

**West Area Planning Committee**

**13<sup>th</sup> December 2016**

**Application Number:** 16/01413/FUL

**Decision Due by:** 27th July 2016

**Proposal:** Erection of three storey building to provide 3 x 1-bed flats and 6 x 2-bed flats (Use Class C3). Provision of car parking, cycle parking and bin storage.(Additional Information) (Amended Plans).

**Site Address:** Land Adjacent 279 Abingdon Road, Site Plan **Appendix 1**

**Ward:** Hinksey Park

**Agent:** Mr Huw Mellor

**Applicant:** VO Properties

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## **Recommendation:**

West Area Planning Committee is recommended to refuse the application for the following reasons:

1. The proposal fails to provide an appropriate mix of housing in an area identified in considerable need of family housing and is therefore contrary to Policy CS23 of the Core Strategy and the Balance of Dwellings Supplementary Planning Document.
2. The proposal fails to secure a financial contribution towards delivering affordable housing in the City and in the absence of any justification to demonstrate non-viability the proposal is contrary to Policy CS24 of the Core Strategy and Policy HP4 of the Sites and Housing Plan 2013.
3. The proposed development by reason of its appearance, height and massing on a rear backland plot would appear unduly prominent and out of keeping with the character and appearance of the surrounding area contrary to policies CP1, CP8, CP9, CP10 of the Oxford Local Plan 2001-2016, MP1 and HP9 of the Sites and Housing Plan 2013 and CS18 of the Core Strategy.
4. The proposed development fails to provide adequate quantity or quality of outdoor amenity space either as private balconies or shared space to the detriment of future occupiers' residential amenity and as such is contrary to Policy HP13 of the Sites and Housing Plan 2013.
5. The proposed development of this rear backland plot by reason of its appearance, internal layout, height, massing and proximity to the western boundary would unacceptably prejudice the re-development of the former petrol station site to the west adjoining fronting the Abingdon Road to the

detriment of effective, efficient and acceptable form of development on an allocated site contrary to CP1, CP6, CP8, CP9, CP10 and SP18.

6. The proposed development by reason of its overall height and massing and number of large east facing windows, together with balconies and private terraces would result in an unacceptable level of overlooking into the adjoining properties gardens and houses to the east on Peel Place and a significant sense of being overlooked by the occupiers of those properties to the detriment of existing and future occupiers' residential amenity contrary to Policies CP1, CP8, CP9, CP10 of the Oxford Local Plan 2001-2016 and Policy HP14 of the Sites and Housing Plan 2013.
7. The proposed development by reason of the height, massing and proximity to the eastern boundary with adjoining properties to the east on Peel Place and proximity to adjoining property to the south would appear overbearing and visually dominant to these properties and their gardens contrary to Policies CP1, CP8, CP9, CP10 of the Oxford Local Plan 2001-2016 and Policy HP14 of the Sites and Housing Plan 2013.
8. The proposed development, by reason of the building footprint, massing, height and number of units together with the poor quantity and quality of outdoor amenity space and amount of car parking & turning space within the size of the whole plot would result in an inappropriate density of development that is not compatible with the site itself or to the surrounding area contrary to Policies CP1, CP6, CP8, CP9 and CP10 of the Oxford Local Plan 2001-2016 and Policy HP9 of the Sites and Housing Plan 2013.
9. The updated FRA fails to provide sufficient robust evidence to satisfactorily demonstrate that the development will be safe for its lifetime and or provide a suitable basis for assessment to be made of the flood risks arising from the proposed development contrary to Policies SP18 of the SHP, CP22 of the OLP and CS11 of the CS and paragraphs 102 and 103 of the NPPF.
10. In the absence of sufficient information to adequately demonstrate that the proposed development will be capable of meeting the 20% onsite renewable energy provision the proposal is contrary to Policies HP11 of the Sites and Housing Plan 2013 and CS9 of the Core Strategy.

