

# Agenda Item 3

**Supplementary Report to:  
East Area Planning Committee**

24<sup>th</sup> September 2013

**Application Number:** 13/01383/OUT

**Decision Due by:** 30th August 2013

**Proposal:** Outline application (seeking means of access) for the erection of: A maximum of 885 residential units (Class C3); a maximum of 2,500 sq m gross Class A1, A2, A3, A4 and A5 uses (with a maximum of 2,000 sq m gross food store Class A1); a maximum of 50 extra care housing units; a maximum of 7,350 sq m GEA hotel (Class C1); a maximum of 3,000 sq m GEA Class D1, D2 floorspace (community hub and primary school); in development blocks ranging from 2 to 5 storeys with associated cycle and car parking, landscaping, public realm works, interim works and associated highway works.

**Site Address:** Land west of Barton, north of A40 and south of Bayswater Brook, **Appendix 1.**

**Ward:** Barton and Sandhills

**Agent:** AECOM

**Applicant:** Barton Oxford LLP

NB: This report is to be read together with the main officers' report on planning application 13/01383/OUT reproduced as a supplement to this agenda.

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## **Recommendation:**

Committee is recommended to resolve to grant planning permission subject to the satisfactory completion of an accompanying legal agreement and to delegate to the Head of City Development the issuing of the Notice of Permission upon its completion. Should however the Community Infrastructure Levy (CIL) charging schedule come into force prior to the completion of the legal agreement, then it shall exclude any items included on the list of infrastructure published in accordance with Regulation 123 of the CIL Regulations.

If the required legal agreement is not completed within a reasonable period, then the Committee is recommended to delegate the issuing of a Notice of Refusal to the Head of City Development on the grounds that the development is not adequately mitigated.

## **Reasons for Approval**

1. The Council considers that the proposal accords with the policies of the development plan as summarised below. It has taken into consideration all other material matters, including matters raised in response to consultation and

publicity. Any material harm that the development would otherwise give rise to can be offset by the conditions imposed.

2. The proposed development is submitted in outline only but with substantial supporting information to demonstrate that the proposed development would possess a scale and appearance that is appropriate to the site and its setting without resulting in unacceptable harm to nearby residential areas or other interests of acknowledged importance, whilst providing much needed good quality affordable and market housing at a sustainable location. The proposals also provide for a new primary school with facilities shared with the local community, plus additional facilities for secondary education and a new commercial centre to complement existing facilities, all in accordance with the adopted policies of the Oxford Local Plan 2001 to 2016, the Oxford Core Strategy 2026, Oxford Sites and Housing Plan 2011 to 2026 and Barton Area Action Plan 2012.
3. Officers have taken into account the comments made by statutory bodies, interested parties and private individuals, and note also the contents of the three petitions submitted. All are fully acknowledged. However Officers have concluded for the reasons set out in this report that the objections do not amount, individually or collectively, to reasons for refusal of the outline planning application, and that the issues that have been raised can be adequately addressed by the imposition of a range of planning conditions which would fix, amongst other matters, a series of Parameter Plans and a detailed Design Code, and by the completion of an accompanying legal agreement.

## **Conditions**

1. Time limits for commencement.
2. Approved plans and documents
3. Reserved matters applications.
4. Scheme of enabling infrastructure works.
5. Phasing of development.
6. Materials
7. Amendment to Design Code.
8. Design Code Review
9. Restrict non - food sales at supermarket
10. Landscaping / public realm.
11. Landscaping implementation.
12. Tree pits.
13. Tree protection plan.
14. Landscape management plan.
15. Dimensions to sports pitches
16. Withdrawal of householder permitted development rights.
17. Lifetime homes standards.
18. Car parking standards.
19. Cycle parking standards.
20. Servicing and deliveries.
21. Access.
22. Highways: Travel Plans.

23. Public transport provision.
24. Construction Environmental Management Plan.
25. Sustainability and energy strategy through district heating system.
26. Site wide surface water drainage, to include SUDs.
27. Phased surface water drainage scheme.
28. Foul water drainage scheme.
29. Flooding.
30. Access to watercourse for maintenance.
31. Ground contamination and remediation.
32. Air quality: monitoring.
33. Piling.
34. Petrol / oil interceptors.
35. Noise and vibration: attenuation.
36. Mechanical plant.
37. Cooking smells.
38. Protection of Sidlings Copse
39. Grassland mitigation.
40. Training and employment strategy.
41. Procurement of contracts.
42. Repeat ecological surveys.
43. Habitat creation.
44. Archaeology.
45. Public art.
46. Linear park.
47. Adult and school pitches to be constructed and maintained to Sport England guidelines.

