

WEST AREA PLANNING COMMITTEE

13th March 2018

Application Number: 17/02893/RES

Decision Due by: 31st January 2018

Extension of Time: 23rd March 2018 (TBA)

Proposal: The outline planning application (13/02557/OUT) was an Environmental Impact Assessment application and an Environmental Statement was submitted. Approval of all reserved matters was granted (14/02402/RES) under condition 5 of the outline planning permission. This application seeks approval of amended reserved matters in respect to the public realm and the removal of four approved street trees along the south end of Castle Street,

Site Address: Westgate Shopping Centre, Bonn Square (**site plan: appendix 1**)

Ward: Carfax Ward

Case Officer Andrew Murdoch

Agent: Mr Rory McManus **Applicant:** Westgate Oxford Alliance

Reason at Committee: This is a committee item

1. RECOMMENDATION

1.1. West Area Planning Committee is recommended to:

(a) Approve the application for the reasons given in the report and subject to the required planning conditions set out in section 10 of this report and grant planning permission subject to:

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

1. Finalise the recommended conditions as set out in this report including such refinements, amendments, additions and/or deletions as the Head of Planning, Sustainable Development and Regulatory Services considers reasonably necessary;

2. EXECUTIVE SUMMARY

2.1. This report considers an additional reserved matters application relating to the outline planning permission (with all matters reserved) for a retail-led mixed-use

development of the former Westgate Shopping Centre, Multi-storey and Surface level car-park under reference 13/02557.

- 2.2. The application is seeking permission with respect to the omission of four street trees along Castle Street which were approved as part of the landscaping proposals for the development.
- 2.3. The key matter for assessment set out in this report is the acceptability of removing these trees from the approved scheme.
- 2.4. Officers consider that the proposal would accord with the policies of the development plan and the range of material considerations on balance support the grant of planning permission.
- 2.5. The scheme would also accord with the aims and objectives of the National Planning Policy Framework would constitute sustainable development, and, given conformity with the development plan as a whole, paragraph 14 advises that the development proposal should be approved without delay. Furthermore there are not any material considerations that would outweigh the compliance with these national and local plan policies.

3. SITE AND SURROUNDINGS

- 3.1. The site relates to the Westgate Shopping Centre which covers an area of approximately 5.9ha, and extends from Bonn Square in the north to Thames Street in the south and from Castle Mill Stream in the west to Old Greyfriars Street and Pennyfarthing Place in the east
- 3.2. The application relates to the landscaping proposals for a section of the public realm in the southern section of Castle Street. The area in question lies to the north of the junction with Paradise Street and to the south of the emergency access into the Castle Quarter.
- 3.3. A copy of the site plan is set out in **Appendix 1** of this report.

4. PROPOSAL

- 4.1. In March 2014 outline planning permission with all matters reserved was granted by the West Area Planning Committee for a retail-led mixed use development of the former Westgate Shopping Centre, Multi-Storey and Surface Level Car Park and Abbey Place Car Park under reference 13/02557/OUT. The reserved matters for the layout, scale, appearance, and landscaping of the development was subsequently approved under reference number 14/02402/RES by the West Area Planning Committee meeting on the 25th November 2014.
- 4.2. The reserved matters application gave approval for the location of four street trees along the southern end of Castle Street. The four trees were proposed as large specimens (2 x Acer rubrum 'Armstrong' 40-50cm and 2 x Carpinus betulus 'Frans Fontaine' 35-40cm) each of which should have a recommended minimum root area volume of 15m³ to promote growth and the long-term health of the tree.

- 4.3. During the course of the construction works, it has been established that due to constraints from the services that run through the area, it is not possible to provide the required growing conditions in this locations for the trees to establish.
- 4.4. The application is therefore seeking permission for a revised landscaping scheme which omits these trees from the approved drawings. The reserved matters (layout, scale, appearance, and landscaping) previously approved under application 14/02402/RES will be unaffected by this application which would relate solely to the omission of these trees within the landscaping.

5. RELEVANT PLANNING HISTORY

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

13/02557/OUT - Demolition of southern part of Westgate Centre, 1-14 Abbey Place and multi-storey car park, retention of library, refurbishment of remainder of the existing Westgate Centre and construction of a retail-led mixed use development together providing A1 (retail), A2 (finance and professional services) and/or A3 (restaurants and cafes) and/or A4 (public house, etc.) and/or A5 (hot food takeaways) uses, C3 (residential) use and D2 (assembly and leisure) uses, public toilets, associated car and cycle parking, shopmobility facility, servicing and access arrangements together with alterations to the public highway (Amended plans and further information). APPROVED

14/02402/RES - Demolition of southern part of Westgate Centre, 1-14 Abbey Place and multi-storey car park, retention of library, refurbishment of remainder of the existing Westgate Centre and construction of a retail-led mixed use development together providing A1 (retail), A2 (finance and professional services), and/or A3 (restaurants and cafes and/or A4 (public houses, etc.) and/or A5 (hot food takeaways), uses, C3 (residential) use and D2 (amenity and leisure) uses, public toilets, associated car and cycle parking, shopmobility facility, servicing and access arrangements together with alterations to the public highway (Reserved matters of outline planning permission 13/02557/OUT seeking permission for detailing of appearance, landscaping, layout and scale). APPROVED

