

## West Area Planning Committee

13th June 2017

**Application Number:** 17/00858/FUL

**Decision Due by:** 30th May 2017 (extension of time agreed until 20<sup>th</sup> June 2017)

**Proposal:** Demolition of existing building. Erection of three storey building plus basement to provide 8 x 1-bed flats and 1 x 2-bed flats (Use Class C3).

**Site Address:** 40 St Thomas Street Oxford OX1 1JP

**Ward:** Carfax Ward

**Agent:** Mr Alex Cresswell

**Applicant:** RHHS Repository Limited

The application is before the Committee because the number of residential units that are proposed means that it cannot be dealt with as a delegated decision.

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### Recommendation:

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

- 1 The proposed development, by virtue of its prominent siting, its increase in visual mass and its radically different external appearance that fails to adequately consider the context of the surrounding area would represent an alien and visually jarring addition to the streetscene as well as harm the setting of the nearby Listed Buildings (and in particular, the Church of St Thomas the Martyr and Coombe House). The development also fails to provide any landscaping that would soften the appearance of the development or contribute positively to the overall appearance of the site. As a result the development is contrary to Policies CP1, CP8, CP11 and HE3 of the Oxford Local Plan 2001-2016.
- 2 The application seeks the development of more than three dwellings; as a result a financial contribution is required towards the provision of affordable housing as set out in Policy HP4 of the Sites and Housing Plan (2013). The applicant has indicated that they are not willing to provide a financial contribution. The development also fails to provide any on-site provision of affordable housing and no evidence has been provided to indicate that on-site provision or a financial contribution towards affordable housing would make the scheme unviable. As a result, the development is contrary to Policy HP4 of the Sites and Housing Plan (2013) and Policy CS24 of the Core Strategy (2011).

- 3 The proposed shared outdoor amenity space that is proposed for the occupiers of some of the flats would be unacceptable for the number of flats it would serve and would provide a cramped and largely overlooked area that would have a very inconvenient and indirect access from the majority of dwellings in the building. As a result, the proposed development fails to provide acceptable provision of outdoor amenity space as required by Policy CP10 of the Oxford Local Plan 2001-2016 and Policy HP13 of the Sites and Housing Plan (2013).
  
- 4 The existing building is in use as a nursery which is considered to be a community facility for the purposes of Policy CS20 of the Core Strategy (2011). Despite the recent granting of planning permission 16/03318/FUL that planning permission has not been implemented and the site lies outside of the application site. As a result there is insufficient confidence that the facility would be re-provided and in the absence of a legal agreement there is no opportunity to ensure that the replacement nursery could be required to be re-provided. As a result, the proposed development would result in a loss of a nursery and there is insufficient information to show that an alternative facility exists within equally accessible distance by walking, cycling and public transport. The development is contrary to Policy CS20 of the Core Strategy (2011).

### **Oxford Local Plan 2001-2016**

**HE3** - Listed Buildings and Their Setting

**HE2** - Archaeology

**CP1** - Development Proposals

**CP6** - Efficient Use of Land & Density

**CP8** - Design Development to Relate to its Context

**CP10** - Siting Development to Meet Functional Needs

**CP11** - Landscape Design

**CP13** - Accessibility

**CP19** - Nuisance

**CP20** - Lighting

**CP21** - Noise

### **Core Strategy**

**CS2\_** - Previously developed and greenfield land

**CS9\_** - Energy and natural resources

**CS10\_** - Waste and recycling

**CS11\_** - Flooding

**CS12\_** - Biodiversity

**CS17\_** - Infrastructure and developer contributions

**CS18\_** - Urban design, town character, historic environment

**CS20\_** - Cultural and Community Facilities

**CS23\_** - Mix of housing

**CS24\_** - Affordable housing

## **Sites and Housing Plan**

**HP2\_** - Accessible and Adaptable Homes

**HP4\_** - Affordable Homes from Small Housing Sites

**HP9\_** - Design, Character and Context

**HP10\_** - Developing on residential gardens

**HP11\_** - Low Carbon Homes

**HP12\_** - Indoor Space

**HP13\_** - Outdoor Space

**HP14\_** - Privacy and Daylight

**HP15\_** - Residential cycle parking

**HP16\_** - Residential car parking

### **Other Material Considerations:**

National Planning Policy Framework

Planning Practice Guidance

### **Legal Agreements and CIL**

An affordable housing contribution would be required for this development in order that it would accord with Policy HP4 of the Sites and Housing Plan (2013). Further consideration of this is set out in the report.

