

Agenda

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West Area Planning Committee

Date: **Tuesday 11 February 2014**

Time: **6.30 pm**

Place: **The Old Library, Town Hall**

For any further information please contact:

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West Area Planning Committee

Membership

Chair	Councillor Oscar Van Nooijen	Hinksey Park;
Vice-Chair	Councillor Michael Gotch	Wolvercote;
	Councillor Elise Benjamin	Iffley Fields;
	Councillor Anne-Marie Canning	Carfax;
	Councillor Bev Clack	St. Clement's;
	Councillor Colin Cook	Jericho and Osney;
	Councillor Graham Jones	St. Clement's;
	Councillor Bob Price	Hinksey Park;
	Councillor John Tanner	Littlemore;

The quorum for this meeting is five members. Substitutes are permitted

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AGENDA

Pages

1 **APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

2 **DECLARATIONS OF INTEREST**

3 **CASTLE MILL, ROGER DUDMAN WAY: 11/02881/FUL**

The Head of City Development has submitted a report which details a planning application for extension to existing student accommodation at Castle Mill to provide additional 312 postgraduate units consisting of 208 student study rooms, 90 x 1 bed graduate flats and 14 x 2 bed graduate flats, plus ancillary facilities, 360 covered cycle spaces and 3 car parking spaces.

Officer recommendation: That the Committee NOTE the progress reported.

Due to its size, this item has been published as a supplement to the main agenda.

4 **AVIS RENT A CAR LTD, 1 ABBEY ROAD 13/01376/FUL**

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The Head of City Development has submitted a report which details a planning application to demolish the existing buildings. Erection of 9 x 3 storey, 4 bed dwelling houses (Use class C3).

Officer recommendation: That the Committee REFUSE the application for the following reasons:-

- 1 The site is of a size, layout and location close to the city centre such that it could reasonably accommodate residential development to a significantly greater density than that proposed through the provision of a greater mix of dwelling sizes and types. The site therefore has the capacity to provide at least 10 dwellings however the proposals fail to make provision for 50% of the dwellings on site to be affordable homes, or to robustly justify on viability grounds either a lesser proportion on site or a financial contribution towards off-site provision. Consequently the proposals fail to make sufficient provision towards affordable housing to the detriment of the mix and balance of dwellings within the City contrary to the requirements of policy HP3 of the Sites and Housing Plan 2011-2026 and policy CS24 of the Oxford Core Strategy 2026.
- 2 The development proposes nine very large houses that are equivalent to 5 bedroom units. The proposals therefore fail to provide an acceptable mix of dwellings within the site to the detriment of the range of housing stock provided for residents of the City as a whole as well as the local community. Consequently the proposals fail to accord with the requirements of policy CS23 of the Oxford Core Strategy 2026 through the associated requirements of the Balance of Dwellings SPD.

The Head of City Development has submitted a report which details a planning application to demolish existing buildings and erection of 2 x 4-bedroom semi-detached dwelling houses (Use Class C3) and new building with office (Use Class B1) on ground floor and 1 x 2-bedroom flat (Use Class C3) above. Provision of car parking, cycle parking and bin storage facilities.

Officer recommendation: That the Committee REFUSE planning permission for the following reasons:

- 1 That the proposed development would not constitute an appropriate modernisation of a key protected employment site, by reason that the amount of employment space retained within this mixed-use scheme along with the overall form and layout of the proposal would not be adequate to maintain its status as a key protected employment site and secure or create employment important to Oxford's local workforce, and maintain a sustainable distribution of business premises and employment land in Oxford. This would be considered contrary to Policy CS28 of the Oxford Core Strategy 2026
- 2 The proposed development has been designed in a manner that has the appearance of a residential development rather than a mixed-use scheme where the employment and residential uses contained within the buildings are clearly articulated in the built form. The employment use on site has a historical significance which reflects the historical development of the street and surrounding suburb and the site is designated as a Key Protected Employment Site. The absence of any articulation of the employment use within the form, layout and appearance of Plot 3 would not reinforce the local distinctiveness and significance of the site, and create a sense of place for the Key Protected Employment Site within the street. Furthermore the applicant has failed to demonstrate that the form and layout of Plot 3 has been designed to enable the employment use to function properly over the lifetime of the development and assist in maintaining the sites status as a key protected employment site. As a result the proposed development would not meet the aims for good design as set out within the National Planning Policy Framework, Oxford Core Strategy Policy CS18, Sites and Housing Plan Policy HP9.
- 3 That the proposed development would fail to provide adequate outdoor space for the 2 bedroom flat in Plot 3, by reason that the commercial unit would have a full height window in the rear elevation which would directly overlook this space and also allow the commercial unit access to the private garden compromising the privacy and quality of this space to the detriment of the living conditions of the future occupants of this dwelling. This would be considered contrary to Sites and Housing Plan Policy HP13.

The Head of City Development has submitted a report which details two applications to:

- (i) 13/03339/CT3 – Internal alterations involving formation of new residential unit on second floor and enlargement of existing residential unit on the third floor involving removal of staircase from first to second floor. Removal of dumb waiter, insertion of new partitions, formation of new openings, new doors and new secondary glazing. External alterations to upgrade existing roof access and new door fronting Broad Street.
- (ii) 13/03338/CT3 – Use of basement, ground and first floor as retail unit (use of class A1). Formation of 1x2 bed flat on second floor and enlargement of existing residential unit on third floor.

Officer recommendation: That the Committee GRANT planning permission (13/03338/CT3) subject to the following conditions:

- 1 Development begun within time limit
- 2 Develop in accordance with approved plans
- 3 Implementation of programme of archaeological investigation
- 4 Details of refuse storage

And RAISE NO OBJECTIONS to the listed building consent (13/03339/CT3) subject to the following conditions:

- 1 Commencement of works LB/CAC consent
- 2 LB/CAC consent - approved plans
- 3 7 days notice to LPA
- 4 LB notice of completion
- 5 Further works - fabric of LB - fire regs
- 6 Arch - Implementation of prog + historic post-medieval remains,
- 7 Materials - samples
- 8 Internal features
- 9 Further details for windows, doors, fireplace and service run
- 10 Repair of damage after works

The Head of City Development has submitted a report which details two applications to:

- 13/03226/CT3: Alterations involving removal of panels and replacement with glazing at units 131-141, Avenue 4.
- 13/02533/CT3: Listed Building Consent for removal of panels and replacement with glazing at units 131-141, Avenue 4.

Officer recommendation: That the Committee GRANT planning application (13/03226/CT3) subject to the following conditions:

- 1 Development begun within time limit

- 2 Develop in accordance with approved plans
- 3 Samples in Conservation Area

And RAISE NO OBJECTIONS to listed building consent (13/02533/CT3) subject to the following conditions:

- 1 Commencement of works LB/CAC consent
- 2 LB consent - works as approved only
- 3 7 days' notice to LPA
- 4 LB notice of completion
- 5 Repair of damage after works
- 6 Glass not to be tinted in colour, further details to be submitted

8 **WHITE HOUSE ROAD: 13/03320/PA11**

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The Head of City Development has submitted a report which details an application seeking prior approval for development comprising demolition of existing and erection of replacement footbridge under Part 11 Class A Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995.

Officer recommendation: That the Committee GRANT prior approval to the application.

9 **PLANNING APPEALS**

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To receive information on planning appeals received and determined during December 2013.

The Committee is asked to note this information.

10 **MINUTES**

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Minutes from 7 January 2014

Recommendation: That the minutes of the meeting held on 7 January 2014 be APPROVED as a true and accurate record.

11 **FORTHCOMING APPLICATIONS**

The following items are listed for information. They are not for discussion at this meeting.

Westgate: 13/02557/OUT: Retail

Oxpens Road: 13/02558/FUL: Temporary car park.

Redbridge Park & Ride: 13/02563/FUL: Temporary coach parking.

Elsfield Way: 13/03454/CT3: Residential development.

110 - 120 Botley Road: 14/00067/FUL: Retail supermarket.

Summerfields School, Summertown: 13/03393/FUL: new pavilion and function room.

30 Plantation Road: 13/03400/FUL: Extensions.
13 Farndon Road: 13/03355/FUL: Extensions.
12 Alma Place: 13/03252/FUL: Extensions.
272 Woodstock Road: 13/03379/FUL
19 Plough Close: 13/0147/FUL
35 Sunderland Avenue: 13/00181/FUL

12 DATE OF NEXT MEETING

The Committee NOTES the following future meeting dates:

Tuesday 11 March 2014 – Westgate application

Tuesday 18 March 2014

Tuesday 8 April 2014 (and Thursday 10 April if necessary)

Wednesday 7 May 2014 (and Friday 9 May if necessary)

DECLARING INTERESTS

General duty

You must declare any disclosable pecuniary interests when the meeting reaches the item on the agenda headed "Declarations of Interest" or as soon as it becomes apparent to you.

What is a disclosable pecuniary interest?

Disclosable pecuniary interests relate to your* employment; sponsorship (ie payment for expenses incurred by you in carrying out your duties as a councillor or towards your election expenses); contracts; land in the Council's area; licenses for land in the Council's area; corporate tenancies; and securities. These declarations must be recorded in each councillor's Register of Interests which is publicly available on the Council's website.

Declaring an interest

Where any matter disclosed in your Register of Interests is being considered at a meeting, you must declare that you have an interest. You should also disclose the nature as well as the existence of the interest.

If you have a disclosable pecuniary interest, after having declared it at the meeting you must not participate in discussion or voting on the item and must withdraw from the meeting whilst the matter is discussed.

Members' Code of Conduct and public perception

Even if you do not have a disclosable pecuniary interest in a matter, the Members' Code of Conduct says that a member "must serve only the public interest and must never improperly confer an advantage or disadvantage on any person including yourself" and that "you must not place yourself in situations where your honesty and integrity may be questioned". What this means is that the matter of interests must be viewed within the context of the Code as a whole and regard should continue to be paid to the perception of the public.

*Disclosable pecuniary interests that must be declared are not only those of the member her or himself but also those member's spouse, civil partner or person they are living with as husband or wife or as if they were civil partners.

CODE OF PRACTICE FOR DEALING WITH PLANNING APPLICATIONS AT AREA PLANNING COMMITTEES AND PLANNING REVIEW COMMITTEE

Planning controls the development and use of land in the public interest. Applications must be determined in accordance with the Council's adopted policies, unless material planning considerations indicate otherwise. The Committee must be conducted in an orderly, fair and impartial manner.

The following minimum standards of practice will be followed. A full Planning Code of Practice is contained in the Council's Constitution.

1. All Members will have pre-read the officers' report. Members are also encouraged to view any supporting material and to visit the site if they feel that would be helpful
2. At the meeting the Chair will draw attention to this code of practice. The Chair will also explain who is entitled to vote.
3. The sequence for each application discussed at Committee shall be as follows:-

- (a) the Planning Officer will introduce it with a short presentation;
- (b) any objectors may speak for up to 5 minutes in total;
- (c) any supporters may speak for up to 5 minutes in total;

Speaking times may be extended by the Chair, provided that equal time is given to both sides. Any non-voting City Councillors and/or Parish and County Councillors who may wish to speak for or against the application will have to do so as part of the two 5-minute slots mentioned above;

- (d) voting members of the Committee may raise questions (which shall be directed via the Chair to the lead officer presenting the application, who may pass them to other relevant Officer/s and/or other speaker/s); and

- (e) voting members will debate and determine the application.

4. Members of the public wishing to speak must send an e-mail to sclaridge@oxford.gov.uk giving details of your name, the application/agenda item you wish to speak on and whether you are objecting to or supporting the application (or complete a 'Planning Speakers' form obtainable at the meeting and hand it to the Democratic Services Officer or the Chair at the beginning of the meeting)
5. All representations should be heard in silence and without interruption. The Chair will not permit disruptive behaviour. Members of the public are reminded that if the meeting is not allowed to proceed in an orderly manner then the Chair will withdraw the opportunity to address the Committee. The Committee is a meeting held in public, not a public meeting.
6. Members of the public are reminded that the recording of the meeting (audio or visual) is not permitted without the consent of the Committee, which should be sought via the Chair
7. Members should not:-
 - (a) rely on considerations which are not material planning considerations in law;
 - (b) question the personal integrity or professionalism of officers in public;
 - (c) proceed to a vote if minded to determine an application against officer's recommendation until the reasons for that decision have been formulated; and
 - (d) seek to re-design, or negotiate amendments to, an application. The Committee must determine applications as they stand and may impose appropriate conditions.

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WEST AREA PLANNING COMMITTEE

11th February 2014

Application Number: 13/01376/FUL

Decision Due by: 29th July 2013

Proposal: Demolition of existing buildings. Erection of 9 x 3 storey, 4 bed dwelling houses (Use class C3)

Site Address: Avis Rent A Car Ltd, 1 Abbey Road **Appendix 1**

Ward: Jericho and Osney

Agent: Banner Homes Midlands Ltd

Applicant: Banner Homes Midlands Ltd

Recommendation:

APPLICATION BE REFUSED

For the Following Reasons:-

- 1 The site is of a size, layout and location close to the city centre such that it could reasonably accommodate residential development to a significantly greater density than that proposed through the provision of a greater mix of dwelling sizes and types. The site therefore has the capacity to provide at least 10 dwellings however the proposals fail to make provision for 50% of the dwellings on site to be affordable homes, or to robustly justify on viability grounds either a lesser proportion on site or a financial contribution towards off-site provision. Consequently the proposals fail to make sufficient provision towards affordable housing to the detriment of the mix and balance of dwellings within the City contrary to the requirements of policy HP3 of the Sites and Housing Plan 2011-2026 and policy CS24 of the Oxford Core Strategy 2026.
- 2 The development proposes nine very large houses that are equivalent to 5 bedroom units. The proposals therefore fail to provide an acceptable mix of dwellings within the site to the detriment of the range of housing stock provided for residents of the City as a whole as well as the local community. Consequently the proposals fail to accord with the requirements of policy CS23 of the Oxford Core Strategy 2026 through the associated requirements of the Balance of Dwellings SPD.

Main Local Plan Policies:

Oxford Local Plan 2001-2016

- CP1** - Development Proposals
- CP6** - Efficient Use of Land & Density
- CP8** - Design Development to Relate to its Context
- CP9** - Creating Successful New Places
- CP10** - Siting Development to Meet Functional Needs
- CP11** - Landscape Design

Core Strategy

- CS2** - Previously developed and greenfield land
- CS18** - Urban design, town character, historic environment
- CS23** - Mix of housing
- CS24** - Affordable housing
- CS28** - Employment sites

Sites and Housing Plan 2011-2026 (SHP)

- SP1** - Avis, Abbey Road
- HP2** - Accessible and Adaptable Homes
- HP9** - Design, Character and Context
- HP11** - Low Carbon Homes
- HP12** - Indoor Space
- HP13** - Outdoor Space
- HP14** - Privacy and Daylight
- HP15** - Residential cycle parking
- HP16** - Residential car parking

Other Material Considerations:

- National Planning Policy Framework
- Balance of Dwellings SPD
- Affordable Housing and Planning Obligations SPD

Relevant Site History:

92/00687/NF - Change of use of part of buildings from Builders Merchants to Car Rental Office – **Permitted 27.11.1992**

98/01548/NF - Change of use to car hire/storage in conjunction with continued use of adjacent land for car hire, car rental office, car preparation area & car storage (including extension of 96/1309/NT) for temporary period of 10 years – **Permitted 23.11.1999**

Representations Received:

One comment received in general support of the application though citing the following concerns:

- The 2007 flooding caused some cellar and underfloor flooding to 29 Abbey Road and the front door, road, path and entrance were flooded as the current drains do not cope. A system needs to be installed that stores excess water to dispense slowly, avoiding flooding as the sewers are currently inadequate. With nine new dwellings upgraded preventative measures must be instigated for the benefit of the whole road;
- No new visitor parking permits should be issued. The Council should consider on-site parking for one car per home which would mean reducing the back garden space.

Statutory and Internal Consultees:

Thames Water Utilities Limited – No objection.

Drainage Officers – SuDS methods should be used to aid drainage including porous pathways.

Local Highway Authority (Oxfordshire County Council) - Although not accompanied by a transport statement the impact in traffic terms is minimal in comparison to the previous use and, to ensure the proposal is car parking free, the development should be excluded from the adjoining controlled parking zone. It is the LHA's view that only visitor parking permits should be allowed. Existing dropped kerbs should also be reinstated at the applicant's cost prior to occupation of the development.

Environment Agency – The proposals are likely to reduce the risk of flooding locally and, subject to the LPA being satisfied with the flood management plan for future residents, no objection is raised. If approved, a number of conditions are recommended including those summarised as follows:

- The flood risk measures identified in the flood risk assessment (FRA) shall be carried out;
- Finished floor levels to be no lower than 58.0m above ordnance datum;
- A phased contamination risk assessment to be carried out.

Environmental Development – A condition should be imposed on any planning permission requiring a scheme for the remediation of identified contaminants to be submitted and approved with the works necessary undertaken as agreed.

Officers' Assessment:

Application Site and Locality

1. The application site comprises the former Avis car rental premises on Abbey Road just outside the city centre. Abbey Road is located off Botley Road, a main arterial route into the city centre from the west. With the exception of the application site, Abbey Road is residential in nature and typified by pairs of two and a half storey semi-detached houses dating back to the late 19th century that are of a distinctive uniformity in their scale, form and appearance, which gives the street a strong

established rhythm. This pattern to the housing is reinforced by the fact that they are all set back from the road frontage by small front gardens with no space for the off-street parking of cars.

2. Avis vacated the site in late 2013. The former car rental site is something of an anomaly within the street given its commercial use and industrial in appearance, dating back many years to when the site was formerly used as a builders' merchants. The appearance of the site is clearly detracting from the strong uniformity to the built development within the street. To the rear of the site lies the River Thames from which the site is separated by a painted brick boundary wall, though the upper parts of the rear walls of the buildings are visible over this boundary wall. This gives the site an unsightly appearance from the adjacent towpath.

3. The site is within walking distance of the city centre and the railway station as well as bus stops on regular bus routes. Abbey Road as well as its surrounding residential roads are however subject to significant parking pressure and congestion on Botley Road can make egress from Abbey Road difficult at times.

4. The site is shown in its context on the site location plan attached as **Appendix 1**.

Description of Proposed Development

5. The application seeks consent for the demolition of the existing buildings on the site and its redevelopment through the erection of nine x 4 bedroom houses along with associated bin and cycle storage.

6. Officers' consider the principal determining issues in the case to be:

- Principle of development;
- Urban Design;
- Affordable Housing;
- Mix of Dwellings;
- Standard of Accommodation;
- Impact on Neighbouring Properties;
- Highway Implications;
- Flood risk;
- Ecology;
- Archaeology; and
- Sustainability.

Principle of Development

7. The application site represents previously development land and is allocated through policy SP1 of the Sites and Housing Plan 2011-2026 (SHP) for residential development. As such the principle of its redevelopment has already been established. Policy SP1 simply states that planning permission will be granted for residential development on the site though it requires any planning application to be accompanied by a site-specific flood risk assessment and for development to incorporate any necessary mitigation measures. It also adds that development should not have an adverse impact upon the setting of the nearby Osney Town Conservation Area.

Urban Design

8. Abbey Road is characterised by a strong uniformity to its houses within the street both in terms of their layout as well as appearance with the fronts of buildings remaining predominantly unaltered. The street features mainly 2 ½ storey family sized houses constructed from the same light coloured brick under blue slate roofs with each featuring similar hipped roof dormer windows and ground floor bay windows with timber sashes. Officers consider the strong rhythm and uniformity of the street to be an important characteristic that is particularly important to preserve. The application site has an unsightly industrial appearance that is detracting significantly from the character and quality of the street and its redevelopment is, in principle, welcomed.

9. Policies CP1 and CP8 of the Local Plan as well as policy HP9 of the SHP require new buildings to relate to their setting to strengthen, enhance and protect local character. Policy CP8 states that planning permission will only be granted where the siting, massing and design of proposed development creates an appropriate visual relationship with the form, grain, scale and materials evident in the surrounding area.

