

## WEST AREA PLANNING COMMITTEE

**Application Number:** 17/02842/POM

**Extension of Time:** 31st January 2018

**Proposal:** Variation of legal agreement attached to planning permission 15/03328/FUL (Demolition of existing building. Erection of new building on four levels consisting of Class B1 (Offices) at ground floor level and 12 x 1-bed and 12 x 2-bed flats at upper levels. Provision of bin and cycle stores, 1no. disabled car parking space and communal garden area. (Amendments to approved planning permission 14/01273/OUT.) to allow a change in tenure of one unit from shared ownership to affordable rent

**Site Address:** 6 Collins Street, Oxford, Oxfordshire,

**Ward:** St Clement's Ward

**Case Officer** Felicity Byrne

**Agent:** JPPC                      **Applicant:** A2 Dominion Developments Ltd

**Reason at Committee:** modification to a legal agreement.

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## 1. RECOMMENDATION

1.1. West Area Planning Committee is recommended to:

**(a) Approve the modification to the legal agreement for the reasons given in the report; and**

**(b) Agree to delegate authority to the Head of Planning, Sustainable Development and Regulatory Services to:**

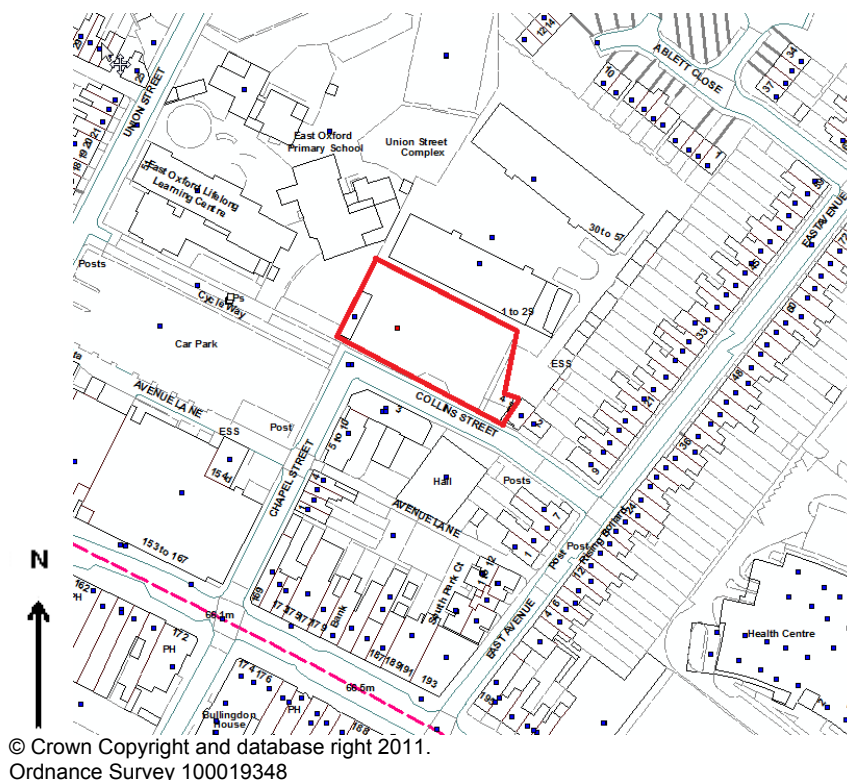
1. Finalise the recommended legal agreement under section 106 of the Town and Country Planning Act 1990 and other enabling powers as set out in this report, including refining, adding to, amending and/or deleting the obligations detailed in the heads of terms set out in this report (including to dovetail with and where appropriate, reinforce the final conditions and informatives to be attached to the planning permission) as the Head of Planning, Sustainable Development and Regulatory Services considers reasonably necessary; and
2. Complete the section 106 legal agreement referred to above.

## 2. EXECUTIVE SUMMARY

- 2.1. This report considers the proposed modification of the S106 legal agreement that accompanies approval 15/03383/FUL, as varied under 16/02673/VAR, to allow the change to the tenure of one of the units within the 50% affordable housing provision on this site from shared ownership unit to affordable rent. It concludes that this would be acceptable.
- 2.2. The key matters for assessment set out in this report include the following:
  - Affordable Housing;
- 2.3. Summary heads of terms 50% affordable housing: 12 affordable units, 11 social rent and one intermediate affordable rent unit.

