

# Agenda

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## Planning Review Committee

Date: **Tuesday 30 April 2019**

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Time: **6.00 pm**

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Place: **Council Chamber - Oxford Town Hall**

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For any further information please contact the Committee Services Officer:

**Catherine Phythian, Committee and Member Services Officer**

Telephone: 01865 252402

Email: [cphythian@oxford.gov.uk](mailto:cphythian@oxford.gov.uk)

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If you intend to record the meeting, it would be helpful if you speak to the Committee Services Officer before the start of the meeting.

# Planning Review Committee

## Membership

<b>Chair</b>	Councillor James Fry	North;
<b>Vice-Chair</b>	Councillor Chewe Munkonge	Quarry and Risinghurst;
	Councillor Mohammed Altaf-Khan	Headington;
	Councillor Jamila Begum Azad	St. Clement's;
	Councillor Dr Hosnieh Djafari-Marbini	Northfield Brook;
	Councillor Stephen Goddard	Wolvercote;
	Councillor Dr Joe McManners	Headington Hill and Northway;
	Councillor Linda Smith	Blackbird Leys;
	Councillor Sajjad Malik	Cowley Marsh;

The quorum for this meeting is five members. Substitutes are permitted. Substitutes for the Chair and Vice-chair do not take on these roles.

### Copies of this agenda

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# AGENDA

Pages

## Planning applications - background papers and additional information

To see representations, full plans, and supplementary information relating to applications on the agenda, please [click here](#) and enter the relevant Planning Reference number in the  search box.

Any additional information received following the publication of this agenda will be reported and summarised at the meeting.

### 1 Apologies for absence and substitutions

### 2 Declarations of Interest

### 3 19/00249/FUL: 16 East St, Oxford OX2 0AU

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**Site address:** 16 East Street, Oxford, OX2 0AU

**Proposal:** Demolition of existing workshop (Use Class B1) to erect a two storey yoga workshop (Use Class D2). Provision of cycle spaces (amended description)

**Reason at Committee:** The application has been called in to the Planning Review Committee by Councillors Pressel, Rowley, Chapman, Taylor, Kennedy, Fry, Simm, Iley-Williamson, Lygo, Henwood, Malik, Howlett, Djafari-Marbini, and Corais because of concerns about the impact of the proposed development on the Conservation Area.

#### **Recommendation:**

Planning Review Committee is recommended to:

1. **approve the application** for the reasons given in the report and subject to the required planning conditions set out in section 6 of the report and grant planning permission; and
2. **agree to delegate authority** to the Acting Head of Planning Services to finalise the recommended conditions as set out in the report including such refinements, amendments, additions and/or deletions as the Acting Head of Planning Services considers reasonably necessary.

**4 18/03287/FUL: Former Murco Service Station, Between Towns Road, Oxford, OX4 3LZ**

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**Site address:** Former Murco Service Station, Between Towns Road, Oxford,

**Proposal:** Demolition of existing structures, and the erection of a part 3, 4 and 5 storey apartment block comprising 35 residential flats (Use Class C3) and 3 x 3 storey townhouses (Use Class C3) with associated access, parking and landscape arrangements.

**Reason at Committee:** The application has been called in to the Planning Review Committee by Councillors Henwood, Simmons, Wolff, Gant, Gotch, Malik, Altaf-Khan, Wade, Landell-Mills, Kennedy, Arshad, Curran and Azad for the following reasons:

- The use of St Omer Road as the only means of accessing the site is inadequate as insufficient space is provided for vehicles to manoeuvre within the proposed turning head. This would impact on neighbour amenity and air quality.
- The report to members did not address overshadowing of neighbouring properties and the three townhouses.
- Insufficient parking is provided for visitors and service vehicles.
- Insufficient provision of larger family dwellings within the development and the proposals would not comply with the target housing mix identified within the Councils Balance of Dwellings Supplementary Planning Document.

**Recommendation:**

The Planning Review Committee is recommended to:

1. **approve the application** for the reasons given in the reports and subject to the required planning conditions set out in the reports and grant planning permission; and
2. **agree to delegate authority** to the Acting Head of Planning Services to finalise the recommended conditions as set out in the reports including such refinements, amendments, additions and/or deletions as the Acting Head of Planning Services considers reasonably necessary.

**5 Minutes**

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**Recommendation:** That the minutes of the last meeting held on 15 October 2018 are approved as a true and accurate record.

## 6 Date of Future Meetings

Future meetings are scheduled at 6.00pm on

2019	2019	2020
29 May – may be rearranged	4 July - new	30 January
13 June	11 July	26 February
	8 August	12 March
	12 September	9 April
	10 October	
	14 November	
	12 December	

Meetings will be cancelled if not required, or may be rearranged.

## **Councillors 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. Advice on bias, predetermination and declarations of interest is available from the Monitoring Officer.

The following minimum standards of practice will be followed.

### **At the meeting**

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 (in accordance with the rules contained in the Planning Code of Practice contained in the Council's Constitution).
2. At the meeting the Chair may 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;
  - (d) 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;
  - (e) 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 Officers and/or other speakers); and
  - (f) voting members will debate and determine the application.

### **Preparation of Planning Policy documents – Public Meetings**

4. At public meetings Councillors should be careful to be neutral and to listen to all points of view. They should take care to express themselves with respect to all present including officers. They should never say anything that could be taken to mean they have already made up their mind before an application is determined.

### **Public requests to speak**

5. Members of the public wishing to speak must notify the Democratic Services Officer by noon on the working day before the meeting, giving their name, the application/agenda item they wish to speak on and whether they are objecting to or supporting the application. Notifications can be made in person, via e-mail or telephone, to the Democratic Services Officer (whose details are on the front of the Committee agenda).

### **Written statements from the public**

6. Any written statements that members of the public and Councillors wish to be considered should be sent to the planning officer by noon two working days before the day of the meeting. The planning officer will report these at the meeting. Material received from the public at the meeting will not be accepted or circulated, as Councillors are unable to view give proper consideration to the new information and officers may not be able to check for accuracy or provide considered advice on any material consideration arising. Any such material will not be displayed or shown at the meeting.

### **Exhibiting model and displays at the meeting**

7. Applicants or members of the public can exhibit models or displays at the meeting as long as they notify the Democratic Services Officer of their intention by noon, two working days before the start of the meeting so that members can be notified.

### **Recording meetings**

8. Members of the public and press can record the proceedings of any public meeting of the Council. If you do wish to record the meeting, please notify the Committee clerk prior to the meeting so that they can inform the Chair and direct you to the best place to record. You are not allowed to disturb the meeting and the chair will stop the meeting if they feel a recording is disruptive.
9. The Council asks those recording the meeting:
  - Not to edit the recording in a way that could lead to misinterpretation of the proceedings. This includes not editing an image or views expressed in a way that may ridicule, or show a lack of respect towards those being recorded.
  - To avoid recording members of the public present unless they are addressing the meeting.

### **Meeting Etiquette**

10. 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.
11. 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; or
  - (d) seek to re-design, or negotiate amendments to, an application. The Committee must determine applications as they stand and may impose appropriate conditions.

**Code updated to reflect Constitution changes agreed at Council in April 2017.  
Unchanged in last Constitution update agreed at Council November 2018.**



## PLANNING REVIEW COMMITTEE ADDENDUM REPORT

30th April 2019

<b>Application number:</b>	19/00249/FUL		
<b>Decision due by</b>	1st April 2019		
<b>Extension of time</b>	8th May 2019		
<b>Proposal</b>	Demolition of existing workshop (Use Class B1) to erect a two storey yoga workshop (Use Class D2). Provision of cycle spaces.(Amended description)		
<b>Site address</b>	16 East Street, Oxford, OX2 0AU		
<b>Ward</b>	Jericho And Osney Ward		
<b>Case officer</b>	Julia Drzewicka		
<b>Agent:</b>	Adrian James	<b>Applicant:</b>	Mr James Pritchard
<b>Reason at Committee</b>	The application has been called in to the Planning Review Committee by Councillors Pressel, Rowley, Chapman, Taylor, Kennedy, Fry, Simm, Iley-Williamson, Lygo, Henwood, Malik, Howlett, Djafari-Marbini, Corais because of concerns about the impact of the proposed development on the Conservation Area.		

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## 1. RECOMMENDATION

1.1. Planning Review Committee is recommended to:

1.1.1. **approve the application** for the reasons given in the report and subject to the required planning conditions set out in section 6 of this report and grant planning permission

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

- a) finalise the recommended conditions as set out in this report including such refinements, amendments, additions and/or deletions as the Acting Head of Planning Services considers reasonably necessary

## 2. EXECUTIVE SUMMARY

2.1. At the West Area Planning Committee on 9<sup>th</sup> April 2019 members resolved to grant planning permission for this application

2.2. The draft minutes of the West Area Planning Committee on 9<sup>th</sup> April 2019 are included in **Appendix 2** of this report.

- 2.3. The decision of the West Area Planning Committee has been called in to the Planning Review Committee by Councillors Pressel, Rowley, Chapman, Taylor, Kennedy, Fry, Simm, Iley-Williamson, Lygo, Henwood, Malik, Howlett, Djafari-Marbini, Corais for the following reason:
- a) The neighbours employed a barrister to advise them. It seems that the Council's planning lawyer's response is open to challenge on several points.
  - b) The Council's own Conservation Area Appraisal stresses that the current one-storey building "creates an important break in the uniformity of the street". The proposed new building would be two-storeys, as are all the nearby buildings, so it would not make this important visual break.
- 2.4. A copy of the officer's committee report to the West Area Planning Committee is included in **Appendix 1** of this report. The report provided a full assessment of how the proposal would accord with policies of the development plan when considered as a whole, and that the range of material considerations supported the grant of planning permission. The report includes a full assessment of how the scheme would accord with the aims and objectives of the National Planning Policy Framework (NPPF), in particular the assessment of the impact on the designated heritage asset and the detailed balancing exercise which outweighed the less than substantial harm to the Conservation Area.
- 2.5. In terms of the reasons listed within the call-in, officers would confirm that the City Council's Planning lawyer considered the Counsel's opinion which had been provided by one of the objectors and the issues in the opinion were addressed at the committee. This reason for the call-in does not specify in what ways it is considered that the Council Lawyer's view is open to challenge.
- 2.6. In regard to the impact of the proposals in conservation area, the officers paid special attention to the statutory test of preserving or enhancing the character and appearance of the Osney Town Conservation Area under section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The officers assessed the impact on the Conservation Area and, in accordance with the statutory test, gave great weight and importance to the desirability of preserving the special character and appearance of the Osney Town Conservation Area as a designated heritage asset. It is considered that the less than substantial harm that would result from the loss of the existing building is justified and outweighed by the need to ensure a viable use for the site and the public benefits that would result, namely the continued use of the site in a business use, beneficial to the community and vitality of the area. The proposed replacement building is considered to be of an appropriate and high design quality that would not detract from the character and appearance of the Conservation Area. The proposal would comply with NPPF paragraphs 127, 193, 194 and 196. It has been concluded that the development would preserve the character and appearance of the conservation area, and so the proposal accords with section 72 of the Act.

- 2.7. In terms of issues relating to flooding, the application has been advertised as a departure from the development plan. The proposal is contrary to policy CS11 of the Core Strategy, however there is already an existing building on site which is a material planning consideration. The development also proposes a number of measures to mitigate the flood risk. Based on the proposed mitigation measures and the fact that there is an existing building on the site, it is considered that the proposed development would not lead to increased flood risk on or off site, subject to conditions and therefore the proposal is acceptable and, if permitted, it would not contravene the aims and objectives of this policy.
- 2.8. In terms of employment use, the preamble to policy CS28, at paragraph 8.1.15 states that "(...) where non-key employment sites may be poorly sited or unviable, there should be flexibility to allow for the loss of some sites to other uses". The objective of policy CS28 is to safeguard employment opportunities. The proposed use of the site, although not a B1 use, would remain an employment generating site with no loss of employment. Therefore the purpose behind the policy would be fulfilled.
- 2.9. Given, the above points, it is considered that the proposal is an overall conformity with the development plan, and therefore, in accordance with Paragraph 11 of the NPPF, the proposal should be approved without delay.

### **3. CONSULTATION RESPONSES**

#### **Public representations**

- 3.1. The officers' report (appendix 1) provides details of the public consultation that was undertaken with respect to the application. Since the publication of the 9 April 2019 West Area Planning Committee report, further representations were received and reported to committee; these are included in the minutes of the meeting and can be found in Appendix 2. Since 9 April 2019 one further representation was received objecting to the proposal and one further representation supporting the proposal.
- 3.2. The additional comments did not raise any further material planning considerations that had not already been considered as part of the original officer report.

### **4. RESPONSE TO CALL-IN ISSUES**

- 4.1. The committee report for West Area Planning Committee considered the material planning considerations and sets out why it is recommended that planning permission should be granted for the proposal. A copy of the report is included within appendix 1 of this addendum report.

4.2. The call-in was based on the following matters:

- The Council's response to the Counsel's opinion provided by one of the objectors; and

- The impact on the conservation area
- 4.3. Officers sought appropriate legal advice with regard to the Counsel's opinion before the application was considered by the West Area Planning Committee on 9 April 2019 and members were advised accordingly at the meeting. The issue in terms of the impact on the conservation area has been addressed in the officer's report (appendix 1) and is dealt with again in paragraph 2.6, 4.6-4.10 of this report.
  - 4.4. However, in light of the reasons for the call-in which concern the response to the Counsel's opinion and concerns in terms of design and impact on the conservation area, the following issues, which incorporate the Council's legal advice, are dealt with below in this report.
    - a) Ownership certificate
    - b) Impact on the conservation area
    - c) Flooding
    - d) Employment
    - e) Conclusion regarding the general conformity with the Development Plan

**a) Ownership Certificate**

- 4.5. The legal opinion made the point that the ownership certificate which had been submitted with the application was incorrect. The correct ownership certificate has now been submitted and the period for representations as a result of notice having now been served on the owner of the property expires on 29 April 2019.

**b) Impact on the Conservation Area and Design**

- 4.6. Paragraphs 5.2 to 5.4 and 10.9 to 10.17 of the West Area Planning Committee report cover design and impact on the Conservation Area.
- 4.7. The heritage significance of the building lies predominantly in its historic, evidential and communal value as representing and illustrating the former light industrial uses that operated in the area, and the development of the local community and small businesses in the latter half of the 20<sup>th</sup> century. The building is identified in the Osney Town Conservation Area Appraisal as an 'important break in the uniformity of the street scene'.
- 4.8. As stated in paragraph 10.17 of the West Area Planning Committee report on 9 April 2019 (appendix 1), pursuant to the statutory test in section 72 of the 1990 Act, great weight and importance was given to the desirability of preserving or enhancing character and appearance of the Conservation Area in applying the planning balance required by paragraph 196 of the National Planning Policy Framework (NPPF).

- 4.9. The Counsel's opinion suggests that the test and planning balance referred to in paragraph 196 of the NPPF when there is less than substantial harm may not apply due to the "total loss" of the building. As stated during the Committee meeting on the 9 April 2019, paragraph 196 of the NPPF was correctly applied. The building is an unlisted building in a Conservation Area. It is therefore the Conservation Area that is the designated heritage asset and not the building. When the NPPF talks in terms of "total loss" it is referring, when dealing with a Conservation Area, of the total loss of significance of the Conservation Area through the proposal. The demolition of this unlisted building which is not of any special architectural merit cannot be said to cause a total loss of significance of the Conservation Area. It is therefore appropriate to apply the test in paragraph 196 of the NPPF when the harm caused by the loss of this building is considered to be less than substantial. The Conservation Officer, who had visited the site, provided comments on the application and those comments were taken into account and incorporated into the report.
- 4.10. The assessment has been made that the less than substantial harm to the Conservation Area that would result from the loss of the existing building is justified and outweighed by the need to ensure a viable use for the site and the public benefits that would result, namely the continued use of the site in a business use, beneficial to the community and vitality of the area. As stated above, the significance of this building is that it creates an important break in the uniformity of the street scene. The proposal is two-storey in height, with a ridge height to match that of the terrace to the north, a two-storey rear asymmetrical roof element and lower single storey rear extension are proposed. The development would be set back from the front building line, it is considered that the proposed building would fit comfortably within the street and also maintain the visual gap in the uniformity of the residential terraces either side. The visual break in the streetscene would be further maintained through the elevation design and materials proposed for the building. The fenestration proportions reflect the domestic scale of the surrounding properties which would help to integrate the building into the streetscene. The proposed replacement building is considered to be of an appropriate and high design quality that would not detract from the character and appearance of the Conservation Area and the important break in the uniformity of the streetscene would be retained.

### **c) Flooding**

- 4.11. Paragraphs 10.31 to 10.35 of the West Area Planning Committee report cover flooding matters.
- 4.12. The application has been advertised as a departure from the local plan as policy CS11 of the Core Strategy states that planning permission will not be granted for any development in the functional flood plain (Flood Zone 3b) except water-compatible uses and essential infrastructure. As the site lies within Flood Zone 3b there is an in principle objection. However policy CS11 also states that development will not be permitted that will lead to increased flood risk elsewhere, or where the occupants will not be safe from flooding. The National Planning Policy Framework (NPPF) paragraph 163 states that

when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. An assessment has been made in terms of the impact of the proposal on flooding on and off site. The Environmental Agency as statutory consultee has not objected to the proposal. The Environmental Agency stated that the proposed development will only meet the NPPF requirements if a planning condition is included to reduce the risk of flooding to the proposed development and future occupants. As stated in the West Area Planning Committee report and this report, based on the proposed mitigation measures and the fact that there is already an existing building on the site, it is considered that the proposed development would not increase flood risk on or off site and therefore it is considered to be acceptable in terms of the requirements of paragraph 163 of the NPPF and, on balance, is acceptable in terms of the objectives of policy CS11 of the Core Strategy. A reason for refusal based on this policy would be difficult to sustain without the support of the Environment Agency.

#### **d) Employment**

- 4.13. Paragraphs 10.2 to 10.8 of the West Area Planning Committee report cover loss of B1 use.
- 4.14. As stated in this report and in the West Area Planning Committee report on 9 April 2019 the granting consent would not preclude the site from providing a level of employment as the proposed use would create employment opportunities. The proposed employment use would therefore continue to deliver economic development objectives by continuing to provide employment. Given the small scale of the site, its location and constraints, the proposed increase in number of employees, history of the site, the proposed yoga studio is on balance considered acceptable in terms of the requirements of policy CS28 of the Core Strategy. Paragraph 8.1.16 of the preamble to this policy specifically allows flexibility in applying the policy to non-key employment sites such as this which are poorly sited or unviable.
- 4.15. Additional condition is recommended to be imposed to further restrict any future change of use.

#### **5. CONCLUSION**

- 5.1. Having regards to the matters discussed in this report and the committee report to 9 April 2019 West Area Planning Committee (appendix 1), officers would make members aware that the starting point for the determination of this application is Section 38 (6) of the Planning and Compulsory Purchase Act 2004 which makes it clear that proposals should be assessed in accordance with the development plan unless material considerations indicate otherwise.
- 5.2. The NPPF recognises the need to take decisions in accordance with Section 38(6) but also makes it clear that it is a material consideration in the determination of any planning application (paragraph 2). The main aim of the NPPF is to deliver sustainable development, with paragraph 11 the key principle for achieving this aim. The NPPF also goes on to state that

development plan policies should be given due weight depending on their consistency with the aims and objectives of the NPPF. The relevant development plan policies are considered to be consistent with the NPPF despite being adopted prior to the publication of the framework.

#### *Compliance with Development Plan Policies*

- 5.3. Therefore in conclusion it is necessary to consider the degree to which the proposal complies with the policies of the development plan as a whole and whether there are any material considerations, such as the NPPF, which are inconsistent with the result of the application of the development plan as a whole.
- 5.4. Although the requirements of policy CS28 of the Core Strategy are not, strictly speaking, fully complied with, employment opportunities would be provided through this change of use and therefore the proposal is considered to support the objectives of this policy.
- 5.5. Although the principle of the development in this location would be contrary to policy CS11 of the Core Strategy, mitigation measures are being proposed, the Environmental Agency as a statutory consultee has not objected to the proposal, there is already an existing building on the site and therefore the proposal, on balance, is considered to support the aims of this policy.
- 5.6. The application is consistent in all other respects, subject to conditions, with local and national planning policy.

#### *Material considerations*

- 5.7. The principal material considerations which arise are addressed below, and follow the analysis set out in earlier sections of this report.
- 5.8. National Planning Policy: The NPPF has a presumption in favour of sustainable development. NPPF paragraph 11 states that proposals that accord with the development plan should be approved without delay, or where the development plan is absent, silent, or relevant plans are out of date, granting permission unless any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole; or specific policies in the framework indicate development should be restricted.
- 5.9. Officers consider that the proposal would accord with the overall aims and objectives of the NPPF for the reasons set out within the report. Therefore in such circumstances, Paragraph 11 is clear that planning permission should be approved without delay. This is a significant material consideration in favour of the proposal.
- 5.10. Officers would advise members that having considered the application carefully, including all representations made with respect to the application, the proposal is considered to be acceptable in terms of the aims and objectives of the National Planning Policy Framework and relevant policies of the Oxford Core Strategy 2026 and Oxford Local Plan 2001-2016 as

explained above and when considered as a whole, and that there are no material considerations that would outweigh these policies.

- 5.11. Therefore it is recommended that the Committee resolve to grant planning permission for the development proposed subject to the conditions set out in section 6 of this report.

## **6. CONDITIONS**

### **1. Development begun within time limit**

The development to which this permission relates must be begun not later than the expiration of three years from the date of this permission.

Reason: In accordance with Section 91(1) of the Town and Country Planning Act 1990 as amended by the Planning Compulsory Purchase Act 2004.

### **2. Develop in accordance with approved plans**

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

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

### **3. Materials**

The materials to be used for the door, wall and roof cladding and window reveals shall be as submitted with the application. The material sample for the window and door frames, and flood grating shall be submitted to and approved in writing by the Local Planning Authority. The approved material and colour for the window and frames and flood grating shall be thereafter used.

Reason: To ensure the satisfactory visual appearance of the new development in accordance with policies CP1, CP8 and HE7 of the Oxford Local Plan 2001-2016 and CS18 of the Oxford Core Strategy 2026.

### **4. Rooflights and solar panels**

Details of the colour finish of the rooflight frames and finished appearance of the solar panels shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be thereafter used.

Reason: To ensure the satisfactory visual appearance of the new development in accordance with policies CP1, CP8 and HE7 of the Oxford



Local Plan 2001-2016, CS18 of the Oxford Core Strategy 2026, HP9 of the Site and Housing Plan 2011-2026.

## **5. No demolition before rebuilding contract**

The building(s) shall not be demolished before a legally binding contract for the carrying out of the works of redevelopment of the site has been entered into and evidence of the contract has been produced to and agreed in writing by the Local Planning Authority, or in the absence of such a contract an alternative timescale for commencement of the development has been submitted to and agreed in writing by the Local Planning Authority.

Reason: To ensure that the premature demolition of the buildings does not take place to the detriment of the special character and appearance of the Conservation Area, in accordance with policies CP1 and HE7 of the Adopted Oxford Local Plan 2001-2016 and policy CS18 of the Oxford Core Strategy 2026.

## **6. Flood plan**

Prior to occupation/usage, a flood plan shall be submitted to and approved in writing by the Local Planning Authority. This should provide guidance owners/users as to what actions should be taken in the event of a flood, and after a flood to ensure it is safe to occupy/use the facility.

Reason: To manage flood risk in accordance with Policy CS11 and the NPPF.

## **7. Flood risk assessment**

The development shall be carried out in accordance with the submitted flood risk assessment (ref Flood Risk Assessment (FRA) Job No. X172008 dated January 2019 by AKS Ward Construction Consultants and the following mitigation measures it details:

1. The finished floor level of the ground floor admin area is 57.25m AOD. The entrance is floodable at a finished floor level of 56.65m AOD to allow for no loss of flood plain storage.
2. There shall be no raising of existing ground levels on the site.
3. Any walls or fencing constructed within or around the site shall be designed to be permeable to flood water.
4. There shall be no storage of any materials including soil within the 1% annual probability (1 in 100) flood extent with an appropriate allowance for climate change.

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: In accordance with paragraph 163 of the National Planning Policy Framework (NPPF), to reduce the risk of flooding to the proposed development and future occupants.

## **8. Contamination**

Prior to the commencement of the development a phased risk assessment shall be carried out by a competent person in accordance with relevant British Standards and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR11) (or equivalent British Standards and Model Procedures if replaced). Each phase shall be submitted in writing and approved by the local planning authority.

Phase 1 shall incorporate a desk study and site walk over to identify all potential contaminative uses on site, and to inform the conceptual site model and preliminary risk assessment. If potential contamination is identified in Phase 1 then a Phase 2 investigation shall be undertaken.

Phase 2 shall include a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals.

Phase 3 requires that a remediation strategy, validation plan, and/or monitoring plan be submitted to and approved in writing by the local planning authority to ensure the site will be suitable for its proposed use.

Reason- To ensure that any ground and water contamination is identified and adequately addressed to ensure the site is suitable for the proposed use in accordance with the requirements of policy CP22 of the Oxford Local Plan 2001-2016.

## **9. Remedial works**

The development shall not be occupied until any approved remedial works have been carried out and a full validation report has been submitted to and approved in writing by the local planning authority.