10. The scheme proposes three terraces each comprised of three houses. The houses would all be 2 ½ storeys in height. Whilst the immediate area generally features pairs of semi-detached houses there are examples of smaller terraces within the street and officers consider this to be appropriate. The houses proposed are significant in size with what appears to be notably greater floor area than other existing houses however, from their front elevations, they are consistent with the scale of the majority of surrounding houses. They are though, greater in height than the adjacent terrace (Nos. 3, 5 and 7) given that these are two storey houses and do not feature steep roof pitches with space for loft accommodation unlike the majority of houses within the street. The proposed houses do however have a greater depth than existing houses in the street and their rearward projection will be apparent when entering Abbey Road where a side view of Unit 1 would be available. The houses are to be sited towards the front of their plots with only small amenity areas remaining which is in common with the layout of the other houses within the street so as to retain the established pattern of development.

11. From their front elevations the houses are traditional in appearance and take reference from many of the notable architectural features found on other houses within the street including the use of bay windows, hipped roof dormer windows with decorative finials, front doors within stone surrounds, sash windows and the use of light brick for the external walling as well as blue slate roof coverings to match the surrounding houses. Consequently officers are comfortable that, from Abbey Road, the proposed new houses would integrate well within the streetscene in accordance with the requirements of policies CP1 and CP8 of the Local Plan as well as policy HP9 of the SHP.

12. From the rear the houses have a slightly more contemporary appearance though still utilising a relatively traditional form. A balcony is proposed that extends across each terrace at first floor level to allow views out over the river and the allotments to the west. Screens would be installed to provide privacy within each balcony for the occupants. Within the rear gable ends there are significant levels of fenestration to allow generous lighting and a pleasant outlook from the main bedroom. Such an

approach is considered to be entirely appropriate in design terms particularly given that it will not affect how the new houses would be interpreted from their principal viewing points.

13. The site is separated from Osney Town Conservation Area by Botley Road and the River Thames though at its closest is only approximately 50m from its boundary. Policy SP1 of the SHP states that “*development of the site should not have an adverse impact upon the setting of the Osney Town Conservation Area*”. Policy HE7 of the Local Plan also requires development to preserve the special character and appearance of a conservation area.

14. For the reasons already set out, the proposals represent a significant improvement upon the current appearance of the site to the benefit of the Osney Town Conservation Area, the Abbey Road streetscene as well as enjoyment of use of the Thames towpath. Consequently, officers are satisfied that the proposals will form an appropriate visual relationship with the surrounding area in accordance with the requirements of development plan policy.

Affordable Housing

15. The application proposes nine large houses that are approximately 200sq m in floor space each. Whilst the description of the proposed development describes the dwellings as four bedroom units they all include a study room that is very capable of being used as a bedroom. Officers therefore consider the houses proposed to be five bedroom dwellings and will continue to refer to them as such.

16. 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.

17. Whilst officers consider it important that new buildings are in character with the established development in the street, the buildings proposed provide a very significant amount of floorspace the building envelope could, very easily, be subdivided to provide a mix of dwelling sizes and types. This could include flats and houses to a good standard without adversely affecting the character of the street. Furthermore, and to support this position, policy CS23 of the Core Strategy requires a mix of dwellings on development sites and refers to acceptable mixes for an area set out in the Balance of Dwellings (BoDs) SPD. This is discussed further in the next section of this report though it should be noted that the proposals fail to provide an acceptable mix of dwellings for the site as required by policy CS23 given the provision of only very large five bedroom homes.

18. Supported by the failure to provide an acceptable mix of dwellings on the site, officers are firmly of the view that a greater number of dwellings could be provided within the buildings proposed such that officers conclude that the site has the capacity to provide 10 or more dwellings. For this reason, officers are of the view that Policy HP3 of the SHP should be applied rather than policy HP4 of the SHP which relates to residential developments on sites with capacity for 4 to 9 dwellings.

19. Policy HP3 of the SHP requires 50% of dwellings on the site to be affordable

homes with 80% of these social rent and 20% intermediate in tenure. Where such affordable housing provision makes a development unviable, a developer must demonstrate this robustly by working through the cascade approach set out in the Affordable Housing and Planning Obligations SPD by, firstly, reducing the proportion of affordable housing, then introducing more intermediate housing and finally, if still unviable, moving towards a commuted sum towards off-site provision starting at 15% of the sales values of the dwellings.

20. Based on submissions made to the Council as part of the application, the applicant does not accept that policy HP3 of the SHP is relevant in this case and that, instead, policy HP4 applies. Policy HP4 requires a financial contribution towards off-site affordable housing amounting to 15% of the final sales values of the dwellings as well as an administration and monitoring fee amounting to 5% of the total sales values. Initially the applicant offered a fixed sum of £658,000 (equivalent to approximately 10% of the projected sales values) towards off-site affordable housing though officers did not consider their justification for departing from the policy on viability grounds to be justified or robust, for the reasons set out below. Following re-negotiations between the applicant and landowner, the applicant now proposes to meet the requirements of policy HP4 in full and has put this in writing to the Council. It is expected that 15% of the final sales values would amount to approximately £1.1 million, although it should be noted that the actual amount would only be determined once 50% of the units were sold or occupied.

Viability appraisal

21. As set out above and notwithstanding the applicant's offer of a financial contribution towards affordable housing, officers do not accept that policy HP4 of the SHP is appropriate to apply to the proposals. It is thus necessary for the applicant to demonstrate that provision of 50% on-site affordable housing of the required tenure split would make the development unviable, and then work through the policy cascade outlined in paragraph 19 above. The applicants have sought to do this through the submission of the following documents:

- Affordable Housing Viability Report dated June 2013 produced by Banner Homes Midlands Ltd;
- Letter dated 13th August 2013 from Banner Homes ref: AP001;
- Email dated 10/10/13 containing viability analysis of on-site affordable housing for a scheme of 14 dwellings.

22. The Council's preferred methodology for assessing viability is based on Residual Land Value (RLV). In simple terms, this works out what a developer could afford to pay for a site it wishes to develop (the RLV). This is calculated as the difference between the Gross Development Value (GDV) – i.e. what the completed development is worth when sold – and the total cost of carrying out the development, including an appropriate margin of developer profit. The RLV is then compared with the Existing Use Value (EUV), which is the value of the site should it be sold in its current use and condition. If the RLV is greater than the EUV, then the scheme is technically viable. However, in reality, the landowner will normally expect an uplift in the value (EUV) of their land, in order to motivate them to bring the site to the market. This uplift is, effectively, what the NPPF (paragraph 173) refers to as a 'competitive return to a willing landowner'.

23. Viability appraisal however necessitates that a number of assumptions and estimates are made to be fed into the appraisal model. Even small differences in these assumptions can make a significant difference to the outcome of the appraisal. Therefore, it is important that all figures fed into the appraisal are clearly justified with appropriate evidence to ensure a robust viability appraisal.

24. Based on the viability appraisal provided in support of the application, and subsequent submissions as listed in paragraph 21 above, officers are not convinced that affordable housing could not be delivered on site whilst still maintaining viability. In particular, the applicants have provided a viability appraisal for the scheme working through the cascade approach set out in the Affordable Housing and Planning Obligations SPD. Even without contesting some of the other cost assumptions made by the applicants (notwithstanding paragraph 27), officers are of the view that, if the landowner were looking for a more reasonable return on the value of the land, that the development would become viable at cascade step 1 (as shown in the letter dated 13th August 2013) if 40% of the dwellings on the site were affordable. Officers do not accept the level of uplift in value of the land that it is claimed the landowner requires to achieve a competitive return. In this case, the existing use of the site is an untenanted car rental premises. When the site was tenanted by Avis the site was valued at circa £500,000 for ongoing commercial use, based on a valuation carried out by professional surveyors.

25. Based on the viability appraisal initially submitted by the applicant, it is assumed that the land owner in this case would require a sale price of £1,101,499. This is 120% greater than the value of the site when it was occupied by a car rental firm. In contrast, the Affordable Housing Viability Study that underpinned the SHP showed that an increase in site value of 15-30% would normally be sufficient to incentivise a landowner to sell their land. A further material consideration is the Council's Affordable Housing and Planning Obligations SPD which makes it clear that overpayment for land is not a sufficient reason for a development to fail to make provision towards affordable housing.

26. Based on the viability appraisal submitted by the applicant it is officers' view that if a more reasonable increase in land value were assumed, the development would be able to make provision for a policy HP3 compliant level of on-site affordable housing even if all other assumptions in the viability appraisals submitted were assumed to be correct.

27. Further issues identified by officers regarding the viability appraisal, and therefore pointing to a lack of robustness, are:

- a) The margin of developer profit assumed in the appraisal is higher than officers would normally consider reasonable. Whilst the applicant has stated in an email that the margin assumed is the minimum acceptable to secure project finance, and represents the industry benchmark, this statement has not been justified and is therefore not accepted by officers.
- b) The Gross Development Value (GDV), i.e. the combined sale value of the completed units, has not been adequately justified. The Affordable Housing

and Planning Obligations SPD requires valuations from three professionally qualified independent sources, taking account of real current market values for the type and location of development. Adequate justification has not been provided in this case.

- c) The build costs assumed are significantly higher than those published by the Building Costs Information Service (BCIS). Whilst a single-page summary of construction costs, prepared in-house by the applicant, is appended to the viability appraisal, this provides inadequate detail, hence the build costs have not been adequately justified and are therefore not considered robust.
- d) The assumed finance rate (cost of borrowing), arrangement fees, professional and legal fees, and sales and marketing have not been fully justified.

28. It should be noted that following submission of the application, the applicant then provided a further set of appraisals based on a hypothetical scheme of 14 units, again applying the cascade approach set out in SHP Policy HP3. This sought to demonstrate that even a scheme consisting of a higher number of units would not be viable whilst providing a minimum 40% of affordable units on-site, therefore necessitating a financial contribution for off-site provision. However, broadly the same assumptions, including on land value, were used in this round of testing as for the originally submitted appraisal. Furthermore, the Gross Development Value has not been properly evidenced through reference to comparable market data for the different types of unit (i.e. houses and flats). This further viability work is not therefore considered robust or justified.

29. In summary, the applicant has failed to properly justify, using the cascade approach, why they have only offered a cash-in-lieu financial contribution.

30. Delivering affordable housing on smaller sites represents an important part of the Council's need to deliver a mix of affordable housing across the city where it is interspersed amongst other private housing. The failure of the scheme to make on-site provision of affordable housing without adequate justification as required by policy HP3 of the SHP is therefore considered to be harmful to achieving mixed and balanced communities in Oxford which, officers conclude, should result in its refusal.

Mix of Dwellings

31. Policy CS23 of the Core Strategy requires proposals for residential development to provide a mix of dwellings on a site in accordance with proportions set out in the BoDs SPD. This is to assist in the provision of mixed and balanced communities both locally and across the city as a whole.

32. The site lies within the Jericho and Osney neighbourhood area as set out in the BoDs SPD which is identified as an amber area. In this location, residential developments should not include more than 50% of the units as 4+ bedroom dwellings and at least 30% should be 3 bedroom units with some proportion of flats welcomed. Indeed it is worthy of note that the site is very close to the city centre area as set out in the BoDs SPD where, in paragraphs 69 and 70, it encourages a greater proportion of flats to ensure a higher density of development in such a sustainable location which would be more suitable to being car-free.

33. The proposals therefore fail to provide any mix of dwellings on the site, let alone a mix that accords with the ranges set out in the BoDs SPD. The provision of very large five bedroom houses will contribute little towards the housing needs of the city's residents and, in particular, fails to provide smaller family dwellings within Oxford or respond to its proximity to the city centre by providing a greater proportion of flats.

34. Consequently the proposals fail to assist in the creation of mixed and balanced communities as required by policy CS23 of the Core Strategy and supported by Government guidance set out in the NPPF. For this reason the proposals should also be refused.

Standard of Accommodation

35. The application proposes nine large houses which all comfortably exceed the minimum size standards for family houses as set out in policy HP12 of the SHP. Each of the rooms are of good usable sizes with a reasonable quality of outlook, light and storage space. Policy HP2 of the SHP requires all new dwellings to meet Lifetime Homes standard and, on developments of four or more dwellings, at least one should meet wheelchair accessible standards. The houses broadly meet the criteria internally though have steps up to entrance floor levels to ensure they are less susceptible to flooding which prevents full compliance with the standards. Officers are therefore satisfied that the proposals have taken all practical steps to comply with the accessible homes standards required by policy HP2.

36. Policy HP13 of the SHP requires all family homes to have access to private outdoor space proportionate in size to the house and equivalent to at least the footprint of the house. Outdoor amenity spaces should also be of a good usable layout and quality.

37. The houses are very large and, on balance, the gardens are considered to be of an acceptable size and quality given their location close to the city centre and that they are of a comparable size and shape to rear gardens serving other houses in the immediate area. Balconies are also included. The gardens will experience overlooking from upper floor windows in other houses but this mutual overlooking is common to other properties in the street and no concern is raised in this respect.

38. Each house would have access to bin and cycle storage facilities with the majority having side access through to the rear garden. The mid-terrace houses all benefit from rear access out onto the towpath. Consequently officers are satisfied that the external quality of the houses will be to a reasonable standard in compliance with the requirements of policy HP13 of the SHP.

Impact on Neighbouring Properties

39. Policies CP1 and CP10 of the Local Plan require development proposals to adequately safeguard neighbouring residential amenity. Policy HP14 of the SHP reflects these requirements, though it's specific to the impact of new residential development.

40. The closest of the proposed houses to the existing house of No.4 Botley Road would be separated from it by a distance of 20m. It should be noted that this distance

represents the separation from the side wall of the proposed house to the rear wall of the existing house rather than a “back-to-back” distance where the impacts of overlooking are typically greater. Officers consider this separation distance to be reasonable and in accordance with the standards set out in policy HP14 of the SHP to prevent any significant overbearing of No.4 Botley Road’s rear garden or unacceptable loss of outlook. No windows are proposed in the side elevation of Unit 1 so no loss of privacy should occur for occupiers of 4 Botley Road.

41. Nos. 6 and 8 Botley Road form part of an annexe to the River Hotel and so the impact on the rear garden is less significant. However, whilst some overlooking of this space will occur from upper floor windows and rear facing balconies of proposed houses, this is not considered to be objectionable given its hotel use and the distances involved.

42. An existing storage shed structure runs along the northern boundary of the site with 3 Abbey Road and has a mono-pitch roof form with its highest wall abutting the neighbouring house. This reduces the quality of the outlook from the rear garden of No.3 and its removal will be positive. Unit 9, which is the northern-most of the proposed houses, will be separated from the boundary by just over 3m which should in fact result in an improved relationship with this adjacent property.

43. Whilst there would be some increased potential to overlook the rear garden of 3 Abbey Road, it would still be consistent with the mutual overlooking that is typical within the street and the balconies would all feature privacy screens. In the event that planning permission is granted, officers would recommend a condition requiring details of privacy screens to be agreed and retained as agreed thereafter.

44. Officers are therefore satisfied that the proposals will not give rise to significant harm to the living conditions experienced by occupiers of nearby existing properties. In this respect the proposals are considered to accord with all relevant development plan policies.

Highway Implications

45. The proposals do not include provision for the off-street parking of cars. Such provision would have resulted in the buildings being set back from the front frontage to the detriment of the strong established rhythm to the houses within the street which officers consider to be particularly important to preserve.

46. Given the site’s location so close to the railway station and the city centre as well as in a controlled parking zone, officers do not object to a reduced car parking scheme or even a car-free development as supported by policy HP16 of the SHP.

47. Abbey Road is subject to quite significant parking pressure though the loss of a car rental premises is likely to reduce the actual number of traffic movements within the street. There is a significant length of dropped kerb outside the former Avis site which allowed site access and egress from the road. The re-instatement of this kerb will create approximately five additional on-street parking spaces. Were the application to be approved a condition would need to be imposed requiring this re-instatement at the applicant’s expense prior to occupation of the houses.

48. However, nine large houses are likely to give rise to greater than five parked cars within Abbey Road. Officers however do not consider it reasonable to prevent family houses of this size from having access to at least one car and the complete removal of car access is potentially likely to result in the properties being sought for conversion into HMOs in due course. Consequently, in the event that the application were to be approved, officers recommend a condition requiring the varying of the road traffic order to limit each proposed house to one residents' parking permit only. This would result in, at worst, only a very minor increase in parking within the street. It should be noted that this is not the LHA's position where they are recommending the complete removal of access to parking permits.

Flood Risk

49. The application site lies within flood zone 3a as defined by the Environment Agency (EA). This means it is at a higher risk of flooding (greater than 1 in 100 years) though there is no evidence of flooding of the site in recent times. The site has been allocated in the SHP following a wider strategic flood risk assessment (SFRA) and it is therefore not necessary to test the appropriateness of developing the site for residential purposes. Government guidance in the NPPF makes it clear that so called Sequential and Exception testing of sites when determining planning applications should not be applied to allocated sites where this approach will have already been undertaken in the SFRA.

50. The application was accompanied by a site specific flood risk assessment and, following consultation with the EA, it is clear that the proposals will reduce the risk of flooding both locally and elsewhere in line with the requirements of policy CS11 of the Core Strategy. The proposals will result in a significantly reduced amount of developed floorspace with greater flood water storage potential as well as the introduction of permeable hardsurfacing. Floor levels of the houses are also raised to reduce the impact of flood water in the event that flooding of the site occurs. The spacing of the buildings also allows for better dispersal of flood water than the buildings on the existing site. Whilst the proposed use is more vulnerable (residential) than the existing use (commercial), the allocation of the site has confirmed that the Council is satisfied with the principle of residential development on the site.

51. Officers are satisfied that the proposals have taken all reasonable steps to reduce flood impact for future occupiers of the houses and a flood management plan for future residents has been agreed as acceptable by the Council's Emergency Planning Officer. The proposals should also reduce the risk of flooding locally. In this respect officers are satisfied that the proposals accord with policy SP1 of the SHP as well as policy CS11 of the Core Strategy. Furthermore, the EA do not object to the proposals. In the event that Committee wishes to approve the application, officers recommend imposing the same conditions as suggested by the EA including the requirement to carry out all flood mitigation measures set out in the submitted flood risk assessment.

Ecology

52. The existing buildings are unlikely to be used for bat roosts and a bat report submitted by the applicant confirms this. However, there are records of Daubenton bats using the canal for foraging and as a flight path. Given the size of the

development proposed there is the potential to include biodiversity enhancements including maternity roosts for Daubenton bats. Policy CS12 of the Core Strategy expects developments to incorporate ecology enhancements where possible. In the event that Members resolve to approve the application, officers would suggest a condition requiring the submission and agreement of biodiversity enhancement measures and their incorporation within the development. In addition, and as per the submitted Bat report, a condition would also be required to ensure the soft stripping of the slates off existing buildings in the possibility that bats are habiting the buildings despite the findings of the report.

Archaeology

53. The site is located on Osney Island which may have been formed in the late Saxon period as a result of artificial channelling of the River Thames in order to create the channel now known as Castle Mill Stream. It has also been speculated that the sub-oval island has characteristics of a Late Iron Age oppidum however there is currently no firm evidence to support this hypothesis (Oxford Archaeological Resource Assessment- The Iron Age (2011)). The site is also of interest because it was previously occupied by a notable 19th century building firm (Thomas H Kinglerlee and Sons who remain active), and it retains a number of late 19th century/early 20th century structures from this time. The Victoria County History notes that the growth of the Oxford suburbs in the later 19th preserved the building industry as a mainstay of the city's economy and T. H. Kinglerlee, at times employed between 400 and 500 men (VCH 1979).

54. The National Planning Policy Framework states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. Where appropriate local planning authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible.

55. In this case, bearing in mind the scale of the proposed works, if consent were to be granted for this development, it should be subject to a condition requiring archaeological investigations to take place. This should be in the form of a Level II photographic survey of the 19th century buildings and any contemporary structures followed by post-demolition (to ground level only) trial trenching followed by further mitigation if required. The work should be undertaken by a professionally qualified archaeologist working to a brief issued by the Council's archaeologist.

