

EAST AREA PLANNING COMMITTEE

4th February 2015

Application Number: 14/02650/FUL

Decision Due by: 1st January 2015

Proposal: Erection of nine industrial units for Class B1 (C) (Light Industrial), B2 (General Industrial) and B8 (Storage and Distribution) use and including 70 car parking spaces and 20 covered cycle parking spaces. (Amended description)

Site Address: Former DHL Site, Sandy Lane West – Appendix 1

Ward: Littlemore Ward

Agent: Mr Thaddaeus Jackson-Browne

Applicant: Mr David Rothwell

Recommendation:

That Committee resolves to approve the application subject to the conditions listed but delegate to officers the issuing of the decision notice following the completion of a legal agreement that secures the necessary financial contribution towards off-site provision of affordable housing.

Reasons for Approval

- 1 The proposals are considered to make efficient use of an established employment site that would make a contribution towards improving the City's employment offer and, subject to conditions, would not give rise to significant harm to the living conditions experienced by occupiers of nearby dwellings. The development proposed is also of a satisfactory scale, form and layout such that it would be in keeping with its context whilst also being served by sufficient car parking and cycle parking provision. Subject to the associated legal agreement and its financial contribution towards affordable housing, the impact of the proposed development on the City's housing stock would be satisfactorily mitigated. Consequently the proposals are considered to accord with the requirements of all relevant policies of the development plan.
- 2 The Council considers that the proposal accords with the policies of the development plan as summarised below. It has taken into consideration all other material matters, including matters raised in response to consultation and publicity. Any material harm that the development would otherwise give rise to can be offset by the conditions imposed.
- 3 The Council considers that, by virtue of the provisions to be made under the section 106 agreement, 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
- 4 Travel Plan required
- 5 Car parking to be laid out prior to development being brought into use
- 6 Sustainable drainage scheme required to be incorporated
- 7 Unexpected contamination
- 8 Surface water scheme required
- 9 Landscape plan required including the requirement for retention of the majority of existing eastern and southern boundary vegetation together with reinforcement through new appropriate planting
- 10 Acoustic screen to be installed prior to development being brought into use
- 11 Construction Management Plan required including details of construction traffic routing and parking, delivery times, construction noise, hours of working etc
- 12 Boundary treatment details required to be submitted to and approved by the LPA prior to first occupation
- 13 No permitted development rights to change to any other use outside Use Classes B1(c), B2 or B8
- 14 Public Art scheme and timetable for its implementation to be submitted to and approved by the LPA
- 15 No permitted development rights for extensions to any of the buildings
- 16 Noise limits imposed at different times throughout the day when measured from nearest dwelling:
7am – 7pm – 43dB LAeq 1hr
7pm – 11pm – 43db LAeq 15mins
11pm – 7am – 40db LAeq 15mins

- 17 No external operations (including servicing and deliveries) after 11pm and before 7am
- 18 Tree Protection Plan required
- 19 Approved landscaping be carried out prior to substantial completion
- 20 Recommendations of the Geo-Environmental Assessment to be followed throughout construction
- 21 Development to be carried out in accordance with the submitted NRIA to achieve a minimum score of 10/11
- 22 Prior to first occupation details shall be submitted of showering facilities to be provided within the development to encourage the use of cycles as a means of travelling to and from work
- 23 Details of covered and secure cycle parking facilities to be submitted to and approved by the LPA prior to first occupation of the development

Legal Agreement:

£89,356 offered as a financial contribution towards provision of off-site affordable housing. The development is liable for CIL to the value of £83,660.

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
- CP14** - Public Art
- CP17** - Recycled Materials
- CP18** - Natural Resource Impact Analysis
- CP10** - Siting Development to Meet Functional Needs
- CP21** - Noise
- TR1** - Transport Assessment
- TR2** - Travel Plans
- TR3** - Car Parking Standards
- TR4** - Pedestrian & Cycle Facilities
- NE23** - Habitat Creation in New Developments

Core Strategy

- CS2_** - Previously developed and greenfield land
- CS9_** - Energy and natural resources

CS10_ - Waste and recycling
CS12_ - Biodiversity
CS13_ - Supporting access to new development
CS17_ - Infrastructure and developer contributions
CS18_ - Urban design, town character, historic environment
CS24_ - Affordable housing
CS28_ - Employment sites

Other Planning Documents

Affordable Housing and Planning Obligations SPD

Parking Standards, Transport Assessments and Travel Plans SPD

Public Consultation:

Statutory Consultees:

Oxfordshire County Council (Highway Authority) – No objection subject to conditions requiring a construction traffic management plan to be submitted and approved as well as a travel plan and sustainable drainage system. Planning obligations are also required to be secured towards highway infrastructure works and monitoring of the travel plan to the value of £16,240.