## **Main Local Plan 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

**CP17** - Recycled Materials  
**CP19** - Nuisance  
**CP22** - Contaminated Land  
**TR1** - Transport Assessment  
**TR13** - Controlled Parking Zones  
**NE12** - Groundwater Flow  
**NE13** - Water Quality  
**NE14** - Water and Sewerage Infrastructure  
**NE15** - Loss of Trees and Hedgerows  
**NE23** - Habitat Creation in New Developments

### **Core Strategy**

**CS9\_** - Energy and natural resources  
**CS10\_** - Waste and recycling  
**CS11\_** - Flooding  
**CS12\_** - Biodiversity  
**CS13\_** - Supporting access to new development  
**CS18\_** - Urban design, town character and historic environment  
**CS19\_** - Community safety  
**CS22\_** - Level of housing growth  
**CS23\_** - Mix of housing  
**CS24\_** - Affordable housing

### **Sites and Housing Plan**

**MP1** - Model Policy  
**SP18\_** - Fox & Hounds & former petrol station Abingdon Rd  
**HP2\_** - Accessible and Adaptable Homes  
**HP4\_** - Affordable Homes from Small Housing Sites  
**HP9\_** - Design, Character and Context  
**HP11\_** - Low Carbon Homes  
**HP12\_** - Indoor Space  
**HP13\_** - Outdoor Space  
**HP14\_** - Privacy and Daylight  
**HP15\_** - Residential cycle parking  
**HP16\_** - Residential car parking

### Other Planning Documents

Supplementary Planning Documents:

- National Planning Policy Framework
- Affordable Housing and Planning Obligations Supplementary Planning Document
- Natural Resource Impact Analysis
- Parking Standards, Transport Assessment and Travel Plans

### **S106 & CIL:**

The proposal is liable for CIL: £105,956.22

A contribution towards affordable housing is required

## **Relevant Site History:**

10/01499/FUL - Demolition of existing public house. Erection of 2 storey building as retail store, together with plant enclosure and landscaping. Provision of service area and 16 car parking spaces accessed off Abingdon Road. (Additional info). REFUSED 11th August 2010.

10/01555/FUL - Demolition of existing public house. Erection of building on 3 levels consisting of retail store at ground level and 1x1 bed, 2x2 bed and 1x3 bed flats on floors above, together with plant enclosure and landscaping. Provision of service area, 16 car parking spaces to serve retail store and 7 to serve the residential accommodation accessed off Abingdon Road. (Additional info) (Amended Plans). REFUSED 11th August 2010.

10/02882/FUL - Demolition of existing public house. Erection of building on 3 levels consisting of retail store at ground floor level, 1x3 bedroom, 1x1 bedroom, 2x2 bedroom flats and ancillary retail floor space on upper floors with plant enclosure and landscaping. Provision of service area, 16 parking spaces to serve the retail store and 5 to serve the flats, all accessed off the Abingdon Road. Provision of communal amenity space. REFUSED 8th December 2010 and DISMISSED at appeal 12<sup>th</sup> July 2011

11/02594/FUL - Demolition of existing public house. Erection of 3 storey building to provide retail store on ground floor and 1 x 3-bedroom, 1 x 1-bedroom and 2 x 2-bedroom flats on upper floors. Provision of plant enclosure, service yard, 9 x retail car parking spaces, 7 x residential car parking spaces, cycle parking, bin storage, landscaping and communal open space.. APPROVED 26th April 2012 and implemented.

## **Representations Received:**

Letters received from Oxford Civic Society, Peel Place and Rosamund Road residents, and two petitions can be summarised as follows:

### Original plans:

- The piecemeal development of the Fox and House SP18 site allocation results in a number of negative consequences. These would be avoided if the landowners of the former filling station and the former pub car park presented integrated proposals. The public interest would therefore be best served by the refusal of the present planning application and a comprehensive redevelopment coming forward;
- The development is too high, too large and does not fit the character of the neighbourhood.
- Overdevelopment of site; development is just too big for the space available; too close to the existing properties; not enough green space is provided;
- It is set tightly within the boundaries of the plot making it impossible to build anything in the other plot, closer to the Abingdon road, currently occupied by the car wash;
- It would dominate these existing back gardens, whilst rendering the now unsightly former garage site difficult to develop and therefore un-saleable in