Sustainability

56. The site falls below the threshold in policy HP11 of the SHP which requires 20% on-site energy generation or full NRIA statement. To ensure consistency with the appearance of the other houses in the street, solar panels are not proposed on the front elevations though they are considered for the rear roof slopes. Other forms of on-site energy generation are not proposed with the emphasis on greater thermal efficiency of the buildings to accord with Parts L and F of the latest Building Regulations. In the event that Committee resolves to grant planning permission, a

condition would be necessary requiring details of all energy efficiency measures to be agreed prior to commencement of development.

Conclusion:

57. Whilst the proposals have merit as a piece of infill development, the site has the capacity for at least 10 dwellings but fails to make provision for affordable housing on site or demonstrate robustly why its provision would make the development financially unviable. The financial contribution offered towards off-site affordable housing provision is not appropriate in the absence of robust justification on viability grounds following the cascade approach clearly set out in the SHP and Affordable Housing and Planning Obligations SPD. Furthermore, the development proposes only very large family housing which will not contribute towards the identified housing needs of the City or local community as set out in the BoDs SPD. The proposals therefore fail to accord with the requirements of policy HP3 of the SHP as well as policies CS23 and CS24 of the Core Strategy and should be refused accordingly.

58. Notwithstanding the above recommendation for refusal, if Members are minded to approve the application, it is recommended that they delegate the final issuing of planning permission to officers to allow the completion of a legal agreement securing the necessary affordable housing contributions as well as to allow the imposition of any conditions deemed appropriate by officers.

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

Background Papers:

13/01376/FUL

98/01548/NF

92/00687/NF

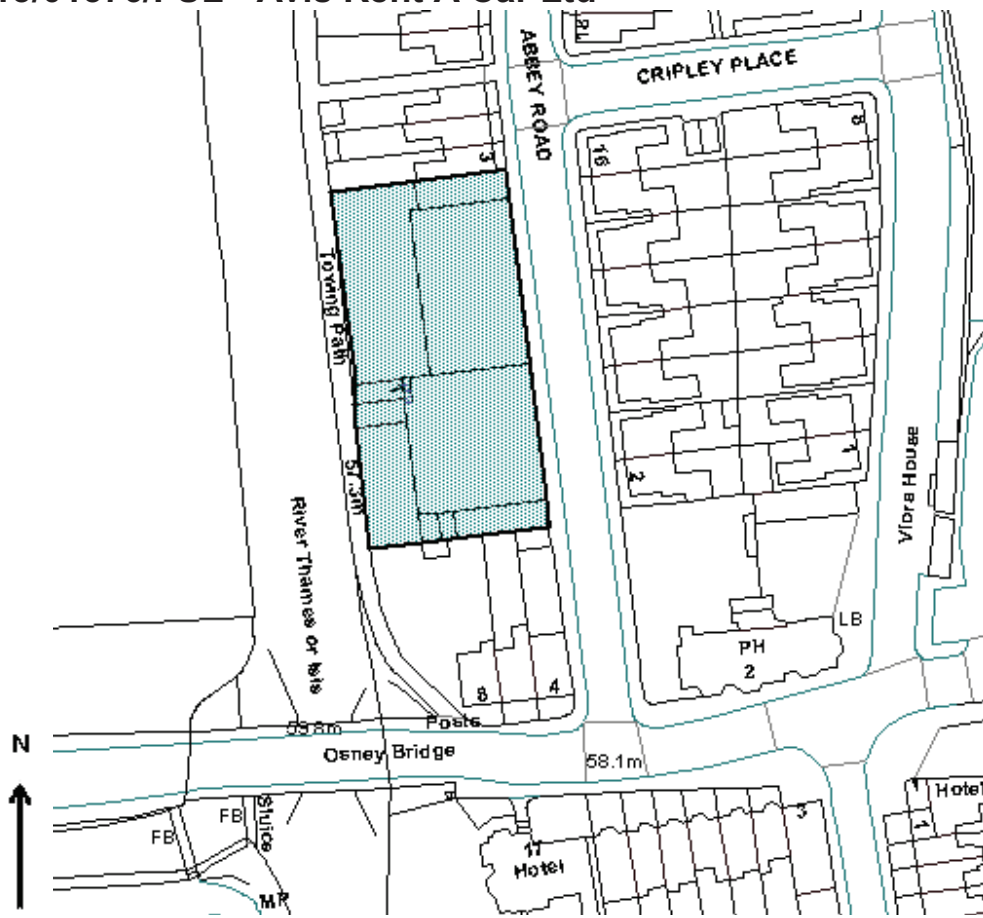
Contact Officer: Matthew Parry

Extension: 2160

Date: 29th January 2014

Appendix 1

13/01376/FUL - Avis Rent A Car Ltd



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Ordnance Survey 100019348

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West Area Planning Committee

11th February 2014

Application Number: 13/03213/FUL

Decision Due by: 6th February 2014

Proposal: Demolition of existing buildings and erection of 2 x 4-bedroom semi-detached dwelling houses (Use Class C3) and new building with office (Use Class B1) on ground floor and 1 x 2-bedroom flat (Use Class C3) above. Provision of car parking, cycle parking and bin storage facilities.

Site Address: 9 Green Street, Oxford (**Appendix 1**)

Ward: St Mary's

Agent: JPPC

Applicant: Cantay Investments Ltd

Application called in by Councillors Benjamin, Simmons, Hollick, and Wolff on grounds that the application should be discussed in public

Recommendation:

The West Area Planning Committee is recommended to REFUSE planning permission for the following reasons:

- 1 That the proposed development would not constitute an appropriate modernisation of a key protected employment site, by reason that the amount of employment space retained within this mixed-use scheme along with the overall form and layout of the proposal would not be adequate to maintain its status as a key protected employment site and secure or create employment important to Oxford's local workforce, and maintain a sustainable distribution of business premises and employment land in Oxford. This would be considered contrary to Policy CS28 of the Oxford Core Strategy 2026
- 2 The proposed development has been designed in a manner that has the appearance of a residential development rather than a mixed-use scheme where the employment and residential uses contained within the buildings are clearly articulated in the built form. The employment use on site has a historical significance which reflects the historical development of the street and surrounding suburb and the site is designated as a Key Protected Employment Site. The absence of any articulation of the employment use within the form, layout and appearance of Plot 3 would not reinforce the local distinctiveness and significance of the site, and create a sense of place for the Key Protected Employment Site within the street. Furthermore the applicant has failed to demonstrate that the form and layout of Plot 3 has been

designed to enable the employment use to function properly over the lifetime of the development and assist in maintaining the sites status as a key protected employment site. As a result the proposed development would not meet the aims for good design as set out within the National Planning Policy Framework, Oxford Core Strategy Policy CS18, Sites and Housing Plan Policy HP9.

- 3 That the proposed development would fail to provide adequate outdoor space for the 2 bedroom flat in Plot 3, by reason that the commercial unit would have a full height window in the rear elevation which would directly overlook this space and also allow the commercial unit access to the private garden compromising the privacy and quality of this space to the detriment of the living conditions of the future occupants of this dwelling. This would be considered contrary to Sites and Housing Plan Policy HP13.

Main Local Plan Policies:

Oxford Local Plan 2001-2016

- CP1** - Development Proposals
- CP5** – Mixed-Use Developments
- CP6** - Efficient Use of Land & Density
- CP8** - Design Development to Relate to its Context
- CP9** - Creating Successful New Places
- CP10** - Siting Development to Meet Functional Needs
- TR3** - Car Parking Standards
- TR4** - Pedestrian & Cycle Facilities
- EC7** - Small Businesses

Core Strategy

- CS2_** - Previously developed and greenfield land
- CS12_** - Biodiversity
- CS18_** - Urban design, town character, historic environment
- CS23_** - Mix of housing
- CS27_** - Sustainable economy
- CS28_** - Employment sites

Sites and Housing Plan

- HP2_** - Accessible and Adaptable Homes
- HP9_** - Design, Character and Context
- HP11_** - Low Carbon Homes
- HP12_** - Indoor Space
- HP13_** - Outdoor Space
- HP14_** - Privacy and Daylight
- HP15_** - Residential cycle parking
- HP16_** - Residential car parking

Other Material Considerations:

- National Planning Policy Framework
- Balance of Dwellings Supplementary Planning Document

Relevant Site History:

85/00364/NF - Single storey extension to garage for storage purposes (garage space and storage to be used ancillary to Green Street Bindery): Approved

01/00605/NF - Change of use and first floor extension to existing garage to provide additional storage accommodation, ancillary to Green Street Bindery: Approved

06/01911/FUL - Demolition of buildings. Erection of two storey building incorporating workshop on ground floor and 2x1 bed flats on first floor. Bin and cycle store. (Amendment to planning application 04/01955/FUL) (AMENDED DESCRIPTION): Approved

11/02717/FUL - Demolition of existing buildings. Erection of 2 and 3 storey building to provide 1x1 bed, 5x2 bed and 1x2 bed residential properties. Provision of car and cycle parking and landscaping: Refused

12/01780/FUL - Part removal of existing buildings. Erection of 2 x 4 bedroom dwellings and 1 x 2 bedroom dwelling with associated car parking, cycle parking and bin storage: Refused. Dismissed on appeal

13/02303/FUL - Demolition of existing buildings and erection of 3 x 4-bedroom dwellings (Use Class C3) with associated car parking, cycle parking and bin storage: Refused

Representations Received:

15 Green Street

- Objects to the demolition of a building in keeping with the Victorian / Edwardian character of the street
- The building was built by the Oxford Tramways Company, so plays an important if small part in the history of transport in Oxford. The building later became a book bindery, thus on two counts is associated with important local industry and illustrates the mixed character of development in East Oxford, a key component of which is the existence of employment sites in and amongst the residential housing.
- The systematic demolition of all such buildings in the area changes that character forever, in my opinion to its detriment.
- The height and density is an issue - in order to cram four bedrooms into the two houses, and three into the flat it has been necessary to build just higher than the other houses in the street, which are almost exclusively two bedroom properties.
- The height of the buildings together with the pitch of the roofs will have an impact on the amount of sky (and light) received to no.15 and the adjoining properties and the views of trees beyond.
- The insistence on cramming in so many bedrooms (purely for financial gain, I assume) has resulted in an unnecessarily oppressive aspect, an overbuild in what is essentially a very narrow street of what would have been 'two up, two down' turn of the century workers cottages

- The inclusion of one 'office space' in the middle of this densely residential proposal is clearly a token gesture to the 'live / work' remit that the developer knows the council prefers, and not a serious attempt to fulfil those criteria.

Oxford Preservation Trust:

The trust is aware that the Council has previously supported the demolition of this property at 9 Green Street; however, they wish to record its concern about the further erosion to the heritage of East Oxford, which is often under appreciated.

In our view this building should be designated as a local heritage asset, which would provide some protection, and would recognise its importance in linking the area to its industrial past, and, in this case, to the two large Oxford industries of transport and publishing. Many of these characteristic Victorian and Edwardian small industry buildings have been lost to new development, making it all the more important to consider the local heritage interest of the building before it is lost, with thought given to undertaking some oral histories and building recording work, prior to any demolition work.

Statutory Consultees:

Oxfordshire County Council

- Drainage Authority: The development should be drained using Sustainable Urban Drainage methods including porous surfaces to reduce the discharge to green field run off rates
- Highways Authority: No objection subject to the proposal being excluded from the residents parking zone.

Officers Assessment:

Background to the Proposal

1. The site is situated on the northern side of Green Street, and is bordered by the residential properties of 8 and 10 Green Street to the east and west respectively and Cowley Road properties to north (**Appendix 1**).
2. The site comprises a single storey industrial building which has previously been used for book binding. The building has a pitched roof with gable end and is constructed from red brick under an asbestos sheet roof. There is no formal parking area for the building other than the small forecourt in the frontage. There is a passageway at the side of the building which provides access to the rear of the Cowley Road and Randolph Street properties. The site is a key protected employment site.
3. In September 2013 planning permission was sought for the demolition of existing buildings and the erection of 3 x 4-bedroom dwellings (Use Class C3) with associated car parking, cycle parking and bin storage under reference 13/02303/FUL. This was refused under delegated powers on grounds that it would result in the loss of a key protected employment site. An appeal against this decision is underway, and the decision is unlikely to be made before this application is heard at committee.

4. The current proposal is seeking planning permission for the demolition of the existing buildings on site, and the erection of 2 x 4-bedroom semi-detached dwelling houses (Class C3) and new building with office (Class B1) on ground floor and 1 x 2-bedroom flat (Class C3) at first floor level. The proposal would also include the provision car parking, cycle parking and bin storage facilities to the rear of the properties accessed by a service road leading from Green Street.
5. The proposed layout is identical to the previously refused scheme (13/02303/FUL) save the fact that the third dwellinghouse in that scheme would now have a commercial space on the ground floor and a 2 bedroom flat on the upper levels.
6. Officers consider the principal determining issues in this application to be:
 - Principle of Development
 - Key Protected Employment Site
 - Site Layout and Built Form
 - Balance of Dwellings
 - Impact upon Adjoining Properties
 - Residential Uses
 - Highway Matters
 - Other Matters

Principle of Development

7. The National Planning Policy Framework [NPPF] encourages the effective use of land by reusing land that has been previously developed. This is supported by Oxford Core Strategy Policy CS2. The general principle of redeveloping the site in order to make a more efficient use of land would broadly accord with these overarching objectives.
8. The site is a key protected employment site and therefore the principle of replacing the existing building with a residential development and small employment use would depend on how this relates to the current development plan policies of the Oxford Core Strategy 2026 and Oxford Local Plan 2001-2016.

Key Protected Employment Site

9. The site is designated within the Oxford Core Strategy 2026 as a key protected employment site [KPES]. The purpose of these sites is to ensure a sustainable distribution of business premises and employment land across the city to maintain a range of potential job opportunities throughout Oxford. Retaining such sites for employment-generating uses serves to reduce commuting to work, as well as improving access to local jobs for different sectors of the community. The Core Strategy recognises that it is important to protect both larger and smaller sites in order to encourage opportunities for a diverse range of different businesses. The smaller sites often contain businesses that meet local needs and are less likely to be found on the city's larger employment sites.
10. Core Strategy Policy CS28 states that permission will not be granted for development that results in the loss of a key protected employment site, and their

modernisation will only be accepted if the new development secures or creates employment important to Oxford's local workforce; allows for higher density development that makes the most efficient use of land; and does not cause unacceptable environmental intrusion or disturbance. The National Planning Policy Framework recognises the need to build a strong economy as an important element of sustainable development. It goes on to state that Local Planning Authorities should avoid the long term protection of employment land or floorspace where there is no requirement for them to do so, and where a residential or other use would be more appropriate. The Core Strategy responds to this point, by recognising that non-key employment sites should have some flexibility to allow for their loss to other uses.

11. The previous application (13/02303/FUL) for a wholly residential use on site was refused because the loss of employment was contrary to the aims of Policy CS28. In response to this reason for refusal a small (B1) office unit with a floorspace of approximately 37m² is now included on the ground floor of Plot 3. The Supplementary Planning Statement states that the office would be designed to meet modern day needs in order to make it more attractive to prospective occupiers than the existing building. It concludes that this would represent an appropriate modernisation of the KPES including more employment where there currently is none; allow for higher density development which makes the most efficient use of land; and would not create any unacceptable environmental problems.
12. The policy requires the retention of an employment use on the site. The amount of space retained (37m²) would fall considerably short of an acceptable level for a Key Protected Employment Site which currently provides 530m² of available (B2) employment space. In determining a previous scheme for a mixed-use development on site, no objection was raised to the fact the smaller warehouse on site which provided some 90m² of floorspace was to be retained on site. In many respects officers considered that given the sites status as a key protected employment this represented the very limit of acceptability for a mixed-use development on site, although the applicant has suggested in their appeal statement for the current appeal (13/02303/FUL) that the level of employment secured in that earlier scheme would not be considered 'key' in the context of the policy or would provide many, if any jobs. Therefore it is difficult to understand how they could now reasonably suggest that the provision of an office with a floor area of only 37m² could be deemed appropriate under the terms of the policy and overcome the objection to the overall loss of employment from the site raised under the previously refused application (13/02303/FUL).
13. The applicant has also suggested that the office would create employment on the site where none currently exists because the building is vacant. In considering the previous application for a wholly residential development (13/02303/FUL), officers made clear that insufficient evidence had been provided to demonstrate that the property had been marketed for its authorised employment use or potential for modernisation to another employment use and has been left vacant whilst the focus has been to secure a change of use to residential. It is noticeable that the applicant has not provided any further marketing evidence with this current application to respond to these concerns. The assessment on

employment figures would be based on what level of employment 530m² of B1 office space would generate in comparison to 37m² of office space. The applicant has not provided any comparison as to the likely figures, although, it is unlikely that they would be comparable.

14. Officers consider that whilst the retention of some employment space within this mixed-use scheme would be welcomed in principle, the amount of employment space proposed within the scheme would be inadequate to maintain its status as a Key Protected Employment Site and would not meet the overarching aims of Policy CS28 which encourages such sites to be modernised and regenerated to secure and create employment important to Oxford's local workforce whilst making the best and most efficient use of land.

Site Layout and Built Form

15. Core Strategy Policy CS18 requires development proposals to exhibit high-quality urban design that responds to the site and its surroundings creating a strong sense of place, attractive public realm, and high quality architecture. Sites and Housing Plan Policy HP9 also states that the form, layout, and density of the scheme should make an efficient use of land whilst respecting sites context and exploiting opportunities to make a positive contribution to local character and distinctiveness, and maintaining natural surveillance of the public realm. This is supported by Policy CP8 of the Oxford Local Plan 2001-2016.
16. The NPPF recognises that good design is a key aspect of sustainable development. It makes clear that new development should function well and add to the overall quality of the area, not just for the short term but the lifetime of the development; establish a strong sense of place, creating attractive places to live, work and visit; optimise the potential for the site; respond to local character and history, and reflect the identity of local surroundings and materials, and create safe and accessible environments. This places emphasis on guiding the overall scale, density, massing, height, landscape, layout, materials and access of new development in order to relate well to its surroundings and reinforce local distinctiveness.
17. Loss of Existing Buildings: The proposal would involve the demolition of the existing industrial buildings from the site. A heritage statement has been submitted with the application, which identifies that the site was first developed in or around 1888 as a stable block for the horses used by the City of Oxford & Tramways Co Ltd. It became a bindery in 1962 and was altered for that use and continued as such until 2007 when the business relocated to the Horspath Trading Estate. It is clear that the site has had an employment use attached to it for a significant period of time, and while the building itself is of limited value in architectural terms, it is the employment use which reflects the historical development of the suburb and therefore the site has potential to be designated as a 'heritage asset' within the local area.
18. The loss of a locally significant heritage asset requires justification that should demonstrate that the proposal would make a positive contribution to both the character and local distinctiveness of the environment. In considering previous

proposals for the site the buildings were deemed of limited value in architectural or visual terms and so their loss has not been viewed as a specific constraint on the redevelopment of the site. That said, the historic use of the site is important and officers consider that any rebuilding for a mixed-use development should be designed in a manner whereby the employment use is clearly articulated within the building design, not only in order to reinforce the local distinctiveness of the site but to also to recognise its status as a KPES. Despite the fact that the current scheme is seeking permission for a mixed use commercial / residential development it is identical to the residential scheme refused under 13/02303/FUL. The presence of an employment use is not at all obvious in the design, and given that the built form of the existing building is markedly different to the rest of the street it would not be unreasonable for Plot 3 to be designed in a similar manner which makes the employment use obvious in comparison to the residential properties. The Supplementary Planning Statement makes no reference to why the proposal would be appropriate for a mixed-use development, instead relying on the design rationale for the wholly residential development. This would represent a missed opportunity in terms of maintaining the historic significance of the site, and a strong sense of place within the street where the individual uses are clearly expressed within the built form.

