oxford skyline.</p>	<p>The mitigation option relies upon on tree planting and elevational changes to help screen parts of the buildings and to more successfully ‘distract’ the eye from the impact of the overall scale and mass of development than at the present.</p> <p>Mitigation measures designed to address some of these impacts will have beneficial effects, but it is noted that the ‘high adverse’ impacts on the high heritage value sites can only be reduced to ‘medium adverse’ by the reduction in height of all the buildings under the option 3 mitigation measures set out in the Design Mitigation Strategy’.⁵</p>

⁴ VES Non-Technical summary

⁵ VES Non-Technical summary

<p>Views to the heritage assets are kinetic, experienced, for example by people walking across an open landscape with a developing sequence of views.</p> <p>The open landscape setting of heritage assets retains some inherent dynamics arising from seasonal changes, other development in Oxford, and landscape management by others.</p>	
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4.25 Socio-Economic and Economic consideration of the mitigation options

The VES includes an assessment of the impact of the University on the Oxford economy, the social and economic effects of the development of the Castle Mill Phase 2 graduate accommodation development, and of the implications of the mitigation options that have been considered. The social and economic implications of the three mitigation options considered in the Design Mitigation Strategy have been reviewed. All three would impose substantial financial costs on the University.

4.26 The Addendum to the VES set out the costs of the options as follows. These costs have been discussed with the University who advise that they were originally provided by an independent Quantity Surveyor and have also been subject to additional Proctorial level scrutiny within the University.

Cost	Option 1	Option 2	Option 3
Physical works	£5,780,000	£10,470,000	£12,000,000
Inflation	£550,000	£1,000,000	£1,120,000
Loss of rent during works	£0 (1)	£2,500,000	£1,450,000
Loss of rent over the lifetime (2)	£0	£0	£8,100,000(3)
Cost of physical works to provide the accommodation elsewhere (4)	£0	£0	£8,100,000
Sub Total	£6,340,000	£13,970,000	£24,850,000
Estimated cost of acquiring new site 2140sq m	£0	£0	£5,250,000,
CIL	£0	£0	£250,000
Total	£6,340,000	£13,970,000	£30,300,000

(Assumptions in VES addendum Page 15-4),

4.27 The assessment finds that the economic impact of funding any of the three proposed mitigation options at Castle Mill is not as beneficial to the local economy as utilising the funds to deliver investment in additional University projects elsewhere in Oxford. This

suggests that there is a local economic benefit that needs to be reflected in the decisions made between the overall cost of the mitigation measures at Castle Mill and the University's ability to invest those funds in other projects in the city.

Public and Interest Groups Consultation Response

- 4.28 Three consultations have been undertaken in respect of the VES. The level of consultation has exceeded the statutory minimum requirements because of the levels of interest in this issue. Members will see the extent of groups, associations and individual public responses to the three consultations undertaken on the VES. These are set out in summary form at Appendix A. The groups and associations who have commented include:

Oxford Preservation Trust
Oxfordshire Badger Group
East Oxford Residents Association
Jericho Community Organisation
Linton Road Neighbourhood Association
Save Port Meadow campaign
Friends of Old Headington
Oxfordshire Architectural & Heritage Society
Jericho Living Heritage Trust
Campaign for the Preservation of Rural England
Cripsey Meadow Allotment Association
Northway Residents Group
English Heritage
Port Meadow Protection Group
Oxford Civic Society
Oxford Pedestrian Association
Oxfordshire Green Party

- 4.29 Appendix A summarises the significant amount of feedback from individuals, societies, groups and statutory undertakers in relation to the VES. Comments have variously covered the mitigation options; planning process; the impacts of the Castle Mill scheme as constructed, the roles of the City Council and the University and suggestions for how the scheme could be improved. The majority of the feedback has raised objections and concludes that the implementation of Option 1 mitigation does not go far enough in addressing the concerns that exist with the residual impact of the development, primarily on visual and heritage interests. In terms of the Mitigation Options, individual comments have been as follows:
- 720 (94%) of those that commented would prefer Option 3, with 10 preferring Option 1 and 7 for Option 2. 28 comments did not state a preference.
 - Of the 720 who prefer Option 3, 105 have stated that they consider Option 3 to be a compromise and not enough of a solution, and 254 commenters have stated that Options 1 and/or 2 will have little or no impact.

Conclusion

- 4.30 There are clear public benefits from this development in the provision of purpose built student accommodation. There are fundamental policy objectives to support the delivery of new student accommodation, and to remove students from privately rented housing in a city where there is a very significant need for housing and limited areas to

achieve new supply. The site was allocated for student accommodation and was a brownfield site in need of re-use and restoration. There has been permission to develop the site for student accommodation going back over a decade, albeit not previously to the same overall extent as has now been constructed.

- 4.31 On the other hand there is the residual harm assessed in relation to the historic landscape character and views of Oxford. The development has been assessed as having high significant adverse impacts upon the setting of four assets that have national and international heritage values; St Barnabas Church, Port Meadow, the Oxford Skyline and the river Thames. As noted in the VES the 'high adverse' impacts on the high heritage value sites can only be reduced to 'medium adverse' by the reduction in height of all the buildings under the option 3 mitigation measures set out in the Design Mitigation Strategy. This level of mitigation is not being offered.
- 4.32 Option 1 mitigation measures primarily result in a reduction in the level of effect on a more limited number of landscape and visual impacts from substantial adverse to moderate adverse effect. Option 1 will provide a greater level of visual distraction from the impact of the development than at present. The cost to the University to mitigate this situation is also to be considered. The cost of mitigation must be factored against the potential diversion or loss of investment in University projects elsewhere within the city and the impact this may have upon the wider public benefits from the success of the University to the city and beyond.
- 4.33 The University has offered to mitigate the existing development. Members can only consider what is on offer, a reasonable timetable for its delivery and the means by which it is to be secured. In your officers' view the mitigation should be accepted and secured through the unilateral undertaking.

5.0 Consideration by the Council of the merits or otherwise of Discontinuance Action

- 5.1 The committee is now asked to consider matters relevant to the issue of discontinuance. The committee does not have the constitutional authority to determine on this matter but must recommend to Council if in the committee's judgement, this action should be pursued. A decision to take discontinuance action is the exercise of a discretionary power by the Council. In this case discontinuance would mean partial or total demolition and removal or alteration of the constructed development. The power to take such action is in the following terms:

If, having regard to the development plan and to any other material considerations, it appears to a local planning authority that it is expedient in the interests of the proper planning of their area (including the interests of amenity)—

(a) that any use of land should be discontinued, or that any conditions should be imposed on the continuance of a use of land; or

(b) that any buildings or works should be altered or removed, they may by order—

(i) require the discontinuance of that use, or

(ii) impose such conditions as may be specified in the order on the continuance of it, or

(iii) require such steps as may be so specified to be taken for the alteration or removal of the buildings or works, as the case may be.

- 5.2 It has been suggested that the Council is under a duty to take discontinuance action in order to remedy a breach of European law; specifically the Environmental Impact

Assessment Directive. No breach of the Directive (or the EIA Regulations) has been established in legal proceedings albeit it is accepted that the VES has identified that there would be significant impacts in visual and heritage terms. Even where such a breach could be established, there is no duty upon the Council to take discontinuance action. A basic premise of European law is the principle of legal certainty which allows for time limits to be imposed on challenges alleging breach of European law. It would be contrary to this principle to “side-step” such limits by converting the discretion to make a discontinuance order into a duty to do so. This view has been upheld by the Court of Appeal in *R (Evans) v Basingstoke and Deane BC* [2014] 1 W.L.R. 2034. Also in the case of *R (Wells) v Secretary of State for Transport, Local Government and the Regions* [2004] ECR I-723, ECJ the European Court said that it is for the competent authorities of a Member State – here the Council – “to take, within the sphere of their competence, all the general or particular measures necessary to ensure that projects are examined in order to determine whether they are likely to have significant effects on the environment and, if so, to ensure that they are subject to an impact assessment.

- 5.3 Such particular measures include, subject to the limits laid down by the principle of procedural autonomy of the Member States, the revocation or suspension of a consent already granted, in order to carry out an assessment of the environmental effects of the project in question as provided for by Directive 85/337”. Here through the VES a full assessment has now on any view been carried out. The Court of Appeal in *Evans* made clear that whether to discontinue was, even in a case where it was alleged that there was a breach of EU law, something that could be considered but not something that had to be done. The question is whether it is expedient to do so.
- 5.4 As regard must be had to the development plan the determination must be made in accordance with the development plan unless material considerations indicate otherwise. In that sense the determination parallels the basic approach to the determination of a planning application.

Assessment of matters relevant to the consideration of discontinuance action

- 5.5 Four key questions are central to the committee’s consideration. These are:
- Firstly the need to consider whether the local planning authority would still have granted planning permission if faced with the totality of the 2011 planning application (including all planning policy, material considerations and technical matters taken into consideration), supplemented by the VES and the mitigation to be delivered through the proposed option 1 mitigation measures secured by a unilateral undertaking.
 - Secondly, to review the position as if a planning application were made for the development now. A broadly similar context of planning policy, material considerations and technical matters remain to be considered, along with the impact and mitigation of the development that has been assessed through an environmental statement. The proposal is also supplemented with a binding commitment to implement the option 1 mitigation measures through steps set out in a unilateral undertaking.
 - Thirdly, after consideration of the first two questions whether under these circumstances pursuance of discontinuance action would be reasonable and expedient in the public interest particularly by reference to what on-going harm

remains if the Council decides not to pursue discontinuance action; and

- Fourthly, what weight to give to the public costs of discontinuance.

5.6 These questions are now addressed in turn:

- First question: Whilst speculation is required as to the outcome of reconsideration of the original planning application if accompanied by a VES, unilateral undertaking and mitigation measures, the events that have followed the determination of the 2011 planning application have been well documented in the initial sections of this report. The Goodstadt Review is attached at Appendix G and it concluded that the February 2012 meeting of the committee was not misled, was aware of all relevant policy and other material considerations and understood the issues including that of the height of the buildings and impact upon views. In addition there has been no material change of policy either nationally or locally since the 2012 meeting considered that review. In that respect it would not be unreasonable to conclude that the same or similar outcome would have been arrived at by the committee.
- Secondly, considerations relevant to a hypothetical planning application made for the development now but accompanied by the assessments set out in the VES and the offered mitigation measures.

5.7 The planning assessment that follows sets out the development plan and other material issues relevant to the assessment including environmental ones. These are broadly similar to those considered for the constructed scheme in 2012 however the National Planning Policy Framework and the National Planning Practice Guidance has been introduced since then.

Table 2 - Relevant Planning Policy

<u>Oxford Local Plan 2001-2016</u>	<u>Oxford Core Strategy 2026</u>	<u>Sites and Housing Plan (DPD) - MP1 – Model Policy (NPPF – presumption in favour of sustainable development</u>
CP1 - Development Proposals	CS2 - Previously developed and greenfield land	HP5 - Location of Student Accommodation
CP6 - Efficient Use of Land & Density	CS4 - Green belt	HP6 - Affordable Housing from Student Accommodation
CP8 - Design	CS9 - Energy and natural resources	HP11 - Low Carbon Homes
Development to Relate to its Context	CS10 - Waste and recycling	HP15 - Residential cycle parking
CP9 - Creating Successful New Places	CS11 - Flooding	HP16 - Residential car parking
CP10 - Siting development to meet functional needs	CS12 - Biodiversity	SP26 - Land north of Roger Dudman Way
CP11 - Landscape Design	CS13 - Supporting access to new development	
CP13 - Accessibility	CS14 – Supporting city-wide movement	
CP14 - Public Art	CS17 - Infrastructure and developer contributions	
CP17 - Recycled Materials	CS18 - Urban design, town character, historic environment	
CP18 - Natural Resource	CS19 - Community safety	
	CS25 - Student accommodation	

<p>Impact Analysis CS19- Nuisance CP21 - Noise CP22 - Contaminated Land CP23 – Air Quality Management areas TR.1 – Transport Assessment TR.2 – Travel Plans TR3 - Car Parking Standards TR4 - Pedestrian & Cycle Facilities TR5 – Pedestrian and cycle routes TR8 – Guided Bus / Local Rail Service TR11 – City centre car parking TR12 Private non-residential parking NE11 - Land Drainage & River Engineering Works NE12 - Groundwater Flow NE13 - Water Quality NE14 - Water and Sewerage Infrastructure NE15 – Loss of trees NE21 - Species Protection NE22 – Independent Assessment NE23 - Habitat Creation in New Developments HE2 - Archaeology HE10 - View Cones of Oxford SR8 – Protection of allotments SR9 - Footpaths & Bridleways DS22 - Cripsey Rd, North End Yard - Ox University Use</p>		
<p><u>Supplementary Planning Documents.</u> 1. Affordable Housing and Planning Obligations SPD (Adopted Sept</p>	<p><u>National Planning Policy Framework (NPPF)</u> 1. The Sites and Housing Plan (Policy MP1: Model Policy) this</p>	<p><u>National Planning Practice Guidance (NPPG)</u> Planning Practice Guidance has been revised and updated.</p>

<p>2013) 2. Parking Standards, Transport Assessment and Travel Plans (Feb 2007) 3. Natural Resource Impact Analysis SPD (Adopted Nov 2006)</p>	<p>reflects the presumption in favour of sustainable development in NPPF. It requires policies in Local Plans to follow the approach of the presumption in favour of sustainable development so that it is clear that development which is sustainable can be approved without delay. All plans should be based upon and reflect the presumption in favour of sustainable development which should be applied locally. This policy approach now forms part of Oxford's Local Plan.</p> <p>2. NPPF to be read alongside other relevant national planning policies, on Sustainable Drainage; Parking and Waste.</p>	<p>It provides further guidance on air quality, climate change, conserving and enhancing historic environment, EIA, design, flood risk, contamination, natural environment, noise, open space, SEA & SA, renewable & low energy, transport (travel plans & assessments), waste, water supply & quality and determining planning applications.</p>
<p><u>Other relevant documents</u> 1. Character Assessment Toolkit 2. Oxford Heritage Plan 3. Oxford Views Study</p>		

Planning Policy Assessment

- 5.8 The 'Local Plan' and in particular recently adopted documents such as the Sites and Housing Plan includes a Model Policy (Policy MP1). This policy ensures that 'when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework.' The policy encourages the City Council to 'work proactively with applicants to find solutions', so that applications for 'sustainable development can be approved where possible' and to 'secure development that improves the economic, social and environmental conditions in the area.' Planning applications that accord with Oxford's Local Plan are advised to be approved unless material considerations indicate otherwise.
- 5.9 Policy CS25 in the Core Strategy supports the principle of purpose built student accommodation, subject to the overall limits on student numbers at 3,000, and designed and managed in a way that attracts students to take it up. There should be no unacceptable impact on the amenity of local residents.
- 5.10 Policy HP5 in the Sites and Housing Plan, which forms part of the 'Local Plan' makes it clear that planning permission will be granted for student accommodation in specified locations, which includes 'on a site allocated in the development plan to

potentially include student accommodation.’ Policy SP26 then goes on to allocate the application site for student accommodation and states that planning permission will be granted in principle. The policy also confirms that planning permission ‘will not be granted for any other uses.’ The supporting text highlights an important material consideration that ‘the whole site has the benefit of an extant planning permission for 517 student rooms’ with only the southern block built to date. The text goes on to confirm that ‘narrowness of the site and of the access means it is most appropriate to develop the site for student accommodation, which would be car free.’

- 5.11 Student accommodation in this location is acceptable in principle, since it is an allocated site on brownfield land, where other alternative uses such as residential are not supported.
- 5.12 Policy CS18 in the Core Strategy addresses the need for high quality urban design, townscape character and protection of the historic environment specifically development that ‘responds appropriately to the site and its surroundings; creates a strong sense of place...high quality architecture...responding positively to the character and distinctiveness of the locality...development must not result in loss or damage to important historic features, or their settings, particularly those of national importance and...views of the skyline of the historic centre will be protected’. Guidance set out in the more recent character assessments and view studies will be of relevance in testing the impact of development upon designated and non-designated heritage assets and areas subject to protective designations (considered in detail later).
- 5.13 Development having an adverse impact upon these policies would need to be carefully considered against other policy objectives. Development plans need to be read as a whole and a balanced judgement made about the weight to be given to policies

Relevant Planning History

- 5.14 In August 2000 outline planning permission was granted for a mixed use development of residential and student accommodation on a large tract of land at Roger Dudman Way north of the Sheepwash Channel (Rewley Abbey Stream) on former railway land known as North End Yard. The site was aligned north - south and accessed from the junction of Botley Road with Roger Dudman Way 600m to its south. The site’s linear form measured approximately 320m in length and 45m in width at its wider southern end, narrowing to 27 m at its northern end where it adjoins the public car parks serving Cripsey Road allotments and Port Meadow. In total the application site measures 1.2 ha. (3 acres).
- 5.15 The outline permission of 2000 was followed by detailed proposals for 87 x 2 bed flats at what is now Venneit Close, and by the University for a development of 354 student units which became the first phase of the University’s Castle Mill development.
- 5.16 The scheme represents a second phase of graduate rooms at Castle Mill but within a reworked scheme which would provide some 439 student units in total rather than the 354 previously permitted, representing an increase of 85 units. As with the phase 1 accommodation, the proposed development consists mainly of single

study bedrooms arranged in clusters with a shared amenity / kitchen area; some slightly larger units with a small kitchenette; and larger one and two bed “flats.” Typically the accommodation would be occupied for up to 3 years by University graduates, in the main single persons though in some cases couples, occasionally with a child. A small number of rooms would be reserved for visiting academics and students. In addition shared facilities are provided at a central common room.

Landscape, Built Form, Historic and Visual impact assessment

- 5.17 The site is linear in form and the development would be laid out in a series of eight linked blocks. As with phase one the majority of the blocks would be aligned in an east - west direction but with two to the narrower northern end aligned north - south. The eight blocks would accommodate the majority of student rooms with shared facilities such as covered cycle stores, bin storage, laundry room, landscaped spaces and energy centre set between them. Interspersed between the paired east - west blocks along their eastern edge would be three “gatehouses” leading to shared foyer areas. A further freestanding communal common room is also to be provided. A 3.8m wide access road for servicing and maintenance purposes would run along the eastern side of the site which would also provide a cycle and pedestrian route through to Walton Well Road on completion. Three disabled parking spaces are located along the route.
- 5.18 The student rooms in the east - west blocks would have their windows facing north and south, avoiding directly overlooking the railway lines to the east and allotments to the west. Within the two north - south blocks corridor access is provided where they face the railway line. There are student rooms within the gatehouse buildings which do have windows facing the railway lines. These and all other windows along this side of the development are high performance fixed double glazed units to provide light only with additional light and ventilation provided from windows in elevations facing in other directions. The fenestration within the principal eastern elevations is both vertically and horizontally aligned. Central to each block are full height continuous glazed windows identifying the corridor access at each level of accommodation.
- 5.19 The east - west blocks rise to four and five storey levels with the linking gatehouse elements set at three storeys. The north - south blocks are on four levels. The five storey blocks rise to approximately 17.0m above ground level to the highest point of their pitched roofs, and the north - south ones to 13.0m. The eaves height would be approximately 13.7m and 11.2m respectively. This compares to 13.7m at its highest point in the existing accommodation and 10.4m at eaves. The lift shafts are located externally to the accommodation blocks with full height vertical glazed slots. The lift shafts are topped with a glazed cap. The architecture is of institutional scale with large building blocks facing east towards the railway line with protected areas created behind.
- 5.20 The facades of all the blocks have an essentially common design style and architectural language. The elevations of the blocks will comprise of render, brickwork and other features to provide an overall diversity of external treatment, with texture and articulation of finish. Windows are dark grey aluminium units with the roof of standing seam metal construction similar to that used in the existing accommodation.

