

## EAST AREA PLANNING COMMITTEE

6th February 2019

<b>Application number</b>	18/02231/VAR
<b>Decision due by</b>	20 November 2018
<b>Extension of time</b>	28 February 2019
<b>Proposal</b>	Variation of condition 3 (approved plans and documents) to revise indicative parameters plans and condition 18 (noise levels) to revise residential noise levels of planning permission 14/02940/OUT as varied by 14/02940/NMA and 14/02940/NMA2 (Outline planning application (with all matters reserved) seeking permission for up to 270 residential dwellings to incorporate a maximum of 92 houses on 2 to 3 floors of 1 to 4 bedrooms with one dwelling being a house with 5 bedrooms and 178 flats of 1 to 4 bedrooms on 2 to 5 floors. Provision of car parking, cycle and bin storage, landscaping and ancillary works. (Amended plans and additional information).)
<b>Site address</b>	Littlemore Park, Armstrong Road, Littlemore – see paragraph 5.4 for site plan
<b>Ward</b>	Littlemore Ward
<b>Case officer</b>	Nadia Robinson
<b>Agent</b>	Mr Jonathan Waugh <b>Applicant</b> Catalyst Housing Ltd
<b>Reason at Committee</b>	Variation to a Major Development

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### 1. RECOMMENDATION

1.1. East Area Planning Committee is recommended to:

1.1.1. **approve the application** for the reasons given in the report and subject to the required planning conditions set out in section 12 of this report and grant planning permission.

1.1.2. **agree to delegate authority** to the Acting Head of Planning Services to:

- finalise the recommended conditions as set out in this report including such refinements, amendments, additions and/or deletions as the Acting Head of Planning Services considers reasonably necessary; and
- finalise the recommended Deed of Variation to the outline consent 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 Acting Head of Planning Services considers reasonably necessary; and

- complete the Deed of Variation to the section 106 legal agreement referred to above and issue the planning permission.

## **2. EXECUTIVE SUMMARY**

- 2.1. This report considers an application to vary two of the conditions attached to the outline planning permission for up to 270 residential dwellings on the site known as Littlemore Park. The outline planning permission has all matters reserved, namely: layout, scale, appearance, landscaping and access.
- 2.2. This application seeks to vary the five parameter plans that were approved with the outline consent. This is because further exploration of flood risk has resulted in all development being set out of Flood Zone 3, thereby reducing the developable area of the site from that originally envisaged at outline stage. This, in turn, has led to a change in the mix of dwellings on the approved Parameter Plan 1 so that 270 units can still be delivered on site. It is important to note that the application does not seek to change the outline permission requirement for 50 per cent on site Affordable Housing, of which 80 per cent would be social rent and 20 per cent would be intermediate housing.
- 2.3. The application also seeks to vary the wording of condition 18 of the outline planning permission. This condition controls noise levels in living rooms and bedrooms to safeguard the amenity of future residents. The condition states that no single noise event shall exceed 45 decibels however it has been established that this would be very difficult to control. This application therefore proposes a change in wording to that condition which would achieve the same objective of safeguarding future residents.
- 2.4. An extensive and positive period of pre-application discussions precedes this application. Officers are supportive of the design progression that the current owners, Catalyst Housing Ltd, have been pursuing. However, the detailed proposal for the site (the reserved matters) is being considered under the reserved matters application, reference 18/02303/RES, and is therefore not a matter of consideration for this application. This application is limited to the changes to the parameter plans and to the change to the noise condition.
- 2.5. Officers consider the proposed variations to be acceptable and would facilitate and support the delivery of housing units on the site. The delivery of this allocated site would contribute residential units to Oxford's overall housing need, set out within the Oxford Core Strategy. The proposal would accord with the aims and objectives of the National Planning Policy Framework, in that it would constitute sustainable development, and, given conformity with the development plan as a whole, paragraph 11 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.

- 2.6. Should permission be granted, one of the three legal agreements for the outline consent will need to be varied so that it accords with the details of this variation application and to reflect current regulations.
- 2.7. The decision notice for the outline consent 14/02940/OUT can be found in **Appendix 1**.

