

West Area Planning Committee

7th February 2013

Application Number: 12/01970/FUL

Decision Due by: 1st October 2012

Proposal: Alterations and conversion of existing building to provide 6 x 1 bedroom dwellings (Amended plans)

Site Address: The former Maroon Public House, 44 St. Thomas Street
[Appendix 1]

Ward: Carfax Ward

Agent: Mr Peter Uzzell

Applicant: Saxonville Ltd

Recommendation:

APPLICATION BE REFUSED

For the Following Reasons:-

- 1 The proposed scheme for the erection of 6 x 1 bedroom dwellings does not include a contribution towards the provision of affordable housing elsewhere in Oxford which is contrary to policy HP4 of the Sites and Housing Plan 2012, would fail to contribute to the provision of mixed and balanced communities and would be harmful to the quality and quantity of Oxford's housing stock.

Main Local Plan Policies:

Oxford Local Plan 2001-2016

CP1 - Development Proposals

CP6 - Efficient Use of Land & Density

CP8 - Design Development to Relate to its Context

CP9 - Creating Successful New Places

CP10 - Siting Development to Meet Functional Needs

TR3 - Car Parking Standards

TR4 - Pedestrian & Cycle Facilities

HS19 - Privacy & Amenity

HS20 - Local Residential Environment

HS21 - Private Open Space

RC18 - Public Houses

Core Strategy 2026

CS2_ - Previously developed and greenfield land

CS9_ - Energy and natural resources

CS10_ - Waste and recycling

CS11_ - Flooding

CS18_ - Urban design, town character, historic environment

CS23_ - Mix of housing

West End Area Action Plan

WE1 - Public realm

WE10 - Historic Environment

WE12 - Design & construction

WE13 - Resource efficiency

WE14 - Flooding

WE30 - Streamlined contributions

Sites and Housing Plan - Submission

HP4_ - Affordable Homes from Small Housing Sites

HP9_ - Design, Character and Context

HP12_ - Indoor Space

HP13_ - Outdoor Space

HP14_ - Privacy and Daylight

HP15_ - Residential cycle parking

Other Material Considerations:

National Planning Policy Framework

Relevant Site History:

The application property was erected as a purpose built public house called The Chequers in 1913 and externally retains many of its original features. The only relevant, recent planning decision is as follows:

06/01631/FUL: Provision of timber pergola over existing bin store. Erection of first floor rear extension. Approved

Representations Received:

1 letter of objection from the occupier of 5 Beckett Street on the following grounds:

- Loss of the public house
- A car free development of 6 dwellings would exacerbate an already difficult situation regarding on street car parking in the local area.

Statutory and Internal Consultees:

Oxfordshire County Council as Local Highway Authority: No objection. The site lies in a sustainable location within Oxford city centre and is well located for easy access to trains and buses. If planning permission is granted, conditions should be imposed relating to the provision of secure and sheltered cycle parking, secure and covered bin stores that do not encroach onto the public highway. A construction traffic

management plan will also be required to be submitted and approved.

Oxfordshire County Council – Drainage: No objection. The development will not put any additional water into the existing surface water sewer but measures such as green roofs and rain water harvesting could be used to reduce the discharge from the development. In addition, more efforts should be made to demonstrate how the development will be made resilient to the effects of flooding.

Oxford Civic Society: Too many houses are proposed and they are small with limited outlook. Cycle parking and bin storage would seem to be inadequate.

Issues:

- Loss of public house
- Form and appearance
- Residential amenity
- Balance of Dwellings
- Private amenity space
- Highways and parking
- Sustainability
- Flooding
- Contributions towards affordable housing

Officers Assessment:

Site location and description

1. The application site lies at the corner of St. Thomas Street and Hollybush Row close to its junction with Park End Street. The existing building was erected in 1913 as a purpose built public house known then as The Chequers and in 2006 it became The Maroon Public House. It is a predominantly two storey building erected using stone, red brick and render under a tiled roof.
2. The site does not lie within a Conservation Area although the building is identified in the Historic Buildings and Areas Appraisal for the West End Area Action Plan 2007 as a building that contributes to the historic character of the area.
3. The site lies in the Central Transport Area and within an area vulnerable to flooding. It is surrounded by a mix of residential and commercial development and in close proximity to The Honeypot public house which is located to the north of the site.