- 5.21 Although the immediate environment of the development site consists of railway sidings to the east and allotments to the west, it is also located close to Port Meadow to the north beyond the public car parks at Walton Well Road. Port Meadow is a unique and sensitive location which constitutes an important heritage asset.
- 5.22 Part 12 of the National Planning Policy Framework applies in relation to the planning considerations relevant to heritage assets. ‘heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance...Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset’s conservation and any aspect of the proposal...local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and the desirability of new development making a positive contribution to local character and distinctiveness. 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’....
- 5.23 Section 66(1) of the Listed Buildings Act provides as follows “In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.” In ***East Northamptonshire District Council v Secretary of State for Communities and Local Government*** [2015] 1 WLR 45 the Court of Appeal held that section 66(1) requires the decision-maker to give “the desirability of preserving the building or its setting” not merely careful consideration for the purpose of deciding whether there would be some harm, but considerable importance and weight when balancing the advantages of the proposed development against any such harm: [22]-[24] per Sullivan LJ.
- 5.24 Land at Port Meadow is sensitive. The view across Port Meadow is a low lying, distant and expansive one across the floodplain of the River Thames towards the centre of Oxford. There is virtually no topographic variation to the view except the wooded hills of East Oxford which are just visible in the background to the left (east) of the view. The open and historic grazed common land of Port Meadow which is publicly accessible plays an important part in the character of the view, providing an historic green setting to the city. The line of trees along the railway line and a variety of more ornamental trees in the gardens of North Oxford reinforce this green setting, from which the “dreaming spires” emerge, seen against the open skyline. The green foreground and middle grounds contrast with the colour and texture of the buildings on the skyline, enabling the skyline buildings to stand out in silhouette. The expansiveness of the view means that the spires, towers and domes appear relatively small. Closer to the edge of the built up area it is clear that trees and hedgerows around the perimeter of Port Meadow are not unbroken however and views are afforded from various vantage points through gaps in the greenery towards, in particular, the railway line and residential North Oxford to the

east and Wolvercote to the north. These remind the viewer that Port Meadow is not set within open countryside but abuts the built up urban edge of the City in these directions.

- 5.25 The very northern tip of the development site falls just within the “View Cone” from Wolvercote and CS18 of the adopted Core Strategy seeks to retain significant views and protect the green backcloth to the City from development within or close to a view cone which might detract from them. From the apex of the view from Wolvercote the site is located in the far distance, approximately 1.7m (2.7km) to the south - east. To the south the development is glimpsed most readily from closer positions, especially along the footpath which leads from Medley to the termination of Walton Well Road at the public car park there. Although this footpath falls just outside the identified View Cone, views along it remain sensitive even though the broken tree line along the Castle Mill Stream at this point allows the existing student accommodation as well as trains idling on the adjacent railway lines to be glimpsed in the distance during winter months. In the summer these features are largely hidden from view. The views along this path are not “static” therefore but “dynamic” where the juxtaposition of features and the degree of impact will vary as the viewer proceeds. The views also change with the passing of the seasons as the gaps “close” during the summer months, and also with the time of day and with the prevailing weather conditions. There can be no doubt of the significance of the Oxford skyline and its landscape setting as one of the enduring images of the City, an image which in planning terms successive development plans have sought to protect.
- 5.26 The environmental assessment process has identified potential landscape, visual and heritage impacts from the proposed development (assessment assuming incorporation of the mitigation measures in Option1). The assessments identify that the most significant detrimental impacts primarily come from the visual prominence of the buildings particularly on views towards the city across Port Meadow.
- 5.27 In these views, depending upon the view point proximity to the development itself, the large scale elevations and bulky, repetitive built form, if unrelieved by intervening obscuring landscape elements, will have the potential to impact detrimentally upon the skyline and setting of this edge of the city. The effect on visibility of key towers and spires in iconic views from Port Meadow towards the city would be direct through concealment and indirect through the impact on their setting. The impact reduces the closer the viewpoint to Roger Dudman Way. The development is still visible but not as visually prominent in views from Botley and Wytham Woods
- 5.28 The effect of mitigation upon the impact of the development needs to be considered so the residual impact is balanced with the wider range of planning policy and other considerations. The height, form, layout and overall appearance of the development will draw the eye in certain views. In these views the external appearance will be perceived as being of a different scale and character than its setting. The views of the city edge skyline from Port Meadow would be impacted by the prominence of the development. The visible campanile of St. Barnabas Church is above the tree line and between the groups of trees when viewed from the footpath from Medley, and at some points along that route would be seen behind the new accommodation blocks. The scheme approved under the extant planning permission (to be regarded as a fall-back position) would also have had some impact upon its setting and also proposed an

institutional form of development although it is acknowledged as being a scheme of lower storey height buildings.

- 5.29 The elevational treatments and diversity of materials in the appearance of the development will help to reduce visual prominence and enable the blocks to recess in appearance against the existing visual backdrop of the City and sit more comfortably against the first phase of the Castle Mill development. These measures will be less successful in mitigating the skyline impacts that arise from the scale and form of the building. These have a greater impact upon the skyline edge and setting of the city than the development that has been approved before.
- 5.30 There will be additional tree planting in front of the entire length of the new student blocks to provide an intervening landscaped feature, more typical of the existing backdrop along the city edge. There will also be additional off-site tree planting at the edge of Port Meadow all of which will assist in mitigation of the landscape, visual and heritage impacts. Certainly it is not the case that the development would be entirely hidden from view from Port Meadow or that there would be no impact from the development on the high value landscape setting, and on public views. There would be a residual 'high adverse' impact on four heritage assets of high heritage value, namely: St. Barnabas church, a grade 1 listed building; Port Meadow, a scheduled monument and registered common; the river Thames and tow path; and the Oxford skyline'.
- 5.31 Given all of the foregoing, a judgment has to be made by the local planning authority as to whether the degree of change to the views and landscape setting that would result from the proposed development is sufficient to warrant refusal of planning permission, taking into account other important benefits and policy objectives.

Other Environmental and Technical considerations

- 5.32 **Transport and Access Assessment:** The development has 21 car parking spaces and 360 cycle spaces to serve a total of 439 student residential units. It is located close to the railway station and its associated bus interchange, and possesses good cycle and pedestrian links to Botley Road, North Oxford, Jericho and Port Meadow, making the site a highly sustainable, accessible location. This form of development would meet planning policy and highway authority requirements for transport and sustainability.
- 5.32 **Ecological, Nature Conservation and Biodiversity Assessment:** Overall the ecological investigations undertaken have concluded that other than for badgers the site is only of limited ecological interest. In terms of badgers an annex sett with 4 entrances was identified before the construction of the development took place. A license was obtained from Natural England for closure of the sett. An artificial sett has been provided as a replacement elsewhere on the site. A 2m badger run along the western boundary of the site has been created to allow movement of badgers through the site. A schedule of other wildlife enhancements could be incorporated into a new development. There is no objection to the development on these grounds.
- 5.34 **Geo-Environmental and Sustainability Assessment:** The site was identified as suffering from historic contamination arising from its

former use. Testing determined that contamination was significant and a remediation strategy was agreed with the Environment Agency. Implementation of the agreed remediation strategy has now taken place. In order to mitigate the potential leaching of contaminants through the surface water infiltrating the soil, a closed attenuation sustainable drainage scheme (SUDS) system was installed which collected and discharged the surface water directly into the Castle Mill Stream. This was also agreed with the Environment Agency and given consent. This system therefore removed the potential contamination linkage and mitigated further contamination. Following all of the remediation and mitigation measures that have been completed, the requirements of the NPPF have been met. The site is now suitable for its new use and there is no risk of significant harm to the end users from the residual contamination.

5.35 The development will have dedicated district heating and meet planning policy requirements for energy generation and efficiency. The aim would be to achieve BREEAM Excellent for the new development.

5.36 **Flood Risk Assessment** - A full flood risk assessment (FRA) accompanied the planning application and the measures required to mitigate flood risk at the development have been implemented. The Environment Agency raised no objection to the development.

5.37 **Noise and Air Quality Assessment** - The scheme has limited potential for the generation of noise that would adversely impact upon existing residential properties in the area. Noise issues have been considered as follows:

- effect of noise from the railway on occupants of the development;
- impact of noise from mechanical services plant;
- noise from road traffic from the development;
- reflection of railway noise off the new building facades.

Existing levels of railway noise on the site were quantified and suitable internal design levels were agreed with Environmental Health. The design of the buildings has taken into account the existing noise climate and suitable forms of construction developed to mitigate external noise to the agreed internal levels. Internal levels will need to be checked post-construction.

5.38 The development will generate very limited road traffic as the majority of residents will access the scheme by bicycles or on foot. Measurements of typical daytime ambient noise levels have been undertaken at residential properties adjacent to Roger Dudman Way, the only access road to the site. An assessment of typical levels of vehicle noise generated by the additional vehicles using Roger Dudman Way to access the site has indicated there will be either no noise impact or a minor impact only as a result of the limited additional traffic.

5.39 The potential for noise from the operational railway to be reflected back towards the existing residential flats to the east of the site at William Lucy Way has been modelled. The modelling exercise and assessment has concluded that there is a minor noise impact of up to 1dB (A) for through trains and up to 1dB (A) for static idling trains as a result of reflection off the façade of the buildings. It would not normally be deemed appropriate or necessary to introduce mitigation to try and reduce the noise impact where it is limited to 1dB (A) only.

- 5.40 **Air Quality** – The development will not have a significant impact on air quality during construction. Occupation of the development does not have an impact on local air quality and the occupants of the development are not affected by local sources of air pollutants (e.g. the energy centre, road vehicles or train movements).
- 5.41 **Economic and Socio Economic Assessment** - A development at Castle Mill Phase 2 could provide 312 student accommodation units, and lead to beneficial social and economic effects by removing over 300 students from the housing market in the city, reducing the University's impact on housing pressures in Oxford. Purpose-built student accommodation will help the University to comply with the planning policy limit for the number of its students living in open market accommodation, which in 2012, was at or about the limit of 3000. Without compliance with this policy requirement, the University's ability to occupy new academic and research developments would be adversely affected.

Feedback from Statutory Consultees, Interest Groups and Public consultation

- 5.42 Clearly this assessment is undertaken somewhat on a hypothetical basis. In this respect the statutory undertaker and public consultation feedback undertaken on the original planning application and more recently on the three parts of the VES could be considered as a proxy indicator of likely feedback from those sources. Paragraph 1.2 notes the main areas of public concern at the time the original application was considered. Appendix A summarises the significant amount of feedback from individuals, societies, groups and statutory undertakers in relation to the VES. Comments have variously covered the mitigation options; planning process; the impacts of the Castle Mill scheme as constructed, the roles of the City Council and the University and suggestions for how the scheme could be improved.
- 5.43 The majority of the feedback has raised objections and concludes that the implementation of Option 1 mitigation does not go far enough in addressing the concerns that exist with the residual impact of the development, primarily on visual and heritage interests.

Conclusion

- 5.44 As part of the assessment of the merits or otherwise of discontinuance, the committee needs to have in its mind what issues it would consider if a major new development of student accommodation was proposed on the Castle Mill site now. The foregoing assessment has set out the issues and the weight that would need to be considered for each if the decision were taken afresh. There are not significant differences with the issues considered in 2012 save for the environmental statement information and additional mitigation measures that now also need to be considered.
- 5.45 The site has been allocated for the purpose and development will allow the University to house more of its postgraduates in purpose built accommodation. The development would allow the University to meet the requirements of other recent permissions for academic floor space that no more than 3,000 of its students should live in open market housing. There is a critical housing situation in the city, recognisably worse now than in 2012. The importance of the University in being able to meet its academic, research and housing needs from an economic and

socio-economic perspective in the city is recognised.

- 5.46 As with the constructed development, the blocks of development would be seen from various vantage points within Port Meadow through and above the tree line, especially in winter months. Mitigation through on and off site planting and a diversity of colours, tones and textures in materials used on external elevations would however assist the development in sitting more easily in the landscape and heritage context of these views. Notwithstanding this there would be a residual 'high adverse' impact on four heritage assets of high heritage value, namely: St. Barnabas church, a grade 1 listed building; Port Meadow, a scheduled monument and registered common; the river Thames and tow path; and the Oxford skyline', that would need to be considered. The law requires the decision-maker to give "the desirability of preserving the building or its setting" not merely careful consideration for the purpose of deciding whether there would be some harm, but considerable importance and weight when balancing the advantages of the proposed development against any such harm. In 2012 the balance of impact versus delivery of policy objectives gave greater weight to the need to provide additional student accommodation in the city.
- 5.47 The proposed development is capable of relating appropriately to the adjacent railway lines and to Cripsey Meadow allotments. Existing wildlife interests could be appropriately accommodated and impacts upon Badger setts and runs could be mitigated. The scheme is capable of responding positively to climate change having no significant adverse impact. Other technical considerations such as access and transport, flood risk, ecology and biodiversity, sustainability, air quality and noise are capable of being satisfactorily addressed. The sites historical uses and contaminated condition is capable of being remediated to an acceptable degree, commensurate with the proposed uses.
- 5.48 In these circumstances, bearing in mind the 'presumption in favour of sustainable development', the available environmental information, the mitigation and tests of law that apply here and taking account of consultation responses, Members could still reasonably take the view that the balance of weight rests with securing the delivery of student accommodation and that the proposal accords with Local Plan policies.
- The Third consideration; whether under these circumstances pursuance of discontinuance action would be reasonable and expedient in the public interest particularly by reference to what on-going harm remains if the Council decides not to pursue discontinuance action
- 5.49 The issues in this case have been covered at length. The residual harm remaining after mitigation has been implemented has been highlighted. If the decision is not to take discontinuance against the development as mitigated then the residual harm also has to be accepted.
- The fourth issue: The financial consequences of taking discontinuance action. It is established law that the financial consequences to the Council of taking discontinuance action are material to such a decision. Members have previously been advised (February 2013) as to the nature and consequences of discontinuance action. Orders require confirmation by the Secretary of State. If confirmation by the Secretary of State is required the procedure would be similar to that for a planning appeal. The Council

would be required to pay the costs of a successful objector unless there are exceptional circumstances. Unreasonable behaviour on the part of the Council could also lead to an award of costs in favour of a successful objector.

- 5.50 In the current circumstances it would appear prudent to anticipate that there would be an objection and that a local public inquiry would be required. It appears highly likely that the Council, the University (as an objector) and at least one other interested party would be represented by Queen's Council and the range of likely issues is such that a three week inquiry would appear a conservative estimate. The Council's legal and associated costs in connection with such an inquiry are estimated to be at least £100,000. The University's costs are likely to be similar if not higher. Objectors' costs are far more speculative but, in the absence of unreasonable behaviour on the part of the Council in connection with discontinuance, are not likely to be payable by the Council.
- 5.51 Should an order take effect, compensation is payable to the beneficiary of the original planning permission. This is on the basis of abortive work and any other costs directly attributable to the order including loss of income, the cost of subsequent physical works to the development and loss in land value. For example, if the University was required to remove a floor from the development the Council would be liable for, amongst other things, the costs of physically executing those works. The University has produced its calculations as to the Option 3 mitigation costs and these highlight the potential costs that would be involved even in partial discontinuance action. They have advised officers that these costs have been scrutinised within the University at Proctorial Level. Clearly discontinuing the benefit of the 2012 planning permission would have greater cost implications than the mitigation options. The Council would need to fund these significant costs from public funds and consider whether this would be expedient at a time of significant financial pressure upon local authority budgets.

Conclusions

- 5.52 In the preceding sections officers have set out the considerations to be addressed by the Committee. On the question of whether full or partial discontinuance of the constructed development would be appropriate, the Committee's judgement has to be on the balancing of policy objectives, environmental information, proposed mitigation, and other material considerations including the statutory presumption in favour of preserving the setting of the identified heritage assets under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as well as the response received to the consultations. The balancing judgement will determine whether this type of development is in accordance with the development plan.
- 5.53 The 2012 decision was to conclude that the development should be granted planning permission. There have been no significant changes of planning policy since then, this considered with the content of the VES, proposed mitigation and other material considerations do not indicate that the development plan should be departed from. If Members are of the view that the development, with mitigation is acceptable then there should be no basis for discontinuance.
- 5.54 Internal legal advice and Queen's Counsel have confirmed that this would be a lawful decision for the Council to reach. Given this, and the absence of any other material considerations indicating that discontinuance action should be pursued either in part or whole, Members are recommended not to pursue discontinuance action.

6.0 Recommendations:

Committee is asked to:

1. Confirm that the submitted Voluntary Environmental Statement meets the requirements of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 as far as possible given that the assessment is retrospective and should be taken into account and inform the Council's decisions as set out in paragraph 3.26
2. Discharge and approve the outstanding planning conditions as set out in paragraphs 4.6 and Appendix B
3. Determine whether enforcement action should be taken as set out in paragraphs 4.8
4. Assess the mitigation options put forward by the University and note the unilateral legal agreement proposed as a commitment to bring forward option 1 as set out in paragraph 4.33
5. Consider whether it is appropriate to recommend discontinuance action for consideration by Council as set out in paragraphs 5.6, 5.48, 5.49 and 5.53 & 5.54

7.0 Background Papers:

- 7.1 Planning Applications 97/00342/NOY, 02/00898/RES, 11/02881/FUL.
- 7.2 Voluntary Environmental Statement and additional information Ref 14/03013/FUL for the original VES or 14/03013/CONSLT for the ES Addendum and additional substantive information.

8.0 Contacts

- 8.1 Contact Officers for this report:

Patsy Dell, Head of Planning and Regulatory Services

Michael Morgan, Lawyer, Law and Governance service

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West Area Planning Committee

13th June 2017

Application Number: 17/00913/FUL

Decision Due by: 5th June 2017

Proposal: Erection of Visitor Centre comprising cafe/restaurant, tasting room and bar for distillery and public conveniences (Use Class A3).