### **3. LEGAL AGREEMENT**

- 3.1. The planning obligations for outline permission 14/02940/OUT were secured via three legal agreements.
- 3.2. There was an agreement between Oxford City Council and the applicant, Oxford University Hospitals NHS Foundation Trust, to secure employment land at the Churchill Hospital site to mitigate for this site (Littlemore Park) being residential only with no employment uses. No changes will be needed to this legal agreement as a result of the application under consideration. The Hospitals Trust is working with planning officers to comply with their obligations under this agreement.
- 3.3. There was an agreement between Oxford City Council and the applicant, Oxford University Hospitals NHS Foundation Trust, to secure the following planning obligations:
  - Affordable Housing – at least 50% on site provision with a mix of 80% social rent and 20% intermediate housing;
  - Accessible homes;
  - Public open space and play areas, and their management;
  - Ecological mitigation including biodiversity off-setting and species relocation;
  - Future proofing of pedestrian and cycle links to adjacent land;
  - Financial contribution of £50,000 towards general sports and leisure facilities within Littlemore.

Any outstanding obligations have passed to the new landowner, Catalyst Housing Ltd. The legal agreement sets out the percentage range of 1-bed, 2-bed, 3-bed and 4-bed Affordable Housing units that the developer must deliver. This agreement will need a deed of variation so that it accords with the details of this application including the change in the mix of Affordable Housing units, and to reflect current regulations, such as the change from Lifetime Homes to Part M of Building Regulations. The obligations listed above will continue to be secured following the Deed of Variation.

- 3.4. The third legal agreement was between Oxfordshire County Council and the applicant, Oxford University Hospitals NHS Foundation Trust, to secure the obligations relating to highways. Any outstanding obligations have passed to the new landowner, Catalyst Housing Ltd. No changes are needed to this agreement.

**4. COMMUNITY INFRASTRUCTURE LEVY (CIL)**

4.1. CIL is liable on the development, however this would not be calculated or payable until the reserved matters stage.

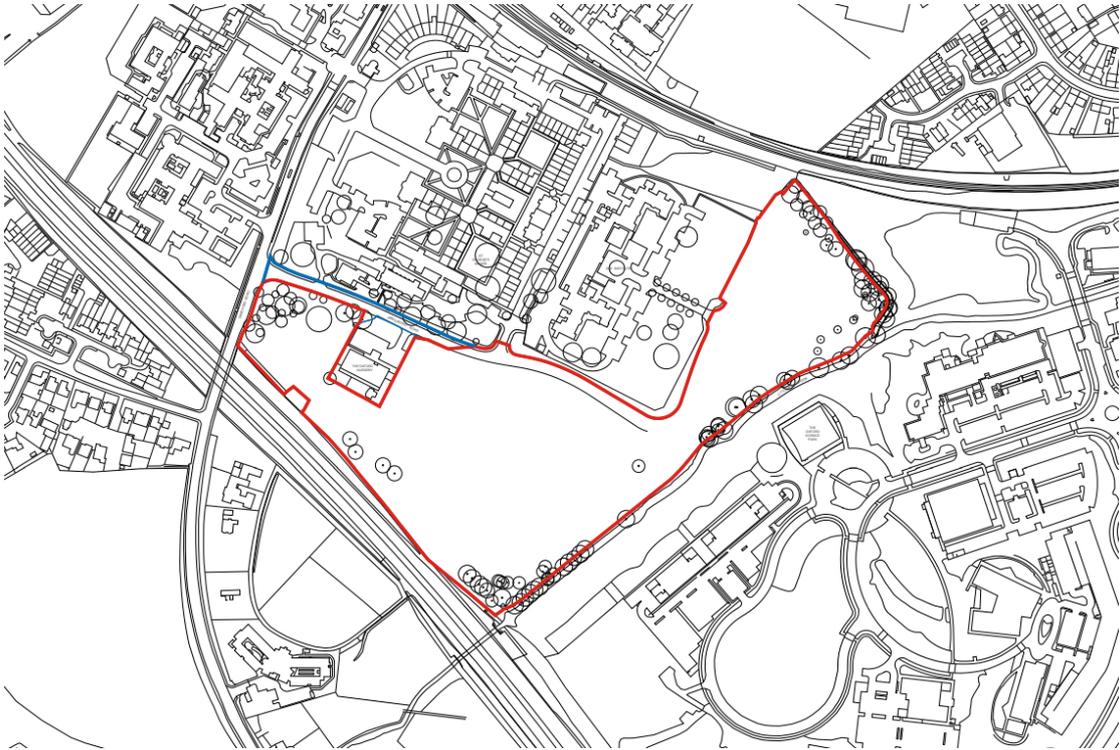
**5. SITE AND SURROUNDINGS**

5.1. The application relates to approximately 6.28 hectares of open land in the south-western corner of Littlemore accessed from Armstrong Road. The site is bordered by Armstrong Road to the north, A4074 to the south-west, Littlemore Brook to the south-east, and Sandford Road to the north-west.