Reason- To ensure that any ground and water contamination is identified and adequately addressed to ensure the site is suitable for the proposed use in accordance with the requirements of policy CP22 of the Oxford Local Plan 2001-2016.

## **10. Only yoga studio**

The building hereby approved, shall only be used as a yoga studio and for no other use within use Class D2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any order revoking and re-enacting that Order with or without modification) unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the Local Planning Authority can properly consider any alternative use of the premises and to ensure that there is no long term loss of employment space within the City in accordance with policy CS28 of the Oxford Core Strategy 2026.

## **11. No changes to use without planning permission**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order with or without modification), the permitted building shall only be used as a yoga studio and for no other purpose.

Reason: To ensure that the Local Planning Authority can properly consider any alternative use of the premises and to ensure that there is no long term loss of employment space within the City in accordance with policy CS28 of the Oxford Core Strategy 2026.

### **INFORMATIVES :-**

- 1 The development hereby permitted is liable to pay the Community Infrastructure Levy. The Liability Notice issued by Oxford City Council will state the current chargeable amount. A revised Liability Notice will be issued if this amount changes. Anyone can formally assume liability to pay, but if no one does so then liability will rest with the landowner. There are certain legal requirements that must be complied with. For instance, whoever will pay the levy must submit an Assumption of Liability form and a Commencement Notice to Oxford City Council prior to commencement of development. For more information see: [www.oxford.gov.uk/CIL](http://www.oxford.gov.uk/CIL)
- 2 Your attention is drawn to the provisions of the Party Wall Act 1996. A copy of an explanatory booklet is available to download free of charge from the following website  
<http://www.communities.gov.uk/publications/planningandbuilding/partywall>
- 3 In accordance with guidance set out in the National Planning Policy Framework, the Council tries to work positively and proactively with applicants towards achieving sustainable development that accords with the Development Plan and national planning policy objectives. This includes the offer of pre-application advice and, where reasonable and appropriate, the opportunity to submit amended proposals as well as time for constructive discussions during the course of the determination of an application. However, development that is not sustainable and that fails to accord with the requirements of the Development Plan and/or relevant national policy guidance will normally be refused. The Council expects applicants and their agents to adopt a similarly proactive approach in pursuit of sustainable development.
- 4 Please note that the responsibility to properly address contaminated land issues, irrespective of any involvement by this Authority, lies with the owner/developer of the site.

## **12. APPENDICES**

- **Appendix 1** – West Area Planning Committee report (9 April 2019)
- **Appendix 2** – Draft minutes of the West Area Planning Committee (9 April 2019)

**13. HUMAN RIGHTS ACT 1998**

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

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

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

**WEST AREA PLANNING COMMITTEE**

9th April 2019

<b>Application number:</b>	19/00249/FUL		
<b>Decision due by</b>	1st April 2019		
<b>Extension of time</b>	18th April 2019		
<b>Proposal</b>	Demolition of existing workshop (Use Class B1) to erect a two storey yoga workshop (Use Class D2). Provision of cycle spaces.(Amended description)		
<b>Site address</b>	16 East Street, Oxford, OX2 0AU, – see <b>Appendix 1</b> for site plan		
<b>Ward</b>	Jericho And Osney Ward		
<b>Case officer</b>	Julia Drzewicka		
<b>Agent:</b>	Adrian James	<b>Applicant:</b>	Mr James Pritchard
<b>Reason at Committee</b>	The application has been called-in by Councillors Pressel, Fry, Tanner and Hollingsworth on the ground that there is a massive concern locally about the possible change of use to D2 in the middle of a residential area and the design of the proposed building.		

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**1. RECOMMENDATION**

1.1. West Area Planning Committee is recommended to:

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

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

- consider and deal with any new material planning considerations that may be raised through public consultation, which expires on the 11th April 2019 including deciding whether it is necessary to refer the application back to the committee prior to issuing the permission;
- finalise the recommended conditions as set out in this report including such refinements, amendments, additions and/or deletions as the Acting Head of Planning Services considers reasonably necessary; and
- issue the planning permission.

**2. EXECUTIVE SUMMARY**

2.1. This report considers the demolition of the existing workshop (Use Class B1) and the erection of a two storey yoga workshop (Use Class D2) and provision of cycle spaces. Less than substantial harm would be caused to the special interest of the Conservation Area by the loss of the existing building. However, this harm is considered justified and outweighed by the public benefits associated with the proposed use and the need to ensure a viable use for the site. The design of the new building responds well to the context and would be of an appropriate high quality that would not detract from the character and appearance of the Conservation Area.

### **3. LEGAL AGREEMENT**

3.1. This application is not subject to a legal agreement.

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

4.1. The proposal is liable for CIL. The total amount is £1,925.84.

### **5. SITE AND SURROUNDINGS**

5.1. The site is located within the Osney Town Conservation Area, an area of predominantly residential buildings laid out in the mid-19<sup>th</sup> century by G.P. Hester, the Town Clerk of Oxford. East Street has a riverside setting, facing directly onto the Thames and with the public footpath alongside, the site is in a relatively prominent location in the Conservation Area. On the opposite side of the river is The Old Power Station, a locally important building which is listed on the Oxford Heritage Asset Register; the building is a reminder of the industrial heritage of this part of the city.

5.2. A single-storey workshop building occupies the plot of 16 East Street, which in contrast to the two-storey residential buildings either side of it and as identified in the Osney Town Conservation Area Appraisal creates 'an important break in the uniformity of the street scene'. The building has white painted brick walls and a corrugated sheet double pitched roof, and features a pair of timber doors with casement window in the gable on its front elevation. There is a gated pedestrian access running along the north side of the building to the rear of the site.

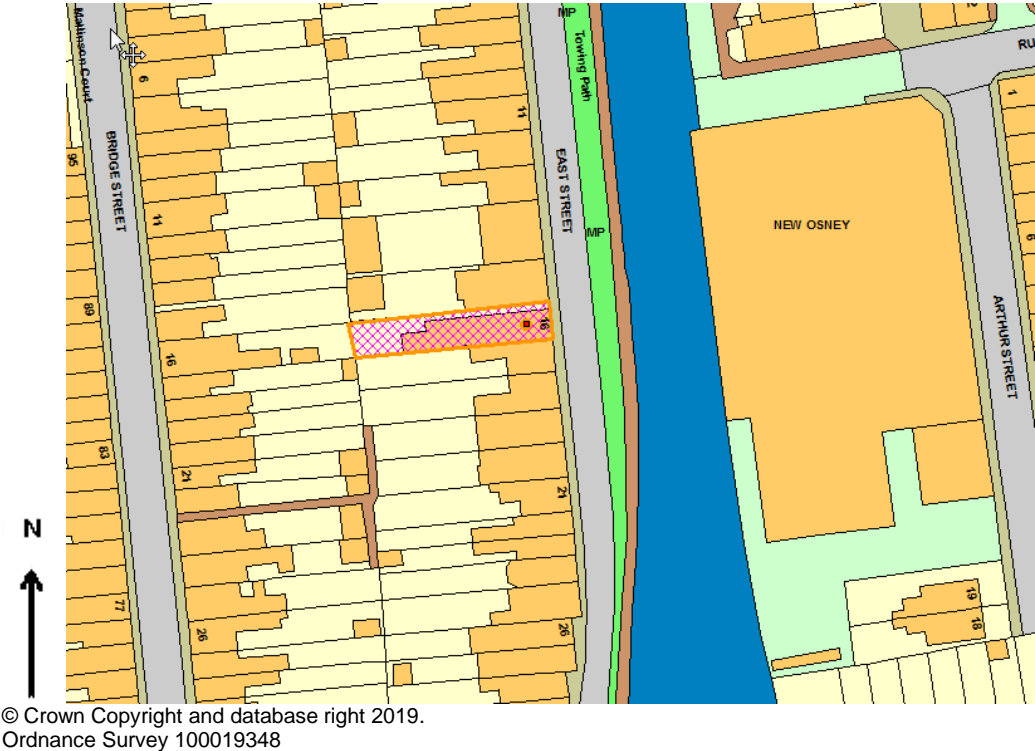
5.3. A comprehensive Heritage Statement, has been prepared by John Moore Heritage Services, and contains a detailed assessment of the building. The building is of four main phases; the earliest phase is the front original garage building from 1926; the second phase is the extension to the rear dating from 1950-52 associated with its change of use from a garage to a dairy; the third is the creation of a small boiler room; and the fourth the construction of a small outbuilding to the rear and the change of use to an artist's studio circa 1970. From 1970-2016, the building was occupied by Hugh Powell, an artist and sculptor, who lived at 16 Bridge Street for the same period.

5.4. The heritage significance of the building lies predominantly in its historic, evidential and communal value as representing and illustrating the former light industrial uses that operated in the area, and the development of the local community and small businesses in the latter half of the 20<sup>th</sup> century.

Appendix 1

5.5. The existing depth of the building is approximately 23.8m. The roof ridge height of the pitched roof is approximately 4.5m and then the latest addition to the building has a sloping roof and its ridge height is approximately 2.9m.

5.6. See block plan below:



**6. PROPOSAL**

6.1. The application proposes demolition of the existing single storey building to erect a two storey contemporary yoga workshop. The proposed development would be sited on a slightly larger footprint to the existing building, extending over the existing pedestrian side access to infill the entire plot width and would be two-storeys in height.

6.2. The overall depth of the ground floor would be approximately 23.5m, the ridge height of the ground floor extension would be approximately 4.7m, the eaves height of the extension along No. 15 would be approximately 2.2m and the eaves height of the extension along No. 17 would be approximately 2.7m. The depth of the first floor would be approximately 12.3m. The overall height of the whole building measuring from ground level would-be approximately 7.4m, the eaves height of the first floor extension from the ground level along No. 15 would be approximately 4.8m and the eaves height of the first floor extension measuring from ground level would be approximately 5.4m. The ground floor extension would feature rooflights and PV panels. The building would be two-storey in height, with a ridge height to match that of the terrace to the north, a two-storey rear wing element and lower single-storey rear extension with asymmetrical pitched roof. The front building line is being proposed to be set back from the street. The aged copper would be installed as a bright copper but in a matter of days it will oxidise to chestnut brown and then a dark-purple brown. The

Appendix 1

information provided with the application states that copper is a naturally weathering material, with an expected life expectancy in excess of 100 years, which has excellent corrosion resistance, and requires no special maintenance regime requirements. The manufacturer stated that given the location and nature of the cladding, the dark-purply brown cladding will not go the green patina. The aged copper would have a weathered finish, with a texture and quality which would bring interest to the streetscene without resulting in an overly dominant building that would detract from the character and appearance of the Conservation Area. Similarly, the subtle use of the artificially chemically oxidised copper (greened copper) for the chamfered window and door reveals would create interest and a welcomed contrast to the aged copper, whilst not appearing garish alongside the surrounding terraces.

- 6.3. The proposed building comprises an entrance lobby, disabled WC/male changing space, female changing room, private consultation room, staff, admin and reception area on the ground floor and yoga studio on the first floor.
- 6.4. The application form states that 2 full time and 20 part-time, equivalent of 3 full-time employees are being proposed. The hours of opening has been specified in the application form: Monday to Friday: 7.00- 21.30, Saturday, Sunday, Bank Holidays: 9.00- 17.00.
- 6.5. The development is proposed to be car-free and space for bikes has been incorporated within the building.
- 6.6. See proposed elevations below (please note that larger version of these plans will be circulated prior to the committee meeting):



PROPOSED FRONT ( EAST ) ELEVATION



PROPOSED REAR ( WEST ) ELEVATION  
Angle subtended by existing roof retained for daylight.  
Flood valves behind grille positioned as agreed by the Environment.  
Outline of existing building.  
Angle subtended by existing roof retained for daylight.



## 7. RELEVANT PLANNING HISTORY

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

60/00035/N_H - Change of use from garage for vehicles to repair and sale of parts. REF 25th October 1960.
18/01712/FUL - Demolition of existing workshop to erect a three storey workshop (Use Class D2). Provision of cycle spaces.. WDN 3rd September 2018.

## 8. RELEVANT PLANNING POLICY

8.1. The following policies are relevant to the application:

Topic	National Planning Policy Framework	Local Plan	Core Strategy	Sites and Housing Plan	Emerging Local Plan 2016-2036
Design	8, 11, 124-132	CP1, CP6 CP8, CP10	CS18	HP14	RE2, DH1, D5
Conservation/Heritage	189, 192, 196	HE7			DH3, DH4, DH5
Commercial	20, 80,	EC1	CS28_ CS27_		E1
Natural environment	148-165, 170-183	CP22	CS11		RE3
Social and community	91-93	CP13	CS20_ CS21_		V6, V7
Transport	102- 111	TR3, TR4 TR12			M1, M5
Miscellaneous	7-12, 47, 48	CP.13, CP.24 CP.25		MP1	

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

## 9. CONSULTATION RESPONSES

9.1. Site notices were displayed around the application site on 19<sup>th</sup> February 2019 and an advertisement was published in The Oxford Times newspaper on 14<sup>th</sup> February 2019. Amended site notice was published on the 18<sup>th</sup> March 2019 and an advertisement and site notice was published in The Oxford Times newspaper on 21<sup>st</sup> March 2019. The re-advertisement was necessary as the application is a departure from the development plan.

## **Statutory and non-statutory consultees**

### Oxfordshire County Council (Highways)

9.2. Secure and enclosed cycle storage is noted in the floor plan and the development is to remain car-free. There appears to be no highway impact with regard to this application. As such, Oxfordshire County Council does not object to this application.

### Environmental Agency

9.3. The proposed development will only meet the National Planning Policy Framework's requirements if the planning condition specifying that the development shall be carried in accordance with the submitted flood risk assessment and mitigation measures are included.

## **Public representations**

9.4. 52 representations were received from 41 addresses in the local area, from further afield in Oxford and from beyond Oxford. Oxford Preservation Trust also commented on the proposal. One customer made comment neither objecting to nor supporting the planning application.

9.5. In summary, the main points of 29 objections were:

- Amount of development on site
- Effect on adjoining properties
- Loss of privacy
- Daylight/sunlight
- Effect on character of area
- Effect on conservation area and article 4
- Loss of the visual break, dominant addition within the streetscene
- Effect on pollution
- Effect on privacy
- Effect on traffic
- Noise and disturbance
- On-street parking
- Uses under D2
- Effect on existing community facilities
- Excess of yoga studios in the area
- Design
- Out of keeping
- Materials

## Appendix 1

- The site is not suitable for commercial use
- The site is suitable for residential use
- Local plan policies
- Height of proposal
- Hours of opening
- little evidence of local need
- flooding
- Access
- Information missing from plans
- Local ecology, biodiversity
- Open space provision
- Parking provision

9.6. In summary, the main points of 23 support were:

- Need for a dedicated yoga studio
- Modern design
- Osney should have a limited number of small scale commercial properties – economic activity
- If it cannot be used for a residential use, yoga studio would be better than a potentially far more disruptive use
- Effect on character of area
- Effect on existing community facilities
- Public transport provision/accessibility
- No parking
- Environmentally friendly
- Cycling
- Prana studio is closing down
- Positive impact on the local area
- No disturbance from either traffic or noise

## **10. PLANNING MATERIAL CONSIDERATIONS**

10.1. Officers consider the determining issues to be:

- i. Principle of development
- ii. Design and impact on the conservation area

- iii. Neighbouring amenity
- iv. Transport
- v. Flooding

**i. Principle of development**

- 10.2. The heritage statement identified that the building is of four main phases. The first is the original garage, built in 1926; the second phase comprises an extension undertaken in 1950-52 associated with a change of use from garage to dairy; the third is the construction of a small room to house a boiler at the rear of the building and the change of use of the former garage into a boiler room and the fourth is a change of use to an artist's studio and the construction of the small outbuilding. Prior to the construction of the building, the plot was vacant with direct access from East Street to the rear of 16 Bridge Street (which was in use as a public house). The heritage statement states that the "Ordnance Survey map of 1921 shows the site prior to the construction of the building. The rear yard of 16 Bridge Street extends through to East Street; because of this building's use as a public house greater access to the rear of the building may have been desirable, resulting in a planned gap in the terraces of East Street. The building now known as 16 East Street was built as a garage in February 1926.
- 10.3. Planning permission was granted in 1950 (ref. 50/00984/A\_H) for an extension to the existing garage for use as a dairy at 16 Bridge Street. That permission was approved as a temporary permission. In 1952 (ref. 52/02437/A\_H) temporary planning permission was granted for a boiler fuel store. This permission had been renewed under permissions 53/02437/A\_H, 54/02437/A\_H and 57/01454/A\_H. In 1960 (ref. 60/01454/A\_H) planning permission was granted for a garage. In 1960 (ref. 60/02437/A\_H) planning permission was submitted for renewal of temporary consent for the boiler fuel store and shed. Those permissions were in relation to No. 16 Bridge Street. Planning permission was refused in 1960 (ref. 60/00035/N\_H) for the change of use from garage for vehicles to repair and sale of parts, this is the first record of the planning history of 16 East Street (as a separate entity). Between 1970 and 2016 the property was occupied by Hugh Powell who used the dairy/garage as an artist's studio. However, there is no record that the site benefited from planning permission for a change of use from garage to artist studio. The building has never been in domestic use and it has always been in an employment use (or arguably used in an unauthorised way as an incidental building to No. 16 Bridge Street). The Land Use Gazetteer lists uses "dairy products making place" as B2, "garage" either as B2 or Sui Generis use" and "art and layout artist's studio" as B1 use.
- 10.4. The assessment has been made in terms of the change of use, and whether there are any benefits to the character and appearance of the Conservation Area in terms of the proposed use. Given the history of the use of the site, officers would consider it an employment site for the purposes of Policy CS28 of the Core Strategy. The site is not a key protected employment site. The preamble to Policy CS28 states that the term employment sites refers only to

land and premises in Class B or closely related Sui Generis uses, such as builders yards; transport operators; local depots; and retail warehouse clubs. Policy CS28 states that planning permission will only be granted for the change of use or loss of other employment sites (i.e. those not key protected employment sites), subject to the following criteria:

- overriding evidence is produced to show the premises are presently causing and have consistently caused significant nuisance or environmental problems that could not have been mitigated;

or

- no other future occupiers can be found despite substantial evidence to show the premises or site has been marketed both for its present use and for potential modernisation or regeneration for alternative employment-generating uses; and the loss of jobs would not reduce the diversity and availability of job opportunities; and
- it does not result in the loss of small and start-up business premises, unless alternative provision is made in Oxford.

10.5. As the proposal is for a change of use from Class B1 to Class D2, the proposed development would be contrary to Policy CS28 as there would be a loss of Class B1 use. The site has been vacant since 2016. No marketing evidence has been provided with the application. The Statement of Need submitted with the application states that “16 East Street was originally marketed as a site for residential development, but it quickly became clear that the Environmental Agency would not approve a new dwelling because of the danger to life during a (notional) future flood”. It is assumed that the artist was the sole occupier and did not employ anyone else, however there is no evidence of that. The application demonstrated that the site will employ 2 full time and 20 part-time, therefore the equivalent number of 3 full-time employees. The objective of the Policy CS18 is to safeguard employment sites. Granting consent would not preclude the site from providing a level of employment as the proposed use would create employment opportunities. The proposed employment use would therefore continue to deliver economic development objectives to continue to provide employment. Given the small scale of the site, its location and constraints, the proposed increase in number of employees, history of the site, the proposed yoga studio is on balance considered acceptable.

10.6. The emerging Local Plan 2036 would classify this site as a Category 3 employment site. The preamble to policy E1 states that Category 3 sites mainly comprise smaller sites and those not performing as well as Category 2 sites, for example because they are not as well located, or because they do not perform such an important economic function, nor are likely to be able to in the future. Should these sites become available for redevelopment, they will be first required to explore the potential for other employment uses, and then subject to criteria to explore alternative uses in order to help deliver the broader aims and strategy of this Local Plan. Policy E1 of the emerging Local Plan states that planning permission will only be granted for the loss of any

employment floorspace on Category 3 sites to residential development subject to criteria. The application is not proposing to change to residential development and therefore those criteria are not relevant. The policy E1 goes on stating that beyond this approach, in all cases the suitability of the proposed use will be assessed against the site specific circumstances.

- 10.7. Policy E1 is an emerging policy to which little weight can be given. However, as stated in the report the proposal will still allow some employment use.
- 10.8. Policy CS20 of the Core Strategy states that City Council will seek to protect and enhance existing cultural and community facilities. Artist's studios are considered cultural facilities. A yoga studio could be considered a community facility for the purpose of Policy CS20 of the Core Strategy. Members may consider that this further supports the principle of development.

**ii. Design**

- 10.9. Policy CS18 of the Core Strategy, HP9 of the Sites and Housing Plan and Policies CP1 and CP8 of the Oxford Local Plan combine to require that planning permission will only be granted for development which 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 and creates an appropriate visual relationship with the form of the existing building and its surroundings. The site lies within the Osney Town Conservation Area, therefore Policy HE7 of the Oxford Local Plan 2001-2016 applies, which states that planning permission will only be granted for development that preserves or enhances the special character and appearance of the conservation areas or their setting. The policy also states that planning permission will not be granted for proposals involving the substantial demolition of a building or structure that contributes to the special interest of the conservation areas. Paragraph 193 of the National Planning Policy Framework (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. Paragraph 196 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 10.10. The heritage significance of the building lies predominantly in its historic, evidential and communal value as representing and illustrating the former light industrial uses that operated in the area, and the development of the local community and small businesses in the latter half of the 20<sup>th</sup> century. Although not of any particular special architectural merit, its heritage significance is evidenced through its architectural qualities and appearance, giving its aesthetic value in the context of the street scene. For these reasons, the building is considered a positive addition to East Street and the Conservation Area, contributing to its special character and appearance.
- 10.11. The loss of the existing building would result in some harm to the special character and appearance of the Conservation Area, as it makes a positive

contribution to its special interest and would thus be contrary to Local Plan Policy HE7 which states that 'planning permission will not be granted for proposals involving the substantial demolition of a building or structure that contributes to the special interest of the conservation areas'. However the NPPF post-dates this Local Plan policy and as such, where the policies differ from one another, greater weight should be given the NPPF on this matter. NPPF Paragraph 194 states that 'any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification'. In line with the NPPF considerations, it is considered that the level of harm to the Conservation Area caused by the loss of the building would be less than substantial. The existing building due to its current condition and construction would require a substantial amount of work to bring it up to current building standards, resulting in the loss of a substantial amount of fabric. It is therefore, inevitable that substantial loss and alteration to the building fabric would need to occur as part of any new viable use occupying the site. Officers recommend that the principle of losing the existing building is therefore acceptable.

- 10.12. Paragraph 196 goes on to state that 'where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use'. The principle of a yoga workshop occupying the plot is considered to be an appropriate use for the site, which would ensure it is retained in a use other than residential which benefits and serves the local community and continues the story and evolution of small businesses within this part of the Conservation Area into the 21<sup>st</sup> century.
- 10.13. Paragraph 127 of the NPPF states that developments should be 'sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities)'. The proposed development would be sited on a slightly larger footprint to the existing building, extending over the existing pedestrian side access to infill the entire plot width, and would be two-storeys in height. It is accepted that the increase in floorspace is necessary to ensure the viability of the proposed use, and that the current scheme has reduced the amount of floorspace and height as proposed in comparison to previous schemes. The proposed building is considered to respond successfully to its context, relating to the traditional built form of properties in the vicinity. The proposal is two-storey in height, with a ridge height to match that of the terrace to the north, a two-storey rear asymmetrical roof element and lower single storey rear extension are proposed. The development would be set back from the front building line, it is considered that the proposed building would fit comfortably within the street and maintain the visual gap in the uniformity of the residential terraces either side.
- 10.14. The visual break in the streetscene would be further maintained through the elevation design and materials proposed for the building which include aged copper cladding for the walls and roof, recessed window and door openings with artificially chemically oxidised copper (greened copper) for the chamfered

reveals, powder-coated metal for the window frames and flood grates, and unfinished timber for the front door. The fenestration proportions reflect the domestic scale of the surrounding properties which would help to integrate the building into the streetscene.

- 10.15. The aged copper would be installed as a bright copper but in a matter of days it will oxidise to chestnut brown and then a dark-purply brown. The information provided with the application states that copper is a naturally weathering material, with an expected life expectancy in excess of 100 years, which has excellent corrosion resistance, and requires no special maintenance regime requirements. The manufacturer stated that given the location and nature of the cladding, the dark-purply brown cladding will not go the green patina. The aged copper would have a weathered finish, with a texture and quality which would bring interest to the streetscene without resulting in an overly dominant building that would detract from the character and appearance of the Conservation Area. Similarly, the subtle use of the artificially chemically oxidised copper (greened copper) for the chamfered window and door reveals would create interest and a welcomed contrast to the aged copper, whilst not appearing garish alongside the surrounding terraces.
- 10.16. Samples of the materials have been provided with the application. There are concerns the grey colour for the window frames and flood grate as they would appear quite dull and flat, and would not work well alongside the copper finishes. Therefore a condition is recommended to be imposed to require that material sample for the window and door frames and flood grating be submitted to and approved in writing by the local planning authority.
- 10.17. Great weight and importance has been given to the desirability of preserving the special character and appearance of the Osney Town Conservation Area as a designated heritage asset. It is considered that the less than substantial harm that would result from the loss of the existing building is justified and outweighed by the need to ensure a viable use for the site and the public benefits that would result, namely the continued use of the site in a business use, beneficial to the community and vitality of the area. The proposed replacement building is considered to be of an appropriate and high design quality that would not detract from the character and appearance of the Conservation Area. The proposal would comply with NPPF paragraphs 127, 193, 194 and 196. Special attention has been paid to the statutory test of preserving or enhancing the character and appearance of the conservation area under sections 72 of the Planning (Listed Building and Conservation Areas) Act 1990, which it is accepted is a higher duty. It has been concluded that the development would preserve the character and appearance of the conservation area, and so the proposal accords with section 72 of the Act.