19. Layout: The site has an identical layout to that of the previously refused residential scheme, and does not take into consideration the fact that this is now a mixed-use development where the uses will have different requirements in terms of form and function. The buildings are sited to respect the development pattern of the street, and would establish a clear public and private realm relationship with good natural surveillance of the street scene. The main concern relates to the commercial space within the scheme. The space is small, and has limited presence on the street. There is only one entrance which restricts servicing, there are no kitchen/toilet facilities for staff, and the refuse / cycle storage is in a divorced location only accessible via the driveway. Furthermore there is a rear window to the office which overlooks the private garden of the 2 bedroom flat, potentially causing conflict between the two uses. No details have been provided within the supporting documentation as to how this space is expected to function. The similarities to the previous residential scheme give the impression that it has been designed to enable its future conversion to a residential use rather than as part of a serious attempt to incorporate an employment use into a mixed-use development.

20. Size, Scale, and Appearance: Green Street is characterised by two-storey Victorian terraced properties which are generally of uniform size, set back from the streets by a small front gardens and private gardens to the rear. This is only punctuated by the existing bindery building. The proposed development would effectively provide a terraced row of three buildings which would be linked by an undercroft. The dwellings would be of a residential scale, with pitched roof forms, and two storey elements leading to the rear which does reflect the adjoining properties in the street. The design of the residential dwellings (Plots 1 & 2) would have projecting bay windows and small front gardens and although the ridge heights would be slightly higher than the adjoining plots they would not look out of place in the street scene. The main concern would relate to the design of

plot 3 which would have a commercial unit with flat above but whose form is identical to the other two residential units. The commercial space has no presence in the street scene, appearing as a residential dwelling rather than small-scale business unit, and there is a persuasive case for it to be designed differently in form to the residential dwellings. This would represent a missed opportunity to reinforce local distinctiveness and provide a building that responds to the historical context and employment status of the site.

21. Officers consider that the proposed development would fail to constitute good design, whereby the form and layout supports the function of the mixed use development. The overall size and scale of Plots 1 and 2 may be appropriate for the location, but the layout, form, and appearance of Plot 3 does not reflect the fact that an employment use is present on site, which would have an impact upon how the development will function and would not establish a clear sense of place by reinforcing the local distinctiveness that the historic employment use provides within the street scene and its importance as a Key Protected Employment site. This would be contrary to the aims set out within the NPPF and also Oxford Core Strategy Policy CS18 and Sites and Housing Plan Policy HP9.

Balance of Dwellings

22. Policy CS23 of the Oxford Core Strategy 2026 requires residential development to deliver a balanced mix of housing to meet the projected future household need, both within each site and across Oxford as a whole. The mix of housing relates to the size, type and tenure of dwellings to provide for a range of households.
23. The Balance of Dwellings Supplementary Planning Document (BoDSPD) sets out the appropriate housing mixes for each Neighbourhood Area within the City. The site is located within the East Oxford Neighbourhood Area where there is a more pressing need to achieve more family dwellings within residential schemes. The provision of 2x4 bedroom dwellings and a 2 bed flat would represent an appropriate mix of units under Policy CS23 of the Oxford Core Strategy 2026 and the BoDSPD.

Residential Use

24. The proposed development would provide 2x4 bedroom dwellings and a 2 bedroom flat. The residential accommodation would all be self-contained and of a size that would create a good standard of internal environment in accordance with Sites and Housing Plan Policy HP12. The floor plans have set out how the units would be built to lifetime homes standards in accordance with Sites and Housing Plan Policy HP2.
25. The dwellings would each have their own private gardens which would be less than 10m in length but would not vary greatly in size to the footprints of the dwellings they serve. As such they would be considered of adequate size and proportion to the size of the house proposed under the terms of Policy HP13

26. The 2 bedroom flat would also have its own individual private garden which would be of an adequate size for this type of accommodation. However, there would be a full height window in the rear elevation of the commercial unit which overlooks this garden and allows access from the commercial space onto this garden and thereby compromising the privacy of the space for the occupants of the flat. This would be contrary to Policy HP13.
27. The proposal would provide suitable refuse storage and cycle parking for each of the residential units which would accord with Sites and Housing Plan Policy HP13.

Impact upon Adjoining Properties

28. The Council seeks to safeguard the amenities of properties surrounding any proposed development. Policy HP14 of the Sites and Housing Plan states that permission will only be granted for development that protects the privacy or amenity of proposed and existing residential properties, specifically in terms of potential for overlooking into habitable rooms, sense of enclosure, overbearing impact and sunlight and daylight standards.
29. The existing warehouse is a significant structure that covers the full extent of the block and therefore already has an impact upon the adjoining properties. The proposed dwellings would not have an adverse impact upon the adjoining properties at 8 and 10 Green Street. In fact given the extent of the existing building and the level of development approved under the lapsed permission 01/00605/NF, it would provide some breathing space to the rear of the property at 10 Green Street reducing the overall sense of enclosure. There is a first floor window in the rear of no.10 Green Street which would be enclosed slightly, by the two-storey rearward projection of the proposed dwelling, however, it is considered that this sense of enclosure would not be so significant to warrant refusal especially considering the tight urban nature of the area. As such it would not create a significantly adverse sense of enclosure for the properties.
30. The proposed development would not have an impact upon the rear of the Cowley Road properties to the north of the site, or the any of the properties on the opposite side of Green Road in terms of loss of light, privacy or outlook.

Highway Matters

31. The site is situated within a Transport District Area, which is considered a sustainable location which is accessible by walking and has good access to public transport links, shops and services and therefore in some circumstances it may be possible to accept lower levels of parking provision within these areas.
32. The proposal would provide a single off-street parking space for the three dwellings. The commercial unit would be car free. The site is located within a controlled parking zone as there is pressure for on-street parking spaces. The level of parking is acceptable in this sustainable location, and the potential impact upon on-street parking as a result of the reduced level of parking spaces could be controlled by excluding the dwellings from parking permits.

Other Matters

33. Contaminated Land: The site has a known formal industrial use and having regards to the sensitive nature of the proposed use (i.e. the creation of new residential properties with gardens) it would be necessary to ensure that the site is suitable for this use. Therefore a condition should be attached requesting a phased risk assessment to be carried out.
34. Community Infrastructure Levy (CIL): The levy is a standard charge on new development. The amount of CIL payable is calculated on the basis of the amount of floor space created by a development. The reason CIL has been introduced is to help fund the provision of infrastructure to support the growth of the city, for example transport improvements, additional school places and new or improved sports and leisure facilities. CIL is being brought in by councils across the country, although each local council has the ability to set the actual charges according to local circumstances. The proposal would be liable for a CIL payment should permission be granted. The CIL payment has been calculated as approximately £31,840. However this will only apply if planning permission is granted and the scheme is implemented.

Conclusion:

35. The proposal would be contrary to the aims and objectives of the National Planning Policy Framework, and the relevant policies of the Oxford Core Strategy 2026, Oxford Local Plan 2001-2016, and Sites and Housing Plan and therefore officer's recommendation to the Members of the West Area Planning Committee is to refuse planning permission.

Human Rights Act 1998

Officers have considered the Human Rights Act 1998 in reaching a recommendation to refuse planning permission, subject to conditions. Officers have considered the potential interference with the rights of the owners/occupiers of surrounding properties under Article 8 and/or Article 1 of the First Protocol of the Act and consider that it is proportionate.

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.

Contact Officer: Andrew Murdoch

Extension: 2228

Date: 29th January 2014

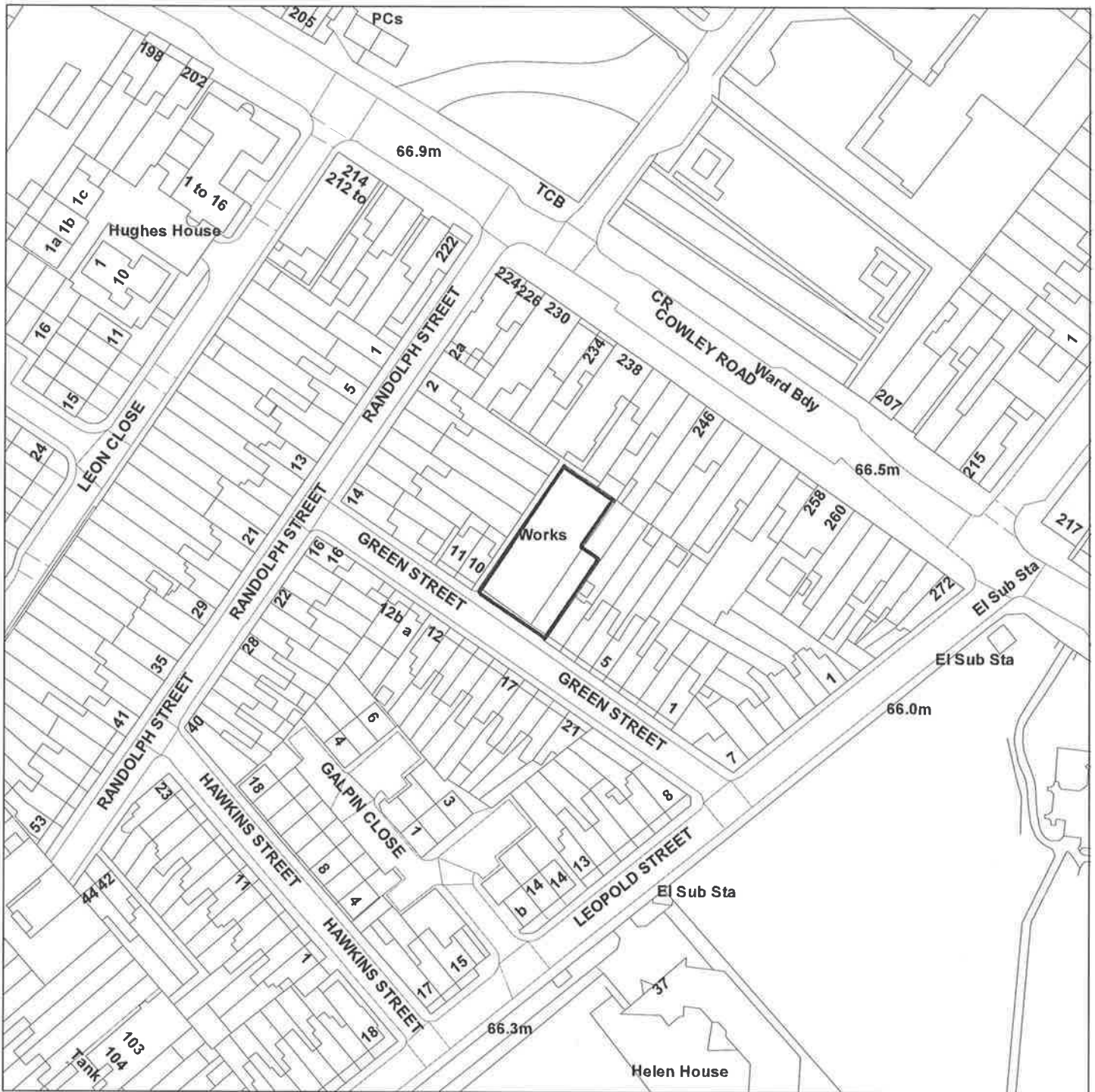
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Appendix 1

9 Green Street (13/03213/FUL)



GIS by ESRI (UK)



Scale: 1:1250

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Organisation	Not Set
Department	Not Set
Comments	Not Set
Date	31 January 2014
SLA Number	Not Set

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WEST AREA PLANNING COMMITTEE

11th February 2014

Application Nos. i) 13/03339/CT3
ii) 13/03338/CT3

Decision Due by: 10th February 2014

Proposal: (i): 13/03339/CT3 – Internal alterations involving formation of new residential unit on second floor and enlargement of existing residential unit on the third floor involving removal of staircase from first to second floor. Removal of dumb waiter, insertion of new partitions, formation of new openings, new doors and new secondary glazing. External alterations to upgrade existing roof access and new door fronting Broad Street.

(ii): 13/03338/CT3 – Use of basement, ground and first floor as retail unit (use of class A1). Formation of 1x2 bed flat on second floor and enlargement of existing residential unit on third floor.

Site Address: 23-25 Broad Street (**Appendix 1**)

Ward: Carfax

Agent: Frankham Consultancy Group **Applicant:** Oxford City Council

Recommendations:

- i) Listed building consent **13/03339/CT3** RAISE NO OBJECTION
- ii) Planning application **13/03338/CT3** GRANT PLANNING PERMISSION

For the following reasons:

- 1 The City Council has given considerable weight and importance to the desirability of preserving or enhancing designated heritage asset. It considers that any harm that would result from the proposed development and works to the listed building is justified by the public benefits that would result and that the proposal is considered to comply with adopted policies contained within the adopted Oxford Local Plan, the adopted Oxford Core Strategy, the adopted Sites and Housing Plan and National Planning Policy and Guidance.
- 2 The proposals have evolved through informed analysis of the architectural and historic interest of the buildings and through pre-application discussions with officers. Whilst there will be some impacts on the heritage assets it is considered that these impacts have been minimised by design. Overall the benefits that will be delivered, ensuring the building remains suitable for

continued retail and residential use and supporting the objective to enhance the public's understanding and enjoyment of the heritage asset, justify granting planning permission and listed building consent.

3. The proposals are considered to result in both an additional and an improved flat of good overall quality within a highly sustainable location without resulting in the loss of genuinely usable commercial floorspace. Furthermore the proposals are not considered to result in material harm to important historic fabric of the building or its integrity as a heritage asset or its setting and would, in fact, be returning part of the building to its original residential use. The proposals are therefore considered to accord with all relevant policies of the development plan.
4. The Council considers that the proposal accords with the policies of the development plan as summarised below. It has taken into consideration all other material matters, including matters raised in response to consultation and publicity. Any material harm that the development would otherwise give rise to can be offset by the conditions imposed.

subject to the following conditions:

i) Listed building consent

- 1 Commencement of works LB/CAC consent
- 2 LB/CAC consent - approved plans
- 3 7 days notice to LPA
- 4 LB notice of completion
- 5 Further works - fabric of LB - fire regs
- 6 Arch - Implementation of prog + historic post-medieval remains,
- 7 Materials - samples
- 8 Internal features
- 9 Further details for windows, doors, fireplace and service run
- 10 Repair of damage after works

ii) Planning permission

- 1 Development begun within time limit
- 2 Develop in accordance with approved plans
- 3 Implementation of programme of archaeological investigation
- 4 Details of refuse storage

Main Local Plan Policies

Oxford Local Plan 2001-2016

CP1 - Development Proposals

CP6 - Efficient use of land

CP8 - Design Development to Relate to its Context

CP9 - Creating Successful New Places

CP10 - Siting Development to Meet Function Needs

HE3 - Listed Buildings and Their Setting

HE7 - Conservation Areas

HE2 - Archaeology

Core Strategy

CS18 - Urban design townscape char & hist env

Sites and Housing Plan 2011-2026

HP2_ - Accessible and Adaptable Homes

HP9_ - Design, Character and Context

HP11_ - Low Carbon Homes

HP12_ - Indoor Space

HP13_ - Outdoor Space

HP14_ - Privacy and Daylight

HP15_ - Residential cycle parking

HP16_ - Residential car parking

Other Material Considerations: This application is in or affecting the Central Conservation Area. The development is affecting a Grade II Listed Building.

Public Consultation:

Oxfordshire Architectural and Historical Society – object

- The documentation fails to satisfy the requirements of the National Planning Policy Framework:
- The 'Heritage Statement' does not contain a proper architectural assessment of the building(s) which are affected by these proposals.
- The impact of the proposals on the buildings is not addressed. Supporting information states that "*No Heritage Assets are affected by these works*", which is manifestly not the case as the buildings themselves are heritage assets.
- Confusion about the age of the building and fails to recognise that houses are shown on the site in Loggan's map of 1675, and it is quite possible that parts of their timber frames survive behind the present late 18th century external skin.
- No justification is given for the removal of an open-well staircase from the first to second floors. No appraisal has been made of the staircase, its date and significance.

Relevant Site History:

61/10296/A_H - Change of use from residential to offices. APPROVED

69/21242/A_H - Conversion of 2 properties into one. Change of use of basement. Alterations and new entrance doorway. APPROVED

72/25326/A_H - Change of use of offices on first floor to sales area. APPROVED

98/01146/L - Demolition of 4th storey extension to 23 & reforming roof. Internal alterations, incl. removal of 1970s staircase, proposed internal stair & replacement of external entrance door to managers flat (Amended plans) – APPROVED

01/00511/L - Retain internal alterations to Nos. 23 and 25. Retention of 5 air

conditioning units and modification of roof and west & south. APPROVED

Officer Assessment

Description of site

1. Nos 23-25 Broad Street is situated on the south side of Broad Street on the corner with Turl Street, built as three separate properties and forming part of the stretch of “ancient city property” that lies to the north of the town wall, outside the medieval core.
2. Of mid to late 18th century date, the buildings are timber framed with plastered fronts, replacing earlier buildings on the site. It is possible parts of these earlier building may survive, incorporated within the new build. Nos 23-25 are 4 storeys. There was a 5th floor to No 23 but this was demolished in 1998. The block has projecting bays fronting Broad Street and a return frontage onto Turl Street.
3. Blackwell’s leased Nos 23-24 from Oxford City Council in 1968 and extended into No 25 in 1969. From 2000 until 2013 Nos. 23-25 Broad Street was occupied by Blackwell’s Music shop, occupying the basement, ground first and second floors. The top floor was in use as a flat. The building is now empty.
4. Nos. 23-24 is two rooms deep, with 19th and 20th century extensions at the rear. Part of rear of No 25 on the ground and second floor has been blocked off and now forms part of No 18 Turl Street.

Heritage significance

5. The building is prominent in the street with aesthetic qualities that contribute to the value of the group. It provides physical evidence of the development of Broad Street and the way it has evolved, helping to explain the activities and traditions of past societies.
6. The plan form and internal fabric, though much altered survives to allow understanding of the development and evolution of the building. The location of chimneystacks axial or transverse beams and staircases, for example, provide clues to understand how the building has been adapted and converted from three units into one. There is the potential with further investigation for this understanding to be enhanced.
7. The building with its C18th facades illustrates the changing fashions of architecture and the quality and skills of C18th craftsmen. The canted bays to the front of No 23-24 and the inherent quality and detailing illustrate the status of the occupants and help date the building.

Description of Proposed Development:

8. The applications proposed both internal and external alterations to facilitate the enlargement of the existing third floor flat so that it extends across the entire third floor as well as the creation of a new separate two bedroom flat on the second floor. The basement, ground and first floors would be retained in retail use.

9. The proposals involve the provision of level access to the camera by forming a new entrance to the south side of the building, on axis with the existing north stepped access. This involves a ramped access, including new gate and piers in the boundary railing, new external door and internal lobby. Further Internal alterations are proposed to reconfigure librarian space, access and security controls and furniture layout in the Camera and Old Bodleian. The new entrance will provide a serviced reception and enquiry point for readers and will allow the removal of the invigilator's metal platform in the staircase and removal of existing modern partitions and furniture.
10. Officers consider the principal determining issues in the case to be:
 - Principle;
 - Quality of the Residential Accommodation; and
 - Impact on the Grade II Listed Building and Conservation Area.