Site Address: Oxford City Council Depot (**Appendix 1**)

Ward: St Clement's Ward

Agent: Miss Juliet Burch

Applicant: Mr Tom Nicolson

The application is before the committee because of the amount of non-residential floorspace that is proposed.

Recommendation: West Area Planning Committee is recommended to grant planning permission for the following reasons:

- 1 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.

Conditions

- 1 Development begun within time limit
- 2 Develop in accordance with approved plans
- 3 Samples in Conservation Area - Headington Hill
- 4 Contaminated Land 1
- 5 Contaminated Land 2
- 6 Travel Plan
- 7 Construction Traffic Management Plan
- 8 Cycle Parking
- 9 Drainage Compliance 1
- 10 Drainage Compliance 2
- 11 Landscape plan required
- 12 Landscape carry out by completion
- 13 Landscape hard surface design – tree roots
- 14 Landscape underground services – tree roots
- 15 Tree Protection Plan (TPP) 2
- 16 Arboricultural Method Statement (AMS) 2
- 17 Biodiversity enhancements

- 18 Roof detailing
- 19 Railing and gate detail
- 20 Furniture details
- 21 Lighting details
- 22 Noise – mechanical plant
- 23 Machinery – restricted hours
- 24 Hours of use

Main Local Plan 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
- CP19** - Nuisance
- CP21** - Noise
- CP22** - Contaminated Land
- TR2** - Travel Plans
- TR3** - Car Parking Standards
- TR4** - Pedestrian & Cycle Facilities
- TR14** - Servicing Arrangements
- NE15** - Loss of Trees and Hedgerows
- NE16** - Protected Trees
- NE20** - Wildlife Corridors
- NE21** - Species Protection
- NE23** - Habitat Creation in New Developments
- HE3** - Listed Buildings and Their Setting
- HE7** - Conservation Areas
- SR5** - Protection of Public Open Space
- RC12** - Food & Drinks Outlets

Core Strategy

- CS9_** - Energy and natural resources
- CS10_** - Waste and recycling
- CS11_** - Flooding
- CS12_** - Biodiversity
- CS18_** - Urban design, town character, historic environment
- CS19_** - Community safety
- CS32_** - Sustainable tourism

Sites and Housing Plan

SP52 - South Parks Depot, Cheney Lane

MP1 - Model Policy

Other Material Considerations:

National Planning Policy Framework

This application is in or affecting the Headington Hill Conservation Area. The development affects the setting of a Grade II Listed Building.

Planning Practice Guidance

Relevant Site History:

16/01267/FUL - Change of use from council depot to artisan distillery (revised proposal omitting café and visitor centre). PER 20th October 2016.

16/01480/FUL - Erection of single storey barn to provide storage space.(Amended plans). PER 20th October 2016.

16/01267/CND - Details submitted in compliance with conditions 5 (Delivery and Service Management Plan) and 7 (Bin storage) of planning permission 16/01267/FUL. PDE .

16/01480/CND - Details submitted in compliance with condition 3 (Samples in Conservation Area) of planning permission 16/01480/FUL.. PER 22nd December 2016.

Representations Received:

27no. objection comments received (18 St Anne's Road, Two Ways Summerfield, 163 Hollow Way, 99, 179, 189 x2 & 197 Morrell Avenue, 6 Princes Street, 18 & 128 Southfield Road x2, 5 Stone Street, 128 x2, 142 & 202 Divinity Road, 8 Minster Road x2, 62 Bartlemas Road, 3 Gipsy Lane, 1, 29, 38 & 42 Hill Top Road, 14 Northmoor Road, 69 Warwick Street)

- Proximity to mental hospital
- Inappropriate site for the sale and production of alcohol
- Covenant on site saying it should be used for housing
- Encroachment into the park
- Impact on peace and tranquillity of the park
- Additional buildings are a new business and not necessary
- Design and scale of the new building
- Kiosk would encourage sale of alcohol into the park
- Opening hours of kiosk should be restricted
- Route of the shuttle bus
- Cars on the site is unsightly
- Lack of parking
- Restrictive covenants in relation to sale of alcohol
- Lack of clarification on details of public toilets
- Red line is incorrect on the site location plan

- Pedestrian and cycle access to the site needs to be improved
- Noise, litter and antisocial behaviour
- Sets a precedent for further development of the park

5no. support comments received (11 & 187 Divinity Road, 30 Hill Top Road, 32 Minster Road, 90 Morrell Avenue).

- Will create excellent amenities for the users of South Park
- Will open up an area which is currently closed to the public
- Will enhance the views both to the listed barn and from the site to the city
- Creation of jobs
- Does not affect views of the city
- High quality design
- Supports a wide range of users of the park
- The proposal is not creating an inner city rowdy pub

1no. general support comment received (no address given)

- Support a daytime catering facility for the park
- Applicant is trying to fit too much on the site
- Concerns of location of the distillery (next to a school, smells and feasibility of the business)
- Lack of parking
- Noise from the café
- Lack of waste disposal
- Design of the building isn't to taste

Statutory and Non-Statutory Consultees:

Divinity Road Area Residents' Association – Do not object in principle but have concerns with the scale of the building, hours of operation, traffic generation and use of the kiosk.

Granville Court Residents – Welcome a daytime catering facility for the park, concerns of the proximity of a distillery next to a school, concerns of waste disposal, noise and smell and concerns that the proposal is contrary to covenants.

Highways – parking is below standard but site is in a sustainable location, the car park spaces are below standard but this could be easily amended, a travel plan should be provided by condition, the cycle parking is above the level required, the shuttle bus is encouraged but further details are required by condition and the travel statement should be amended to include service and visitor hour exclusions by motor vehicles as well as delivery restrictions.

Friends of South Park – Generally support the principle of the proposal but have concerns with the scale of the development, the sale of alcohol, visitor transport plans and light pollution.

Oxford Preservation Trust – Support the proposal as it brings a use which connects the site back to the park. Confirm that covenants are being resolved in relation to sale and production of alcohol.

Oxford Civic Society – Welcomed employment but concerns of the balance between the distillery activity and the tourist attract/restaurant. Opening hours need to be carefully considered to protect amenities of neighbouring residents. Concerns about views are the character of this end of South Park, concerns about the sale of public land outside the depot boundary, parking should be restricted to 'blue badge holders'

only and the shuttle bus replicates existing public transport so should not be supported.

Issues:

Principle of the development
Design
Impact on the Conservation Area
Impact on the Setting of Listed Buildings
Amenity
Arboriculture
Biodiversity
Contaminated Land
Highways
Drainage
Energy and natural resources

Officers Assessment:

Site and proposal

1. Oxford City Council Depot, now The Oxford Artisan Distillery (TOAD) was a farm, then a working depot sat at the top of South Park to the east of Oxford City Centre. The site was granted planning permission for use a distillery in 2016 and the café and visitor centre was withdrawn from the application to give further time to allow for the consideration of the design and formation of the relationship with the park. This application relates to the erection of a visitor centre, restaurant/café, tasting rooms, kiosk and public toilets.

Principle of the development:

2. The principle of using the site as an artisan distillery has already been established (16/01267/FUL), and the proposal to introduce a new building to the site to provide a visitor centre, café/restaurant and public convenience facilities for the users of both the distillery and South Park is considered as both necessary for the viability of the new business use and thus maintaining a suitable use for the listed threshing barn, and beneficial to the users of South Park through providing additional facilities that do not otherwise exist in the locality.
3. The site was subject to legal covenants held by Oxford Preservation Trust (OPT) which restricted the sale and production of alcohol and also prevented the development of the site for housing. OPT feel that the use needs to be linked to the park. Whilst the covenants are not material planning considerations there have been a number of comments received in relation to them. OPT have confirmed that they are resolving the issue of the alcohol covenant with TOAD to ensure that a café and visitor centre can be brought forward with public toilets to link the distillery site to the

park. The proposal affects a small proportion of the park with buildings contained within the depot boundary. The works and seating area outside of the original boundary of the depot help ease of movement and the relationship between the depot and the park. This is not considered to reduce the tranquillity or enjoyment of a large park but improve surveillance and facilities available to users of the park.

Design

Design/Impact on the setting of Listed Buildings and the Conservation Area:

4. The proposed site strategy which comprises forming a distinct distillery compound with the existing listed barn, curtilage structures and new barn, and positioning and orientating the new building so that addresses the park as well as the distillery compound is considered an appropriate approach. The incorporation of an area of park land into the development enabling the addition of terraced seating areas and new pathways allows the development to address the park much more successfully.
5. Overall the site strategy and landscape plan for the site is considered appropriate with consideration having been given to the movements around the site, between buildings and the setting of the listed barn. The landscaping, if implemented and maintained appropriately, has the potential to enhance the setting of the listed barn and site. There is concern, however, regarding the proposed car parking area in between the distillery compound and the new visitor centre, in that it would detract from the setting of the buildings, and limit the potential to create pedestrian friendly spaces. However, it is recognised that the proposal does not meet the parking standards and the parking has already been reduced from previous schemes to improve the setting of the listed threshing barn.

Building design

6. The proposed building is of a substantial footprint, size and massing in comparison to the original buildings on the site. Whilst it is accepted that it needs to be of a sufficient size to ensure the viability of the business, due to its siting, scale and massing the new building would, from several different vantage points, obscure views of the listed barn detracting from its setting and the positive contribution it makes to the character and appearance of the conservation area. The building would also introduce significant additional built form to South Park, with a substantial length of elevation facing towards the park, a large proportion of which would have the appearance of being two-storeys in height. On balance it is considered that the visual appearance of the building, its impact on the setting of the listed building and its impact on the Conservation Area would be acceptable.
7. Given the sites location at the top, north eastern corner of South Park, the proposed building would not interrupt the long view of the city centre across South Park, but rather, affect the viewing experience. Given that the new building would be sited within the existing site curtilage of the former farm

buildings, it would not encroach on any of the key viewing places in the park or the green foreground which is experienced in these views. It would however, create a new viewing place from which to experience the views, which is considered as a positive.

8. Notwithstanding the above comments, as a result of the pre-application discussions, the overall building design has significantly improved, now exhibiting a higher design quality. The use of a combination of flat and mono pitched roofs would result in an interesting contemporary addition to the site and in comparison to the initial proposals the overall scale and massing of the building has been reduced so that it sits more comfortably alongside the listed barn.

Assessment of harm

9. Taking into account the impact of the new building, in terms of its scale, massing and size, on the views and setting of the listed barn and conservation area, it is considered that the proposal would result in less than substantial harm to these heritage assets. The fact that the proposed scheme would enable a new and suitable use for the listed barn and the provision of public facilities for the users of South Park, are considered to be overriding public benefits associated with the proposal, which taken into consideration alongside with the overall design quality of the building and site plan, would outweigh the less than substantial harm identified above.
10. A number of conditions are considered necessary to ensure that the proposed building is of a suitably high quality for this sensitive heritage context. The full implementation of the landscaping scheme will also be key to ensuring the successful integration of the scheme into South Park and the surrounding area, and is also to be secured by condition.

Amenity

Mechanical ventilation

11. The proposal includes three locations where mechanical plant will be needed though no exact details of this have been submitted to date. The general night time background noise level in this location would be expected to be relatively low and there is a residential dwelling very close to the site. For these reasons noise from any mechanical plant will need to be carefully designed and controlled by condition.

Hours of Operation – machinery operation and deliveries

12. Given the close proximity of the site to a residential dwelling it is recommended that times of deliveries and collections to the site are restricted by condition in order to protect the amenity of this occupier. This timing of deliveries can be included in the travel plan which is also requested to ease congestion of the highway network.

Hours of operation – kiosk

13. It is understood that the purpose of the kiosk is to provide refreshments for visitors to the park. This Council's noise control services receive several complaints each year from residents who overlook South Park and are disturbed by groups of individuals late at night. Any commercial activity likely to encourage groups to gather at night should be avoided. Kiosk opening hours and use are therefore recommended to be restricted by condition.

Arboriculture:

14. The trees on the site are protected by the Headington Hill Conservation Area. The proposals require removal of 3 existing low quality trees (T13, T14 and T15) and a boundary hedge (G12), and several trees will need to be pruned as identified in the submitted Arboricultural Impact Assessment. This will not have a significant adverse effect on amenity in the area and will not harm either the appearance or character of the Headington Hill Conservation Area.

15. A new building is proposed within the Root Protection Areas (RPAs) of 2 oak trees, T10 and T11. The submitted Arboricultural Impact Assessment includes details of a base and method statement for its construction which will minimise root damage and should ensure that the viability of these trees is not adversely effected.

16. 2 young trees (T20 and T31) outside of the application of the site within the park are to be lifted and planted elsewhere; this will require the agreement of the council's Parks Services if planning permission is granted.

17. It is essential that new underground drainage and utility services are located to avoid damage to retained trees. Also, new hard surfaces within the RPAs of retained trees must be appropriately designed to avoid damage to roots by excavation and ensure water and air permeability. Retained trees will need to be robustly protected during the construction phase. Further details of these matters can be secured by condition.

18. Officers recommend that the proposal is therefore considered to comply with policies NE15 and NE16 of the Oxford Local Plan.

Biodiversity

19. The submitted *Ecological Assessment* by GS Ecology (August 2016) has been reviewed. In accordance with Core Policy CS12: Biodiversity of the Core Strategy for Oxford City: "*Opportunities will be taken (including through planning conditions or obligations) to: ensure the inclusion of features beneficial to biodiversity (or geological conservation) within new developments throughout Oxford.*"

20. In addition to local policy, the NPPF sets out that “*The planning system should contribute to and enhance the natural and local environment by: minimising impacts on biodiversity and providing net gains in biodiversity where possible*” and “*opportunities to incorporate biodiversity in and around developments should be encouraged.*”

21. The application requires the removal of a large section of hedge. This hedge is not high quality and does not significantly contribute to the wildlife corridor. The proposal does however propose the planting of new hedge adjacent to the residential dwelling and biodiversity enhancements bird nesting boxes and pollinator boxes are requested by condition in the interests of improving the biodiversity of the City in accordance with NPPF and policy CS12 of the Oxford Core Strategy 2026.

Contaminated Land

22. The proposal involves the creation of public recreation space on a former farm and depot. In order to ascertain if there is the potential for contamination to exist on site, it is recommended that a desk study and site walkover are undertaken to ensure the site is suitable for use. These are recommended to be required by condition to ensure compliance with policy CP22 of the Local Plan.

Access and Parking

Parking

23. It is proposed that will be a total 9 off-street car parking spaces and a space to park the shuttle bus. Of the 9 car parking spaces, 8 will be located adjacent to the distillery. Of these 8 spaces, 2 will be allocated for blue badge holders. While this is below the maximum level recommended for the various uses proposed at the site (set out in the adopted Parking Standards), this level is nevertheless considered appropriate. The site is in a location that is highly accessible in terms of pedestrian, cycle and public transport modes.

24. The County Council welcomes low car developments in accessible locations, and given the nature of the proposed development this is considered particularly important. The dimensions of the car parking spaces, as shown in the plans, do not meet recommended dimensions as outlined in County Council's Design Guide for New Residential Developments. It is recommended that a car parking space obstructed on one side is to have dimensions of 2.7m x 2.5m, a disabled parking space 5.5m x 2.9m, and other car parking spaces to be 2.5m x 5m. However, it would appear from the plans submitted that these required dimensions could be accommodated on the site.

25. The streets surrounding the site are all situated within Controlled Parking Zones; however both Cheney Lane and a section of Warneford Lane do not currently have parking restrictions. With this in mind, officers are encouraged that the development will seek to promote the use of sustainable transport methods of travel to the site through the implementation of a Travel Plan

Statement, which would help to reduce the level of parking demand associated with the development and the likelihood for overspill parking to occur as well as the development's potential traffic impacts.

26. It is noted that 20 cycle parking spaces are proposed for the development. This is above the minimum recommended level set out in the Adopted Parking Standards. The County Council welcomes this provision which is in line with aspirations to encourage sustainable transport. The provision of cycle parking should be provided in a secure and preferably covered location. Further details are recommended to be required by condition.

Construction

27. Given the site's location near to key routes into and out of the city and well used bus routes, a Construction Traffic Management Plan must be implemented in order to ensure that construction traffic does not adversely the operation and safety of the highway. This is included in the list of recommended conditions.

The Shuttle Service

28. The service will be run to coincide with the start and end times of the distillery tours. The Transport Statement proposes that this shuttle bus will be bookable and will pick up from hotels within the city centre as well as from the Oxford Botanical Garden. It is proposed the shuttle bus will dropoff/pick-up visitors at the entrance courtyard, adjacent to the tasting room, where a gathering space will be provided. The County Council welcomes this provision which could further reduce private vehicle trips to the site. However, further details of specifically where the shuttle bus is expected to pick up and drop off at the Botanical Gardens is required. Parking along the High Street and Rose Lane is not permitted and collections and drop offs outside of the Botanical Gardens on the High Street would be prohibited as this would impede the operation of a key route in the city centre. If it is proposed that the shuttle bus will pick up from inside the Oxford Botanical Gardens site then evidence of an agreement for this provision would be required.

Transport Statement

29. The Transport Statement submitted provides the estimated number of two-way vehicle movements in year 1 to be on average 17 per day and rising to 24 per day in year 3. It is unclear at what hours these vehicle movements will occur. The TS does state that for delivery vehicles though, there will be delivery times will be restricted so that they do not interfere with the drop off and pick up times of Cheney Secondary school. These are Monday to Friday, 08:00-08:35 and 14:50-15:30. The TS also states that there is to be an estimated 23 visitors per day in year 1, rising to 154 per day by year 3. In addition, the number of employees for both the Distillery and Restaurant/Café is estimated to be 28 in year 1 rising to 35 in year 3. It is anticipated that a Travel Plan will be submitted, but given the scale of the development; a Travel Plan Statement would be sufficient and must be submitted to the Local

Planning Authority. This would promote the use of sustainable transport to the site and minimise the development's potential traffic impacts. In order to ensure the restriction on delivery times set out in the Transport Statement and ensure that tours are scheduled so as not to coincide with peak school hours, the Travel Plan Statement must include a Delivery, Service and Visitor Management Plan. This should be secured under a planning condition.

Access and Swept Path Analysis

30. The existing vehicular access from Cheney Lane will be utilised for the proposed development and no alterations to this access point are proposed. This access point is considered suitable in terms of safety and visibility. A swept path analysis has been provided showing that a refuse vehicle and safely enter and exit the site in a forward gear. However, from the plans it appears that the vehicle body could at certain points overlap into the proposed gardens. The site is already conditioned so that the swept path analysis of the site shall be kept clear under the change of use application.
31. There is no objection from County Council Highways subject to the conditions as outlined above.