- the future;
- Overlooking to petrol station site, not adequately mitigated by angled windows;
  - Overlooking and loss of privacy to properties adjoining on Peel Place
  - Loss of sun to garden adjoining on Peel Place
  - A very small amount of amenity and green space proposed- this falls far short of the 10% minimum cited in the Council's planning policy. The suggestion that this will be made up by balconies and green roofs will only exacerbate the overlooking of neighbouring properties, the occupants of which will lose their privacy.
  - Access through Tesco's is dangerous and inconvenient for both retail customers and residents;
  - Danger of retail customers parking in the residents spaces unless its gated
  - Increase air pollution from increase in traffic movements;
  - Peel Place residents experience more noise and emissions from the Tesco Car Park and deliveries. This will be further exacerbated by the extra closer cars and services associated with the proposed building.
  - Doubts about the level of contamination and adequacy of remedial measures;
  - Increased risk of flooding on site and surrounding properties: Tesco's raised the level of this land with hard core from the redevelopment of the pub and now gardens in Peel Place flood because the land slopes towards them.
  - Risk of sewage flooding also
  - This area of the former public house was an orchard, green space and car park for the pub and always open;
- Flats decent size
  - Large cycle storage provision;

Amended plans:

- No substantive changes made to height, proximity to neighbouring gardens, flooding;
- Intrusive, invasive and not in keeping with character of the area:
- Piecemeal development prejudices harmonious plan for the whole area [site]

**Statutory Consultees:**

Environment Agency Thames Region: Objection:

The submitted updated FRA does not demonstrate that the development will be safe for its lifetime and does not provide a suitable basis for assessment to be made of the flood risks arising from the proposed development. Therefore, the submitted application is contrary to paragraphs 102 and 103 of the NPPF.

In particular, the submitted FRA fails to:

- Assess the impact of climate change using appropriate climate change allowances.
- Demonstrate how a the 1% Annual Exceedance Probability (AEP) (1 in 100 year event) plus 35% allowance for climate change level has been derived.
- Demonstrate that the loss of flood plain storage within the 1% Annual Exceedance Probability (AEP) (1 in 100 year event) with an appropriate allowance for climate change flood extent caused by the proposed

development can be mitigated for.

- Demonstrate the proposed development has finished floor levels 300 millimetres (mm) above the 1% AEP with an appropriate allowance for climate change flood level.

Thames Water: No comments received

Highways Authority: Objection:

Although the County Council does not object to the principle of residential development at this site, the County Council would recommend refusal of the planning application for the following reasons: 1) Inadequate access for residents and visitors not travelling to the site by car. 2) The applicant needs to demonstrate that access to the development, for vehicles, pedestrians and cyclists, via the Tesco car park can be maintained. 3) Current proposed waste collection arrangements are inadequate. The HA commented further on the amended plans; object and would recommend refusal on ground of inadequate access for residents and visitors not travelling to the site by car.

**Officers Assessment:**

**Site Description:**

1. The site is a vacant piece of land that formed the car park to the former Fox and Hounds Pub, since demolished and replaced by a Tesco's convenience store with flats above. It sits to the rear of the former petrol station which fronts Abingdon Road itself and which is owned by a different landowner. Adjacent to the south is a house that has been converted to flats. Further north along Abingdon Road are more commercial properties. The site is accessed via the existing Tesco's car park access directly onto Abingdon Road.
2. The site is surrounded by residential properties and is characterised by a smaller grain, rear back gardens, mostly off-street parking to the front and typically traditional architectural form with pitched roofs. The new Tesco's building lies adjacent to the north of the site on the corner of Abingdon Road and Weirs Lane. It is a prominent corner building, as was the former pub, and is chief in the hierarchy of buildings in that part of the Road.
3. The site lies within Flood Zone 3a and close to the Iffley Meadows SSSI. The site also is known to be contaminated (ground water) caused by leakage from the former underground petrol tanks, which have been removed and the land remediated up to a point.

**Proposed Development:**

4. It is proposed to erect a building on two and three storeys in a contemporary architectural style and form in white render and timber cladding, measuring approximately 9m high and a maximum 27m wide, to provide 9 flats (3x1bed & 6x2bed). It provides external balconies and a small shared space. There are 12 car parking spaces; 4 undercroft and 8

external with a turning area. It is accessed via the Tesco's customer parking access; the right of access over was secured under a legal agreement when the re-development of the Fox and Hounds Pub was approved. The amended plans also show a new pedestrian footpath exiting close to the entrance of Tesco's car park. Cycle and Bin storage is also provided, together with indicative landscaping.