Management of Heritage Assets

11. The relevant legislative provisions are set out in the Planning (Listed Buildings and Conservation areas) Act 1990. Sections 16, 66 and 72 require local authorities to have special regard to the desirability to preserve and enhance listed buildings, conservation areas and their settings.
12. In the National Planning Policy Framework the government has reaffirmed its commitment to the historic environment and its heritage assets (including historic parks and gardens) which should be conserved and enjoyed for the quality of life they bring to this and future generations. It lists a number of core planning principles that should underpin decision making including that it should 'conserve heritage assets in a manner appropriate to their significance so that they can be enjoyed for their contribution to the quality of life of this and future generations'.
13. A key message in the NPPF is that the historic environment is a finite and irreplaceable resource and the conservation of heritage assets should be a high priority. Development that causes harm to a heritage asset or its setting should be avoided unless there is a public benefit to outweigh that harm. The NPPF states that '*when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of a heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification*'.
14. The NPPF encourages local planning authorities to look for opportunities to better reveal or enhance heritage assets and their settings and states that proposals that do make a positive contribution should be treated favourably. As stated above harmful impacts should be avoided (and in relation to substantial harm applications refused) unless there are public benefits that derive from any proposal that would outweigh the harm. The draft National Planning Practice guide seeks to explain what is meant by 'public benefits', suggesting it could be anything that delivers economic, social or environmental progress and can include heritage benefits such as

- sustaining or enhancing the significance of a heritage asset and the contribution of its setting
- reducing or removing risks to a heritage asset
- securing the optimum viable use of a heritage asset

Principle of use

15. At present, part of the third floor has a lawful use as staff facilities ancillary to the operation of the shop on the floors below. It provides no meaningful retail floorspace and its loss is unlikely to detract potential retailers from taking up a tenancy in the building given the large retained floorspace on the basement, ground and first floors. Officers therefore have no concerns that its conversion to allow an extended dwelling on the third floor would prejudice the viability of the shop below or, in turn, the city's secondary shopping frontage. Consequently officers are satisfied that the proposals accord with the requirements of policy RC4 of the Local Plan.
16. The second floor currently provides storage space ancillary to the shop premises below. This floor space is, similar to that on the third floor, unnecessary to the continued viability of a shop at the premises and officers are similarly not concerned by its loss to provide a much needed small and sustainably located dwelling making better use of the floor space in the building and returning a designated heritage asset to a beneficial use that is consistent with its original purpose as a dwelling.

Quality of Residential Accommodation

17. The existing third floor flat is small in size and provides cramped living accommodation to a standard that does not meet that now required by policy HP12 of the SHP. Its expansion to encompass the entirety of the third floor would result in a good quality two bedroom flat with an overall reasonable level of light and outlook to all rooms. In addition, the flat will not have to share communal access with staff of the shop as it will have sole use of the third floor which is a far better arrangement than at present.
18. The proposed second floor flat would be a little smaller but would still comfortably meet the minimum size criteria for new dwellings as set out in policy HP12 of the SHP. It would also be a two bedroom unit with each room having reasonable access to daylight and outlook though the kitchen is a little small and has only a small window to light it. Overall however officers are satisfied with its standard which would provide a reasonable quality small dwelling in an attractive sustainable location.
19. Policy HP13 of the SHP requires all new dwellings to be served by outdoor amenity space. In the case of flats this can be in the form of a balcony. The building is listed and officers do not think it acceptable to make alterations to the front façade to provide a balcony. There is no outdoor space to the rear of the building for future occupiers of the flats to use. However, the site is in a city centre location where access to private outdoor space would not be expected. There is also convenient access to a number of public outdoor spaces for residents to make use of. Given the nature of likely occupiers of these flats, such a situation is considered to be entirely reasonable.

20. Refuse storage is proposed to be inside the building making use of the shop's waste store. Details of this arrangement are recommended to be required by condition. There is however no space for cycle storage as required by policy HP15 of the SHP. Given that the site is centrally located within an easy walk of most key amenities and facilities as well as transport links, the lack of private and secure cycle storage is not considered to be objectionable. It is also worthy of note that public cycle parking exists on Broad Street where visitors to that flats could store their bikes.

Impact on Heritage Assets

21. The internal works to the building relate to its adaptation to provide an additional flat on the second floor, in lieu of the retail use and upgrading of the accommodation on the top floor. In pre-application discussions officers have advised the applicant to keep the extent of intervention to the minimum necessary and to avoid unnecessary loss of historic fabric.
22. The works involve the removal of the main stairs from first to third floor. This staircase is modern and its removal will not involve the loss of any *historic* fabric. On the second floor a new opening in a party wall is proposed, necessary to comply with fire safety requirements; and which allows a modern opening in this wall to be filled.
23. Elsewhere internal works involve the removal of modern partitions(including the removal of the existing staff toilet facilities in one of the main rooms) and insertion of new partitions to create lobby areas and a protected means of escape in the event of fire. Externally the works involve a covered exit for the roof access, a new door and ventilation grilles within the stairriser.
24. As a part of the re-use of the building fire safety measures have to be incorporated, as well as noise insulation between floors. These measures are necessary to improve the buildings performance and to ensure it is capable of re-use. Precise details can only be finalised once some opening up works have been undertaken and a condition is proposed to manage these details.
25. To secure the long term viability of historic buildings, and investment in their repair and maintenance they need to continue in use. These proposals demonstrate how this can be achieved, and in this case with remarkably few alterations to the historic building. Oxfordshire Architectural and Historical Society have expressed concern about the quality of the application details and the absence of justification for the works proposed. Officers have carried out their own inspection and assessment of the building and are satisfied that the works shown are the minimum necessary and that the impacts (described above) are justified.
26. Public benefits that would derive from the development include the provision of additional residential accommodation in the city centre, repair and re-use of a historic building, retaining ground floor retail uses in the city centre

Conclusion

The proposals are considered to provide good quality residential units without prejudicing the future viability of the shop at the premises. The proposals would allow the building to be used in a beneficial and more efficient manner, sustaining its special interest.

Human Rights Act 1998

Officers have considered the Human Rights Act 1998 in reaching a recommendation to grant planning permission, subject to conditions. Officers have considered the potential interference with the rights of the owners/occupiers of surrounding properties under Article 8 and/or Article 1 of the First Protocol of the Act and consider that it is proportionate.

Officers have also considered the interference with the human rights of the applicant under Article 8 and/or Article 1 of the First Protocol caused by imposing conditions. Officers consider that the conditions are necessary to protect the rights and freedoms of others and to control the use of property in accordance with the general interest. The interference is therefore justifiable and proportionate.

Section 17 of the Crime and Disorder Act 1998

Officers have considered, with due regard, the likely effect of the proposal on the need to reduce crime and disorder as part of the determination of this application, in accordance with section 17 of the Crime and Disorder Act 1998. In reaching a recommendation to approve, officers consider that the proposal will not undermine crime prevention or the promotion of community safety.

Background Papers:

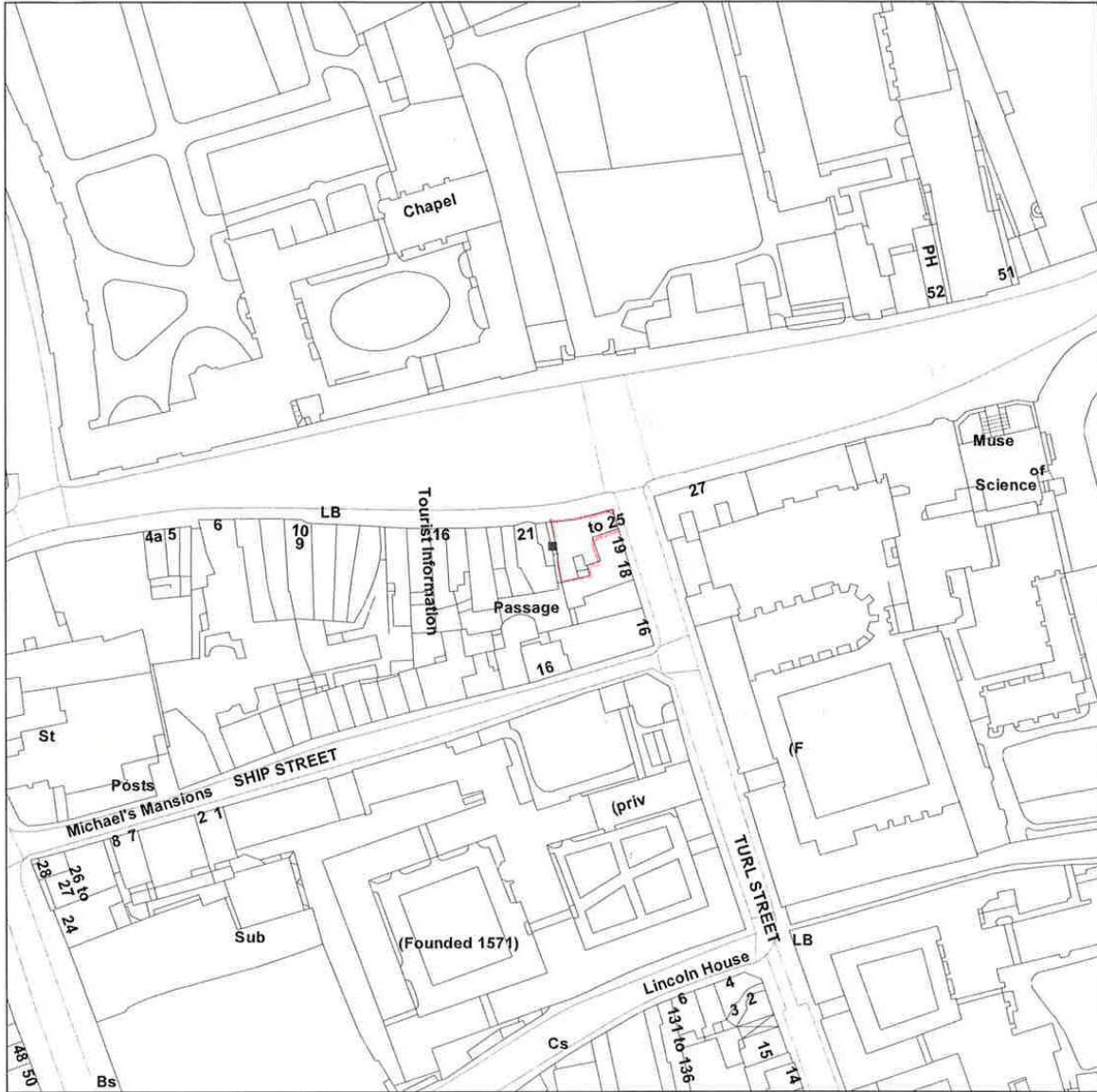
23–25 Broad Street Heritage Assessment. March 2013

Contact Officers: Sarah Billam and Matthew Parry

Extension: 2160

Date: 27th January 2014

Appendix 1 – Site Location Plan



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West Area Planning Committee

11th February 2013

Application Number: 13/03226/CT3 & 13/02533/CT3

Decision Due by: 27th January 2014

Proposal: 13/03226/CT3: Alterations involving removal of panels and replacement with glazing at units 131-141, Avenue 4.

13/02533/CT3: Listed Building Consent for removal of panels and replacement with glazing at units 131-141, Avenue 4.

Site Address: 131-141 Covered Market, Market Street, Site Plan Appendix 1

Ward: Carfax

Agent: Mr Michael Stewart

Applicant: Oxford City Council

Recommendations:

- (i) 13/03226/CT3: Grant Planning permission
- (ii) 13/02533/CT3: Raise no objection

For the following reasons:

- 1 The City Council has given considerable weight and importance to the desirability of preserving or enhancing designated heritage asset. It considers that any harm that would result from the proposed development and works to the listed building is justified by the public benefits that would result and that the proposal is considered to comply with adopted policies contained within the adopted Oxford Local Plan, the adopted Oxford Core Strategy, the adopted Sites and Housing Plan and National Planning Policy and Guidance.
- 2 The Council has taken into consideration all other material matters, including matters raised in response to consultation and publicity. Any material harm that the development would otherwise give rise to can be offset by the conditions imposed.

Subject to and including relevant conditions:

13/03226/CT3:

- 1 Development begun within time limit
- 2 Develop in accordance with approved plans
- 3 Samples in Conservation Area

13/02533/CT3:

- 1 Commencement of works LB/CAC consent

- 2 LB consent - works as approved only
- 3 7 days' notice to LPA
- 4 LB notice of completion
- 5 Repair of damage after works
- 6 Glass not to be tinted in colour, further details to be submitted

Main Local Plan Policies:

Oxford Local Plan 2001-2016

CP1 - Development Proposals

CP8 - Design Development to Relate to its Context

CP10 - Siting Development to Meet Functional Needs

HE3 - Listed Buildings and Their Setting

HE7 - Conservation Areas

Core Strategy

CS18_ - Urban design, town character, historic env

Other Material Considerations:

National Planning Policy Framework.

This application is in or affecting the Central Conservation Area. The development is affecting a Grade II Listed Building.

Relevant Site History:

None relevant.

Statutory and Internal Consultees:

Oxford Civic Society: welcomes this application and believe it should be approved. Question the use of blue glass to replace the windows. Documents give no indication of why this area of the Covered Market has been selected for refurbishment, No indication of a long term overall plan for the Market.

English Heritage: supports the proposal. Concerned that the refurbishment of the Covered Market is being approached in a piecemeal way. The recent [late 2013] Consultation Strategy for the Covered Market identified a number of issues which need resolution to secure the Market's future. Chief among these is how to provide additional retail space within the Covered Market. English Heritage encourages the Estates Department to consider refurbishment in conjunction with the strategy's chief objective of increasing available retail space.

Representations Received:

None

Sustainability:

Helps continued use of Listed Building in its original use.

Issues:

Impact on the Listed Building and Conservation Area.

Site Description:

1. The site comprises units 131-141 in Avenue 4 of the Covered Market, currently trading as Cardew & Co and Ansari, at the north-east, Market Street end. The site lies within the Central Conservation Area and the Covered Market is grade II listed.
2. The Covered Market was originally built from 1772-4 to designs of John Gwynn as a fresh produce market, to replace market stalls set in the street, to make conditions more hygienic. Most of the market was rebuilt and enlarged in 1834-40 by Thomas Wyatt the younger and later in the 19thC additional roofs and avenues were built. In the 1880s and 1890s, extensive reconstruction was undertaken. The area that is subject of this application dates to the 1880s – 90s.
3. The Covered Market has architectural interest for its lofty arcades of several phases of building and its shop fronts that are characteristic of the market's function. It has historic interest as evidence of the evolution of the contemporary sensibilities towards public health and helps understanding of the commercial development of Oxford.

Proposed Development:

4. It is proposed to remove existing corrugated asbestos panelling which is situated at high level above the first floor of the shop units, just under the roof and to replace with clear glazing with painted (ivory white) softwood glazing bars.

Officer's Assessment:

5. Local planning authorities have a duty to have special regard to the preservation or enhancement of designated heritage assets, (e.g. listed buildings and conservation areas). In the NPPF the government has reaffirmed its commitment to the historic environment and its heritage assets which should be conserved and enjoyed for the quality of life they bring to this and future generations. It states that 'when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of a heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification', measured in terms of the public benefits to be delivered through the proposal.
6. The NPPF encourages local planning authorities to look for opportunities to better reveal or enhance heritage assets and their settings and states that proposals that do make a positive contribution should be treated favourably.
7. Policy CP1 of the Oxford Local Plan states that planning permission will

only be granted for development that shows a high standard of design that respects the character and appearance of the area and uses materials of a quality appropriate to the nature of the development, the site and its surroundings. Policy CP8 and CP10 suggest that the siting, massing and design of any new development should create an appropriate visual relationship with the form, grain, scale, materials and detailing of the surrounding area.

8. Policy HE7 of the Oxford Local Plan states that planning permission will only be granted for development that preserves or enhances the special character and appearance of conservation areas and their settings and policy CS18 of the Core Strategy emphasizes the importance of good urban design that contributes towards the provision of an attractive public realm.
9. As with other units to the periphery of the Market, Units 131-141 have two storeys plus basement, with a clerestory under the roof. The north end of avenue 4, part of Cardew's, is the best preserved 19thC shop front with large sliding sash window. The northern-most section is glazed (and would be retained) but the others were infilled in the 1960s with asbestos sheets, presumably as they are fire-retardant but which are now very dirty and unsightly.
10. The proposals would improve the appearance of that area of the market by removing unsightly modern sheets and replacing them with glazing that would be historically appropriate. Replacing the asbestos panels with the proposed fixed glazing (which matches the existing) as proposed would enhance the building's significance by re-introducing a lost element of the Market. Their repetitive appearance would complement the repeated glazing pattern of the first floor windows below and it would also bring much needed additional natural light into the building.
11. The Estates Department has confirmed that it would use clear, untinted glass, which could be secured by condition.

Conclusion:

12. It is considered that the proposal would accord with the special character, setting and features of special architectural or historic interest of the listed building and the special character and appearance of the conservation area, in accordance with the policies of the development plan and with national policy.

Human Rights Act 1998

Officers have considered the Human Rights Act 1998 in reaching a recommendation to grant planning permission, subject to conditions. Officers

have considered the potential interference with the rights of the owners/occupiers of surrounding properties under Article 8 and/or Article 1 of the First Protocol of the Act and consider that it is proportionate.

Officers have also considered the interference with the human rights of the applicant under Article 8 and/or Article 1 of the First Protocol caused by imposing conditions. Officers consider that the conditions are necessary to protect the rights and freedoms of others and to control the use of property in accordance with the general interest. The interference is therefore justifiable and proportionate.

Section 17 of the Crime and Disorder Act 1998

Officers have considered, with due regard, the likely effect of the proposal on the need to reduce crime and disorder as part of the determination of this application, in accordance with section 17 of the Crime and Disorder Act 1998. In reaching a recommendation to grant Listed Building Consent and approve planning permission, officers consider that the proposal will not undermine crime prevention or the promotion of community safety.

Background Papers:

13/03226/CT3 & 13/02533/CT3

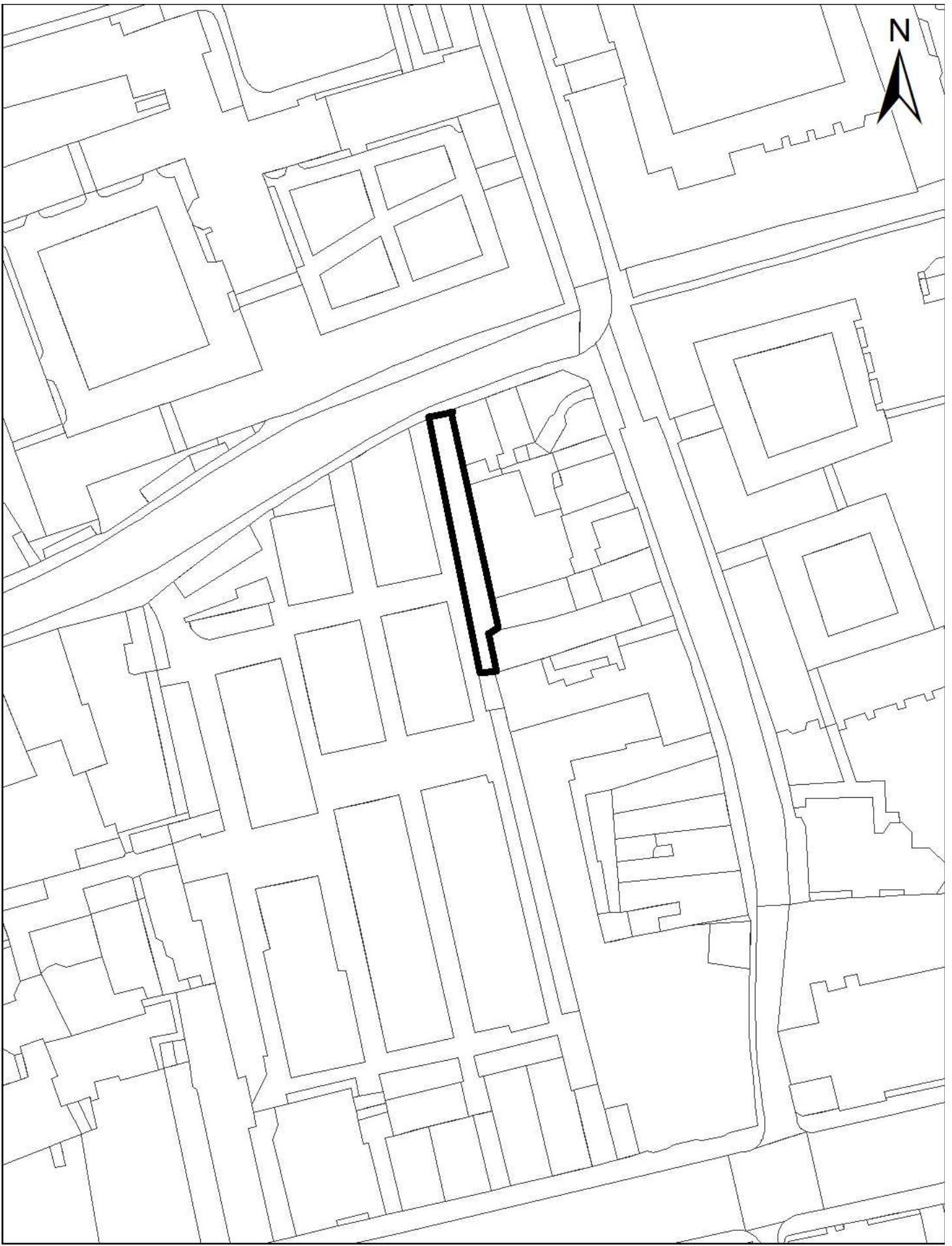
'The Covered Market: Heritage Assessment', June 2013, Heritage & Specialist Services Team, Oxford City Council
PPS5 Practice Guide

Contact Officers: Felicity Byrne & Katharine Owen

Extension: 2159/2148

Date: 28th January 2014

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West Area Planning Committee

11th February 2014

Application Number: 13/03320/PA11

Decision Due by: 5th February 2014

Proposal: Application seeking prior approval for development comprising demolition of existing and erection of replacement footbridge under Part 11 Class A Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995.