Environment Agency – No objection subject to conditions including the requirement for details of a surface water drainage scheme and a condition setting out the required procedure in the event of unexpected contamination being found during construction.

Environmental Development (City Council) – No objection to the development subject to a condition being attached with the following noise limits in the interests of safeguarding neighbouring amenity: 43dB LAeq 1hr (7am – 7pm), 43db LAeq 15mins (7pm-11pm), 40dB LAeq (11pm-7am).

Thames Water – No objection

Natural England – No objection

Third Parties:

Two objections received from local residents raising the following concerns:

- The proposals would cause unacceptable environmental intrusion for neighbouring residential properties;
- If approved the development should be subject to noise limits and restricted to operating only between the hours of 0730 and 1700 on week days only together with an acoustic fence that should encircle the site not just border the parking area;
- If approved, the landscaping along the boundary with Spring Lane should be retained and all lights within the building required to be turned off during night time hours;
- The number and type of traffic movements to and from the site will have an adverse impact on the city's air quality.

Relevant Planning History:

07/02809/FUL - Redevelopment of the existing employment site to provide 18 x B1(c), B2, B8 industrial units and warehouse units (8 with ancillary trade sales) and one builders merchant (Sui Generis), and a parking area for Stagecoach vehicles. Floodlighting. **Permitted 18th June 2008.**

11/01550/FUL - Change of use from class B8 (storage and distribution) to a builders merchant (sui generis) for the display, sale and storage of building, timber and plumbing supplies, plant and tool hire, including outside display and storage and associated external alterations, together with the demolition of adjacent redundant buildings (Amended Plans). **Permitted 21st September 2011.**

11/02492/VAR - Variation of condition 10 (Hours of deliveries and fork lift truck activity) of planning permission 11/01550/FUL to enable activity from 07:30hrs to 17:00hrs Monday-Friday and 08:00hrs to 12:00hrs on Saturdays. **Permitted 20th December 2011.**

12/01981/VAR - Variation of condition 4 of planning permission 07/02809/FUL to allow limited trade counter for unit 2 for the hire of construction tools and equipment. **Permitted 26th October 2012.**

13/01119/FUL - Erection of 3 units providing 3509sqm of accommodation for Class B1 (Business), Class B2 (General Industrial) or Class B8 (Storage or Distribution) use. Provision of 31 car parking spaces and 15 cycle parking spaces. **Permitted 18th October 2013.**

Officers' Assessment:

Application Site and Locality

1. The application site relates to what is now a vacant part of a wider employment site that was previously home to a DHL distribution centre. The previous DHL building on the site has now been demolished leaving an area of hardsurfacing which has, in part, been used for storage purposes in connection with the adjacent builders merchant. The site is accessed from Sandy Lane West through the main industrial estate though it borders onto Spring Lane to its eastern side. To the south and east of the site lie residential properties of Spring Lane from which the site is separated by thick boundary vegetation and an existing wooden fence. To its northern and western boundaries the site links in to the wider industrial estate.

2. The site can be seen within its context on the site location plan attached as Appendix 1.

Description of Proposed Development

3. The application seeks consent for the erection of two buildings to provide nine industrial units within Class B1(c), B2 or B8 use. The proposals include provision of 70 car parking spaces and 20 cycle storage spaces in addition to associated landscaping works and the erection of an acoustic fence inside part of the site's

eastern boundary.

4. Officers' consider the following to be the key determining issues in this case:

- Principle;
- Design, Layout and Appearance;
- Affordable Housing;
- Impact on Neighbouring Properties;
- Parking and Highway Implications;
- Energy Efficiency.

Principle

5. The site has an existing lawful use for employment purposes having previously housed a large industrial building used as a distribution base by DHL. It also has an extant consent for new employment buildings that was granted in 2013. Policy CS28 of the Core Strategy resists the loss of existing employment sites except where they are shown to be either no longer necessary or having a significant adverse environmental impact on nearby dwellings. The policy does however support modernisation and more efficient use of existing sites where this does not have an adverse impact on employment opportunities within the city.

6. In comparison to its previous use as well as the development proposed in the extant consent from 2013, the current scheme proposes a greater level of employment generating development. This is not only as a result of the increased floor area of the buildings but also due to its provision of units for light and general industrial use which typically employ a greater number of people than warehouse uses such as when occupied previously by DHL. The proposals therefore make a more efficient use of this established employment site in a manner that is consistent with the requirements of policy CS28 and so, in principle, officers support the proposals.

