

Agenda Item 3

West Area Planning Committee

11th February 2014

Application Number: 11/02881/FUL

Proposal:	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.
Site Address:	Castle Mill, Roger Dudman Way.
Ward:	Jericho and Osney
Applicant:	The University of Oxford

Recommendation: Committee is asked to note the progress reported.

Purpose of the Report

1. At its meeting on 12th November 2013 the Committee resolved:
 - to DEFER the report so that Officers could present a fuller update which includes:
 - o Detailed court transcripts of the judicial review hearing
 - o Details of the proposed consultation process
 - o How the voluntary Environmental Statement process will work.

That Officers' report back to the West Area Planning Committee in February 2014, the progress made from the on-going negotiations with the University of Oxford and the list of measures agreed to ameliorate the size and impact of the development given planning permission under 11/02881/FUL.

Court Transcripts

2. The City Council received a copy of the Judgment on 29 January 2014. Both that and the transcript of the hearing (not approved by the Judge) are appended.
3. At paragraph 12 of the Judgment it is stated that "it is now clear from the correspondence from the University of Oxford and from the submissions made by counsel on behalf of the City of Oxford [what is proposed]". At paragraph 13 the relevant part of the University's letter of 9 July 2013 is quoted. At

paragraph 14 Mr Maurici's skeleton argument is quoted the EIA relevant part being "The council proposed that having received... (1) the voluntary EIA which the university has agreed to produce (see above) and," . There is no suggestion that either the University or the Council made commitments or undertakings as to the voluntary ES proposed over or above as set out in the University's letter of 9 July 2013.

4. At paragraphs 16 the Judge deals with and rejects the CPRE inference that it was intended to deviate from the commitment given in that letter.
5. At paragraphs 17 and 18 the Judge deals with the CPRE's criticisms of that letter deciding that "I really do think that is just criticism of the words used" (paragraph 17) and "I do not read the letter that way. The university is taking a firm stance but they know they are proposing to do an assessment of the environmental impacts, in the sense of submitting an environmental statement following the processes of the Directive and the regulations so far as is possible."
6. "In my judgment, standing back from those matters, now that one has fully understood the claimant's case, that is there are procedural deficiencies which should be rectified by use of the section 102 power and considering that those procedural deficiencies are actually in the process of being rectified so far as possible by the council and the university, replicating so far as possible the processes in the Directive in the regulation, the intervention of the court is not necessary and therefore I will refuse permission to apply for judicial review."
7. It can be noted that the language "...the processes of the Directive and the regulations so far as possible." derives from the University's letter, not some other claimed commitment or undertaking given in Court. It should also be noted that the Judge was "... proceeding, for the purposes of this afternoon on the basis that there have been those errors but I express no view as to whether or not such errors actually occurred" (Judgement paragraph 3).

Voluntary Environmental Statement and Consultation.

8. The University wrote to the City Council on 10th July explaining that while it does not accept that the development is an EIA Development requiring an Environmental Impact Assessment; nevertheless it is carrying out an assessment of the environmental impacts of the development on a voluntary basis.
9. The University is to write further (letter will be circulated as soon as it is received) explaining that work on the Environmental Statement is progressing and the University will submit this as soon as its consultants conclude their

assessments. The University will continue to discuss progress on a regular basis with the City Council.

10. The City Council will ensure that statutory bodies and the public are consulted on this ES. Following the processes of the relevant directive and regulations some of this consultation will be instigated by the University. The consultation will include a formal notice in the local newspaper and displaying public notices around the site and beyond. The consultation period must be at least 21 days but it is intended to extend this period to be 28 days or 4 weeks. A note as to the basic processes of environmental impact assessment is appended. The publicity will follow the processes of regulation 17 of the EIA regulations so far as possible.

Progress with Negotiations

11. A letter is to be sent shortly from the University providing the City Council with an update on negotiations to ameliorate the impact of the development. The letter is anticipated to provide information on Landscaping, the Roof finish and Lighting.
12. A meeting to discuss Landscaping options that was held on 31st January. This meeting involving the landscape experts of the University and the City Council was attended by representatives of the William Lucy Way Residents Association and the Cripsey Meadows Allotments Association. At the meeting those present supported the University's proposed layered approach to new planting, within the site, on the north side of the allotment, and either side of Castle Mill stream. It was agreed that the species chosen for each layer was in character and appropriate for the setting.
13. It was understood that after 15 years of growth the layers of new planting would make a considerable difference and filter views of the development. However, it would not be possible to screen the 'upper reaches' of the development to views from Port Meadow even in the summer.
14. It was suggested to the University that further consideration should be given to exploring increasing the visual articulation of the elevations through the use of a combination of climbers, cladding and different render colouration. The aim would be to 'deconstruct' the current mass of the elevations and ameliorate the overall form and appearance of the development. For example the use in places of a natural timber cladding, that would weather, might be used instead of the current metal brown cladding and elsewhere. It was appreciated that this would take further consideration and consultation perhaps installing some trial panels, because the different effects would need to be considered in different day light conditions and on different elevations.