The Proposal

4. The application seeks planning permission to extend and convert the existing building to provide 6 x 1 bedroom flats together with a communal cycle parking and bin storage area. The development would be entirely car free.
5. The six new units would vary in size from 35 square metres to 68 square metres and would each consist of an open plan ground floor living, dining

and kitchen space together with a first floor bedroom and bathroom. In the case of the largest dwelling [unit 6] the bedroom would be at second floor level with further living space on the first floor. This unit also has a small external ground floor terrace whilst all the other units have no private amenity space.

6. The proposal includes the erection of first floor extensions at the side and rear of the building but otherwise the sub-division of the building is achieved without the need for additional windows or door openings in the principal elevations and the main fabric of the building would be retained and repaired where necessary.
7. There is an existing mature tree that lies in the gap between the application building and The Honey Pot on the Hollybush Row frontage whose canopy overhangs the site. No further building is proposed on this side of the site and the development would not adversely impact upon the health and well being on this tree.

Loss of Public House

8. Policy RC18 of the Oxford Local Plan states that planning permission will only be granted for the change of use of a public house if one or more of the following criteria are met:
 - No other potential occupier can be found following a realistic effort to market the premises for its existing use
 - Substantial evidence of non-viability is submitted; and
 - It is demonstrated that suitable, alternative public houses exist to meet the needs of the local community.
9. The application is accompanied by a Viability Assessment which considers the details of the public house, its accommodation and its condition in the context of an overview of the licensed trade and the shift in drinking patterns over the last few years. It also considers its current viability, assesses its trade potential and sets out the marketing details. The assessment concludes that the Maroon public house has been a marginal pub since the mid 1990's despite undergoing two refurbishments. It is already intensively developed with no scope for diversification of its existing use and lies in a peripheral location. The assessment concludes that the licensed trade market continues to be depressed; the likely level of return is insufficient to induce an operator to re-open the pub and there are adequate alternative licensed premises within a 1000 metre radius to meet the needs of the local community.
10. Officers have carefully considered the viability assessment submitted. In terms of the marketing exercise, officers take the view that there has been no real evidence submitted providing any details of the marketing campaign undertaken and for this reason consider that this criterion has not been fully satisfied.
11. As regards non-viability, officers consider that a better case has been

made including a number of temporary tenancies in recent years which do not seem to have been successful together with investments and refurbishments which again do not appear to have turned the business around. Officers agree that the marginal location of the pub on the edge of the city centre has resulted in the pub not being capable of being supported by residents, tourists or office workers which does not help the potential viability of such a pub business. Although the property fronts Hollybush Row, the level of passing trade would be unlikely to be substantial and it is not on the direct route for pedestrians using the train station. These factors, together with the challenging economic conditions make it difficult for the pub sector and for those in more marginal locations, the difficulty is even greater.

12. Given the location of the application site, there are numerous other bars, clubs and other licensed premises in relatively close proximity. Officers therefore take the view that the application satisfies 2 of the 3 criteria set out in policy RC18 and that the loss of the public house has been justified.