## 3. SITE AND SURROUNDINGS

- 3.1. The site is located on Collins Street off the Cowley Road and was formally occupied as a builders yard, for many years known as Tuckwells Yard, and subsequently Travis Perkins builders yard who in recent times have relocated to a site at Sandy Lane. Part of the yard was developed in the early 1980s for residential purposes and more recently the part of the remaining Travis Perkins yard was development as student accommodation owned and managed by A2Dominion. The last part at the front of the yard, which is subject of this proposal, has more recent permission for mixed office and residential use which is currently under construction also by A2Dominion.
- 3.2. Site Location Plan



## 4. BACKGROUND & PROPOSAL

- 4.1. This is not a planning application. It is an application to modify the accompanying s106 legal agreement attached to planning permission 15/03328/FUL under S106a of the Town and Country Planning Act. The current approval 15/03328/FUL, as varied by 16/02673/VAR, and currently under construction is for 24 1 and 2 bed flats above office accommodation on the ground floor, which will be A2 Dominion's Headquarters when complete.
- 4.2. 50% of the total number of flats are affordable units (12 units) and these are secured within the legal agreement in an 80:20 split equating to 11 social rent (units F1, F2, F3, F4, F10, F11, F12, F13, F19, F20 and F21) and one shared ownership (unit F8) (Schedule 2, clause 1 refers). Social rent is defined by the Sites and Housing Plan 2103 as homes that are let at a level of rent generally set much lower than those charged on the open market, available to those recognised by the Council as being in housing need, and offering long term security of tenure (through Secure or Assured tenancies). Shared Ownership is defined as a form of intermediate affordable housing which is partly sold and partly rented to the occupiers, with a Registered Provider (normally a housing association) being the landlord. Shared ownership housing should normally offer a maximum initial share of 25% of the open market value of the dwelling and the annual rental charges on the unsold equity (share) should be no more than 2.75% of this share.
- 4.3. It is proposed to modify the legal agreement to allow the single shared ownership unit (F8) to intermediate affordable housing in the form of affordable rent. Intermediate affordable housing is defined by the Sites and Housing Plan 2103 as housing at prices and rents above those of social rent, but below market prices or rents. These can include shared ownership, affordable rented housing and intermediate rent. Affordable rented housing is defined as rented housing that has similar characteristics as social rented housing (see below) except that it is outside the national rent regime, thus subject to other rent controls that require it to be offered to eligible households at a rent of up to 80% of local market rents, on a minimum 2-year fixed-term tenancy. Providers will be expected to consider the Local Housing Allowance for the area, and any cap on total household benefit payments, when setting rents.

## 5. RELEVANT PLANNING HISTORY

- 5.1. The table below sets out the relevant planning history for the application site:

14/01273/OUT - Demolition of existing building. Outline application (seeking approval of access, appearance, layout and scale) for the erection of new building on 4 levels consisting of Class B1 offices on ground floor and 17 x 1-bed and 13 x 2-bed flats at upper levels. Provision of cycle and bin stores plus communal garden area (amended plans and additional information). PER 29th July 2015.

15/03328/FUL - Demolition of existing building. Erection of new building on four levels consisting of Class B1 (Offices) at ground floor level and 12 x 1-bed and

12 x 2-bed flats at upper levels. Provision of bin and cycle stores, 1no. disabled car parking space and communal garden area. (Amendments to approved planning permission 14/01273/OUT).. PER 5th April 2016.

16/02673/VAR - Variation of condition 14 (Energy and Sustainability Statement) of planning permission 15/03328/FUL (Demolition of existing building. Erection of new building on four levels consisting of Class B1 (Offices) at ground floor level and 12 x 1-bed and 12 x 2-bed flats at upper levels. Provision of bin and cycle stores, 1no. disabled car parking space and communal garden area) to enable the rewording of the condition to reflect the revised outline NIRA statement.. PER 3rd February 2017.

15/03328/NMA - Non-material amendment of planning permission 15/03328/FUL to allow smoke vent windows to be added to south-east elevation, oriel windows on north-east elevation to be linked vertically, change curtain walling to north-west and south-east office elevations to windows, increase in size of third floor plant enclosure, insertion of smoke vents to roof, change balcony screens to north-west elevation to timber and use gravel to pathway to rear of office.. PER 8th December 2016.