Drainage

32. The proposal is for the construction of a cafes/restaurant, bar facility and associated car park area. The proposal will create a significant amount of hardstand area.
Submitted Assessment Information
 - Plan titled The Oxford Artisan Distillery – Proposed Surface Water Drainage prepared by Peter Brett Associates, Drawing No 37151-2001-003, dated 05/04/2017.
 - Ground Investigation report prepared by Ground Investigation Service (Southern) Ltd, ref S.4859, dated 26/09/2016.

Flooding

33. The proposed development is located within Flood Zone 1 according to the Environment Agency's Flood Maps. Furthermore the Environment Agency's Surface Flood Mapping does not indicate the development as being in an area subject to surface water flooding.

Drainage and SuDs

34. Both a ground investigation and a drainage layout (with calculations) have been provided. The proposal includes a viable design which will ensure that the proposal will significantly reduce rainfall runoff post development. Conditions are recommended that the development is carried out in accordance with the submitted details.

Energy and natural resources:

35. Under policy CS9 of the Core Strategy developments should seek to minimise their carbon emissions, particularly on qualifying sites. This site is not a qualifying site as it does not involve 2000m² or more of floorspace, however the application has been accompanied by an energy strategy which has been carried out in order to identify the best methods to reduce carbon emissions from the site. As a result of this PV panels and air source heat pumps have been included into the scheme. As a long term goal for the site it is proposed that heat will be recovered from the distilling process and used to heat the café and visitor centre.

Conclusion:

36. For the reasons outlined in the report above, Officers recommend that the application is approved subject to conditions.

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

Background Papers:

17/00913/FUL

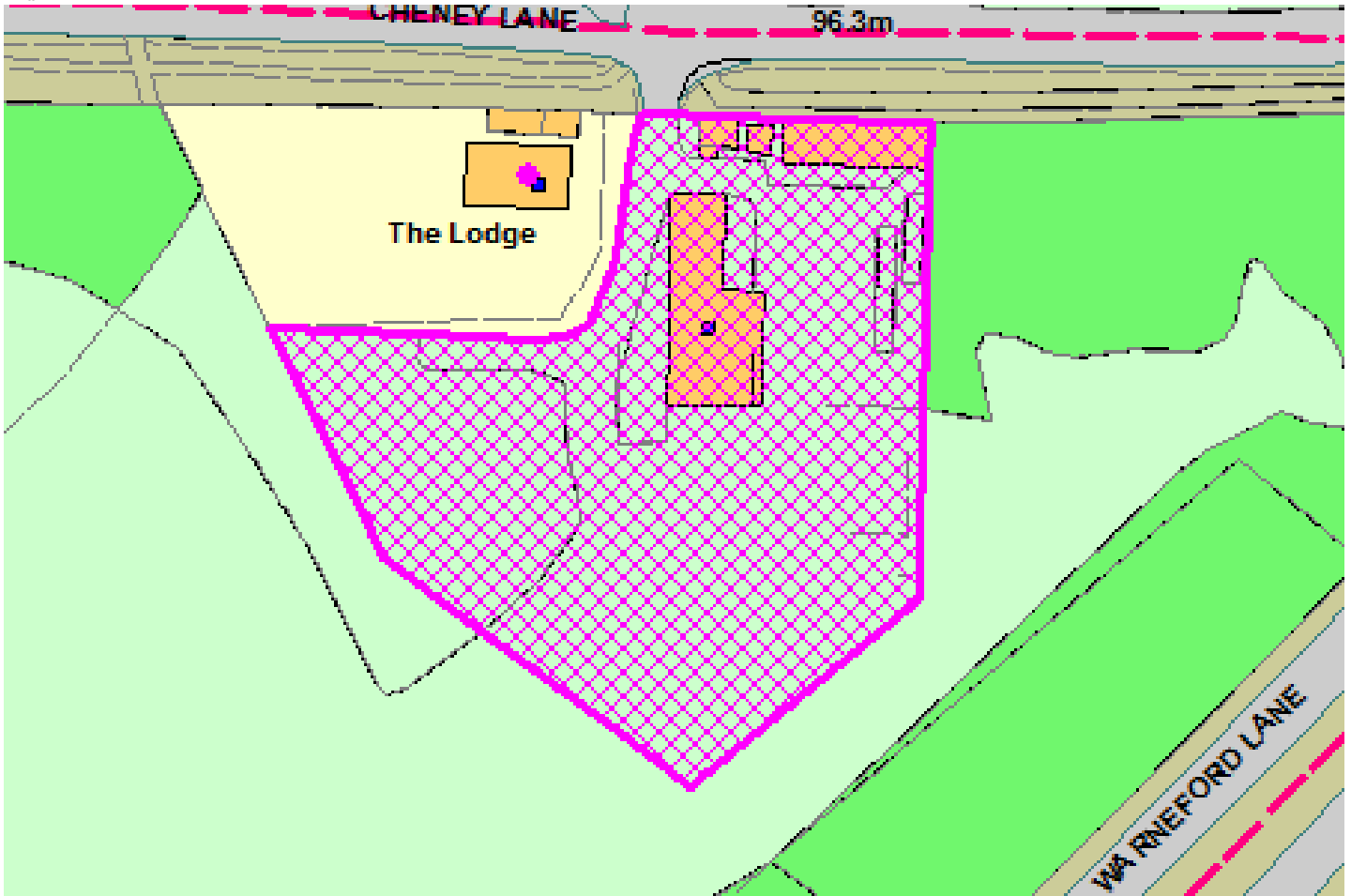
Contact Officer: Sarah Orchard

Date: 1st June 2017

Appendix 1

17/00913/FUL - Oxford City Council Depot

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West Area Planning Committee

13th June 2017

Application Number: 16/02998/FUL

Decision Due by: 31st January 2017 (extension of time agreed until 20th June 2017)

Proposal: Erection of 5 x 1-bed flats and 1 x 2-bed flat (Use Class C3). Provision of bin and cycle store.

Site Address: 7 And 9 Leys Place Oxford OX4 3DE
(Site plan: Appendix 1)

Ward: Iffley Fields Ward

Agent: West Waddy ADP

Applicant: Mr Faruq

The application is before the committee because of the number of units proposed

Recommendation:

The West Area Planning Committee is recommended to **refuse** planning permission for the reasons below

- 1 The proposal, because of the comings and goings to and from the backland location of the proposed residential units and parking area, represent an un-neighbourly form of backland development as existing neighbouring householders are likely to suffer from noise and disturbance to their private gardens to the detriment of the residential amenities they should reasonably expect to enjoy. As a result, the development cannot be considered acceptable in the context of the Council's adopted planning policies, specifically Policy CP1, CP8, CP10, CP20 and CP21 of the Oxford Local Plan 2001-2016 and Policy HP10 & HP14 of the Sites and Housing Plan (2013).
- 2 The proposal does not provide an appropriate housing mix for the location and includes the net loss of a family dwelling. It therefore fails to ensure that a balanced mix of housing is provided for the City and is contrary to Policy CS23 of the Oxford Core Strategy and the Balance of Dwellings SPD.
- 3 The proposed development is considered to constitute back land development which does not respect the character and appearance of the area due to the amount of accommodation, number of units proposed, together with their form, site coverage and location to the rear of the site, as well as the design and location of the amenity spaces, parking and landscaping, represents a cramped form of development and poor quality design and choice of materials which would be uncharacteristic in its suburban residential context and would

therefore harm the character and visual amenity of the wider area, contrary to policy CS18 of the Oxford Core Strategy, policies CP1, CP6, CP8, CP9 and CP10 of the Oxford Local Plan 2001 to 2016 and policies HP9 and HP13 of the Sites and Housing Plan.

- 4 The proposed development fails to provide adequate quantity or quality of outdoor amenity space for all units to the detriment of future occupiers' residential amenity and as such is contrary to policy CP10 of the Oxford Local Plan 2001-2016 and policy HP13 of the Sites and Housing Plan 2011-2026.
- 5 The proposed development would have an adverse impact on the privacy of occupiers of nearby dwellinghouses as a result of overlooking from the rear and side windows of the proposed development into the private rear gardens of neighbouring properties. The proposals would also damage the amenity of neighbours because of the impact of increased noise and disturbance in a backland plot. As a result, the development fails to meet the requirements of Policy CP1, CP10, CP20 and CP21 of the Oxford Local Plan 2001-2016 and Policy HP14 of the Sites and Housing Plan (2013).
- 6 The application fails to provide any details of how sustainable design and construction methods would be incorporated nor an energy statement to show how energy efficiencies have been incorporated into the development have been provided. The proposal therefore does not comply with policy HP11 of the Sites and Housing Plan 2011-2026 or policy CS9 of the Oxford Core Strategy 2026.
- 7 The proposed development fails to provide adequate off-street parking and fails to demonstrate that there is sufficient on-street car parking capacity to mitigate for any increase in car ownership resulting from the new dwelling in an area of very high on-street parking pressure, congestion and in an area which is not subject to a Controlled Parking Zone (CPZ). It is therefore considered that the lack of sufficient off-street parking is likely to cause additional on-street parking pressure which would be detrimental to highway safety. The proposal is therefore considered to be contrary to policies CP1 and CP10 of Oxford Local Plan 2001-2016 and HP16 of Sites and Housing Plan 2011-2026.

Main Local Plan 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

Core Strategy

- CS2_** - Previously developed and greenfield land
- CS9_** - Energy and natural resources
- CS10_** - Waste and recycling
- CS17_** - Infrastructure and developer contributions
- CS18_** - Urban design, town character, historic environment
- CS19_** - Community safety
- CS23_** - Mix of housing

Sites and Housing Plan

- MP1** - Model Policy
- HP2_** - Accessible and Adaptable Homes
- HP4_** - Affordable Homes from Small Housing Sites
- HP9_** - Design, Character and Context
- HP10_** - Developing on residential gardens
- HP11_** - Low Carbon Homes
- HP13_** - Outdoor Space
- HP14_** - Privacy and Daylight
- HP15_** - Residential cycle parking
- HP16_** - Residential car parking

Other Material Considerations:

- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance
- Affordable Housing and Planning Obligations SPD
- Balance of Dwellings SPD
- Parking Standards SPD
- Technical Advice Note 1A - Space Standards for Residential Development

Relevant Site History:

70/22711/A_H - Erection of conservatory. PDV 14th April 1970.

14/02828/CEU - Application to certify that existing use of property as 2 x 1-bed flats is lawful. PER 27th November 2014.

Representations Received:

5no. objection comments – 4 Leys Place, 6 Leys Place, 8 Leys Place, 10 Leys Place, no address given (1x)

- Parking congestion
- Parking provision harmful to surrounding area
- Harm to adjoining properties
- Out of character for the area

Statutory and Internal Consultees:

Oxford Civic Society – concerns about the practicality of the low parking provision on this site until and unless a Controlled Parking Zone is implemented in this vicinity as well as proposed level of cycle parking is inadequate

Thames Water Utilities Limited – no objection, informative of: Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.

Natural England – no comment, referring to online standing advice

Highways Authority – objecting on grounds of lack of parking provision, car-free development cannot be enforced

Officers Assessment:**Site and proposal:**

1. The application site consists of a 0.1 ha sized plot to the rear of 7 and 9 Leys Place and is accessed via a shared driveway in between 7 and 9 Leys Place. The area is a small residential close.
2. This application is seeking permission for the erection of a two storey block of flats (5x1bed & 1x2bed), with the provision of a bin and cycle store.
3. Officers consider that the principal determining issues in this case are as follows:
 - Principle of Development
 - Residential Development
 - Community Infrastructure Levy
 - Affordable Housing
 - Design, Site Layout and Built Form
 - Living Conditions
 - Highways, Access, and Parking
 - Landscaping
 - Sustainability

Principle of Development:Principle of Residential Development

4. The National Planning Policy Framework (NPPF) encourages the effective use of land by reusing land that has been previously developed. It goes on to state that Local Planning Authorities should resist inappropriate

development of residential gardens. The NPPF defines previously developed land as land which is or was occupied by a permanent structure, including the curtilage of the developed land and any associated fixed surface infrastructure.

5. This site has been cleared. A small part of the site was previously occupied by some sheds. The majority of the land would be considered garden land which is considered to be previously developed land for the purposes of the National Planning Policy Framework. The proposal is for 6 units and intensifying the residential use of the site, to the rear of existing residential dwellings. Policy CS2 of the Core Strategy (2011) and Policy HP10 of the Sites and Housing Plan (2013) enable some development to take place on garden land subject to restrictions relating to the character and appearance of the area and the constraints of the site. Officers recommend that in this case the development would represent an overdevelopment of a backland plot that would not be supported in the context of these policies. Officers have also had regard to the level of development that is proposed in this case including the requirements of Policy CP6 of the Oxford Local Plan 2001-2016 and Policy HP9 of the Sites and Housing Plan (2013).

Balance of Dwellings

6. Policy CS23 of the Oxford Core Strategy 2026 seeks to ensure that residential development delivers a balanced mix of housing to meet the projected future household need, both within each site and across Oxford as a whole. The mix of housing relates to the size, type and tenure of dwellings to provide for a range of households.
7. The Balance of Dwellings Supplementary Planning Document (BoDs) sets out the appropriate housing mixes for each Neighbourhood Area within the City. The application site is located within the East Oxford Area which is classified as a red area which requires the City Council to safeguard family dwellings and achieve a reasonable proportion of new family dwellings as part of the mix for new developments.
8. A mix can only be specified from a development of 4 or more units. This proposal is for 6 units, and therefore this policy applies. The proposed mix is for 5 one bedroomed and 1 two bedroom units. The site over provides 1 bed units (SPD requires up to 30%) and provides no three bed units (min 45%). Therefore the proposal is contrary to CS23 of the Oxford Core Strategy 2026 and thus should be refused on principle.

Affordable Housing

9. Policy HP4 of the adopted Sites and Housing Plan states that planning permission for residential development on sites with capacity for 4- 9 dwellings will only be granted if a financial contribution towards affordable housing is secured, or 50% provided on site.

10. The proposal is subject to this policy as 6 new dwellings are proposed. The developer has agreed to provide a financial contribution to affordable housing off-site and consider this a social benefit in the planning statement prepared by the agent. If planning permission is granted then a legal agreement would be required.

Design

Layout

11. The proposal seeks permission for the erection of a two storey block of flats to the rear and access via the drive way of 7 and 9 Leys Place. One accessible parking space is provided as well as two spaces for 7 & 9 Leys Place. There is some space for bins and bikes as well as simple landscaped communal areas surrounding the block. HP9 of the Sites and Housing Plan sets out that planning permission will only be granted for developments where form, layout and density make efficient use whilst respecting the site context as well as not increasing surface water run-off. No justification has been submitted to justify the scheme against the site context. The Design and Access Statement provides a brief site assessment but does not show a complete analysis of the scheme that evidences the proposal against the site constraints.
12. The small close consists of terraced dwellings. The proposed development would be completely at odds with the established pattern of development in the area.
13. The proposal would introduce development to the back of the terraces, which would have an adverse effect on the prevailing relationships of the plots and their development as well as the generous appearance of the built form and surrounding spaces.
14. Officers consider the layout of the built form, the amenity spaces and the lack of usable landscape and open space to be contrary to Policy HP9 of the Sites and Housing Plan and CS18 of the Core Strategy.

Scale of Development

15. The proposed development involves the creation of one two storey block of flats to the rear as set out in the application description.
16. There are no purpose built blocks of flats in the vicinity. The proposal is considered to overdevelop the site and trying to deliver more than the site and associated constraints allow. The overdevelopment of the site has directly lead to the site being unacceptable in terms of its design. The scale of development is therefore not considered acceptable and contrary to polices CP1, CP6, CP8 and CP10 of the Oxford Local Plan.

Appearance

17. Leys Place is a small close of generous terraced dwellings with front gardens and some off-street parking characterising the streetscene.
18. The site is to the rear of 7 & 9 Leys Place and the access will be created by reshaping the existing driveways.
19. The proposal is a vast contrast to the existing built form; using predominantly timber cladding, and dark brown bricks, proposing a flat roof. Creating a large block with a monolithic appearance to the rear of the established street and plot pattern.
20. Detailing and finish are at odds with the prevailing suburban character of the street. The fenestration and lack of visual interest of the building means that it would not fit in well with the local vernacular.
21. The proposed design is considered to be incongruous, the scale, massing and size are unacceptable in design terms and the development does not comply with local planning policies that seek high quality design.
22. In addition to the above, the failure to adequately respond to the context of the surrounding built environment means that Officers consider that the proposals do not represent high quality design and the development is contrary to Policy CS18 of the Core Strategy (2011).

Energy and Natural Resources Impact

23. The proposed development does not include any measures or information on sustainable methods of construction or reduction in carbon emissions and is therefore contrary to Policy CS9 of the Core strategy

Living Conditions

Size of Dwellings

24. The 1 bed units are between 51 and 58 sqm m and the 2bed unit is 61 sqm. It is considered that this is acceptable in the context of the National Minimum Space Standards and the development complies with the requirements of Policy HP12 of the Sites and Housing Plan (2013).
25. The quality of indoor space provided is considered adequate with adequate circulation space and natural light and ventilation. The proposed development would therefore comply with the requirements of Policy HP12 of the Sites and Housing Plan (2013).

Outdoor Space

26. The Council's Sites and Housing Plan, Policy HP13, sets out the outdoor space requirements needed to gain planning permission. Provision needs to be made to "have direct and convenient access to an area of private open space" for all new dwellings either a private garden, shared garden

or balconies that respect location and context, orientation and neighbourliness.

27. The proposal seeks to provide some garden spaces for the three ground floor units and balconies for the top three flats. The balcony for apartment 6 is acceptable in its size, but is considered to provide a poor quality space due to its restricted outlook and privacy issues. All outside spaces will have a degree of overlooking from the top floor flats, and as well as their layout do not provide an adequate outside private space. As a result the outdoor space provision is considered unacceptable, due to its poor location and size for the amount of potential users. Officers recommend that as a result, the proposal is contrary to Policy HP13.

Refuse and Recycling Stores

28. Policy HP13 of the Sites and Housing Plan requires any new development to make provision of facilities for waste disposal that is safe, discreet and conveniently accessible.
29. The proposal has allocated some space for bin storage for each dwelling. More details on the bin stores would be required if planning permission is granted but this could be dealt with by condition.
30. The individual bin storage is over 25 meters away from curbside and the proposal suggested residents will put bins at the curb. The plans do not suggest an area or any practicalities for waste collection.
31. Officers considered that the development is acceptable on balance with waste storage provisions of Policies HP13 of the Sites and Housing Plan (2013) and details could be secured by condition.

