

Appendix B – Planning Conditions Assessment

West Area Planning Committee

Application Number: 11/02881/FUL

Proposal: Discharge of Planning Conditions pursuant to planning permission 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 1bed 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

1.0 Background:

- 1.1 The planning permission ref: 11/02881/FUL was subject to a legal agreement under s.106 of the Town and Country Planning Act 1990 (as amended) and twenty two planning conditions. The status of all of the planning conditions is tabulated further in this report.
- 1.2 The discharge of ten individual planning conditions are considered in this report as set out below. Officer commentary on the individual condition submissions is within the table.

2.0 Recommendation:

- 2.1 Committee is recommended to approve the outstanding planning conditions:
 - Condition No. 4: Restrictions on Occupation.
 - Condition No. 5: Landscaping.
 - Condition No. 7: Landscape Management
 - Conditions Nos. 9 & 10: Control of Private Vehicles and On – Site Parking
 - Condition No. 11: Noise Attenuation.
 - Condition No. 13: CCTV.
 - Condition No 16: Ground Contamination
 - Condition No. 18: Management of Badger Sett.
 - Condition No 22: Public Art

3.0 Purpose of the Report

- 3.1 The purpose of this report is to enable the City Council to confirm compliance with the outstanding planning conditions. All documents referred to in this report have been made available on the Council's website under the planning application number; 11/02881/FUL and the compliance with condition applications 11/2881/CND, 11/02881/CND2 and 11/02881/CND3.

Compliance with Planning Condition requirements

- 3.2 Normally confirmation of compliance with planning conditions is a matter delegated to Council officers. However there are a number of conditions awaiting approval of compliance, some of

which Members have formally asked to be determined by the Committee. The current status of all the planning conditions attached to the planning permission is set out in this report.

- 3.3 All the information is now available to enable discharge of the outstanding planning conditions and it would not be reasonable for the City Council to continue to withhold or delay making a decision on each. Where these conditions have been implemented on site, what has been implemented is understood to be in accordance with the details in the conditions. In legal terms if the conditions are now approved retrospectively, this would now put the development on the same footing as if they had been discharged when originally required by the planning permission.
- 3.4 The main report raises the issues of exceptionality and unfair advantage. As regards exceptionality the consideration of schemes submitted under conditions was delayed by the Council in order to allow their consideration with the benefit of the environmental information to be produced. On the basis of the facts set out in this report there can be few more exceptional cases and officers are content that the circumstances pertaining to this scheme can fairly be described as exceptional. Turning to unfair advantage, there appears to be no advantage to the University on account of the delayed approvals under conditions.
- 3.5 Set out below is the officer assessment of each condition and a recommendation to approve. In summary the officers' recommendations are that Conditions 4, 5, 7, 9, 10, 11, 13, 16, 18 and 22 can be approved because the information provided is in compliance with the requirements of each condition.

Condition	Comments
Condition 1: 3 year time limit for commencement of the development	The development has been implemented, no details required.
Condition 2: Development to be constructed in accordance with the approved plans and agreed specifications in the application	This is a compliance requirement that does not need formally discharging.
Condition 3: Materials	Approved November 2012
Condition 4 “The student accommodation hereby permitted shall only be occupied by students in full time education on courses of an academic year or more. No occupation shall take place until details of the management controls applying to the accommodation, (which may include an on - site warden or other 24 hour supervision), shall have first been submitted to and approved in writing by the Local Planning Authority. There shall be no variation to the approved management controls without the prior written approval of the Local Planning Authority.”	This is an on-going restriction on occupation as well as requiring submission of details. Details submitted 14 th February 2013, called to Committee for determination. Officer Comments. The University has provided details of the management controls applying to the accommodation. The occupants are graduate students of the University. An onsite warden will live in the phase 1 accommodation block and will undertake day to day management of the existing and extended student accommodation. Recommend Approval
Condition 5: Landscaping: Prior to the first occupation of the development or such other time as previously agreed in writing, a landscape plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall include a survey of existing trees showing sizes and species, and indicate which (if any) it is requested should be removed, and shall show in detail all proposed tree and shrub planting, treatment of paved areas, and areas to be grassed or finished in a similar fashion.”	Condition 5 can be approved because the requirements of the condition have been met. Details submitted 14 th February 2013, called to Committee for determination. Officer Comments. The University submitted initial details of onsite landscaping in February 2013. The onsite planting consists of some 82 trees in and around the new buildings, interspersed with lawned areas and short sections of hedging. External seating is also provided. The tree species are generally of the more garden varieties. It has not been possible to plant a hedge along the eastern boundary of the site as Network Rail require a 900mm access and maintenance strip on the University’s site. In addition a financial contribution of £10,000 was secured towards off - site tree planting along the line of Willow Walk, along the southern edge of Port Meadow. This was previously reported to committee. Following