### **Issues:**

Officers consider the main issues in determining this application are:

- Principle of redevelopment;
- Mix of Housing;
- Affordable Housing Contribution;
- Design;
- Internal and External space;
- Impact on adjoining land;
- Impact on Neighbouring Residential Amenities;
- Parking & Highways Issues;
- Landscaping;
- Overdevelopment
- Flooding;
- Contamination;
- Biodiversity;

### **Principle of redevelopment:**

5. The site forms part of an allocated site under SP18 of the Sites and Housing Plan (2013) for a mixed-use retail and residential development or an entirely residential development at the Fox and Hounds public house and former petrol station site. The supporting text sets out the Council's position that it would be most appropriate to develop the allocated site as a whole to ensure comprehensive redevelopment of the site. This would ensure that no part of the site is left derelict and would make the most efficient use of land. However, the Fox and Hounds itself has been redeveloped to provide a Tesco's local shop and flats above, leaving the former pub car park and petrol station left to develop.
6. The principle of residential accommodation is accepted under this site allocation subject to issues regarding flood risk and the exceptions test are satisfied see further below in the report.

### **Mix of Housing:**

7. Policy CS23 of the Core Strategy (2011) expects new housing developments to provide different types and sizes of home, to provide for a range of households, such as families with children, single people, older people and people with specialist housing needs. An appropriate mix of homes for different areas of Oxford is set out in the Balance of Dwellings SPD (BODs SPD), which specifies the range of house sizes (by bedrooms) expected. The

site lies within an amber area identified within the BODs SPD wherein there is a considerable need for family housing and a reasonable proportion of new family dwellings should be provided as part of the mix for new developments. Family housing for the purposes of CS23 & BODs SPD is defined as dwellings with three or more bedrooms and access to a private garden area.

- According to the SPD the mix for 4-9 units should be:
- 0-30% 1 beds
- 0-50% 2 beds
- 30-100% 3beds

8. This current proposal provides 3 1xbed and 6 2xbeds but does not provide any 3 or 4 bed units. A development of 9 units has the potential to provide 3 of each type of unit type. No justification has been submitted to demonstrate why the SPD cannot be met in this case. It therefore considered contrary to the CS23 and the SPD.

#### **Affordable Housing Contribution:**

9. Policy HP4 of the Sites and Housing Plan (2013) sets out the requirement to either provide or contribute towards affordable housing on small residential developments of 4-9 units, unless it can be demonstrate that it would make the development unviable. Following the Court of Appeal decision in May 2016, the City Council reviewed the legal position and concluded that it was appropriate to continue applying HP3 and HP4 to seek affordable housing contributions because of the exceptional affordability issues in Oxford. The proposal provides 9 units and therefore a contribution will be required towards affordable housing. The Applicant has not confirmed agreement to the contribution or submitted information to demonstrate non-viability. Therefore the proposal is contrary to Policy HP4 and the Affordable Housing and Planning Obligations SPD.

#### **Design:**

10. As outlined above the surrounding residential area is characterised by a smaller grain, with two storey houses of a traditional architectural form set back from the street with rear back gardens and mostly off-street parking to the front. There is a strong building line on both sides of the Abingdon Road.
11. The new Tesco's building adjacent on the corner of Weirs Lane should be the dominant building in the hierarchy of buildings along this stretch of the street scene and the proposed building should therefore defer to it.
12. The proposed building is predominantly 3 storeys high in a contemporary architectural style using flat roofs, white render, timber cladding and metal frame windows. It is 2 storeys adjacent to the 295 Abingdon Road to the south in an attempt to mitigate its impact on that flatted property and its garden(s). The front elevation facing west onto the Abingdon Road uses angled oriel windows in an attempt to mitigate overlooking onto the former petrol station. Revised plans show the other bedroom windows in this façade



reduced marginally in size. All windows are to habitable rooms. On the rear elevations there are large windows to habitable dining/ livingrooms and some smaller ones to kitchens. There are two glazed staircores to access the flats. Private balconies with 1.2m high obscure balustrading are provided for each ground and first floor flats and the third floor flats have private terraces again with 1.2m high obscure balustrading. The building has been raised to allow for flood water storage compensation within the voids below. Overall the building would be approximately 8.9m high, reduced by 20cm as originally submitted. The building width has been marginally reduced to allow for a new pedestrian access down the side in response to Highway Authority comments.

