

**West Area Planning Committee**

11<sup>th</sup> October 2016

**Application Number:** 1. 16/01267/FUL

2. 16/01480/FUL

**Decision Due by:** 20th July 2016

**Proposal:** 1. Change of use from council depot to artisan distillery (revised proposal omitting café and visitor centre).

2. Erection of single storey barn to provide storage space. (Amended plans).

**Site Address:** Oxford City Council Depot. **Appendix 1.**

**Ward:** St Clement's Ward

**Agent:** Mr Daniel Wadsworth

**Applicant:** Mr Tom Nicolson

---

## Recommendation

### (1) 16/01267/FUL

The West Area Planning Committee are recommended to grant planning permission for the following reasons

- 1 The proposed change of use is considered to be an acceptable departure from policy SP52 of the Sites and Housing Plan; does not involve and building works; would not cause unacceptable levels of harm to the amenities of the neighbouring properties; and would preserve the character and appearance of the Conservation Area. Impact on the highway network and bats has also been satisfactorily addressed. The proposal therefore accords with policies CP1, CP6, CP8, CP10, and HE7 of the Oxford Local Plan and CS12 and CS18 of the Core Strategy.
- 2 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.
- 3 Officers have considered carefully all objections to these proposals. Officers have come to the view, for the detailed reasons set out in the officers report, that the objections do not amount, individually or cumulatively, to a reason for refusal and that all the issues that have been raised have been adequately addressed and the relevant bodies consulted.

Conditions:

- 1 Development begun within time limit
- 2 Develop in accordance with approved plans
- 3 Bats
- 4 Swept Path Analysis
- 5 Delivery and Service Management Plan
- 6 Hours of use

**(2) 16/01480/FUL:**

The West Area Planning Committee are recommended to grant planning permission for the following reasons

- 1 The proposed development is considered justified in design terms and the impact on the character and appearance of the Conservation Area and the setting of adjoining listed buildings for a temporary period and would not cause unacceptable levels of harm to the amenities of the neighbouring properties. Impact on trees has also been addressed. The proposal therefore accords with policies CP1, CP6, CP8, CP10, CP25, HE3, HE7, NE15 and NE16 of the Oxford Local Plan and CS18 of the Core Strategy.
- 2 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.
- 3 Officers have considered carefully all objections to these proposals. Officers have come to the view, for the detailed reasons set out in the officers report, that the objections do not amount, individually or cumulatively, to a reason for refusal and that all the issues that have been raised have been adequately addressed and the relevant bodies consulted.

Conditions:

- 1 Temporary Permission
- 2 Development begun within time limit
- 3 Develop in accordance with approved plans
- 4 Samples in Conservation Area
- 5 Tree Protection Plan

**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

**CP10** - Siting Development to Meet Functional Needs

**CP25** - Temporary Buildings

**HE3** - Listed Buildings and Their Setting

**NE15** - Loss of Trees and Hedges

**NE16** - Protected Trees  
**NE20** - Wildlife Corridors  
**NE23** - Habitat Creation in New Development  
**SR5** - Protection of Public Open Space  
**TR14** - Servicing Arrangements

**Core Strategy**

**CS12\_** - Biodiversity  
**CS18\_** - Urban design, town character, historic environment

**Sites and Housing Plan**

**SP52\_** - South Parks Depot, Cheney Lane  
**MP1** - Model Policy

**Other Material Considerations:**

- National Planning Policy Framework
- This application is in or affecting the Headington Hill Conservation Area. The development is affecting a Grade II Listed Building.
- Planning Practice Guidance

**Relevant Site History:**

None.

**Representations Received:**

1. 16/01267/FUL

4 no. objections whose comments relate to encouraging young people to drink due to the proximity to Cheney School, impact on the setting of the listed building, allocation of housing and covenants restricting production and consumption of alcohol.

