

Agenda Item 3

West Area Planning Committee

12th November 2013

Application Number: 11/02881/FUL

Proposal: Extension to existing student accommodation at Castle Mill to provide additional 312 postgraduate units consisting of 208 student study rooms, 90 x 1 bed graduate flats and 14 x 2 bed graduate flats, plus ancillary facilities, 360 covered cycle spaces and 3 car parking spaces.

Site Address: Castle Mill, Roger Dudman Way.

Ward: Jericho and Osney

Applicant: The University of Oxford

Recommendation: Committee is asked to note the progress reported.

Purpose of the Report

1. The purpose of this report is to update the Committee since the report to its September meeting was withdrawn.
2. At the time Members were advised that the City Council had taken external legal advice in relation to the approval of compliance with conditions for the University development at Roger Dudman Way. In acting on that advice it was necessary to withdraw the report to the Committee and defer consideration of the conditions compliance. This would enable a further screening opinion to be undertaken in accordance with the applicable regulations.

Screening Opinion

3. The City Council has prepared the further screening opinion and a copy of this is attached to this report. It has also been available on the City Council's website since the beginning of the month.

Voluntary Environmental Statement

4. The University wrote to the City Council on 10th July explaining that while it does not accept that the development is an EIA Development requiring an Environmental Impact Assessment; nevertheless it is carrying out an assessment of the environmental impacts of the development on a voluntary basis.

5. The University has said that it intends to send the City Council its voluntary Environmental Statement in November or by December. The City Council will consult statutory bodies and the public on this EIA when it is received following the processes of the relevant directive and regulations. This will include a formal notice in the local newspaper and displaying a number of public notices around the site.
6. Members will be aware that the CPRE was refused permission to pursue an application for judicial review on 23 October 2013. This was on the basis that the procedures that the Council is undertaking are sufficient to comply with EU law even assuming that there was any defect in the screening process in respect of the original grant of permission and that EIA was required. The Judge expressly made no findings as to whether or not there was such a defect. Officers remain of the view that an ES is not required but in any event a voluntary retrospective ES is being provided

Next Report to Committee

7. In the light of these processes to give the public an opportunity to read and comment on the University's ES it is anticipated that it will not be possible to report to Committee before the end of this year. It will very much depend on the nature of the public comments on the ES and any subsequent action how soon on the New Year before the next report can be put before the Committee.
8. Just recently the Campaign Group has approached the City Council asking if there can be further dialogue between it, the University and the City Council over the proposed Landscape Strategy and other mitigation. Such dialogue might also have an impact of the timetable for the ES and its consultation, which even if it delays the timings indicated above, is nevertheless to be welcomed.
9. At that meeting the first section of the report will enable Members to confirm compliance or otherwise with the outstanding planning conditions. Once these decisions have been made the second section of the report will advise Members whether there are any outstanding breaches of planning control and whether it would or would not be expedient to consider enforcement proceedings against the University.
10. Members will recall that on this matter of enforcement they were advised by officers on 26th September that:

“The Council has written to the University advising that the occupation of the accommodation is at the University’s risk, as the City Council, as the local planning authority, has not discharged the outstanding planning conditions.

The City Council has received further expert legal opinion this week on this issue. The City Council is advised that it should not give consideration to enforcement action until it has received the University’s voluntary Environmental Statement. This will enable the City Council to consider whether to approve compliance with the outstanding planning conditions. To consider enforcement now would be prejudicial to a fair consideration of compliance with the conditions. The City Council understands that the University intends submitting its voluntary Environmental Statement in December.”

Appendices

Appendix 1 Screening Opinion Oct 13

Background Papers: none

Contact Officer: Michael Crofton Briggs

Extension: 2360

Date: 29th October 2013

Appendix 1: Further Screen Opinion

Castle Mill Student Accommodation, Roger Dudman Way, Oxford.

Screening Opinion under the Provisions of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011.

This statement constitutes a “Screening Opinion” under the provisions of Part 2 Regulations 5 and 9 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 as to whether details supplied in response to the requirements of condition 16 to planning permission 11/02881/FUL require an Environmental Statement to be submitted to the Oxford City Council as local planning authority.

The development to which the condition relates occupies a linear site aligned north - south and measuring some 1.2 hectares, being 320m in length and between 27m and 45m in width. The site constitutes brownfield land formally occupied by railway sidings and railway related activities. To the east are active railway lines and sidings north of the Oxford Railway Station; to the west are Cripsey Road Allotments; to the south an earlier phase of student accommodation by the University of Oxford known as Castle Mill; and to the north a public car park accessed off Walton Well Road. Beyond Walton Well Road is a large area of common land known as Port Meadow. The development itself consists of graduate student accommodation for the University of Oxford as an extension to its existing Castle Mill accommodation. Some 312 postgraduate units are permitted consisting of 208 student study rooms, 90 x 1 bed graduate flats and 14 x 2 bed graduate flats. The accommodation is laid out in a series of 8 accommodation blocks on 3, 4 and 5 floors. Three pairs of accommodation blocks are aligned east - west across the site linked by “gatehouse” features, with two of the blocks aligned north - south. 360 covered cycle stands and 3 car parking spaces serve the development, with a permissive day time public cycle and pedestrian route through the site linking Botley Road to the south with Walton Well Road to the north.

A screening opinion dated 8th November 2011 concluded that the proposal the subject of planning permission 11/02881/FUL was not likely to have significant effects on the environment and therefore that it did not require an Environmental Impact Assessment (“EIA”). Some summary comments accompanied that screening opinion and no request was ever made for further reasons.

