

## MINUTES OF THE WEST AREA PLANNING COMMITTEE

Tuesday 9 February 2016

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**COUNCILLORS PRESENT:** Councillors Upton (Chair), Gotch (Vice-Chair), Benjamin, Coulter, Darke<sup>1</sup>, Gant, Henwood, Hollingsworth<sup>2</sup>, Price and Tanner.

**OFFICERS PRESENT:** Fiona Bartholomew (Principal Planner), Patsy Dell (Head of Planning & Regulatory Services), David Edwards (Executive Director City Regeneration and Housing), Mai Jarvis (Environmental Quality Team Manager), Michael Morgan (Lawyer), Edward Oteng (Principal Planner Team Leader), David Stevens (Environmental Health Officer), Jeremy Thomas (Head of Law and Governance) and Jennifer Thompson (Committee and Members Services Officer)

### 97. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Councillor Cook submitted apologies and Councillor Coulter substituted for him. Councillor Hollingsworth stepped down from the committee for the application at Minute 99 and Councillor Darke substituted for him for this item only as permitted in the Council's constitution.

### 98. DECLARATIONS OF INTEREST

Councillor Hollingsworth declared that as an allotment holder and committee member of Cripley Meadow Allotments Association, given the proximity of this development and the Association's comments, he would step down from the meeting for the Castle Mill application (Minute 99) to avoid any appearance of bias.

### 99. CASTLE MILL, ROGER DUDMAN WAY: 11/02881/FUL - 14/03013/FUL AND 14/03013/CONSLT

Councillor Hollingsworth, having declared he would withdraw to avoid the appearance of bias, left the table and withdrew to the public gallery for this item. Councillor Darke, as permitted in the Council's Constitution, substituted for him for this item.

The Committee considered a report referring to development approved under planning permission reference: 11/02881/FUL at Castle Mill, Roger Dudman Way, Oxford, specifically the University's Voluntary Environmental Statement (VES) reference 14/03013/FUL and 14/03013/CONSLT (for the ES Addendum

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<sup>1</sup> For Minute 99 only

<sup>2</sup> For all items except Minute 99

and additional substantive information) and supporting documentation published with the agenda.

The development was approved in 2012 as an extension to existing student accommodation at Castle Mill to provide additional 312 postgraduate flats, 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 parking spaces.

The Head of Planning and Regulatory, the committee's legal adviser, and the Executive Director introduced the report and outlined the matters for consideration. A representative from Environmental Services answered questions.

#### **Updates and clarifications during the introduction:**

- The council had received a unilateral undertaking setting out the timetable for implementing Option 1. This would be the subject of a separate application and conditions regarding completion and maintenance should be applied to this.
- Section 106 obligations and compliance with planning permission went with the land and created obligations on whoever owned the land.
- Should there be no permission granted after two submissions of elevational treatment and landscaping, then the issue of discontinuance could be revisited if necessary.
- Further advice was given in relation to section 12 of the NPPF in relation to considerations around the significance of heritage assets and councillors were also referred to policies HE3 and HE7 of the Local Plan 2001 – 2016 on the same matter.
- The implications and scope of discontinuance, including the substantial financial costs, were outlined.
- Automatic blinds were installed in the communal areas; offsite planting had been agreed; and occupancy was 98%.

#### **Speaking**

The Chair varied the rules to permit 15 minutes speaking time for each group.

Robert McCracken (Queen's Counsel for CPRE), Sushila Dhall, Toby Porter and Peter Oppenheimer (local residents) spoke objecting to the application.

Nick Brown (Chairman, OU Estates and Buildings Committee) and Nick Cooper (OUSU postgraduates vice-president) spoke in support of the application. During questions Nik Lyzba (planning agent) came to the table.

#### **Debate**

During questions to officers, speakers, and other relevant parties as invited to speak by the Chair, and during debate the Committee

### 1. **clarified and confirmed:**

- the Voluntary Environmental Statement was as satisfactory as it could be given its retrospective nature;
- there were no outstanding concerns about the conditions in paragraphs 4.6 and Appendix B raised by the speakers and the Council's environmental services' professional advice was that the site was adequately remediated and there was no residual risk from contamination;
- that the University had changed its consultation processes so that a minimum of two public consultations should be carried out;
- Queens' Counsel for the Council had been involved in the writing of the report and there was no separate written advice;
- the mechanism, scope, effect on both parties, and appeal rights of discontinuance.

2. **discussed** the option of requiring a green/living wall and the challenges of constructing this and concluded that this was not something that could be reasonably required or sought.