### **Relevant Site History:**

10/00522/FUL - Installation of 8M x 5M shade sail. - PER

15/02403/FUL - Retention of existing use as a day nursery (Use Class D1) on a permanent basis. – PER

16/02293/FUL - Demolition of existing building. Erection of a part two, part three storey building with basement to provide 1 x 2-bed and 8 x 1-bed apartments.(Amended plans) – WITHDRAWN

17/00931/FUL - Demolition of existing building. Erection of three storey building to provide 3 x 2-bed flats (Use Class C3). (amended plans) – PENDING

### **Statutory and Internal Consultees:**

Oxfordshire County Council: No objections subject to adequate provision of cycle parking, the submission of a Construction Traffic Management Plan and a condition to ensure that future occupiers are no eligible for parking permits.

### **Representations Received:**

Oxford Preservation Trust, objections:

- Concerns that the proposed development would be similar scale to the unacceptable large scale new developments in the area (including Brasenose accommodation).
- The building would be overly large, bulky and dominating
- Poorly considered architectural forms, window and roof
- Unsympathetic development
- Impact on character of the area

### **Officers Assessment:**

## **Site Description**

1. The application site is at the end of St Thomas Street adjacent to St Thomas' Church, Hollybush Lodge and Coomb House (a former schoolhouse), these buildings are Grade II Listed. At the rear of the site is student accommodation (built for Brasenose College) and the vicarage for St Thomas' Church. There is a wall in front of Hollybush Lodge that is also listed in its own right. To the south of the application site there is a three storey brick built modern apartment building.
2. The application site itself contains a two storey 1970s building that is in use as a nursery (Use Class D1). The building itself has a low pitched roof and is clad with tiles; there is a large external staircase at the front of the building and a canopy that covers the adjacent small playground area at the front. The boundary at the front of the building is a low natural stone wall; there are some shrubs and trees along the western boundary of the site and at the northern end of the site.
3. The area around the application site is characterised by a mix of uses and properties. Despite its central location it retains a peaceful and pleasant character which contributes positively to the setting of the Church and Coombe House.
4. The application site lies outside of the Central (University and City) Conservation Area.

## **Proposed Development**

5. Planning permission is sought to demolish the existing building on the site and erect a three storey (plus basement level) building to contain eight flats. The basement level is proposed to be used for storage, laundry and plant rooms with the nine apartments arranged over three floors. Eight of the proposed flats would be one bedroom units and a further two bedroom flat is proposed at the ground floor.

## **Issues**

Officers consider the main issues in determining this application are:

- Principle
- Affordable Housing Contribution
- Design
- Impact on Listed Buildings
- Impact on Neighbouring Residential Amenities
- Access and parking
- Flooding and surface water drainage
- Biodiversity

## **Principle of Development**

### Location of Development

6. The application site lies within the City Centre as defined in Policy CS1 of the Oxford Core Strategy (2011). City Centre sites are considered suitable for a range of uses and high density development, subject to the need to protect and enhance the character and setting of Oxford's historic core and to deliver high quality public realm. The application site is considered to constitute previously developed land for the purposes of the National Planning Policy Framework (NPPF) and Policy CS2 of the Core Strategy; previously developed land should be the main focus of development subject to design and other considerations. The proposed development would involve increasing the efficient use land by providing a more high density use on the site; this approach is generally supported by Policy CP6 of the Oxford Local Plan 2001-2016. As a result, officers recommend that the proposed development is acceptable in terms of the location of the development and the requirements of Policy CS1 and CS2 of the Core Strategy (2011).