### **iii. Impact on neighbouring amenity**

- 10.18. Policy HP14 of the Sites and Housing Plan states that planning permission will only be granted for new residential development that provides reasonable privacy and daylight for the occupants of both existing and new homes. HP14 also states that planning permission will not be granted for any development that has an overbearing effect on existing homes.



## Appendix 1

- 10.19. The building is located between No. 15 and No.17 East Street. The existing building already extends beyond the neighbouring properties. The existing building runs along the boundary with No. 17 and due to the existing side passage the existing building is set back from the boundary with No. 15 by approximately 1m. The existing roof ridge at 4.5m height runs for approximately 19.2m (from the front elevation) and then the roof drops to 2.9m. The existing building features side windows on the ground floor level and rear facing window and door and rooflights. The existing building already impacts on the neighbouring properties in terms of light, outlook and privacy.
- 10.20. The proposed building does not feature any side windows facing the neighbouring properties. The building proposes a large door, opening out to the garden, which would serve the staff/admin/reception area and a rear window, which would serve the staircase. It is acknowledged that due to the proposed use more people would use the building, however the proposed rear door and window would not be considered harmful in terms of overlooking or loss of privacy as this relationship with terraced properties is not unusual and it would not be necessary to impose a condition to obscure the window serving the staircase. Any overlooking would be very limited and not harmful.
- 10.21. The ridge height of the ground floor extension would be approximately 4.7m, the eaves height of the extension along No. 15 would be approximately 2.2m and the eaves height of the extension along No. 17 would be approximately 2.7m. The depth of the first floor would be approximately 12.3m. The overall height of the whole building measuring from ground level would be approximately 7.4m, the eaves height of the first floor extension from the ground level along No. 15 would be approximately 4.8m and the eaves height of the first floor extension measuring from ground level would be approximately 5.4m. The proposed eaves height of the ground floor level would not be higher than the eaves of the existing building. The proposed building would extend the full width of the plot and therefore the existing 1m wide side passage would be lost. The existing boundary treatment consists of a high brick boundary wall and some vegetation. In terms of the impact on No. 15, the proposed eaves height would not extend higher than the eaves of the existing extension of No. 15. As the building would run along the boundaries with No. 15 and No.17 the building has been designed to have the eaves height as low as possible and due to the pitched-roof a lot of the bulk of the roof would be set away from the boundaries. The proposal would change the outlook afforded to the neighbouring properties, however due to the low eaves, current situation, existing boundary treatment and visually light materials the proposed building would not be considered overbearing or unduly affect the outlook to the occupiers of the property and the additional impact is not significant enough to refuse the application.
- 10.22. The 45/25 degree guidance set out in Appendix 7 of the Sites and Housing Plan has been applied to the neighbouring properties. The proposed first floor extension complies with the 45 degree line. In terms of the ground floor level, the proposed building would breach the 45 degree line, drawn from the rear windows. However the 45 degree line is breached already by the existing building. The uplifted 25 degree line has been applied to the neighbouring rear windows and the proposed development complies with the 25 degree line. It is

considered that due to the existing building, current impact, the height of the proposed building, its size and scale and the orientation of the proposals relative to the sun it is considered that the proposed development would not have an unacceptable impact on the amount of light afforded to both neighbouring properties.

- 10.23. The proposed use of the building would increase the footfall to the building. However the opening hours would be limited to Monday-Friday 7.00-21.30 and Saturday, Sunday and Bank Holiday 9.00-17.00. Those opening hours would be considered acceptable having had regard to the predominantly residential uses that take place in surrounding properties. As the proposed development would be car-free, it is considered that the proposed use would not disturb the neighbourhood in this respect. There are a limited number of openings which would further reduce noise coming out from the building. Furthermore as the building would be new it would benefit from better sound attenuation and insulation than older properties and this would facilitate less disturbance from the proposed use.
- 10.24. Use Class D2 includes yoga studios; other uses falling within that use class include cinemas, concert halls, bingo halls, skating rinks, gymnasiums, other areas for indoor and outdoor sports or recreations not involving motorised vehicles or firearms. A condition is recommended to be imposed to restrict the use to a yoga studio only so that the local planning authority can make an assessment of a different use and prevent a permitted change to a less suitable use; in this way the amenity of neighbouring occupiers would be safeguarded.
- 10.25. Overall, the proposed building and use is considered to be acceptable in terms of neighbouring amenity.

#### **iv. Transport**

##### Car parking

- 10.26. Policy TR3 of the Oxford Local Plan states that planning permission will only be granted for development that provides an appropriate level of car parking spaces no greater than the maximum car-parking standards. Appendix 3 of the Oxford Local Plan states that car-free development will be considered favourably anywhere in Oxford provided that there are excellent alternatives to the car, that shops and services are provided near-by, and that the car-free status of the development can realistically be enforced by planning condition, planning obligation, on-street parking controls or other means.
- 10.27. The site lies just outside of the Central Transport Area. The site is located within the West Oxford Controlled Parking Zone. Due to the location of the development site in a sustainable location within close proximity of excellent public transport services, close proximity to city centre and controlled parking restrictions, it is considered that car-free development would be welcomed and it would comply with Policy TR3 of the Oxford Local Plan.

##### Cycle parking

- 10.28. Policy TR4 of the Oxford Local Plan states that the City Council will only grant planning permission for development that: a) provides good access and facilities for pedestrians and for cyclists, and b) complies with the minimum cycle parking standards. Appendix 4 of the Oxford Local Plan states that provision of cycle space for “other development” will be treated on their individual merits, guided by the general principle of 1 space per 5-people (this number is based on staff and students within the building at any one time). There is no specific standard in relation to yoga studios within the Local Plan. The statement of need states that to accommodate classes at popular times and provide a viable include a practice/teaching room would need to be large enough for 16 students plus a teacher.
- 10.29. The submitted floor plan shows 7 cycle spaces within the building. Taking into consideration that each class can accommodate 16 students plus a teacher a minimum of 3 spaces should be provided. As the proposal comprises a consultation room, admin room and yoga studio it is considered that more people would be in the building at any one time therefore 7 cycle spaces is considered to be acceptable. The cycle stands would be located inside the building, within the entrance lobby. The provided location for bikes is considered to be secure and due to its close proximity to the entrance would provide a level access to the street. As there is no car parking available for the property, it is considered that the proposal and its facilities (changing rooms) would encourage people to cycle to the site.
- 10.30. The Local Highways Authority commented on the proposal and did not object. Secure and enclosed cycle storage is noted on the floor plan and the development would be car-free. Officers suggest that there would be no highway impact with regard to the proposal.

#### **v. Flooding**

- 10.31. Policy CS11 of the Oxford Core Strategy states that planning permission will not be granted for any development in the functional flood plain (Flood Zone 3b) except water-compatible uses and essential infrastructure. The policy also states that development will not be permitted that will lead to increased flood risk elsewhere, or where the occupants will not be safe from flooding. The National Planning Policy Framework (NPPF) paragraph 163 states when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that: a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location; b) the development is appropriately flood resistant and resilient; c)it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate; d) any residual risk can be safely managed; and e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan. Paragraphs 164 of the NPPF states that applications for some minor development and changes of use (this includes householder

## Appendix 1

development, small non-residential extensions- with a footprint of less than 250m<sup>2</sup>, and changes of use) should not be subject to the sequential or exception tests but should still meet the requirements for site-specific flood risk assessments.

- 10.32. The site lies within Flood Zone 3b, and as such there is an in principle objection as this is not in accordance with Policy CS11 of the Oxford Core Strategy. However, there is an existing large building, which the development is proposing to replace and the submitted Flood Risk Assessment proposes a number of measures to mitigate the risk. The proposed use falls under the classification of “less vulnerable” land use. A Flood Risk Assessment including mitigation measures has been submitted.
- 10.33. There is an existing single storey building, therefore the assessment below is divided into the extension (any new floor space) and the existing floor space (existing building). The finished floor level of the new (extension) part of the building is raised above the 1 in 100 year (1% of an annual exceedance probability (AEP)) + Climate Change level, and the space below this is to be left open as a floodable void. The grilles are shown on the submitted drawings. The remainder of the building (i.e. the existing part) is designed to be floodable, as to reduce off site flood risk compared to current arrangements. The finished floor level of the ground floor admin area is 57.25m AOD (Above Ordnance Datum). The entrance is floodable at a finished floor level of 56.65m AOD to allow for no loss of flood plain storage.
- 10.34. The Environment Agency commented on the application. They have no objection to the proposal subject to condition. The development shall be carried out in accordance with the submitted flood risk assessment (ref. Flood Risk Assessment (FRA) Job No. X172008 dated January 2019 by AKS Ward Construction Consultants). The Environment Agency states that the proposed development would only meet the National Planning Policy Framework’s requirements if the planning condition is included. The condition is proposed to include the following details: 1. The finished floor level of the ground floor admin area is 57.25m AOD. The entrance is floodable at a finished floor level of 56.65m AOD to allow for no loss of flood plain storage; 2. There shall be no raising of existing ground levels on the site; 3. Any walls or fencing constructed within or around the site shall be designed to be permeable to flood water; 4. There shall be no storage of any materials including soil within the 1% annual probability (1 in 100) flood extent with an appropriate allowance for climate change. The Oxford City Council found this condition to be necessary and reasonable and therefore in accordance with paragraph 163 of the NPPF, and Policy CS11 of the Oxford Core Strategy to reduce the risk of flooding to the proposed development and future occupants, the condition is recommended to be imposed.
- 10.35. Therefore, based on the proposed mitigation measures and the fact that there is an existing building on the site, it is considered that the proposed development would not increase flood risk on or off site, subject to the inclusion of the proposed mitigation measures.

### **vi. Other matters**

10.36. The Contamination Questionnaire has been submitted. Although it states within the questionnaire that no fuels or chemicals have been stored at the site, this is considered unlikely based on the historical potentially contaminative uses of the site as a garage and also as a dairy. Both of these former uses have the potential for oils, fuels and chemicals to be stored and utilised on site. In this regard and on the basis that no evidence has been provided to demonstrate absence of contamination risks at the site, it is considered that an appropriate contamination site investigation should be carried out. Therefore two planning conditions are recommended to be imposed to ensure that potential contamination risks are properly addressed and appropriate remedial works are completed to mitigate against any potentially significant contamination risks identified.

10.37. Comments have been made that the site should be developed as a residential property. However, the officers have to make an assessment of the proposed development submitted to the local planning authority.

## **11. CONCLUSION**

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

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

### *Compliance with Development Plan Policies*

11.3. Therefore in conclusion it is necessary to consider the degree to which the proposal complies with the policies of the development plan as a whole and whether there are any material considerations, such as the NPPF, which is inconsistent with the result of the application of the development plan as a whole.

11.4. Although the requirements of policy CS28 of the Core Strategy are not, strictly speaking, fully complied with, the employment opportunities would be provided through this change of use.

11.5. The application is consistent in all other respects, subject to conditions, with local and national planning policy. Therefore officers consider that the proposal would accord with the development plan as a whole.

*Material considerations*

- 11.6. The principal material considerations which arise are addressed below, and follow the analysis set out in earlier sections of this report.
- 11.7. National Planning Policy: The NPPF has a presumption in favour of sustainable development. NPPF paragraph 11 states that proposals that accord with the development plan should be approved without delay, or where the development plan is absent, silent, or relevant plans are out of date, granting permission unless any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole; or specific policies in the framework indicate development should be restricted.
- 11.8. Officers consider that the proposal would accord with the overall aims and objectives of the NPPF for the reasons set out within the report. Therefore in such circumstances, Paragraph 11 is clear that planning permission should be approved without delay. This is a significant material consideration in favour of the proposal.
- 11.9. Officers would advise members that having considered the application carefully including all representations made with respect to the application, that the proposal is considered to be acceptable in terms of the aims and objectives of the National Planning Policy Framework, and relevant policies of the Oxford Core Strategy 2026, and Oxford Local Plan 2001-2016, when considered as a whole, and that there are no material considerations that would outweigh these policies.
- 11.10. Therefore it is recommended that the Committee resolve to grant planning permission for the development proposed subject to the conditions set out in section 12 of this report.

## **12. CONDITIONS**

### **1 Development begun within time limit**

The development to which this permission relates must be begun not later than the expiration of three years from the date of this permission.

Reason: In accordance with Section 91(1) of the Town and Country Planning Act 1990 as amended by the Planning Compulsory Purchase Act 2004.

### **2 Develop in accordance with approved plans**

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

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

### **3 Materials**

The materials to be used for the door, wall and roof cladding and window reveals shall be as submitted with the application. The material sample for the window and door frames, and flood grating shall be submitted to and approved in writing by the Local Planning Authority. The approved material and colour for the window and frames and flood grating shall be thereafter used.

Reason: To ensure the satisfactory visual appearance of the new development in accordance with policies CP1, CP8 and HE7 of the Oxford Local Plan 2001-2016 and CS18 of the Oxford Core Strategy 2026.

### **4 Rooflights and solar panels**

Details of the colour finish of the rooflight frames and finished appearance of the solar panels shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be thereafter used.

Reason: To ensure the satisfactory visual appearance of the new development in accordance with policies CP1, CP8 and HE7 of the Oxford Local Plan 2001-2016, CS18 of the Oxford Core Strategy 2026, HP9 of the Site and Housing Plan 2011-2026.

### **5 No demolition before rebuilding contract**

The building(s) shall not be demolished before a legally binding contract for the carrying out of the works of redevelopment of the site has been entered into and evidence of the contract has been produced to and agreed in writing by the Local Planning Authority, or in the absence of such a contract an alternative timescale for commencement of the development has been submitted to and agreed in writing by the Local Planning Authority.

Reason: To ensure that the premature demolition of the buildings does not take place to the detriment of the special character and appearance of the Conservation Area, in accordance with policies CP1 and HE7 of the Adopted Oxford Local Plan 2001-2016 and policy CS18 of the Oxford Core Strategy 2026.

### **6 Flood plan**

Prior to occupation/usage, a flood plan shall be submitted to and approved in writing by the Local Planning Authority. This should provide guidance owners/users as to what actions should be taken in the event of a flood, and after a flood to ensure it is safe to occupy/use the facility.

Reason: To manage flood risk in accordance with Policy CS11 and the NPPF.

## **7 Flood risk assessment**

The development shall be carried out in accordance with the submitted flood risk assessment (ref Flood Risk Assessment (FRA) Job No. X172008 dated January 2019 by AKS Ward Construction Consultants and the following mitigation measures it details:

1. The finished floor level of the ground floor admin area is 57.25m AOD. The entrance is floodable at a finished floor level of 56.65m AOD to allow for no loss of flood plain storage.
2. There shall be no raising of existing ground levels on the site.
3. Any walls or fencing constructed within or around the site shall be designed to be permeable to flood water.
4. There shall be no storage of any materials including soil within the 1% annual probability (1 in 100) flood extent with an appropriate allowance for climate change.

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: In accordance with paragraph 163 of the National Planning Policy Framework (NPPF), to reduce the risk of flooding to the proposed development and future occupants.

## **8 Contamination**

Prior to the commencement of the development a phased risk assessment shall be carried out by a competent person in accordance with relevant British Standards and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR11) (or equivalent British Standards and Model Procedures if replaced). Each phase shall be submitted in writing and approved by the local planning authority.

Phase 1 shall incorporate a desk study and site walk over to identify all potential contaminative uses on site, and to inform the conceptual site model and preliminary risk assessment. If potential contamination is identified in Phase 1 then a Phase 2 investigation shall be undertaken.

Phase 2 shall include a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals.

Phase 3 requires that a remediation strategy, validation plan, and/or monitoring plan be submitted to and approved in writing by the local planning authority to ensure the site will be suitable for its proposed use.

Reason- To ensure that any ground and water contamination is identified and



adequately addressed to ensure the site is suitable for the proposed use in accordance with the requirements of policy CP22 of the Oxford Local Plan 2001-2016.

## **9 Remedial works**

The development shall not be occupied until any approved remedial works have been carried out and a full validation report has been submitted to and approved in writing by the local planning authority.

Reason- To ensure that any ground and water contamination is identified and adequately addressed to ensure the site is suitable for the proposed use in accordance with the requirements of policy CP22 of the Oxford Local Plan 2001-2016.

## **10 Only yoga studio**

The building hereby approved, shall only be used as a yoga studio and for no other use within use Class D2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the Local Planning Authority can properly consider any alternative use of the premises and to ensure that there is no long term loss of employment space within the City in accordance with policy CS28 of the Oxford Core Strategy 2026.

### **INFORMATIVES :-**

- 1 The development hereby permitted is liable to pay the Community Infrastructure Levy. The Liability Notice issued by Oxford City Council will state the current chargeable amount. A revised Liability Notice will be issued if this amount changes. Anyone can formally assume liability to pay, but if no one does so then liability will rest with the landowner. There are certain legal requirements that must be complied with. For instance, whoever will pay the levy must submit an Assumption of Liability form and a Commencement Notice to Oxford City Council prior to commencement of development. For more information see: [www.oxford.gov.uk/CIL](http://www.oxford.gov.uk/CIL)
- 2 Your attention is drawn to the provisions of the Party Wall Act 1996. A copy of an explanatory booklet is available to download free of charge from the following website <http://www.communities.gov.uk/publications/planningandbuilding/partywall>
- 3 In accordance with guidance set out in the National Planning Policy Framework, the Council tries to work positively and proactively with applicants towards achieving sustainable development that accords with the Development Plan and national planning policy objectives. This includes the offer of pre-application advice and, where reasonable and appropriate, the opportunity to submit amended proposals as well as time for constructive discussions during the

## Appendix 1

course of the determination of an application. However, development that is not sustainable and that fails to accord with the requirements of the Development Plan and/or relevant national policy guidance will normally be refused. The Council expects applicants and their agents to adopt a similarly proactive approach in pursuit of sustainable development.

- 4 Please note that the responsibility to properly address contaminated land issues, irrespective of any involvement by this Authority, lies with the owner/developer of the site.

## 11 APPENDICES

- i. **Appendix 1** – Site location plan

## 12 HUMAN RIGHTS ACT 1998

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

## 13 SECTION 17 OF THE CRIME AND DISORDER ACT 1998

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

## Extract from the Minutes of a meeting of the WEST AREA PLANNING COMMITTEE on Tuesday 9 April 2019

### Committee members:

Councillor Cook (Chair)	Councillor Gotch (Vice-Chair)
Councillor Arshad	Councillor Bely-Summers
Councillor Corais	Councillor Hollingsworth
Councillor Iley-Williamson	Councillor Upton
Councillor Landell Mills (for Councillor Harris)	

### Officers:

Robert Fowler, Planning Team Leader  
Sally Fleming, Planning Lawyer  
Sarah De La Coze, Planning Officer  
Julia Drzewicka, Planning Officer  
Amy Ridding, Senior Conservation Officer  
Catherine Phythian, Committee Services Officer

### Apologies:

Councillor(s) Harris sent apologies.

## 82. Declarations of interest

**18/03322/FUL: Councillor Landell Mills** stated that although he was a signatory to the call-in he was approaching the application with an open mind, would listen to all the arguments and weigh up all the relevant facts before coming to a decision.

**19/00249/FUL: Councillor Hollingsworth** stated that although he was a signatory to the call-in he was approaching the application with an open mind, would listen to all the arguments and weigh up all the relevant facts before coming to a decision.

**Councillor Cook** stated that he was a Council appointed trustee for Oxford Preservation Trust and a member of Oxford Civic Society. However, he had taken no part in those organisations' discussions or decision making regarding any of the applications before the Committee and that he was approaching the applications with an open mind, would listen to all the arguments and weigh up all the relevant facts before coming to a decision.

**Councillor Upton** stated that she was a Council appointed trustee for Oxford Preservation Trust. However, she had taken no part in those organisations' discussions or decision making regarding any of the applications before the Committee and that she was approaching the applications with an open mind, would listen to all the arguments and weigh up all the relevant facts before coming to a decision.

#### **84. 19/00249/FUL: 16 East St, Oxford, OX2 0AU**

The Committee considered an application (19/00249/FUL) for planning permission for the demolition of the existing workshop (Use Class B1) to erect a two storey yoga workshop (Use Class D2) and provision of cycle spaces (amended description).

The application had been called-in by Councillors Pressel, Fry, Tanner and Hollingsworth on the ground that there is a massive concern locally about the possible change of use to D2 in the middle of a residential area and the design of the proposed building.

The Council's Planning Lawyer addressed the Committee on the points raised in the Counsel's Opinion which had been circulated by Mr Orr a local resident, to the Planning Officer and members the Committee prior to the meeting.

The Planning Lawyer informed the Committee that the arguments in the opinion were not, in her view, persuasive and she did not consider that they could form the basis of a successful legal challenge to any decision to grant permission based on the content of the Planning Officer's report.

The Planning Officer presented the report and reported that:

- an additional 8 comments had been submitted in relation to the application (7 objections and 1 supporter) since the publication of the agenda but all of the material planning considerations raised were addressed in the Planning Officer's report;
- paragraph 10.5 of the report should refer to policy CS28 not CS18;
- the wrong certificate of ownership had been submitted with the application; a revised certificate had been now been submitted but this would require a 21 day consultation period. To address this it was proposed that the first bullet point at paragraph 1.1.2 of the report should be revised as follows (additional text in italics):

*"Consider and deal with any new material planning considerations that may be raised through public consultation, which expires on the 11th April 2019 and consider and deal with any representations that may be made as a result of the notice which has now been served on the owner which expires on the 29th April 2019, including deciding whether it is necessary to refer the application back to the committee prior to issuing the permission".*

Vernon Orr and Bianca Elgar spoke against the application.

In discussion the Committee noted the following points:

- that the Article 4 Direction did not apply to the application site as it was not a residential dwelling
- that the proposed restriction to D2 use only as a yoga studio (proposed Condition 10) would prevent the use of any permitted development rights to change the use of the site
- the concerns raised by local residents about potential increase in footfall and/or traffic were not limited to the proposed change of use to D2; the existing B1

designation could also result, without the need for any further planning permission, in a use of the site within that Use Class which could involve increased footfall and/or traffic

- advice from the Conservation Officer that the heritage significance of the application site related primarily to its use as a light industrial and local business and to the fact that it created a visual break in the streetscene.

In reaching its decision, the Committee considered all the information put before it including the officer's report and presentation; the speakers' presentations; answers to questions put to the officers and officers' professional advice.

After debate and on being proposed, seconded and put to the vote, the Committee agreed with the officer's recommendation to approve the application subject to the inclusion of the revised wording to 2a) below shown in italics.

**The West Area Planning Committee resolved to:**

1. **approve** the application for the reasons given in the report and subject to the required planning conditions set out in section 12 of the report and grant planning permission; and
2. **delegate authority** to the Acting Head of Planning Services to:
  - a) consider and deal with any new material planning considerations that may be raised through public consultation, which expires on the 11th April 2019 *and deal with any representations that may be made as a result of the notice which has now been served on the owner which expires on the 29th April 2019*, including deciding whether it is necessary to refer the application back to the committee prior to issuing the permission;
  - b) finalise the recommended conditions as set out in the report including such refinements, amendments, additions and/or deletions as the Acting Head of Planning Services considers reasonably necessary; and
  - c) issue the planning permission.

**The meeting started at 6.00 pm and ended at 7.15 pm**

Chair .....

**Date: Wednesday 8 May 2019**

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## Planning Review Committee

30<sup>th</sup> April 2019

**Application number:** 18/03287/FUL

**Decision due by** 15th March 2019

**Extension of time** 1<sup>st</sup> June 2019

**Proposal** Demolition of existing structures, and the erection of a part 3, 4 and 5 storey apartment block comprising 35 residential flats (Use Class C3) and 3 x 3 storey townhouses (Use Class C3) with associated access, parking and landscape arrangements.

**Site address** Former Murco Service Station, Between Towns Road, Oxford, Oxfordshire – see **Appendix 1** for site plan

**Ward** Cowley Ward

**Case officer** Michael Kemp

**Agent:** Mr James Cogan **Applicant:** C/o Agent

**Reason at Committee:** The application has been called in to the Planning Review Committee by Councillors Henwood, Simmons, Wolff, Gant, Gotch, Malik, Altaf-Khan, Wade, Landell-Mills, Kennedy, Arshad, Curran and Azad.

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## 1. RECOMMENDATION

1.1. The Planning Review Committee is recommended to:

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

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

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

## 2. EXECUTIVE SUMMARY

2.1. At the East Area Planning Committee on the 3<sup>rd</sup> April 2019, Members resolved to grant planning permission for a development comprising of 38 dwellings, comprising of 35 apartments and 3 houses at the former Murco Garage site at Between Towns Road in Cowley.