5.2. The site was formerly part of the Littlemore Hospital site. It comprises open ground which is covered in rough grass, scrub and hedgerows. There is a dense copse of trees in the north-west corner adjacent to Sandford Road and a smaller copse in the central part of the site adjacent to Armstrong Road.

5.3. The residential development at St Georges Manor and the SAE Institute, which were formed from the former Littlemore Hospital buildings, lie to the north of the site. The Oxford Science Park lies to the south-east on the opposite side of the Littlemore Brook. The ‘Oxford Nursery’ children’s nursery is in the north-western section of the site but does not form of this application.

5.4. See site plan below:



## 6. PROPOSAL

6.1. This application seeks to vary condition 3 of the outline permission to allow the developer to substitute the approved parameter plans with five new parameter plans. The five parameter plans cover the same areas:

- Parameter Plan 1 – Types of Dwellings
- Parameter Plan 2 – Landscape Strategy
- Parameter Plan 3 – Movement and Access
- Parameter Plan 4 – Building Heights
- Parameter Plan 5 – Parking Strategy

6.2. The revised parameter plans are broadly in accordance with the principles of the approved parameter plans, with the key differences between the approved and proposed parameter plans being:

- mix of dwellings on Parameter Plan 1; and
- general layout to deal with flood risk and to reflect design development since outline consent granted.

6.3. The application also seeks to vary condition 18 which controls noise levels in living rooms and bedrooms to safeguard the amenity of future residents. The condition states that no single noise event shall exceed 45 decibels, but such a requirement would be very difficult for the developer to control. The requirement was derived from the noise assessment submitted with the outline application. This application therefore proposes a change in wording that would achieve the same objective of safeguarding future residents.

6.4. It is acceptable to deal with such changes via a variation application under Section 73 of the Town and Country Planning Act 1990 because the scale and nature of the amendments would result in a development which is not substantially different from the one which has been approved under the outline consent.

## 7. RELEVANT PLANNING HISTORY

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

14/02940/OUT – Outline planning application (with all matters reserved) seeking permission for up to 270 residential dwellings of 1 to 4 bedrooms on 2 to 5 floors to incorporate a maximum of 104 houses and 166 flats. Provision of car parking, cycle and bin storage, landscaping and ancillary works. (Amended plans and additional information). **Approved 31 March 2016**

14/02940/NMA – Non-material amendment to planning permission  
14/02940/OUT to allow variation of wording to condition 3. **Approved 19 April 2017**

14/02940/NMA2 – Non-material amendment to planning permission 14/02940/OUT to allow a split between houses and flats to be amended to increase the maximum number of flats by 12 and reduce the maximum number of houses by 12 and to include 1 x 5 bed affordable unit. **Approved 16 August 2018**

18/02303/RES – Details of reserved matters (layout, scale, appearance, landscaping and access) pursuant to planning application 18/02231/VAR (variation of condition 3 (approved plans and documents) to revise indicative parameters plans and condition 18 (noise levels) to revise residential noise levels of planning permission 14/02940/OUT as varied by 14/02940/NMA and 14/02940/NMA2 (Outline planning application (with all matters reserved) seeking permission for up to 270 residential dwellings to incorporate a maximum of 92 houses on 2 to 3 floors of 1 to 4 bedrooms with one dwelling being a house with 5 bedrooms and 178 flats of 1 to 4 bedrooms on 2 to 5 floors. Provision of car parking, cycle and bin storage, landscaping and ancillary works. (Amended plans and additional information). **Pending consideration**

## 8. RELEVANT PLANNING POLICY

8.1. The following policies are relevant to the application:

Topic	National Planning Policy Framework	Local Plan	Core Strategy	Sites and Housing Plan	Other planning documents	Emerging Local Plan 2036*
Design	124-132	CP1 CP8 CP9 CP10 CP13 CP14	CS13 CS18	HP9		RE2 DH1 DH5
Conservation/ Heritage	184-202	HE2 HE3 HE7				
Housing	59-76	CP6	CS2 CS22 CS23 CS24	HP2 HP3 HP11 HP12 HP13 HP14 SP30	Affordable Housing and Planning Obligations SPD; Balance of Dwellings SPD	H1 H2 H4 H10 H14 SP45
Commercial	85-90					
Natural environment	133-147 148-169 170-183	CP11 NE15 NE16 NE20				G2
Social and community	91-101					