Design, Layout and Appearance

7. Policies CP1 and CP8 of the Local Plan together with policy CS18 of the Core Strategy require high quality urban design that forms an appropriate visual relationship with the surrounding area in terms of scale, form, layout and design detailing. Policies CP11 and NE15 of the Local Plan require soft landscaping to be successfully incorporated into new development and existing features of importance to be retained. These development plan policies are considered to be consistent with national policy in the NPPF which emphasises the importance of good quality design in achieving sustainable development.

8. The development essentially proposes two single storey buildings that are internally divided into nine commercial units each of similar rectangular footprints. The nature of the type of operations that could take place in the buildings means that they need to be relatively high which gives them shallow pitched roofs and a corresponding wide roof span. The eaves heights are shown to be approximately 8m with the roof rising to 10m at its ridge. Such a form and scale of building is however entirely consistent with the types of industrial buildings found elsewhere within the employment site and similar in size to the previous DHL building. The proposed buildings have a fairly typical industrial appearance with horizontal green coloured metal cladding to its external walls with aluminium framed

fenestration and roller shutter doors to their front elevations facing into the site. Given the similarities in the building's appearance when compared against other existing buildings within the industrial estate and the development previously approved in 2013, officers raise no objection to the design and appearance of the new buildings.

9. The two buildings are orientated perpendicularly to each other but separated by car parking and servicing areas. Both have elevations in close proximity to Spring Lane. However, there is significant boundary vegetation that screens the site from the residential properties of Spring Lane and much of this is proposed to be retained and reinforced. A replacement wooden fence is also proposed though this should be set behind the vegetation so that it does not detract from the Spring Lane streetscene. A condition is recommended to be imposed in this respect. A condition requiring the approval of a landscape plan is also recommended to be imposed and, whilst the proposals do appear to represent quite an intensive development of the site with little opportunity for meaningful soft landscaping, this is a similar arrangement to that approved on the site in 2013 so officers do not raise an objection to it.

10. Consequently officers are satisfied that the design and layout of the two buildings is in keeping with the site's industrial context as well as the Spring Lane streetscene. In this respect the proposals are therefore found to be in accordance with the requirements of all relevant development plan policies as well as national policy.

Affordable Housing

11. Policy CS24 of the Core Strategy requires affordable housing from both new residential and commercial developments where these are over specified thresholds. Such affordable housing is necessary to mitigate the impact of development on housing need within the city. The level of contribution required is based on criteria set out in the Council's Affordable Housing and Planning Obligations SPD. The current development triggers a requirement for a financial contribution towards off-site provision of affordable housing to the value of £89,356. The applicant has offered to make this contribution and a draft legal agreement has been submitted to deliver this, however, at the time of writing this report, the legal agreement has yet to be finalised. Subject to the satisfactory completion of a legal agreement to deliver the affordable housing contribution officers have no objection to the scheme in this respect. The officers' recommendation reflects the current status of the legal agreement and, as such, it recommends that the Committee delegate the final issuing of planning permission to officers to allow the legal agreement to be completed and relevant financial contributions paid in advance of granting planning permission.

Impact on Neighbouring Properties

12. Policies CP1 and CP10 of the Local Plan require new development to adequately safeguard neighbouring amenity. Policies CP19 and CP21 state that development proposals that would give rise to unacceptable nuisance and noise will be refused where such impacts cannot be adequately controlled through the use of planning conditions.

13. Whilst the proposed buildings would be relatively large, as stated above, they are typical of that found in industrial developments. They are separated from the existing houses to the eastern side of Spring Lane by the road and, as such, are at least 15m away from any of these dwellings. This separation distance ensures that neither building would have an overbearing or overshadowing effect on any of the houses to the eastern side of Spring Lane. Moreover, neither of the two buildings includes any windows facing eastwards towards the Spring Lane houses such that privacy and perception of privacy would not be affected for occupiers of these dwellings. However, in the interests of preventing an excessively urbanised outlook from the residential properties of Spring Lane, a condition is recommended to be attached requiring a landscape plan to be submitted to and approved by the Council which would need to include the retention and reinforcement of existing vegetation along both the site's eastern and southern boundaries.