### Loss of Community Facility

7. The existing building is in use as a nursery which is considered to be a community facility for the purposes of Policy CS20 of the Core Strategy (2011). The policy requires that such facilities can only be lost if equivalent new or improved facilities can be provided at a location equally or more accessible by walking, cycling and public transport. Part of the application proposes the relocation of the existing nursery to a building that falls within the ownership of the church. Planning permission has recently been granted for the alterations to the Galilee Rooms (which lies opposite the application site on St Thomas' Street) (reference 16/03318/FUL and 16/03319/LBC). However, the Galilee Rooms lies outside of the application site which means that there is not an opportunity to include a condition requiring the commencement of the approved replacement use prior to the demolition of the existing nursery. There is also no legal agreement in place relating to the re-provision of the nursery. In these circumstances there is no robust means of ensuring that the existing community facility would not be lost. As a result, officers recommend that the proposals fail to meet the requirements of Policy CS20 of the Core Strategy (2011) and this should form a basis of refusal.

### West End Area Action Plan

8. The application site lies within the West End Area Action Plan (AAP) area. The application site is not identified for any specific uses within the AAP and the development proposed would not prejudice any specific redevelopment sites that are identified.

### Balance of Dwellings

9. The application site lies in the City Centre where there is no specific requirement to provide a mix of dwelling sizes on sites for 9 or fewer

residential units. The proposed development would not result in the loss of any family dwellings. The proposed development therefore meets the requirements of Policy CS23 of the Core Strategy (2011) and the Balance of Dwellings Supplementary Planning Document (SPD).

#### Affordable Housing

10. Policy HP4 of the Sites and Housing Plan (2013) requires that on sites of between four and nine dwellings the Council requires that developments provide a financial contribution towards affordable housing. Alternatively, there is scope in some circumstances to provide on-site affordable housing provision on small sites. A reduced contribution or no contribution can be considered acceptable where the Council is satisfied that is evidence to suggest that it would make the development unviable.
11. This application does not propose to provide a financial contribution towards affordable housing or provide any on-site provision. There has also been no evidence relating to viability submitted with the application. Instead, the submitted design and access statement states that no contribution is required as a result of the National Planning Policy Guidance which requires that no contributions towards affordable housing can be sought from developments of ten units or less (or which have a maximum combined gross floorspace of no more than 1000sqm). Officers recommend that this position is not accepted and an affordable housing contribution should be required; the absence of a contribution (or viability evidence to demonstrate a lack of viability) is recommended as a reason for refusal. The Planning Statement submitted with the application clearly states that the applicant does not intend to enter into a legal agreement for an affordable housing contribution. As a result the development is contrary to Policy CS24 of the Core Strategy (2011) and Policy HP4 of the Sites and Housing Plan (2013). This forms a recommended reason for refusal as set out above.
12. It is important to provide more clarification of the affordable housing policy context with specific consideration to the changes to national policy and our own position. Officers have included an extract below from the recent report to Council (25<sup>th</sup> July 2016); this dealt specifically with affordable housing and the revisions to the National Planning Policy Guidance. This position reflects the recent Court of Appeal Decision where the changes to national policy requiring that there are no contributions towards affordable housing from small sites were considered. :

*Officers are of the view that being the most unaffordable area of the Country coupled with a higher than normal dependence upon smaller sites must be precisely the sort of local circumstances contemplated by the Secretary of State as justifying departure from his national policy.*

*The Council will continue to determine applications for planning permission in accordance with the development plan unless material considerations indicate otherwise. It will specifically take account of*

*national policy as to affordable housing contributions from smaller sites and the vacant building credit and the scope for exceptions justified by local circumstances.*

*The decision as to the weight to be applied to the national policy has to be made in the determination of each individual application. On the basis of the evidence as to local circumstances currently available officers are of the view that those circumstances justify the continued application of HP3 and HP4 consistently with the Secretary of State's explanation of his policy's effect.*

*The Council will also have full regard to the up-to-date evidence with regard to the local situation as well as both the government's National Planning Policy Framework and its Planning Practice Guidance in considering the inclusion of policies relating to the provision of, and contributions to, affording housing in formulating the local plan.*