## 6. RELEVANT PLANNING POLICY

6.1. The following policies are relevant to the application:

Topic	National Planning Policy Framework (NPPF)	Local Plan	Core Strategy	Sites and Housing Plan	Other Planning Documents
Design	7				
Conservation/ Heritage	12				
Housing	6		CS24_	HP3_	
Commercial	1, 2				
Natural Environment	9, 11, 13				

Social and community	8				
Transport	4				Parking Standards SPD
Environmental	10				Energy Statement TAN
Misc	5	CP.13, CP.24, CP.25		MP1	Telecommunications SPD, External Wall Insulation TAN,

## 7. CONSULTATION RESPONSES

7.1. Site notices were displayed around the application site on 24<sup>th</sup> November 2017 and an advertisement was published in newspaper on .

### **Statutory and Non-Statutory Consultees**

Natural England

7.2. No comment to make.

### **Public representations**

7.3. None received.

## 8. PLANNING MATERIAL CONSIDERATIONS

8.1. Officers consider the determining issues to be:

i. Affordable Housing;

### **i. Affordable Housing**

8.2. Policy CS24 of the Core Strategy states that generally a minimum of 50% of residential developments must be provided as affordable housing. Policy HP3 of the Sites and Housing Plan 2011-2026 (SHP) states that planning permission will only be granted for residential development on sites with capacity for 10 or more dwellings if a minimum of 50% of the dwellings on the site are provided as affordable homes, with 80% of these social rented and 20% intermediate tenure in the form of shared ownership. Policy HP3 also sets out that exceptions will be made only if it is robustly demonstrated that this level of provision makes a site unviable, in which case developers and the City Council will work through a cascade approach, incrementally reducing affordable housing provision or financial contribution, until the scheme is made viable.

- 8.3. The development as approved under 15/03328/FUL fully was compliant with Policy CS24 of the CS and HP3 of the SHP as it provided 50% affordable housing; creating 12 flats of mixed tenure with a 80:20 split: 11 social rent (units F1, F2, F3, F4, F10, F11, F12, F13, F19, F20 and F21) and one shared ownership (unit F8). The affordable housing was secured via a S106 agreement.
- 8.4. On implementing the permission, A2Dominion has decided not to sell the private sale units but instead make them affordable rented units, which they are entirely able to do without the Councils consent. This means that on completion there will be 23 social and affordable rented units on this site and only one shared ownership unit. A2Dominion has identified that on a managerial level one shared ownership unit within a large number of social rent and affordable rented units is not practical. Neither would it be attractive to persons wanting a shared ownership property being the only one within 23 rented units. They are therefore proposing to make this unit affordable rent instead and seek agreement of the Council to modify the legal agreement in order to do so.
- 8.5. In terms of Policy context the development would still provide the 50% affordable housing as required under Policy HP3 of the SHP and secured by the existing S106, furthermore the tenure mix would be the same 80:20 split as both shared ownership and affordable rent both fall under the intermediate affordable housing category as defined under HP3. Housing Officers advise that the change of tenure of unit F8 from shared ownership to affordable rent where the rent is up to 80% of market value would be acceptable as it would still fall under intermediate housing and it would help the Council meet priority housing need. The unit would be allocated through the Choice Based Lettings scheme in the same way as social rent housing.
- 8.6. There would be no material change to the approved scheme as a result of the proposed change and the development would still comply with Policy HP3 of the SHP. Officers therefore consider the proposed modification to the legal agreement would also be acceptable.
- 8.7. The legal agreement should also be modified to include reference to the variation of 15/03328/FUL under by 16/02673/VAR.

## **9. CONCLUSION**

- 9.1. The change of one shared ownership unit to intermediate affordable rent would be acceptable in this case in accordance with HP3 of the SHP and CS24 of the CS.
- 9.2. It is recommended that the Committee resolve to agree modification of the legal agreement under section 106a of the Town and Country Planning Act 1990 and under authority delegated to the Head of Development Management.

## **10. APPENDICES**

### **Appendix 1 – Site Location Plan**

**11. HUMAN RIGHTS ACT 1998**

11.1. Officers have considered the implications of the Human Rights Act 1998 in reaching a recommendation to modify this legal agreement. 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.

**12. SECTION 17 OF THE CRIME AND DISORDER ACT 1998**

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

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