

**West Area Planning Committee**

7th July 2015

**Application Number:** 15/01207/VAR

**Decision Due by:** 21st July 2015

**Proposal:** Variation of conditions 2 (Approved plans), 3 (Samples), 4 (Detailing), 5 (Lighting), 6 (Carparking), 7 (Cycle parking), 9 (Arboricultural Method Statement), 10 (Tree Protection Plan), 12 (Landscaping Plan), 13 (Landscape), 14 (Landscape), 15 (Landscape Management Plan), 16 (Flood Risk Assessment), 17 (Drainage), 19 (Bat boxes), 20 (Implementation), 21 (Construction Travel Plan), 22 (Travel Plan) and 23 (Public art) of planning permission 10/01006/FUL (Erection of new sports centre) in order to allow the development to be completed in two phases and to discharge details in relation to phase 1.

**Site Address:** University Running Ground Iffley Road, **Appendix 1.**

**Ward:** St Marys Ward

**Agent:** Savills

**Applicant:** The Chancellor, Masters  
And Scholars of the  
University of Oxford

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**Recommendation:** Committee is recommended to:

- (i): support the proposals in principle but defer the application in order to complete a variation or addendum to the existing legal agreement and delegate authority to officers to issue the decision notice on its completion;
- (ii): to approve the details submitted in compliance with planning conditions relating to Phase 1 of the development.

## **Reasons for Approval**

- 1 The proposal would respond well to its setting, providing two new buildings of high design quality that would maintain the characteristics of the site. The improved facilities would meet the identified needs of the University and be accessible to the wider community. The site is sustainably located to encourage non-car modes of transport and the University actively encourage sustainable travel through its Green Travel Plan. The application would not adversely affect the amenities of neighbouring residential properties due to intervening vegetation and distances, whilst the matter of lighting can be

secured by planning condition to ensure that it is appropriate to its location. The application would comply with the policies of the Oxford Local 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 has had regard for the comments received through the consultation process. The issues set out below have been addressed within the report and changes to the details of the proposal secured as a result.
- 4 The details submitted to discharge conditions or parts of conditions that are relevant to the development that will be undertaken as part of phase 1 of the development are considered acceptable.

### **Conditions**

- 1 Commencement of development
- 2 Develop in accordance with approved plans
- 3 Samples of materials
- 4 Revised details of 'fitness spine'
- 5 External lighting
- 6 Car park sustainable surfacing
- 7 Cycle parking
- 8 Tree protection
- 9 Arboricultural method statement
- 10 Implement tree protection measures
- 11 No felling of trees
- 12 Landscaping details
- 13 Hard surfacing details
- 14 Landscape management
- 15 Flood risk assessment
- 16 Surface water drainage
- 17 Flood storage compensation
- 18 Biodiversity enhancement
- 19 Archaeology - Scheme of investigation
- 20 Construction traffic management plan
- 21 Travel plan
- 22 Public art
- 23 Alteration to Jackdaw Lane Access

### **Legal Agreement.**

The original planning permission was granted subject to a legal agreement relating to (amongst other things) a Joint User agreement to provide access to the sporting facilities for the local community. The legal agreement refers specifically to the previous planning permission and changes to the agreement will be necessary to ensure that the benefits that were secured by the original Agreement are not lost

through the grant of a fresh planning permission. The recommendation to approve this fresh planning application is therefore made subject to any necessary change to the Legal Agreement, for example, by way of an addendum to the Agreement.

### **Community Infrastructure Levy.**

No payment is required as the proposal is to implement the previously approved scheme in two phases and no additional floor space is being proposed. Therefore since the previous permission was granted before the introduction of the Levy no payment is required.

### **Principal Planning Policies.**

The main planning policies against which the proposal should be judged are set out below. There have been a few changes to policies since the time when it was resolved to grant planning permission on the original scheme. In particular, national planning policy has been completely revamped through the introduction of the National Planning Policy Framework and the National Planning Practice Guidance. In addition, a number of local policies have been superseded mostly by the adoption of the Oxford Core Strategy. However, notwithstanding these changes to local and national policy, officers have not been able to identify any shift in the thrust of any policy that would indicate that a different approach should now be taken in relation to any issue that is material to the determination of the application. Members are therefore advised that since there are no changes to the details of the scheme, no changes to on-site circumstances and the policy context is essentially the same albeit contained within some different policy documents, that the merits of the proposal are acceptable and it is only the details of conditions that should need to be scrutinised to allow the scheme to be developed in two phases, as now proposed.