3 no. supporting comments which relate to bringing the buildings back into use, preserving the setting of South Park and the Grade II Threshing barn, an innovative development supporting local charity and provision of toilet facilities.

1no. general comment which supports bringing the site back into use, but concerned the development would introduce drinking in the park and lack of information regarding opening time of toilets.

2. 16/01480/FUL

2no. objection comments received which state the proposed use is not compatible being so close to the Warneford and Cheney School, the level of development, and the nature of the activity intended are both inappropriate, there is little public benefit.

**Statutory and Non-Statutory Consultees:**

1. 16/01267/FUL

Friends of South Park – welcome the site being brought back into use but have

concerns over the scale of the visitor centre and café, loss of a hedge and the use of artificial lighting on the site.

Highways – no objection subject to conditions.

Natural England – the proposal is unlikely to affect any statutorily protected sites or landscapes. Refer to standing advice.

Oxford Civic Society - objection due to legal covenants affecting the site preventing the production or sale of alcohol

## 2. 16/0480/FUL

Oxford Civic Society – the proposed barn is associated with the proposed use as a distillery and should not be supported due to legal covenants.

### **Officers Assessment:**

#### Site and proposal:

1. The South Park Depot is a site owned by Oxford City Council and sits at the top of South Park between Warneford Lane and Cheney Lane to the east of Oxford City Centre. The site falls within the Headington Hill Conservation Area, contains an 18<sup>th</sup> Century Grade II Listed Threshing Barn with curtilage listed buildings and is within a wildlife corridor. The site is now currently vacant but was most recently used by the Parks Department of Oxford City Council as a depot and was originally a farm.
2. This report covers two applications. The first relates to the change of use of the site to a distillery (16/01267/FUL) and the second is for the erection of a storage barn within the site (16/0480/FUL).
3. All building works have been removed from the change of use proposal and therefore the applications now relate solely to the change of use of the site and the erection of a storage barn. A future application will need to come forward for a café and visitor centre and public access toilets. The provision of a café facility is a condition to gaining a long term lease on the site. It is understood that The Oxford Artisan Distillery (TOAD) is being offered a temporary lease of a year in order to enable them to start production before the facilities building is brought forward. This allows time for the applicant to have further discussions and design development for future buildings on plot. This proposal would also need to contain a landscaping plan to enhance the site, ecological enhancements, and drainage scheme.
4. It is the intention of the applicant to start distilling on site within the barn proposed as part of the second application until Listed Building Consent has been obtained for the main threshing barn. Once this has been secured the distilling operations will move to the main threshing barn and the new barn will be used for the storage of barrels.

5. Officers consider the principle determining issues in these cases to be as follows:

Departure from the Development Plan:

6. The South Park Depot Site is owned by Oxford City Council although Oxford Preservation Trust (OPT) hold restrictive covenants on the site preventing residential development and the production of alcohol. The South Park depot site is allocated in the Sites & Housing Plan for residential use (Policy SP52). The policy explicitly states 'planning permission will not be granted for any other uses'. This policy is the Development Plan's dominant policy in relation to the site and therefore the change the use of the depot to a distillery would represent a departure from the development plan.
7. At the time of the Examination of the Sites and Housing Plan, the Oxford Preservation Trust (OPT) objected to the allocation arguing that it was not deliverable. This was on the basis that it had the benefit of a restrictive covenant that could prevent residential development on the site. The Council contested this drawing attention to parts of the 1972 Local Government Act and the 1990 Town and Country Planning Act which provided a statutory mechanism for the development of land notwithstanding the presence of covenants that could otherwise prevent development. [N.B. The relevant part of the 1990 Act (s237) was repealed on 13 July 2016. The provision was in substance replaced by s203 of the Housing and Planning Act 2016. For current purposes there is no material difference.]
8. Notwithstanding the objection to the allocation from OPT, the Inspector examining the Sites and Housing Plan allocated the site for residential development.
9. The covenant has been discussed again more recently with the Oxford Preservation Trust during the preparation of the planning application, and their position remains that they do not wish to see residential development on the site. Their letter dated 1<sup>st</sup> June, 2016 was submitted during the course of the application confirming that they would not vary the covenant to allow housing on the site. Oxford Preservation Trust has clearly set out that they would oppose the removal of the restrictive covenant. The landowner (Oxford City Council) does not consider it to be available as a housing site at the present time.
10. Notwithstanding this the proposed change of use to a distillery would be contrary to the development plan. However that does not mean that the application must be refused. The requirement is to determine the application in accordance with the Development Plan unless material considerations indicate otherwise.
11. With this diminished prospect that the site will be available or deliverable for residential development in the foreseeable future, then there is a risk of a site containing a Grade II Listed Threshing Barn and curtilage listed buildings sitting unused and falling into disrepair. The proposal for a change of use to a