## **Design and Impact on the Setting of Listed Buildings**

### Streetscene and Visual Appearance

13. The proposed development would create a building with a substantially greater visual mass in the streetscene. The proposed development would also be sited further forward than the current building on the site. As a result of the introduction of the larger building would intrude on the setting of the adjacent Church of St Thomas the Martyr and Coomb House in particular; whilst also appearing to close the gap at the end of the road which currently has a more open aspect. The result of this change would harm the sensitive historic nature of this location and amount to a visually intrusive change to the setting of the listed buildings.
14. In reaching the above view, Officers have had regard to the existing building on the site which is not a building of particularly high architectural merit. Despite the current building not being particularly sensitively considered in the streetscene or the context of listed buildings it is discretely sited and its visual mass is concentrated in such a way that it does not intrude on the setting of listed buildings. The narrower width of the existing building and its siting further back in the plot mean that it is not as intrusive in the streetscene.
15. Officers recommend that the design of the building is unacceptable in terms of its impact on the streetscene and setting of listed buildings and this should form a basis for refusing planning permission.

### **Trees and Landscaping**

16. Limited details were provided with the application that related to trees and the necessary protection measures and information to protect existing trees surrounding the application site. Additional details relating to these requirements were requested. At the time of writing this report, Officers have received additional details relating to trees in the form of an Arboricultural

Impact Assessment. Following further consideration of the submitted details, Officers will be able to advise whether or not the submitted details would be acceptable or whether this should form another reason for refusal. This will be provided as a verbal update to the committee.

17. The proposed landscaping would be acceptable in the indicative areas shown. Officers recommend that if planning permission is granted then additional details relating to the number and species of planting to be required should be included as a condition in order that the proposals meet the requirements of Policy CP11 of the Oxford Local Plan 2001-2016.

#### Materials

18. The proposed materials for the development would be stone cladding with some rendered panels to match adjacent buildings. If planning permission is granted then conditions to ensure that the visual appearance of the stone panels are acceptable in terms of being visually harmonious would be required. The use of render would be required to be minimised but it is likely that these matters could also be adequately resolved by condition. The proposed roof would be constructed from titanium and would have a very different external appearance to surrounding buildings; samples of the materials would be required by condition to ensure that this had a sufficiently matt finish and matched as closely as possible to neighbouring properties.

#### Internal Living Space and Accessibility

19. The proposed development would provide an acceptable amount of internal floorspace that would meet the requirements of the national space standards. Officers also consider that the proposed development would provide an acceptable quality of internal floorspace and is acceptable for the purposes of Policy HP12 of the Sites and Housing Plan (2013).
20. The proposed development would have a sensible internal layout with ground floor flats providing accommodation that may be suitable for occupiers with reduced mobility. Despite a lack of car parking provided with the development the site is in a highly accessible location and in close proximity to the City Centre. As a result, Officers consider that the development would meet the requirements of Policy HP2 of the Sites and Housing Plan (2013) and Policy CP13 of the Oxford Local Plan 2001-2016.

#### Outdoor Amenity Space

21. A shared amenity space is proposed at the rear of the site. This would be accessed from a shared path around the side of the building. Officers consider that the proposed shared amenity space would be very small, considering that it would be shared by five flats. It would also be very dark because of the presence of large trees along the boundary that would further reduce its practicality as an amenity space.
22. The amenity space would also be overlooked by a ground floor bedroom



which would provide some privacy issues. The proposed amenity space would not be conveniently accessed from any of the flats; none of the flats that are proposed to benefit from this shared amenity space would enjoy direct access to this space. Officers recommend that the amenity space proposed is not acceptable as a result of its constrained size and accessibility and the development is unacceptable in relation to Policy HP13 of the Sites and Housing Plan (2013).

23. Some of the flats would benefit from their own gardens and balconies that may be more acceptable but the overall provision of outdoor space for all flats is not appropriate for the reasons outlined above.