Having examined the proposal the local planning authority is of the view that the development does not fall within any of the categories of development within Schedule 1 of the 2011 Regulations where an Environmental Statement would always be required. The development does however constitute Schedule 2 development as an “Urban Development Project” falling within the terms of paragraph 10(b) of the Schedule as the site area of the development is greater than 0.5 hectares. However no part of the development falls within a “sensitive area” as defined in Part 1 of the Regulations, ie it does not fall within a Site of Special

Scientific Interest (SSSI), a National Park, the Broads, World Heritage Site, Scheduled Ancient Monument, Area of Outstanding Natural Beauty or a European site within the meaning of Regulation 8 of the Conservation of Habitats and Species Regulations 2010.

Guidance on the need for an Environmental Statement to accompany an Urban Development Project is given at Appendix A to accompanying Circular 2/99: "Environmental Impact Assessment". At paragraph A.19 to the Circular it states that development proposed on sites which have not previously been intensively developed are more likely to require an Environmental Statement if the site area exceeds 5 hectares; the development would provide more than 10,000 sq m of new commercial floorspace; or it would have a "significantly urbanising effect" in a previously non urbanised area, (eg a new development of more than 1000 dwellings). In this case the permission is for less than 1000 dwellings (312 units); it is previously developed land; the site is less than 5 hectares in area; and falls within an existing urban environment.

By notice of planning permission dated 13th August 2012, condition 16 of planning permission no. 11/02881/FUL required submission of various details relating to ground contamination works:

(a) The soil and water environment maybe contaminated and prior to commencement of development, a desk-top study on the history of the site and a soil and water contamination survey and risk assessment shall be carried out in accordance with the guidelines set out in the Department of the Environment CLR report and in the CIRIA reports on remedial treatment for contaminated land volumes 1-12, and any subsequent updates of the reports. Details of the desktop study, soil and water contamination surveys and risk assessment shall be submitted to the Local Planning Authority for approval in writing prior to the commencement of the development.

(b) In the event of the findings of contamination to soil or water as a result of the surveys carried out under condition (a) above, a programme of remedial works shall be submitted to the Local Planning Authority for approval in writing prior to the commencement of the development.

(c) The approved remedial measures and monitoring and certification of the works shall be carried out by a company consultant or organisation quality-assured under ISO 9001 and the approved remedial works shall be completed prior to first occupation of the development, unless otherwise agreed in writing by the Local Planning Authority beforehand or unless carried out in accordance with a programme which has been agreed in advance in writing by the Local Planning Authority. No property shall be occupied until a certificate has been received by the Local Planning Authority verifying that remedial works on that part of the site have been completed. A full validation report and final completion certificate shall be provided by the company consultant or organisation who carried out the remedial works on completion of this scheme.

Reason: *In the interests of public and environment health, in accordance with policy NE13 of the Adopted Oxford Local Plan 2001 to 2016.*

In considering the requirements of the condition, a series of reports have been submitted to the local planning authority pre and post permission being granted, namely:

1. "Phase One Environmental Review" (Report number 611481 dated 26.07.2011) produced by Frankham Consultancy Group Ltd. Submitted November 2012
2. "Report on a Ground Investigation" (Report reference O1241 dated October 2011) produced by ESG for Frankham Consultancy Group *Castle Mill - Phase 2 Intrusive Ground Investigation Report*). Submitted November 2012
3. "Contaminated Land Generic Risk Assessment" (Report reference O1241/GRA dated November 2011) produced by ESG for Frankham Consultancy Group (submitted but only on 28 March 2013)
4. "Contamination Land Supplementary Generic Risk Assessment" (report no G3057 Rev 1 Final, dated May 2013) produced by ESG for Frankham Consultancy Group and received on 15 May 2013.
5. "Castle Mill, Oxford - Quantative Groundwater Risk Assessment" (letter reference G3057/Groundwater RA) produced by ESG for Frankham Consultancy dated 13 June 2013
6. "Castle Mill Phase 2, Oxford Verification Report" (Report reference R3089/VR) produced by ESG for Frankham Consultancy dated August and received on 13 August 2013.

In considering these technical reports the local planning authority has taken specialist advice from the Environment Agency and its own Environmental Development Service. Following submission of the August 2013 Verification Report the Environmental Development Service concluded that it was satisfied that the use of clean cover was suitable; there would be no unacceptable risk to buried services; contaminated materials had been appropriately removed from the site; and that no significant risk was posed to allotment wells or controlled waters from historic contamination, subject to an 18 month groundwater monitoring programme. That monitoring programme has now been secured by Unilateral Undertaking received from the University of Oxford. In relation to the same document the Environment Agency concluded: *"Given this commitment to additional monitoring with a back up contingency plan we do not have any outstanding issues with respect to condition 16"*, (of planning permission 11/02881/FUL).

It is acknowledged that the application site has possessed a degree of contamination as a consequence of its previous railway uses. However having examined the details submitted in compliance with condition 16 of the planning application and taken specialist advice from the relevant statutory body and its own Environmental Development Service, in exercise of the powers conferred on it by Part 2 Regulation 5 of the 2011 Regulations the local planning authority has concluded that the details received do not give rise to the likelihood of any significant environmental effects and thus that there is no need for an Environmental Statement.

Michael Crofton – Briggs
Head of City Development