13. It is considered that the building as proposed in this backland location would appear too high and large in massing when viewed in the context of surrounding two storey developments and does not respond to the hierarchy of buildings within the streetscene. The emphasis of the glazed stair cores to the rear only serves to increase the scale and massing of the building and its visual dominance when viewed from adjoining properties. There does not appear to be any clear reference to architectural style or the rhythm and proportion of other surrounding buildings, particularly to the front. This elevation appears top heavy and inactive emphasised by the choice and application of materials. To the rear this elevation is slightly improved on the revised plans but only in the way the windows and glazed stair core are treated. The elements of the building appear heavy and lacking in elegance, e.g. the balcony floors, eaves lines, surrounds to the stair cores.
14. In summary therefore the proposed development by reason of its appearance, height and massing would appear unduly prominent and out of keeping with the character and appearance of the surrounding area contrary to policies CP1, CP8, CP9, CP10 of the OLP, MP1 and HP9 of the SHP 2013 and CS18 of the Core Strategy (2011).

#### **Internal and External Quality:**

15. The flats meet the internal standards of HP12 of the Sites and Housing Plan (2013) and National Space Standards. However the plans fail to show how the development would be accessible and inclusive, the external ramps having been removed from the revised plans and the first floor level is raised for flood mitigation. Internally there are small flights of stairs up to the entrance to the first floor flats. It is therefore contrary to Policy HP2 of the Sites and Housing Plan (2013).
16. Externally private balconies do not exactly meet the required size of 1.5m x 3m and are 1.3 by 3.5m, this would be considered acceptable where a suitable shared garden is provided to ensure adequate drying areas etc can be afforded. Elsewhere the terraces are sufficient in size. However the shared garden space is small and would be of poor quality overshadowed by the existing trees which would remain (albeit cut back). The other garden/ grassed areas around the building to the south and west boundaries are narrow and long and would not serve any useful purpose. It serves to demonstrate together with the car parking, turning area and building that the

proposal would amount to overdevelopment of the site. It is therefore considered contrary to HP13 of the SHP.

17. Adequate bin storage within the building is provided and accords with Policy HP13 in this respect.

**Impact on Adjoining site:**

18. The supporting text to site allocation SP18 indicates the Councils desire to see a comprehensive redevelopment of the whole allocated site, including the former Fox and Hounds. The Committee may recall that the application in 2010 (10/02882/FUL refers) was in fact refused for this reason (amongst others). However, this reason for refusal was withdrawn at appeal following legal advice. There is no requirement for comprehensive development of the whole allocated site within the Policy wording. There is no breach of SP18 on this basis. Ensuring that no part of the allocated site is left derelict and that the best use is made of available land is a legitimate planning objective as set out in OLP Policy CP6. To sustain an objection on this the Council would have to demonstrate that the rest of the site could not be developed independently should this development be allowed. Under the subsequent approval(s) for the Tesco's on the Fox and Hounds the right of access over the Tesco's car park to the vacant land at the rear was secured via a legal agreement in order to ensure development of this land was not prejudiced.
19. The earlier permission and construction of Tesco's therefore sets a precedent for developing the allocated site independently, all things being equal, and comprehensive development could not reasonably be pursued as a reason for refusal in this case. However, the proposal can still be assessed in terms of unacceptably frustrating or prejudicing re-development of the former petrol station site adjoining to the extent that it could not be developed in a way that would not be acceptable to the Council or result in it not coming forward at all. The Owner of the former petrol station has submitted an objection on these grounds.
20. It is considered that due to the height, proximity to the adjoining western boundary and windows to habitable rooms in the west facing front façade any building on the former petrol station site would be limited to a single storey development of some sort. The implications of this would be two fold; firstly, a single storey development would be out of keeping with the adjacent buildings and harmful to the character and appearance of the street scene, and secondly fail to efficiently and effectively redevelop the allocated site to meet the aspirations of the Council to improve provide much needed residential accommodation and improve this gateway location into the City.
21. The Owner of the petrol station site has further written to say that a single storey residential development on this site would render the site unviable to re-develop due to contamination remediation costs, building costs, flood mitigation costs (amongst other things). Officers are not relying on this submission as a material consideration in determining this case as they do not have an adequate basis for verifying what is said. The former petrol station

not coming forward for redevelopment would still result in an unacceptable building in appearance, height, and massing, albeit set back, fronting the Abingdon Road to the detriment of the character and appearance of the street scene and its surroundings and would not achieve the best and most efficient use of land. Officers are of the view that if this scheme was to be permitted, no scheme for the remaining part of the allocation could be brought forward that would be acceptable in planning terms.