Site Address: Footbridge at White House Road, **Appendix 1.**

Ward: Hinksey Park

Agent: N/A

Applicant: Network Rail

Application Called in – by Councillors – Price supported by Fry, Kennedy and Coulter for the following reasons: design not acceptable; development not disabled / cycle / buggy accessible

Recommendation: Grant prior approval

Main Local Plan Policies:

Oxford Local Plan 2001-2016

CP1 - Development Proposals

CP8 - Design Development to Relate to its Context

CP9 - Creating Successful New Places

CP10 - Siting Development to Meet Functional Needs

CP11 - Landscape Design

CP13 - Accessibility

TR4 - Pedestrian & Cycle Facilities

TR8 - Guided Bus/Local Rail Service

NE15 - Loss of Trees and Hedgerows

SR9 - Footpaths & Bridleways

Core Strategy

CS4 - Green Belt

CS11 - Flooding

CS12 - Biodiversity

CS18 - Urban design, town character, historic env

Other Material Considerations:

National Planning Policy Framework

Relevant Site History:

None that relate to this site however there has been a recent application of a similar nature at Hinksey Lake Footbridge:

12/03282/PA11 - Application seeking prior approval for development comprising demolition of existing and erection of replacement footbridge under Part 11 Class A Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995.

This application was refused at West Area Planning Committee on 13th March 2013 and subsequently appealed. The appeal is still in progress and a decision has not yet been issued. A copy of the Council's statement is attached as **Appendix 2**.

Statutory Consultees:

Natural England: no objection

Environment Agency: The application is deemed to have a low environmental risk

Other Representations Received:

Oxgrow Community Action Group: Lack of information on how long the bridge will be closed for and what alternative arrangements will be made; to reach Oxgrow site from other than this footbridge can be a long detour that is not compatible with hard gardening work; if planting season is missed the whole garden would be set back and the Harvest Festival jeopardised; alternative provision for OxGrow volunteers needs to be made if construction takes more than a week; improved access over the bridge would be highly beneficial; cycle access would be highly beneficial too.

Co-Secretary of Oxgrow: Volunteers use the bridge for access and egress; hope every effort is made to minimise the time period during which neither bridge would be accessible to the public, particularly as the new bridge is being constructed offline; what alternative plans have been made for access to and egress from Oxgrow's community allotment?; public safety an issue; provision of lighting, non-slip steps, and wheel chair needed.

Hogacre Common Eco Park: Ramped access would be beneficial for wheeled users of Hogacre Common Eco Park and Pembroke College sports field; would the cycle channels on the drawings be implemented?; cycle racks on the roadward side of the bridge would be useful as would a gritting bin for winter application of grit to the bridge by the local community of users; would the steps/ramp have an antislip surface?; is lighting of the steps possible, to extend the daily hours of practical use of the bridge?

8 letters of comments were received from the following and are summarised below.

37 Newton Road, Magdalen College, 16 Kineton Road, 145 Marlborough Road, Flat 1 9A Parsons Place, 14 Abbey Road, 28 Marlborough Road, 22 Edith Road,

- Current bridge offers a chance for children and families to wave at the trains and watch the shunting and loading of trucks; bridge sides need to be kept open.
- A closed sided bridge will have a dramatic impact on the character of the site and enjoyment for local residents and families.
- Lack of access to the community garden during this important growing period would prove catastrophic to community project, and prevent the public enjoying the community resource that is Hogacre Common eco-park.
- The community would benefit from bridge which enables disabled and/or cycle access.
- The sides of the access steps or ramp and of the bridge need to be 'see-through' rather than solid for safety reasons in this remote location.
- Consideration should be given to providing ramps instead of steps for access by users of buggies, wheelchairs etc. At least the steps should be made as shallow in gradient and as easily accessible as possible.
- Pleased to see cycle troughs are included in the plans.
- Improved cycle parking would be helpful, as would lighting on the bridge.

Determining Issues:

- Siting
- Design
- Other

Officers Assessment:

Site Description

1. The application site (footbridge) lies at the end of the lane running off the corner of White House Road along the side of Grandpont Nursery and South Oxford Adventure Playground. The footbridge provides access to Pembroke College sports ground and Hogacre Common Eco Park to the west the railway line. **Appendix 1** refers.

Proposal

2. The proposal is for the demolition of the existing bridge and the erection of a replacement to the south of the existing bridge. The existing bridge would remain in place whilst the new bridge was constructed to and would be removed on its completion. As a result of the constraints of the location of the new bridge the steps would possess a dogleg as they do now in order to increase the height of the structure and maintain the links to the footpaths either side of the bridge. The steps would incorporate a wheel track along one side of each flight of steps which would enable cycles to be wheeled across footbridge.

3. The works are associated with the Great Western Mainline electrification programme which would see the electrification of train services between Oxford and London Paddington. The reconstruction of the bridge is required to allow sufficient height over the main line tracks to accommodate overhead line equipment associated with the electrification. The current bridge has a minimum clearance of 4.485m (at its lowest point) whilst the new bridge will have a clearance of 6.8m. Funding for the bridge is direct from the Department for Transport on the basis that it is a like for like replacement of the existing one.
4. The submission does not constitute a planning application, but rather an application for “*Prior Approval*” under the provisions of Part 11 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995. An extract from the Order is attached as **Appendix 3** to this report.
5. Part 11 of the 1995 Order relates to works which are permitted by private Act of Parliament and which take them outside of normal planning control. In this case the relevant Act of Parliament which confers such powers is the Oxford and Rugby Railways Act 1845. Under the terms of Part 11 of the 1995 Order if the development in question is authorised by Act of Parliament, the principle of it cannot be challenged by local planning authorities. Rather local planning authorities can only object to the proposals and withhold “prior approval” on the grounds that the design and external appearance would injure the amenity of the neighbourhood, or that a better site is available. In this case the latter criterion clearly does not apply as there is no other more suitable location to link into existing footpaths.

Siting

6. The existing bridge constitutes the only direct pedestrian link to Pembroke College sports ground and Hogacre Common Eco Park from the city. It is intended to remain in place whilst the new bridge is constructed so that disruption to users is kept to a minimum. The new bridge would retain its links to the footpaths either side of the railway. It is not therefore considered feasible that the footbridge could be located elsewhere. The principle of a new footbridge at this location is therefore supported.

Design

7. The proposed bridge would be constructed in steel and would represent an updated version of the existing one. The bridge would have solid panels to a height of 1.5 with a 300mm high mesh panel above. It would also possess a wheeled track to the steps either side for cyclists to make more convenient use of the bridge. Currently there are no proposals for ramped access for disabled needs however as the bridge is intended only as a like for like replacement. The new bridge would permit disabled access to be added at a later date. The absence of disabled access is disappointing bearing in mind the limitations of the existing footbridge and the opportunity presented now to replace it with a structure which provides for all sections of the community.

8. In this context there has been much concern expressed over the fact that disabled access is not to be provided. In support of its position that it is not obliged to make such provision, Network Rail has again drawn officer's attention to what it considers to be a very similar case at South Holland District Council where a replacement footbridge was refused by the local planning authority and was appealed. The appeal decision letter is attached now as **Appendix 4** to this report. The main issue raised by the Council and third parties in that case was that access for all was not being provided. The Inspector in his decision pointed out however that planning permission was not required in the normal way and therefore the issue of concern to the local authority did not fall for him to consider under the Part 11 Prior Approval process. Nevertheless in the case of the Hinksey footbridge committee took the view that withholding prior approval could be justified as the design did not incorporate disabled access. The local planning authority's case to that appeal is attached as **Appendix 2**. The appeal was lodged soon after committee's decision to refuse prior approval in March 2013. It is particularly disappointing at that the time of writing it remains undetermined as the decision in that case would be of assistance as a material consideration to this latest proposal.
9. Notwithstanding committee's determination of the Hinksey case, legal advice remains to exercise caution in considering whether to withhold prior approval for the same or similar reasons as at Hinksey, as in terms of its design and appearance the new bridge could not of itself be said to be injurious to the amenity of the neighbourhood. If however it was considered to be injurious, then clearly the structure would be capable of modification. On balance officers have concluded, as previously, that the Council's case in withholding "prior approval" on these grounds would be weak. Withholding prior approval it is most likely to result in an appeal although there remains the possibility of a Judicial Review on the basis of taking account of an immaterial consideration.

Other Issues

10. The application site is in close proximity to the Iffley Meadows and Magdalen Grove Sites of Special Scientific Interest (SSSIs). Natural England is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, would not damage or destroy the interest features for which these sites have been notified. In any event issues of biodiversity cannot be taken into account in committee's determination of the case as it falls outside the scope of Part 11 of the Town and Country Planning (General Permitted Development) Order 1995 under which provisions the case is submitted.

Conclusion:

The construction of the new footbridge to facilitate electrification to London Paddington has brought with it an opportunity to provide a better quality footbridge to Pembroke College sports ground and Hogacre Common Eco Park, and provide disabled access. Whilst facilities for cyclists are improved over current arrangements, it is disappointing that the opportunity to provide disabled access which might

reasonably be expected has not been forthcoming. That said, officers would not recommend that prior approval be withheld in this case.

Human Rights Act 1998

Officers have considered the Human Rights Act 1998 in reaching a recommendation to grant prior approval, subject to conditions. Officers have considered the potential interference with the rights of the owners/occupiers of surrounding properties under Article 8 and/or Article 1 of the First Protocol of the Act and consider that it is proportionate.

Officers have also considered the interference with the human rights of the applicant under Article 8 and/or Article 1 of the First Protocol caused by imposing conditions. Officers consider that the conditions are necessary to protect the rights and freedoms of others and to control the use of property in accordance with the general interest. The interference is therefore justifiable and proportionate.

Section 17 of the Crime and Disorder Act 1998

Officers have considered, with due regard, the likely effect of the proposal on the need to reduce crime and disorder as part of the determination of this application, in accordance with section 17 of the Crime and Disorder Act 1998. In reaching a recommendation to grant prior approval, officers consider that the proposal will not undermine crime prevention or the promotion of community safety.

Background Papers:

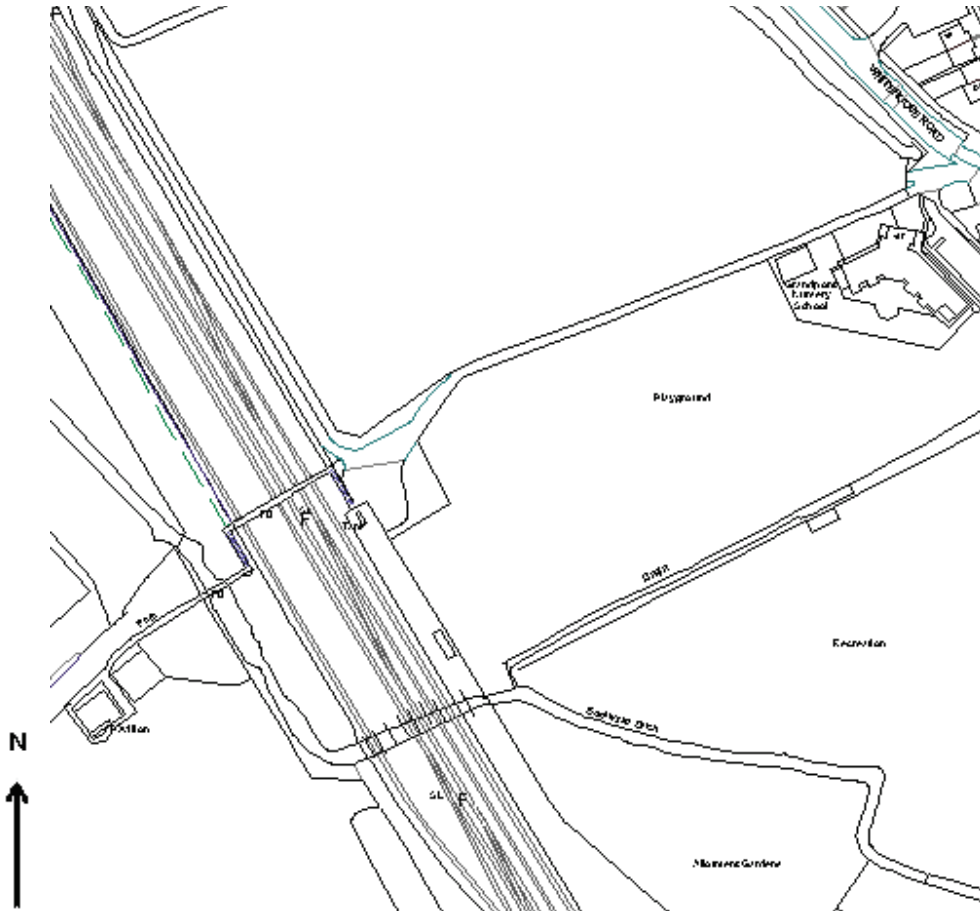
Contact Officer: Lisa Green

Extension: 2614

Date: 23rd January 2014

Appendix 1

13/03320/PA11 – Footbridge off White House Road



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Ordnance Survey 100019348

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Site at Lake Street, Oxford, OX1 4RD

APPEAL BY MR IAN WHEATON AGAINST THE REFUSAL OF
PRIOR APPROVAL FOR THE DEMOLITION OF THE
EXISTING FOOTBRIDGE AND ERECTION OF A
REPLACEMENT FOOTBRIDGE

WRITTEN STATEMENT BY THE LOCAL
PLANNING AUTHORITY

Local Planning Authority Reference:
12/03282/PA11

Planning Inspectorate Reference:
APP/G3110/A/13/2196202



1. Appeal Site and Locality

- 1.1 The appeal site (footbridge) lies to the south of Oxford railway station, immediately west of Hinksey Lake, off Lake Street. It links South Hinksey Village to Oxford City which can only otherwise be accessed from the city via the A34 section of the Oxford Ring Road. The footbridge forms an extension to a further footbridge which crosses the lake itself. **Appendix A** refers.

2. Relevant Planning History

- 2.1 There is no relevant planning history.

3. Appeal Proposal

- 3.1 An application was received on 19th December 2012 seeking prior approval under the provisions of Part 11 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 for the demolition of the existing bridge and the erection of a replacement bridge immediately adjacent to it which would incorporate the flights of steps to its eastern and western ends and was given the reference 12/03182/PA11.
- 3.2 Receipt of the application was advertised in the City Council's weekly list of planning applications received and the Local Planning Authority consulted the owners/occupiers of the surrounding area by the erection of site notices in the immediate vicinity of the bridge inviting comments by 31st January 2013.
- 3.3 Amended plans were received to show a wheeled track along one side of each of the flight of steps which would enable cycles to be wheeled up and over the footbridge.
- 3.3 Representation, including an online petition which at the time of receipt had 434 signatures, were received all of which have previously been submitted with the Questionnaire.
- 3.4 Statutory consultee representations were received from the Environment Agency Thames Region and South Hinksey Parish Council. These have previously been submitted with the Questionnaire.
- 3.5 The application was originally scheduled to be determined by officers using delegated powers. However, on this occasion elected members decided to determine the application themselves at the West Area Planning Committee due to concerns that the design of the new bridge would injure the amenity of the local neighbourhoods by failing to be constructed in a way that would be disabled/cycle/buggy accessible when an alternative design would appear to be possible that avoided injury to local amenity in this way and would not be substantially more expensive. The Council subsequently determined not to grant prior approval for the reason set out in the decision notice dated 26th March 2013 which can be found at **Appendix B** and which is amplified below.

4. Relevant Planning Policy

- 4.1 National Policy Guidance

- 4.1.1 With regards to national policy guidance, the National Planning Policy Framework (NPPF) is relevant to the determination of the appeal.
- 4.1.2 As of 27th March 2012 the NPPF replaced various Planning Policy Statements (PPS's) and Planning Policy Guidance Notes (PPG's) which are now withdrawn.
- 4.1.3 The NPPF makes clear that for the purposes of decision taking, the policies of the development plan should not be considered out-of-date simply because they were adopted prior to the publication of the Framework (paragraph 211).
- 4.1.4 It recognises that development plan policies may need to be revised to take into account the policies within the Framework (paragraph 212), but for 12 months from the date of publication, decision-takers may continue to give full weight to the relevant development plan policies adopted since 2004 even if there is a limited degree of conflict with the Framework (paragraph 214). The NPPF sets out a presumption in favour of sustainable development, which means approving applications in accordance with the development plan.

4.2 The Development Plan

- 4.2.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that planning applications and appeals should be determined in accordance with the Development Plan unless material considerations indicate otherwise.
- 4.2.2 The Development Plan for the City of Oxford comprises the Oxfordshire County Structure Plan 2016 (adopted 21st October 2005); Oxford Core Strategy 2026 (adopted 14th March 2011), the Oxford Local Plan 2001-2016 (adopted 11th November 2005), and Sites and Housing Plan 2011-2026 (adopted February 2013).

Oxfordshire Structure Plan 2016 (adopted 21st October 2005)

- 4.2.3 The Oxfordshire Structure Plan was adopted on the 21st October 2005, but was superseded by the South East Plan. However, three policies in the Oxfordshire Structure Plan 2016 have been saved beyond the publication and subsequent revocation of the Regional Strategy for the South East (except for policy NRM6) of the South East Plan, although these are not of relevance to this appeal.

Oxford Core Strategy 2026

- 4.2.4 The Oxford Core Strategy 2026 was adopted in March 2011 and provides the overarching document for the Local Development Framework. As a result of its adoption, the policies contained within this document replaced a number of the saved policies within the Oxford Local Plan 2001-2016.
- 4.2.5 The following policies are considered relevant to this appeal

- **CS4** - Green Belt
- **CS11** - Flooding

- **CS12** - Biodiversity
- **CS18** - Urban design, town character, historic environment

4.2.6 Copies of these policies and the supporting text were included with the appeal questionnaire.

Oxford Local Plan 2001-2016 (adopted 11th November 2005)

4.2.7 The following policies of the Oxford Local Plan 2001-2016 are considered relevant to this appeal.

- **CP1** - Development Proposals
- **CP8** - Design Development to Relate to its Context
- **CP9** - Creating Successful New Places
- **CP10** - Siting Development to Meet Functional Needs
- **CP11** - Landscape Design
- **CP13** - Accessibility
- **TR4** - Pedestrian & Cycle Facilities
- **NE15** - Loss of Trees and Hedgerows
- **NE20** - Wildlife Corridors
- **SR9** - Footpaths & Bridleways

4.2.8 These policies were saved in accordance with the Planning and Compulsory Purchase Act 2004 on the 4th June 2008. Copies of all the policies and their supporting text were sent with the appeal questionnaire.