15. At the meeting reference was made to the way in which the treed edge to Port Meadow has changed over the years and will remain dynamic especially at this southern end because of the extent of crack willow as the dominant species alongside the Thames and Castle Mill stream. Crack willow needs regular pollarding at least every 5 to 10 years. Many of these willows were pollarded in 2011 and 2012 and are now the regrowth is improving their screening effect.
16. The University is also progressing its dialogue with the William Lucy Way Residents Association and in agreement with them is undertaking landscape and noise assessments and facilitating a meeting with Network Rail.
17. To date the University has agreed to provide the following mitigation:
- Landscaping between the development and Port Meadow. A layered approach of new planting in character with the location.
 - Mitigation of the appearance of the building. Further consideration and consultation of a range of options involving natural wood cladding, climbing vegetation and colouration of the render.
 - Light spillage amelioration. Electronically operated black out blinds for all communal areas and staircases, where feasible.
18. Further consideration is still being given to roof finish and landscaping between the development and William Lucy Way.
19. The details of proposed landscaping and other mitigation will be included in the Environmental Assessment, which will also assess the impact of such mitigation from a range of viewpoints in addition to the single viewpoint used in the Landscape Strategy.
20. The University has advised officers that it is willing to work further with the City Council to take forward the Action Plan arising from the Independent Review and that it is continuing with the Groundwater Monitoring which it committed to in the Unilateral Undertaking.
21. At the meeting in November Members were also clear that they wished to understand the progress made with negotiations to reduce the size of the development. The University wrote to the City Council on 22nd March 2013 in which it stated:

“Various suggestions have been made over recent weeks to reduce the height of some of the buildings by changing the pitched roofs to flat roofs or by removing one or two floors from the building. It is not practicable to change the roof form since the pitched roofs contain a large amount of vital services for the buildings. The removal of floors, although being

structurally possible would be extremely difficult to achieve at this stage and would involve major redesign and rebuild”.

“ The University is a charity, with the charitable objective of the advancement of learning by teaching and research. It would be an appropriate use of charitable funds to incur costs in relation to a scheme..... which has planning approval and which helps to address the City Council’s longstanding requirement for increased student accommodation in the City. Therefore the University will not voluntarily reduce the heights of these buildings.”

22. This letter was reported in full to the WAPC at its meeting on 17th April 2013. The University’s position has not changed since this date.

Independent Review

23. Following the receipt of the Roger Dudman Way Review Independent report from Vincent Goodstadt an Action Plan is being developed. This will be reported to the next meeting of the Committee.
24. The University will have met Mr Goodstadt by the date of the Committee meeting and a meeting is being scheduled with the Collegiate University later in February or early March.

Contamination Monitoring

25. The City Council has agreed with the University how it will meet the obligations that it gave in the Unilateral Undertaking. This work is being undertaken in a timely manner and the results are being reported fully together with the consultant’s assessment and recommendations. Where concerns are identified it has been agreed that the University or its consultants will identify proposals for mitigation and further action as required.
26. There has been a temporary disruption to the monitoring regime because of the recent flooding which has caused one cycle to be missed. However the regime is now working effectively.
27. Officers propose to report to Councillors quarterly on an exception basis if concerns are identified in any of the University’s reports.

Next Report to Committee

28. In the light of these processes and to give the public an opportunity to read and comment on the University’s Environmental Statement it is anticipated that it will not be possible to report to Committee until later this year. It will very much depend on the nature of the public comments on the ES and any subsequent action how soon before the next report can be put before the Committee.

29. At that meeting the first section of the report will enable Members to confirm compliance or otherwise with the outstanding planning conditions. Once these decisions have been made the second section of the report will advise Members whether there are any outstanding breaches of planning control and whether it would or would not be expedient to consider enforcement proceedings against the University.

Appendices

1. Judicial Review hearing transcript (CO/5547/2013)
2. Judicial Review approved Judgment (CO/5547/2013)
3. Note as to EIA processes
4. EIA Regulations (SI 2011/1824)
5. Letter from the University of Oxford (not yet received)

Background Papers: none

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Date: 3rd February 2014