	<p>further refinement and more detailed examination of the location for planting, some 56 native trees suitable to the waterside location were also planted in the 2013 planting season.</p> <p>In July 2013 the University submitted a detailed Landscape Mitigation Strategy prepared by LDA consultants. It concluded:</p> <p>“The landscape mitigation proposals within the locations described will combine to create a series of layers to help soften the appearance and prominence of the buildings in the important views from Port Meadow. The photomontages have illustrated the layering effect of existing and proposed trees on site, along Castle Mill Stream and within allotment land, following initial establishment and after 10 and 15 years growth. The additional tree planting along with appropriate and selective building colour rendering will substantially improve the views from Port Meadow and filter views towards the development. These landscape mitigation proposals will assist with the integration of the buildings into the surrounding landscape and will soften and filter views to the development and the urban edge of the city”.</p> <p>This has been reviewed by the City Council’s Independent Consultant SLR who concluded that the proposed landscape mitigation schemes appear to be appropriate given the character of the area and agrees with LDA that the proposals would significantly improve the visual effect of the development in the long term. In current views, the existing buildings are far more visible in views from Port Meadow than other structures on the edge of the city. The details submitted through the on-site landscaping scheme and the additional Landscape Mitigation Strategy are more than sufficient to enable approval to be given confirming compliance with the condition.</p> <p>Recommendation: Approve the existing details under this landscaping condition.</p>
Condition 6: Required timescales for landscaping proposals to be undertaken.	Timescales for completion will relate to finally approved details once these are agreed
Condition No. 7: Landscape Management. Prior to the first occupation of the development or such other time as previously agreed in writing, a Landscape Management Plan including long term design objectives,	<p>Details submitted 14th February 2013, called to Committee for determination.</p> <p>Officer Comments. A detailed landscape management plan has been submitted, drawn up by the Oxford University Parks Department. The maintenance regime consists of 2 elements:</p>

<p>management responsibilities and maintenance schedules for all landscaped areas shall be submitted to and approved in writing by the Local Planning Authority. The Landscape Management Plan shall be carried out only as approved.</p>	<p>areas around the new buildings, and the area around the badger sett at the northern end of the site. The first element has been drawn up to fully comply with BS7370-3:1991 in relation to grass care and BS7370-4: 1993 in relation to landscape care. The specific measures relate to regular and periodic maintenance through the year including the checking of young trees and their irrigation during dry spells of weather, and mulching and formative pruning during dormant winter periods.</p> <p>For the badger sett area trees and shrubs are planted within the restricted compound to provide a food resource as well as for reasons of amenity. During the winter months the landscaping would be allowed to mature to enhance amenity and encourage habitat creation and ecological diversity. For both areas a separate condition of the planning permission requires that any new trees which fail within three years must be replaced.</p> <p>Recommend Approval</p>
<p>Condition 8: Areas for vehicles to park and manoeuvre to be provided</p>	<p>These have been provided on site.</p>
<p>81 Conditions 9 and 10</p> <p>Condition 9 Control of Private Vehicles and On - Site Parking.</p> <p>There shall be no parking of vehicles on site other than those parking spaces indicated in the approved drawings. No occupation of the development shall take place until details of the means of control of on - site parking has been submitted to and approved in writing by the Local Planning Authority and implemented accordingly. There shall be no subsequent variation to the approved controls without the prior written approval of the Local Planning Authority.”</p> <p>“The student bedrooms comprised in the development shall not be occupied until the wording of a clause in the tenancy agreement under which the study bedrooms are to be occupied restricting students residents at the premises (other than those registered disabled) from</p>	<p>Details submitted 14th February 2013, called to Committee for determination.</p> <p>Officer Comments. The University has provided details of the means of control of on-site parking and the wording of a suitable clause in the tenancy agreement. Other than disabled students, all prospective occupiers of the development are advised beforehand that their tenancy excludes the ability to keep a private car within the city of Oxford. The onsite caretaker has responsibility for regulating the limited car parking provided for legitimate visitors such as maintenance staff, contractors, service vehicles, disabled visitors, visiting members of staff etc. Permits are issued accordingly to these users and any vehicles found without a permit are reported to the University’s Security Services. Security Services are also currently considering the introduction of fixed penalty notices. In addition, the site falls outside the Controlled Parking Zones in operation in West Oxford, City centre and elsewhere. Residents of the development would not therefore be eligible for residents parking permits to park on- street within these or any other controlled parking zones.</p> <p>Recommendation: Approve.</p>