Sites and Housing Plan 2011-2026 (adopted February 2013)

4.2.9 The Sites and Housing Plan was adopted on the 18th February 2013 following an examination in public. The policies within this document have now superseded a number of the saved policies of the Oxford Local Plan 2001-2016. However there are no policies contained within the Sites and Housing Plan 2011-2026 that are relevant to this appeal.

4.3 Part 11 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995.

4.3.1 Part 11 of the 1995 Order relates to works which are permitted by private Act of Parliament and which take them outside of normal planning control. In this case the relevant Act of Parliament which confers such powers is the Oxford and Rugby Railways Act 1845. Under the terms of Part 11 of the 1995 Order if the development in question is authorised by Parliament, the principle of it cannot be challenged by local planning authorities. Rather local planning authorities can only object to the proposals and withhold “prior approval” on the grounds that the design and external appearance would injure the amenity of the neighbourhood, or that a better site is available. An extract from the Order is attached as **Appendix C**.

5. Amplification of Reason for Refusal

5.1 The proposal was refused for the following reason:

- *The design of the proposed development would injure the amenity of the neighbourhood and of residents wishing to utilise the footbridge by failing to provide fair and equal access for people with disabilities, contrary to policy CP.13 of the adopted Oxford Local Plan 2001 to 2016.*

5.2 The Council was clear that the scope of what should be considered to include the amenities of the neighbourhoods on either side of the proposed development clearly encompasses the ability of the public (including those with disabilities) to make use of those neighbourhoods and any current or future routes between them, and that granting prior approval for any development which failed to provide the required access for those with ambulant disabilities would damage that amenity. Whilst the Council carefully noted and had regard to the Spalding appeal decision (copy attached at **Appendix D**) it specifically considered that decision letter and concluded that it did not support the position adopted by the Appellant. In particular it may be noted that the decision does not support the proposition that matters such as access for the disabled are not pertinent to an appeal such as this. At para 4 the Inspector noted the argument that the Order should bear a wide interpretation. He proceeded to decide, on the merits of that particular set of circumstances, that even the widest interpretation did not result in dismissal of that appeal. He did not decide that the Order did not bear the wide interpretation contended for. Indeed, had he decided that the Order bore a more restricted meaning he would not have considered the impact of the development against that wide interpretation. It must therefore follow that, far from supporting the Appellant's position, the Spalding decision supports the Local Planning Authority (LPA). It establishes that access for the disabled is a matter that must be considered in the context of such a prior approval application/appeal.

5.3 The Council would also draw attention to section 149 of the Equality Act 2010 which postdates much of the material that the Appellant relies upon and, regrettably, much of the Appellant's apparent thought processes. The Technical Guidance issued by the Equality and Human Rights Commission is issued under s13 of the 2006 Equality Act. The Courts have held that compliance with that guidance is relevant in demonstrating compliance with the s149 duty and that a body subject to that duty will need to justify its departure from that guidance ([2008]EWHC2062 (Admin) para 22 per Moses LJ. As para 1.6 of that guidance makes clear the s149 duty applies to all public authorities and those discharging public functions subject to exceptions. It seemed clear to the Council that this applied both to the Council itself and to the Secretary of State (and anyone exercising the functions of the Secretary of State) as regards Part III T&CPA 90 functions.

5.4 The core of the s149 duty is the need to have due regard to the need to:

- (a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the 2010 Act;

- (b) Advance equality of opportunity between persons who share a relevant protected characteristic (which includes disability) and persons who do not share it;
- (c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

5.5 In order to comply with that statutory duty in accord with the Technical Guidance the LPA is strongly of the view that this appeal should be dismissed. The Appeal proposal necessitates an abdication of all three elements.

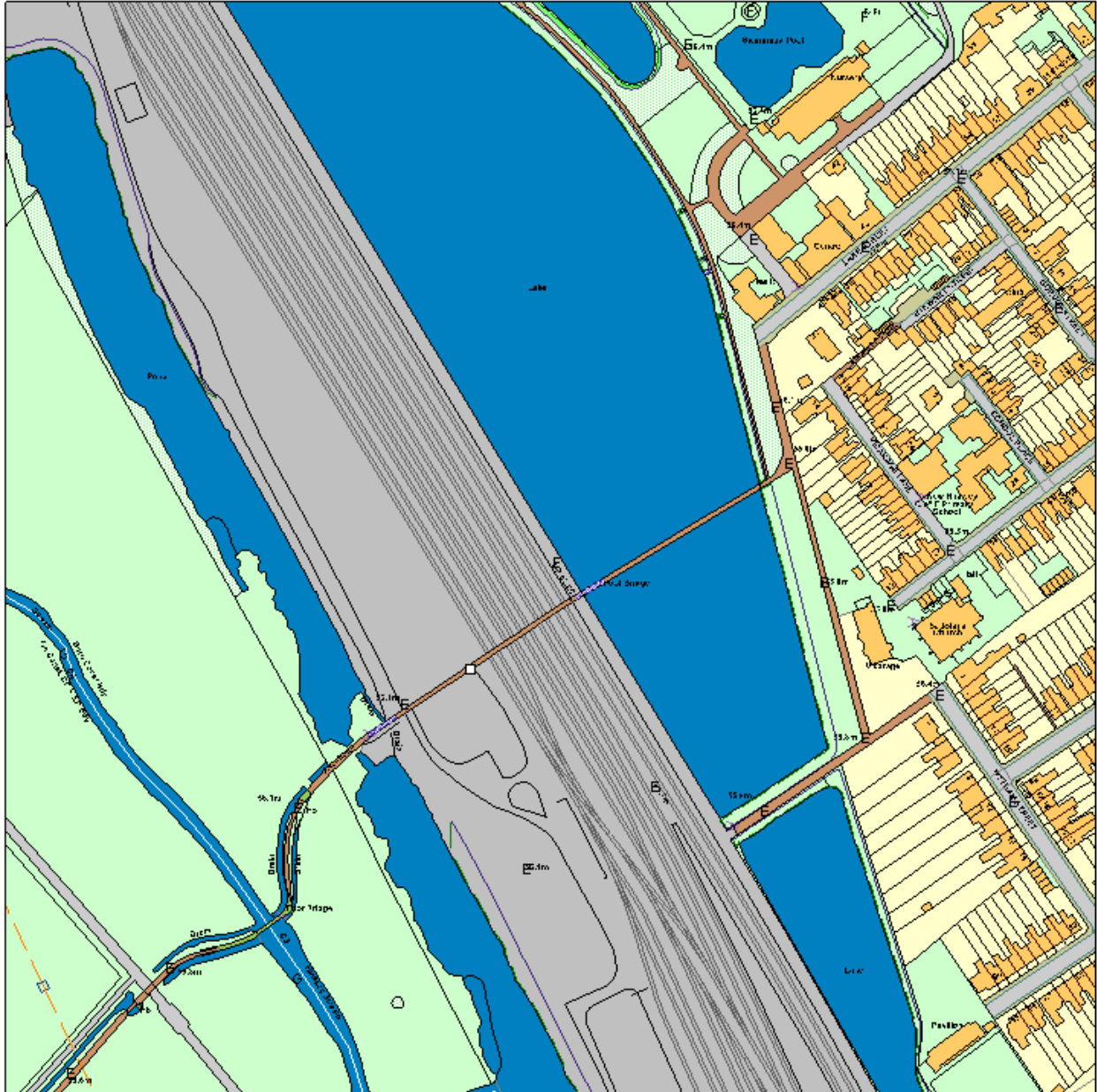
6. Conclusion

6.1 On the basis of a careful consideration by elected members of the application, relevant local and national planning policies, the advice of their planning and law officers, the representations made by the Appellant and members of local communities on both sides of the railway line the Council decided to refuse to grant prior approval for this application to construct a bridge which would injure the amenity of the neighbourhood because it would be inaccessible to users with ambulant disabilities and not in compliance with the Equality Act 2010. The Inspector is, therefore, respectfully requested to dismiss this appeal for the reasons given.

Appendix A

APP/G3110/A/13/2196202

12/03282/PA11 – Hinksey Lake Footbridge



Scale : 1:2500

Appendix B

12/03282/PA11 Decision Notice

City Development
Planning Control and Conservation

E: planning@oxford.gov.uk F: 01865 252144

St Aldate's Chambers
109 – 113 St Aldate's
Oxford OX1 1DS

Central Number 01865 249811

www.oxford.gov.uk



To: Network Rail
Mr Ian Wheaton
Wales And Western Town Planning
Temple Point
Redcliffe Way
Bristol
BS1 6NL

APPLICATION FOR PLANNING PERMISSION
Town and Country Planning Act 1990

DECISION DATE: 26th March, 2013

PROPOSAL: Application seeking prior approval for development comprising demolition of existing and erection of replacement footbridge under Part 11 Class A Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (Amended plans) (PLEASE NOTE THIS IS NOT A PLANNING APPLICATION BUT A NOTIFICATION SUBMITTED BY NETWORK RAIL FOR PRIOR APPROVAL BY OXFORD CITY COUNCIL)

AI: Hinksey Lake Footbridge Lake Street Oxford

NOTICE OF REFUSAL OF PLANNING PERMISSION

12/03282/PA11

Following consideration of the application in respect of the proposal outlined above it was resolved to **REFUSE PLANNING PERMISSION** for the following reasons:-

REASONS :

- 1 The design of the proposed development would injure the amenity of the neighbourhood and of residents wishing to utilise the footbridge by failing to provide fair and equal access for people with disabilities, contrary to policy CP.13 of the adopted Oxford Local Plan 2001 to 2016

INFORMATIVES :

- 1 Environment Agency has the following comments to make.



www.oxford.gov.uk

From a review of the existing and proposed General Arrangements, reference Qg112501/H/101 rev A (existing) and 102 rev B (proposed), it seems that the works will be largely confined to the track area and there is no suggestion that there will be any ground remodelling. We wish the applicant to confirm that this is the case.

Additionally, we have a regulatory role in considering any works within 8m of Main River watercourses. From our discussions it seems there will not be a need to cross or affect local watercourses, however if this is proposed then there may be a need to apply for what is known as a Flood Defence Consent. Main river maps can be viewed on our website for screening purposes or we can supply a higher resolution plan if required. There may also be a need to consider Flood Defence Consent for the compound, depending on its location. We will expect the applicant to carry out all relevant ecological surveys and provide mitigation as necessary

PLEASE NOTE All local plan policies and proposals which are relevant to this decision are specified in the list below which forms part of this decision notice. However, in circumstances whereby this notice relates to a refusal of planning permission, the particular policies and proposals in each local plan which form the basis for the Council's refusal to grant planning permission are referred to in the reasons for refusal set out above.

CP1 - Oxford Local Plan 2001-2016

Development Proposals - Sets out key criteria expected from new development.

CP8 - Oxford Local Plan 2001-2016

Designing Development to Relate to its Context - Sets out criteria required from development to demonstrate that it will respect the local context.

CP9 - Oxford Local Plan 2001-2016

Creating Successful New Places - Sets out criteria required from development to create a successful public realm.

CP10 - Oxford Local Plan 2001-2016

Siting of Development to Meet its Functional Needs - Sets out criteria required from development to ensure functional needs are met.

CP11 - Oxford Local Plan 2001-2016

Landscape Design - Requires development to incorporate appropriate hard and soft landscaping.

CP13 - Oxford Local Plan 2001-2016

Accessibility - Requires development to make reasonable provision for access by all members of the community.

TR4 - Oxford Local Plan 2001-2016

Pedestrian and Cycle Facilities - Seeks to secure pedestrian and cycle facilities as part of development proposals. Sets cycle parking standards.

NE15 - Oxford Local Plan 2001-2016

Loss of Trees and Hedgerows - Protects trees and hedgerows if their loss would have a significant impact on public amenity or ecological interest.

NE20 - Oxford Local Plan 2001-2016

Wildlife Corridors - Sets out policy approach to designated Wildlife Corridors.

SR9 - Oxford Local Plan 2001-2016

Footpaths & Bridleways - Seeks to safeguard, improve or add to the Public Rights of Way network.

CS4_ - Core Strategy

Green Belt - Sets out the approach to development in the Green Belt and outlines the criteria to be met for land to be released from the Green Belt.

CS11_ - Core Strategy

Flooding - Sets out approach to development in the flood plain and other flood zones, and to reducing flood risk from all development.

CS12_ - Core Strategy

Biodiversity - Requires development to maintain and where appropriate enhance biodiversity.

CS18_ - Core Strategy

Urban design, townscape character and the historic environment - Sets out urban design principles and requires development to respect Oxford's unique townscape and historic environment.

MICHAEL CROFTON - BRIGGS
Head of City Development

IT IS IMPORTANT THAT YOU SHOULD READ THE NOTES ACCOMPANYING THIS NOTICE

GUIDANCE NOTES FOR APPLICANTS WHERE AN APPLICATION HAS BEEN REFUSED

You are reminded that you can submit another similar application for development without needing to pay a fee provided it is submitted by the same applicant on the same site and within 12 months of the date of registration of the original application.

The Council offers pre-application advice that is free for householder applications but a fee is required for all other types of application. You can see further information on pre-application advice and download the necessary form to apply for this at www.oxford.gov.uk/PageRender/decP/Pre-Application_Advice_ooow.htm

1. PLANNING APPLICATIONS AND APPLICATIONS FOR LISTED BUILDING CONSENT AND CONSERVATION AREA CONSENT.

1. If the applicant is aggrieved by the decision of the Local Planning Authority to refuse permission, he or she may appeal to the Secretary of State for the Environment under Section 78 of the Town and Country Planning Act 1990 (or Section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Regulation 8 of the Planning (Listed Buildings and Conservation Areas) Regulations 1990 in respect of listed buildings in conservation areas), within six months of the date of this notice. **If the refusal is against a Householder application, received after 5th April 2009, the appeal must be lodged within 12 weeks of this notice.** (Appeals must be made on a form which is obtainable from the The Planning Inspectorate, Customer Support Unit, Room 3/15 Eagle Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN (Tel. 0117 372 8372) www.planning-inspectorate.gov.uk). The Secretary of State has power to allow a longer period for the giving of notice of appeal but will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not required to entertain an appeal if it appears that permission for the proposed development could not have been granted by the Local Planning Authority having regard to the statutory requirements, to the provision of the development order, and to any directions given under the order. The Secretary of State does not in practice refuse to entertain appeals solely because the decision of the Local Planning Authority was based on a direction given by her or him.
2. If permission is refused by the Local Planning Authority or by the Secretary of State for the Environment and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, he or she may serve on the Oxford City Council a purchase notice requiring the Council to purchase her or his interest in the land under Section 137 of the Town and Country Planning Act 1990 or Section 32 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Regulation 9 of the Planning (Listed Buildings and Conservation Areas) Regulations 1990 in respect of listed buildings and buildings in conservation areas.
3. In certain circumstances, a claim may be made against the Local Planning Authority for compensation, where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to her or him. The circumstances in which such compensation is payable are set out in Section 114 and Part II of Schedule 3 of the Town and Country Planning Act 1990 (or Section 27 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Regulation 9 of the Planning (Listed Buildings and Conservation Areas) Regulations 1990 in respect of listed buildings).

2. APPLICATION FOR CONSENT TO DISPLAY ADVERTISEMENTS

If the applicant is aggrieved by the decision of the Local Planning Authority to refuse consent, he or she may appeal to the Secretary of State for the Environment in accordance with Regulation 17 and Part 3 of Schedule 4 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 within eight weeks of the receipt of this notice. (Appeals must be made of a form which obtainable from The Planning Inspectorate, Customer Support Unit, Room 3/15 Eagle Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN (Tel. 0117 372 8372) www.planning-inspectorate.gov.uk)

Appendix C

PART 11 DEVELOPMENT UNDER LOCAL OR PRIVATE ACTS OR ORDERS Class A

A. Permitted development

Development authorised by—

- (a) a local or private Act of Parliament,
- (b) an order approved by both Houses of Parliament, or
- (c) an order under section 14 or 16 of the Harbours Act 1964⁽²⁾ (orders for securing harbour efficiency etc., and orders conferring powers for improvement, construction etc. of harbours)

which designates specifically the nature of the development authorised and the land upon which it may be carried out.

A.1 Condition

Development is not permitted by Class A if it consists of or includes—

- (a) the erection, construction, alteration or extension of any building, bridge, aqueduct, pier or dam, or
- (b) the formation, laying out or alteration of a means of access to any highway used by vehicular traffic,

unless the prior approval of the appropriate authority to the detailed plans and specifications is first obtained.

A.2 Prior approvals

The prior approval referred to in paragraph A.1 is not to be refused by the appropriate authority nor are conditions to be imposed unless they are satisfied that—

- (a) the development (other than the provision of or works carried out to a dam) ought to be and could reasonably be carried out elsewhere on the land; or
- (b) the design or external appearance of any building, bridge, aqueduct, pier or dam would injure the amenity of the neighbourhood and is reasonably capable of modification to avoid such injury.

A.3 Interpretation of Class A

In Class A, “appropriate authority” means—

- (a) in Greater London or a metropolitan county, the local planning authority,
- (b) in a National Park, outside a metropolitan county, the county planning authority,
- (c) in any other case, the district planning authority⁽³⁾.

Appendix D



Appeal Decision

Site visit made on 22 September 2009

by **Peter Eggleton MRTPI**

an Inspector appointed by the Secretary of State
for Communities and Local Government

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.qsi.gov.uk

Decision date:
14 October 2009

Appeal Ref: APP/A2525/A/09/2105440

Steppingstone Footbridge, Spalding, Lincolnshire PE11 1EY.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
- The appeal is made by Network Rail against the decision of the South Holland District Council.
- The application Ref H16/1149/08, dated 31 October 2008, was refused by notice dated 24 December 2008.
- The development proposed is a replacement bridge.

Decision

1. I allow the appeal and grant approval under the provisions of Part 11 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 for the design and external appearance of the bridge at Steppingstone Footbridge, Spalding, Lincolnshire in accordance with the terms of the application Ref H16/1149/08, dated 31 October 2008, and the plans submitted therewith, subject to the following condition:
 - 1) No development shall take place until details of the paint to be used on the external surfaces of the bridge have been submitted to and approved in writing by the local planning authority. The bridge shall be painted in accordance with the approved details prior to the first public use of the bridge.

Main Issue

2. The main issue is the effect of the proposal on the amenity of the neighbourhood.

Reasons

3. The Council determined this application in accordance with the requirements of Part 11 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995. I have considered the appeal on this basis. In the circumstances of this case, the Order does not allow for the construction of a bridge unless prior approval of the detailed plans and specifications has been obtained. This should not be refused nor should conditions be imposed unless the bridge could reasonably be erected elsewhere on the land; or the design or external appearance would injure the amenity of the neighbourhood and could be modified to avoid such injury.

4. The existing bridge forms part of a footpath network and therefore there is no dispute with regard to its location. The only matter for consideration therefore is whether the proposal would be harmful to the amenity of the neighbourhood. The proposed bridge would be considerably shorter than the existing and this would reduce its prominence. Although the station is nearby, I did not find it to be closely related visually. The bridge would stand in isolation from buildings and structures that retain the historic form and character associated with the bridge to be removed. Although the bridge would have a very simple, functional design, I do not consider that this would be out of keeping with its surroundings. I am satisfied that it would sit comfortably within its setting and would not detract from the character or appearance of the area. Although the Order refers to the amenity of the neighbourhood and it has been suggested that this could be widely interpreted, the increased width and more functional design, in comparison to the existing structure, would improve access and safety. I am not satisfied that even the widest interpretation of the Order would result in the conclusion that the proposed bridge would cause injury to the amenity of the neighbourhood. It therefore satisfies the conditions of the Order.
5. I have considered all the concerns raised by the Council and third parties. I accept that an alternative design and the use of different materials could potentially enhance the character and appearance of this area. I also agree that a railway crossing in this location should provide access for all. However, given my main findings, the proposal meets the requirements of the Order and does not require planning permission. As such, these are not matters that fall for me to consider. The appellant has agreed that provision could be made to allow ease of use by cyclists and has advised that a condition to require this would be acceptable. Although I would encourage such provision, the Order is clear that conditions should address concerns with regard to any injury to the amenity of the neighbourhood and as this proposal would provide enhanced access, I am not satisfied that such a condition would fall within the scope of the Order. I agree however that anti-vandalism paint should be used and this is a matter that I can control by condition, as is the final colour of the bridge. I have therefore included a condition which requires that the finish of the bridge be agreed with the Council.
6. As this proposal is not an application for planning permission, I am limited as to the matters that I can take into account in terms of both the concerns expressed and the matters put forward by the appellant. On the basis of the application before me, I conclude that subject to the condition described above regarding the finish of the structure, as the proposal would not result in injury to the amenity of the neighbourhood, prior approval should not be withheld. I therefore allow the appeal.