### **Main Planning Policies.**

#### Oxford Local Plan 2001-2016

- CP1 - Development Proposals
- CP5 - Mixed-Use Developments
- 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
- CP20 - Lighting
- HE2 - Archaeology
- HE7 - Conservation Areas
- HE9 - High Building Areas
- HE10 - View Cones of Oxford
- NE15 - Loss of Trees and Hedgerows
- SR2 - Protection of Open Air Sports Facilities

## HE6 - Buildings of Local Interest

### Core Strategy

- CS2 - Previously developed and greenfield land
- CS4 - Green Belt
- CS9 - Energy and natural resources
- CS11 - Flooding
- CS12 - Biodiversity
- CS18 - Urban design, town character, historic environment
- CS20 - Cultural and community development
- CS21 - Green spaces, leisure and sport

### Sites and Housing Plan

- MP1 - Model Policy

### **Other Material Considerations:**

- This application site lies adjacent to the St Clements and Iffley Road Conservation Area
- National Planning Policy Framework
- National Planning Practice Guidance
- Planning Obligations Supplementary Planning Document (April 2007)
- Parking Standards, Transport Assessments and Travel Plans-Supplementary Planning Document (October 2006)
- Natural Resource Impact Analysis Supplementary Planning Document (November 2006)
- St Clements and Iffley Road Conservation Area Appraisal

### **Planning History**

- 04/00144/ADV - Sign to commemorate the first sub-four minute mile at the site. Withdrawn 16th April 2004.
- 04/00520/ADV - Non illuminated directional signs. PER 19th April 2004.
- 04/00746/ADV - High level free standing non-illuminated sign. PER 26th May 2004.
- 07/02870/CAC - Conservation Area consent for demolition of outbuildings. Withdrawn 9th June 2009.
- 07/02871/FUL - Demolition of pavilion. Proposed three court indoor tennis centre and replacement outdoor tennis courts (six courts). Footpaths, cycle parking, 3 parking spaces (for disabled drivers) and landscaping. Withdrawn 9th June 2009.
- 09/01315/FUL - Demolition of existing pavilion. Construction of new building to accommodate 3 indoor tennis courts plus 6 external courts, to replace existing. Provision of 3 disabled car parking spaces, covered cycle parking, landscaping and external works. PER 18th October 2013.
- 09/01316/CAC - Demolition of existing pavilion building. PER 18th October 2013.
- 10/01006/FUL - Demolition of existing sports hall, grandstand and ancillary buildings. Erection of new sports centre and Eton Fives' courts. Laying out of footpaths, access road, cycle parking, car parking and landscaping. PER 18<sup>th</sup> October 2013

- 11/01552/FUL - Erection of 4 x 18 metre high pole mounted floodlights and 4 x 10 metre high pole mounted floodlights to replace existing floodlights on grandstand. PER 3rd August 2011.
- 11/01552/NMA - Non-material amendment to planning permission 11/01552/FUL, to specify retracted height of moveable floodlights as 11m. PER 24th January 2012.

## Public Consultation

### Statutory Consultees Etc.

Highways Authority: Acknowledge the intention of the applicant to carry out the development in two phases - no objection. Satisfied with Construction Travel Management Plan (CTMP) subject to the following comments:

- document to specifically state “outside peak hours is 0930 to 1530 daily”, not just a reference to outside peak hours;
- pedestrian / cycle access from Iffley Rd would be welcomed, ensuring ensuring segregation;
- dilapidation survey required for Jackdaw Lane prior to commencement of works;
- development should be undertaken strictly in accordance with this CTMP as approved at all times.

A Travel Plan should be submitted for phase two of the development.

Environment Agency Thames Region: Further to our letter dated 22 May 2015 we received further information in an email from Dawn Brodie (Savills) on 29 May 2015. We are now in a position to respond. We have reviewed the letter dated 28 May 2015 by AKS Ward and the attached plans (floodplain compensation) and we now have **no objection** to the proposed variation of condition to allow the development to proceed in two phases. We are now also in a position to recommend the discharge of conditions 16 and 17 in relation to Phase 1.

Thames Water Utilities Limited: Thames Water have reviewed the documentation provided and agree to Variation of condition 17 (Drainage).

County Drainage Engineer: Porous surfacing provided on Phase 1 to reduce discharge to outfall from parking and access areas, no reduction shown in the discharge from roof drainage.