bringing or keeping a motor vehicle in the city has been submitted to and approved by the Local Planning Authority; and the study bedrooms shall only be let on tenancies which include that clause or any alternative approved by the Local Planning Authority.”	
Condition No.11: Noise Attenuation. “Prior to the first occupation of the development or such other time as previously agreed in writing a scheme for the protection of the proposed development from noise emanating from the adjacent railway lines shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be fully incorporated into the development following the submission and approval in writing of a full verification report, also prior to first occupation.”	<p>Officer Comments. The building is naturally ventilated with the internal layout of the accommodation arranged so that the majority of windows to bedrooms etc face north and south rather than east towards the railway line. Where windows to rooms do face the railway line, they are fixed closed but with other windows in other elevations to provide ventilation. In December 2011 details were received and approved of the noise attenuation for the buildings following consultation with Environmental Development colleagues, but with a final validation report required on completion of the building work and before occupation. That report, entitled “External Sound Insulation Commissioning” by Jarman Cole Consultants has now been received. It concludes that testing has shown internal levels of noise comfortably below the bedroom day and night time noise criteria at LAeq 35dB. The report has been examined by Environmental Development Officers who accept the findings of the report and recommend that the details can be agreed.</p> <p>Recommendation: Approve.</p>
Condition 12: Vibration	Approved December 2012
<p>Condition 13: CCTV</p> <p>“Prior to the first occupation of the development or such other time as agreed in writing details of a scheme of Closed Circuit Television (CCTV) shall have been approved in writing by the Local Planning Authority and implemented on site. The CCTV as approved shall be retained at all times thereafter unless otherwise approved in writing beforehand by the Local Planning Authority”</p>	<p>Details submitted 14th February 2013, called to Committee for determination.</p> <p>Officer Comment.</p> <p>The University has provided details of the CCTV. Currently two CCTV cameras are located at the entrance to the existing Phase 1 accommodation block, at the entrance lodge and overlooking the entrance to the car park and access road leading to the site. This is intended to be supplemented by a further camera overlooking the northern entrance to the site from Walton Well Road. As the site is a secure one with 24 hour on site management presence, the University do not require further CCTV camera provision.</p> <p>Recommendation: Approve.</p>
Condition No.14: No infiltration of water (soakaways)	No details required