Topic	National Planning Policy Framework	Local Plan	Core Strategy	Sites and Housing Plan	Other planning documents	Emerging Local Plan 2036*
Transport	102-111	TR1 TR2 CP13	CS14	HP15 HP16		M1 M3 M4 M5
Environment	117-121	CP17 CP19 CP20 CP21 CP22 CP23	CS9 CS11 CS12			RE1 RE3 RE4 RE6 RE8 RE9
Misc	7-12	CP24 CP25	CS17 CS19 CS28 CS30 HP11 HP12	MP1		S1 S2

\* Only limited weight can be given to policies in the emerging Oxford Local Plan 2036 because the plan is only at Proposed Submission Draft stage.

## 9. CONSULTATION RESPONSES

- 9.1. Site notices were displayed around the application site on 25 October 2018 and an advertisement was published in The Oxford Times newspaper on 1 November 2018.

### Statutory and non-statutory consultees

- 9.2. Oxfordshire County Council

No objection

- 9.3. Environment Agency

Parameter Plan 1 'Types of dwelling' shows a slightly revised site layout from that approved under reserved matters application 18/02303/RES. As condition 19 of the outline permission application 14/02940/OUT states that there should be no built development in Flood Zone 3, we request that a drawing is submitted showing the 1 in 100 flood extent in relation to the building layout.

### Public representations

- 9.4. None received

### Officer comments

- 9.5. A plan showing the location of Flood Zone 3 in relation to built form has been provided to the Environment Agency. Should the Environment Agency have any concerns, officers will provide a verbal update to the East Area Planning Committee.

## **10. PLANNING MATERIAL CONSIDERATIONS**

10.1. Officers consider the determining issues to be:

- a. Principle of development;
- b. Flood risk;
- c. Affordable Housing and mix of dwellings; and
- d. Noise.

### **a. Principle of development**

10.2. The principle of the developing the site for 270 residential units has been established through the granting of outline planning consent. The site is allocated in the Sites and Housing Plan through policy SP30 and therefore contributes to meeting Oxford's housing needs. The site is also allocated in the emerging Oxford Local Plan 2036 policy SP45 on the same basis as Sites and Housing Plan policy SP30 but with an additional requirement for a flood risk assessment. It is noted that the outline consent was accompanied by a flood risk assessment.

10.3. Matters relating to the employment allocation for the site have been dealt with by legal agreement as set out in paragraph 3.2 of this report; this arrangement is not changed by this application.

10.4. The layout presented in the five revised parameter plans submitted with the application differs from the approved parameter plans. This reflects the design progress since outline consent was granted, in particular moving the built form of the development out of Flood Zone 3. Because a variation to condition 3 is necessary to deal with the change to the mix in Parameter Plan 1, the applicant is seeking to amend all five parameter plans with the new proposed layout for consistency.

10.5. Officers consider that the principles of approved Parameter Plans 2 to 5 are retained in the amended Parameter Plans, as noted below:

- Parameter Plan 2 – Landscape Strategy – similar ratio of open space to built form, incorporating linear park and retaining copse in west of the site;
- Parameter Plan 3 – Movement and Access – same access point leading to logical hierarchy of primary and secondary routes and pedestrian routes;
- Parameter Plan 4 – Building Heights – same principles of houses arranged over 2 or 3 storeys and flats at 5 storeys, with taller buildings in south and east of the site;
- Parameter Plan 5 – Parking Strategy – a similar variety of parking options with on-street parking, undercroft parking and driveway parking.

10.6. Consideration of the layout, scale, appearance, landscaping and access is undertaken via the much more detailed reserved matters application.

10.7. This variation application is acceptable in principle because the scale and nature of the amendments would result in a development which is not

substantially different from the one which has been approved under the outline consent. The application therefore does not affect the principle of development established via the outline consent.