16/01495/RES - The outline planning application (13/02557/OUT) was an Environmental Impact Assessment application and an Environmental Statement was submitted. Approval of all reserved matters was granted (14/02402/RES) under condition 5 of the outline planning permission. This application seeks approval of amended reserved matters for the appearance of a proposed canopy over Bridge 13 (connecting Buildings 3 and 4) only. All other reserved matters previously approved remain unaffected. APPROVED

16/02139/RES - The outline planning application (13/02557/OUT) was an Environmental Impact Assessment application and an Environmental Statement was submitted. Approval of all reserved matters was granted (14/02402/RES) under condition 5 of the outline planning permission. This application seeks approval of amended reserved matters for the appearance, landscaping, layout

and scale of part of the rooftop garden space of Building 3: APPROVED

16/02620/RES - The outline planning application (13/02557/OUT) was an Environmental Impact Assessment application and an Environmental Statement was submitted. Approval of all reserved matters was granted (14/02402/RES) under condition 5 of the outline planning permission. This application seeks approval of amended reserved matters for the appearance of the east elevation of Building 2 and 3 in respect of a revised window arrangement. APPROVED

17/00460/RES - The outline planning application (13/02557/OUT) was an Environmental Impact Assessment application and an Environmental Statement was submitted. Approval of all reserved matters was granted (14/02402/RES) under condition 5 of the outline planning permission. This application seeks approval of amended reserved matters in respect of the use and internal reconfiguration of floorspace located in Building 2 (Second Floor), Building 3 (Lower Ground, Upper Ground, First and Second Floors) and Building 4 (Lower Ground and Upper Ground Floors). APPROVED

17/00719/RES - The outline planning application (13/02557/OUT) was an Environmental Impact Assessment application and an Environmental Statement was submitted. This application seeks approval of amended reserved matters for the appearance of the southern elevation of Building 4 in respect of a revised window design, including the introduction of a door. APPROVED

17/02495/RES - The outline planning application (13/02557/OUT) was an Environmental Impact Assessment application and an Environmental Statement was submitted. Approval of all reserved matters was granted (14/02402/RES) under condition 5 of the outline planning permission. This application seeks approval of amended reserved matters in respect of the use and internal reconfiguration of floorspace located in building 2 (upper ground), building 3 (upper ground) and building 4 (first and second floors): APPROVED

6. RELEVANT PLANNING POLICY

6.1. The following policies are relevant to the application:

Topic	National Planning Policy Framework (NPPF)	Local Plan	Core Strategy	Other Planning Documents
Design	7	CP1, CP8, CP9,	CS18_	
Natural Environment		NE15,		

Misc		CP.13, CP.24, CP.25		
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7. CONSULTATION RESPONSES

- 7.1. Site notices were displayed around the application site on the 16th November 2017 and an advertisement was published in The Oxford Times newspaper on 16th November 2017.

Statutory and Non-Statutory Consultees

Oxfordshire County Council (Highways)

- 7.2. The Local Highways Authority have no objection to the development
- 7.3. The information submitted confirms that four street trees cannot be planted along Castle Street.
- 7.4. The County council initially had concerns that planters were to be used for the replacement trees. The County Council has concerns with the use of tree planter particularly near the entrance to the Castle development as it blocks emergency access. However, it is now understood that the applicant does not intend to use tree planters therefore the county council has no objection to this proposal.

Natural England

- 7.5. No objection

Historic England

- 7.6. No comments

Public representations

- 7.7. No public representations have been made in relation to the application

8. PLANNING MATERIAL CONSIDERATIONS

- 8.1. Officers consider the main determining issues to be as follows

i. Principle of removing the trees from the approved landscaping scheme.

- 8.2. The reserved matters application for the Westgate redevelopment (14/02402/RES) approved the landscape strategy for the scheme including the public realm. The approved landscaping included four large specimen trees (2 x Acer rubrum 'Armstrong' 40-50cm and 2 x Carpinus betulus 'Frans Fontaine' 35-

40cm) towards the southern end of Castle Street. These trees were in addition to three others proposed for Castle Street and Norfolk Street.