Historic England: “We do not wish to offer any comments on this occasion.”

### Third Parties

- Iffley Road Area Residents' Association: No response
- Iffley Road Traders' & Residents' Association: No response
- Individual Comments: No comments received.

## **Officers Assessment:**

### **Background to Proposals.**

1. This application is submitted under section 73 of the Town & Country Planning Act 1990 and seeks planning permission subject to the variation or removal of conditions attached to the earlier and still extant planning permission. The application has been submitted in order to facilitate the development being carried out in two phases. This type of application is relatively common where minor amendments to an approved are sought. A number of schemes are designed to be implemented in phases, particularly larger ones.
2. In the Planning Statement accompanying the application, the applicant explains that funding has been obtained to implement part of the development approved under planning permission 10/01006/FUL but not the entirety of the scheme. In order for the scheme to continue it needs to be constructed in phases to enable delivery of the overall scheme. Had the University known that this would have been the case the original application could have been applied for as a two phase development. However, it is clear that the University did not anticipate this approach when permission was originally applied for and this latest application has come about as a result of the funding position. Nor could the Council have reasonably foreseen the need for a two stage approach.
3. As an alternative to this application, the University could have submitted the details to satisfy all the conditions and part implement the permission thereby keeping the remainder of the permission alive in perpetuity. However, some of the pre-commencement details only relate to some parts of the site and the University only wish to discharge the pre-commencement conditions that relate to the part of the site that contains the part of the development to be implemented as Phase 1. That necessitates the varying of the other conditions to allow the development to be part implemented whilst pre-commencement conditions relating to the other part of the development remain to be considered at a later date. It is important that any new planning conditions are imposed and worded in a way that ensures that the scheme can be implemented in the way that was originally envisaged by the Council.

### **The Proposals.**

4. The proposed development is exactly the same as that for which planning permission has been granted under planning permission 10/01006/FUL. As stated above part of the intention of this application is to facilitate the development being carried out in two phases. Phase 1 will include the refurbishment of the existing swimming pool and the construction of the new four court sports hall. Phase 2 will include the construction of the remainder of the replacement building along with the remainder of the development which will include the grandstand and Eton Five Courts. A plan detailing the two phases of the development has been submitted with the application.

5. With the development now being proposed in two phases, the applicant has also submitted details of the matters that would otherwise have needed to be addressed through the submission of separate application(s) to discharge 'pre-commencement' conditions relating to Phase 1 of the development. The intention is to secure approval of these details so that the planning conditions that relate to these matters can be amended as part of this variation application to secure implementation of the approved details. Subject to approval of the details, any new conditions can be worded in a way that simply requires the implementation of the scheme in accordance with those approved details.

### **Compliance with Conditions**

6. To facilitate the approach explained above details have been submitted of the following matters. The numbering of the planning conditions can be seen in the original planning committee report attached as Appendix 2 to this report:-
  - Condition 2: Plans and elevations of the parts of the development comprised within phase 1 – identical to what has been approved under planning permission 10/01006/FUL.
  - Condition 3: A full schedule of external materials to be used for the construction during Phase 1.
  - Condition 5: Details of the external lighting scheme pertinent to phase.
  - Condition 7: Details of the temporary cycle parking to serve phase.
  - Conditions 9, 10, 12 and 15: Details of methods of working within Root Protection Areas, Tree Protection Measures, landscaping plan and landscape management plan.
  - Condition 16: Details of flood mitigation and flood storage as part of a Flood Risk Assessment.
  - Condition 17: Details of Surface Water Drainage in connection with Phase 1.
  - Condition 19: Details of bat boxes.
  - Condition 20: Details of an Archaeological written scheme of investigation.
  - Conditions 21 and 22: Details of a Construction Traffic Management Plan and a copy of the University of Oxford Transport.
7. Assessment of the acceptability of these details is examined under the headings below.

### **External Materials.**

8. The details of external materials shown on plans PL(0)10-11 Rev A and PL(0)12-13 Rev A comprise rendered blockwork, masonry leaf sandstone, weathered buff brickwork, staffordshire blue engineering brickwork, vertical zinc cladding and zinc capping, glazed curtain walling, and weathered red cedar vertical and horizontal timber weatherboarding cladding. All considered to be acceptable.

### **External Lighting**

9. The details submitted and contained within the report 'External Lighting' by

consultants Hoare LEA set out the extent of external lighting. The details are considered to be acceptable and discharge of the condition is recommended.