**b. Flood risk**

- 10.8. Condition 19 of the outline consent prevents residential development in Flood Zone 3. The indicative layout put forward with the outline application was expected to be implementable by regrading of the land to deal with flooding issues. This, in effect, would have redrawn the line of the flood zone to accommodate residential development. However, this was not found to be feasible – both financially and in terms of flood risk – nor was it likely to be supported by the Environment Agency and so the built form was moved out of Flood Zone 3 in the developing design.
- 10.9. The revised Parameter Plans put forward with this application sites all residential development outside Flood Zone 3, in compliance with condition 19 of the outline consent. This approach is consistent with the National Planning Policy Framework (NPPF) and local plan policies (including emerging local plan policy RE3, to which only limited weight can be given).
- 10.10. One of the consequences of this is that the developable area of the site is reduced. A revised layout from the outline masterplan was developed to deal with this constraint and this is the layout now presented in the revised Parameter Plans submitted with this application. Although the developable area is reduced, the revised layout and density are not materially different from the indicative masterplan presented with the outline application. The change is therefore minor in relation to the principles of the outline, but has a benefit in terms of flood risk for future occupants.

**c. Affordable Housing and mix of dwellings**

- 10.11. Oxford Core Strategy Policy CS23 requires residential developments to create a balanced and mixed community in order to meet future household need. The Balance of Dwellings Supplementary Planning Document (SPD) provides guidance on the mix of units expected from a strategic site of this size, i.e. 250 units or more.
- 10.12. The outline planning permission proposed a mix of units which complied with the Balance of Dwellings SPD. This was secured via approved Parameter Plan 1, which includes a table setting out the number of each type of unit (1-bed, 2-bed etc).
- 10.13. As previously noted in this report, the flooding constraints of the site that became apparent at more detailed design stage and through the applicant's discussions with the Environment Agency has led to the built form having to be moved outside Flood Zone 3. Therefore, the developable area of the site was reduced and a revised layout from the outline masterplan was developed to deal with this constraint.

- 10.14. In addition, the applicant found that the cost of building in the flood plain coupled with overall market increases in build costs rendered the outline scheme unviable. However, as a registered provider of social housing, the applicant has consistently sought to maintain the 50 per cent on-site Affordable Housing, rather than seeking to present a viability case and reduce the percentage, as set out in the ‘cascade approach’ in policy HP3 of the Sites and Housing Plan. To retain the Affordable Housing percentage and deliver 270 dwellings, the applicant needed to change the mix of housing types.
- 10.15. This application proposes the same number of residential units (270) and the same Affordable Housing arrangement (50 per cent on site Affordable Housing of which 80 per cent is social rented and 20 per cent intermediate housing). The proposed change is to the mix of house or flat types specified on Parameter Plan 1.
- 10.16. To arrive at an appropriate mix to meet Oxford’s future household need, the applicant engaged in pre-application discussions with the City Council’s Housing Services team. They were steered towards 1-bed and 2-bed flats and away from 3-bed flats, with houses for family units. A specific request was made by the Housing Services team for the development to provide one five-bed unit. This has been incorporated into the reserved matters scheme.
- 10.17. Table 1 sets out the overall mix of the 270 units against the Balance of Dwellings SPD mix – as approved and as proposed. The proposed mix clearly includes a much higher proportion of 2-bed units than 3-bed units. The proportion of 1-bed and 4+-bed units is broadly in accordance with the Balance of Dwellings SPD mix.

	Balance of Dwellings SPD	Outline mix – approved	Variation mix – proposed
<b>1 bed</b>	10-15%	15%	9%
<b>2 bed</b>	25-30%	30%	60%
<b>3 bed</b>	40-55%	40%	21%
<b>4+ bed</b>	10-15%	15%	10%

*Table 1: Overall site mix (270 units)*

- 10.18. The mix of Affordable Housing units was secured by legal agreement for the outline permission. This set out the range of percentages for each size and tenure, which matches the mix specified in the Affordable Housing SPD.
- 10.19. The mix proposed with this application deviates from the approved mix for Affordable Housing. As with the wider site, the main change is that there are more 2-bed units provided and fewer 3-bed units. The changes are set out in Table 2 (Social rent) and Table 3 (Intermediate housing) below:

	Affordable Housing SPD	Outline mix – approved	Variation mix – proposed
<b>1 bed</b>	0-10%	0-10%	6%
<b>2 bed</b>	15-25%	15-25%	43%
<b>3 bed</b>	35-45%	35-45%	22%
<b>4+ bed</b>	10-20%	10-20%	9%
<b>Total</b>	<b>80%</b>		<b>80%</b>