### **Legal Agreement.**

A comprehensive legal agreement would accompany the planning application if granted permission. The main elements of the agreement are:

1. Minimum of 40% of all residential units to be affordable housing to rent, with a minimum of 35% affordable in each phase of development.
2. Management of public open spaces by Barton Oxford LLP, (or adoption by local authority).
3. Financial contribution of £7,390,000 to Oxfordshire County Council for the provision of buildings to accommodate 1.5 form entry primary school academy, (or to be delivered direct by applicant).
4. Joint use agreement for use of school buildings and shared use of playing fields as “community hub”.
5. Transfer of 1.48ha. of land to Oxfordshire County Council on 125 year lease for provision of primary school.
6. Financial contributions of up to £519,750 plus £10,000 costs to Oxfordshire County Council for the provision of temporary primary school facilities within the catchment area of the development, plus £220,000 for transport facilities if located outside catchment area.
7. Financial contribution of £3,104,595 to Oxfordshire County Council towards secondary school and sixth form facilities to serve the development.
8. Financial contribution to Oxfordshire County Council of £146,390 towards Special Education Needs (SEN).

9. Provision of “early years” facilities either with the community hub, or as a financial contribution of £69,350 to Oxfordshire County Council.
10. Financial contribution of £88,500 to Oxfordshire County Council for improvements to Headington Library.
11. Provision of day care facilities either within the community hub, or as a financial contribution of £163,500 to Oxfordshire County Council.
12. Financial contribution to Oxfordshire County Council of £38,500 towards waste recycling facilities.
13. Transport improvements to A.40 access and A.40 corridor works to value of £1,867,758.
14. Financial contributions to Oxfordshire County Council for other highways works: noise reduction surfaces, £391,644; A.40 traffic calming, £34,187; improvements to existing Barton underpass, £110,000; access to Barton Village Road, £305,598; access to Harolde Close, £105,133.
15. Financial contribution to Oxfordshire County Council of £82,600 to promote Controlled Parking Zone across site.
16. Financial contribution to Oxfordshire County Council of £3,000 to promote traffic Regulation Order (TRO) for 50mph speed limit to A.40.
17. Financial contribution to Oxfordshire County Council of £709,722 for junction improvements at Headley Way / Marston Road / Marsh Lane / Cherwell Drive.
18. Financial contribution to Oxfordshire County Council of £15,727 to amend road markings at Green Road roundabout.
19. Financial contribution to Oxfordshire County Council of up to £850,000 to subsidise new / extended bus services.
20. Financial contribution to Oxfordshire County Council of £30,000 towards bus shelters.
21. Financial contribution of £203,161 to City Council for indoor leisure facilities.
22. Provision of public rights of way (as foot / cycle route) along southern side of development site; along linear park to link to Play Barton; and as diversion of existing right of way east of electricity sub station.
23. Financial contribution of £10,000 to City Council towards link between linear park and Play Barton.
24. Administration and monitoring costs.
25. Management and maintenance responsibilities for synthetic pitch and school pitch.

All sums are index linked and returnable to applicant if not spend within specified time periods.

### **Background to Report.**

1. Since the drafting of the officers’ main report to committee on planning application 13/01383/OUT reproduced elsewhere on this agenda, a dialogue has been maintained with the applicant on a number of detailed points and further information received. This report therefore seeks to update members on:
  - additional comments received;
  - the applicant’s position in relation to the achievement of 20% renewable energy on site;
  - planning conditions; and
  - the accompanying legal agreement.