Form and appearance

13. Policy CP1 of the Oxford Local Plan states that planning permission will only be granted for development that shows a high standard of design, that respects the character and appearance of the area and uses materials of a quality appropriate to the nature of the development, the site and its surroundings. Policy CP6 states that development proposals should make the best use of site capacity but in a manner that would be compatible with both the site itself and the surrounding area.
14. Policy CP8 suggests that the siting, massing and design of any new development should create an appropriate visual relationship with the form, grain, scale, materials and detailing of the surrounding area and policy CP10 states that planning permission will only be granted where proposed developments are sited to ensure acceptable access, circulation, privacy and private amenity space.
15. Policy CS18 of the Oxford Core Strategy emphasises the importance of good urban design which should contribute to an attractive public realm and a sense of local distinctiveness.
16. Whilst the building is not listed and does not lie in a conservation area, it is considered to have significance that contributes to the streetscape and the character of the area. The building benefits from strong arts and crafts detailing which has remained virtually intact on the principal elevations.
17. Whilst the building has been little altered externally, the interior has been greatly altered over the years which does allow the building to be relatively easily sub-divided and to make the best use of existing doors and windows.
18. The proposed first floor link extension fronting St. Thomas Street has

been designed as a low key element which has been set back at ground and first floor levels. To reinforce its subservient nature, the link extension would be simply detailed rather than mimicking the fussier details of the pub and the adjacent Castle Mews Buildings.

19. The elevation facing Hollybush Row would undergo only minor changes, essentially to the first floor recessed element which features a high parapet. The proposed design would recreate this link but it would be sited slightly further forward. Officers do not consider that this would appear intrusive in the street scene.

Residential amenity

20. Policy HP12 of the Sites and Housing Plan 2012 states that planning permission will only be granted for new dwellings that provide good quality living accommodation for the intended use if:
 - Each dwelling has its own lockable entrance, its own kitchen and at least one bathroom
 - The space provided within each room allows for reasonable furnishing, circulation and use of household facilities including for desk based home working
 - Each dwelling contains adequate storage space
 - Any single family dwelling provides 39 square metres of internal floor space
 - Regard has been given to ceiling height, ventilation and outlook
21. In terms of the application proposal, all the new units would be fully self contained with their own lockable entrance, kitchen and bathroom. Storage areas would be provided underneath the staircases and there is only one bedroom proposed in the roofspace of the building that would have a reduced headroom. The internal floor areas of units 3, 4, 5 and 6 are 48, 40, 52 and 65 square metres respectively which exceed the policy requirement of 39 square metres. Units 1 and 2 do have slightly smaller internal floor areas [35 square metres]; however they still provide a ground floor living area with a cloakroom and a first floor bedroom and en-suite bathroom. On balance, officers consider these units to be acceptable particularly given the constraints of the building and the site.

Balance of Dwellings

22. The Balance of Dwellings [BoDS] Supplementary Planning Document [SPD] was approved in January 2008 to elaborate upon the provisions of policy HS8 of the Oxford Local Plan [now superseded by policy CS23 of the Oxford Core Strategy] and to ensure the provision of an appropriate mix of dwelling sizes in the different neighbourhood areas described in the SPD. These are set out as red, amber and green and the City Centre lies in an amber area where pressure on family housing is seen to be growing.
23. High density housing developments are historically more common in the city centre where excellent public transport links can offer opportunities for

car free development at higher densities. Whilst a balanced mix of dwellings is sought across Oxford, the City centre is considered more suitable for high density residential development providing a higher proportion of smaller units. The SPD does not require any particular mix for schemes of between 1 – 9 dwellings in the City centre and therefore the proposed erection of 6 x 1 bedroom flats is considered to be BoDS compliant.

Private amenity space

24. Policy HP21 of the Oxford Local Plan and policy HP13 of the Sites and Housing Plan both state that planning permission will not be granted for new development involving residential uses where insufficient or poor quality private open space is proposed. For small, one or two bedroom flats, the policies suggest that private balconies may be an appropriate way of providing some private open space
25. Five of the six flats proposed would have no private amenity space and it would not be acceptable or appropriate to add balcony features to the existing building given its historic interest. The only communal area on the site is the bin and cycle store sited at the western end of the building. Flat 6, which is the largest, would have a small, external patio measuring 2 x 2.4 metres.
26. The site lies on the edge of the city centre with easy access to all of its facilities, walkways and open spaces. The flats would be small, one bedroom units which would not be suitable for occupation by families with children. Given the need to find a new use for the building which would enable renovation and improve its appearance in the street scene together with the constraints of the site, officers take the view that the provision of small flats without any amenity space on the site is acceptable in this instance.