14. To the south of the site lies the residential property of No. 34 Spring Lane. This is currently separated from the site by a palisade boundary fence and overgrown vegetation so that it is therefore well screened from the site. One of the two new buildings is proposed to be positioned approximately 5m inside the site's southern boundary which, given its significant height and width, is likely to mean that the building would have something of an adverse impact on the outlook from the house and its rear garden. However, this relationship has previously been accepted by the Council on the site in the past having approved similar developments in 2008 and 2013. Despite this, to ensure that the impact would not be significant a condition is recommended to be imposed requiring the retention of the existing southern boundary vegetation and its reinforcement with additional planting to be agreed through details to be approved in a landscape plan. Whilst outlook from this neighbouring house would be affected to some degree, the proposed building would not have a material impact on the level of daylight that No. 34 Spring Lane receives given that the new building is shown to comfortably accord with the Council's daylight assessment criteria set out in Appendix 7 of the SHP. Furthermore, given the proposed building's orientation to the north of the existing dwelling it would not have any notable effect on sunlight levels as it would not intrude on the sun's trajectory with respect to No.34. The proposed building would also not have an effect on the privacy enjoyed by occupiers of No. 34 Spring Lane given that there are no windows in its southern elevation that could give rise to actual or perceived overlooking.

15. The development proposes commercial units that could be operated for industrial or warehouse purposes. The specific occupiers are unknown at this stage as the units proposed are speculative. As such the impacts of the development could vary depending on the nature and type of the occupiers of the new units and it is therefore important that the potential 'worst-case' effects on neighbouring properties are assessed. Whilst unlikely this would probably involve all of the proposed units being in industrial use with the consequent potential to cause significant noise disturbance and nuisance for occupiers of nearby dwellings.

16. It is important however to recognise the context of the site. It was previously in use as a warehouse and distribution centre for DHL which likely caused

significant traffic movements and occasional disturbance for local residents that the Council, as local planning authority, would not have been able to control. Noise and general nuisance could therefore have occurred throughout the day and night in a manner that was beyond planning control. Given the relatively close proximity of the nearby houses to this existing industrial site it is not reasonable, in officers' view, to expect a completely tranquil environment at all times and neighbouring occupiers will have been accustomed to some occasional disturbance over time.

17. Notwithstanding that, it is important that use of the proposed development would not have an unacceptable impact on enjoyment of neighbouring residential properties to accord with adopted planning policy. It is probable that, irrespective of any planning controls, most of the units would only operate during normal working hours. However, given the nearby dwellings, officers consider it important to be prudent and so recommend imposing restrictions. Following an assessment by Environmental Health officers, a condition is recommended applying noise limits to the development as measured from the nearest residential dwelling. These noise limits would be staggered to reflect the different times of the day and consequently the times where noise might have the greatest impact. Condition 16 recommends setting out three different noise limits between the following hours: 7am – 7pm, 7pm – 11pm and 11pm – 7am. The condition would also impose different limits on Sundays and Bank Holidays where any noisier activity would be prevented until at least 8:30am. In essence, the noise limit proposed to be applied during the night time hours (40db LAeq 15 mins between 11pm-7am) is no higher than the existing measured background level such that it would not allow almost any additional noise disturbance for occupiers of neighbouring dwellings. This would in effect prevent any servicing and deliveries to the units during these times however, for the purposes of completeness, officers have also recommended another condition (No. 17) that restricts all such external activities during night time hours. The limit recommended during the evening hours of 7pm-11pm (43dB LAeq 15mins) reflects the quieter period reasonably expected by residents at this time of the day and the specific requirements set out in the condition mean that only very limited occasional noise could occur during these hours from the site. A slightly more relaxed approach is proposed to be applied during daytime hours (43dB LAeq 1hr) though it would still ensure that neighbours would not be subject to any prolonged noisy activity. A 3m high acoustic fence is proposed along the eastern boundary of the vehicle parking and manoeuvring area which should also help to reduce noise and a condition is recommended that requires the fence to be in place prior to the development being brought into use.

18. Consequently, subject to the conditions suggested above, officers are satisfied that the proposals would not have a significant adverse effect on the living conditions of neighbouring residents and in this respect find that the proposals accord with the requirements of all relevant development plan policies.

Parking and Highway Implications

19. Policy CP1 of the Local Plan requires development to be, inter alia, acceptable with respect to traffic movements, highway safety, car and cycle parking. Policies TR3 and TR4 of the Local Plan set out maximum car parking

standards by various development types. In terms of traffic movements, all vehicles would access the site via the main entrance to the industrial estate and any increase in vehicle movements would be modest if not negligible in comparison to the site's previous use as a DHL warehouse. The number of car parking spaces proposed is more than adequate to serve the new units when considered against the standards set out in policy TR3 and its supporting appendix in the Local Plan. This view is supported by the Highway Authority which does not raise any concerns about the scheme's car parking provision. Cycle storage facilities are also shown to be provided in accordance with the requirements of policy TR4 of the Local Plan though a condition is recommended to be imposed to require details to be provided to ensure that it is both appropriately covered and secure. A condition is also recommended requiring details to be provided of showering facilities within the proposed development which would help to ensure that future employees are not dissuaded from cycling to and from work.