Impact on Neighbours

32. The proposed layout is considered to not mitigate sufficiently the impact on neighbouring properties.
33. The separation between the buildings and nearby dwellings is not ideal. The side window of No. 7 is 15 metres from new front elevation windows. There are no side windows at No. 9, however the relationship between the new building and No. 9 is considered unacceptable, in terms of overbearing outlook as well as loss of privacy. The building is just 1.2 metres away from the boundary fence, which would include a proposed hedge.
34. The proposed building leaves about 4 metres less of “private garden space” between the boundaries to Essex Street rear gardens. Officers consider the appearance and feeling of overlooking and loss of privacy will be introduced in all surrounded dwellings in an area that is currently shaped by generous garden spaces.

35. The proposed development has been assessed against the 45/25 degree code set out in Policy HP14 of the Sites and Housing Plan (2013). Officers are confident that occupiers and neighbours will not suffer from adverse impact on day light and the development is acceptable in the context of Policy HP14.

36. Disturbance and noise would have an adverse impact on neighbours and will limit the ability to enjoy their private gardens due to increase in vehicle and human activity through intensifying the residential use of the site. This would result in unacceptable levels of noise and disturbance to neighbours. Officers recommend that this is a reason for refusing the development.

Highways, Access and Parking

Access

37. Vehicles, pedestrians and cyclists would access the site via a shared driveway with 7/9 Leys Place. The access and parking arrangements with 7&9 Leys Place are not designed to create a successful new and sustainable place. The access to the site is very limited from an already narrow and congested street. No details have been provided for emergency services access.

38. The highway authority objects as some of the proposed dwellings would be car-free development and this cannot be enforced at this location as the application site lies outside of a Controlled Parking Zone (CPZ).

Parking provision

39. One car parking space is provided for an accessible flat and two spaces are re-provided due to access alterations for the existing dwellings. 5 units would be without car parking (4x 1bed units and 1x2bed unit). Officers recommend that the deficiency of car parking in this location means that there would be an increase of on-street parking to the detriment of highway safety. As a result, the proposed development is considered unacceptable and is contrary to Policy HP16 of the Sites and Housing Plan

Cycle parking

The proposed site plan identifies sufficient space for bike storage. The proposals would be partially covered. This would not be acceptable, as cycle storage should be enclosed to provide a safe and secure solution. Officers recommend that if planning permission is granted then details could be conditioned, and therefore the proposal is considered acceptable in respect of HP15 of the Sites and Housing Plan.

Landscaping

40. The proposed plans show some tree and planting scheme. No justification

or detailed design for the garden spaces and communal area have been submitted. If planning permission is granted for the proposed development then a condition should be included to ensure that there is landscaping provided to soften the appearance of the proposed development and ensure that it meets the requirements of Policy CP11 of the Oxford Local Plan (2001-2016).

Contaminated Land

41. The application site is not in a defined area of high contamination risk and Officers are satisfied that if planning permission is granted then this could be adequately addressed by condition.

Community Infrastructure Levy

42. The Community Infrastructure Levy (CIL) is a standard charge on new development. The amount of CIL payable is calculated on the basis of the amount of floor space created by a development. CIL applies to developments of 100 square metres or more, or to new houses of any size. The reason that CIL has been introduced is to help fund the provision of infrastructure to support the growth of the city, for example transport improvements, additional school places and new or improved sports and leisure facilities. CIL is being brought in by councils across the country, although each local council has the ability to set the actual charges according to local circumstances.

43. This application is liable for CIL.

Conclusion:

44. Officers recommend that the proposed development is unacceptable for the reasons outlined above. The West Area Planning Committee is recommended to refuse planning permission.

Human Rights Act 1998

Officers have considered the implications of the Human Rights Act 1998 in reaching a recommendation to refuse this application. They consider that the interference with the human rights of the applicant under Article 8/Article 1 of Protocol 1 is justifiable and proportionate for the protection of the rights and freedom of others or the control of his/her property in this way is in accordance with the general interest.

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

Background Papers: 16/02998/FUL

Contact Officer: Tobias Fett

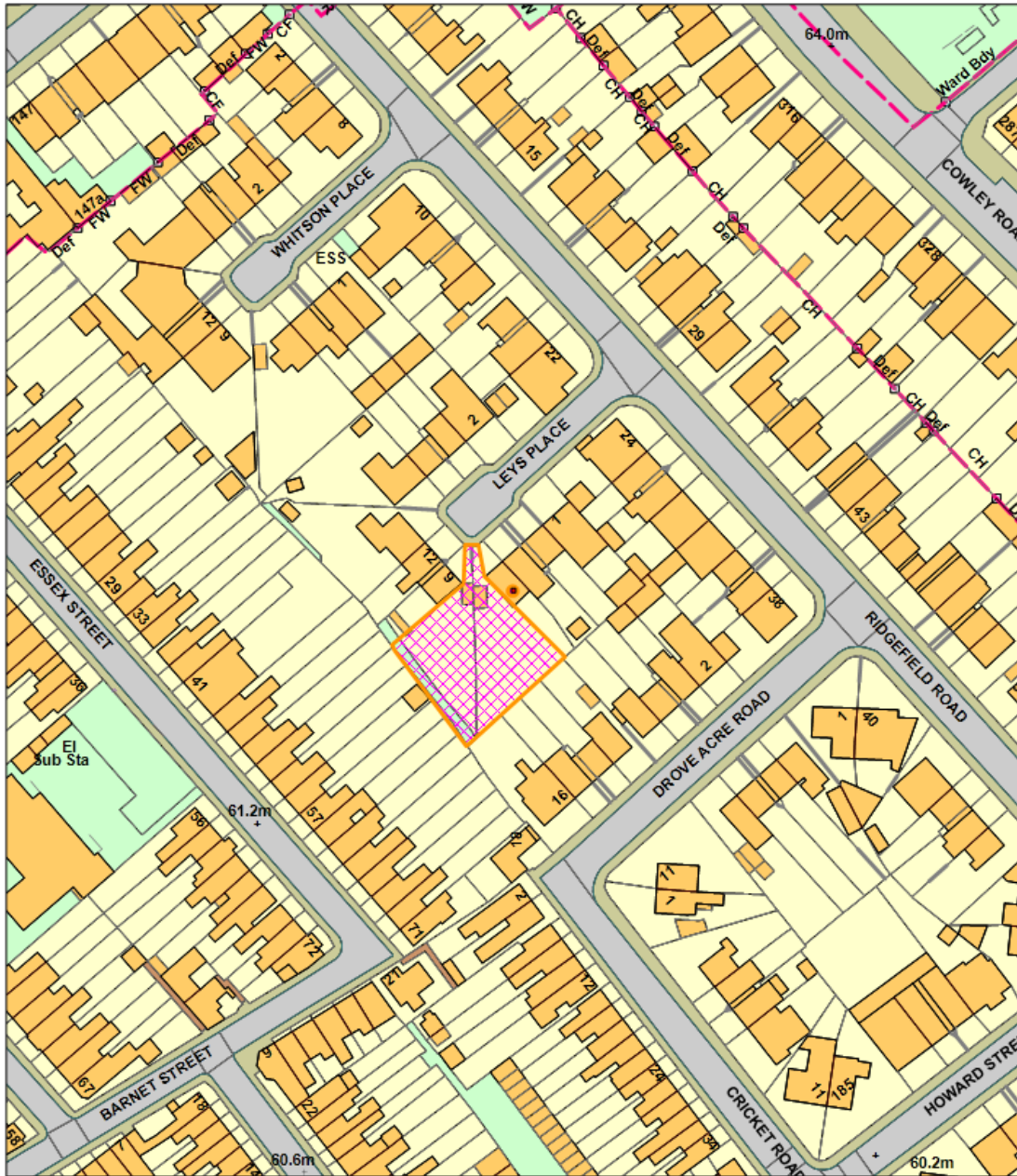
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Date: 31st May 2017

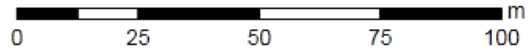
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7 And 9 Leys Place

16/02998/FUL



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West Area Planning Committee

13th June 2017

Application Number: 17/00858/FUL

Decision Due by: 30th May 2017 (extension of time agreed until 20th June 2017)

Proposal: Demolition of existing building. Erection of three storey building plus basement to provide 8 x 1-bed flats and 1 x 2-bed flats (Use Class C3).

Site Address: 40 St Thomas Street Oxford OX1 1JP

Ward: Carfax Ward

Agent: Mr Alex Cresswell

Applicant: RHHS Repository Limited

The application is before the Committee because the number of residential units that are proposed means that it cannot be dealt with as a delegated decision.

Recommendation:

West Area Planning Committee is recommended to **refuse** the application for the following reasons:

- 1 The proposed development, by virtue of its prominent siting, its increase in visual mass and its radically different external appearance that fails to adequately consider the context of the surrounding area would represent an alien and visually jarring addition to the streetscene as well as harm the setting of the nearby Listed Buildings (and in particular, the Church of St Thomas the Martyr and Coombe House). The development also fails to provide any landscaping that would soften the appearance of the development or contribute positively to the overall appearance of the site. As a result the development is contrary to Policies CP1, CP8, CP11 and HE3 of the Oxford Local Plan 2001-2016.
- 2 The application seeks the development of more than three dwellings; as a result a financial contribution is required towards the provision of affordable housing as set out in Policy HP4 of the Sites and Housing Plan (2013). The applicant has indicated that they are not willing to provide a financial contribution. The development also fails to provide any on-site provision of affordable housing and no evidence has been provided to indicate that on-site provision or a financial contribution towards affordable housing would make the scheme unviable. As a result, the development is contrary to Policy HP4 of the Sites and Housing Plan (2013) and Policy CS24 of the Core Strategy (2011).

- 3 The proposed shared outdoor amenity space that is proposed for the occupiers of some of the flats would be unacceptable for the number of flats it would serve and would provide a cramped and largely overlooked area that would have a very inconvenient and indirect access from the majority of dwellings in the building. As a result, the proposed development fails to provide acceptable provision of outdoor amenity space as required by Policy CP10 of the Oxford Local Plan 2001-2016 and Policy HP13 of the Sites and Housing Plan (2013).

- 4 The existing building is in use as a nursery which is considered to be a community facility for the purposes of Policy CS20 of the Core Strategy (2011). Despite the recent granting of planning permission 16/03318/FUL that planning permission has not been implemented and the site lies outside of the application site. As a result there is insufficient confidence that the facility would be re-provided and in the absence of a legal agreement there is no opportunity to ensure that the replacement nursery could be required to be re-provided. As a result, the proposed development would result in a loss of a nursery and there is insufficient information to show that an alternative facility exists within equally accessible distance by walking, cycling and public transport. The development is contrary to Policy CS20 of the Core Strategy (2011).

Oxford Local Plan 2001-2016

HE3 - Listed Buildings and Their Setting

HE2 - Archaeology

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

CP19 - Nuisance

CP20 - Lighting

CP21 - Noise

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

CS20_ - Cultural and Community Facilities

CS23_ - Mix of housing

CS24_ - Affordable housing

Sites and Housing Plan

HP2_ - Accessible and Adaptable Homes

HP4_ - Affordable Homes from Small Housing Sites

HP9_ - Design, Character and Context

HP10_ - Developing on residential gardens

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

Legal Agreements and CIL

An affordable housing contribution would be required for this development in order that it would accord with Policy HP4 of the Sites and Housing Plan (2013). Further consideration of this is set out in the report.

Relevant Site History:

10/00522/FUL - Installation of 8M x 5M shade sail. - PER

15/02403/FUL - Retention of existing use as a day nursery (Use Class D1) on a permanent basis. – PER

16/02293/FUL - Demolition of existing building. Erection of a part two, part three storey building with basement to provide 1 x 2-bed and 8 x 1-bed apartments.(Amended plans) – WITHDRAWN

17/00931/FUL - Demolition of existing building. Erection of three storey building to provide 3 x 2-bed flats (Use Class C3). (amended plans) – PENDING

Statutory and Internal Consultees:

Oxfordshire County Council: No objections subject to adequate provision of cycle parking, the submission of a Construction Traffic Management Plan and a condition to ensure that future occupiers are no eligible for parking permits.

Representations Received:

Oxford Preservation Trust, objections:

- Concerns that the proposed development would be similar scale to the unacceptable large scale new developments in the area (including Brasenose accommodation).
- The building would be overly large, bulky and dominating
- Poorly considered architectural forms, window and roof
- Unsympathetic development
- Impact on character of the area

Officers Assessment:

Site Description

1. The application site is at the end of St Thomas Street adjacent to St Thomas' Church, Hollybush Lodge and Coomb House (a former schoolhouse), these buildings are Grade II Listed. At the rear of the site is student accommodation (built for Brasenose College) and the vicarage for St Thomas' Church. There is a wall in front of Hollybush Lodge that is also listed in its own right. To the south of the application site there is a three storey brick built modern apartment building.
2. The application site itself contains a two storey 1970s building that is in use as a nursery (Use Class D1). The building itself has a low pitched roof and is clad with tiles; there is a large external staircase at the front of the building and a canopy that covers the adjacent small playground area at the front. The boundary at the front of the building is a low natural stone wall; there are some shrubs and trees along the western boundary of the site and at the northern end of the site.
3. The area around the application site is characterised by a mix of uses and properties. Despite its central location it retains a peaceful and pleasant character which contributes positively to the setting of the Church and Coombe House.
4. The application site lies outside of the Central (University and City) Conservation Area.

Proposed Development

5. Planning permission is sought to demolish the existing building on the site and erect a three storey (plus basement level) building to contain eight flats. The basement level is proposed to be used for storage, laundry and plant rooms with the nine apartments arranged over three floors. Eight of the proposed flats would be one bedroom units and a further two bedroom flat is proposed at the ground floor.

Issues

Officers consider the main issues in determining this application are:

- Principle
- Affordable Housing Contribution
- Design
- Impact on Listed Buildings
- Impact on Neighbouring Residential Amenities
- Access and parking
- Flooding and surface water drainage
- Biodiversity

Principle of Development

Location of Development

6. The application site lies within the City Centre as defined in Policy CS1 of the Oxford Core Strategy (2011). City Centre sites are considered suitable for a range of uses and high density development, subject to the need to protect and enhance the character and setting of Oxford's historic core and to deliver high quality public realm. The application site is considered to constitute previously developed land for the purposes of the National Planning Policy Framework (NPPF) and Policy CS2 of the Core Strategy; previously developed land should be the main focus of development subject to design and other considerations. The proposed development would involve increasing the efficient use land by providing a more high density use on the site; this approach is generally supported by Policy CP6 of the Oxford Local Plan 2001-2016. As a result, officers recommend that the proposed development is acceptable in terms of the location of the development and the requirements of Policy CS1 and CS2 of the Core Strategy (2011).

Loss of Community Facility

7. The existing building is in use as a nursery which is considered to be a community facility for the purposes of Policy CS20 of the Core Strategy (2011). The policy requires that such facilities can only be lost if equivalent new or improved facilities can be provided at a location equally or more accessible by walking, cycling and public transport. Part of the application proposes the relocation of the existing nursery to a building that falls within the ownership of the church. Planning permission has recently been granted for the alterations to the Galilee Rooms (which lies opposite the application site on St Thomas' Street) (reference 16/03318/FUL and 16/03319/LBC). However, the Galilee Rooms lies outside of the application site which means that there is not an opportunity to include a condition requiring the commencement of the approved replacement use prior to the demolition of the existing nursery. There is also no legal agreement in place relating to the re-provision of the nursery. In these circumstances there is no robust means of ensuring that the existing community facility would not be lost. As a result, officers recommend that the proposals fail to meet the requirements of Policy CS20 of the Core Strategy (2011) and this should form a basis of refusal.

West End Area Action Plan

8. The application site lies within the West End Area Action Plan (AAP) area. The application site is not identified for any specific uses within the AAP and the development proposed would not prejudice any specific redevelopment sites that are identified.

Balance of Dwellings

9. The application site lies in the City Centre where there is no specific requirement to provide a mix of dwelling sizes on sites for 9 or fewer

residential units. The proposed development would not result in the loss of any family dwellings. The proposed development therefore meets the requirements of Policy CS23 of the Core Strategy (2011) and the Balance of Dwellings Supplementary Planning Document (SPD).

Affordable Housing

10. Policy HP4 of the Sites and Housing Plan (2013) requires that on sites of between four and nine dwellings the Council requires that developments provide a financial contribution towards affordable housing. Alternatively, there is scope in some circumstances to provide on-site affordable housing provision on small sites. A reduced contribution or no contribution can be considered acceptable where the Council is satisfied that is evidence to suggest that it would make the development unviable.
11. This application does not propose to provide a financial contribution towards affordable housing or provide any on-site provision. There has also been no evidence relating to viability submitted with the application. Instead, the submitted design and access statement states that no contribution is required as a result of the National Planning Policy Guidance which requires that no contributions towards affordable housing can be sought from developments of ten units or less (or which have a maximum combined gross floorspace of no more than 1000sqm). Officers recommend that this position is not accepted and an affordable housing contribution should be required; the absence of a contribution (or viability evidence to demonstrate a lack of viability) is recommended as a reason for refusal. The Planning Statement submitted with the application clearly states that the applicant does not intend to enter into a legal agreement for an affordable housing contribution. As a result the development is contrary to Policy CS24 of the Core Strategy (2011) and Policy HP4 of the Sites and Housing Plan (2013). This forms a recommended reason for refusal as set out above.
12. It is important to provide more clarification of the affordable housing policy context with specific consideration to the changes to national policy and our own position. Officers have included an extract below from the recent report to Council (25th July 2016); this dealt specifically with affordable housing and the revisions to the National Planning Policy Guidance. This position reflects the recent Court of Appeal Decision where the changes to national policy requiring that there are no contributions towards affordable housing from small sites were considered. :

Officers are of the view that being the most unaffordable area of the Country coupled with a higher than normal dependence upon smaller sites must be precisely the sort of local circumstances contemplated by the Secretary of State as justifying departure from his national policy.

The Council will continue to determine applications for planning permission in accordance with the development plan unless material considerations indicate otherwise. It will specifically take account of

national policy as to affordable housing contributions from smaller sites and the vacant building credit and the scope for exceptions justified by local circumstances.

The decision as to the weight to be applied to the national policy has to be made in the determination of each individual application. On the basis of the evidence as to local circumstances currently available officers are of the view that those circumstances justify the continued application of HP3 and HP4 consistently with the Secretary of State's explanation of his policy's effect.

The Council will also have full regard to the up-to-date evidence with regard to the local situation as well as both the government's National Planning Policy Framework and its Planning Practice Guidance in considering the inclusion of policies relating to the provision of, and contributions to, affording housing in formulating the local plan.