Table 2: Social rent mix (108 units)

	Affordable Housing SPD	Outline mix – approved	Variation mix – proposed
<b>1 bed</b>	0-10%	0-10%	3%
<b>2 bed</b>	5-15%	5-15%	18%
<b>3 bed</b>	0-10%	0-10%	0%
<b>4+ bed</b>	0%	0%	0%
<b>Total</b>	<b>20%</b>		<b>21%</b>

Table 3: Intermediate housing mix (28 units)

10.20. It is noted that emerging policy H2 of the draft Oxford Local Plan 2036, to which only limited weight can be given, is consistent with policy HP3 of the Sites and Housing Plan in requiring 50 per cent on-site affordable of which 80 per cent is to be social rented and 20 per cent intermediate housing. Policy H4 of the draft Oxford Local Plan 2036, to which only limited weight can be given, sets a mix of unit sizes for the affordable element of proposals of 25 or more homes. For completeness, Table 4 showing how the proposed mix would compare with the mix requirement of emerging policy H4:

	Emerging Policy H4 mix	Variation mix – proposed
<b>1 bed</b>	20-30%	9%
<b>2 bed</b>	30-40%	60%
<b>3 bed</b>	20-40%	22%
<b>4 bed</b>	5-10%	8%
<b>5 bed</b>	3-5%	1%
<b>Total</b>	<b>100%</b>	<b>100%</b>

Table 4: Affordable Housing mix (136 units)

10.21. The applicant presented officers with viability appraisals for the outline consented scheme (Scenario A) and the scheme as amended (change to mix of units and development outside the flood plain – Scenario B).

10.22. The consented scheme appraisal for Scenario A showed a residual land value of -£13.699m. The applicant's proposed scheme (Scenario B) appraisal reduced the negative land value to £7.2m. The applicant was prepared to proceed on the basis that profit on Scenario B at £9.8m exceeded the loss on the land value.

- 10.23. Officers engaged an external independent adviser to verify the viability appraisal. The independent appraisal identified potential savings and recommended the adoption of BCIS build costs for benchmarking purposes against other schemes appraised in the City. A surplus land value of £1.997m and profit on costs was potentially possible with the alternative appraisal on Scenario B. The adviser confirmed that whilst a positive land value was achieved with this approach, the land value still fell below Benchmarked Land Value targets and remained unviable.
- 10.24. The applicant revised their submission (appraisals C and D) showing significant savings using benchmarking BCIS costs in comparison to their earlier submissions. The applicant's appraisals remained a negative land value but significantly reduced. The adviser reviewed the approach and confirmed that the principle of the lack of viability remained using benchmarked BCIS data. The approach of the applicant remains that their appraisal for Scenario B shows that the net profit receivable would be greater than the residual land value and that this is sufficient to enable them to proceed with the development. The adviser confirmed that this is a reasonable position to adopt to enable delivery. Officers' advice, therefore, is that the applicant's viability case is sound; the proposed alteration to the mix is necessary to deliver 50 per cent on-site Affordable Housing, and is justified on viability grounds.
- 10.25. Amended Parameter Plan 1 reflects the changes to unit mix proposed with this application, including the addition of a 5 bedroom social rented unit. These changes are supported by the Council's Housing Services team because the greatest housing need is for small flats, and larger family houses are in short supply leading to long waiting times for rehousing. The result of these changes will be more opportunities to house those with the greatest housing need, as the Housing Strategy sets out.
- 10.26. The application complies with the requirements of the legal agreement in respect of providing at least 50 per cent on-site affordable units with a policy compliant mix of social rent and intermediate housing. The deviation from both the Balance of Dwellings and Affordable Housing SPDs, principally in relation to a higher proportion of 2-beds and lower number of 3-beds, is justified by the applicant's viability case, the reduction of developable area due to flood risk and the fact that the mix responds to the greatest housing need in the city for Affordable units. It is noted that, although there is deviation from the mixes set out in the two SPDs, there is still sufficient variation in housing types and consideration of the particular housing needs in Oxford to help establish a balanced and mixed community in accordance with the aims of Core Strategy Policy CS23.
- 10.27. Officers have assessed the proposal against adopted local plan policies, giving limited weight to emerging policies in respect of Affordable Housing and mix of units. Adopted policy HP3 of the Sites and Housing Plan has greater weight than the two SPD documents and the mix of dwellings these specify. The development can only provide 50 per cent on-site Affordable Housing in compliance with HP3 if it varies the mix of units, and this has been demonstrated and justified by the viability appraisal. The proposed change to

the mix is therefore considered an appropriate way to maximise the number of affordable units that can be delivered, thereby achieving the Council's objectives in respect of policy HP3. Officers consider the proposed change to the overall mix of units on the site and to the Affordable Housing mix, on balance, to be acceptable.