Condition 15 Sustainable Drainage	Approved November 2012
<p>Condition No 16: Ground Contamination:</p> <p>(a) The soil and water environment may be contaminated and prior to commencement of development, a desk-top study on the history of the site and a soil and water contamination survey and risk assessment shall be carried out in accordance with the guidelines set out in the Department of the Environment CLR report and in the CIRIA reports on remedial treatment for contaminated land volumes 1 -12, and any subsequent updates of the reports. Details of the desktop study, soil and water contamination surveys and risk assessment shall be submitted to the Local Planning Authority for approval in writing prior to the commencement of the development.</p> <p>(b) In the event of the findings of contamination to soil or water as a result of the surveys carried out under condition (a) above, a programme of remedial works shall be submitted to the Local Planning Authority for approval in writing prior to the commencement of the development.</p> <p>(c) The approved remedial measures and monitoring and certification of the works shall be carried out by an approved consultant or organisation quality assured under ISO 9001 and the approved remedial works shall be completed prior to first occupation of the development, unless otherwise agreed in writing by the Local Planning Authority beforehand or unless carried out in accordance with a programme which has been agreed in advance in writing by the Local Planning Authority. No property shall be occupied until a certificate has been received by the Local Planning Authority verifying that remedial</p>	<p>Various details in compliance received at intervals, to Committee for determination.</p> <p>Officer Comment: Oxford University has submitted the following reports seeking to secure the discharge of this condition.</p> <ul style="list-style-type: none"> • “Phase One Environmental Review” (Report number 611481 dated 26.07.2011) produced by Frankham Consultancy Group Ltd. Submitted November 2012. • “Report on a Ground Investigation” (Report reference O1241 dated October 2011) produced by ESG for Frankham Consultancy Group Castle Mill - Phase 2 Intrusive Ground Investigation Report). Submitted November 2012. • “Contaminated Land Generic Risk Assessment” (Report reference O1241/GRA dated November 2011) produced by ESG for Frankham Consultancy Group (submitted but only on 28 March 2013). • “Contamination Land Supplementary Generic Risk Assessment” (report no G3057 Rev 1 Final, dated May 2013) produced by ESG for Frankham Consultancy Group and received on 15 May 2013. • “Castle Mill, Oxford -Quantitative Groundwater Risk Assessment” (letter reference G3057/Groundwater RA) produced by ESG for Frankham Consultancy dated 13 June 2013. • “Castle Mill Phase 2, Oxford Verification Report” (Report reference R3089/VR) produced by ESG for Frankham Consultancy dated August 2013 and received on 13 August 2013. • “Verification Report Addendum Letter Report” (Report reference LO/R3089/SM/002) produced by ESG for Frankham Consultancy dated 09 September 2013. <p>Oxford University submitted the report: “Phase One Environmental Review” (Report number 611481 dated 26.07.2011) produced by Frankham Consultancy Group Ltd. This report outlined the history of the site and adequately identified the potential contamination risks using appropriate guidance. Based on the findings of this assessment, the report made recommendations for an intrusive investigation.</p> <p>An intrusive site investigation was then undertaken by Oxford University and the results</p>

works on that part of the site have been completed. A full validation report and final completion certificate shall be provided by the company consultant or organisation that carried out the remedial works on completion of this scheme.

were presented in a report entitled: "Report on a Ground Investigation" (Report reference O1241 dated October 2011) produced by ESG for Frankham Consultancy Group. The sampling methodologies for soil and groundwater were suitable and the appropriate suites of contaminants were tested for. Findings indicated that contamination existed and a risk assessment was necessary.

The consultants acting on behalf of Oxford University (Frankham Consultancy Group) submitted the following report on 28 March 2013: "Contaminated Land Generic Risk Assessment" (Report reference O1241/GRA dated November 2011) produced by ESG for Frankham Consultancy Group. This report summarised the results of the intrusive investigation and included an analysis and assessment of risks to human health and controlled waters. The consultants were asked to provide additional information to this report and submitted the following reports: "Contaminated Land Supplementary Generic Risk Assessment" (report no G3057 Rev 1 Final, dated May 2013) produced by ESG for Frankham Consultancy Group and received on 15 May 2013 and "Castle Mill, Oxford - Quantitative Groundwater Risk Assessment" (letter reference G3057/Groundwater RA) produced by ESG for Frankham Consultancy dated 13 June 2013. The "Contaminated Land Supplementary Generic Risk Assessment" included a Remediation Method Statement outlining the proposed remediation measures to address the identified risks at the site.

The Quantitative Groundwater Risk Assessment undertaken for groundwater from historic contamination showed that there was no significant risk posed to the Cripsey Meadows allotment wells or to controlled waters from historic contamination on the development site. Environmental Development and the Environment Agency agreed with the conclusions that no specific remediation was required with regard to pollution to water.

The Quantitative Groundwater Risk Assessment identified an oil spill incident on site which required further assessment and action. This incident is addressed separately below. The assessment for the historic contamination was also revised in a subsequent report although the conclusions remain the same.

Remediation measures proposed in the Remediation Method Statement were agreed and verified in the reports entitled 'Verification Report' (Report no. R3089/VR dated August 2013 produced by ESG on behalf of Frankham Consultancy Group), submitted on 13 August 2013, and 'Verification Report Addendum Letter Report' (Report reference

