

East Area Planning Committee

-6th January 2016

Application Number: 15/03260/VAR

Decision Due by: 11th February 2016

Proposal: Variation of condition 2 (Approved plans) of planning permission 14/02650/FUL to allow for revised heights of building. (Retrospective)

Site Address: Former DHL Site Sandy Lane West Oxford Oxfordshire

Ward: Littlemore Ward

Agent: Mr Thaddaeus Jackson-Browne

Applicant: Mr Shahab Ahmad

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

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 proposed increased in height to the buildings as identified in the approved plans are considered acceptable in planning terms having taken into account the impact on the streetscene and the amenity of local residential occupiers. Any material harm arising from the development can be adequately addressed by the conditions listed below. The development is considered to meet the Council's adopted planning policies, specifically Policy CP1, CP6, CP8, CP10 and CP11 of the Oxford Local Plan 2001-2016 and Policy CS18 of the Core Strategy (2011).

Conditions

- 1 Develop in accordance with approved plans
- 2 Materials

- 3 Travel Plan
- 4 Car parking
- 5 SUDs
- 6 Unexpected contamination
- 7 Revised landscaping proposals
- 8 Acoustic Fence
- 9 Approved construction traffic management
- 10 Revised boundary treatments
- 11 Use of buildings
- 12 Public art
- 13 No PD Rights
- 14 Noise
- 15 Travel movements
- 16 Tree Protection
- 17 Geo-Environmental Assessment
- 18 Landscaping proposals
- 19 Cycle parking
- 20 Showering facilities
- 21 Natural Resource Impact Analysis

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

CP10 - Siting Development to Meet Functional Needs
CP9 - Creating Successful New Places
CP11 - Landscape Design
CP13 - Accessibility
CP14 - Public Art
CP17 - Recycled Materials
CP18 - Natural Resource Impact Analysis
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
CS17_ - Infrastructure and developer contributions
CS18_ - Urban design, town character, historic environment
CS24_ - Affordable housing
CS28_ - Employment sites

Public Consultation

Statutory Consultees Etc.

Highways: No objections

Third Parties

19, 27, 29, 34, 39, 46, Spring Lane objections:

- Amount of development on site
- Effect on character of area
- Flooding risk
- Height of buildings
- Ground level has been raised
- Unacceptable impact on neighbours
- Fire risk
- Impact on pollution
- Effect on privacy
- Loss of vegetation
- Impact on ecology
- Noise and disturbance
- Loss of existing boundary
- Impact on daylight and sunlight
- Incorrect information on plans/insufficient information

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.**

14/02650/FUL - 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) – **Permitted 05.03.2015**

14/02650/CND - Details submitted in compliance with condition 8 (Surface water scheme) of planning permission 14/02650/FUL – **Permitted 14th April 2015**

14/02650/CND2 - Details submitted in compliance with condition 11 (Construction Management Plan) of planning permission 14/02650/FUL. – **Permitted 19th May 2015**

14/02650/CND3 - Details submitted in compliance with conditions 9 (Landscape Plan), 12 (Boundary treatment) and 18 (Tree Protection Plan) of planning permission 14/02650/FUL – **Permitted 19th May 2015**

14/02650/CND4 - Details submitted in compliance with conditions 4 (Travel Plan), 12 (Boundary Treatment), 21 (Cycle Parking) and 22 (Showering Facilities) of planning permission 14/02650/FUL – **Permitted 14th December 2015**

Officers Assessment:

Site Description

1. 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 on Spring Lane; until recently, there was vegetation and a wooden fence along this boundary. Some vegetation remains, including a number of trees. To its northern and western boundaries the site links in to the wider industrial estate accessed from Sandy Lane West.
2. The site can be seen within its context on the site location plan attached as Appendix 1.