2.2. The decision of the East Area Planning Committee has been called in to the Planning Review Committee by Councillors Henwood, Simmons, Wolff, Gant, Gotch, Malik, Altaf-Khan, Wade, Landell-Mills, Kennedy, Arshad, Curran and Azad for the following reasons:

- The use of St Omer Road as the only means of accessing the site is inadequate as insufficient space is provided for vehicles to manoeuvre within the proposed turning head. This would impact on neighbour amenity and air quality.
- The report to members did not address overshadowing of neighbouring properties and the three townhouses.
- Insufficient parking is provided for visitors and service vehicles.
- Insufficient provision of larger family dwellings within the development and the proposals would not comply with the target housing mix identified within the Councils Balance of Dwellings Supplementary Planning Document.

2.3. A copy of the officer's report to the East Area Planning Committee is included within **Appendix 1** of this report. It is considered that the officer's report provides full assessment of the scheme in relation to the relevant policy considerations within the existing local development framework, however this report provides additional clarification on the specific issues raised following the committee meeting and the reasons relating to members request to call the application in to the Planning Review Committee.

2.4. In terms of the Balance of Dwellings, Policy CS23 of the Core Strategy specifies that new developments should deliver a balanced mix of housing. Policy CS23 outlines that housing provision should be in line with target mixes specified within the Balance of Dwellings SPD. The officer's report to the 3<sup>rd</sup> April East Area Planning Committee provides a full assessment as to the reasons why the mix proposed within the scheme would be considered acceptable despite it not being in line with the preferred mix set out within the Balance of Dwellings SPD. The report also provides a full assessment of the scheme in relation to Policy H4 of the Emerging Local Plan, which is afforded, increased, albeit still limited weight. The scheme is deemed to fully comply with the provisions outlined within the Councils Emerging Local Plan; however this report provides additional justification as to why the proposed housing mix is considered to be acceptable.

2.5. The officers committee report also provides an assessment of the impact of the development on existing and future occupiers in respect of the amount of natural light and the impact of the development on overshadowing of properties and private amenity spaces. This report outlines in greater depth the likely impact of the development on natural light and daylight to existing and future occupiers in line with the relevant provisions of the Existing Local Plan, notably Policies CP1, CP9 and CP10; Policy HP14 of the Sites and Housing Plan; and Policy HP14 of the Emerging Local Plan.



2.6. This report provides further clarification in respect of parking provision, which is also considered in depth in the officers report to the East Area Planning Committee. It is considered that parking provision is adequate even in the absence of visitor and service vehicle parking accounting for the overall sustainability of the site, the existence is existing parking controls as well the proposed implementation of a CPZ within the area and the sites close proximity to two large public car parks. When considering the existing parking controls in the street, as well as the implementation of double yellow lines at the turning head which would be secured through a Section 278 agreement with the County Council, officers are of the view that the development would not have a severe impact on highway safety or amenity contrary to Policy CP1 of the Oxford Local Plan and Paragraph 109 of the NPPF.

2.7. For the reasons expressed within this report, in addition to the assessment contained within the officers committee, officers consider that the development as proposed is acceptable in accordance with the relevant provisions of the Oxford Local Plan; Oxford Core Strategy; Sites and Housing Plan; Emerging Local Plan and the NPPF and recommend that approval should be granted subject to the planning conditions outlined.

**3. RELEVANT PLANNING POLICY**

3.1. The following policies are relevant to the application:

Topic	National Planning Policy Framework	Local Plan	Core Strategy	Sites and Housing Plan	Other planning documents
Design	12	CP1 CP6 CP8 CP9 CP10 CP11 CP13	CS18_		
Conservation/ Heritage	16	HE2 HE10			
Housing	5		CS22_ CS23_ CS24_	HP2_ HP3_ HP9_ HP11_ HP13_ HP14_ HP15_ HP16_	
Commercial	6		CS28		

Natural environment	9, 11, 13	NE15			
Social and community	8		CS17_ CS19_		
Transport	9	TR1 TR2 TR4 TR5	CS13_		Parking Standards SPD
Environmental	14, 15	CP21 CP22	CS12_ CS10_ CS11_		
Miscellaneous		CP.13 CP.24 CP.25		MP1	

#### 4. CONSULTATION RESPONSES

4.1. In addition to the consultation responses received, which are summarised in the officer's report to the East Area Planning Committee on the 3<sup>rd</sup> April, a full consultation response was received from Oxfordshire County Council Highways. A summary of this consultation response was provided to members prior to the meeting on the 3<sup>rd</sup> April, however for clarity particularly as reasons for the call in relate in part to highways matters, the consultation response is included below.

##### Oxfordshire County Council (Highways)

##### Traffic Generation

4.2. It is not considered that the traffic generation caused by this development will be detrimental to the local highway network due to the car-free nature and in comparison to its previous use as a petrol station. Each of the 3-bed dwellings have access to a garage which are accessed from St Omer Road. This will not adversely impact upon the junction of Oxford Road and Cleveland Drive.

4.3. This site is considered highly sustainable and has good access by public transport. The site is within cycling distance to the city centre and within walking distance of many other local amenities, pedestrian permeability is high in the area and the enhancement of the footpath linking St Omer Road and Between Towns Road will improve this further.

4.4. In order to ensure construction vehicles do not have an adverse impact to the network at peak times, a Construction Traffic Management Plan is required and has been conditioned.

##### Car Parking

4.5. The development proposes to be car-free in the majority. The exception to this will be 2 disabled bays and bay to be used only for a car-club. Each of the 3-bed houses will also have a garage which can be accessed via Cleveland Drive and

St Omer Road. A condition has been included which states that the car-club bay must remain solely for the use of the car-club.

- 4.6. An informal consultation has just finished for the implementation of a Controlled Parking Zone in the area. St Omer Road falls within the proposed Florence Park CPZ which if implemented would mean this development could be excluded from eligibility for parking permits and could be car-free.
- 4.7. However, the CPZ is still subject to full consultation and therefore the timing of delivery cannot be confirmed. Oxfordshire County Council has requested that £34,000 should be secured from CIL receipts of the site towards the implementation of the CPZ in this area.

#### Cycle Parking

- 4.8. The Transport Statement submitted states that cycle stores providing 70 spaces between them will be provided for the 35 apartments. Each of the 3-bed houses will have 3 cycle spaces located in the rear gardens and 4 visitor spaces will be provided on the shared surface off St Omer Road.
- 4.9. Overall there will be a total of 83 cycle spaces provided, this is in line with Policy HP15 and is accepted. A condition has been attached requesting details of the cycle store.

#### Pedestrian Link

- 4.10. There is an existing footpath which links St Omer Road and Between Towns Road. Despite this not being a public right of way, it is heavily used and should remain as a link for pedestrians/cyclists to use. The applicants have stated that they are willing to enter into a S278 agreement with the county council in order to bring this link into the public realm. This is welcomed by the county council.
- 4.11. The footpath will be moved slightly to the East and will be differentiated by alternate material. In order for the footpath to be dedicated as highway it needs to be constructed to adoptable standard. There is some concern that with the level of trees needed on site that the street lighting may not be able to be provided to adoptable standard, however, this could potentially be mitigated by conditions linking the tree planting with the street lighting and therefore an appropriate condition has been included as discussed with the planning officer.
- 4.12. The Section 278 agreement will also cover double yellow lines on the refuse turning head and the reformation of the kerbs and highway verge on Between Towns Road.

#### Refuse and Servicing

- 4.13. Refuse collection will be undertaken from St Omer Road and will use the existing turning head. The swept path analysis provided shows that this is still possible with the proposed parking bays in place. Double Yellow Lines will be required to ensure cars to not block the turning head.

## **5. PLANNING MATERIAL CONSIDERATIONS**

5.1. A copy of the officer's report to the East Area Planning Committee is included within **Appendix 1**. It is considered that the officer's report provides full assessment of the scheme in relation to the relevant policy considerations within the existing local development framework, however this report provides additional clarification on the issues which have been raised following committee and the reasons relating to members request to call the application in to the planning review committee.

#### Balance of Dwellings

5.2. Section C (Paragraphs 10.12 to 10.18) of the officer's report to the East Area Planning Committee provides a full assessment of the scheme in relation to the existing local development framework. Policy CS23 of the Core Strategy states that development should comply with the Balance of Dwellings Supplementary Planning Document (SPD). This document highlights that across Oxford, new development should include a certain percentage of family dwellings typically comprising of 3+ bedroom units. The site falls within a primary district centre. The preferred mix of units for schemes exceeding 19 houses in district centres is 15-25% (1 bed), 35-50% (2 beds), 20-30% (3 beds), and 10-20% (4 beds). The document makes clear that district centres have the potential to provide developments of greater densities to other areas, which would allow for a greater proportion of smaller units, while also encouraging family housing.

5.3. It is accepted that the mix proposed within the development would not strictly accord with the preferred mix set out within the SPD as the proposed development would comprise of 17 one bedroom apartments (45%), 17 two bedroom apartments (47%) and 3 three bedroom houses (8%), however there are other important material planning considerations to take into account when considering the suitability of the proposed mix.

5.4. The Council's Emerging Local Plan was submitted for examination in March 2019. Whilst the weight attributed to the policy provisions of the Emerging Plan framework are afforded limited at this stage as the plan has yet to undergo examination, this remains a material planning consideration and provides an outline as to the direction of travel for policy in respect of the housing mix in new developments. Policy H4 of the Emerging Local Plan outlines a housing mix, which applies only to the affordable element of the housing on developments of 25+ units, however the policy also makes clear that this does not apply to sites in the City Centre or District Centres, though Sites below the threshold or within the city centre or a district centres should demonstrate how the proposal has had regard to local housing demand, namely affordable housing demonstrated by the housing register. The application site is within the Cowley Primary District Centre so in relation to the provisions of Policy H4 of the Emerging Local Plan there would be no requirement to conform to a specific mix of dwelling sizes.

5.5. NPPF Paragraph 11 states that in applying a presumption in favour of sustainable development Local Authorities should be approving development proposals that accord with an up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless: the application of policies in this Framework that protect

areas or assets of particular importance provides a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

- 5.6. The Councils Core Strategy and Balance of Dwellings SPD predate the NPPF and as such the policy provisions of the existing framework must be read in conjunction with the NPPF in terms of their compatibility. Policy H4 of the Emerging Local Plan, unlike the Balance of Dwellings SPD does not predate the NPPF and as such takes into account all other material planning considerations outlined within the framework. In officers view there a clear requirement to balance the provision of a mix of housing in order to achieve balanced communities with other fundamental material planning considerations, including the need to make effective use of land which forms a fundamental element of the NPPF (Chapter 11).
- 5.7. The officer's report to the East Area Planning Committee provides an outline as to the reasons why the affordable element of the housing mix comprises solely of one and two bed dwellings. The Councils Affordable Housing Register identifies that there is limited need for additional 3 bedroom dwellings in the city and identifies high under occupancy of existing 3 bedroom affordable units in the city (41.6%). The City's Housing Register identifies that the principle requirement for affordable housing, including for families in need is for 1 and 2 bedroom dwellings. The provision of smaller units also has the joint benefit of making available larger properties which are currently under occupied for persons in need of these larger properties. Policy HP3 of the Sites and Housing Plan, which relates to the provision of affordable housing specifies that the applicant should demonstrate that the mix of dwelling sizes meets the City Council's preferred strategic mix for affordable housing and therefore for the reasons outlined the development is considered to be in line with the requirements of this policy. The provision of three bedroom flats as part of the scheme was explored at pre-application stage and was discounted as demand for this form of accommodation as affordable housing was deemed to be low and the Councils Housing Team have specifically indicated that three bedroom flats were undesirable as accommodation.
- 5.8. The provision of larger 3 bedroom dwellings in a form other than flats for example as family houses would be neither practical nor desirable. The site is a relatively small brownfield site located within the Cowley Primary District Centre. With the notable exception of St Omer Road to the rear the context of the surrounding built consists of larger scale 3+ storey buildings and in urban design terms it is important the development responds to the context of the surrounding built form, hence the approach taken in terms of the scale of the frontage apartment building. A lower density development of houses for example would not meaningfully relate to the character of the surrounding built form on Between Towns Road which is within the district centre. Furthermore Chapter 11 of the NPPF makes clear that development should make effective use of land. NPPF Paragraph 123 states that where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning policies and decisions avoid homes being built at low densities, and ensure that developments make optimum use of the potential of each site. In officers view

the development of larger family sized housing would substantially reduce the capacity of the site to deliver its optimum density and number of units, which would fundamentally be at odds with the requirements of Paragraph 123 of the NPPF.

5.9. In summary the proposed development achieves an optimum density of development on the site which would not be achieved through the provision of family housing on the site. The Councils Housing Team have advised that the provision of three bedroom dwellings in the form of flats would not be desirable as demand is low for this form of accommodation and therefore would clearly not provide accommodation that meets the most pressing need in a city where there is a recognised shortage of affordable housing. Furthermore the development is considered to comply fully with Policy H4 of the Emerging Local Plan which provides a clear outline of the direction of travel in terms of housing mix in the city. Officers therefore consider that the grounds to deviate from the housing mix specified under Policy CS23 of the Core Strategy and BOD's SPD is fully justified.

#### Daylight, Overshadowing and Amenity Impacts

5.10. Officers note that the call in request specifies that insufficient assessment is provided as to the impact of the development on daylight and natural light enjoyed by occupiers of neighbouring properties and also the amount of natural light which future occupiers would benefit from, namely the occupiers of the proposed three bedroom houses. The issue of natural light in relation to the future occupiers of the three houses, as well as the amenity space for the apartments is addressed in paragraph 10.46 of the officer's committee report, whereas the impact on natural light for existing occupiers is addressed within Paragraph 10.49. Nevertheless further clarification is provided in respect of these issues below.

5.11. The amenity spaces for the proposed three bedroom dwellings would be provided at ground level and at second floor in the form of external terraces. The constrained nature of the site restricts the ability to provide large rear gardens, however the fact that the amenity space would be split over two levels would not necessarily mean that the amenity space would be of a lesser standard. Policy HP13 of the Sites and Housing Plan outlines that the following factors should be taken into account when assessing the quality of external amenity space: The location and context of the development, in relation to the layout of existing residential plots, and proximity to public open space; the orientation of the outdoor area in relation to the sun; the degree to which enclosure and overlooking impact on the proposed new dwellings and any neighbouring dwellings, and the overall shape, access to and usability of the whole space to be provided.

5.12. The subtext to Policy HP13 specifies that the City Council will expect an area of private garden for each family house which is at least equivalent to the original building footprint. The average habitable footprint of the houses across each floor would be 41m<sup>2</sup> and the quantity of amenity space would be 40m<sup>2</sup>. In terms of size the quantity of external amenity space would therefore be roughly equivalent to the habitable footprint of the dwellings and would be considered

acceptable in line with the requirements of Policy HP13 of the Sites and Housing Plan.

- 5.13. Both Policies HP13 and HP14 of the Sites and Housing Plan require reasonable privacy and light for future occupiers. It is noted that concerns were expressed in public representations in relation to the external amenity spaces and the quantity of natural light these spaces would receive. It is noted that the applicants have commissioned a Daylight and Sunlight Assessment in order to assess the schemes compliance with BRE Government guidelines for daylight and sunlight in new developments.
- 5.14. The Daylight and Sunlight Assessment found that the development would have a very minor impact on existing properties in respect of the natural light and sunlight. In respect of the external amenity spaces serving the existing neighbouring dwellings, there is considered to be sufficient separation distance between the proposed apartment building and the rear amenity space of the nearest neighbouring property, this being 38 St Omer Road to ensure that the amenity space of this property would not be significantly overshadowed. The results of the applicants Daylight and Sunlight Assessment indicate that more than 50% of all external amenity areas in the neighbouring properties received at least 2 hours of sunlight on the 21st of March and therefore comply with the BRE criteria. The impact of the development in terms of overshadowing of neighbouring properties is unlikely to be detrimental.
- 5.15. The Daylight and Sunlight Assessment also assesses the new dwellings compliance in relation to BRE recommended guidelines. In terms of the internal spaces the results of the assessment indicate that 85.4% of all proposed living areas are in line or exceeding the BRE recommendation. However, with regard to the south facing living areas, where according to BRE Guide sunlight is mainly expected, the results illustrate good levels of sunlight with an overall of 92.1% compliance.
- 5.16. The results of the overshadowing assessment show that out of the seven proposed amenity areas, four would receive adequate sunlight levels, with more than 50% of the areas seeing at least two hours of sunlight on the 21st of March. All of the external amenity spaces would receive sunlight in the summer period when these spaces are most likely to be used. Whilst it is accepted that the external amenity areas of the westernmost of the three dwellings would have some restrictions in terms of the natural light received to the amenity spaces, officers consider that each of the properties would receive adequate natural light and the amenity of future occupiers would not be unduly compromised.
- 5.17. Whilst it is considered that the amenity of existing and future occupiers would be adequately safeguarded in any event regard must also be given to the density of the development and the requirement of Paragraph 123 of the NPPF that developments should make optimum use of the potential of sites. In this instance the site is a small compact urban brownfield plot within a primary district centre where development to a high density would be expected. Paragraph 123 of the NPPF outlines that when considering applications for housing, authorities should take a flexible approach in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of a site (as

long as the resulting scheme would provide acceptable living standards). The policy provisions of Paragraph 123 are of particular relevance in this instance and in officer's view the development would provide acceptable living standards and there would be no conflict with the provisions of the Oxford Local Plan, Sites and Housing Plan and NPPF in respect of the amenity impact of the development on existing or future occupiers.

#### Highways and Parking Provision

- 5.18. Section F of the report to the East Area Planning Committee provides a detailed outline as to the highways impacts of the development and parking provision. It is noted in relation to the call in request that concerns have been raised in relation to the parking provision for deliveries, service vehicles and visitors as well as the parking provision of parking within the garages of the three houses and the enforcement of the car free status of the dwellings. Concerns were also expressed in relation to the space provided within the turning head for manoeuvring of vehicles.
- 5.19. At the East Area Planning Committee Meeting officers provided a verbal update to members summarising a consultation response received from Oxfordshire County Council Highways raising no objection to the development, subject to conditions. For clarity the response is included in the consultation section of this report.
- 5.20. The proposed development would be car free with the exception of two disabled parking bays and a car club space. The subtext to Policy HP16 of the Sites and Housing Plan in paragraph A3.47 states that parking for disabled vehicles, service vehicles and visitors should also be provided. There would be insufficient space to provide further parking in addition to the disabled bays and car club space as provision of another space would impact on manoeuvrability into the proposed spaces as well as the ability for vehicles to manoeuvre within the turning head at the end of St Omer Road. Officers consider that there would not be a necessity to provide visitor and service vehicle parking as the site is within a sustainable location with excellent public transport links and the site is within 30 metres of a multi storey car park at Templars Square at Barns Road, 100 metres of the car park at the John Allen Centre and 250 metres of another multi storey car park at Crowell Road.
- 5.21. Officers consider that more than adequate space is provided within the turning head at St Omer to allow vehicles to manoeuvre so therefore it is not accepted that the development would have adverse impacts in terms of neighbouring amenity, noise or air quality. The applicants have demonstrated that refuse vehicles would have sufficient room to turn within this space which would be of a much larger size than most other vehicles using St Omer Road. Unless vehicles were illegally parked, which cannot be accounted for then it is considered that adequate provision is made for manoeuvrability. The County Council have indicated that a Section 278 agreement will be required to ensure that double yellow lines are painted around the turning area which will prevent illegal parking.



- 5.22. In terms of the enforceability of the car free nature of the development, officers would note the suggested informative provided by the County Council, which specifies that if funding is found for the implementation of a Controlled Parking Zone along St Omer Road and if it successfully passes consultation, the proposed units will be excluded from eligibility for parking permits. In the event that a CPZ is implemented, the County Council would in a position to restrict access to parking permits which would provide a means of enforcing the car free status of the development.
- 5.23. In terms of the integral garage parking within the three houses, this would provide one space per unit. Whilst it cannot be enforced that residents use the garage space for parking of vehicles, officers recommend a condition to require that the garage space is made available for the parking of vehicles this includes the removal of permitted development rights for the conversion of the integral garage accommodation to habitable space.
- 5.24. Paragraph 109 of the NPPF makes clear that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. For the reasons expressed above and in the Officers Report to the 3<sup>rd</sup> April East Area Planning Committee, whilst taking into account the comments of the Highways Authority, officers consider that the development would not have a severe impact on highway safety or amenity and is acceptable in line with Policy CP1 of the Oxford Local Plan and the requirements of the NPPF.

## **6. CONCLUSION**

- 6.1. Having regards to the matters set out within the call-in to Planning Review Committee, officers would make members aware that the starting point for the determination of this application is in accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004 which makes clear that proposals should be assessed in accordance with the development plan unless material considerations indicate otherwise.
- 6.2. The NPPF recognises the need to take decisions in accordance with Section 38(6) but also makes clear that it is a material consideration in the determination of any planning application. The main aim of the NPPF is to deliver Sustainable Development, with Paragraph 11 the key principle for achieving this aim. The NPPF also goes on to state that development plan policies should be given due weight depending on their consistency with the aims and objectives of the Framework. The relevant development plan policies are considered to be consistent with the NPPF despite being adopted prior to the publication of the framework.
- 6.2. In conclusion it would be necessary to consider the degree to which the proposal complies with the policies of the development plan as a whole and whether there are any material considerations, such as the NPPF, which is inconsistent with the result of the application of the development plan as a whole.
- 6.3. In summary the proposals would bring forward the redevelopment of a prominent vacant brownfield site in the Cowley Primary District Centre to provide 38 dwellings, 50% of which would be made available as affordable accommodation,

which would comply with the affordable housing requirements outlined under Policy HP3 of the Sites and Housing Plan. It is considered that the development is appropriately designed and preserves the amenity of adjacent occupiers, whilst providing an acceptable standard of amenity for future occupiers.

- 6.4. It is considered that parking provision is adequate accounting for the overall sustainability of the site, the existence of parking controls as well the proposed implementation of a CPZ within the area and the sites close proximity to two large public car parks. Officers consider that the development would not have a severe impact on highway safety or amenity contrary to either Policy CP1 of the Oxford Local Plan or Paragraph 109 of the NPPF.
- 6.5. The proposed housing mix, whilst deviating from Policy CS23 of the Core Strategy and the Councils Balance of Dwellings Document would comply with Policy H4 of the Emerging Local Plan, which outlines a clear direction of travel in respect of the recommended mix of units on larger housing sites. Paragraph 123 of the NPPF outlines a clear requirement in scenarios where there is a shortage of land to meet housing need that development should make optimum use of the land, whilst the size of unit's accounts for the Councils own identified affordable housing needs. In officers view this provides a clear justification to deviate from the Balance of Dwellings SPD which predates the NPPF.
- 6.6. For the reasons expressed within this report, in addition to the assessment contained within the officers report to the 3<sup>rd</sup> April East Area Planning Committee, officers consider that the development as proposed is acceptable in accordance with the relevant provisions of the Oxford Local Plan; Oxford Core Strategy; Sites and Housing Plan; Emerging Local Plan and the NPPF and recommend that approval should be granted subject to the planning conditions outlined.

## 7. CONDITIONS

1. The development to which this permission relates must be begun not later than the expiration of three years from the date of this permission.

Reason: In accordance with Section 91(1) of the Town and Country Planning Act 1990 as amended by the Planning Compulsory Purchase Act 2004.

2. The development referred to shall be constructed strictly in complete accordance with the specifications in the application and the submitted plans.

Reason: To avoid doubt as no objection is raised only in respect of the deemed consent application as submitted and to ensure an acceptable development as indicated on the submitted drawings.

3. Samples of the exterior materials to be used shall be submitted to, and approved in writing by, the Local Planning Authority before the start of work on the site and only the approved materials shall be used.

Reason: In the interests of visual amenity in accordance with policies CP1 and CP8 of the Adopted Oxford Local Plan 2001-2016.

4. The development shall not be occupied until any approved remedial works have been carried out and a full validation report has been submitted to and approved in writing by the local planning authority.

Reason- To ensure that any ground and water contamination is identified and adequately addressed to ensure the site is suitable for the proposed use in accordance with the requirements of policy CP22 of the Oxford Local Plan 2001-2016.

5. No properties shall be occupied until confirmation has been provided and approved in writing to ensure that either:- all wastewater network upgrades required to accommodate the additional flows from the development have been completed; or- a housing and infrastructure phasing plan has been agreed with Thames Water to allow additional properties to be occupied. Where a housing and infrastructure phasing plan is agreed no occupation shall take place other than in accordance with the agreed housing and infrastructure phasing plan.

Reason - The development may lead to sewage flooding and network reinforcement works are anticipated to be necessary to ensure that sufficient capacity is made available to accommodate additional flows anticipated from the new development. Any necessary reinforcement works will be necessary in order to avoid sewer flooding and/or potential pollution incidents.

6. No properties shall be occupied until confirmation has been provided and approved in writing to ensure that either:- all surfacewater network upgrades required to accommodate the additional flows from the development have been completed; or - a housing and infrastructure phasing plan has been agreed with Thames Water to allow additional properties to be occupied. Where a housing and infrastructure phasing plan is agreed no occupation shall take place other than in accordance with the agreed housing and infrastructure phasing plan.