## **Additional Comments Received**

2. Sport England. At the time of drafting the officers' main report to committee Sport England was unable to support the proposals in the absence of further detail in relation to the recreational facilities to be provided. Appendix 2 of the officers' main report refers. Since that time a dialogue has been maintained with Sport England which has now provided additional comment and suggests the following.
  - Adult Pitch: planning authority should impose a condition that pitch is constructed and maintained in accordance with Sport England guidance.
  - Synthetic Pitch: Sport England would seek assurance that management and maintenance responsibilities are satisfactorily addressed in legal agreement to accompany permission if granted.
  - MUGA: planning authority to impose an informative drawing applicant's attention to Sport England guidance;
  - School Pitch: likely to be acceptable subject to condition that pitch is managed and maintained in accordance with Sport England guidance and assurance that this is satisfactorily addressed in accompanying legal agreement.
  - Pavilion: planning authority to impose informative to draw attention to Sport England guidance.
3. These requirements can be addressed by appropriate conditions and informatives; and by the accompanying legal agreement. On a point of detail, the pavilion is indicated at paragraph 82 of the officers' main report to be constructed to 360 sq m. It should read in the range 300 to 360 sq m.
4. Resident of Western Road. Generally supportive and detailed comments available on website. Main points: primary route should have segregated cycle routes; gradients will affect attractiveness for cycling; A.40 junction needs to be cycle friendly and free of clutter; better connectivity to Northway required; underpass currently inadequate; active frontages to shops required; refuse collection facilities may be inadequate.
5. Friends of Old Headington. Developers would be fully entitled to build to maximum extent indicated in wireline images indicated in documentation; such heights completely unacceptable and would irreparably damage views; development should be no more than 2 storeys at highest point of site; particular objection to up to 4.5 storeys to spine road; concerned at excessive height of retail and hotel blocks; some of lower housing is also on higher ground; detailed computer modelling of real life appearance should be required; development should work with natural features of landscape.

## **Renewable Energy**

6. In the section of the officers main report relating to Sustainability and Energy, (commencing at paragraph 146), it is indicated that a policy requirement of 20% on - site renewable energy would be sought which the applicant indicates at paragraph 149 would be met by a standalone system consisting of photovoltaics(PVs) and high efficiency condensing boilers. Officers had suggested

however that a district heating system should not be ruled out. For its part the applicant insists this would not be appropriate on cost and other grounds.

7. If undertaken the applicant argues that a district heating system would be procured by an Energy Services Company (ESCO). To test viability in this case two ESCOs were invited to tender for such a project. In its return the first ESCO indicated an initial connection charge of £4,800 for each property, (including affordable units), plus a total cost of heat to the customer of between £581 for a 1 bed unit and £971 for 4 bed unit, including an annual service charge per unit of £382. The second estimated a total cost of heat to the customer of £674 for a 1 bed unit, rising to £1,015 for a 4 bed unit, including an annual service charge of £350.
8. Taking these costs into account, an estimate was made of the total annual fuel bills for householders for a district heating system compared to a standalone PV and condensing boiler solution. This indicated that the annual total fuel bills would range between approximately £460 and £690 for PVs and condensing boiler, compared to approximately £1,000 to £1,500 for a district heating system, depending on the size of property. Moreover the latter would tie customers to a 25 to 40 year concession with no ability to change supplier whilst the standalone system was said to be favoured by potential homebuyers and could be achieved at reduced capital cost.
9. For these reasons the applicant has ruled out a district heating system in favour of a standalone PV and condensing boiler system, whilst still meeting the policy requirement of 20% on - site renewables.

### **Planning Conditions**

10. Following further discussion with the applicant, it has been agreed that a number of the conditions listed at the head of the officers' main report can now be deleted, for the reasons indicated below:
  - 9 - Commercial centre to front primary street: covered by Design Code.
  - 11 - Use of commercial units: in the interests of flexibility no need to restrict use of commercial units.
  - 18 - Work to adult football pitch: covered by legal agreement.
  - 19 - Access agreement for additional allotment land: covered by legal agreement.
  - 24 - Cycle parking standards: covered by Travel Plan.
  - 25 - Cycle pedestrian routes: covered by Travel Plan.
  - 26 - Servicing and deliveries: covered by legal agreement.
  - 32 - Foul water drainage: condition listed twice in error.

### **Legal Agreement**

11. Similarly further adjustments are also suggested to the terms of the legal agreement as previously listed in the main officers' report:
  - Item 6 - Contribution to temporary primary school facilities: now to read £519,750.

- Item 13 - Transport improvements to A.40 and A.40 corridor: work to be undertaken by applicant to value of £1,867,758.
- Item 24 – Administrative costs: total figure not known at this stage.

### **Other Matters**

12. On other points, members are asked to note that at paragraph 15 of the main report, the adult football pitch would also be available at other times, and at paragraph 47 that a right turn out from the new development at the new A.40 junction would also be possible.

### **Conclusion**

13. Committee is recommended to support the planning application in accordance with the recommendations at the head of this report.

### **Human Rights Act 1998**

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

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

### **Section 17 of the Crime and Disorder Act 1998**

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

**Background Papers:** Application 13/01383/OUT

**Contact Officer:** Murray Hancock

**Extension:** 2153

**Date:** 16<sup>th</sup> September 2013.

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