Design and Impact on the Setting of Listed Buildings

Streetscene and Visual Appearance

13. The proposed development would create a building with a substantially greater visual mass in the streetscene. The proposed development would also be sited further forward than the current building on the site. As a result of the introduction of the larger building would intrude on the setting of the adjacent Church of St Thomas the Martyr and Coomb House in particular; whilst also appearing to close the gap at the end of the road which currently has a more open aspect. The result of this change would harm the sensitive historic nature of this location and amount to a visually intrusive change to the setting of the listed buildings.
14. In reaching the above view, Officers have had regard to the existing building on the site which is not a building of particularly high architectural merit. Despite the current building not being particularly sensitively considered in the streetscene or the context of listed buildings it is discretely sited and its visual mass is concentrated in such a way that it does not intrude on the setting of listed buildings. The narrower width of the existing building and its siting further back in the plot mean that it is not as intrusive in the streetscene.
15. Officers recommend that the design of the building is unacceptable in terms of its impact on the streetscene and setting of listed buildings and this should form a basis for refusing planning permission.

Trees and Landscaping

16. Limited details were provided with the application that related to trees and the necessary protection measures and information to protect existing trees surrounding the application site. Additional details relating to these requirements were requested. At the time of writing this report, Officers have received additional details relating to trees in the form of an Arboricultural

Impact Assessment. Following further consideration of the submitted details, Officers will be able to advise whether or not the submitted details would be acceptable or whether this should form another reason for refusal. This will be provided as a verbal update to the committee.

17. The proposed landscaping would be acceptable in the indicative areas shown. Officers recommend that if planning permission is granted then additional details relating to the number and species of planting to be required should be included as a condition in order that the proposals meet the requirements of Policy CP11 of the Oxford Local Plan 2001-2016.

Materials

18. The proposed materials for the development would be stone cladding with some rendered panels to match adjacent buildings. If planning permission is granted then conditions to ensure that the visual appearance of the stone panels are acceptable in terms of being visually harmonious would be required. The use of render would be required to be minimised but it is likely that these matters could also be adequately resolved by condition. The proposed roof would be constructed from titanium and would have a very different external appearance to surrounding buildings; samples of the materials would be required by condition to ensure that this had a sufficiently matt finish and matched as closely as possible to neighbouring properties.

Internal Living Space and Accessibility

19. The proposed development would provide an acceptable amount of internal floorspace that would meet the requirements of the national space standards. Officers also consider that the proposed development would provide an acceptable quality of internal floorspace and is acceptable for the purposes of Policy HP12 of the Sites and Housing Plan (2013).
20. The proposed development would have a sensible internal layout with ground floor flats providing accommodation that may be suitable for occupiers with reduced mobility. Despite a lack of car parking provided with the development the site is in a highly accessible location and in close proximity to the City Centre. As a result, Officers consider that the development would meet the requirements of Policy HP2 of the Sites and Housing Plan (2013) and Policy CP13 of the Oxford Local Plan 2001-2016.

Outdoor Amenity Space

21. A shared amenity space is proposed at the rear of the site. This would be accessed from a shared path around the side of the building. Officers consider that the proposed shared amenity space would be very small, considering that it would be shared by five flats. It would also be very dark because of the presence of large trees along the boundary that would further reduce its practicality as an amenity space.
22. The amenity space would also be overlooked by a ground floor bedroom

which would provide some privacy issues. The proposed amenity space would not be conveniently accessed from any of the flats; none of the flats that are proposed to benefit from this shared amenity space would enjoy direct access to this space. Officers recommend that the amenity space proposed is not acceptable as a result of its constrained size and accessibility and the development is unacceptable in relation to Policy HP13 of the Sites and Housing Plan (2013).

23. Some of the flats would benefit from their own gardens and balconies that may be more acceptable but the overall provision of outdoor space for all flats is not appropriate for the reasons outlined above.

Refuse and Recycling Storage

24. The proposed development would have refuse and recycling storage provided at the front of the building. This would be screened by the wall at the front boundary. Officers recommend that if planning permission was granted for the development then conditions would be required to ensure that refuse and recycling bins were adequately screened by the boundary and that screening was provided prior to occupation.

Impact on Neighbours

Impact on Light

25. The proposed development would not impact on the light conditions for neighbouring properties, specifically Hollybush Lodge and the adjacent student accommodation (Brasenose College). Parts of the proposed building would impact upon light conditions for some rooms within the modern part of the student accommodation at ground floor level but these rooms would already be impacted by the existing building on the site. The development proposed is therefore acceptable in the context of Policy HP14 of the Sites and Housing Plan (2013).

Impact on Privacy

26. The proposed development has been designed to ensure that it would not lead to direct overlooking into the adjacent student accommodation. Windows on the proposed building would face north, west and south with the exception of a ground floor window. This would ensure that there is no loss of privacy for the adjacent Hollybush Lodge and student accommodation. The vicarage to the north-west and residential buildings to the south would be sufficiently separated from the proposed building to ensure that there would be no loss of privacy. If planning permission is granted then a condition would be required to ensure that there is no overlooking from balconies and Officers recommend that this could be dealt with by condition.

Access and Parking

Access

27. There is no car parking proposed for the site and no alterations to access arrangements. The County Council's Highway Officers have raised no objections, subject to conditions relating to the submission of a Construction Traffic Management Plan, ensuring that occupiers are not eligible to parking permits and provision of cycle parking.

Car Parking

28. The proposed development would be car free; this is acceptable in the context of the site being in a Controlled Parking Zone (CPZ) and within the Transport Central Area (TCA). The site has excellent access to public transport and is within very close proximity to Oxford Railway Station. The site is also within walking distance of the City Centre. If planning permission was granted then Officers recommend that a condition would be required to ensure that occupiers are no eligible for parking permits.

Cycle Parking

29. The proposed development would provide cycle parking along the eastern boundary of the site. This area would be covered by upper floors but would not be particularly secure or enclosed. Officers recommend that if planning permission was granted for the development the revised details would be required to provide alternative cycle storage that would meet the requirements of Policy HP15 of the Sites and Housing Plan (2013).

Flooding and Surface Water Drainage

30. The application site does not lie in an area of high flood risk. A detailed drainage strategy has been provided with the application which would be acceptable in the context of Policy CS11 of the Core Strategy (2011). If planning permission is granted then a condition is recommended that would require the development to be built in conformity with the specifications of the submitted drainage strategy (2011).

Biodiversity

31. The application site lies within an urbanised setting and it is considered that the existing building would not lend itself to occupation by bats. However, if planning permission is granted for the development then a condition would be required to ensure that biodiversity enhancements measures are provided in order that the development complies with the requirements of Policy CS12 of the Core Strategy (2011).

Archaeology

32. The site lies in an area where there is archaeological interest. If planning permission is granted then a condition could be required to ensure that a written scheme of investigation is provided and the stone wall at the frontage is retained.

Land Quality

33. Officers recommend that if planning permission is granted then a condition would be required to ensure that adequate survey work is carried out of the site and any subsequent mitigation is carried out prior to occupation.

Conclusion

34. West Area Planning Committee is recommended to refuse the application as a result of its design, impact on the setting of listed buildings, poor quality of outdoor amenity space proposed and a lack of affordable housing contribution.

Conclusion:

Human Rights Act 1998

Officers have considered the implications of the Human Rights Act 1998 in reaching a recommendation to refuse this application. They consider that the interference with the human rights of the applicant under Article 8/Article 1 of Protocol 1 is justifiable and proportionate for the protection of the rights and freedom of others or the control of his/her property in this way is in accordance with the general interest.

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 refuse planning permission officers consider that the proposal will not undermine crime prevention or the promotion of community safety.

Background Papers:

17/00858/FUL

Contact Officer: Robert Fowler

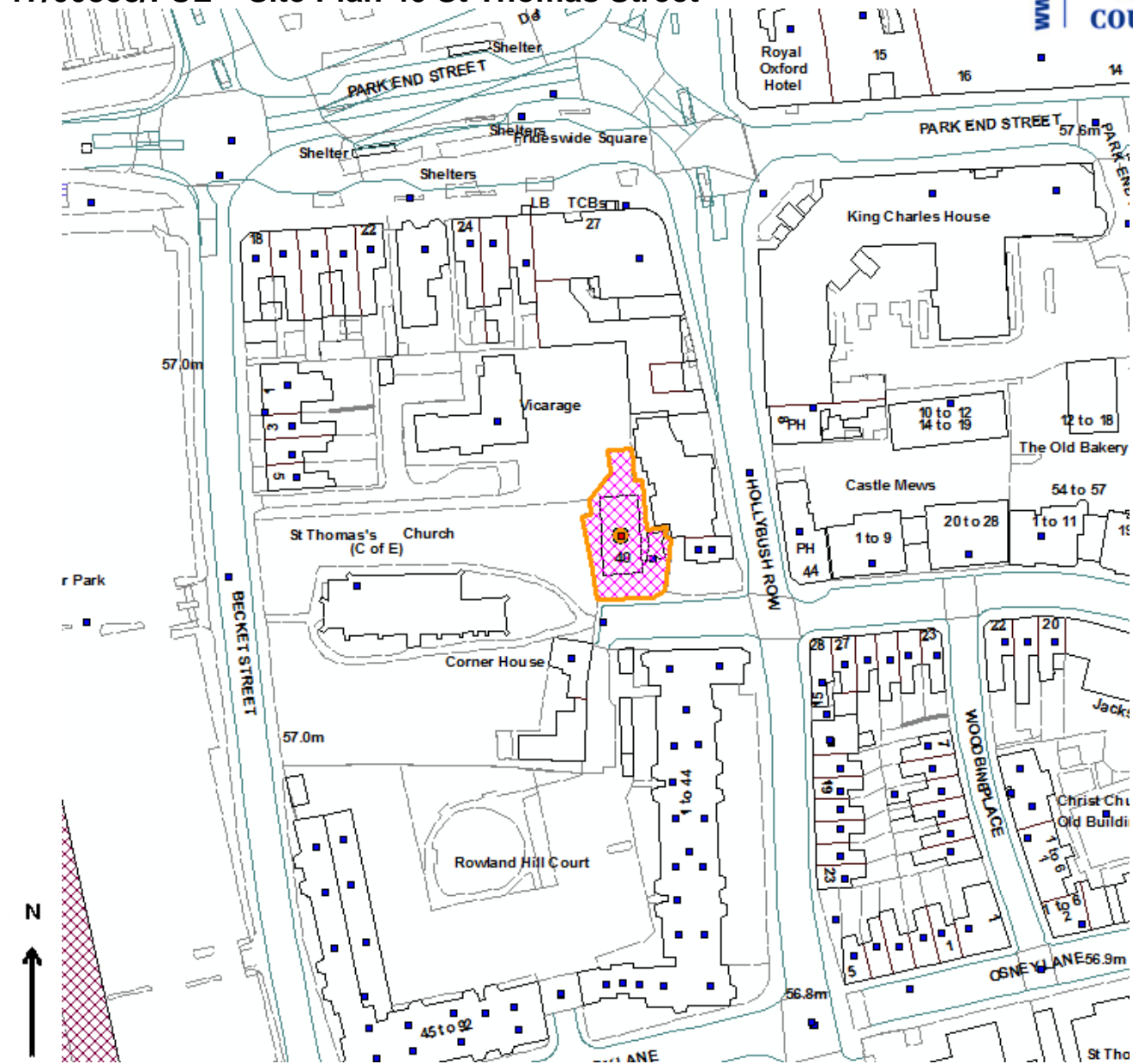
Extension: 2104

Date: 2nd June 2017

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Appendix 1

17/00858/FUL – Site Plan 40 St Thomas Street



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West Area Planning Committee

13th June 2017

Application Number: 17/00718/FUL

Decision Due by: 29th June 2017

Proposal: Refurbishment to existing BMW dealership including an extension to the workshop and new MOT facilities for bikes and cars. A new construction is proposed North of the site to comprise of new wash bay, tyre store and valeting facilities.

Site Address: North Oxford Garage Limited Wolvercote Roundabout
Woodstock Road Oxford

Ward: Wolvercote Ward

Agent: Lorna Griffiths

Applicant: Mr Le Fevre

The application is before the committee because it is a major planning application

Recommendation: West Area Planning Committee is recommended to grant planning permission for the following reasons:

Reasons for Approval

- 1 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.

Conditions

1. Development begun within time limit
2. Develop in accordance with approved plans
3. Materials
4. Surface Water Drainage
5. No external lighting
6. Construction Traffic Management Plan
7. Landscaping
8. Cycle parking for customers
9. Biodiversity

Community Infrastructure Levy (CIL)

A CIL contribution will be required.

Main 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

CP19 - Nuisance

CP20 - Lighting

CP21 - Noise

Core Strategy

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

CS6_ - Northern Gateway

CS2_ - Previously developed and greenfield land

Northern Gateway Area Action Plan

Other Material Considerations

National Planning Policy Framework

Relevant Site History

03/00003/FUL - Single storey building to provide car wash facility for vehicles being serviced and for sale. (Amendment to planning permission 02/01102/NF) (North Oxford Garage) - PER

11/02720/ADV - Erection of 4 externally illuminated flag sign. (Amended description) – PER

16/01290/FUL - Refurbishment to existing BMW dealership including the construction of a new Motorrad entrance on the East elevation, a new construction to the North of the site to comprise of new wash bay and valeting facilities. The internal layout is to be rearranged to suit new BMW and Motorrad corporate standards with the associated external works to the site to suit the internal layout changes. - PER

Statutory and Internal Consultees

Land Quality Officer

No objections, subject to an informative dealing with unexpected contamination.

Highways

No objections subject to a Construction Traffic Management Plan (CTMP) being

submitted prior to the commencement of work.

Tree Officer

No objections, would welcome soft landscaping measures as part of the proposed development.

Representations Received

None

Site Description

1. The application site encompasses the existing North Oxford BMW garage that occupies a plot between the Woodstock Road (A44) and the Northern Bypass Road (A40). The site is immediately north-west of the BP petrol filling station at the Wolvercote Roundabout. To the south of the site, beyond the A40 is the Oxford Hotel, to the north east there are residential properties on Woodstock Road and to the north-west is a telephone receiver station (with fields beyond).
2. There is a large existing building on the site including a large part two storey and part single storey flat roofed building that contains the offices, storage and showroom. The current north-eastern part of the site contains the motorrad section (used to display motorbikes). The main entrance to the building is on the south-western side (facing towards the Wolvercote Roundabout).
3. The building on the site is partially glazed, providing views into the showroom and partially clad in metal; incorporating corporate colours and signage associated with BMW.
4. There are extensive areas of surface car parking and an access road around the site. There are currently 190 car parking spaces on site (as well as two disabled spaces and 37 motorcycle spaces).

Proposed Development

5. It is proposed to construct a new entrance area for the building on the east elevation, which would serve the Motorrad section. The construction of the Motorrad entrance has been removed from the application. New double doors are proposed within an existing glazed window to allow a direct access to reception. A new wash bay and valeting area proposed in the northern part of the site. Extensive internal alterations are proposed and reconfiguration to provide the main entrance on the south-western side of the building. There are also proposals to reconfigure the car park which would result in a net loss in car parking spaces.
6. The proposed extensions and alterations would be constructed from materials to match the existing building on the site; with sections of composite cladding, aluminium and glazing. The valet and washbay buildings would be between 5

and 4.5 metres in height and would be construction from composite panels finished in silver with shallow monopitched roofs.

7. Indicative plans have been provided to show areas of landscaping.
8. The previous planning permission (16/01290/FUL) was approved at West Area Committee in August 2016. This permission remains extant; this application seeks the following main changes from the approved scheme:
 - (a). A variation to the bodyshop and valet bays . The valet building is now proposed where the wash building was approved, with an additional tyre store. The wash building is now located where the valet bay was approved (this is at the northern end of the site).
 - (b). the proposed valet bay building was shown with 3no wash bays.
 - (c). Variation from 2400mm palisade fence to 2400mm rendered wall, colour: RAL 9016 (white) in the western part of the site (separating customer from compound parking).
 - (d). The addition of an extension to the workshop to include 7 new electrically operated sectional overhead vehicle doors with vision panels and 1 no personnel door to match existing. Cladding and finishes to match existing.
 - (e). The addition of a 4000mm rendered white feature wall with highlight platform for displaying 1 no vehicle in the far western corner of the site (adjacent to the A40).
 - (f). The addition of a 2400mm white rendered wall to used display car park in the northern part of the site.
 - (g). The omission of the proposed lobby to the Motorrad entrance.
 - (h). The addition of white rendered walls to handover bays with three existing vehicles in glazed sections on the south-west elevation.
 - (i). The installation of a sliding black electric gate has been proposed with a revised height of 2.4m; this would be electrically operated.
 - (j). The addition of new glazed entrance doors to the existing Motorrad entrance.
 - (k). The addition of a new personnel door to match existing on the west elevation.
 - (l). Some slight alterations to the external finish of aspects of the previously approved scheme.
9. Officers consider that the principle determining issues of the application are:

- Design
- Impact on Amenity
- Access
- Flooding/drainage

Officer Assessment

Principle

10. In light of the extant planning permission 16/01290/FUL, Officers recommend that the principle of development has already been established and this scheme should be considered chiefly in terms of the alterations from the previously approved scheme. The overall changes are relatively minor and relate specifically to design changes that have been sought to meet the applicant's needs.

Design

11. The proposed development would be sited close to the existing built up part of the site and would be largely contained by existing developments so that it would not give rise to a significant impact on the streetscene. The proposed development would emulate the existing style and type of buildings on site and is also both typical of buildings in the immediate vicinity (such as the adjacent fuel station) and of buildings typically used as a car showroom. The colour theme and use of glazing are corporate requirements for this type of building and the proposed extension would be a proportional and sympathetic addition to the existing development on site.
12. The application site occupies a prominent site on a key entrance into the City; the existing buildings on the site (and extensive areas of parked vehicles) give the site a fairly harsh and urban appearance. Officers have sought indicative plans for landscaping on the site and it is recommended that a detailed landscaping scheme be sought by condition if planning approval is granted. The planting would soften the appearance of the buildings and car parking areas and create a more pleasant quality to the site.
13. There are no proposals for external illumination on the site; given that this is a site close to the edge of the City and occupying a prominent location it is recommended that a condition be included to control the location of any external lighting that is proposed.
14. The changes to the proposed development would not significantly alter the overall appearance of the site and the development is considered to be acceptable in design terms.

Impact on Amenity

15. The application site lies approximately 40m from the nearest dwellinghouse. None of the proposed developments on the site would have an impact on the amenity of that property or any other nearby dwelling. The overall level of

activity on the site is unlikely to materially increase as a result of the proposed development. There would be no impact on light conditions or privacy for any nearby dwellings. The proposed changes to the scheme would not materially impact on neighbouring amenity.