Reason - The development may lead to flooding and network reinforcement works are anticipated to be necessary to ensure that sufficient capacity is made available to accommodate additional flows anticipated from the new development. Any necessary reinforcement works will be necessary in order to avoid sewer flooding and/or potential pollution incidents."

7. No development approved by this planning permission shall commence until a remediation strategy to deal with the risks associated with contamination of the site in respect of the development hereby permitted, has been submitted to, and approved in writing by, the local planning authority. This strategy will include the following components:

A site investigation scheme, based on preliminary risk assessment to provide information for a detailed assessment of the risk to all receptors that may be affected, including those offsite.

The results of the site investigation and the detailed risk assessment referred to in (1) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (2) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the written consent of the local planning authority. The scheme shall be implemented as approved.

Reason: To protect groundwater quality with the Beckley Sands aquifer.

8. No drainage systems for the infiltration of surface water to the ground are permitted other than with the written consent of the local planning authority. Any proposals for such systems must be supported by an assessment of the risks to controlled waters. The development shall be carried out in accordance with the approved details.

Reason: Infiltration is only acceptable in areas of uncontaminated land to protect groundwater from leaching of contaminants.

9. Prior to commencement of development, an application shall be made for Secured by Design (SBD) accreditation on the development hereby approved. The development shall be carried out in accordance with the approved details, and shall not be occupied or used until confirmation of SBD accreditation has been received by the authority.

Reason: To create safe and secure spaces which limit opportunities for crime in compliance with Policies CP1 and CP9 of the Oxford Local Plan.

10. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological evaluation in accordance with a project design approved by the planning authority. Following the completion of the evaluation if important archaeological remains are found then the development shall be amended to minimise damage to important archaeological deposits. No development shall take place until a method statement for archaeological mitigation and investigation measures, has been submitted to and approved in writing by the Local Planning Authority. The development shall only take place in accordance with the approved method statement.

Reason: Because the development may have a damaging effect on known or suspected elements of the historic environment of the people of Oxford and their visitors, including Roman remains (Local Plan Policy HE2).

11. No occupation shall take place until the building(s) has been insulated against external noise sources in accordance with a scheme that has been submitted to, and approved in writing by, the Local Planning Authority. To gain approval a scheme must demonstrate that it follows the recommendations of the Planning Noise Assessment by WSP reference no 70037512-005 dated 4th December 2018. Once approved there shall be no variation to the approved scheme unless otherwise agreed in writing beforehand by the Local Planning Authority.

Reason: To safeguard the amenities of existing and future occupiers of properties in accordance with policies CP9, CP19 and CP21 of the Oxford Local Plan 2001-2016.

12. A plan showing the means of enclosure for the new development including details of the treatment of all the boundaries of the site shall be submitted to, and approved in writing by, the Local Planning Authority prior to the commencement of above ground works. The approved treatment of all of the site boundaries shall be completed prior to first occupation of the approved development and retained as such thereafter unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of visual amenity and to safeguard the privacy of adjoining occupiers in accordance with policies CP1, CP8, CP9 and CP10 of the Adopted Oxford Local Plan 2001-2016 as well as policy HP14 of the Sites and Housing Plan 2011-2026.

13. Prior to the commencement of development, a scheme of ecological enhancements shall be submitted to, and approved in writing by, the Local Planning Authority to ensure an overall measurable net gain in biodiversity will be achieved. The scheme will include details and locations of landscape planting of known benefit to wildlife, artificial roost features, including bird and bat boxes, and a minimum of two dedicated swift boxes. The approved scheme shall be implemented prior to the first occupation of the development.

Reason: To comply with the requirements of the National Planning Policy Framework, the Conservation of Habitats and Species Regulations 2017, Wildlife and Countryside Act 1981 (as amended) and Policy CS12 of the Oxford Core Strategy 2026.

14. A landscape plan shall be submitted to, and approved in writing by, the Local Planning Authority before development starts. The plan shall include a survey of existing trees showing sizes and species, and indicate which (if any) it is requested should be removed, and shall show in detail all proposed tree and shrub planting, treatment of paved areas, and areas to be grassed or finished in a similar manner.

Reason: In the interests of visual amenity in accordance with policies CP1, CP11 and NE15 of the Adopted Local Plan 2001-2016.

15. The landscaping proposals as approved by the Local Planning Authority

shall be carried out upon substantial completion of the development and be completed not later than the first planting season after substantial completion.

Reason: In the interests of visual amenity in accordance with policies CP1 and CP11 of the Adopted Local Plan 2001-2016.

16. The development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definitions and requirements for affordable housing as set out within the Sites and Housing Plan 2011-2026 or any future guidance that amends or replaces it unless otherwise agreed in writing by the Local Planning Authority. The scheme shall include:
- i) the numbers, type, and location on site of the affordable housing provision to be made which shall consist of not less than 50% of the housing units as detailed in the application.
  - ii) details as to how the affordable tenure split for the affordable housing accords with the requirements of the policies of the Sites and Housing Plan 2001-2026 and the Affordable Housing and Planning Obligations Supplementary Planning Document 2013 unless otherwise agreed in writing by the Local Planning Authority.
  - iii) the arrangements for the transfer of the affordable housing to an affordable housing provider, or for the management of the affordable housing (if no RSL involved);
  - iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
  - v) the occupancy criteria to be used for determining the identity of the occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced

Reason: In order to secure the affordable housing provision on site in accordance with Policy CS24 of the Oxford Core Strategy 2026, and Policy HP3 of the Sites and Housing Plan 2011-

17. No development shall take place until a Construction Environmental Management Plan (CEMP), containing the site specific dust mitigation measures identified for this development, has first been submitted to and approved in writing by the Local Planning Authority. The specific dust mitigation measures that need to be included and adopted in the referred plan can be found in chapter 6 pages 23-25 of the Air Quality Assessment that was submitted with this application (PROJECT NO. 70037512-004), developed by WSP. The approved measures shall be implemented prior to first occupation.

Reason - to ensure that the overall dust impacts during the construction phase of the proposed development will remain as "not significant", in accordance with the results of the dust assessment, and with Core Policy

23 of the Oxford Local Plan 2001- 2016.

18. Prior to the occupation of the development, evidence that proves that all emission gas fired boilers that are going to be installed on-site are going to be ultra-low NOx (and meet a minimum standard of <40mg/kWh for NOx) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason - to ensure that the expected NO2 emissions of the combustion system to be installed at the proposed development will be negligible, in accordance with Core Policy 23 of the Oxford Local Plan 2001- 2016.

19. No development shall take place until specific details of a proposed mechanical ventilation system with NOx filtration has been submitted to and approved in writing by the Local Planning Authority. This shall include details of the proposed maintenance and monitoring schedule for the installed system. The development shall be carried out in accordance with the approved details.

Reason: to protect the occupiers of the development from exposure to air pollutants in exceedance of the National Air Quality Objectives.

20. The development shall not be occupied until the approved ventilation system has been installed and evidence provided to the Local Planning Authority that it is working in accordance with its specification and air quality does not present a risk to site users. The development shall be carried out in accordance with the approved details.

Reason: to protect the occupiers of the development from exposure to air pollutants in exceedance of the National Air Quality Objectives.

21. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or enacting that Order) no structure including additions to the dwelling house as defined in Classes A, B, C, D, E of Schedule 2, Part 1 of the Order shall be erected or undertaken without the prior written consent of the Local Planning Authority.

Reason: The Local Planning Authority considers that even minor changes in the design or enlargement of the development should be subject of further consideration to safeguard the appearance of the area and the amenity of neighbouring properties and occupiers of the dwellings in accordance with policies CP1, CP8 and CP10 of the Adopted Oxford Local Plan 2001-2016, HP9 and HP14 of the Sites and Housing Plan and CS18 of the Core Strategy.

22. The integral garages shall not be changed or adapted for living purposes or used for any other purpose except as a private domestic garage, without

the prior written permission of the Local Planning Authority.

Reason: To ensure that a garage is always available for use with the house in accordance with policies CP1, CP6, CP10 and TR3 of the Adopted Oxford Local Plan 2001-2016.

23. The west elevation windows serving the living/kitchen/dining spaces at first, second, third and fourth floor level in flat Nos. 101, 201, 301 and 401 shall be glazed in obscure glass, be non-opening below 1.7 metres above finished floor levels in the room(s) they serve and shall thereafter be retained. The side west facing elevations of the external balconies of those flats shall be fitted with privacy screens to a minimum height of 1.8 metres and shall thereafter be retained.

Reason: To safeguard the amenities of the adjoining occupiers in accordance with policies CP1, CP10 and HS19 of the Adopted Oxford Local Plan 2001-2016.

24. Before the development permitted is commenced details of the cycle parking areas, including means of enclosure, shall be submitted to, and approved in writing by, the Local Planning Authority. The development shall not be brought into use until the cycle parking areas and means of enclosure have been provided within the site in accordance with the approved details and thereafter the areas shall be retained solely for the purpose of the parking of cycles.

Reason: To promote the use of cycles thereby reducing congestion on adjacent roads in accordance with policies CP1, CP10 and TR4 of the Adopted Oxford Local Plan 2001-2016.

25. A Construction Traffic Management Plan shall be submitted to the Local Planning Authority and agreed prior to commencement of works and shall be approved in writing. This should identify;

- The routing of construction vehicles and management of their movement into and out of the site by a qualified and certificated banksman,
- Access arrangements and times of movement of construction vehicles (to minimise the impact on the surrounding highway network),
- Details of wheel cleaning / wash facilities to prevent mud, etc from migrating on to the adjacent highway,
- Contact details for the Site Supervisor responsible for on-site works,
- Travel initiatives for site related worker vehicles,
- Details of times for construction traffic and delivery vehicles, which must be outside network peak and school peak hours,
- Engagement with local residents and neighbours.

Reason: In the interests of highway safety and to mitigate the impact of construction vehicles on the surrounding network, road infrastructure and local residents, particularly at peak traffic times.



26. The development hereby permitted shall not be occupied until the designated car club space as set out in approved plans has been provided. The car club space shall be laid out as set out in the approved plan prior to occupation of the development and retained as such thereafter.

Reason: To ensure that the development does not generate a level of vehicular parking which would be prejudicial to highway safety, or cause parking stress in the immediate locality, in accordance with policies CP1, CP6, CP10 and TR13 of the Adopted Oxford Local Plan 2001-2016.

27. A street lighting design shall be submitted and agreed by the Local Planning Authority prior to implementation and should thereafter be constructed in line with the agreed plan. Furthermore, the street lighting design shall be submitted prior to the tree planting plan being agreed which could result in the footpath not being constructed to adoptable standard.

Reason: In the interests of the visual and residential amenities of neighbouring occupiers, in accordance with policy CP20 of the adopted Oxford Local Plan 2001 - 2016.

28. A travel information pack will be required in support of this application for each resident. This will be sent to the Local Planning Authority for approval before first occupation of the site.

Reason: To promote sustainable modes of transport.

29. The development shall not begin until a scheme for the provision of public open space has been submitted to and approved in writing by the local planning authority. The area designated as public open space shall be provided in accordance with the approved scheme and shall be retained for these purposes thereafter.

Reason: To ensure the provision of an attractive public realm and publically accessible open space within the approved development in accordance with the Policies CP1, CP9 and CP11 of the Oxford Local Plan.

#### INFORMATIVES :-

- 1 The development hereby permitted is liable to pay the Community Infrastructure Levy. The Liability Notice issued by Oxford City Council will state the current chargeable amount. A revised Liability Notice will be issued if this amount changes. Anyone can formally assume liability to pay, but if no one does so then liability will rest with the landowner. There are certain legal requirements that must be complied with. For instance, whoever will pay the levy must submit an Assumption of Liability form and a Commencement Notice to Oxford City Council prior to commencement of development. For more information see: [www.oxford.gov.uk/CIL](http://www.oxford.gov.uk/CIL)
- 2 If funding is found for the implementation of a Controlled Parking Zone along

St Omer Road and it successfully passes consultation, the proposed units will be excluded from eligibility for parking permits.

## **8. APPENDICES**

- **Appendix 1** – Officers Report to 3<sup>rd</sup> April East Area Planning Committee
- **Appendix 2** – Minutes of the 3<sup>rd</sup> April East Area Planning Committee
- **Appendix 3** – Site Plan

## **9. HUMAN RIGHTS ACT 1998**

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

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

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

**EAST AREA PLANNING COMMITTEE**

**3 April 2019**

<b>Application number:</b>	18/03287/FUL
<b>Decision due by</b>	15th March 2019
<b>Extension of time</b>	12 <sup>th</sup> April 2019
<b>Proposal</b>	Demolition of existing structures, and the erection of a part 3, 4 and 5 storey apartment block comprising 35 residential flats (Use Class C3) and 3 x 3 storey townhouses (Use Class C3) with associated access, parking and landscape arrangements.
<b>Site address</b>	Former Murco Service Station, Between Towns Road, Oxford, Oxfordshire – see <b>Appendix 1</b> for site plan
<b>Ward</b>	Cowley Ward
<b>Case officer</b>	Michael Kemp
<b>Agent:</b>	Mr James Cogan <b>Applicant:</b> C/o Agent
<b>Reason at Committee</b>	The application is for major development and Oxford City Housing Limited is the applicant

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**1. RECOMMENDATION**

1.1. is recommended to:

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

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

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

**2. EXECUTIVE SUMMARY**

2.1. This report considers the redevelopment of the former Murco garage site, which comprises a brownfield plot of land to the north of Between Towns Road and is located within the Cowley Primary District Centre. The proposal would comprise the demolition of the remaining small scale buildings on the site and its redevelopment to provide 38 residential dwellings (17 one bedroom apartments, 18 two bedroom apartments and 3, three bedroom townhouses).

## Appendix 1

- 2.2. The proposed development would bring about the positive reuse of a brownfield site for the purposes of providing 38 new residential units, 19 (50%) of which would be made available as affordable accommodation. The housing would be delivered as part of funding towards additional affordable housing provided from the Oxfordshire Housing and Growth Deal. Provision of affordable housing would be secured by planning condition as the applicants who are Oxford City Housing Limited.
- 2.3. This long standing vacant site is located in a prominent position in the Cowley Primary District Centre and at present visually detracts from the street scene and surrounding area. The design of the development would contribute positively to the character of the area and make a positive contribution to the area in line with the wider redevelopment of the Cowley Primary District Centre and adjacent proposed development at Templars Square. The scale of the development responds to the varying scale of the surrounding built form and the topographic differences across the site and is considered to successfully negotiate the transition between the larger scale urban grain of development on Between Towns Road and the suburban character of the adjacent St Omer Road. The proposals make provision for a new and enhanced area of public realm and public open space, whilst also providing a greatly enhanced pedestrian route between St Omer Road and Between Towns Road which will improve connectivity within the area.
- 2.4. Officers consider that the respective separation distances between the new development and existing properties would adequately safeguard the amenity of existing occupiers, whilst the proposals would afford an adequate standard of amenity for existing occupiers accounting for the size and quality of internal and external amenity spaces.
- 2.5. The site is in a highly sustainable location within the Cowley Primary District Centre and has excellent access to public transport as well as service, facilities and shops. Whilst it is likely that the surrounding streets including St Omer Road will be implemented into a CPZ in the near future it is accepted that this can be afforded very limited weight at this time although it is noted that there are existing time limited parking controls within the area. Notwithstanding the fact that the site does not fall within a CPZ at present it is considered that the overall sustainability of the location of the site provides justification for the car free nature of the apartments, furthermore each of these properties would have access to the car club scheme which would be available on site. Officers consider that the car free nature of the proposed development would not have a severe impact on highway safety or amenity.
- 2.6. For the reasons outlined within this report it is considered that the proposed development would be acceptable and would comply with the relevant requirements of the Oxford Local Plan; Oxford Core Strategy; Sites and Housing Plan; Emerging Local Plan; as well as the relevant provisions of the NPPF.

### **3. LEGAL AGREEMENT**

- 3.1. This application would not be subject to a legal agreement, affordable housing provision would be secured by condition.

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

4.1. The proposal is liable for a CIL contribution of £316,663.58.

#### **5. SITE AND SURROUNDINGS**

5.1. The site is previously developed land which was formerly occupied by a petrol station, garage building, forecourt and other structures including a car wash. The forecourt canopy and pumps have been removed and the former sales kiosk and car wash are the only structures remaining on site. The site is located to the north of Between Towns Road and to the south of St Omer Road and lies within the Cowley Primary District Centre. High close boarded hoardings have been erected around the perimeter of the site along Between Towns Road and adjacent to a pedestrian footpath to the west.

5.2. Surrounding development comprises of a mix of uses and buildings of varying height, scale and architectural design. The buildings to the south of the site, which front Between Towns Road comprise of three storey office buildings constructed from dark red brick. Templars Square shopping centre is located to the south west of the site, the buildings in the north east corner of the shopping centre comprise of ground floor retail units and upper floor office space, constructed from a mix of dark brick with external cladding.

5.3. A mixed use redevelopment of the northern part of Templars Square, which would comprise of retail, residential and hotel uses is proposed under planning application 16/03006/FUL, members resolved to approve this application subject to the completion of a Section 106 agreement.

5.4. Templars shopping park is located to the north west of the site and comprises of large retail sheds with surface level parking. There is also a public park to the west of the site. The New Testament Church is located to the north east of the site; which is a two storey brick building. The Conservative Club is located to the east of the site and lies at the junction of St Luke's Road; this is a two storey dark brick building.

5.5. There is a notable variance in levels between St Omer Road to the north of the site and Between Towns Road to the South of the site, consequently St Omer Road sits at a much lower level compared with Between Towns Road. There is also a notable change in the character of the development and built form, which transitions from larger three storey buildings used for commercial and retail purposes in Between Towns Road, which would be typically associated with an urban district centre to two storey characteristically suburban semi-detached dwellings in St Omer Road. St Omer Road terminates in a T shaped turning head, which extends up to the northern boundary of the site. Currently there is a two metre high brick wall adjacent to the turning head, which also extends along a narrow pedestrian alleyway which runs between St Omer Road and Between Towns Road.

## Appendix 1

5.6. There is a large mature horse chestnut tree to the front of the site, adjacent to Between Towns Road and two semi-mature birch trees also to the front of the site.

5.7. See block plan for the development below:



## 6. PROPOSAL

6.1. The application proposes the demolition of all of the existing buildings on the site. The proposed development would comprise of 38 residential dwellings (17 one bedroom apartments, 18 two bedroom apartments and 3 three bedroom townhouses).

6.2. The development would consist of a single large linear frontage block fronting Between Towns Road and a row of three, three storey, three bedroom houses located at the northern end of the site, fronting St Omer Road in the position of the existing turning head. The frontage apartment building would be five storeys in the north east corner of the site at the highest point, opposite Barns Road, the building at this point would extend to a total height of 17.5 metres to the roof ridge. The building would step down to four storeys along the remainder of the frontage owing to the land levels the height of the building in this section would vary between 13.7 and 14.5 metres to the roof ridge dependent on the point of measurement and site topography. The rear of the apartment building would

face St Omer Road. An area of private amenity space serving the flats would be located to the rear of the building.

6.3. The three storey houses would feature flats roofs and have private amenity space in the form of a ground floor external space and terraces at second floor level to both the front and rear of the properties. The houses would extend to a height of 9.4 metres to the roof ridge. The three houses each include integral garage parking for one vehicle.

6.4. It is proposed that the apartments would be car free, with the exception of two disabled parking spaces and one car club space which would be made available to residents. Vehicular access would be exclusively from St Omer Road. The proposals include retaining and widening the existing public right of way from Between Towns Road and St Omer Road, this would include the creation of a new area of public space. All existing trees on the site would be removed, with replacement planting proposed in the western area of the site adjacent to the pedestrian route.

## **7. RELEVANT PLANNING HISTORY**

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

64/15395/A\_H - Petrol filling station and motor showrooms. Approved

66/18119/A\_H - Development of site to provide petrol filling station and vehicle service building. Approved

67/18717/A\_H - Outline application for the erection of a building to provide car safety centre with showroom and tyre fitting area. Approved

80/00596/NF - Extension to existing sales kiosk and change of use of car wash bay to M.O.T. Bay. Approved

92/00712/NF - New pump islands and forecourt alterations. (Amended Plans). Approved

16/01631/DEM - Application to determine whether prior approval is required for the method of demolition. Prior approval granted

18/02142/DEM - Application to determine whether prior approval is required for the method of demolition. Prior approval granted

## **8. RELEVANT PLANNING POLICY**

8.1. The following policies are relevant to the application:

## Appendix 1

Topic	National Planning Policy Framework	Local Plan	Core Strategy	Sites and Housing Plan	Emerging Local Plan 2016-2036
Design	12	CP1 CP6 CP8 CP9 CP10 CP11 CP13	CS18_		DH1
Conservation/ Heritage	16	HE2 HE7 HE9 HE10			
Housing	5		CS22_ CS23_ CS24_	HP2_ HP3_ HP9_ HP11_ HP13_ HP14_ HP15_ HP16_	H1 H2 H4 H10 H14 H15 H16
Commercial	6		CS28		
Natural environment	9, 11, 13	NE15			RE1 RE2 RE3 RE4 RE6 RE7 RE9
Social and community	8		CS17_ CS19_		
Transport	9	TR1 TR2 TR4 TR5	CS13_		M1 M3 M4 M5
Environmental	14, 15	CP21 CP22 CP23	CS10_ CS11_ CS12_		
Miscellaneous		CP.13 CP.24 CP.25		MP1	

## 9. CONSULTATION RESPONSES



9.1. Site notices were displayed around the application site on 21<sup>st</sup> December 2018 and an advertisement was published in The Oxford Times newspaper on 27th December 2018.

### **Statutory and non-statutory consultees**

#### Oxfordshire County Council (Highways)

Oxfordshire County Council have confirmed in writing that they do not intend to object to the proposed development however as formal comments have not been received at the time of the preparation of this report updates will be provided verbally to members prior to the committee meeting.

#### Oxford Preservation Trust

9.2. We note that the Planning and Consultation Statement, submitted as part of the supporting application documentation does not make reference to the Technical Advice Note, nor considers the proposed developments potential to impact upon longer distance views out of the City.

9.3. OPT would urge the Council to consider the potential of this development to break the skyline, especially specifically with regard to views out the city. We would draw your attention to Appendix 3 within the TAN which identified areas of greater sensitivity to high buildings. Whilst the application site itself is not located within an identified area of greater potential, it is located directly in the foreground of the South-Eastern Suburbs when considering views out of the city.

9.4. Appendix 3 identifies that views out from St Mary's Church within the city centre, could be sensitive to skylining from developments over 12m. It may therefore be prudent, prior to the determination of the application to ask the applicants to provide a modelling of the potential impacts of the proposed development on these views so a robust analysis can be made.

#### Thames Water Utilities Limited

9.5. Following initial investigations, Thames Water has identified an inability of the existing foul water network infrastructure to accommodate the needs of this development proposal. Condition recommended in respect of wastewater upgrades.

9.6. Following initial investigations, Thames Water has identified an inability of the existing surface water infrastructure to accommodate the needs of this development proposal. Condition recommended in respect of surface water network upgrades.

### **Public representations**

9.7. 14 letters of comment have been received from the following addresses. Their comments are summarised below:

- St Omer Road – 7, 9, 11, 15, 21, 22,
- St Luke's Road – 13, 48
- Barns Road – 242A Flat 34
- Coleridge Close – 5

## Appendix 1

- Florence Park Road – 35
- Lawrence Road – 3
- Cleveland Drive – 9

### 9.8. In summary, the main points of objection were:

- Density of development is too high.
- Height of the front building is excessive and should be reduced.
- No service parking.
- The Horse Chestnut tree on the site should be retained.
- Parking should be provided
- Low parking provision will increase on street parking in surrounding roads.
- The CPZ must be in place before the development is constructed.
- No evidence of how the car free nature of the development will be enforced has been provided.
- The public right of way must remain and needs to be well lit.
- The building will reduce the privacy of the properties in St Omer Road and would result in a loss of light.
- The three storey houses will differ from the design of the properties in St Omer Road.
- There are issues with the sewage system in St Omer Road, the development would exacerbate this.
- The bin stores should be moved away from the boundary of 21 St Omer Road.
- Construction access should be from Between Towns Road. Concerns raised about space for construction vehicles and equipment.
- The development would fail to comply with the BOD's requirement as there are no 4+ bed units being provided and an overprovision of 1 and 2 bed flats.
- All of the dwellings do not meet Lifetime Homes standard.
- The three bed dwellings would be overshadowed by the flat buildings.
- The size of the gardens for the 3 bed houses is inadequate.
- Refuse and recycling arrangements are inadequate.
- The proposed design, including the flat roof and cladding does not respect the character and appearance of development in the area.
- The application does not adequately assess and/or provide mitigation measures to address the moderate to high risk of residual petroleum hydrocarbons, various metals and asbestos identified within the preliminary geo-environmental risk assessment.
- In light of Thames Water's comments dated 27th December 2018, the applicant should be requested to submit a foul water and surface water drainage impact study to demonstrate that the development will not result in either on or off site flooding.
- The development at Templars Square has only been granted a resolution to approve subject to a S106, therefore this can be given limited weight.
- The attached plans showing the refuse vehicle and fire appliance swept path analysis within the Transport Assessment ref: 70037512-V1 does not take into account legally parked vehicles in the parking area outside no. 19 St Omer Road.
- Clause 4.7 page 14 of the Planning & Consultation Statement states that upon full occupation the development can cater for up to 122 people. This

appears incorrect as the design layouts for the bedrooms would indicate that up to 133 people could be accommodated.