22. In conclusion therefore, whilst the principle of residential development on this site is acceptable, independent re-development of this site as proposed would unacceptably frustrate the redevelopment of the former petrol station adjoining with unacceptable consequences contrary to Policies CP1, CP6, CP8, CP9, CP10 of the OLP, HP9, SP18 of the SHP and CS18 of the CS.

### **Impact on Neighbouring Residential Amenity:**

23. From a site visit to the properties to the rear, the development at 3 storeys would appear visually dominant due to its design, massing and height and distance between properties, despite the poor leylandii screening along the eastern boundary which is now proposed to be removed and replaced. In any event tree screening should not be relied on as mitigation given they could be removed/ or die at any time. The flood mitigation measure of raising the ground floor has not helped in this respect, neither have the stair core towers (see above). Although the top apartments are set back to allow for private roof top terraces the two stair cores are prominent to the edge of the building and thus it would still appear unacceptably visually dominant when viewed from the rear gardens of Peel Place.
24. The rear elevation also has a high proportion of habitable room windows (some large) and private balconies and terraces facing these rear properties. The balustrading only measures 1.2m in height and whilst obscure glazed would still allow an adult to stand look over them, illustrated in the submitted plans. The two roof top terraces come right to the edge of the building and thus it would still allow overlooking. Given the overall number of windows and balconies proposed it is considered that the residents to the rear would experience of overlooking to their properties and an overwhelming sense of being overlooked and thus a significant loss of privacy would occur. Again the existing or proposed trees on the eastern boundary would not in any way mitigate the impact of the new building and the significant increase in overlooking and loss of privacy that would result.
25. To the southern side elevation it is considered that the distance of 1.4m to the southern boundary is not sufficient to mitigate against a 2 storey building in this and as such it would appear overbearing to the properties and gardens.
26. In summary therefore at the proposal would result in an unacceptable level of overlooking and loss of privacy and appear visually dominant and overbearing to the properties to the rear contrary to Policies CP1, CP8, CP9, CP10 OLP and Policy HP14 of the SHP13.

## Parking & Highways Issues:

27. HP16 of the SHP sets out the requirements for larger housing developments outside the Transport Area where a new parking court is created. The site is not within a controlled parking zone. A maximum of 15 allocated spaces with 4 unallocated spaces would be required in with HP16 (Appendix 8); total of 19 spaces. In this outer suburban location Officers are of the view that car free would not be acceptable and at least one space per flat is necessary, despite the good public transport links into the City Centre. This would equate to a minimum of 9 allocated car parking spaces with 7 unallocated spaces, a total of 16 spaces under HP16.
28. The development proposes 12 spaces and includes one disabled space, which amounts to one allocated space per flat and 3 visitor spaces. The spaces are approximately 2.4m x 4.8m.
29. The HA has commented but not raised any issues regarding the number of spaces proposed and impact on the highway or parking pressure in the area, but notes that the size of spaces is now below their recommended standards of 2.5 x 5m. However, in relation to pedestrian and cycle access to the site the Tesco access road has been designed as a car park and delivery service area and not with access to a residential development in mind. They note that the updated Site Plan and Design and Access Statement confirms that a new path is proposed to avoid pedestrians crossing the back of the Tesco car park. This is welcomed however there is no commitment to deliver this as the proposal still has to "*be confirmed by Tesco*". In addition, the width of some sections of the proposed path appears to be just 1m, which is considered to the absolute minimum. A width of at least 1.5m is recommended.
30. Where the new footpath joins the Tesco access means future residents would still have to cross the Tesco car park road and make use of an existing footway in the car park before joining the public footway on Abingdon Road. The HA would require dropped kerbs to assist pedestrians crossing and some delineation of the 'crossover' is strongly recommended so drivers are aware there is a crossing at this point. On-site observations also confirm that cars park half on the existing footway in the car park. This should be stopped otherwise the proposals could be redundant and pedestrian access compromised. Bollards placed along the edge of the footway would stop this 'illegal' parking. Whilst vehicle speeds are unlikely to be an issue the HA is concerned that there is not a clear and continuous path to the development from Abingdon Road. NPPF states that developments should be planned with priority given to pedestrians and cyclists, and which reduce conflicts with vehicles. In their view the proposal does not currently do this.
31. It should be noted that whilst these are reasonable requests and observations the car park is owned by Tesco and both outside the applicant's control and red line of the application. They cannot reasonably be pursued by condition or obligation as part of this application or refused on these grounds therefore.