Proposed Development

3. The originally approved application (14/02650/FUL) sought planning permission for the erection of two buildings to provide nine industrial units within Class B1(c), B2 or B8 use. The proposals included 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. As already outlined above, the scheme has been implemented. When built, the development was constructed with a thicker steel frame and a thicker layer of insulation; as a result the development is higher than approved. In addition there are variations between the approved plans and the development as constructed in terms of the ground levels. A detailed explanation sets out the differences below.
4. The development comprises two halves, Units 1-5 with the roof ridge running parallel to Spring Lane (at the northern end of the site) and Units 6-9 with the roof ridge running perpendicular to Spring Lane (at the southern end of the site).
5. With regards to Units 1-5, the approved height (14/02650/FUL) was 7550mm to the eaves and 8850mm to the top of the ridge. The as built height of these units is 7700mm to the eaves and 9010mm to the top of the ridge.
6. In relation to Units 6-9 the approved height (14/02650/FUL) was 7550mm to the eaves and 9400mm to the top of the ridge. The as built height of these units is 8000mm to the eaves and 9950mm to the top of the ridge.
7. There are variations in the ground levels that have arisen during the construction of the development. The applicant's agent has referred to their own survey of the site before and after the construction of the development. It is stated that the original construction drawings of the site prior to its development identified a variation in ground levels from the northern end of the site on the eastern boundary (Spring Lane) of 66.50 down to 65.89 at the southern end. It is implicit that as part of the approval

of the development that there would be some levelling work that would take place involving variations to the ground levels. The applicant's agent has indicated that the finished floor level of the development is 66.30; they have also pointed out that this is approximately 200mm lower than the highest ground levels on the site. Officers have had regard to this, as well as the concerns that have been raised by local residents, specifically that ground levels have been raised. Officers do not consider that the changes in ground level would be sufficiently material to make the development unauthorised as they are fairly minor and fall within the identified ground levels that existed prior to the construction of the development.

Regardless of this however, the changes in ground levels have contributed to the impact on the Spring Lane properties, in making an assessment of the development Officers have considered the ground levels cumulatively with the increased height of the buildings as outlined above; particularly when dealing with the impact on neighbouring properties.

8. The application has come about following an enforcement investigation which found that the development had not been built in accordance with the approved plans. As a result, this variation application was submitted. Officers recommend members that there is still an extant approval for the scheme, albeit with a reduced overall height. Because the application relates only to this particular matter this report focuses on the design of the development as built and the impact on living conditions (particularly on properties in Spring Lane). However, Officers advise that if members are minded to approve the application then it would be a re-issue of the planning application which means that conditions have been presented that relate to all the relevant matters; where changes to the conditions (above and beyond the original requirements) have been recommended these are mentioned in the report below.

Assessment

Site Visit

9. In light of the concerns surrounding the variations from the approved plans, Officers have carried out their own site visit to check the height of the buildings against the development that was approved. The site visit took place on 24th November 2015 and involved the use of a laser measuring tool; Officers took measurements from six locations on Spring Lane to check both the height of the buildings and their position relative to the road. The outcome of the site visit was that the buildings were located in their correct position against the approved (and submitted) plans and this application accurately presents their revised height.

Principle

10. As already outlined above, the principle of development has been established. This application only deals with variations in the design of the building, specifically its height.

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. It was a requirement of the extant planning permission to provide a Section 106 legal agreement to secure a contribution towards affordable housing; because this application seeks the re-issue of the application it would require the submission of a new legal agreement.

Design

12. The alterations to the design have not significantly impacted upon the streetscene other than to slightly increase the visual prominence of the development, particularly along the eastern (Spring Lane) elevation and the south elevation. In design terms, the development is acceptable. However, given the overall increase in height a landscaping condition has been suggested to ameliorate the increased prominence of the building and soften the impact of the buildings.