- The development will put strain on existing community facilities.
- Underground parking could be provided or an undercroft.
- There needs to be short term parking for delivery drivers and essential visitors.
- Additional secure cycle parking should be provided.
- Limited space is provided for the storage of recycling and waste.
- The environmental and ecological credentials of the buildings could be enhanced.

9.9. General third party comments were also made, these being:

- A high quality segregated cycle lane should be provided.
- There should be on site provision for delivery vehicles
- Secure storage for cargo bikes and e-bikes should also be provided.
- More than one car club space should be provided.
- The design achieves a high quality building on a prominent site.
- A formalised crossing point between Barns Road and Between Towns Road should be provided.
- The proposed loss of mature trees is unfortunate and should be properly compensated for by planting new semi-mature trees along the frontage of the development with additional off-site tree planting along Barns Road.
- The proposals present further opportunities to enhance the existing streetscene through new landscaping and other elements to encourage wildlife and improve biodiversity.

9.10. County Councillor John Sanders commented that the development is too high and overbearing on the residents of St Omer Road and would overlook these properties. There is a concern that two of the proposed dwellings would be overshadowed. The smaller flats that face onto St Omer Road have a third floor structure that is not in keeping with the houses in the road it is not sufficient to disguise the third storeys with cladding to match roofs in the road, the shape is still unpleasant and detracts from the appeal of the street. I therefore propose that the third storeys be altered to be sloping facing North. The existing right of way should be retained and should be well lit. The development must be car free. This must entail an agreement with the appropriate issuing authority that no on-street parking permits will be issued for residents of the development and it must also be a condition that residents will not occupy the development until and unless a Controlled Parking Zone is introduced in St Omer Rd, Cleveland Dr and Gerard Pl.

9.11. Thames Valley Police raised no objection to the proposals but raised the following matters:

- Secured by design accreditation should be achieved in the development.
- The right of way should be excluded as this may generate crime or antisocial behaviour, if retained this should be designed in such a way which reduces opportunities for crime.

## Appendix 1

- The boundary treatment adjacent to No.38 St Omer Rd, the defensible space along Between Towns Road and the design of the entrances to the flats and houses should be amended.

Two representations received object to the proposals raised by TVP to exclude a right of way from Between Towns Road to St Omer Road.

9.12. Comments were received from Old Temple Cowley Residents Association, the key points are summarised below:

- The development would result in the loss of a commercial employment site.
- No additional infrastructure or facilities have been planned in the area and existing facilities are stretched and over capacity. No residential development should be permitted until this deficiency is corrected.
- The site is contaminated from its former use. No provision is made for the re-routing of existing services namely water and sewage capacity.
- The proposals represents overdevelopment of the site, the scale is excessive and will have an overbearing impact on the properties in St Omer Road which will impact on the amenity of these occupiers.
- The mix of dwellings is unacceptable, more family homes are required.
- The proposal will create a tall building alongside the alleyway, which will create a dark tunnel which will feel unsafe.
- This proposal lacks residential parking provision and there is no on-site provision for delivery, emergency, or service vehicles, or for visitors.
- The site contains a mature horse chestnut tree, which is valued by residents and passers-by as a significant amenity tree for the area. Residents wish to see this tree retained; this proposal intends to remove this tree.

## 10. PLANNING MATERIAL CONSIDERATIONS

10.1. Officers consider the determining issues to be:

- Principle of development
- Affordable Housing
- Balance of Dwellings
- Design
- Neighbouring amenity
- Parking, highways and accessibility
- Heritage and Conservation
- Trees
- Drainage

- Contamination

**a. Principle of development**

- 10.2. Paragraph 59 of the NPPF requires that to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
- 10.3. Policy H1 of the Councils Emerging Local Plan identifies that provision will be made for at least 8620 new homes to be built in Oxford over the plan period 2016-2036. This equates to a delivery of 431 dwellings per annum. It is envisaged that the majority of these units would be provided within the various sites allocated within the Emerging Local Plan; however there would be a requirement to deliver at least 60 dwellings per annum (1020 across the plan period) through windfall sites which are not allocated within the Local Plan. Within this context the development of 38 dwellings on this site would provide an important windfall contribution towards meeting local housing need.
- 10.4. In a similar vein Paragraph 117 of the NPPF states that planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land. Paragraph 118 of the NPPF requires that in making planning decisions local authorities should give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs.
- 10.5. Policy CS2 of the Core Strategy outlines that new development should be focused on previously developed land and that development will only be permitted on Greenfield Land if it is specifically allocated for the use in the local development framework; or in the case of residential development, it is required to maintain a rolling five year supply of housing, as outlined within Policy CS22.
- 10.6. The application site is previously developed land, the redevelopment of which is supportable in line with the provisions of Policy CS2 of the Core Strategy and Paragraph 117 of the NPPF. In addition to the provision of new housing, including affordable housing to meet an identified need, the proposals would also provide visual benefits in bringing back into use a longstanding vacant site, the present condition of which is detrimental to the visual amenities of the area. The provision of 38 dwellings on the site would make a significant windfall contribution towards meeting local housing need in accordance with Policy H1 of the Emerging Local Plan.
- 10.7. The sites last use was as a petrol filling station which would be classified as a sui-generis employment use. Policy CS28 of the Core Strategy states that Planning permission will only be granted for the change of use or loss of other employment sites (i.e. those not key protected employment sites), subject to the following criteria: overriding evidence is produced to show the premises are

presently causing and have consistently caused significant nuisance or environmental problems that could not have been mitigated; or no other future occupiers can be found despite substantial evidence to show the premises or site has been marketed both for its present use and for potential modernisation or regeneration for alternative employment-generating uses; and the loss of jobs would not reduce the diversity and availability of job opportunities; and it does not result in the loss of small and start-up business premises, unless alternative provision is made in Oxford.

10.8. The site is not listed as a protected employment space and has not been used for an employment use for several years since the former filling station closed on the site. It is understood that the site has not been marketed for an employment based use in the intervening period. Though the site would be classified as employment land the number of employees on this site was low owing to the nature of the former use (petrol station). The site is currently vacant and would realistically need to be comprehensively redeveloped in order to facilitate an alternative employment use on the land. In addition to this the sites close proximity to residential dwellings in St Omer Road has the potential to cause significant issues depending on the nature of the employment use, rendering the site unsuitable for a range of uses including any use which is likely to be noisy or disruptive. Considering the location of the site at the heart of the Primary District Centre redevelopment for a residential use would be considered preferential on amenity and visual grounds.

10.9. Accounting for the significant visual and amenity benefits which would arise from a comprehensive redevelopment of the site for a residential use, in addition to the significant public benefits arising from the delivery of 38 new homes, which would include policy compliant delivery of affordable housing it is considered that there would be sufficient justification for the loss of the existing employment use of the site in line with the provisions of Policy CS28 of the Core Strategy.

#### **b. Provision of Affordable Housing**

10.10. Policy HP3 of the Sites and Housing Plan specifies that Planning permission will only be granted for residential development on sites with capacity for 10 or more dwellings, or which have an area of 0.25 hectares or greater, if generally a minimum 50% of dwellings on the site are provided as affordable homes. In terms of the tenure split of affordable housing, it would be expected that 80% of these affordable units should be socially rented.

10.11. The proposals include a tenure mix which would comprise of 50% affordable and 50% private tenure. Of the affordable units it is proposed that 18 of the dwellings (95%) would be socially rented, with a single intermediate dwelling (5%). The proposed tenure mix in terms of affordable provision and in terms of the intermediate/social split of this housing is deemed to be acceptable and compliant with Policy HP3 of the Sites and Housing Plan.

#### **c. Balance of Dwellings**

10.12. Policy CS23 of the Core Strategy states that development should comply with the Balance of Dwellings Supplementary Planning Document (SPD). This

document highlights that across Oxford, new development should include a certain percentage of family dwellings typically comprising of 3+ bedroom units. The site falls within a district centre, table 5 of the Balance of Dwellings SPD specifies that the target housing mix of 3 bedroom dwellings within developments of 10 or more units should be 20-30% within district centres.

- 10.13. The proposed development would comprise of 17 one bedroom apartments (45%), 17 two bedroom apartments (47%) and 3 three bedroom houses (8%). The proposed mix would be inconsistent with the target mix of dwellings specified within the BOD's SPD. In justifying this discrepancy, it is specified within the planning statement that the departure from the BOD's requirement is due to two principle factors, firstly affordable housing needs, specifically the need for units of a certain size; and secondly maximising the number of units which can be delivered on the site. Policy CP6 of the Oxford Local Plan and Policy HP9 of the Sites and Housing Plan requires that new development should make efficient use of land. A mix which strictly complies with the BOD's requirement would deliver fewer units, including fewer affordable units and in this sense is deemed to be counterproductive.
- 10.14. Policy HP3 of the Sites and Housing Plan, which relates to the provision of affordable housing specifies that the applicant should demonstrate that the mix of dwelling sizes meets the City Council's preferred strategic mix for affordable housing. The City Council maintains a housing register which is used to manage the mix of dwelling sizes on new developments, according to housing need. It is important that the mix of dwellings best reflects the city's specific social and affordable housing requirements.
- 10.15. The Council's Affordable Housing Register identifies that there is limited need for additional 3 bedroom dwellings in the city and identifies high under occupancy of existing 3 bedroom affordable units in the city (41.6%). The City's Housing Register identifies that the principle requirement for affordable housing, including for families in need is for 1 and 2 bedroom dwellings. The provision of smaller units also has the joint benefit of making available larger properties which are currently under occupied for persons in need of these larger properties.
- 10.16. Policy H4 of the Emerging Plan requires that for new developments of 25 or more units outside of the City Centre and District Centres provide a mix of dwelling sizes for the affordable element, the specific percentages of this mix of are detailed. The application site is within the Cowley Primary District Centre and under the provisions of the Emerging Plan, which are to be afforded increased weight; there would be no strict requirement to provide larger dwellings as part of a proposal, this reflects the limited quantity of space in district centres and the need to make best use of sites in achieving an optimum density of development. Policy H4 requires that it is demonstrated that the development has had regard to local housing demand, including for affordable housing demonstrated by the housing register.
- 10.17. The development includes three 3 bedroom houses; these particular dwellings would be for private sale, rather than socially rented or shared ownership. The affordable units would comprise wholly of one and two bedroom units, the

Councils Housing Officers have indicated that this best meets the demand for affordable housing giving regard to the Councils Affordable Housing Register. It has been indicated that the lowest demand in terms of affordable housing is for three bedroom flats. It has been indicated that were the three houses proposed on the site to be made available as affordable accommodation this would make the scheme unviable and the provision of further houses on the site would have a limiting impact on the overall quantum of units and site capacity as the site is clearly physically constrained in terms of its size and a development which presents difficulties in delivering larger dwellings.

- 10.18. Officers consider that the development strikes an acceptable balance between providing an optimum number of units on the site, particularly socially rented accommodation and meeting a locally identified need for smaller socially rented units. The provision of additional larger units would result in an overall reduction in the number of affordable units, which in officer's view would be counterproductive. Taking these above factors into account, officers consider that the proposed mix of dwellings would be acceptable.

#### **d. Design**

- 10.1. In terms of design the NPPF requires high quality design and a good standard of amenity for all existing and future occupants of land and buildings. It suggests that opportunities should be taken through the design of new development to improve the character and quality of an area and the way it functions. Policies CP1, CP6 and CP8 of the Oxford Local Plan, together with Policy CS18 of the Core Strategy and Policies HP9 and HP14 of the Sites and Housing Plan in combination require that development proposals incorporate high standards of design and respect local character. This is also reflected within Policy DH1 of the Emerging Local Plan, which specifies that Planning permission will only be granted for development of high quality design that creates or enhances local distinctiveness.
- 10.2. The apartment building to the front of the site is a large linear building which fronts Between Towns Road. The frontage building would be 5 storeys at its highest point adjacent to the junction of Barns Road and Between Towns Road. The scale and massing of the building takes cues from the surrounding sizeable built form along Between Towns Road which consists mainly of fairly large scale three storey buildings.
- 10.3. There is an existing cluster of larger scale buildings at Templars Square furthermore this area is likely to be subject of fairly extensive change, as a resolution to approve redevelopment of the northern part of the Templars Square centre, to include a 15 storey tower for residential and a hotel use has been made by members. There have also been a number of recent developments in the area of a sizeable scale, comparable to the proposals including the redevelopment of the Swan Motor Centre site to the north east, which varies between 4 and 5 storeys and the recent residential development at Barns Road on the site of the former community centre.
- 10.4. Accounting for the general scale of the existing built form in the immediate area, officers consider that a frontage development along Between Towns



Roads, which varies between 4 and 5 storeys, would be reasonably appropriate accounting for the site context. From the street level viewpoints along Between Towns Road and Barns Road, a 4-5 storey development along the southern edge of the site in this location sits comfortably with the massing of adjacent properties.

- 10.5. The apartment building along the southern edge of the site at the 'tail' of the scheme is well designed with active frontage, a strong vertical emphasis and has a good relationship with the public realm. The entrances onto the street are well designed and there is an efficient layout and well integrated cycle and refuse storage.
- 10.6. The higher 5 storey element of the building would be sited in the south west part of the site; this is deemed appropriate in design terms. This element is prominent in public views as this would sit on a key corner with the enlarged public right of way and public space adjacent to Between Towns Road. Key views along Barns Road terminate at the site. It therefore seems reasonably appropriate that a more prominent and larger scale element of the building is focussed in this location to give the building some presence in the street scene; officers consider that the building has the potential to be landmark building in this location. The larger five storey element would also be sited opposite existing larger scale development on the southern side of Between Towns Road. The development would also relate appropriately with the scale and siting of the proposed development at Templars Square, which if brought forward will transform the character of the surrounding built form. The building would step down to 4 storeys which relates appropriately to the existing development opposite, which though this is 3 storeys but sits at a higher level. The massing of the building also helps to achieve a more comfortable transition with the adjacent 2 storey Church building to the north east.
- 10.7. There is a notable differentiation between both the scale of the existing development at Between Towns Road and the scale of development at St Omer Road to the rear of the site, which is suburban in scale and consists of two storey houses. The transition in scale of the surrounding built form as well as topographic differences across the site forms one of the most complex aspects of designing an appropriate built form on the site, as any development must achieve an appropriate transition between the urban, much larger scale of development to the south, whilst respects the much more modest suburban built form to the north east.
- 10.8. St Omer Road currently terminates with a T shaped turning head and blank 2 metre high wall, there is a narrow, poorly designed alleyway in this position which is enclosed, poorly lit and is generally unsafe. Redevelopment of the site provides the opportunity to significantly enhance the quality of the street scene in this particular part of St Omer Road. The three townhouses would provide an active frontage which would be an enhancement on the existing very negative treatment in the form of the blank 2 metre high brick wall. The siting of the three storey houses also assist in achieving an appropriate transition in scale between the larger 4/5 storey frontage development and the more suburban 2 storey dwellings in St Omer Road.

- 10.9. The development includes significant improvements to the public realm in the form of the enlargement of the existing pedestrian route which would include additional landscaping, planting of trees and lighting improvements which would enhance what is currently a poor quality and unsafe route. The addition of residential development would provide natural surveillance along this route which would be of benefit to public safety and would reduce opportunities for crime. The improvements within this area of the site would significantly enhance the quality of the street scene in what is a prominent location in the Cowley District Centre.
- 10.10. In terms of materials, the apartment building would feature a materials palette comprising of dark red brick and painted white brick, whilst the houses would feature a white brick elevational treatment. The materials palette is considered to be consistent with the surrounding built form. The buildings opposite the site in Between Towns Road are constructed from a darker brick, whilst the properties in St Omer Road are predominantly of a white rendered finish. In officers view the materials palette would ensure a degree of harmony with the surrounding built form.
- 10.11. The application includes internal bin storage for the 35 flats, this would be located within 3 dedicated stores accessed from the internal cores and located on the ground floor of each of the blocks. Each of the proposed houses would have external bin stores located to the front of the properties. Waste would be collected from St Omer Road. The proposed bin storage is considered to be adequate and would comply with the requirements of Policy HP13 of the Sites and Housing Plan.
- 10.12. In summary officers consider that the development would be appropriately designed and consider that the scale of the proposed development responds appropriately to the varying scale of the built form in the vicinity of the site. The development would bring forward the redevelopment of a long term vacant brownfield site which presently detracts from the character of the area and there would be significant benefits arising from this. The development is considered to comply with the provisions of Policies CP1, CP6 and CP8 of the Oxford Local Plan, together with Policy CS18 of the Core Strategy and Policies HP9 and HP14 of the Sites and Housing Plan

#### **e. Impact on Heritage Assets**

- 10.13. The Oxford Local Plan recognises the importance of views of Oxford from surrounding high places, both from outside Oxford's boundaries but also in shorter views from prominent places within Oxford. As a result there is a high buildings policy (HE9), which states that development should not exceed 18.2m in height or ordnance datum 79.3m, whichever is the lower, within a 1,200m radius of Carfax except for minor elements of no great bulk and a View Cones Policy (HE10) which protects views from 10 recognised viewpoints on higher hills surrounding the City to the east and west and also within the City. There are also a number of public view points within the city centre that provide views across and out of it, for example Carfax Tower, St Georges Tower and St Marys Church.

- 10.14. The site is spatially distant from Carfax and lies outside the datum area specified under Policy HE9 of the Oxford Local Plan. The application site also falls outside of the specified city view cones. The proposed apartment building would at its highest point of 17.5 metres be below the height limit of 18.2 metres referenced under Policy HE9, however the building exceeds the 12 metre datum identified in the Oxford High Buildings Study TAN for Temple Cowley Centre and would result in skylining in views out of the city from St Marys Tower, therefore there would be a visual impact which needs to be assessed accordingly.
- 10.15. Policy DH2 of the Emerging Local Plan requires that design choices about building heights are informed by an understanding of the site context and the impacts on the significance of the setting of Oxford's historic skyline, including views in to it, and views within it and out of it. In order to achieve this it is expected that all of the following criteria should be met: a) design choices regarding height and massing have a clear design rationale and the impacts will be positive; and b) any design choice to design buildings to a height that would impact on character should be fully explained, and the guidance on design of higher buildings set out in the High Buildings Study TAN should be followed. In particular, the impacts in terms of the four visual tests of obstruction, impact on the skyline, competition and change of character should be explained; and c) it should be demonstrated how proposals have been designed to have a positive impact through their massing, orientation, the relation of the building to the street, and the potential impact on important views including both in to the historic skyline and out towards Oxford's green setting.'
- 10.16. The applicant has prepared a visual analysis (Between Towns Road Tall Buildings Assessment 21/03/2019). The assessment includes a number of verified views of the site from several vantage points which indicates the sites visibility and in cases lack of visibility. The visual analysis indicates that the proposed development would be visible in views from St Marys Tower, however from other viewpoints (Westgate and Carfax) views of the site would be obstructed by existing buildings and in the case of views from the Church of St Michael, St George's Tower and the Sheldonian, views of the site would be so distant that the impact of the building would be negligible and would be barely perceived.
- 10.17. It is noted that the development when viewed from St Marys Tower would resulting in skylining by reason of the development exceeding the datum point of 12 metres as outlined within the Tall Buildings Technical Advice Note (TAN) 2018 and the development would consequently result in a level of harm. There is however a number of points to note in relation to the wider visual impact of the development from this identified view. Firstly the proposed development would sit against a backdrop of existing built form at Between Towns Road and Barns Road which albeit of a lesser height, is located on higher ground. The development would also be located adjacent to the existing buildings at Templars Square including the Hockmore Tower which is substantially higher than the proposed building. Approval was granted for a 15 storey tower which would form part of the redevelopment of the Templars Square centre, which at 52 metres would significantly exceed the height of the proposed development at the former Murco Garage site. The development would not obstruct views of any

heritage assets or natural landscape features of significance in views out of the city and the overall siting would not be significantly detrimental in this respect.

10.18. External views from outside the city from Shotover Hill are provided which indicate that the building would not be visible owing to the presence of substantial existing tree cover, which the development would sit behind. It is therefore considered that the development would have no significant impact on views into the city and would not obstruct views of any heritage assets.

10.19. To summarise the proposed development would sit adjacent to existing sizeable buildings of a comparative and larger scale with potentially development of a much greater height in the form of the Templars Square tower. Within the present and potential future context it is considered that the height of the proposed building would not be excessive or incongruous in its siting or scale. The upper sections of the building, most notably the five storey section would be visible and discernible in the views out of the city from St Marys Tower, notwithstanding this accounting for the scale of development and the context of the surrounding built form the overall impact would not result in significant harm and would be unlikely to be of significant detriment to the townscape of Oxford. In weighing up the limited level of harm against the public benefits of the proposals notably the provision of 38 dwellings (50%) of which would be affordable accommodation it is considered that the harm would be demonstrably outweighed by these benefits. The development would not consequently conflict with the provisions of Policies HE9 or HE10 of the Oxford Local Plan as well as the provisions of Policy DH2 of the Emerging Local Plan.

10.20. The development would be located within the wider setting of two Conservation Areas these being the Beauchamp Lane Conservation Area which is located 300 metres to the West of the site and the Temple Cowley Conservation Area which is located 180 metres to the north east of the site, both areas are therefore spatially distant from the site. The application is accompanied by a Heritage Assessment which provides an analysis of the impact of the development on both adjacent Conservation Areas.

10.21. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that:

*“In the exercise, with respect to any buildings or other land in a conservation area, of any [functions under or by virtue of] of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.”*

10.22. For development within Conservation Areas, the NPPF requires special attention to be paid towards the preservation or enhancement of the Conservation Area’s architectural or historic significance.

10.23. Paragraph 193 of the NPPF requires 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 (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial

harm to its significance. In terms of development which affects the setting of Conservation Areas Policy HE7 of the Oxford Local Plan requires that development should preserve or enhance the setting of the Conservation Area.

- 10.24. In terms of views from the Temple Cowley Conservation Area, this would be limited to views from Oxford Road, adjacent to the junction of Between Towns Road. Views from this position are likely to be glimpsed at most as both trees and existing buildings including the adjacent church and Cowley Workers Social Club would restrict views of the proposed building. Given that the building would be of a similar scale to much of the surrounding urban built form and given the very limited views of the development it is considered that the development would have no impact on the setting of the Temple Cowley Conservation Area and would not result in harm to the setting of this heritage asset. The building would be well designed and its overall contribution to the Conservation Area would likely be positive.
- 10.25. The development would not largely be perceived from the Beauchamp Lane Conservation Area, owing to the presence of existing buildings. Glimpsed views of part of the development would be discernible from the junction of Beauchamp Lane and Crowell Road, though these views are not prominent and the development would sit alongside the more substantial built form of Templars Square and the Hockmore Tower. The overall impact on the setting of the Beauchamp Lane Conservation Area is deemed to be negligible and consequently it is considered that the development would not result in harm to the setting of this heritage asset.
- 10.26. Officers consider that the development would not result in harm to the setting of either the Beauchamp Lane or Temple Cowley Conservation Areas and therefore consider that the development would comply with the provisions of Policy HE7 of the Oxford Local Plan, Policy DH3 of the Emerging Local Plan and Paragraph 192 of the NPPF.
- 10.27. In terms of archaeology this site is of interest because of the potential for remains relating to the Oxford Roman pottery industry, the National Planning Policy Framework states that in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation (NPPF paragraph 128). As additional conditioned contamination survey work will be required before archaeological evaluation work can take place a conditioned approach to archaeological trial trenching and mitigation is recommended and appropriately worded conditions are attached. Subject to condition it is considered that the development would comply with the provisions of Policy HE2 of the Oxford Local Plan and the development would not result in harm to assets of archaeological interest.

**f. Transport**

### Car Parking

- 10.28. The provisions of Policy HP16 of the Sites and Housing Plan set maximum standards relating to vehicle parking provision; these requirements are outlined within appendix 8. Car free and low parking developments are encouraged in appropriate locations, though this is dependent on evidence that low parking and the car free nature of development can be enforced such as within a CPZ. Additionally the sustainability of the location is taken into account, in particular access to public transport and other facilities including a local supermarket.
- 10.29. Policy M3 of the Emerging Local Plan requires that within Controlled Parking Zones (CPZs) or employer-linked housing areas (where occupants do not have an operational need for a car) where development is located within a 400m walk to frequent (15minute) public transport services and within 800m walk to a local supermarket or equivalent facilities (measured from the mid-point of the proposed development) planning permission will only be granted for residential development that is car-free. In all other locations it is expected that development complies with the specified maximum parking standards.
- 10.30. The application site lies within a Transport District Area of the city, which is considered to be a highly sustainable location as it lies within close proximity to a wide range of facilities, including shops, supermarkets and a primary school and excellent public transport links with multiple bus stops within 50 metres of the site, which provide access to regular services to the City Centre and other areas of the city.
- 10.31. It is proposed that the apartments would be car free, with the exception of two disabled parking spaces and a car club space. The surrounding area is not within an area specified as a Controlled Parking Zone (CPZ) this means that the area is not permit restricted. Many of the surrounding residential roads, including St Omer Road, Gerard Place, St Luke's Road and Knolles Road are however subject of parking restrictions in the form of double yellow lines restricting all parking in various locations with single yellow line time restrictions preventing all parking Monday – Saturday from 8am to 6:30pm on most of the surrounding roads. Between Towns Road is subject of a similar mix of double yellow and time restricted single yellow lines.
- 10.32. Oxfordshire County Council has future proposals to make all of the surrounding roads part of a CPZ though the surrounding roads fall under different CPZ proposals and consultation and funding is at different stages. The proposed Cowley Centre East CPZ is listed as a high priority for implementation and is fully funded. The parameters of this include roads to the south and east of the site consultation carried out in respect of implementing a CPZ in St Omer Road was carried out as part of a consultation exercise in respect of the proposed Florence Park CPZ, though Oxfordshire County Council have indicated that the site could be included within the Cowley Centre East proposed CPZ, which could bring forward the implementation of a CPZ in St Omer Road.
- 10.33. The County Council have indicated that there is an aspiration to implement a CPZ by early 2020. Notwithstanding this minimal weight at this time can be

attributed to this as there are no firm guarantees that a CPZ will be brought forward and if brought forward it is unclear which streets would be covered within the CPZ. It is worth noting however that if brought forward within the aspirational timescale a CPZ may be in place prior to first occupation of the proposed development, given that the applicants have indicated that the timescale for completion of the proposed development would be 2021.