#### Refuse and Recycling Storage

24. The proposed development would have refuse and recycling storage provided at the front of the building. This would be screened by the wall at the front boundary. Officers recommend that if planning permission was granted for the development then conditions would be required to ensure that refuse and recycling bins were adequately screened by the boundary and that screening was provided prior to occupation.

#### **Impact on Neighbours**

##### Impact on Light

25. The proposed development would not impact on the light conditions for neighbouring properties, specifically Hollybush Lodge and the adjacent student accommodation (Brasenose College). Parts of the proposed building would impact upon light conditions for some rooms within the modern part of the student accommodation at ground floor level but these rooms would already be impacted by the existing building on the site. The development proposed is therefore acceptable in the context of Policy HP14 of the Sites and Housing Plan (2013).

##### Impact on Privacy

26. The proposed development has been designed to ensure that it would not lead to direct overlooking into the adjacent student accommodation. Windows on the proposed building would face north, west and south with the exception of a ground floor window. This would ensure that there is no loss of privacy for the adjacent Hollybush Lodge and student accommodation. The vicarage to the north-west and residential buildings to the south would be sufficiently separated from the proposed building to ensure that there would be no loss of privacy. If planning permission is granted then a condition would be required to ensure that there is no overlooking from balconies and Officers recommend that this could be dealt with by condition.

#### **Access and Parking**

##### Access

27. There is no car parking proposed for the site and no alterations to access arrangements. The County Council's Highway Officers have raised no objections, subject to conditions relating to the submission of a Construction Traffic Management Plan, ensuring that occupiers are not eligible to parking permits and provision of cycle parking.

#### Car Parking

28. The proposed development would be car free; this is acceptable in the context of the site being in a Controlled Parking Zone (CPZ) and within the Transport Central Area (TCA). The site has excellent access to public transport and is within very close proximity to Oxford Railway Station. The site is also within walking distance of the City Centre. If planning permission was granted then Officers recommend that a condition would be required to ensure that occupiers are no eligible for parking permits.

#### Cycle Parking

29. The proposed development would provide cycle parking along the eastern boundary of the site. This area would be covered by upper floors but would not be particularly secure or enclosed. Officers recommend that if planning permission was granted for the development the revised details would be required to provide alternative cycle storage that would meet the requirements of Policy HP15 of the Sites and Housing Plan (2013).

#### **Flooding and Surface Water Drainage**

30. The application site does not lie in an area of high flood risk. A detailed drainage strategy has been provided with the application which would be acceptable in the context of Policy CS11 of the Core Strategy (2011). If planning permission is granted then a condition is recommended that would require the development to be built in conformity with the specifications of the submitted drainage strategy (2011).

#### **Biodiversity**

31. The application site lies within an urbanised setting and it is considered that the existing building would not lend itself to occupation by bats. However, if planning permission is granted for the development then a condition would be required to ensure that biodiversity enhancements measures are provided in order that the development complies with the requirements of Policy CS12 of the Core Strategy (2011).

#### **Archaeology**

32. The site lies in an area where there is archaeological interest. If planning permission is granted then a condition could be required to ensure that a written scheme of investigation is provided and the stone wall at the frontage is retained.

## **Land Quality**

33. Officers recommend that if planning permission is granted then a condition would be required to ensure that adequate survey work is carried out of the site and any subsequent mitigation is carried out prior to occupation.

## **Conclusion**

34. West Area Planning Committee is recommended to refuse the application as a result of its design, impact on the setting of listed buildings, poor quality of outdoor amenity space proposed and a lack of affordable housing contribution.

## **Conclusion:**

### Human Rights Act 1998

Officers have considered the implications of the Human Rights Act 1998 in reaching a recommendation to refuse this application. They consider that the interference with the human rights of the applicant under Article 8/Article 1 of Protocol 1 is justifiable and proportionate for the protection of the rights and freedom of others or the control of his/her property in this way is in accordance with the general interest.

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

## **Background Papers:**

17/00858/FUL

**Contact Officer:** Robert Fowler

**Extension:** 2104

**Date:** 2<sup>nd</sup> June 2017

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