	<p>LO/R3089/SM/002) produced by ESG for Frankham Consultancy dated 09 September 2013. These reports address both the historic contamination and the contamination incident that occurred during construction.</p> <p>The Verification Report and Addendum Letter Report provide evidence that the remediation measures were implemented as agreed. These include: clean cover systems applied to all landscaped areas in accordance with BRE Report 465 ‘Cover Systems for Land Regeneration’. The report also provides evidence that there is no unacceptable risk to buried services and that contaminated materials removed from site were disposed of in accordance with all relevant waste legislation.</p> <p>The reports submitted satisfy the requirements of parts (a), (b) and (c) of Condition 16.</p> <p>Recommendation: Approve.</p>
Condition 17: Natural Resources Impact Analysis	No details required
<p>Condition 18: Management of Badger Setts.</p> <p>“Prior to the first occupation of the development or such other time as previously agreed in writing, details of the measures for the future management of the badger sett on site shall be submitted to and approved in writing by the Local Planning Authority. The badger sett shall only be managed in strict accordance with the details approved.”</p>	<p>Details submitted 14th February 2013, called to Committee for determination.</p> <p>Officer Comment: Prior to planning permission being granted for the development, a license was obtained from Natural England to relocate a badger sett central to the site to a new location at its northern edge within a cordoned off parcel of land. This relocation was successful and the new sett has become established.</p> <p>In response to the requirements of the condition a detailed management plan has now been submitted which allows for the land to grow over with scrub and be managed as rough grassland to provide a suitable foraging habitat. The grassland would also provide suitable reptile habitat. Periodically checks are to be made to ensure brambles, thistles etc do not become invasive and to ensure gaps under boundary fences do not become blocked by woody or bramble growth. Some tree planting of fruit trees was also suggested but this is considered separately within the context of the wider landscaping proposals. A 2m badger run is also maintained along the western boundary of the student residence to allow movement. A copy of the management plan has been forwarded to Natural England who has raised no objection to its details.</p> <p>Recommendation: Approve.</p>

Condition 19: Wildlife Initiatives	No details required
Condition 20 Condition 20 and 21 Construction Management Plan and Travel Plan	Approved November 2012
Condition No. 22: Public Art. "Prior to the occupation of the development or such other time as previously agreed in writing by the Local Planning Authority, details of a scheme of public art shall be submitted to and approved in writing by the Local Planning Authority, and a timetable agreed for its implementation. The public art as approved and implemented shall be retained at all times following its erection unless otherwise agreed in writing beforehand by the Local Planning Authority."	<p>Details submitted 26th July 2013, to Committee for determination.</p> <p>Officer Comment: It is proposed to create a display area close to the northern end of the public cycle / pedestrian route which will run through the site, set between the northern two blocks of accommodation. It would consist essentially of a window type display measuring approximately 2.1m by 1.5m set within a prominent section of curved walling adjacent to the public route. Artwork created by students at the University, (primarily from the Ruskin School of Art), would be displayed for a set period of time, to be replaced on a regular basis by new works.</p> <p>Recommendation: Approve.</p>

4.0 Other Matters: Contamination Incident during Construction

- 4.1 In early July 2013 it was discovered that an unknown quantity of diesel was spilt from a holding tank between 2 and 9 April 2013 located in the western boundary of the construction site. Subsequent to the spill, elevated levels of total petroleum hydrocarbons (TPH) within the diesel range were detected in a groundwater sample obtained from approximately 20 metres from the location of the spill. The TPH within the groundwater was identified as having the potential to pose a risk to the abstraction wells within the adjacent Cripsey Meadows allotments site and to nearby water courses.
- 4.2 The Environmental Consultants working on behalf of Oxford University began remediation of the diesel spill as soon as it became apparent to the University itself. This involved excavating impacted soils, pumping out impacted groundwater, and undertaking long term groundwater monitoring on-site and on the adjacent allotments as well as vapour monitoring in one room within the affected building. This monitoring programme was agreed and secured through a S106 commitment/Unilateral Undertaking. The long-term monitoring was for a period of 12 and 18 months for vapour and groundwater monitoring, respectively, and contained remedial target levels that had been agreed by the Environment Agency and Environmental Development.
- 4.3 Only 2 exceedances were reported in the badger run area for the groundwater samples which prompted additional sampling. No exceedances were reported in the adjacent allotments. After 17 months of sampling with no exceedances, the Environment Agency and Environmental Development agreed that the on-going risks to human health were negligible and no further monitoring would be required. The vapour monitoring had one exceedance in the first monitoring occasion. No further exceedances were reported after 12 months of monitoring. Environmental Development agreed that the room was suitable for occupation.
- 4.4 Officers consider that this brings suitable closure to this matter because adequate monitoring arrangements were carried out and revealed no significant residual risks from the diesel spill.

Background Papers:

Planning Applications 97/00342/NOY, 02/00898/RES, 11/02881/FUL.

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.

This page is intentionally left blank