- 10.34. Whilst the site and surrounding streets do not presently fall within a CPZ, the presence of restrictive parking controls in the form of double yellow and time restrictive single yellow lines and the overall lack of on street capacity is likely to have a greatly discouraging effect on occupants who may otherwise consider owning a vehicle. There are also two large public car parks in the immediate area at Templars Square and Templars Shopping Park which can be used by visitors as these are in close walking distance. The proposals make provision for one car club parking space, which would provide residents with flexible access to a car if required.
- 10.35. Members should also be aware that there are other car free developments in the area. The recent Green square development at Barns Road (12/03278/FUL) on the former Cowley Community Centre site which was of a comparative scale (40 residential apartments) was permitted in 2013 as a car free development, with the exception of 3 disabled spaces and 2 car club spaces. The recently approved development at Templars Square also included elements of residential development which were car free.
- 10.36. Notwithstanding that the surrounding roads are not within a CPZ it is considered that in terms of access to public transport and services that aside from the City Centre this would be one of if not the most sustainable location for car free development in Oxford, reflected in the status of the area as a primary district centre. The provisions of policy HP16 of the Sites and Housing Plan and to an even greater extent Policy M3 of the Emerging Local Plan recognise that in sustainable locations in close proximity to services and public transport, car free development should be supported to encourage sustainable methods of travel and to discourage ownership of private vehicles. Encouraging development to provide parking to maximum standards would run contrary to the aims of these respective policies. Given the present very limited on street capacity and existence of existing parking controls it is considered that the development would not worsen the existing situation. The existing situation would therefore be a limiting factor that would serve to discourage car ownership even in the present absence of a CPZ. Officers therefore consider that the development would not impact adversely on highway safety or amenity.
- 10.37. The three houses would each be served by a single integral garage parking space. Each of the houses would be three bedroom family properties and consequently it is considered that it would be more likely that occupants of these properties would own a vehicle than the occupiers of the apartments. Taking into account the fact that many of the surrounding streets are not within a CPZ, whilst also accounting for the dwelling size, likelihood of car ownership and balancing these factors against the general sustainability of the location and access to public transport, it is considered that provision of one parking space per dwelling

## Appendix 1

would be appropriate in accordance with Policy HP16 of the Sites and Housing Plan.

- 10.38. Appendix 8 of the Sites and Housing Plan, which relates to Policy HP16 requires that disabled parking must be provided for 5% of all dwellings on developments of 20 or more dwellings. The proposals provide 2 parking spaces; this would exceed the 5% requirement.
- 10.39. In terms of general vehicular access it is considered that the proposed access from St Omer Road represents the most appropriate means of accessing the site as Between Towns Road is a heavily trafficked primary through route and any access would likely result in safety issues. St Omer Road is a cul-de-sac with low vehicular use and whilst this is a narrow road traffic usage as a direct result of the development is likely to be low as the majority of the development is car free with the exception of the three houses each of which would have a single integral parking space. There are no visitor spaces; therefore other vehicle use would be limited to occupiers of the disabled bays, the car club and services/deliveries. Refuse collection would be carried out from St Omer Road, with sufficient room provided for a refuse truck to turn.
- 10.40. In summary whilst the concerns around accumulation of vehicles on the surrounding roads are recognised, it is considered that the site represents a sustainable location in terms of its proximity to key facilities and services including shops, supermarkets and schools. The area is well served by regular busses and the development also includes parking space for a car club vehicle. Taking these factors into account there would be no specific requirement for occupants to own private vehicles and the lack of on street parking in the area would actively discourage occupiers from owning a car. The development is therefore considered to comply with Policy HP16 of the Sites and Housing Plan and Policy M3 of the Emerging Local Plan.

### Cycle Parking

- 10.41. Policy HP15 of the Sites and Housing Plan requires the provision of a minimum quantity of cycle parking to be provided in all new residential developments. 70 cycle parking spaces would be provided within communal stores located within the north east area of the site. This would equate to 2 spaces per dwelling which would comply with minimum standards. Each of the three bedroom houses would have cycle parking for 3 bikes which also would comply with minimum standards and the requirements of Policy HP15 of the Sites and Housing Plan.

### Pedestrian Access

- 10.42. Officers note the comments received by Thames Valley Police in relation to the existing pedestrian access between St Omer Road and Between Towns Road. Whilst noting the basis on which the Police have advised on the closure of this route, officers consider that closure would be substantially counterproductive in terms of achieving permeability of access within the immediate area. The existing route is well used by pedestrians and cyclists and provides a direct access through to the Cowley Centre and for this reason it is considered that it



should be retained. The County Council have indicated that they would be prepared to adopt a section of the access; this would exclude the section of the site which includes planting and other landscaped features.

10.43. The existing route is narrow and of a poor quality and the standard of this space in terms of public realm as well as in accessibility terms would be significantly enhanced by the proposed widening, public realm enhancements and the addition of additional natural surveillance and lighting all of which would reduce the likelihood of crime and the unsafe perception of this space at present. The proposals are therefore considered to be beneficial in terms of accessibility for pedestrians and cyclists and the development is considered to comply with the requirements of Policies TR4 and TR5 of the Oxford Local Plan and Policy CS13 of the Core Strategy.

#### **g. Amenity**

10.44. Each of the individual flats would comply with Nationally Described Space Standards in terms of both total floor space and individual room sizes. The majority of the flats are dual aspect and would benefit from adequate standards of natural light.

10.45. Each of the flats would have external balconies which each exceed 5 sqm in external area and consequently would comply with the relevant standards for external amenity spaces, as outlined under Policy HP13 of the Sites and Housing Plan. There would additionally be access to communal private external amenity space to the rear of the flats.

10.46. The three houses would each benefit from three external amenity spaces, comprising of a small ground floor patio, a larger first floor front facing terrace and smaller rear facing first floor terrace. Whilst the rear facing spaces, notably in the case of the southernmost of the two dwellings would be overshadowed to a degree by the proposed apartment block, the front facing terraces would benefit from an adequate amount of sunlight. Cumulatively it is considered that the external spaces provide an appropriate standard of amenity for future occupiers, which would comply with the requirements of Policy HP13 of the Sites and Housing Plan. In terms of the rear amenity space serving the apartments it is noted that this would be overshadowed though this would to a large degree be an unavoidable consequence as this is north facing and is located to the rear of the apartment blocks. Other than through a large reduction in the scale of the front facing built form, which would not be positive in design terms as this would result in a development which would fail to relate to the scale of the form opposite, it is unlikely that this space would realistically benefit from significant natural light. Furthermore each of the apartments would have external balconies so occupiers would not be dependent on this communal area as a sole area of external amenity space.

10.47. In terms of overlooking of existing properties it is considered that there would be a relatively substantial degree of separation between the apartments to the front of the site and the existing properties in St Omer Road. The properties which would be most affected would be No.38 and No.21 St Omer Road. It is

noted that there are no clear glazed side windows in either property serving habitable rooms, which may otherwise be overlooked.

- 10.48. The side wall of the five storey apartment building would face the rear garden of No.38 St Omer Road; effort has been made to limit the number of window openings on this elevation of the building. There would however be a separation distance of 19 metres between the side windows in the apartments serving a kitchen area and the rear garden space of No.38. Notwithstanding this, as the kitchen windows and side facing balcony spaces would directly face the rear garden area of this property, officers consider it appropriate to require that the side facing windows serving the kitchen spaces are fitted with obscured glass and the side facing balconies with privacy screens to safeguard the privacy of adjacent occupiers.
- 10.49. A minimum distance of 13.7 metres would be retained between the side elevation of the flats and the side and rear elevation of No.38 St Omer Road. A distance of 13.5 metres would be retained between the southernmost of the proposed houses and the side wall of this property. Minimum distances of 7.7 to 9.3 metres would be retained between the proposed dwellings and the side elevation of No.21 St Omer Road. It is considered that the respective separation distances would be sufficient to ensure that the siting of the flats and proposed houses would not have a significantly compromising impact on the residential amenity of either property. The development would comply with the Councils 45 degree code in respect of retention of an acceptable degree of natural light to surrounding dwellings.
- 10.50. Taking into account the above factors it is considered that the development would comply with the relevant requirements of Policies HP12, HP13 and HP14 of the Sites and Housing Plan.

#### **h. Trees**

- 10.51. The site contains one mature tree; a large Horse Chestnut and two smaller semi-mature Birch trees, there are also some smaller trees of no significant value. The existing trees along the frontage of the site are indicated for removal. Of the three frontage trees, the Horse Chestnut Tree provides a significant contribution to the street scene. The tree is understood to be in poor physical health and consequently its life expectancy is deemed to be short. Taking this into account the Councils Tree Officer has advised that the removal of the tree could be justified providing that suitable new planting is provided.
- 10.52. It is intended that the loss of the Horse Chestnut tree and two moderate quality birch trees could be mitigated in part through the provision of replacement planting, which would principally be provided in the south west corner of the site, adjacent to the proposed public space and along the frontage of Between Towns Road. The provision of new street trees within the highway verge was explored, however Oxfordshire County Council have advised that the provision of trees in this location have the potential to obstruct the route of a potential cycle way and in this instance it would not be considered worthwhile to proposed planting in this location if the trees may need to be removed at a later date.

10.53. Planting in the western part of the site would provide a visual enhancement to the appearance of the area alongside the associated works to the public realm and trees in this location would be publically visible. Planting would be subject to a condition as the precise location of the trees would need to be agreed in conjunction with the County Council in conjunction with the envisaged adoption of the route through as a public right of way and any associated lighting scheme.

10.54. Overall officers consider that the proposals provide a basis on which to partially mitigate the loss of the existing street facing trees. When balancing the public benefits of the proposed development in terms of the provision of 38 units, 50% of which would be affordable accommodation, alongside the wider visual enhancements to the character of the area and public realm, whilst also taking into account the existing condition of the Horse Chestnut Tree it is considered that the proposals are considered to comply with the requirements of Policy NE15 of the Oxford Local Plan.

#### **i. Sustainability**

10.55. Policy HP11 of the Sites and Housing Plan requires that developments of 10 or more dwellings are accompanied by an Energy Statement in order to demonstrate that 20% of all energy needs are obtained from renewable or low carbon resources. An Energy statement is provided alongside this application as required, which incorporates a series of recommendations in order to meet the required target of 20%.

10.56. Principally to meet the renewable requirement it is proposed that solar panels are installed to the south and south east facing roofs of the flats and houses in order to maximise solar gain, the position of the solar panels are identified in the architectural drawings accompanying the application.

10.57. In addition to the solar panels the accompanying energy statement details a list of measures proposed in order to meet compliance with building regulations part L to achieve energy efficiency. The proposed measures would be as follows:

- Optimised glazing g values
- Improved insulation levels
- Accredited thermal bridging details
- Improved air tightness
- High efficiency combination gas boilers in dwellings with time and temperature zone controls and smart thermostats
- High efficiency LED lighting throughout
- High efficiency heating, time controls and lighting presence detection controls in communal areas

10.58. Officers are satisfied that the measures outlined demonstrate that the proposed development would incorporate high standards of energy efficiency which comply with the requirements of Policy HP11 of the Sites and Housing Plan.

### **j. Flooding**

- 10.59. The application site is located within Flood Zone 1 and is considered to be at a low risk of flooding. Policy CS11 of the Oxford Core Strategy requires that on all developments of over 1 hectare and/or development in any area of flood risk, developers must carry out a full Flood Risk Assessment (FRA).
- 10.60. In this instance the site is considered to be at a low risk of flooding and the application site is less than 1 hectare in area. An FRA has however been provided.
- 10.61. The applicants have provided a drainage plan which is adjudged by the Councils Flooding Officer to be viable, the development is therefore considered to comply with the requirements of Policy CS11 of the Core Strategy.

### **k. Ecology**

- 10.62. The kiosk building scheduled for demolition and horse chestnut tree scheduled for removal are both identified as having the potential for roosting bats though no bat roosts were recorded during the surveys conducted on the site. The Councils ecologist has identified that the surveys conducted are sufficient subject to the condition that enhancement opportunities are provided within the new development, this would be secured by condition. The development is therefore considered to comply with the provisions of Policy CS12 of the Oxford Core Strategy.

### **l. Air Quality**

- 10.63. As the development would be principally car free, the proposals would be unlikely to impact detrimentally on air quality. In terms of future occupiers the review of the Air Quality Assessment states that for the majority of receptors within the application site, concentrations will meet the AQS objective. However, concentrations at ground floor of blocks 4, 5 and 6 facing Between Towns Road just exceed the annual mean limit value for nitrogen dioxide. In order to mitigate for this, a condition is required to ensure that a mechanical ventilation system with NOx filtration is fitted to ensure that future occupiers are not impacted negatively.

## **11. CONCLUSION**

- 11.1. Having regards to the matters discussed in the report, officers would make members aware that the starting point for the determination of this application is in accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004 which makes clear that proposals should be assessed in accordance with the development plan unless material considerations indicate otherwise.
- 11.2. Paragraph 11 of the NPPF requires that planning decisions apply a presumption in favour of sustainable development, this means approving development proposals that accord with an up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting

permission unless: the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

11.3. The proposals would bring forward the redevelopment of a prominent vacant brownfield site in the Cowley Primary District Centre to provide 38 dwellings, 50% of which would be made available as affordable accommodation, which would comply with the affordable housing requirements outlined under Policy HP3 of the Sites and Housing Plan.

11.4. It is considered that the development is of an appropriate scale, relative to the surrounding development in the immediate area, notably the larger scale development fronting Between Towns Road and Barns road and it is considered that the design of the scheme achieves an appropriate transition between the more urban larger scale development in this location and the suburban scale and grain of development at St Omer Road to the rear. The overall design of the development is considered to reasonably relate to the character and appearance of the surrounding built form. Though the site would be visibly discernible in views from St Marys Tower out of the city, the overall level of harm is considered to be limited and would be demonstrably outweighed by the public benefits of the scheme. It is considered that the scale and siting of the development retains appropriate standards of amenity for existing occupiers, whilst providing acceptable amenity standards for future occupiers of the development.

11.5. With the exception of the car club space and disabled parking bays it is proposed that the development would be car free. The concerns raised regarding the car free nature of the development is noted, it is also noted that the surrounding roads are not within a CPZ and the potential for the development to result in an accumulation of vehicles in the surrounding streets is given due consideration. The lack of parking provision is balanced against the overall sustainability of the site in terms of the location within a primary district centre, which is well served in terms of services and facilities and is well served in terms of accessibility to public transport. Taking the aforementioned factors into account, it is considered that car free development in this location would be acceptable and would not unacceptably compromise highway safety or amenity.

11.6. For the reasons expressed above it is recommended that the Committee resolve to grant planning permission for the development proposed.

## **12. CONDITIONS**

1. The development to which this permission relates must be begun not later than the expiration of three years from the date of this permission.

Reason: In accordance with Section 91(1) of the Town and Country Planning Act 1990 as amended by the Planning Compulsory Purchase Act 2004.

2. The development referred to shall be constructed strictly in complete accordance with the specifications in the application and the submitted plans.

Reason: To avoid doubt as no objection is raised only in respect of the deemed consent application as submitted and to ensure an acceptable development as indicated on the submitted drawings.

3. Samples of the exterior materials to be used shall be submitted to, and approved in writing by, the Local Planning Authority before the start of work on the site and only the approved materials shall be used.

Reason: In the interests of visual amenity in accordance with policies CP1 and CP8 of the Adopted Oxford Local Plan 2001-2016.

4. Prior to the commencement of the development a phased risk assessment shall be carried out by a competent person in accordance with relevant British Standards and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR11) (or equivalent British Standards and Model Procedures if replaced). Each phase shall be submitted in writing and approved by the local planning authority.

Phase 1 shall incorporate a desk study and site walk over to identify all potential contaminative uses on site, and to inform the conceptual site model and preliminary risk assessment. If potential contamination is identified in Phase 1 then a Phase 2 investigation shall be undertaken. THE PHASE 1 REPORT HAS BEEN COMPLETED AND APPROVED.

Phase 2 shall include a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals.

Phase 3 requires that a remediation strategy, validation plan, and/or monitoring plan be submitted to and approved by the local planning authority to ensure the site will be suitable for its proposed use.

Reason- To ensure that any ground and water contamination is identified and adequately addressed to ensure the site is suitable for the proposed use in accordance with the requirements of policy CP22 of the Oxford Local Plan 2001-2016.

5. The development shall not be occupied until any approved remedial works have been carried out and a full validation report has been submitted to and approved by the local planning authority.

Reason- To ensure that any ground and water contamination is identified and adequately addressed to ensure the site is suitable for the proposed use in accordance with the requirements of policy CP22 of the Oxford Local Plan 2001-2016.

6. No properties shall be occupied until confirmation has been provided that either:- all wastewater network upgrades required to accommodate the additional flows from the development have been completed; or- a housing

and infrastructure phasing plan has been agreed with Thames Water to allow additional properties to be occupied. Where a housing and infrastructure phasing plan is agreed no occupation shall take place other than in accordance with the agreed housing and infrastructure phasing plan.

Reason - The development may lead to sewage flooding and network reinforcement works are anticipated to be necessary to ensure that sufficient capacity is made available to accommodate additional flows anticipated from the new development. Any necessary reinforcement works will be necessary in order to avoid sewer flooding and/or potential pollution incidents."

7. No properties shall be occupied until confirmation has been provided that either:- all surfacewater network upgrades required to accommodate the additional flows from the development have been completed; or - a housing and infrastructure phasing plan has been agreed with Thames Water to allow additional properties to be occupied. Where a housing and infrastructure phasing plan is agreed no occupation shall take place other than in accordance with the agreed housing and infrastructure phasing plan.

Reason - The development may lead to flooding and network reinforcement works are anticipated to be necessary to ensure that sufficient capacity is made available to accommodate additional flows anticipated from the new development. Any necessary reinforcement works will be necessary in order to avoid sewer flooding and/or potential pollution incidents."

8. No development approved by this planning permission shall commence until a remediation strategy to deal with the risks associated with contamination of the site in respect of the development hereby permitted, has been submitted to, and approved in writing by, the local planning authority. This strategy will include the following components:

1. A site investigation scheme, based on preliminary risk assessment to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.
2. The results of the site investigation and the detailed risk assessment referred to in (1) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
3. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (2) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the written consent of the local planning authority. The scheme shall be implemented as approved.

Reason: To protect groundwater quality with the Beckley Sands aquifer.

9. No drainage systems for the infiltration of surface water to the ground are permitted other than with the written consent of the local planning authority.

Any proposals for such systems must be supported by an assessment of the risks to controlled waters. The development shall be carried out in accordance with the approved details.

Reason: Infiltration is only acceptable in areas of uncontaminated land to protect groundwater from leaching of contaminants.

10. Prior to commencement of development, an application shall be made for Secured by Design accreditation on the development hereby approved. The development shall be carried out in accordance with the approved details, and shall not be occupied or used until confirmation of SBD accreditation has been received by the authority.

Reason: To create safe and secure spaces which limit opportunities for crime in compliance with Policies CP1 and CP9 of the Oxford Local Plan.

11. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological evaluation in accordance with a project design approved by the planning authority. Following the completion of the evaluation if important archaeological remains are found then the development plan shall be amended to minimise damage to important archaeological deposits. No development shall take place until a method statement for archaeological mitigation and investigation measures, has been submitted to and approved in writing by the Local Planning Authority. The development shall only take place in accordance with the approved method statement.

Reason: Because the development may have a damaging effect on known or suspected elements of the historic environment of the people of Oxford and their visitors, including Roman remains (Local Plan Policy HE2).

12. No occupation shall take place until the building(s) has been insulated against external noise sources in accordance with a scheme that has been submitted to, and approved in writing by, the Local Planning Authority. To gain approval a scheme must demonstrate that it follows the recommendations of the Planning Noise Assessment by WSP reference no 70037512-005 dated 4th December 2018. Once approved there shall be no variation to the approved scheme unless otherwise agreed in writing beforehand by the Local Planning Authority.

Reason: To safeguard the amenities of existing and future occupiers of properties in accordance with policies CP9, CP19 and CP21 of the Oxford Local Plan 2001-2016.

13. A plan showing the means of enclosure for the new development including details of the treatment of all the boundaries of the site shall be submitted to, and approved in writing by, the Local Planning Authority prior to the commencement of above ground works. The approved treatment of all of the site boundaries shall be completed prior to first occupation of the approved



development and retained as such thereafter unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of visual amenity and to safeguard the privacy of adjoining occupiers in accordance with policies CP1, CP8, CP9 and CP10 of the Adopted Oxford Local Plan 2001-2016 as well as policy HP14 of the Sites and Housing Plan 2011-2026.

14. Prior to the commencement of development, a scheme of ecological enhancements shall be submitted to, and approved in writing by, the Local Planning Authority to ensure an overall measurable net gain in biodiversity will be achieved. The scheme will include details and locations of landscape planting of known benefit to wildlife, artificial roost features, including bird and bat boxes, and a minimum of two dedicated swift boxes. The approved scheme shall be implemented prior to the first occupation of the development.

Reason: To comply with the requirements of the National Planning Policy Framework, the Conservation of Habitats and Species Regulations 2017, Wildlife and Countryside Act 1981 (as amended) and Policy CS12 of the Oxford Core Strategy 2026.

15. A landscape plan shall be submitted to, and approved in writing by, the Local Planning Authority before development starts. The plan shall include a survey of existing trees showing sizes and species, and indicate which (if any) it is requested should be removed, and shall show in detail all proposed tree and shrub planting, treatment of paved areas, and areas to be grassed or finished in a similar manner.

Reason: In the interests of visual amenity in accordance with policies CP1, CP11 and NE15 of the Adopted Local Plan 2001-2016.

16. The landscaping proposals as approved by the Local Planning Authority shall be carried out upon substantial completion of the development and be completed not later than the first planting season after substantial completion.

Reason: In the interests of visual amenity in accordance with policies CP1 and CP11 of the Adopted Local Plan 2001-2016.

17. The development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definitions and requirements for affordable housing as set out within the Sites and Housing Plan 2011-2026 or any future guidance that amends or replaces it unless otherwise agreed in writing by the Local Planning Authority. The scheme shall include:

## Appendix 1

- i) the numbers, type, and location on site of the affordable housing provision to be made which shall consist of not less than 50% of the housing units as detailed in the application.
- ii) details as to how the affordable tenure split for the affordable housing accords with the requirements of the policies of the Sites and Housing Plan 2001-2026 and the Affordable Housing and Planning Obligations Supplementary Planning Document 2013 unless otherwise agreed in writing by the Local Planning Authority.
- iii) the arrangements for the transfer of the affordable housing to an affordable housing provider, or for the management of the affordable housing (if no RSL involved);
- iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
- v) the occupancy criteria to be used for determining the identity of the occupiers of the
- vi) affordable housing and the means by which such occupancy criteria shall be enforced

Reason: In order to secure the affordable housing provision on site in accordance with Policy CS24 of the Oxford Core Strategy 2026, and Policy HP3 of the Sites and Housing Plan 2011-

18. No development shall take place until a Construction Environmental Management Plan (CEMP), containing the site specific dust mitigation measures identified for this development, has first been submitted to and approved in writing by the Local Planning Authority. The specific dust mitigation measures that need to be included and adopted in the referred plan can be found in chapter 6 pages 23-25 of the Air Quality Assessment that was submitted with this application (PROJECT NO. 70037512-004), developed by WSP.

Reason - to ensure that the overall dust impacts during the construction phase of the proposed development will remain as "not significant", in accordance with the results of the dust assessment, and with Core Policy 23 of the Oxford Local Plan 2001- 2016.

19. Prior to the occupation of the development, evidence that proves that all emission gas fired boilers that are going to be installed on-site are going to be ultra-low NOx (and meet a minimum standard of <40mg/kWh for NOx) needs to be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason - to ensure that the expected NO2 emissions of the combustion system to be installed at the proposed development will be negligible, in accordance with Core Policy 23 of the Oxford Local Plan 2001- 2016.