Highways and parking

27. Oxfordshire County Council as Local Highway Authority are not raising an objection to the application. It is satisfied with the proposed provision of 6 Sheffield type cycle stands [each of which provides two cycle parking spaces] together with bin stores in a covered communal store. It is also satisfied that the scheme can satisfactorily operate as a car free development.

Sustainability

28. The Design and Access Statement submitted with the application states that the recent amendments to Part L [conservation of fuel and energy] and Part F [ventilation] of the Building Regulations are the latest step taken by Government in its commitment towards achieving zero carbon rating in new dwellings by 2016. These amendments require a 25% reduction in carbon emissions above the previous regulations.

29. The statement goes on to say that the emphasis is towards improving the fabric of the building to reduce thermal loss and reduce the energy requirement for heating. In addition to the required improvements in 'U' values, accredited details will be adopted that ensure a continuity of insulation especially around door and window openings. In addition air leakage from the building will be minimised by the adoption of good detailing and responsible workmanship.

Flooding

30. The site lies within the Environment Agency Flood Zones 2 and 3a and the application is accompanied by a Flood Risk Assessment. The FRA concludes that the proposed development:
- can incorporate appropriate construction techniques to mitigate against flood risk
 - will not contribute to increased flood risk elsewhere and
 - has adopted a design process which has responded to the potential impacts of climate change.
31. No comments have been received from the Environment Agency to date and officers have no reasons to doubt the conclusions of the FRA which has been prepared by Glanville Consultants.

Contributions towards Affordable Housing

32. On 19th December 2011 the full Council endorsed the proposed submission Sites and Housing Plan for publication and submission to the Secretary of State for examination. Council also adopted the Sites and Housing Plan for development control purposes, considering the advanced stage it is in production, the front loading of the evidence base and the responses from the earlier consultation stages. The Sites and Housing Plan was formally submitted to the SoS for examination in May 2012 and the examination was undertaken over the summer of 2012. The Council has now received and published the Inspector's Report which finds the Plan sound and full Council will formally adopt the Sites and Housing Plan on 18th February 2013.
33. Policy HP4 of the Sites and Housing Plan states that planning permission will only be granted for residential development on sites with capacity for 4 – 9 dwellings if a financial contribution is secured towards delivering affordable housing elsewhere in Oxford. The contribution is equivalent to 15% of the sales value of the units [otherwise known as the gross development value] and in addition a 5% [of the contribution] administrative charge is required to cover the administrative costs of being able to spend and implement the affordable housing contribution. The policy requires the contribution to be paid prior to the sale [or occupation] of more than 50% of the new units. This has the advantage of improving the cash flow for the developer and removes any uncertainty about the sales values of the units.

34. The applicant has submitted 2 viability assessments for the development, both of which conclude that the scheme is not sufficiently viable to make any contribution towards affordable housing. The Sites and Housing Plan policy does make it clear that if there are specific issues which would make a scheme unviable, then the planning authority will take this into account when applying the policy. This reflects the normal approach of considering whether there are any material considerations which would justify a departure from the development plan policy.
35. It is worth noting that the Planning Statement accompanying the application states in paragraph 6.26 that the applicant is prepared to contribute £21,820 in accordance with the streamlined contributions schedule for the West End Area Action Plan. The agent has been advised that, given the nature of the existing and proposed uses on this site, a contribution towards the WEAAP is not required in this instance. The applicant originally agreed to offer this sum as a contribution towards affordable housing but has since withdrawn this offer and declined to make any affordable housing contribution, based upon their case on viability. Further details on this are set out below.
36. The applicant's viability assessment includes 3 valuations of the development when it had been completed [Gross Development Value]. These vary between £1,280,000 and £1,410,000. Based upon these valuations, the affordable housing contribution, including the administrative fee, would be between £201,600 and £222,075.