Access and Parking

16. There are no proposals to alter the existing access arrangements on the site. The site currently has an access onto the A40 (where a right turning lane provides access for west-bound traffic) and an access onto the A44 (left turn only and only accessible for northbound traffic). There is an internal access through the site with the majority of car parking being at the southern edge of the site and in front of the existing entrance (south east of the building). Car parking and motorcycle parking is currently also provided at the north-eastern edge of the site. The proposals would provide a modified car parking layout with a reduction from 190 car parking spaces to 161, 2 car parking spaces would be retained for disabled drivers and there would be an increase in motorcycle spaces (with provision for 22 motorcycle spaces for customers) There are no highway objections, but a condition has been included in the recommendation that would require the submission of a Construction Traffic Management Plan prior to commencement.
17. A further condition was added by the committee in August last year to the extant planning permission that sought customer cycle parking. Officers have included a condition to the recommendation for this application seeking cycle parking in order that the development complies with the requirements of Policy TR4 of the Oxford Local Plan 2001-2016.

Flooding and Surface Water Drainage

18. The application site does not lie in an area of high flood risk. The majority of surfacing on the site is impermeable tarmac parking areas and buildings. The proposals would not likely give rise to any increased surface water runoff as a result. However, a condition has been included in the recommendation to require the submission of a detailed drainage scheme prior to commencement to ensure that the development complies with the requirements of SUDs and the Council's adopted planning policy, CS11 of the Core Strategy (2011). Officers regard that it is particularly important to ensure that no surface water should enter the highway given the close proximity of the application site to key strategic radial routes into the City.

Biodiversity

19. The application site is currently built up and has areas of lighting and busy roads around it. It is not therefore likely that this is an area where bats are likely to be present; as a result the development would not be considered likely to give rise to an adverse impact on protected species. Despite being in a fairly built up location a condition is recommended that would require the submission of biodiversity enhancement measures. Officers recommend that the development complies with Policy CS12 of the Core Strategy (2011).

Conclusion:

20. On the basis of the above, Officers recommend that the West Area Planning Committee grant planning permission for the proposed development subject to the conditions as set out in the report.

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:

16/01290/FUL

17/00718/FUL

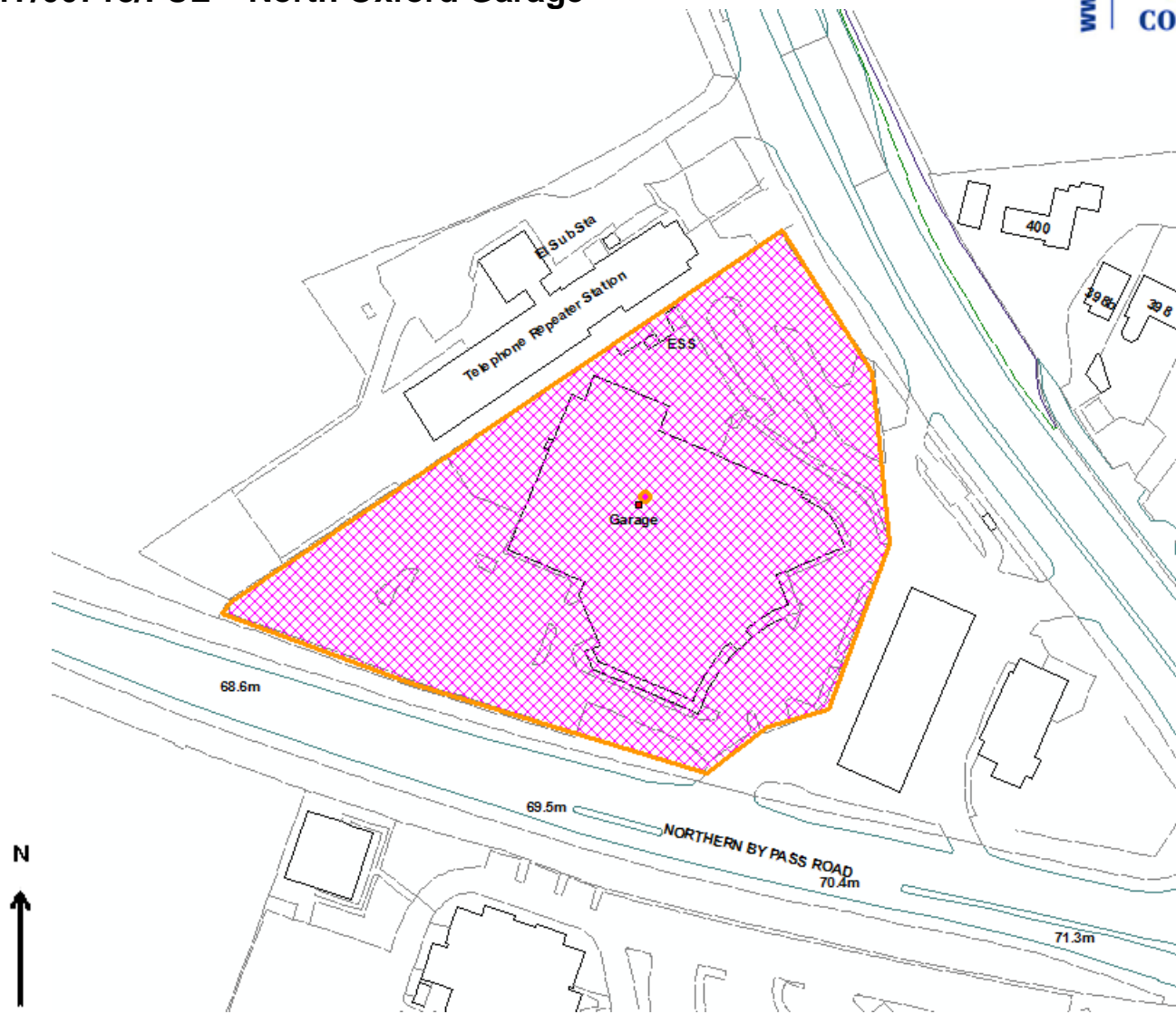
Contact Officer: Robert Fowler

Extension: 2104

Date: 17th May 2017

Appendix 1

17/00718/FUL – North Oxford Garage



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West Area Planning Committee

13th June 2017

Application Number: 17/00719/RES

Decision Due by: 10th July 2017

Proposal: The outline planning application (13/02557/OUT) was an Environmental Impact Assessment application and an Environmental Statement was submitted. This application seeks approval of amended reserved matters for the appearance of the southern elevation of Building 4 in respect of a revised window design, including the introduction of a door.

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. (**appendix 1**)

Ward: Carfax Ward

Agent: Mr Jon Bowen

Applicant: Westgate Oxford Alliance

Recommendation:

The West Area Planning Committee are recommended to grant planning permission for the following reasons

Reasons for Approval

- 1 The revised window design, including introduction of a door in the southern elevation of the ground floor of building 4 would constitute a minor addition to the approved development, and would be of a size, scale, and appearance that would create an appropriate visual relationship with Building 4 and also views from Turn Again Lane. The alterations would create an active frontage to this part of the building, allowing for a better relationship between the interior and exterior of the commercial unit which is to be a communal food hall. The proposal would therefore accord with the aims and objectives of the relevant policies of the Oxford Core Strategy, Oxford Local Plan and West End Area Action Plan. No third party representations have been received.

- 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.

Conditions

- 1 Development begun within time limit
- 2 Develop in accordance with approved plans
- 3 Materials as specified

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

CP9 - Creating Successful New Places

CP10 - Siting Development to Meet Functional Needs

HE7 - Conservation Areas

Core Strategy

CS18_ - Urban design, town character, historic environment

West End Area Action Plan

WE1 - Public realm

WE10 - Historic Environment

WE12 - Design & construction

Public Consultation

Statutory Consultees

- Historic England Commission: No comment to make on the application
- Environment Agency Thames Region: No comment to make on the application
- Natural England: No comment to make on the application.
- Oxfordshire County Council Highways Authority: No comment to make on the application

Third Parties

None

Officers Assessment:

Background to Proposals

1. The site relates to the Westgate Oxford development which measures approximately 5.9ha, and extends from Bonn Square in the north to Thames Street in the south and from Castle Mill Stream in the west to Old Greyfriars Street and Pennyfarthing Place in the east (**appendix 1**).
2. In March 2014 outline planning permission with all matters reserved was granted by the West Area Planning Committee for a retail-led mixed use development of the former Westgate Shopping Centre, Multi-Storey and Surface Level Car Park and Abbey Place Car Park under reference 13/02557/OUT. The reserved matters for the layout, scale, appearance, and landscaping of the development was subsequently approved under reference number 14/02402/RES by the West Area Planning Committee meeting on the 25th November 2014. The outline permission and reserved matters are currently being implemented on site.
3. The current application is an additional reserved matters application that is seeking permission for the approval of a revised window design, including the replacement of a window with a door, on part of the ground floor of the southern elevation of Building 4 facing Turn Again Lane.
4. The reserved matters (layout, scale, appearance, and landscaping) previously approved under application 14/02402/RES will be unaffected by this application which would relate solely to the ground floor of the southern elevation of Building 4 facing Turn Again Lane.
5. The principle determining issues in this case would therefore relate solely to the impacts of the proposed changes in design outlined above:
 - Visual Impact
 - Conformity to the Environmental Statement and its addendum

Visual Impact

6. Policy CS18 of the Oxford Core Strategy 2026 requires development to demonstrate high-quality urban design that responds appropriately to the site and surroundings; creates a strong sense of place; attractive public realm; and high quality architecture.
7. The Oxford Local Plan 2001-2016 requires development to enhance the quality of the environment, with Policy CP1 central to this purpose. Policy CP8 states that the siting, massing, and design of new development should create an appropriate visual relationship with the built form of the surrounding area. While Policy HE7 requires proposals to preserve and enhance the special character and appearance of the conservation area.
8. The revised window arrangement proposes five bi-fold windows and one glazed double entrance doors to the Turn Again Lane elevation of the object building in the ground floor of Block 4. These would replace the six non-opening windows previously approved. The revised windows are the same proportions and materiality as those previously approved with the primary difference in appearance being the introduction of glazing bars to what was previously a single pane of glass in each window. The proposed door would be the same width as

the window with the top of the door remaining level with the adjacent windows.

9. The purpose of the change is to allow this section of the frontage along Turn Again Lane to be further activated by connecting the inside of the unit, which is to be the 'Oxford Social' food hall, with the outside areas. This will allow more activity to this part of the centre. The entrance door will allow customers to access exterior seating and increase footfall into the communal food hall which would operate within the unit.
10. Having considered the proposal, officers are of the view that the proposed alterations to the building would constitute a minor amendment to the reserved matters approval. The changes to the windows would not be significant to alter the visual appearance of the building. Moreover the intention of the proposal to create more activity at this entrance point into the centre and linkage with the interior of the communal food hall would be welcomed. As such the proposals would accord with the aims of the above-mentioned policies.

Environmental Impact Assessment

11. The outline planning application for the Westgate development was accompanied by an Environmental Statement (September 2013) and Environmental Statement Addendum (January 2014). The reserved matters application was also accompanied by an Environmental Statement (August 2014) and Environmental Statement Addendum (September 2014).
12. This reserved matters application would constitute a 'subsequent application' under Regulation 2(1) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011. As such the likely significant effects of the proposed development need to be considered.
13. The application has assessed the impact of the revised window design, including the introduction of the door against the baseline date in the approved Environmental Statement and its Addendum and identified that the development does not give rise to any new or different significant effects to those identified and assessed previously.

Conclusion

14. The proposal is considered to be acceptable in terms of the relevant policies of the Oxford Core Strategy 2026, Oxford Local Plan 2001-2016, and West End Area Action Plan and therefore officer's recommendation to the committee is to approve the development subject to the conditions listed 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.

Contact Officer: Andrew Murdoch

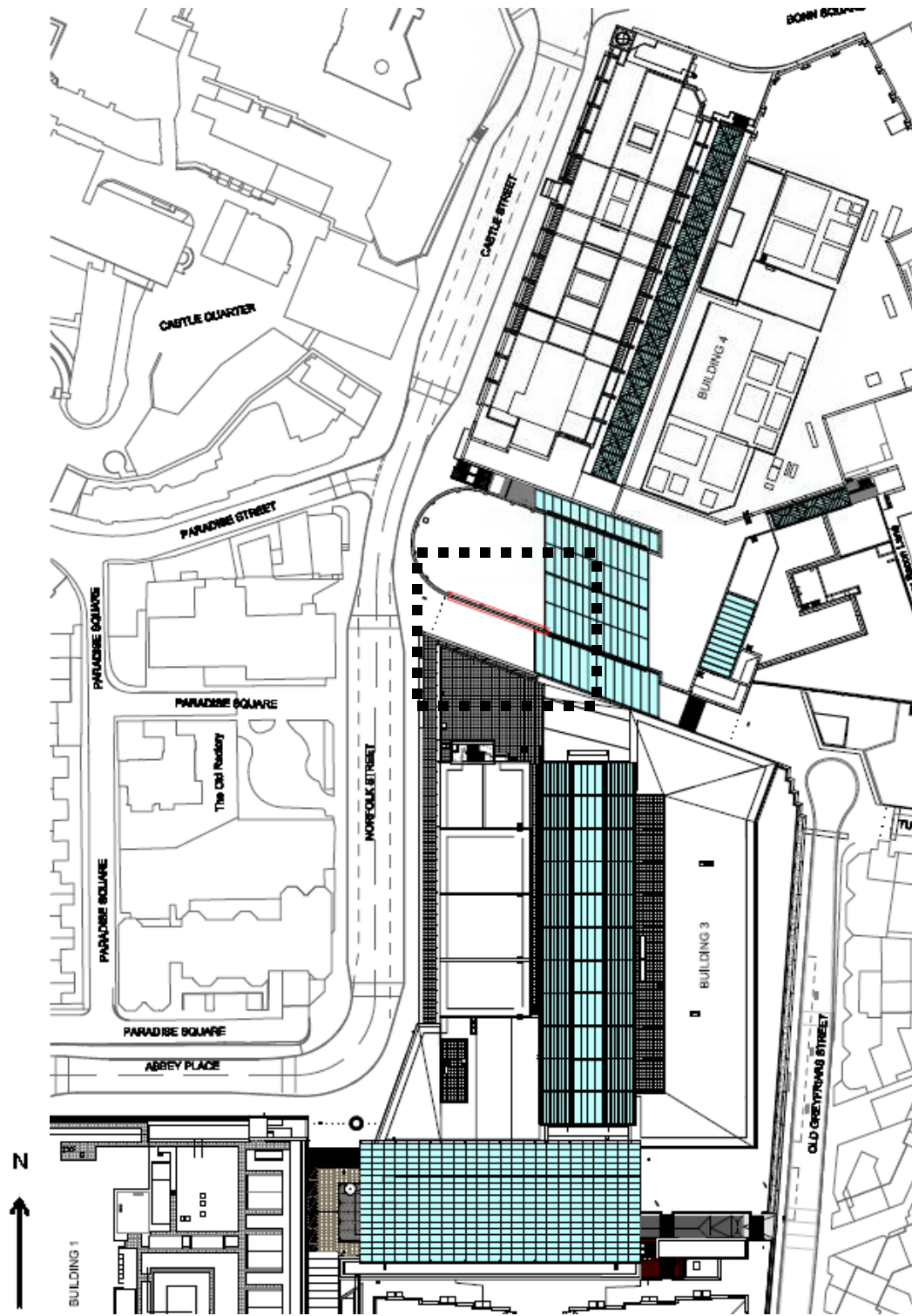
Extension: 2228

Date: 30th May 2017

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Appendix 1

17/00719/RES – Westgate



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West Area Planning Committee

13th June 2017

Application Number: 17/00460/RES

Decision Due by: 15th June 2017

Proposal: The outline planning application (13/02557/OUT) was an Environmental Impact Assessment application and an Environmental Statement was submitted. Approval of all reserved matters was granted (14/02402/RES) under condition 5 of the outline planning permission. This application seeks approval of amended reserved matters in respect of the use and internal reconfiguration of floorspace located in Building 2 (Second Floor), Building 3 (Lower Ground, Upper Ground, First and Second Floors) and Building 4 (Lower Ground and Upper Ground Floors).

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 (**appendix 1**)

Ward: Carfax Ward

Agent: Mr Jon Bowen

Applicant: Westgate Oxford Alliance

Recommendation:

The West Area Planning Committee are recommended to grant planning permission for the following reasons

Reasons for Approval

- 1 The proposed alterations to the uses shown on the approved reserved matters plans would ensure that they are consistent with the outline planning permission, whilst the minor internal changes to the configuration of floorspace would constitute a minor addition to the approved development. The proposal would therefore accord with the aims and objectives of the relevant policies of the Oxford Core Strategy, Oxford Local Plan and West End Area Action Plan. No third party representations have been received.
- 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.

Conditions

- 1 Development begun within time limit
- 2 Develop in accordance with approved plans

Principal Planning Policies:

Oxford Local Plan 2001-2016

CP1 - Development Proposals

CP5 - Mixed-Use Developments

CP8 - Design Development to Relate to its Context

CP9 - Creating Successful New Places

CP10 - Siting Development to Meet Functional Needs

RC3 - Primary Shopping Frontage

RC4 - District Shopping Frontage

RC5 - Secondary Shopping Frontage

RC12 - Food & Drinks Outlets

Core Strategy

CS1_ - Hierarchy of centres

CS2_ - Previously developed and greenfield land

CS5_ - West End

CS31_ - Retail

West End Area Action Plan

WE20 - Mixed uses

WE23 - Retail

Public Consultation

Statutory Consultees

- Oxfordshire County Council: No comment to make on the application
- Vale Of White Horse DC: No comment to make on the application
- Historic England: No comment to make on the application
- Environment Agency: No comment to make on the application
- Natural England: No comment to make on the application

Third Parties

No comments received

Officers Assessment:

Background to Proposals

1. The site relates to the Westgate Oxford development which measures approximately 5.9ha, and extends from Bonn Square in the north to Thames Street in the south and from Castle Mill Stream in the west to Old Greyfriars Street and Pennyfarthing Place in the east (**appendix 1**).
2. In March 2014 outline planning permission with all matters reserved was granted by the West Area Planning Committee for a retail-led mixed use development of the former Westgate Shopping Centre, Multi-Storey and Surface Level Car Park and Abbey Place Car Park under reference 13/02557/OUT. The reserved matters for the layout, scale, appearance, and landscaping of the development was subsequently approved under reference number 14/02402/RES by the West Area Planning Committee meeting on the 25th November 2014. The outline permission and reserved matters are currently being implemented on site.
3. The current application is an additional reserved matters application that is seeking permission with respect of the uses and/or internal reconfiguration of the floorspace located in Building 2 (Second Floor), Building 3 (Lower Ground, Upper Ground, First and Second Floors) and Building 4 (Lower Ground and Upper Ground Floors).
4. The reserved matters (layout, scale, appearance, and landscaping) previously approved under application 14/02402/RES will be unaffected by this application which would relate solely to the use and configuration of the floorspace subject to this application.
5. The principle determining issues in this case would therefore relate solely to the following
 - Alterations to Use Classes on Reserved Matters Floor Plans
 - Internal Reconfiguration of Floor plans
 - Conformity to the Environmental Statement and its addendum

Alterations to Use Classes on Reserved Matters Floor Plans

6. The need for this application has arisen from the leasing campaign that is underway to secure tenants throughout the Westgate development. During this process, prospective tenants of certain demises have been seeking clarification from the Westgate Alliance of the permitted uses, as well as expressing a need for reconfigured floorspace, in the context of what is shown on the approved reserved matters drawings.
7. The original outline and reserved matters applications approved under reference numbers 13/02557/OUT and 14/02402/RES granted planning permission for the overall redevelopment of the centre to allow for
 - Class A1: 81,922 m²
 - Classes A2 and/or A3 and/or Class A4 and/or Class A5: 26,712 m²

- Class C3: 8,500 m²
- Class D1: 200 m²
- Class D2: 5,986 m²
- Toilets: 1,550 m²

8. The detailed drawings approved under reserved matters application 14/02402/RES identified specific use classes for each unit and ancillary back-of-house areas throughout the Westgate development and although not identified specifically as such, was intended to be illustrative as uses had already been approved under the outline planning permission. This has resulted in a number of the approved floor plans including a specific use class for a respective unit (i.e. A3) which limits the flexibility for this unit to be let for all of the uses allowed under the original outline planning permission.
9. This anomaly on the approved reserved matters plans effects 12 units across Buildings 2, 3 and 4. In order to provide certainty for prospective tenants, the application seeks formal clarification that the floorspace within these respective units may be used for the range of uses allowed under the outline planning permission. The amount of floorspace in any particular use will remain within the approved minimum and maximum floorspace limits in condition 12 of the outline planning permission.
10. Having regards to the fact that the outline planning permission sets the minimum and maximum floor space limits for the development under condition 12 of the outline planning permission and this would remain in place following such a change, officers would raise no objection to the proposal to amend the floor plans as they would not materially alter the development. The need for the Alliance to have flexibility to let all of the units within the scheme under the terms granted through the outline planning permission is understood.