20. No development shall take place until specific details of a proposed mechanical ventilation system with NOx filtration has been submitted to and approved in writing by the Local Planning Authority. This shall include details

of the proposed maintenance and monitoring schedule for the installed system. The development shall be carried out in accordance with the approved details.

Reason: to protect the occupiers of the development from exposure to air pollutants in exceedance of the National Air Quality Objectives.

21. The development shall not be occupied until the approved ventilation system has been installed and evidence provided to this authority that it is working in accordance with its specification and air quality does not present a risk to site users. The development shall be carried out in accordance with the approved details.

Reason: to protect the occupiers of the development from exposure to air pollutants in exceedance of the National Air Quality Objectives.

22. Prior to commencement of development, an application shall be made for Secured by Design accreditation on the development hereby approved. The development shall be carried out in accordance with the approved details, and shall not be occupied or used until confirmation of SBD accreditation has been received by the local planning authority.

Reason: To ensure that the development is a safe and secure environment and to minimise the risks of crime, in accordance with Policies CP1 and CP9 of the Oxford Local Plan.

23. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or enacting that Order) no structure including additions to the dwelling house as defined in Classes A, B, C, D, E of Schedule 2, Part 1 of the Order shall be erected or undertaken without the prior written consent of the Local Planning Authority.

Reason: The Local Planning Authority considers that even minor changes in the design or enlargement of the development should be subject of further consideration to safeguard the appearance of the area and the amenity of neighbouring properties and occupiers of the dwellings in accordance with policies CP1, CP8 and CP10 of the Adopted Oxford Local Plan 2001-2016, HP9 and HP14 of the Sites and Housing Plan and CS18 of the Core Strategy.

24. The integral garages shall not be changed or adapted for living purposes or used for any other purpose except as a private domestic garage, without the prior written permission of the Local Planning Authority.

Reason: To ensure that a garage is always available for use with the house in accordance with policies CP1, CP6, CP10 and TR3 of the Adopted Oxford Local Plan 2001-2016.

25. The west elevation windows serving the living/kitchen/dining spaces at first, second, third and fourth floor level in flat Nos. 101, 201, 301 and 401 shall be glazed in obscure glass be non-opening below 1.7 metres above finished floor

levels in the room(s) they serve and shall thereafter be retained. The side west facing elevations of the external balconies shall be fitted with privacy screens to a minimum height of 1.8 metres and shall thereafter be retained.

Reason: To safeguard the amenities of the adjoining occupiers in accordance with policies CP1, CP10 and HS19 of the Adopted Oxford Local Plan 2001-2016.

26. Before the development permitted is commenced details of the cycle parking areas, including means of enclosure, shall be submitted to, and approved in writing by, the Local Planning Authority. The development shall not be brought into use until the cycle parking areas and means of enclosure have been provided within the site in accordance with the approved details and thereafter the areas shall be retained solely for the purpose of the parking of cycles.

Reason: To promote the use of cycles thereby reducing congestion on adjacent roads in accordance with policies CP1, CP10 and TR4 of the Adopted Oxford Local Plan 2001-2016.

27. A Construction Traffic Management Plan should be submitted to the Local Planning Authority and agreed prior to commencement of works. This should identify;

- The routing of construction vehicles and management of their movement into and out of the site by a qualified and certificated banksman,
- Access arrangements and times of movement of construction vehicles (to minimise the impact on the surrounding highway network),
- Details of wheel cleaning / wash facilities to prevent mud, etc from migrating on to the adjacent highway,
- Contact details for the Site Supervisor responsible for on-site works,
- Travel initiatives for site related worker vehicles,
- Details of times for construction traffic and delivery vehicles, which must be outside network peak and school peak hours,
- Engagement with local residents and neighbours.

Reason: In the interests of highway safety and to mitigate the impact of construction vehicles on the surrounding network, road infrastructure and local residents, particularly at peak traffic times.

28. The development hereby permitted shall not be occupied until the designated car club space as set out in approved plans has been provided. The club space shall be laid out as set out in the approved plan prior to occupation of the development and retained as such thereafter.

Reason: To ensure that the development does not generate a level of vehicular parking which would be prejudicial to highway safety, or cause parking stress in the immediate locality, in accordance with policies CP1, CP6, CP10 and TR13 of the Adopted Oxford Local Plan 2001-2016.

29. No occupation of the development shall take place until details of a scheme of lighting plus the means to control excessive light spillage and glare from both internal and external light sources within the development shall have been submitted to and approved in writing by the local planning authority and implemented on site. There shall be no variation to the approved details without the further prior written approval of the local planning authority.

Reason: In the interests of the visual and residential amenities of neighbouring occupiers, in accordance with policy CP20 of the adopted Oxford Local Plan 2001 - 2016.

30. The development shall not begin until a scheme for the provision of public open space has been submitted to and approved in writing by the local planning authority. The area designated as public open space shall be provided in accordance with the approved scheme and shall be retained for these purposes thereafter.

Reason: To ensure the provision of an attractive public realm and publically accessible open space within the approved development in accordance with the Policies CP1, CP9 and CP11 of the Oxford Local Plan.

31. A travel information pack will be required in support of this application for each resident. This will be sent to the Local Planning Authority for approval before first occupation of the site.

Reason: To promote sustainable modes of transport.

### **13. APPENDICES**

- **Appendix 1** – Site location plan

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

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

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

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

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## Appendix 2

# Minutes of a meeting of the EAST AREA PLANNING COMMITTEE on Wednesday 3 April 2019

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### Committee members:

Councillor Taylor (Chair)	Councillor Lygo (Vice-Chair)
Councillor Aziz	Councillor Chapman
Councillor Clarkson	Councillor Gotch (for Councillor Garden)
Councillor Simm	Councillor Roz Smith
Councillor Tanner	

### Officers:

Adrian Arnold, Acting Head of Planning Services  
Anita Bradley, Monitoring Officer  
Hayley Jeffery, Development Management Team Leader  
Mike Kemp, Senior Planning Officer  
Andrew Murdoch, Development Management Service Manager  
Jennifer Thompson, Committee and Members Services Officer

### Apologies:

Councillors Garden sent apologies and Councillor Gotch substituted for her.  
Councillors Chapman and Clarkson arrived after the start of the meeting.

## 100. Declarations of interest

### Minute 101 - application 18/03287/FUL

The Chair announced that **Councillors Chapman and Clarkson** would not be taking part in the debate as they were precluded from taking part in debate on the application because of their role as part of the shareholder group of the Oxford City Housing Limited company which could give rise to a public perception of bias should they take part in the decision.

## **101.18/03287/FUL: Former Murco Service Station, Between Towns Road, Oxford, OX4 3LZ**

The Committee considered an application for planning permission for the demolition of existing structures and the erection of a part 3, 4 and 5 storey apartment block comprising 35 residential flats (Use Class C3) and 3 x 3 storey townhouses (Use Class C3) with associated access, parking and landscape arrangements at the Former Murco Service Station, Between Towns Road, Oxford.

The Planning Officer reported:

- two corrections to the report: paragraph 10.3 should state 38 dwellings not 9; and in paragraph 11.6 the reference to a S106 agreement should be deleted;
- a further representation from the Highways Authority confirming they raised no objections; and that consultation on a local controlled parking zone (CPZ) had recently ended; and recommending attaching an informative suggesting that if the CPZ were to be implemented residents in the development should be excluded from eligibility for residents' parking permits.
- the applicant had submitted minor changes to the design of the flats: to the bricks on the rear and facing stairwells and to obscure glaze the windows on the NE side.

The Planning Officer proposed and the Committee agreed to add

- a further condition to secure provision of the public open space (referenced in paragraphs 2.3 and 6.4 of the report)
- the recommended informative to the effect that should a CPZ be implemented the development will be excluded to ensure it remains car-free.

Cllr David Henwood (local ward Councillor), Cllr John Sanders (local County Councillor) and Mark Watson (local resident) spoke objecting to the application.

Alan Wylde (representing the applicant), Simon Lea (architect), and James Cogan (planning consultant) spoke in support of the application and answered questions from the committee.

In reaching its decision, the Committee considered all the information put before it including the officer's report and presentation; the speakers' presentations; answers to questions put to the officers and the applicant; and officers' professional advice. On being proposed, seconded and put to the vote the Committee agreed to approve the application.

### **The East Area Planning Committee resolved to:**

1. **approve application 18/03287/FUL** for the reasons given in the report and subject to the 29 required planning conditions set out in section 12 of the report, a condition to secure provision of public open space, and an informative regarding exclusion from a future CPZ; and grant planning permission; and
2. **delegate authority** to the Acting Head of Planning Services to finalise the recommended conditions as set out in the report and above including such refinements, amendments, additions and/or deletions as the Acting Head of Planning Services considers reasonably necessary.



## **102.17/03101/FUL: Ashlar House, Glanville Road, Oxford, OX4 2DD**

Councillors Chapman and Clarkson joined the meeting at the start of this item.

The Committee considered an application for planning permission for the erection of 4 x 2 bed flats, 2 x 1 bed flats, 2 x 4 bed dwellinghouse, 1 x 3 bed dwellinghouse (Use Class C3) and associated external works, and provision of amenity space, car parking and bin/cycle stores at Ashlar House Adjacent 2 Glanville Road, Oxford, OX4 2DD

The proposal was previously reported to the East Area Planning Committee on 7 March 2018. The Committee resolved to grant permission subject to a S106 agreement which secured a financial provision towards off-site affordable housing provision. Since that time, the applicants confirmed that they were now not willing to enter into the S106 agreement to secure a contribution towards off site affordable housing provision. The grant of planning permission being conditional on this agreement, the application was referred back to Committee for redetermination. The matter before the Committee was the S106 agreement, all other matters being unchanged since making the previous resolution.

Simon Sharp (the agent for the applicant) spoke in support of removing the requirement for the S106 agreement.

In reaching its decision, the Committee considered all the information put before it including the officer's report and presentation; the speakers' presentations; answers to questions put to the officers; and officers' professional advice.

The Committee noted that the applicant had not submitted a viability assessment. They noted that in the absence of a viability assessment and the absence of a change in the specific circumstances of Oxford's housing need or a change in the Council's policy the application should be refused in the absence of a S106 agreement secure a financial contribution towards off-site affordable housing provision.

After debate and on being proposed, seconded and put to the vote the Committee agreed to refuse the application for the reasons set out in the report.

### **The East Area Planning Committee resolved to:**

#### **1. refuse application 17/03101/FUL for the following reason:**

The proposal fails to make provision for financial contributions towards the delivery of off-site affordable housing in Oxford or to robustly justify on viability grounds why a lesser financial contribution towards off-site affordable housing provision would be appropriate. Consequently the proposal fails to meet the requirements of Policy HP4 of the Sites and Housing Plan 2011-2026, Policy CS24 of the Oxford Core Strategy 2026 and the principles set out in the Affordable Housing and Balance of Dwellings SPD.

#### **2. agree to delegate authority** to the Acting Head of Planning Services to finalise the reasons for refusal as set out in the report (and above) including such refinements, amendments, additions and/or deletions as the Acting Head of Planning Services considers reasonably necessary and issue the decision notice.

### **103. Minutes**

The Committee resolved to approve the minutes of the meeting held on 6 March 2019 as a true and accurate record.

### **104. Forthcoming applications**

The Committee noted the list of applications.

### **105. Dates of future meetings**

The Committee noted the meeting dates.

**The meeting started at 6.00 pm and ended at 7.35 pm**

**Chair .....**

**Date: Wednesday 1 May 2019**

# Appendix 3 – Site Plan

## 18/03287/FUL – Former Murco Service Station - Between Towns Road



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## Minutes of a meeting of the PLANNING REVIEW COMMITTEE on Monday 15 October 2018

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### Committee members:

Councillor Fry (Chair)	Councillor Munkonge (Vice-Chair)
Councillor Altaf-Khan	Councillor Azad
Councillor Goddard	Councillor Malik
Councillor McManners	Councillor Linda Smith
Councillor Taylor (for Councillor Djafari-Marbini)	

### Officers:

Adrian Arnold, Acting Head of Planning Services  
Andrew Murdoch, Development Management Service Manager  
Sally Fleming, Lawyer  
Catherine Phythian, Committee Services Officer  
Anita Bradley, Monitoring Officer  
Nadia Robinson, Principal Planning Officer

### Apologies and substitutions:

Councillor Djafari-Marbini sent apologies and Councillor Taylor substituted.

## 6. Declarations of Interest

Cllr Altaf-Khan - declared he had children attending the Cherwell School, but that he approached the application with an unbiased open mind and would listen to the arguments and weigh the evidence before making a decision.

Cllr Azad - declared that while she was a signatory to the call-in of the application she approached the application with an unbiased open mind and would listen to the arguments and weigh the evidence before making a decision.

Cllr Fry - declared he had a grandchild attending the Cherwell School, but that he approached the application with an unbiased open mind and would listen to the arguments and weigh the evidence before making a decision.

Cllr Goddard - declared he had children attending the Cherwell School, but that he approached the application with an unbiased open mind and would listen to the arguments and weigh the evidence before making a decision.

Cllr McManners - declared that while he was a signatory to the call-in of the application and had children of school age, he approached the application with an unbiased open mind and would listen to the arguments and weigh the evidence before making a decision.

Cllr Munkonge - declared he had a child attending the Cherwell School, but that he approached the application with an unbiased open mind and would listen to the arguments and weigh the evidence before making a decision.

Cllr Linda Smith - declared that while she was a signatory to the call-in of the application and had children at the Cherwell School and St Nicholas Primary School, she approached the application with an unbiased open mind and would listen to the arguments and weigh the evidence before making a decision.

## **7. 18/01173/FUL: "Swan School", The Harlow Centre, Raymund Road, Oxford, OX3 0PG**

The Committee considered an application (18/01173/FUL) for planning permission for the demolition of existing buildings on the Harlow Centre site and their replacement with a new two-storey education facility, associated parking and external play areas for Meadowbrook College; the erection of a new secondary school in the form mix of one and three-storey buildings together with provision of a new access from Marston Ferry Road, associated car and cycle parking along with formal and informal play and sport provision; and the erection of a multi-use games area (MUGA) and eco-shelter for St Nicholas Primary School. (Amended description; amended plans and additional information; and further amendments received 25.09.2018)

The application has been called in to the Planning Review Committee by Councillors Tanner, Simm, Turner, Linda Smith, Azad, McManners, Pressel, Chapman, Howlett, Kennedy, Henwood and Cook for the following reasons:

- The first application was refused by 4 votes to 3, with 2 abstentions. The second application was refused because the first had fallen. It would be sensible to reconsider both given the closeness of the first vote.
- The need for another secondary school in Oxford is urgent and no other options are available. Considerable mitigation steps were proposed to limit the quite small intrusion into the Green Belt and to preserve the priority and safety of the cycle track on the Marston Ferry Road.

Chanika Farmer (Oxfordshire County Council Principal Transport Planner) and Anthony Kirkwood (Oxfordshire County Council Highways road safety expert) accompanied officers at the table.

The Planning Officer presented the report and informed the Committee of changes since the meeting of the East Area Planning Committee:

- the applicant had submitted some minor amendments and points of clarification to the application - the removal of 10 car parking spaces from Swan School car park; additional information about the proposals for the landscape bund

landscape impact; and the number of cycle and vehicle movements forecast in the 8:30-8:50 morning slot when the gates would be open

- the applicant had also submitted an assessment of the Harlequins rugby club site as an addendum to the site selection document. This was received after publication of the committee report. The document sets out various issues with the site, the most pertinent being that the site is part of Cherwell School playing fields and is too small to accommodate playing fields for two secondary schools and the buildings for a new secondary school
- A petition in support of the application with 997 signatures had been received.
- A further petition with 301 signatures, objecting to the current application and proposing the Harlequins Rugby Club site as an alternative, had been handed in by Oxford City Councillor Mick Haines at the start of the meeting. That petition was out of time, undated and unnumbered but would be recorded as an objection.
- since the amended application was advertised and the committee report published, there had been 38 further representations with 13 opposing, 23 supporting and two neither supporting nor opposing. The new points raised were:
  - Traffic problems would be moved elsewhere if parents have to drive pupils to other schools
  - Impact on pupils travelling to schools outside Oxford
  - Too much car parking encouraging staff to travel by car
  - Loss of 10 parking spaces with revised plans leading to overspill parking
  - Cycle path crossing better than or similar to that at Cherwell
  - St Nicholas primary school fencing should be reinforced and not be visually permeable
  - Air quality concerns
  - Northern Gateway should be considered for a secondary school
  - Delay to a new secondary school and loss of education funding if this application is rejected
  - Traffic capacity on Oxford Road
- Further submissions from members of the public, received after the close of the consultation, included a suggestion for a different site access; observations on new housing locations and birth rates; and data from a traffic count undertaken by the public. The Committee was reminded of the requirement to consider the access proposal in the application; that the evidence base for the need for the school places is substantiated by the local education authority; and that the figures in the traffic count were broadly in line with those in the planning application.

In conclusion the Planning Officer made the following points:

- **Need:** the NPPF requires local planning authorities to give great weight to the need to create, expand or alter schools. This application is proposing one new school to meet the urgent need for secondary school places in the city, and another fit-for-purpose school building for the Meadowbrook alternative provision unit.

- **Green Belt:** The case for very special circumstances to allow development in the Green Belt is strong; its evidence base is a thorough landscape and visual impact assessment. The level of harm to the green belt is low. The great weight given to the need for the two schools outweighs the great weight given to the low-level, localised impact on the Green Belt.
- **Highways:** the NPPF says that applications should only be prevented or refused on highways grounds if there would be an *unacceptable* impact on highway safety, or the residual cumulative impacts on the road network would be *severe*.
- To refuse the application, any adverse impacts identified would have to significantly and demonstrably outweigh the overall benefits of the scheme.

The Legal Adviser referred the Committee to paragraph 6.5 of the officer's report and said that City Council had sought leading counsel's advice with respect to the application. She explained that if the Committee wished to hear that legal advice they would need to do so in private session so that legal professional privilege could be maintained in any potential legal proceedings.

The Chair extended the time for public speaking to 10 minutes for those speaking against, and an equal time for those speaking in support of, the application.

#### **Speaking against the application:**

- Oxford City Councillor Mary Clarkson, local ward councillor
- Simon Banks, Cherwell School Travel Action Group
- Anthony Baker, local resident
- Anuj Bhatt, local resident
- Michael Chambers, local resident
- Simon Hunt, Chair of Cyclox
- Darrell Ross, local resident
- Councillor Dr Peter Williams, representing Old Marston Parish Council

In summary they raised concerns about the location being inappropriate; safety of cyclists on the cycle path at peak times; destruction of the continuity of the cycle path; congestion on surrounding roads and in the wider area; harm to the Green Belt; the inadequacy of the construction management travel plan and the school travel plan; and put forward proposals for alternative access arrangements and the provision of a cycle underpass.

#### **Speaking in support of the application:**

- Dr Amanda Kerr, parent
- Barbara Chillman, Oxfordshire County Council
- Nicola Partridge, headteacher, Meadowbrook School
- Kay Wood, prospective headteacher, Swan School
- David Hurren (Robert West civil engineering and transport planning)

In summary they set out the need for a new secondary school in the city; the educational vision for the school; the commitment to a safe environment and to the proactive management of a detailed and deliverable travel plan; the wider positive impact that the new school would deliver for the pupils and staff at Meadowbrook School.



**Registered as available to answer questions/ points of clarification in support of the application:**

- Graham Wilson, Galliford Try construction company
- Simon Beaumont-Orr, ADP Architects
- Paul James – River Learning Trust
- Natasha Ireland , JPPC

The Chair moved, and Councillors McManners and Malik seconded, a motion to move to private session.

On being put to the vote the Committee agreed the resolution as set out below.

*The Committee resolve pursuant to section 100A of the Local Government Act 1972 to exclude the public from this part of the proceedings relating to this item on the agenda as they wish to consider legal advice\* which is exempt information under paragraph 5 of Schedule 12A of the Local Government Act 1972.*

*\*(to which legal professional privilege could be maintained in legal proceedings)*

Members of the public, press and the Oxfordshire County Council representatives left the chamber at 7.00pm.

### **PRIVATE SESSION**

For the benefit of the public and press the Legal Adviser explained that during the private session the Committee had been briefed on the advice received by leading Counsel on the reasons for refusal given by the East Area Planning Committee.

### **PUBLIC SESSION**

Members of the public, press and the Oxfordshire County Council representatives returned to the chamber at 7.30pm.

During questions, and in debate, the Committee focussed on the following issues but was not confined to:

- **Travel Plan:** officers confirmed that the Travel Plan would be secured by legal agreement and would provide for annual reviews with site visits by the County Council for a period of 6 years. The legal agreement would tie the school into a further 6-year review period if the targets are not met. The City Council could take enforcement action at any time if the Swan School was found to be in breach of the agreement.
- **Cycle Subway:** officers advised that the provision of a new cycle subway or diversion of the cycle path to the existing underpass nearby was not considered

necessary; the Highways Authority did not support the provision of cycle subways due to concerns about personal security and creating an inhospitable environment; the construction of a new underpass would have knock on consequences for the landscaping and visual impact of the development.

- **Bund groundworks and speed limit reduction:** officers explained that the groundworks to reduce the height of parts of the bund would be carried out as part of the s278 process. The s106 legal agreement would secure a reduction of visibility splays and works to the bund should a change in speed limit be implemented. The proposed change to the speed limit was a separate process and subject to public consultation. Officers could not give the Committee any guarantees on the outcome or timing of that process or any assurance that the two matters would be progressed sequentially. However, the legal agreement would require retrospective action to ensure that the bund was re-instated if the speed limit was reduced. Officers undertook to include an informative or write to the Highways Authority encouraging them to consider the matter quickly and in the context of the groundworks for the bund.
- **Boundary fencing:** although the proposed fencing between the Swan School and St Nicholas Primary School met the required standards for educational premises it was felt that there would be benefits to the pupils of both schools if the fencing was of a similar specification to that which was proposed for the boundary between the Swan School and Meadowbrook School.

The Committee considered all the evidence before it, including the officer's report and presentation, statements from the speakers, answers to questions and advice from officers.

In determining the application members of the Committee were persuaded by the arguments presented in support of the traffic mitigation measures and were satisfied that there was a demonstrable need for a new secondary school and that the public benefit outweighed the harm caused to the Green Belt. In conclusion the Committee stressed that officers would need to be vigilant in monitoring and enforcing the Travel Plan.

A motion to approve the application with an additional condition, that the boundary fence between the Swan School and St Nicholas Primary School should be of a similar standard to the boundary fence between the Swan School and Meadowbrook School, was moved and seconded.

On being put to the vote the Committee agreed with the officer recommendation to grant planning permission.

#### **The Planning Review Committee resolved to:**

1. **approve the application** for the reasons given in the report and subject to
  - i. the satisfactory completion of a legal agreement(s) and/or unilateral undertaking under Section 106 of the Town and Country Planning Act 1990 and other enabling powers to secure the planning obligations set out in the recommended heads of terms which are set out in this report;

- ii. the 37 required planning conditions and 10 informatives set out in section 8 of this report and the addition of a further condition on the specification of the boundary fence<sup>8</sup> and 9 of this report and the addition of a further condition that the boundary fence between the Swan School and St Nicholas Primary School be of a similar standard and form to the Meadowbrook new boundary fence
- iii. confirmation from the Secretary of State that the application is not required to be 'called in' in accordance with The Town and Country Planning (Consultation) (England) Direction 2009;

**and grant planning permission;**

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

- i. consider and deal with any new material planning considerations that may be raised through public consultation up to 18 October 2018 including deciding whether it is necessary to refer the application back to the committee prior to issuing the permission;
- ii. finalise the recommended conditions as set out in this report including such refinements, amendments, additions and/or deletions as the Acting Head of Planning Services considers reasonably necessary; and
- iii. finalise the recommended legal agreement or unilateral undertaking under section 106 of the Town and Country Planning Act 1990 and other enabling powers as set out in this report, including refining, adding to, amending and/or deleting the obligations detailed in the heads of terms set out in this report (including to dovetail with and where appropriate, reinforce the final conditions and informatives to be attached to the planning permission) as the Acting Head of Planning Services considers reasonably necessary; and
- iv. issue the planning permission.

**8. 18/01697/FUL: Temporary buildings at The Harlow Centre, Raymund Road, Oxford OX3 0PG**

The Committee considered an application (18/01697/FUL) for planning permission for the partial demolition of the existing Meadowbrook College buildings and erection of modular units to provide a temporary education facility for Meadowbrook College, including the provision of an external play area to the south of the modular units to be enclosed by a 3.0 metre high rebound fence for a period of no more than two years and other associated works.

The Planning Officer presented the report.

In reaching its decision, the Committee considered all the information put before it.

On being put to the vote the Committee agreed with the officer recommendation.

**The Planning Review Committee resolved to:**

1. **approve** the application for the reasons given in the report and subject to the required planning conditions set out in section 8 of this report; and grant planning permission;
2. **delegate authority** to the Acting Head of Planning Services to finalise the recommended conditions as set out in this report including such refinements, amendments, additions and/or deletions as the Acting Head of Planning Services considers reasonably necessary and issue the planning permission.

## **9. Minutes**

The minutes of the meeting held on 20 August 2018 were agreed as a true and accurate record.

## **10. Date of Future Meetings**

The Committee noted the dates of future meetings, if required.

**The meeting started at 6.05 pm and ended at 8.40 pm**

**Chair .....**

**Date:**