### 3. **decided:**

- a) to change the timeframe for delivery of proposed mitigation measures set out in paragraph 4.20 of the report to
  - commencement of the mitigation works within 6 months of the date of planning permission (not 18 months from grant)
  - if the first application is refused, the second is to be submitted within 12 months of that refusal (not 18 months)  
(so as not to unduly delay mitigation given that the work could reasonably commence shortly after permission was granted)
- b) that the works in the submitted scheme/application are to include roofing treatment (to reduce the reflectivity by changing the patina to reduce impact of reflections from the roof)
- c) to note that should the first round of public consultation show satisfaction with the proposed design then it may be possible to dispense with the second round in the interests of bringing the timetable forward.
- d) to ask the University to consider installing window treatments to study bedrooms to reduce or eliminate light pollution from internal lights.
- e) to require the University to submit the revised unilateral undertaking within 3 weeks of the date of this meeting.
- f) on voting, not to pursue discontinuance action and to agree recommendations as set out below, including the details above.

### **Decision**

On taking separate votes on each recommendation, the Committee **resolved**:

1. to **confirm** that the submitted Voluntary Environmental Statement meets the requirements of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 as far as possible given that the assessment is retrospective and should be taken into account and inform the Council's decisions as set out in paragraph 3.26.
2. to **agree to discharge and approve** the outstanding planning conditions as set out in paragraphs 4.6 and Appendix B.
3. to **determine that enforcement action should not be taken** (as set out in paragraphs 4.8 in the report '*Consistent with the individual officer assessment of the discharge of conditions with the benefit of the full environmental information, officers do not consider that there is any reasonable basis for taking enforcement action*').
4. having assessed the mitigation options put forward by the University, to note the unilateral legal agreement proposed as a commitment to **bring forward option 1 as set out in paragraph 4.33 of the report, but this to be amended by the Committee to include roofing treatment and reduced timescales as set out above.**
5. having considered whether it is appropriate to recommend discontinuance action for consideration by Council as set out in paragraphs 5.6, 5.48, 5.49 and 5.53 & 5.54, **to agree the recommendation in paragraph 5.54 not to pursue discontinuance action .**

#### **100. EAST WEST RAIL LINK S I1 NOISE MITIGATION -15/03503/CND**

Councillor Hollingsworth resumed his seat and Councillor Darke left the meeting.

The Committee considered an application setting out details submitted in compliance with condition 19(2) (Noise - Section I1) of TWA ref: TWA/10/APP/01 (The Chiltern Railways (Bicester to Oxford Improvements) Order - deemed planning permission granted under section 90(2A) of the Town and Country Planning Act 1990) for Section I1 of the Chiltern Railway from Oxford to Bicester.

The Planning Officer reported that since the publication of the agenda a representation had been received from Nicola Blackwood MP reiterating local concerns; and a representation concerning the methodology and data used in the Schemes of Assessment, and the lack of mitigation proposed in respect of a crossover some 250 metres north of Cox's Ground known as crossover 9180 which was considered in advance of the meeting.

She reminded the Committee that as with similar applications the Schemes of Assessment generate theoretical predictions by putting current baseline measurements, together with information on the proposed number and pattern of train movements ('the reasonable planning scenario') into an agreed prediction methodology but cannot measure actual operational noise and vibration because the trains are not yet running. They are used to enable any required mitigation to

be determined and built into the scheme before the new rail services start. The reasonable planning scenario, and the acceptable noise and vibration thresholds, and monitoring requirements were decided by the Secretary of State in granting the original planning permission, and are set out in the approved Noise and Vibration Mitigation Policy (included as Appendix 5 to both reports). The prediction methodology and the approach to mitigation employed in the Schemes of Assessment for route section I1 are the same as those employed for route section H. Both Schemes of Assessment for route section I1 have been judged to be robust by the relevant Independent Experts. She outlined the details of the proposed 2.5m high barriers and showed the approximate line of these and confirmed the exact locations would be submitted and agreed.

Adrian Olsen, a local resident, spoke of his concerns over the application.

Andy Milne, representing Network Rail, spoke in support of the application.

The Committee asked questions and debated this and the following application together. They noted Network Rail's likely challenges to the conditions on permissions on Section H.

The Committee noted that there was no requirement to provide noise barriers at the school playground as it counted as open space, barriers should be provided along that stretch and an informative added to request this.

**The Committee resolved that:**

An informative be added that barriers should be provided along the stretch adjacent to the school playground to improve the amenity.