#### **d. Noise**

10.28. Condition 18 of the outline consent controls internal sound levels for the houses and flats to safeguard residential amenity. The condition included a requirement that "no single noise event [shall] exceed 45dB  $L_{Amax}$  as recommended in the approved Noise Assessment". The requirement was derived from the noise assessment submitted with the outline application. Current guidance is *not* to set a maximum limit on single noise events as this is very difficult to comply with. For instance, 'noise events' such as slamming a door could breach such a limit.

10.29. The applicant is seeking to amend condition 18 so that noise levels and the safeguarding of residential amenity in relation to noise are controlled in a way that complies with current guidance. Noise Impact Assessment and Survey, Hann Tucker Associates 24103/NIA1/Rev1, dated 26 July 2018 was submitted with this application to set out the proposed approach. Officers agree that the most relevant noise parameter is the overall noise level, rather than one-off noise events, as the means of securing acceptable noise levels for residents. Nevertheless, the revised condition wording proposed would still control single noise events but via an average during the night (23:00 to 7:00), not an absolute limit.

10.30. The proposed amendment to condition 18 is a suitable form of words to secure acceptable noise levels and safeguard future residents which is in line with the NPPF, local plan policies (including emerging local plan policy RE8, to which only limited weight can be given) and with current guidance.

### **11. CONCLUSION**

11.1. Having regards to the matters discussed in the report, officers would make members aware that the starting point for the determination of this application is in accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004 which makes clear that proposals should be assessed in accordance with the development plan unless material considerations indicate otherwise.

11.2. The NPPF recognises the need to take decisions in accordance with Section 38(6) but also makes clear that it is a material consideration in the determination of any planning application (paragraph 2). The main aim of the NPPF is to deliver Sustainable Development, with paragraph 11 the key principle for achieving this aim. The NPPF also goes on to state that development plan policies should be given due weight depending on their consistency with the aims and objectives of the NPPF. The relevant development plan policies are considered to be consistent with the NPPF despite being adopted prior to the publication of the framework.

### *Compliance with Development Plan Policies*

- 11.3. Therefore in conclusion it would be necessary to consider the degree to which the proposal complies with the policies of the development plan as a whole and whether there are any material considerations, such as the NPPF, which is inconsistent with the result of the application of the development plan as a whole.
- 11.4. The application is a minor material amendment to an approved outline scheme and therefore it is only the amendments that need to be assessed. The proposed amendment to housing mix being sought via this variation application has been demonstrated to be necessary to meet the objectives of Sites and Housing Plan policies HP3 and SP30. The proposal would make an efficient use of a site which has been allocated for housing as part of the Council's five year housing supply and therefore deliver much needed affordable and market housing to contribute towards Oxford's housing need.
- 11.5. The proposal complies with development plan policies, only deviating from the mix of units set out in the Balance of Dwellings SPD and the Affordable Housing SPD. There is sufficient variation in housing types and consideration of the particular housing needs in Oxford to help establish a balanced and mixed community on the site in accordance with the aims of policy CS23 of the Core Strategy. Policies CS23 and HP3 have greater weight than the SPD documents, which are designed to provide guidance on particular issues. In this case, deviation from the mixes in the SPD documents has been justified.
- 11.6. The amendments to conditions 3 and 18 proposed with this variation application are minor material amendments. Officers consider these amendments to be reasonable and soundly justified, taking into consideration Oxford's housing needs, the flooding issues on site, the independently verified viability position, and changes to guidance on noise reduction.
- 11.7. Therefore officers consider that the proposal would accord with the development plan as a whole.