Peter Eggleton

INSPECTOR

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PART 11 DEVELOPMENT UNDER LOCAL OR PRIVATE ACTS OR ORDERS Class A

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which designates specifically the nature of the development authorised and the land upon which it may be carried out.

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- (a) the erection, construction, alteration or extension of any building, bridge, aqueduct, pier or dam, or
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In Class A, “appropriate authority” means—

- (a) in Greater London or a metropolitan county, the local planning authority,
- (b) in a National Park, outside a metropolitan county, the county planning authority,
- (c) in any other case, the district planning authority⁽³⁾.

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Appeal Decision

Site visit made on 22 September 2009

by **Peter Eggleton MRTPI**

an Inspector appointed by the Secretary of State
for Communities and Local Government

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
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Bristol BS1 6PN

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5. I have considered all the concerns raised by the Council and third parties. I accept that an alternative design and the use of different materials could potentially enhance the character and appearance of this area. I also agree that a railway crossing in this location should provide access for all. However, given my main findings, the proposal meets the requirements of the Order and does not require planning permission. As such, these are not matters that fall for me to consider. The appellant has agreed that provision could be made to allow ease of use by cyclists and has advised that a condition to require this would be acceptable. Although I would encourage such provision, the Order is clear that conditions should address concerns with regard to any injury to the amenity of the neighbourhood and as this proposal would provide enhanced access, I am not satisfied that such a condition would fall within the scope of the Order. I agree however that anti-vandalism paint should be used and this is a matter that I can control by condition, as is the final colour of the bridge. I have therefore included a condition which requires that the finish of the bridge be agreed with the Council.
6. As this proposal is not an application for planning permission, I am limited as to the matters that I can take into account in terms of both the concerns expressed and the matters put forward by the appellant. On the basis of the application before me, I conclude that subject to the condition described above regarding the finish of the structure, as the proposal would not result in injury to the amenity of the neighbourhood, prior approval should not be withheld. I therefore allow the appeal.

Peter Eggleton

INSPECTOR

Monthly Planning Appeals Performance Update – December 2013

Contact: Head of Service City Development: Michael Crofton-Briggs

Tel 01865 252360

1. The purpose of this report is two-fold:
 - i. To provide an update on the Council's planning appeal performance; and
 - ii. To list those appeal cases that were decided and also those received during the specified month.

Best Value Performance Indicator BV204

2. The Government's Best Value Performance Indicator BV204 relates to appeals arising from the Council's refusal of planning permission and telecommunications prior approval refusals. It measures the Council's appeals performance in the form of the percentage of appeals allowed. It has come to be seen as an indication of the quality of the Council's planning decision making. BV204 does not include appeals against non-determination, enforcement action, advertisement consent refusals and some other types. Table A sets out BV204 rolling annual performance for the year ending 31 December 2013, while Table B does the same for the current business plan year, ie. 1 April 2013 to 31 December 2013.

A.	Council performance		Appeals arising from Committee refusal	Appeals arising from delegated refusal
	No.	%	No.	No.
Allowed	18	30%	6 (55%)	11 (23%)
Dismissed	43	70%	5 (45%)	37 (77%)
Total BV204 appeals	61	100%	11 (100%)	48 (100%)

Table A. BV204 Rolling annual performance to 31 December 2013

B.	Council performance		Appeals arising from Committee refusal	Appeals arising from delegated refusal
	No.	%	No.	No.
Allowed	9	23%	3 (43%)	5 (16%)
Dismissed	31	77%	4 (57%)	26 (84%)
Total BV204 appeals	40	100%	7 (100%)	31 (100%)

Table B. BV204: Current Business plan year performance (1 April to 31 December 2013)

All Appeal Types

3. A fuller picture of the Council's appeal performance is given by considering the outcome of all types of planning appeals, i.e. including non-determination, enforcement, advertisement appeals etc. Performance on all appeals is shown in Table C.

	Appeals	Percentage performance
Allowed	21	(30%)
Dismissed	49	70%
All appeals decided	70	
Withdrawn	0	

Table C. All planning appeals (not just BV204 appeals): Rolling year to 31 December 2013

4. When an appeal decision is received, the Inspector's decision letter is circulated (normally by email) to the committee chairs and ward councillors. If the case is significant, the case officer also subsequently circulates committee members with a commentary on the appeal decision. Table D, appended below, shows a breakdown of appeal decisions received during December 2013.
5. When an appeal is received notification letters are sent to interested parties to inform them of the appeal. The relevant ward members also receive a copy of this notification letter. Table E, appended below, is a breakdown of all appeals started during December 2013. Any questions at the Committee meeting on these appeals will be passed back to the case officer for a reply.
6. All councillors receive a weekly list of planning appeals (via email) informing them of appeals that have started and been decided, as well as notifying them of any forthcoming hearings and inquiries.

Table D

Appeals Decided Between 01/12/2013 And 31/12/2013

DECTYPE KEY: COMM - Area Committee Decision, DEL - Delegated Decision, DELCOM - Called in by Area Committee, STRACM - Strategic Committee;
RECM KEY: PER - Approve, REF - Refuse, SPL - Split Decision; NDA - Not Determined; **APP DEC KEY:** ALC - Allowed with conditions, ALW - Allowed without conditions, ALWCST - Allowed with costs, AWD - Appeal withdrawn, DIS - Dismissed

DC CASE	AP CASE NO.	DECTYPE:	RECM:	APP DEC	DECIDED	WARD:	ADDRESS	DESCRIPTION
13/01544/FUL	13/00058/REFUSE	DEL	REF	DIS	02/12/2013	LYEVAL	103 Fern Hill Road Oxford Oxfordshire OX4 2JR	Installation of dormer window to the side elevation.
12/03195/FUL	13/00036/REFUSE	DEL	REF	DIS	05/12/2013	STCLEM	Land Adjacent 30A Union Street Oxford Oxfordshire	Erection of a two storey extension to 30A Union Street to create a semi detached dwelling (class C3)
13/00640/FUL	13/00059/REFUSE	DEL	SPL	DIS	05/12/2013	NORTH	38 St Bernard's Road Oxford Oxfordshire OX2 6EH	Rear dormer window
13/01208/FUL	13/00064/REFUSE	DEL	SPL	ALC	05/12/2013	RHIFF	5 Iffley Turn Oxford OX4 4DU	Erection of single and two storey rear and side extension. Alterations to roof including insertion of dormer window and rooflight to rear to provide Erection of single and two storey rear and side extension. Alterations to roof including insertion of dormer window and rooflight to rear to provide additional loft room floorspace.
13/00603/FUL	13/00029/REFUSE	DEL	REF	DIS	06/12/2013	COWLYM	160 Cricket Road Oxford Oxfordshire OX4 3DN	Erection of 2 x 2 bed dwelling houses (Class C3) to rear of existing dwelling. Provision of amenity space, vehicle and cycle parking and bin store. Provision of new vehicle access from Cricket Road.
12/02505/FUL	13/00028/REFUSE	DEL	REF	DIS	09/12/2013	STCLEM	10 and 10A Bartlemas Road Oxford OX4 1XX	Conversion of existing 2 bedroom dwelling at No.10 into 2 x 1-bedroom dwellings (use class C3). Conversion of existing 1-bedroom flat at No.10A into 2 x 1-bedroom dwellings (use class C3) including two storey side extension and removal of workshop in rear garden. (Amended plans) (Amended description)
13/02084/FUL	13/00065/REFUSE	DELCOM	REF	DIS	09/12/2013	HINKPK	81 Wytham Street Oxford Oxfordshire OX1 4TN	Erection of a single storey side and rear extension.

DC CASE	AP CASE NO.	DECTYPE:	RECM:	APP DEC	DECIDED	WARD:	ADDRESS	DESCRIPTION
13/01660/FUL	13/00068/REFUSE	DEL	REF	ALW	11/12/2013	COWLEY	5 Lockheart Crescent Oxford OX4 3RN	Single storey rear extension.
13/00950/FUL	13/00032/REFUSE	DEL	REF	DIS	12/12/2013	BARTSD	6 Bursill Close Headington Oxford OX3 8EW	Erection of a single storey extension along with internal alterations to create an additional 1 x 1 bedroom dwelling (Use Class C3) (amended)
13/00546/FUL	13/00027/REFUSE	DEL	REF	ALW	13/12/2013	STMARY	13 Stanley Road Oxford Oxfordshire OX4 1QY	Change of use of first floor and part of second floor from residential to day nursery (Class D1).
13/01001/FUL	13/00033/REFUSE	DEL	REF	DIS	16/12/2013	LITTM	Land To The Rear Of 1 And 2 Longwall Oxford Oxfordshire OX4 4PG	Erection of 2 x single storey storage buildings, fencing and gates and change of use to storage (Class B8). Provision of vehicle parking.
13/01289/FUL	13/00038/REFUSE	DEL	REF	DIS	17/12/2013	COWLYM	24 Milton Road Oxford Oxfordshire OX4 3EF	Erection of part single storey, part two storey, side extension to create 1 x 2-bed dwellinghouse (use class C3). Provision of private amenity space, car parking spaces and bin and cycle store.
12/02083/FUL	13/00043/REFUSE	DEL	REF	DIS	18/12/2013	SUMMTN	339 Banbury Road Oxford OX2 7PL	Erection of one apartment block comprising 2 x 1-bed and 1 x 2-bed apartments, cycle store and waste recycling point. (Additional information) (Additional plans) (Amended plans)
13/00656/VAR	13/00051/COND	DEL	REF	DIS	18/12/2013	HEAD	10 Stephen Road Oxford Oxfordshire OX3 9AY	Variation of condition 10 of planning permission 08/01961/FUL to allow for a single parking permit to be provided to the 2 bed flat identified on the plan
13/00404/FUL	13/00048/REFUSE	DEL	REF	DIS	31/12/2013	JEROSN	102, 102A And 102B Bridge Street Oxford OX2 0BD	Installation of replacement windows to front elevation.

Total Decided: 15

Enforcement Appeals Decided Between 1/12/2013 And 31/12/2013

APP DEC KEY: ALC - Allowed with conditions, ALW - Allowed without conditons, AWD - Appeal withdrawn, DIS - Dismissed

EN CASE	AP CASE NO.	APP DEC	DECIDED	ADDRESS	WARD:	DESCRIPTION
12//0035/2/ENF Headington Oxford CHURCH OX3 7JY	13/00030/ENFORC	DIS	18/12/2013	11 Old Road Oxfordshire conversion without planning permission		

Total Decided: 1

Table E

Appeals Received Between 01/12/2013 And 31/12/2013

DECTYPE KEY: COMM - Area Committee Decision, DEL - Delegated Decision, DELCOM - Called in by Area Committee, STRACM - Strategic Committee;
RECMND KEY: PER - Approve, REF - Refuse, SPL - Split Decision, NDA - Not Determined; **TYPE KEY:** W - Written representation, I - Informal hearing, P - Public Inquiry, H - Householder

DC CASE	AP CASE NO.	DEC TYPE	RECM	TYPE	ADDRESS	WARD:	DESCRIPTION
06/01796/CND3	13/00075/REFUSE	DELCOM	REF	W	Lady Margaret Hall Norham Gardens Oxford Oxfordshire OX2	NORTH	Details submitted in accordance with condition 10 (landscaping) of planning permission 06/01796/FUL.
13/02303/FUL	13/00074/REFUSE	DEL	REF	W	9 Green Street Oxford Oxfordshire OX4 1YB	STMARY	Demolition of existing buildings and erection of 3 x 4-bedroom dwellings (Use Class C3) with associated car parking, cycle parking and bin storage.

Total Received: 2

WEST AREA PLANNING COMMITTEE

Tuesday 7 January 2014

COUNCILLORS PRESENT: Councillors Van Nooijen (Chair), Benjamin, Canning, Cook, Coulter, Goddard, Jones, Price and Tanner.

OFFICERS PRESENT: Lois Stock (Democratic and Electoral Services Officer), Michael Morgan (Law and Governance), Sarah Billam (Conservation Officer), David Edwards (Executive Director City Regeneration and Housing), Clare Golden (City Development) and Matthew Parry (City Development)

78. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

The following apologies were received:-

Councillor Gotch – Councillor Goddard substituted;
Councillor Clack – Councillor Coulter substituted.

79. DECLARATIONS OF INTEREST

None made

80. ROGER DUDMAN WAY REVIEW: INDEPENDENT REPORT AND RECOMMENDATIONS

The Executive Director of City Regeneration and Housing submitted a report (previously circulated, now appended) concerning the final report and recommendations from the Roger Dudman Way independent review.

David Edwards (Executive Director of City Regeneration and Housing) presented the report to the Committee and provided some background and context. He emphasised that the review carried out had been independent, and that the conclusion it reached was that the Council had met its statutory duties when considering the Roger Dudman way application. However, the review report also made a number of recommendations that would assist the Council to embed best practice in its procedures in future. These recommendations were a package, which the Committee was invited to consider and encouraged to adopt.

Nicky Moeran (on behalf of the Save Port Meadow Campaign Group) said that the group was unable to endorse the review report as it stood, for the reason that it did not address a number of key questions. These questions had been deemed to be beyond the remit of the review. The Save Port Meadow Campaign Group would remain active and vigilant in holding the Council to account.

Councillor John Goddard was the Chair of the Working Group that was established in order to consider the planning processes associated with the Roger Dudman Way application. He observed that it had been a worthwhile exercise, that the history of the site had been explored, but that it was now time

to grasp the opportunity to move on and make changes and improvements to meet best practice standards.

Members of the Committee then made the following observations:-

- The recommendations made in the review report are extensive and will have a significant impact;
- The action plan is far from trivial, it has budgetary implications, and it is to be hoped that the Council can progress this quickly;
- Clarity on the interpretation of “design and context related to the surrounding area” was much needed, and should be included in the review report;
- It was noted that many items in the proposed Action Plan were already in hand, and that a design panel already existed;
- It was hoped that the suggested group of experts could be established quickly;
- It was acknowledged that some aspects to the proposed Action Plan would require finance – but the Council did need to know exactly what was required first;
- Members of the Working Party would very much welcome being kept up to date with the progress of establishing the Experts’ Group as well as the progress of the Action Plan;
- Would it be possible to establish a “standing panel” of officers, Councillors and various specialists with local and planning knowledge to look at any application that would have a major impact upon the City?
- It would be helpful for pre-application discussions related to major applications to be recorded in some way;
- Pre-application discussions were the best time to influence the outcome and a good time to involve people who might be affected;
- There should be better use of IT;
- Consultation should first consider who might be affected by a proposal, and then real efforts should be made to reach out to them;
- There should be real and consistent engagement between the Universities, major employers and the City Council, as their future and that of the City was symbiotic;

The Chair clarified, in response to comments from the Save Port Meadow Campaign Group, that the independent reviewer, Mr Goodstadt, had added some issues that they raised; and where he had not done so, it was because he felt them to be beyond the scope of the review or based upon a false premise.

He further suggested that the review report should be circulated to all members of Council as quickly as possible. A statement would be made at the next meeting of Council, and Council would be asked to ensure that provision was made in the Budget for the cost of establishing and running the suggested design review panel.

The Executive Director of City Regeneration and Housing indicated that he had prepared an informative note concerning the amount of student accommodation provided on this site. The members of the Committee had not been misled on this point. Mr Goodstadt would add this to the review report.

Resolved to:

- (1) Receive the final report of the independent review overseen by the Working Group, and note the findings and recommendations;
- (2) Endorse the proposals to address the recommendations with an Action Plan and embed best practice, and direct officers to carry out the actions stated, reporting to City Executive Board as required; the review report to be circulated to all members of Council as soon as possible and Council encouraged to make a budget allowance for the establishment and operation of the design review panel;
- (3) Thank Mr Vincent Goodstadt, the independent reviewer, and Dr Lucy Natarajan for their work, and the members of the Working Group for their contributions.

81. 23 AND BASEMENT FLAT 23 WALTON CRESCENT: 13/03031/FUL

The Head of City Development submitted a report (previously circulated now appended) that detailed a planning application to demolish the existing single storey rear extension and the erection of a conservatory to the rear; the erection of a part single storey, part 2 storey side extension, including conservatory and roof terrace, plus insertion of double doors to the front of the property at basement level.

Matthew Parry (Planning Officer) presented the report to the Committee.

In accordance with the criteria for public speaking, the Committee Caroline Brown spoke against the application and Frank Reif spoke in favour of it.

After taking all submissions into account, both written and oral, the Committee resolved to REFUSE the planning application for the following reasons:-

- (1) The proposed side extension would result in the near total enclosure of the rear garden of 24 Richmond Road. This would significantly reduce the quality of the outlook from the rear garden as well as significantly reduce the levels of daylight and sunlight it receives. Consequently the proposals fail to accord with the requirements of policies CP1 and CP10 of the Oxford Local plan 2001-2016, as well as policy HP14 of the Sites and Housing Plan 2011-2026;
- (2) The introduction of a raised outdoor terrace within an enclosed residential environment will give rise to a significant reduction in actual and perceived privacy for occupiers of neighbouring dwellings, in particular no 24 Richmond Road. Consequently the proposals fail to adequately safeguard neighbouring residential amenity, contrary to the requirements of policies CP1 and CP10 of the Oxford Local Plan 2001-2016 as well as policy HP14 of the Sites and Housing Plan 2011-2026.

82. 102 SOUTHMOOR ROAD: 13/03091/FUL

The Head of City Development submitted a report (previously circulated now appended) that detailed a planning application to erect a first floor rear extension and the formation of a dormer to the rear. (This application was made by an employee of the Council, hence its presentation to the Committee.)

The Committee took all submissions into account and resolved to APPROVE the application with the conditions below, and that the Head of City Development be authorised to issue the notice of permission.

Conditions

- (1) Development begun within time limit;
- (2) Matching materials;
- (3) Develop in accordance with approved plans.

83. TOWN HALL, ST ALDATE'S STREET: 13/02687/CT3

The Head of City Development submitted a report (previously circulated now appended) that detailed a planning application for Listed Building Consent for internal alterations to upgrade and refurbish existing toilets, involving removal of walls and partitions, and the formation of a lobby and door.

Sarah Billam (Conservation Officer) presented the application to the Committee.

Following some discussion concerning the future display of heritage items in the corridor outside the proposed toilets, the Committee resolved to DEFER the planning application to the following meeting.

84. CUTTESLOWE COMMUNITY CENTRE: 13/02922/CT3

The Head of City Development submitted a report (previously circulated now appended) that detailed a planning application to insert new doors and windows to east, south and west elevations.

Clare Golden (Planning Officer) confirmed that there were no further updates to this application.

Having taken all submissions into account, both written and oral, the Committee resolved to APPROVE the planning application subject to conditions outlined below, and that the Head of City Development be authorised to issue the notice of permission.

Conditions:

- (1) Development to begin within time limit;
- (2) Development in accordance with approved plans;
- (3) Materials as specified.

85. PLANNING APPEALS

The Committee resolved to note the report on planning appeals received and determined during November 2013

86. MINUTES

Resolved to confirm as a correct record the minutes of the meeting held on 10th December 2013.

87. FORTHCOMING APPLICATIONS

Resolved to note the list of forthcoming applications.

88. DATE OF NEXT MEETING

Resolved to note the following dates:-

Tuesday 11th February 2014 (and Thursday 13th February if necessary);
Tuesday 11th March 2014 (and Thursday 13th March if necessary)

The meeting started at 6.30 pm and ended at 8.00 pm

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