32. It is considered that whilst 12 car parking spaces do not meet the required amount of spaces in accordance with HP16, Officers are mindful of the good public transport connections and consider that this would mitigate the shortfall of unallocated/visitor spaces. Furthermore, the HA has not highlighted any issues with parking and impact on the highway. The proposal accords with Policy HP16 therefore.
33. A total of 24 cycle parking spaces are proposed with meet the requirements of Policy HP15 of the SHP.

#### **Overdevelopment:**

34. The NPPF and the local development Framework seek to make best use of land and Policy CP6 states that development proposals should make the best use of site capacity but in a manner that would be compatible with both the site itself and the surrounding area.
35. It is considered that a building of this proposed height, massing, internal layout & windows within this plot and together with the quantity and quality of the shared external garden space, car parking and turning area and proximity to boundaries would have a poor relationship to the existing buildings adjacent and result in inadequate and insufficient quality environment for existing and future occupiers of the development. As such it is considered to be overdevelopment of this site which fails to provide good quality living accommodation and does not make best and most efficient use of land that is appropriate to its context contrary to Policies CP1, CP6 and CP10 of the OLP.

#### **Flooding:**

36. Residential use of the site in Flood Zone 3a has been justified through the sequential test. The site satisfied all but one part of the Exception Test (relating to whether the development is safe) and a site specific flood risk assessment is required which robustly demonstrates how the residential development will be safe and incorporate any necessary mitigation measures. Failure to do so, according to SHP SP18, means that planning permission will not be granted.
37. A Flood Risk Assessment (FRA) was submitted with this application. However it did not demonstrate that the development will be safe for its lifetime and did not provide a suitable basis for assessment to be made of the flood risks arising from the proposed development. It also does not comply with the requirements set out in paragraphs 102 and 103 of the NPPF, CS22 of SHPSP18. Specifically it failed to provide:
- full details of flood depths across the site based on up to date topo survey using the most up to date modelled flood level for all events up to and including the 1 in 100 year + climate change event
  - Details of loss of flood storage and impedance of flood flows
  - Details of flood resilience measures

- Details of safe access route marked out on a plan to a safe haven including a flood management plan for residents (this needs to be approved by Emergency Planning at County Council- LPA to consult them)
- Full details of the proposed drainage scheme, including ground conditions, run-off rates and volumes, SuDS measures and consideration of contaminated land

38. The EA also objected on this basis.

39. The FRA has been revised following these comments. However, Officers and the EA maintain their objection because it still fails to:

- Assess the impact of climate change using appropriate climate change allowances.
- Demonstrate how a the 1% Annual Exceedance Probability (AEP) (1 in 100 year event) plus 35% allowance for climate change level has been derived.
- Demonstrate that the loss of flood plain storage within the 1% Annual Exceedance Probability (AEP) (1 in 100 year event) with an appropriate allowance for climate change flood extent caused by the proposed development can be mitigated for.
- Demonstrate the proposed development has finished floor levels 300 millimetres(mm) above the 1% AEP with an appropriate allowance for climate change flood level.

40. It is also noted that the FRA states the following in regards to infiltration on the site;

- i. *“The use of infiltration on the site is considered feasible due to the permeable nature of the ground.”*

41. However, the Geo-Environmental Site Investigation contamination report states the following in regards to infiltration and soakaways.

- i. *“Soakaways will not be an option on the site as the groundwater is too shallow and has been shown to be contaminated.”*

42. This demonstrates a poor holistic assessment of this site and its particular constraints.

43. In conclusion therefore insufficient robust evidence has been submitted to satisfactorily demonstrate that the development will be safe for its lifetime and or provide a suitable basis for assessment to be made of the flood risks arising from the proposed development contrary to Policies SP18 of the SHP, CP22 of the OLP and CS11 of the CS and paragraphs 102 and 103 of the NPPF. The application should be refused on this basis.