### *Material considerations*

- 11.8. The principal material considerations which arise are addressed below, and follow the analysis set out in earlier sections of this report.
- 11.9. National Planning Policy: The NPPF has a presumption in favour of sustainable development. NPPF paragraph 11 states that proposals that accord with the development plan should be approved without delay, or where the development plan is absent, silent, or relevant plans are out of date, granting permission unless any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole; or specific policies in the framework indicate development should be restricted.
- 11.10. Officers consider that the proposal would accord with the overall aims and objectives of the NPPF for the reasons set out within the report. Therefore in

such circumstances, Paragraph 11 is clear that planning permission should be approved without delay. This is a significant material consideration in favour of the proposal.

- 11.11. Officers would advise members that having considered the application carefully including all representations made with respect to the application, that the proposal is considered to be acceptable in terms of the aims and objectives of the National Planning Policy Framework, and relevant policies of the Sites and Housing Plan 2011-2026, Oxford Core Strategy 2026, and Oxford Local Plan 2001-2016, when considered as a whole, and that there are no material considerations that would outweigh these policies.
- 11.12. Therefore it is recommended that the Committee resolve to grant planning permission for the development proposed subject to the conditions set out in section 12 of this report and subject to the satisfactory completion (under authority delegated to the Acting Head of Planning Services) of a deed of variation to the legal agreement for outline consent 14/02940/OUT.

## **12. CONDITIONS**

- 12.1. If planning permission is granted, the previous conditions applied to the outline consent, 14/02940/OUT, (updated where necessary) shall be applied to this variation application decision, with the exception of conditions 3 and 18 which, subject to any refinements, amendments, additions and/or deletions as the Acting Head of Planning Services considers reasonably necessary, shall be reworded as set out below.

### **Condition 3**

The detailed drawings submitted pursuant to condition 4 of this permission (the reserved matters) shall generally accord with the specifications in the application and the indicative parameter plans listed below;

Parameter Plan 1 - Types of dwelling - 2300 REV A  
Parameter Plan 2 - Landscape strategy - 2301 REV A  
Parameter Plan 3 - Movement and access - 2302 REV A  
Parameter Plan 4 - Building heights - 2303 REV A  
Parameter Plan 5 - Parking strategy - 2304 REV A

Preliminary Ecological Appraisal (ref.Env01) (January 2014)  
Biodiversity Offsetting Report (ref.ECO01) (September 2014)  
Reptile Method Statement (ref.GC/001785) (September 2014)  
Ground Investigation Interpretive Report (ref.JER6381) (October 2014)  
Preliminary Risk Assessment (ref.728730) (February 2014)  
Transport Assessment (ref.GC1931) (September 2014)  
Travel Plan (September 2014)  
Flood Risk Assessment - Stage 1 (ref.CS/071256/ST) (June 2014)  
Flood Risk Assessment Addendum (v.2) (February 2015)  
Environmental Noise Planning Assessment (ref.A786/R01) (October 2014)  
Air Quality Assessment (ref.34236R1) (December 2014)  
Archaeological Desk-Based Assessment (September 2014)

Arboricultural Report and Impacts Assessment (September 2014)

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.

### **Condition 18**

The following internal noise levels shall be adopted as minimum design targets for all residential units hereby approved:

- Living rooms between 07:00 and 23:00 shall be 35 dB LAeq, 16 hour
- Dining rooms between 07:00 and 23:00 shall be 40 dB LAeq, 16 hour
- Bedrooms between 07:00 and 23:00 shall be 35 dB LAeq, 16 hour
- Bedrooms between 23:00 and 07:00 shall be 30 dB LAeq, 16 hour

The average L<sub>max,f,t</sub> during the night plus 1 standard deviation shall not exceed 45dBA L<sub>max,f</sub> in bedrooms at night time between 23:00 and 07:00 hours, for normal background ventilation rates (i.e. windows closed, but background 'trickle' ventilation provided) unless otherwise agreed in writing by the local planning authority.

Reason: To safeguard the amenities of the residents of the proposed development, in accordance with policies CP10 and CP19 of the Oxford Local Plan 2001-2016.

## **13. APPENDICES**

- **Appendix 1** – Decision notice 14/02940/OUT

## **14. HUMAN RIGHTS ACT 1998**

- 14.1. Officers have considered the implications of the Human Rights Act 1998 in reaching a recommendation to approve 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.

## **15. SECTION 17 OF THE CRIME AND DISORDER ACT 1998**

- 15.1. 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 grant planning permission, officers consider that the proposal will not undermine crime prevention or the promotion of community.