CONDITION 19 BE PARTIALLY DISCHARGED IN RELATION TO THE NOISE SCHEME OF ASSESSMENT FOR SECTION I1.

subject to the following conditions, which have been imposed for the reasons stated:-

1 The development is to be carried out strictly in accordance with the documents titled "Noise Scheme of Assessment for Route Section I/1, Main Report" and "Annexes A-E and G" (ref 0221083/11.I1-07) dated 2nd December 2015; "East-West Rail: Baseline Acoustic Survey, Network Rail" (ref 5114534 2015/May/06) dated 20th July 2015; the further details contained in the report (and Appendix 1 to the report) of the Independent Expert dated 1st December 2015; and Figures 1.1 (version A01, dated 04/08/2015) 5.1a (version A02 dated 06/08/2015) 5.1b (version A02 dated 28/09/2015) and 5.2 (version A01, dated 06/08/2015). In the event of conflict between these drawings and other documents the four August/September 2015 drawings shall prevail; and as between the other documents, the later produced document shall prevail.

Reason: the Noise Scheme of Assessment has been prepared upon the basis of these details and deviation from them would not necessarily result in the standards of noise mitigation required by the Noise and Vibration Mitigation Policy (January 2011) being achieved.

2 Within three months of this partial approval under condition 19 of the deemed planning permission, proposals shall be submitted for the written approval of the local planning authority showing how at-source noise attenuation by rail dampening to at least the standard achievable by the use of Tata Silentrack can be incorporated into the scheme. The development to which this approval relates shall not be brought into operation EITHER without that written approval having been obtained and other than in accordance with such approved details OR without the Council having given written confirmation that it is satisfied that the provision of such rail dampening is not reasonably practicable.

Reason: The local planning authority is not satisfied that rail dampening as an at source mitigation measure has been shown to not be reasonably practicable in the absence of any attempt on the part of the applicant to secure approval for the use of such a measure.

3 Passenger train movements on Section I1 between 0700 hours and 2300 hours shall not be in excess of 8 movements per hour. Freight train movements between 2300 hours 0700 hours on the following day shall not exceed 8.

Reason - to ensure compliance with condition 19 of the planning permission deemed to have been granted (ref TWA/10/APP/01)

4 Section I1 shall not be made available for use by trains until provision for continuous monitoring of noise has been effected for noise sensitive properties throughout section I1 in accordance with a scheme previously approved in writing by the Council. The results of such monitoring shall be provided to the Council on each of six months, eighteen months, thirty months, forty-two months, fifty-four months, sixty-six months and seventy-eight months from the date on which Section I1 is first made available for use for trains. In the event that the monitoring results provided to the Council exceed the noise thresholds in the Noise and Vibration Mitigation Policy then additional mitigation measures shall be effected within six months in order to ensure that those levels are not again exceeded.

Reason: to ensure compliance with condition 19 of the planning permission deemed to have been granted (ref TWA/10/APP/01)

#### **101. EAST WEST RAIL LINK SECTION I1 VIBRATION MITIGATION: 15/03587/CND**

The Committee considered an application setting out details submitted in compliance with condition 19(2) (Vibration - Section I1) of TWA ref: TWA/10/APP/01 (The Chiltern Railways (Bicester to Oxford Improvements) Order - deemed planning permission granted under section 90(2A) of the Town and Country Planning Act 1990) for Section I1 of the Chiltern Railway from Oxford to Bicester.

The presentation, speakers, and discussion for Minute 100 had also covered the matters in this application.

**The Committee resolved that:**

CONDITION 19 BE PARTIALLY DISCHARGED IN RELATION TO THE VIBRATION SCHEME OF ASSESSMENT FOR SECTION I1.

subject to the following conditions, which have been imposed for the reasons stated:-

1 The development is to be carried out strictly in accordance with the documents titled:

a. Plain Line Vibration Assessment and Mitigation Report (ref 5114534-ATK-VIB-RPT-80001 rev P07);

b. Vibration from Switches & Crossings - Assessment and Mitigation Report (ref 5114534-ATK-VIB-RPT- 80003 rev A01);

c. Cover letter dated 28th November 2013 that sets out the monitoring scheme;

d. Report by Chris Jones (Independent Expert, Vibration) on Schemes of Assessment for Plain Line and Switches and Crossings, Report-on-the-vibration-schemes-of-assessment-CJCJ-15-05-2014-final.doc; and,

e. Atkins Technical Note: Predicted Vibration Levels at Section I, Estimated Vibration Levels at Section I Rev 05 (issue) (3).docx.

Reason: the vibration scheme of assessment has been prepared upon the basis of these details and the potential for deviation from them would not result in the achievement of the standards of vibration mitigation required by the Noise and Vibration Mitigation Policy (January 2011).

2 Passenger train movements on Section I1 between 0700 hours and 2300 hours shall not be in excess of 8 movements per hour. Freight train movements between 2300 hours 0700 hours on the following day shall not exceed 8.