distillery is at present the only use that the landowner considers to be deliverable and achievable.

12. The proposal to use the listed threshing barn as a distillery and the existing curtilage buildings as ancillary to the distillery, are considered to be uses compatible with the buildings' architectural and historic significance. The proposed distillery use would maintain the barn as a working building, and relate to its former, original, agricultural use as a threshing barn. It is considered that the barn could be used for the operation of a distillery without requiring significant alterations in the form of new external openings, internal partitioning and changes to wall and floor finishes, for example (all of which would be required if the barn was to be used to provide housing, in accordance with the current local plan allocation). Therefore, to maintain the barn as a working building would result in substantially less alteration and harm to the barn and the site, than using the site for housing, with the associated cumulative impact of domestic paraphernalia, would have.
13. The proposed use would also provide the opportunity to remove some of the later inappropriate works carried out to the buildings as well as resulting in necessary repair and maintenance works being carried out, thus improving and enhancing the character and appearance of the heritage assets. The new use would also provide the opportunity to enhance the setting of the buildings and the contribution the site makes to the conservation area, through improving the existing surface and boundary treatments and implementing a successful landscaping scheme.
14. Therefore whilst the requirements of Sites and Housing Plan Policy SP52 are acknowledged, officers consider that weighing the requirements of this policy against the benefits that would arise to the architectural and historic significance of the site and listed buildings within it, along with the concerns over the deliverability of the site would in this instance warrant a departure from the requirements of Sites and Housing Plan Policy SP52.

Amenity:

15. The South Parks Depot site contains a residential dwelling which falls outside the red line boundary of the application site. There is currently a poor level of screening between the application site and the dwelling. Since the dwelling currently faces onto a working depot, it is considered that the level of disturbance and lack of privacy that has been experienced in the past will not considerably change. Before any public access is brought forward on the site in the form of the visitor centre and café, this situation would need to be readdressed.
16. It is proposed that the site will be used Monday – Friday between the hours of 8am to 6pm for distilling. These hours will be restricted by condition to protect the amenity of neighbouring occupier.
17. The applicants anticipate that the buildings will be vented naturally using the existing openings and mechanical ventilation has not been sought as part of

these applications. In the event that new ventilation and extraction equipment is required this would need to be subject to a further planning application

#### Highways:

18. The road network around the site already suffers from traffic problems during peak network hours. Furthermore, the site's proximity to Cheney School means that there is a large number of vehicle, pedestrian and cycle movements around the site during peak school hours. In order to mitigate against the increase in vehicle movements associated with the development, the Local Highways Authority has recommended that a Traffic Management Plan for the operation of the distillery be agreed by condition. It would be important to ensure that this plan outlines that no deliveries are to be made to the site during peak hours (including school pick up and drop off times).
19. The existing vehicular access from Cheney Lane will be utilised for the proposed development and no alterations to this access point are proposed. This access point is considered suitable in terms of safety and visibility. It is noted that, according to the indicative layout plans submitted that the refuse storage area is to be located towards the south of the site, away from the access. If this is to be the case, in order to comply with the maximum drag distances set out in the Manual for Streets refuse collection vehicles would be required to enter the site. Accordingly, a swept path analysis of a refuse collection vehicle demonstrating that such a vehicle can safely and easily enter, turn and exit the site in a forward gear would be required. Similarly a swept path analysis demonstrating that a fire tender can make these same manoeuvres is required in any case.