Internal Reconfiguration of Floor plans

11. In addition to the amendments to the uses shown on the reserved matters plans, the application is also seeking permission for amendments to some of the floor layouts set out at reserved matters stage.
12. Again this has come about through the leasing campaign for the development and the individual requirements of prospective tenants who are looking to take on the respective units. The proposed changes are set out in the table below

Application site	Change to details shown on approved reserved matters drawings
AS2 (south)	Removal of detail showing internal layout of food counters to allow future flexibility
AS2 (north)	Removal of detail showing internal layout to allow future flexibility
AS4	Amalgamation of two back-of-house areas
AS6	Alteration to extent of mezzanine floor
AS8	Subdivision of two units into three units and associated re-sizing of units
AS10	Subdivision of a back-of-house area from one space into three spaces

13. The changes to the configuration of the units are minor in nature, comprising the removal of details such as the location of food counters, back of house areas, extents of mezzanine floors etc and as such there would be no material reason to object to these changes given they do not materially alter the scheme from that approved under the original outline and reserved matters application.
14. Similarly other changes are proposed such as the sub-division of two units into three units and the re-sizing of these units would be less minor alterations in comparison but again there would be no material reason to object as they do not materially alter the scheme from that approved at outline and reserved matters stage and allow the Westgate Alliance more flexibility to let the units. Moreover the proposed changes would not conflict with the relevant development plan policies in the Oxford Core Strategy 2026, Oxford Local Plan 2001-2016, and West End Area Action Plan

Environmental Impact Assessment

15. The outline planning application for the Westgate development was accompanied by an Environmental Statement (September 2013) and Environmental Statement Addendum (January 2014). The reserved matters application was also accompanied by an Environmental Statement (August 2014) and Environmental Statement Addendum (September 2014).
16. This reserved matters application would constitute a 'subsequent application' under Regulation 2(1) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011. As such the likely significant effects of the proposed development need to be considered.
17. The covering letter submitted in support of this application confirms that all details remain as previously approved under the outline planning permission (in terms of use) and subsequent reserved matters (in terms of details of appearance, landscaping, layout and scale) with the exception of the minor internal changes to the configuration of floorspace above. As such the Application proposals do not give rise to any new or different likely significant effects to those identified and assessed previously.

Conclusion

18. The proposal is considered to be acceptable in terms of the relevant policies of the Oxford Core Strategy 2026, Oxford Local Plan 2001-2016, and West End Area Action Plan and therefore officer's recommendation to the committee is to approve the development subject to the conditions listed 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.

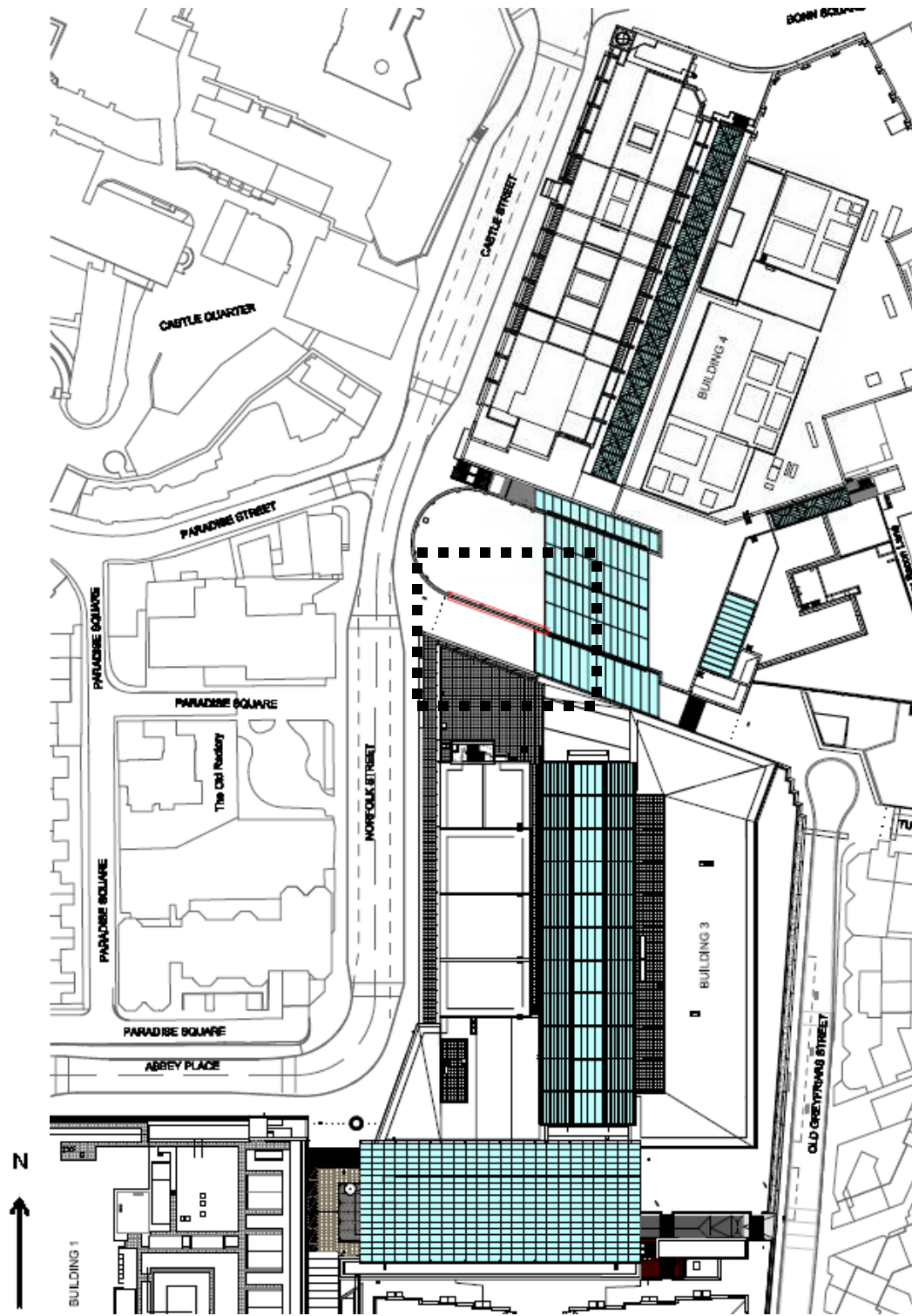
Contact Officer: Andrew Murdoch

Extension: 2228

Date: 31st May 2017

Appendix 1

17/00719/RES – Westgate



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Ordnance Survey 100019348

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Minutes of a meeting of the WEST AREA PLANNING COMMITTEE on Tuesday 9 May 2017



Committee members:

Councillor Upton (Chair)	Councillor Landell Mills (Vice-Chair)
Councillor Cook	Councillor Curran
Councillor Hollingsworth	Councillor Pegg
Councillor Price	Councillor Gant (for Councillor Fooks)

Officers:

Philip Devonald, Planning Legal Locum
Adrian Arnold, Development Management Service Manager
Robert Fowler, Planning Team Leader
Catherine Phythian, Committee Services Officer

Apologies:

Councillor(s) Fooks and Tanner sent apologies.

129. Declarations of interest

There were no declarations of interest.

130. 16/02689/FUL: Cooper Callas - Unither House, 15 Paradise Street, Oxford, OX1 1LD

The Committee considered a report detailing an application (16/02689/FUL) for planning permission for the demolition of existing building and construction of new hotel building (use class C1), with associated vehicle and cycle parking, landscaping, plant and engineering works at Cooper Callas - Unither House, 15 Paradise Street, Oxford, OX1 1LD.

The Planning Officer presented the report and made the following verbal updates:

- A total of 29 submissions had been received from members of the public after the agenda publication and all of these had been circulated to members of the Committee. None of the submissions raised any new issues and all had been addressed in the officer's report.
- He recommended that the Committee should include an additional condition to deal with Public Art and a condition dealing with Archaeology.

- There was an outstanding technical objection from the Environment Agency regarding the proposed mitigation against extreme flooding events. The Environment Agency, applicant and planning officers were in discussion about this and expected to reach a satisfactory conclusion. This matter would be addressed by the delegated authority to officers detailed in recommendation 2.

The following spoke against the application and answered questions from the Committee: Alan Divall, Helen Wilkinson (for Oxford Preservation Trust), Councillor Brandt, Natasha Williams, Jenny Berrill and David Ish-Horowicz.

Neil Warner (agent), Adrian Stewart and Steven Adams (architects) spoke in favour of the application and answered questions from the Committee.

The Committee discussion included, but was not limited to, the following points:

- Discussions about the impact on light for neighbouring properties; particularly relating to the BRE guidance and the assessment of the proposals against the Council's planning policies
- An acknowledgement of the concerns of local residents about the impact of future traffic movements; the need to prohibit delivery access via the Quaking Bridge and the importance of enforcement of this restriction; and the obligation on the hotel to publicise the property to guests as a car free destination
- Confirmation from the planning officer that there was adequate provision of cycle parking for staff, residents and visitors within the proposed development and in the local area
- That the planting on the "green areas" should be height appropriate and this can be dealt with in the scope of the conditions recommended
- That careful consideration should be given to the public art installation as it would be set against the blank façade of the north elevation of the development
- The impact of the proposal on the heritage assets and conservation area.

The Committee agreed that the discharge of the following conditions should be reserved to the Committee for determination:

- 8 - Travel Plan - draft approved & update required post occupation
- 9 - Travel Information Packs
- 12 - Delivery and Service Management Plan
- 13 - Construction Traffic Management Plan
- 24 - Public Art
- 25 – Archaeology

In reaching their decision, the Committee considered the officer's report, presentation and the views and information provided by the public speakers.

On balance a majority of the Committee concluded that the proposal would meet the need for additional hotel accommodation within the City Centre in a sustainable location and would not harm the setting of the adjacent listed buildings and scheduled monuments. Any perceived harm would be outweighed in this case by the public benefits of the proposal in the form of hotel accommodation, public realm improvements and quality replacement building. There would be no harm to the highway or neighbouring residential amenities.

On being put to the vote the Committee agreed with the officer recommendation.

The West Area Planning Committee resolved:

1. To **approve** in principle the application (16/02689/FUL) for the reasons set out in the report and subject to the amended conditions listed and on the satisfactory completion of a legal agreement to secure a contribution towards affordable housing; and
2. To **delegate** to Head of Planning and Regulatory Services authority to issue the permission subject to the satisfactory resolution of the Environment Agency's technical concerns; additional conditions that are required to address the Environment Agency's concerns can be added to the decision.

Conditions

1. Development begun within time limit
2. Develop in accordance with approved plans
3. Materials - samples prior to construction (excluding demolition)
4. Revised Landscape plan - including living walls & green roof – as approved
5. Landscape management plan - as approved
6. Landscaping - carry out after completion
7. Cycle parking - further details of on-street cycles required
8. *Travel Plan - draft approved & update required post occupation (discharge reserved to WAPC)*
9. *Travel Information Packs (discharge reserved to WAPC)*
10. Shared Surface – further details to be submitted
11. Traffic Regulation Order – variation required
12. *Delivery and Service Management Plan – as approved (discharge reserved to WAPC)*
13. *Construction Traffic Management Plan required (discharge reserved to WAPC)*
14. Flood Risk Assessment – construct in accordance with
15. SUDs - further details to be submitted
16. SUDs Maintenance Plan - to be submitted
17. Biodiversity - details of bat box and Swift bricks, Prior construction (excluding demolition)
18. Biodiversity - details of external lighting (bats) prior occupation
19. Biodiversity - implementation of the outline Ecology Management Plan
20. Contamination – Revised Phased Risk Assessment
21. Contamination – Validation Report

22. Contamination – Watching Brief
23. Sustainability – further details required
24. *Public Art (discharge reserved to WAPC)*
25. Archaeology

131.17/00476/FUL: 278-280 Banbury Road, Oxford, OX2 7ED

The Committee considered a report detailing an application (17/00476/FUL) for planning permission for the demolition of existing building; the erection of two storey building to provide 4no. retail units (Use Class A1) and provision of car parking and bin and cycle stores at 278-280 Banbury Road, Oxford, OX2 7ED.

The Planning Officer presented the report. He referred the Committee to the comments raised by Cllr Fooks regarding the level of cycle parking and the loss of a residential unit. He explained that the cycle parking arrangements detailed in the report were compliant with Policy TR4 of the Oxford Local Plan 2001-2016 but recommended an additional condition that would ensure that provision was provided as part of the scheme.

In relation to loss of a residential unit he acknowledged that this matter was not addressed in the officer report and needed to be considered in relation to Policy HP1 of the Sites and Housing Plan. He read a statement prepared by the case officer:

During the course of the application Officers have investigated the presence of an existing residential unit located at first floor level above the Knight Frank offices (known as Unit 2, 280 Banbury Road), and have considered whether the proposal for the redevelopment of the site would be contrary to Sites and Housing Policy HP1 i.e. that it would result in the loss of an existing dwelling.

While there appears to be a HMO licence granted for this unit there is no planning history to demonstrate that either a C3 or C4 use on the site is lawful. The applicant has also suggested that Unit 2 has been sub-let without the permission of the landowner. Additionally, while limited information relating to the floorplan of Unit 2 has been provided, it is clear from the site layout that the unit would demonstrate single aspect accommodation and that any occupiers of this unit would not benefit from any external amenity space. Policy HP1 promotes the retention of good quality self-contained homes and Officers do not consider the existing Unit to fall within this definition.

Furthermore, as set out in the committee report, the proposed retail units would generate economic benefits within a designated district centre including an increase in employment density which is considered to offset the limited harm arising from the loss of the existing residential use of Unit 2.

As such, due to the unlawful nature of the existing residential use, the poor quality accommodation provided and the economic benefits arising from redevelopment of the site, Officers do not consider the proposals to be contrary to the aims of Policy HP1.

Mr Paul Lancaster, the applicant, was present to answer questions.

The Committee raised some concerns about the proposed parking arrangements and were pleased to note that the applicant had indicated that he would be prepared to work with officers to identify the best workable solution for the car park layout under Condition 4.

In reaching their decision, the Committee considered the officer's report, presentation and the views and information provided by the public speaker.

On being put to the vote the Committee agreed with the officer recommendation.

The West Area Planning Committee resolved to **grant** planning permission (17/00476/FUL) for the reasons set out in the report and subject to the following (amended) conditions:

Conditions

1. Development begun within time limit
2. Develop in accordance with approved plans
3. Samples
4. Car Park Layout Plan
5. Contamination Risk Assessment
6. Remediation
7. Drainage Scheme
8. Drainage Infrastructure
9. Cycle Parking

132.17/00569/FUL: 40 Stratford Street Oxford Oxfordshire OX4 1SW

The Committee considered a report detailing an application (17/00569/FUL) for planning permission for the erection of a single storey rear extension at 40 Stratford Street, Oxford, OX4 1SW.

The Planning Officer presented the report. He referred the Committee to the letter of objection from the neighbours and the supporting comments from Cllr Tarver, who had originated the call-in of the application. He confirmed that all of the points raised had been addressed in the officer report. In particular he explained that although the neighbouring property at number 42 Stratford Street would benefit from the amended plans, there was no improvement in the impact of the development on the property at number 38 Stratford Street. However, overall the impact on both of the neighbouring properties was policy compliant.

Mr Tom Green (neighbour) spoke against the application.

In discussion the Committee noted the following points:

- That the proposed development would be acceptable having had regard to the remaining amount and quality of garden space.
- That the proposed development would have an acceptable impact on the amenity of neighbouring occupiers in terms of the impact on light as set out in Policy HP14 of the Sites and Housing Plan. The proposed development would contravene the 45 degree line in relation to the patio doors at 38 Stratford Street and the ground floor rear window of 42 Stratford Street but would pass on the 25 degree line in both cases. As a result, the impact on neighbouring amenity meets the requirements of the Council's adopted policy.
- Despite the above, some Councillors did express reservations about the impact of the proposed development in terms of light and that it would be unneighbourly.

In reaching their decision, the Committee considered the officer's report, presentation and the views and information provided by the public speaker.

On being put to the vote the Committee agreed with the officer recommendation.

The West Area Planning Committee resolved to **grant** planning permission (17/00569/FUL) for the reasons set out in the report and subject to the following conditions:

Conditions

1. Development begun within time limit
2. Develop in accordance with approved plans
3. Materials
4. SUDs Drainage

133.Minutes

The Committee resolved to approve the minutes of the meeting held on 11 April 2017 as a true and accurate record.

134.Forthcoming applications

The Committee noted the list of forthcoming applications.

135.Dates of future meetings

The Committee noted the dates of future meetings.

The meeting started at 6.05 pm and ended at 8.05 pm

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