Viability methodology

37. The normal methodology to assess viability is relatively straight forward and is based upon Residual Land Value. One considers the gross development value [GDV] of the scheme, in this case the total value expected of the sales of the residential units. One subtracts the costs of the scheme which includes the cost of construction, the finance costs, developers' profit and other planning policy requirements. The difference between the cost of the development plus profit and the GDV is how much the land is worth [this difference is called the 'residual land value' or RLV]. If the residual land value is significantly greater than the existing use value [plus a reasonable incentive for the landowner to bring the site to the market], then the scheme is viable.
38. The difficulty comes when trying to assess the assumptions and values which are fed into the model as this is where significant differences in results can occur. Therefore in assessing viability information, it is important that all of the figures are clearly evidenced.

Viability details

39. The applicant uses Connells estate agents to provide their viability evidence and they have used the Three Dragons Toolkit to present the

figures. The 3D toolkit is an acceptable methodology but the key issues are what figures are used within the appraisal.

40. One of the key issues in this viability assessment is the existing use value [EUV]. The applicant has already sought to argue that the pub is not a viable business and have submitted evidence to that effect to overcome the protection of pubs policy [RC18] in the Oxford Local Plan. As such the EUV would need to be judged against a non-viable business. The logic behind this is that if the pub is a successful business, then the site is worth much more but then policy RC18 would suggest that the application be refused. In this case the pub is apparently no longer a viable business and therefore the value of the site needs to be judged against this background.
41. The applicant has stated that the site was purchased for £482,121.20 in June 2011. The site area is 0.03 hectare and this is equivalent to over £9,600,000 per hectare. The applicant has ignored the fact that viability assessments are based upon existing use value, nor purchase price and has not provided a real Existing Use Value for a closed pub.
42. The applicant also seeks to suggest that an incentive of between 15 and 30% should be added to the EUV to entice a landowner to sell. In certain circumstances, such an allowance is reasonable. However in the case of a closed pub where there is no business interest, the landowner would not require any incentive to sell the site for development.
43. The applicant has used a build cost of £1,756 per square metre. The proposal is for the conversion and extension of an existing building and build costs for new build based on the industry standard BCIS are approximately half the quoted costs. This high level of build costs have not been adequately justified.
44. The 3D toolkit has a number of 'standard values'. The applicant has in a number of circumstances used values which are higher than the standard values but has not justified this. Similarly there are a number of costs and exceptional costs in the appraisal which have not been justified.
45. The applicant has selected a series of sales values from one of the 3 surveyors and this is not the most valuable of the valuations which has an impact on the overall viability. There is no justification why the lower figures have been used. In terms of GDV, the lowest figure used in the appraisal is £1,295,000; however the highest figure is £1,410,000 which would create a higher value by some £115,000.
46. Even using the applicant's costs, the developer would make £220,150 profit of a cost of £701,850 which gives a developers' profit of 31.3%, significantly higher than would normally be expected.
47. Having regard to the numerous flaws in the viability assessment, officers consider that it does not provide a robust justification to deviate away

from the standard policy requirement for an affordable housing contribution.

Conclusion:

48. The proposed scheme for the erection of 6 x 1 bedroom dwellings does not include a contribution towards the provision of affordable housing elsewhere in Oxford which is contrary to policy HP4 of the Sites and Housing Plan 2012, would fail to contribute to the provision of mixed and balanced communities and would be harmful to the quantity and quality of Oxford's housing stock.

Human Rights Act 1998

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

Section 17 of the Crime and Disorder Act 1998

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

Background Papers:

12/01970/FUL

Contact Officer: Angela Fettiplace

Extension: 2445

Date: 22nd January 2013

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