Reason - to ensure compliance with condition 19 of the planning permission deemed to have been granted (ref TWA/10/APP/01)

3 Section I1 shall not be made available for use by trains until provision for continuous monitoring of vibration has been effected for vibration sensitive properties throughout section I1 in accordance with a scheme previously approved in writing by the Council. The results of such monitoring shall be provided to the Council on each of six months, eighteen months, thirty months, forty-two months, fifty-four months, sixty-six months and seventy-eight months from the date on which Section I1 is first made available for use for trains. In the event that the monitoring results provided to the Council exceed the vibration thresholds in the Noise and Vibration Mitigation Policy then additional mitigation measures shall be effected within six months in order to ensure that those levels are not again exceeded.

Reason: to ensure compliance with condition 19 of the planning permission deemed to have been granted (ref TWA/10/APP/01)

**102. ST ALDATE'S CHAMBERS, 109 - 113 ST ALDATE'S: 15/03660/CT3**

The Committee considered an application for alterations to window at ground floor level on north elevation to incorporate door and installation of staircase from new fire exit door down to ground floor; removal of existing spiral staircase and metal mesh enclosure from south elevation and installation of new dog-legged staircase from first floor to ground floor with metal mesh enclosure at ground floor level; increase width of fire exit door openings onto the existing staircase at first, second and third floor levels; re-configure door openings to rear of ground floor offices, infill one door opening, increase width of remaining door opening and fit new fire exit at St Aldate's Chambers, 109 - 113 St Aldate's, Oxford.

The Committee resolved to approve application 15/03660/CT3 subject to the following conditions:

1. Development begun within time limit.
2. Develop in accordance with approved plans.
3. Materials.

**103. 33 ST EBBE'S STREET: 15/03077/FUL**

The Committee considered an application for change of use from Employment Agency (Use Class A2) to Betting Shop (Sui Generis) at 33 St Ebbe's Street Oxford OX1 1PU.

The Committee resolved to refuse planning permission for application 15/03077/FUL for the following reasons:

The proposed change of use would result in a loss of a Class A Use that would reduce the proportion of Class A Uses within the secondary frontage and, as such, would upset the mix of uses to the detriment of the vitality and viability of this shopping frontage and set an undesirable precedent for similar proposals. The proposal would therefore be contrary to policy RC5 of the Oxford Local Plan 2001-2016 and CS31 of the Oxford Core Strategy 2026.

**104. 8 RICHMOND ROAD: 15/03306/FUL**

The Committee considered an application for the erection of a part single, part 2 storey rear extension from lower ground floor, insertion of 2 windows to side elevation, and alterations to rear landscaping at 8 Richmond Road Oxford OX1 2JJ

The Committee resolved to approve application 15/03306/FUL subject to the following conditions:

1. Development begun within time limit.
2. Develop in accordance with approved plans.
3. Materials – matching.



4. Amenity – obscure glazing.

#### **105. 15 ROSAMUND ROAD, WOLVERCOTE: 15/03027/VAR**

The Committee considered a retrospective application for the variation of conditions 2 (approved plans) and 3 (materials) of planning permission 14/03042/FUL to allow an increase in overall height for rainwater runoff and change in materials of flat roof at 15 Rosamund Road, Oxford.

Oliver Crofts and Victoria Crofts (local residents) spoke against the application.

Simon Sharp (the agent) and Christian Lang (the applicant) spoke in support of the application.

Notwithstanding the officer's recommendation of approval and the ward member's view that the amended plans were now acceptable to him, the Committee were of the view that the increased height of the wall built, even if adequately painted, still resulted in a height, bulk, and design that was overbearing and unneighbourly with respect to the neighbouring property. This was contrary to policies CP1 and CP8 of the local plan. The Committee in coming to this view were mindful of the extant permission. They were of the view that this application should be refused on those grounds.

The Committee resolved to **refuse** planning permission for application for the following reasons, to be expanded on in the decision notice:

the development as constructed and as set out in this application results in a built form which by reason of its height, bulk, and design is overbearing and unneighbourly.

#### **106. PLANNING APPEALS**

The Committee noted the report on planning appeals received and determined during December 2015.

#### **107. MINUTES**

The Committee resolved to approve the minutes of the meeting held on 5 January 2016 as a true and accurate record.

#### **108. FORTHCOMING APPLICATIONS**

The Committee noted the list of forthcoming applications.

## **109. DATES OF FUTURE MEETINGS**

The Committee noted the date of the next meeting.

**The meeting started at 6.30 pm and ended at 9.20 pm**