#### Biodiversity:

20. A survey of the site and buildings has identified some use of the Threshing Barn by bats. Emergence surveys have been carried out and a bat mitigation strategy has been prepared. The mitigation strategy provides proposals to ensure no overall negative impact on bats from the development. A condition is therefore recommended that the change of use is carried out in accordance with the *Assessment and recommendations (bats)* section 5.3 (New Roosting Provisions, Working Method Statement and Ongoing Habitat Management details) of the *Ecological Assessment* by GS Ecology (August 2016). The condition will be considered discharged following submission of details from a suitably qualified ecologist to indicate that the work has been carried out in accordance with the above; including evidence of the installation of mitigation/enhancement features as proposed in this report.

#### Heritage Implications of the New Barn:

21. The survival of this historic farm group with relatively little alteration, in an urban location so close to the city centre of Oxford is particularly rare and enhances its local heritage significance and importance. This is a result of its siting in South Park and use as a storage depot. South Park is one of the

viewing places for the Oxford View Cones, which provides footpaths to a series of viewing places along the west facing slopes of the hill.

22. The principle of erecting a new storage barn within the courtyard area of the former agricultural site to serve the operation of the distillery is considered acceptable. The proposed materials (shiplap wooden boarding and profiled roof sheeting) are considered suitable, reflecting the agricultural character of the site. There are concerns, however, regarding the proposed siting, massing and form of the building and the harmful impact that it would have on the setting of the listed building and the character and appearance of the former farm courtyard. By reason of its size and siting, the barn would cover a substantial amount of the courtyard area, detracting from its character and the setting of the listed buildings as well potentially preventing a successful visitor experience for the new distillery use.
23. To have an acceptable impact on the setting of the buildings and character of the courtyard, an additional storage barn should be positioned further towards the eastern boundary of the site, and be of a more linear plan form (narrower width and increased length) to reflect the traditional form of, and sit comfortably within, the existing agricultural building group.
24. The need for the storage barn; to enable the site to become operational in the short term whilst a masterplan and the necessary revenue is compiled is acknowledged and considered sufficient justification for the temporary siting of the proposed barn on the site subject to conditions requiring the approval of materials and further external details.

Arboriculture:

25. This proposed barn requires the removal of 3 low quality and value trees; a horse chestnut, an ash and a field maple, all young trees unsuited to their location in close proximity to a stone wall. Their removal will not be significantly detrimental to public amenity; refer to OLP 2001-16 policies CP1, CP11 and NE15. The proposal is therefore considered acceptable subject to a tree protection condition which requires the Tree Protection Plan that is part of the submitted Arboricultural Impact Assessment is implemented.

Other:

26. The restrictive covenants on the site preventing the production and consumption of alcohol are not material considerations in determining the planning application but would need to be resolved separately with OPT.
27. The proposal falls within the protected open space of South Park, however the site has always been an enclosed area and the proposal does not result in the loss of an open space available to the public.

**Conclusion:**

28. The proposal is considered to be acceptable in terms of the relevant

policies of the Oxford Core Strategy 2026 and the Oxford Local Plan 2001-2016 and therefore officer's recommendation to the committee is to approve the development subject to the conditions listed above.

#### Human Rights Act 1998

Officers have considered the Human Rights Act 1998 in reaching a recommendation to grant planning permission, subject to conditions. 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 approval, officers consider that the proposal will not undermine crime prevention or the promotion of community safety.

#### **Background Papers:**

16/01267/FUL

**Contact Officer:** Sarah Orchard

**Date:** 28th September 2016

This page is intentionally left blank