Impact on Neighbours

13. There has been considerable local interest in this application and a number of objections have been received. Officers have had regard to the objections that have been raised but consider that, on balance, the increase in height of the development does not materially cause harm to surrounding residential occupiers. Despite this, Officers are of the view that the increased height does mean that the buildings are more prominent and overbearing on residential properties. The originally approved development carefully addressed the impact on the surrounding residential properties, specifically those in Spring Lane through a landscaping condition to ensure that the buildings were screened and to preserve the semi-rural character of the Lane. Officers have recommended that a condition of the approval of this application is that enhanced landscaping is provided, as outlined in more detail below.
14. Officers have considered the impact of the building's revised heights on neighbouring properties in terms of loss of light. The separation between the buildings on the site and properties on Spring Lane is between approximately 20m and 15m; though in the south east corner of the site there is a distance of only approximately 14m. Officers consider that this separation, together with the low pitch of the roofs of the buildings means that there would not be a detrimental impact on light even with the revised building heights. No. 34 Spring Lane lies to the south of the application site and is only approximately 12m from the building (Units 6 and 7); the light impact on this property is acceptable because of the orientation of the building being to north of dwelling meaning there would be minimal impact on light. The outlook from No. 34 Spring Lane would be improved if additional landscaping is required by condition as recommended by Officers.

Noise and Disturbance

15. These matters were previously dealt with when the development received planning permission. Officers have recommended conditions be carried forward from the previous permission with regards to the hours of operation and other measures.

Landscaping

16. Previous planning permissions granted on this site detailed the importance of the semi-rural character of Spring Lane, which despite being adjacent to an established industrial site had the appearance of a country lane due to the presence of mature vegetation in the form of a hedge along the lane's western boundary. To the south of the application site there was also mature vegetation, although most of this was outside of the application site boundary and was within the curtilage of No. 34 Spring Lane. It was a condition of the extant planning permission that landscaping details had to be provided, it was envisaged that these would involve the retention of much of the existing vegetation on the site as well as new landscaping to soften the impact of the proposed buildings. When the details were submitted they involved the removal of the hedge, which was in fact mostly overgrown shrubs that had climbed the dilapidated timber fence on the eastern edge of the site. However, the submitted landscaping scheme did involve the creation of a new native species hedge as well as new trees along the Spring Lane elevation. This scheme of landscaping was approved in May 2015.
17. Officers consider that the landscaping of the site is very important in terms of ameliorating the visual impact of the buildings. The revised height of the buildings has increased their visual prominence to the detriment of the character of Spring Lane and the outlook from properties on Spring Lane. Officers have therefore included in the recommendation that a new landscaping scheme be sought within three months of the date of the decision, if members are minded to approve the application. The landscaping scheme would include not only a hedge (as originally approved) but a greater number of semi-mature trees to soften the appearance of the building and to partially obscure it when viewed from Spring Lane. Additionally, landscaping will be required along the southern edge of the site to reduce the impact of the building from that direction and particularly from No. 34 Spring Lane.
18. The applicant's agent has indicated that they would comply with a condition requiring a revised landscaping scheme.

Access and Parking

19. There are no changes to the access or parking arrangements. Conditions that were previously attached to the original planning permission have been carried forward as part of the recommendation.

Biodiversity

20. The increased height of the development would not have a detrimental impact on biodiversity requirements or the habitats of protected species.

Other Matters

21. Some concerns have been expressed by local residents that despite the approved development being described as 'single storey' all of the units contain a mezzanine level. The application description for the extant planning approval on the site (14/02650/FUL) did not mention 'single storey'. Officers have checked the photographic archive and the site notices that were displayed around the site did not mention single storey either. On this basis, the previous consultations relating to the site were not misleading and the development has been lawfully constructed in this regard.
22. Some concerns have been raised about the potential fire safety impacts of the buildings. Officers have had regard to this issue but do not consider that the revisions in height have led to an increased risk of fire or danger to local residents. The buildings have been constructed to modern safety principles and building regulations which will have addressed these issues.

Conclusion:

23. On the basis of the above and having taken into account the concerns raised by local residents, Officers recommend that the application should be approved subject to conditions. An improved landscaping plan is sought by condition as part of the recommendation.

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

Background Papers:

15/03260/VAR

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Date: 22nd December 2015