## **Contamination:**

44. A Phase 1 Geo-Environmental Desk Study has been carried out in accordance with the Environment Agency Guidance CLR11. The report summarizes the findings of the previous site investigations on the site and the adjacent petrol station, and identifies a moderate contamination risk to future residents, groundwater and building materials/services primarily from contamination associated with the former petrol station. A Phase 2 intrusive site investigation was recommended and carried out. Following comments from the Land Quality Officer the latter was further updated to address the risks from groundwater flooding to future residential occupants, based on the groundwater quality and the risks of groundwater flooding.
45. In simple terms there is some ground water contamination leakage from the Petrol Station site adjoining, however the potential risk from ground water contamination is assessed to be either negligible or low. An assessment for risks from groundwater flooding was also provided which concluded that it is unlikely that contaminated groundwater has been reaching the shallow soils or surface in the past, and that it is unlikely to be an unacceptable risk to future residents. The phase 2 report also recommends the use of gas/vapour protection measures, additional groundwater sampling in wetter months, and barrier water pipes to be used. These details are recommended to be provided in a remediation strategy (Phase 3).
46. Officers agree with the findings and if the application were to be approved then it should be subject to conditions requiring: 1) a remediation strategy, validation plan, and/or monitoring plan be submitted to and approved by the LPA to ensure the site will be suitable for its proposed use; 2) A watching brief for the identification of unexpected contamination is undertaken throughout the course of the development by a suitably competent person. This is to ensure that any ground and water contamination is identified and adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use in accordance with the requirements of policy CP22 of the Oxford Local Plan 2001-2016.

## **Sustainability:**

47. Policy CS9 of the Core Strategy requires all developments to minimise their carbon emissions and are expected to demonstrate how sustainable design and construction methods would be incorporated. Policy HP11 of the SHP is specified to residential development and requires developments of this size to generate at least 20% of its total energy use through on-site renewable energy generation unless not feasible or financially viable.
48. The information submitted in the D& A (point 5) and the energy statement fail to adequately demonstrate that the development will actually meet the requirements of Policies CS9 and HP11 in relation to its on-site renewable energy generation and is therefore contrary to those Policies.

## **Biodiversity:**

49. In accordance with Core Policy CS12: Biodiversity of the Core Strategy for Oxford City: "Opportunities will be taken (including through planning conditions or obligations) to: ensure the inclusion of features beneficial to biodiversity (or geological conservation) within new developments throughout Oxford." In addition to local policy, the NPPF sets out that "The planning system should contribute to and enhance the natural and local environment by: minimising impacts on biodiversity and providing net gains in biodiversity where possible" and "opportunities to incorporate biodiversity in and around developments should be encouraged." In this instance it is appropriate for provisions for wildlife to be built into the development. The size, aspects and location of the development to productive habitat makes it suitable for enhancements. Certain bird species are urban biodiversity priority species almost entirely dependent on exploiting human habitation for roosting. An appropriate provision for this development would be; 6 integrated swift roosting boxes and 3 bat tubes/boxes

## **Trees/Landscaping:**

50. Within the site along the eastern boundary there is a line of cypress trees, which have been topped and are of low in both individual and collective quality. Following initial comments from Officers these trees are now proposed to be removed and replaced on the revised plans. Thus providing a landscape softening, enclosure and separation function between the site and properties to the east. This could be a matter considered further and the design improved under a landscape plan condition put on any consent that might be granted.
51. Beyond the southern boundary is an existing line of taller untrimmed Leyland cypress trees and a further linked group of smaller cypresses in the southwestern corner; collectively these will provide screening and privacy to the property to the south from the influence of the development. It is likely that the trees would need to be cut back severely in order to implement the scheme, but public visual amenity would not be adversely impacted as a consequence - the trees are not of significant arboricultural merit such that it would not be appropriate as a reason for refusing the application under NE15 of the OLP.

## **Conclusion:**

52. For the reasons set out in the above report the proposed development would result in an unacceptable form of development which fails to relate to its context in terms of density and design and fails to provide a suitable mix of units or affordable housing contribution or renewable energy provision. Furthermore it fails to demonstrate that it would be safe for its lifetime and or provide a suitable basis for assessment to be made of the flood risks arising. West Area Planning Committee is therefore recommended to refuse the application.



## 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 refuse, officers consider that the proposal will not undermine crime prevention or the promotion of community safety.

**Background Papers:** 16/01413/FUL

**Contact Officer:** Felicity Byrne

**Date:** 1<sup>st</sup> December 2016

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