### **Cycle Parking**

10. Details of cycle parking have been submitted and comprise temporary cycle parking shown on plan BXMW/COV/4000/1.01. It is proposed that the cycle parking shall be retained on site until such time that the permanent cycle parking provided in phase 2 is in place and available for use. Officers consider that the provision of cycle parking in this manner to be acceptable.

### **Archaeology**

11. A Written Scheme of Investigation for the conditioned archaeological watching brief at the site has been submitted and this has been assessed by officers and considered to be acceptable.

### **Construction Traffic / Travel Plan**

12. A response has now been received from the County Council as Local Highway Authority and is detailed above. The comments include a request for clarity over the expression 'outside peak hours' and this has been reflected in the detailed wording of the recommended condition 20. In connection with condition 22 requiring approval of a Travel Plan, Phase 1 of the development only includes the addition of the four court sports hall and it is considered reasonable to agree to the full details of the Travel Plan only prior to the commencement of Phase 2 of the development. The Local Highway Authority agrees with this approach. The Highway Authority also wanted to be assured as to the segregation of pedestrians and cyclists from cars and the access from Iffley Road allows such segregation. Finally the Highway Authority is also concerned about potential damage to Jackdaw Lane and the recommended condition 20 on the Construction Traffic Management Plan has been amended to reflect the requirement to manage the repairs of any damage caused to the highway as a result of construction traffic.

### **Landscaping.**

13. The submitted Arboricultural Method Statement (including Tree Protection Plan) and Landscape Management Plan (including Landscape Plan) documents are considered to provide appropriate details for ensuring that retained trees are adequately protected and for new planting that will mitigate the effect of removing existing trees and enhance the landscape and the screening function that trees along the boundary provide in views from Christ Church Meadow. These details can therefore be approved under conditions no.9, 10, 12, and 15.
14. However, the original details of proposed hard surfacing in relation to condition 13 were not considered to be appropriate where it encroached within the Root Protection Area of the retained trees and also the provision of new drains also within the root protection areas of the retained trees. Both of these details



needed amendment as unacceptable damage to tree roots may have occurred as a result.

15. The Arboricultural Method Statement has since been amended and the applicant's engineers have re-worked the drainage and will re-use the existing surface water drain. As such, officers are satisfied that the details are now acceptable and relevant conditions can be discharged.

### **Flood Risk and Drainage.**

16. In response to consultation, the Environment Agency has indicated that in principle it has no objection to the application to vary conditions to allow the phased implementation of the development, if the required flood storage compensation and surface water drainage is provided before or during the phase in which it is required. However, the Environment Agency was unable to recommend the discharge of the proposed Phase 1 conditions based on the Phase 1 Discharge of Conditions document X142013 rev A (AKS Ward, 23 Jan 2015). This is because there were no details of the flood plain compensation required for Phase 2 that were proposed to be provided within Phase 1. This document also stated that all surface water would be infiltrated on site but the submitted drainage plans X142013 202 P2, 201 P3 and 200 P4 showed the surface water drainage discharging via an existing outfall and to an existing surface water sewer. No obvious attenuation is provided within the system. As these documents appear to be at odds details of a surface water drainage strategy in accordance with the FRA are required.
17. Following the submission of amended details on 29<sup>th</sup> May 2015, demonstrating how flood storage requirements will be addressed within the development and the necessary attenuation of surfaced water drainage, the Environment Agency has now confirmed that it has no further objections to the details of flood storage and surface water drainage attenuation such that relevant conditions can now be discharged. The County Council drainage team raised a similar concern with regard to surface water drainage attenuation which will have been overcome through the submission of the amended details.

### **Ecology.**

18. In relation to the details submitted to discharge condition 18 relating to biodiversity, the Council's consultant Ecologist has reviewed the details and considers that the proposed numbers and types of bat boxes and bat access tiles/slates to be used are suitable for this development and that this condition can be discharged.

### **Conclusion**

19. The variation to allow the development to be constructed in phases, and the details submitted in compliance with conditions are acceptable. Committee is recommended to support the recommendations at the head of this report accordingly.

## **Human Rights Act 1998**

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

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

## **Section 17 of the Crime and Disorder Act 1998**

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

**Background Papers:** 15/01207/VAR, 10/01006/FUL

**Contact Officer:** Martin Armstrong

**Extension:** 2703

**Date:** 26th June 2015