- 8.3. The overall landscaping strategy for the Westgate Oxford development provides new tree planting throughout the public realm surrounding the development. The new planting is provided within the paved areas and is designed to have structural cells that allow a minimum root area volume of 15m³ to promote growth and the long-term health of the tree. However during the course of the construction works, a number of service runs not previously identified were found to be present within the location of the proposed trees and as such it has not been possible to provide the structural cells in these locations to enable the required growing conditions for the trees.
- 8.4. In considering this matter, the applicant and officers considered alternative options including alternative locations or use of raised planters in order to determine whether the four trees could still be provided despite the identified constraints.
- 8.5. The applicant has considered alternative locations throughout Castle Street to ascertain whether any replacement trees could be placed within the ground using the agreed structural cell to ensure the success of the trees. These locations have included those proposed by the applicant and also officers. None of these locations have been considered suitable for a number of reasons. These include above ground constraints such as avoiding compromising the highways layout, narrowing footpath widths, need to maintain emergency access to the Castle Quarter, pedestrian circulation around the centre etc, along with below ground constraints from services, such as low voltage cables, communications ducting, drainage, inspection chambers, historic foul and storm water manholes, and the Block 4 basement.
- 8.6. In short the two main reasons why the approved trees, and no others in alternative locations in Castle Street, can be provided are that it is not possible to create the space within the ground for the tree rootballs because of the intensity of services within the ground, and also that the new roots will likely cause damage to existing services because of their close proximity to said services and future growth.
- 8.7. In addition to this, the applicant has sought to investigate the option to plant trees in raised planters rather than directly into the ground. This has been discounted for a number of reasons. The use of a planter would constrain the tree specification in terms of size and growth and as such there is not considered to be sufficient space. Moreover, there is a concern that the use of planters is not typical to the Oxford street scape, with few examples (i.e Frideswide Square) where they have been used. In addition to this, the use of a planter would act as a major obstruction to pedestrian movement throughout the public realm of Castle Street. The County Council through the Local Highways Authority and Road Agreements team, have both raised concerns about the use of planters for this reason. In the case of the western side of Castle Street, there is a need to maintain a suitable emergency access into the Castle Quarter. The presence of planters could effect this emergency access, as the planter could not be moved

in haste to allow fire engine / ambulance access. There is little space elsewhere to use a planter on the western side of Castle Street to avoid impacting on the emergency access and then not introducing other highway concerns such as interfering with visibility from the junction with Paradise Street. Similarly on the opposite side of the road there would also be concerns with how a planter would disrupt pedestrian movement, key highway sightlines etc. As a single planter on its own it would also be more obvious as an anomaly in the street scene.

- 8.8. Having reviewed the submitted details, officers consider that the omission/loss of the originally proposed trees is highly regrettable, especially given they had replaced some mature trees within Castle Street that were removed to accommodate the changes to the highway layout. However the application has demonstrated to an adequate degree of detail that the provision of these 4 trees as approved is not physically feasible due to the presence of numerous underground services and utilities, and also concerns with regards to highway impact. As such officers consider that there are reasonable grounds to support their omission from the approved plan. The landscape strategy should be read as a whole for the development in general, and the removal of these four trees would not materially alter the approved scheme which would still accord with Oxford Local Plan Policy CP1, CP8, CP9, and NE15.
- 8.9. Notwithstanding this however, officers consider that this application would allow an opportunity to insert an element of landscape interpretation for the other trees within the Westgate development by way of offering some mitigation through increasing understanding of what the trees within the scheme are. Therefore a condition is recommended that would have the botanical and common name tags on each of the trees (except the avenues in verges) so that people who might be interested can learn what these trees are. For example there is the specimen Scholars tree (*Sophora japonica*) south of Paradise Square which may not get the reference without a label explaining this to them.

ii. Conformity to the Environmental Statement and its addendum

- 8.10. The outline planning application for the Westgate development was accompanied by an Environmental Statement (September 2013) and Environmental Statement Addendum (January 2014). The reserved matters application was also accompanied by an Environmental Statement (August 2014) and Environmental Statement Addendum (September 2014).
- 8.11. This reserved matters application would constitute a 'subsequent application' under Regulation 2(1) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011. As such the likely significant effects of the proposed development need to be considered.
- 8.12. The covering letter submitted in support of this application confirms that all details remain as previously approved under the outline planning permission (in terms of use) and subsequent reserved matters (in terms of details of appearance, landscaping, layout and scale) with the exception of the minor public realm changes associated with the removal of the street trees. As such the Application proposals do not give rise to any new or different likely significant

effects to those identified and assessed previously.

9. CONCLUSION

- 9.1. It is recommended that the Committee resolve to grant planning permission for the development proposed subject to the satisfactory completion (under authority delegated to the Head of Development Management) of a legal agreement under section 106 of the Town and Country Planning Act 1990.

10. CONDITIONS

- 1 The development permitted shall be constructed in complete accordance with the specifications in the application and approved plans listed below, unless otherwise agreed in writing by the local planning authority.

Reason: To avoid doubt and to ensure an acceptable development as indicated on the submitted drawings in accordance with policy CP1 of the Oxford Local Plan 2001-2016.

- 2 Within 3 months of the date of this permission, a landscape interpretation scheme shall be implemented on site following approval by the Local Planning Authority of the proposed scheme. The interpretation scheme shall include details of the botanical and common name of each street tree (except the avenue planting in verges) throughout the scheme.

Reason: In the interests of offering some mitigation for the lost trees within the landscape strategy in accordance with Oxford Local Plan Policy NE15.

11. APPENDICES

Appendix 1 – Site Location Plan

12. HUMAN RIGHTS ACT 1998

- 12.1. Officers have considered the implications of the Human Rights Act 1998 in reaching a recommendation to grant planning permission for 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.

13. SECTION 17 OF THE CRIME AND DISORDER ACT 1998

- 13.1. 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 to refusal of planning permission, officers consider that the proposal will not undermine crime prevention or the promotion of community.