20. The representation from Highway Authority is noted in which they seek financial contributions towards a nearby bus shelter, provision of on-street parking controls in the locality and monitoring of the travel plan. However, officers do not consider it reasonable or necessary to seek these contributions. First, financial contributions towards general highway improvements are now collected through CIL and it is not appropriate to 'double-dip' by attempting to claim funding towards highway improvements through both mechanisms. In line with the Council's Affordable Housing and Planning Obligations SPD, general highway infrastructure contributions can now only be collected through CIL to which this development is liable to the value of £83,660. Second, it is not considered to be reasonable for the Highway Authority to require a financial contribution towards the laying out of on-street parking controls and payment of the cost to amend the traffic regulation order to achieve this. As officers have also stated above, there is more than adequate parking provision within the site to serve the likely needs of the proposed new development. The Highway Authority has endorsed this view within its consultation response. This being so, in officers' view it cannot be reasonable or necessary for the developer to have to fund parking controls outside the site when the development is very unlikely to give rise to any additional on-street parking. Third, the proposed development is in a relatively sustainable location with adequate car and cycle parking provision as well as access via some bus routes. Whilst the submission of a travel plan is considered to be reasonable to require in the interests of encouraging sustainable travel, it is not appropriate for the developer to have to fund its monitoring particularly where the strict enforcement of a stringent travel plan is not fundamental to the acceptability of the scheme.

21. Consequently, with respect to parking and accessibility, officers are satisfied that the proposals accord with the requirements of development plan subject to the imposition of conditions in line with those that have been recommended.

Energy Efficiency

22. Policy CS9 of the Core Strategy requires all new development to minimise carbon emissions and demonstrate how sustainable design and construction methods would be utilised. Policy CP18 of the Local Plan requires developments

of this size to be accompanied by a Natural Resources Impact Analysis (NRIA) that needs to demonstrate how the development has taken the opportunities available to reduce energy use, generate energy from renewable sources, use renewable resources and use locally sourced recycled or reclaimed materials in construction. The Council's NRIA SPD includes a checklist based approach to assist in the assessment of schemes against a number of sustainability criteria. The development has achieved a score of 10/11 when assessed against the SPD's checklist and this is welcome. A significant proportion of the likely energy use from the buildings are shown to be generated by a large solar array with use of locally sourced materials and high levels of thermal and water efficiency also making contributions towards the high score. Officers are therefore satisfied that the proposals demonstrate a sufficient level of energy efficiency to accord with the requirements of development plan policy and a condition is recommended to be imposed requiring the development to be carried out in accordance with the submitted NRIA.

Conclusion:

23. Subject to the conditions listed, officers' consider the proposals to accord with the requirements of all relevant policies of the development plan in addition to national policy set out in the National Planning Policy Framework. Members are therefore recommended to resolve to grant planning permission though delegate to officers the issuing of the decision notice to allow satisfactory completion of a legal agreement that secures the required financial contribution towards off-site affordable housing.

Human Rights Act 1998

Officers have considered the Human Rights Act 1998 in reaching a recommendation to grant planning permission, subject to conditions. Officers have considered the potential interference with the rights of the owners/occupiers of surrounding properties under Article 8 and/or Article 1 of the First Protocol of the Act and consider that it is proportionate.

Officers have also considered the interference with the human rights of the applicant under Article 8 and/or Article 1 of the First Protocol caused by imposing conditions. Officers consider that the conditions are necessary to protect the rights and freedoms of others and to control the use of property in accordance with the general interest. The interference is therefore justifiable and proportionate.

Section 17 of the Crime and Disorder Act 1998

Officers have considered, with due regard, the likely effect of the proposal on the need to reduce crime and disorder as part of the determination of this application, in accordance with section 17 of the Crime and Disorder Act 1998. In reaching a recommendation to approve, officers consider that the proposal will not undermine crime prevention or the promotion of community safety.

Background Papers:

07/02809/FUL

11/01550/FUL

11/02492/VAR

12/01981/VAR

13/01119/FUL

14/02650/FUL

Contact Officer: Matthew Parry

Extension: 2160

Date: 23rd January 2015