

**West Area Planning Committee**

8<sup>th</sup> November 2016

**Application Number:** 16/02139/RES

**Decision Due by:** 11th November 2016

**Proposal:** The outline planning application (13/02557/OUT) was an Environmental Impact Assessment application and an Environmental Statement was submitted. Approval of all reserved matters was granted (14/02402/RES) under condition 5 of the outline planning permission. This application seeks approval of amended reserved matters for the appearance, landscaping, layout and scale of part of the rooftop garden space of Building 3.

**Site Address:** Westgate Centre And Adjacent Land Encompassing The Existing Westgate Centre And Land Bounded By Thames St, Castle Mill Stream, Abbey Place, Norfolk St, Castle St, Bonn Square, St Ebbes St, Turn Again Lane And Old Greyfriars St (**site plan: appendix 1**)

**Ward:** Carfax Ward

**Agent:** Mr Jon Bowen

**Applicant:** Westgate Oxford Alliance

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## **Recommendation:**

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

## **Reasons for Approval**

- 1 The Kitchen Quad and Pavilion which would make best use of this rooftop space and provide a pleasing environment that sits comfortably with the other rooftop district areas developed through the masterplan and is of a size, scale, and design that creates and appropriate visual relationship with the character and appearance of the rest of the Westgate Oxford development in accordance with the aims of the above-mentioned policies. The type of activities associated with the space are consistent in terms of potential noise levels assessed as part of the outline and reserved matters application in terms of impact upon the adjoining residential properties and the proposed lighting of the space would also not give rise to any adverse light spillage. The proposal would therefore accord with the aims and objectives of the relevant policies of the Oxford Core Strategy, Oxford Local Plan and West

End Area Action Plan.

- 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.

**Conditions**

- 1 Development begun within time limit
- 2 Develop in accordance with approved plans
- 3 Materials as specified
- 4 No amplified music within Kitchen Quad and Pavilion

**Principal Planning Policies:**

Oxford Local Plan 2001-2016

- CP1** - Development Proposals
- CP6** - Efficient Use of Land & Density
- CP9** - Creating Successful New Places
- CP10** - Siting Development to Meet Functional Needs
- CP19** - Nuisance
- CP20** – Lighting
- CP21** - Noise
- HE7** - Conservation Areas

Core Strategy

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

West End Area Action Plan

- WE10** - Historic Environment
- WE12** - Design & construction
- WE1** - Public realm

Other Planning Documents

National Planning Policy Framework

**Public Consultation**

The consultation period for the application has not expired at the time of writing this report. Any further comments received up to the date of the committee will be reported verbally at the meeting.

Statutory Consultees

- Historic England: No comments to make. The application should be determined in accordance with national and local policy guidance and on the basis of the specialist conservation advice.

- Oxford Preservation Trust: Oxford Preservation Trust is very aware of the considerable time taken to understand and mitigate against the impact of the new Westgate development on the views from the western\_hills at the time of the outline application and permission. We watch with interest as the development goes up and remain hopeful that the care taken will pay dividends and that the impact of the development will not overly damage the views of the spires from the various public viewing points, as shown in the photomontages at the time.

When the outline permission 13/02557/OUT was granted there were a number of reserved\_matters. The one of particular interest here relates to the treatment of the rooftop areas. We are keen that what is able to happen at roof level is done with the same care and attention as at the outset and that there is no inadvertent harmful impact within the views.

We refer to Condition 14 which required the applicants to provide a "Roof Level Outdoor Furniture, Plant and Awnings Guide". This Guide was submitted to Oxford City Council and approved on 8\_August 2016. We understand that the current application (16/02139/RES) deals with the Kitchen Quad sitting alongside this earlier guide, which specifically excluded this area. Oxford Preservation Trust is concerned to ensure that the treatment here and elsewhere on the roofs do not adversely impact on the views. In particular we draw attention to the proposed canopy, some 4.15m in height, which surely has the effect of adding an additional storey to Building 3 described as a "theatrical platform" with accompanying lighting. Can we ask that the impact of this on views is fully understood before the condition is approved

- Oxfordshire County Council: No comment to make on the application
- Natural England: No comment to make on the application
- Environment Agency: No comment to make on the application

#### Third Parties

Letters received from the following addresses

- 11 Dale Close; 10 Falcon Close; 9 Sedge Way, Carterton

#### Individual Comments:

The main points raised were:

- The idea of using the roof space in principle is a great one
- This is a wonderful idea IF the space and the views are available to all
- The mention of restaurants at this level raised the concern that access might be restricted to patrons of the restaurants
- There must be a lift to this level so that nobody is excluded by limited mobility
- The opportunity should be taken to 'green' as much of the roof as possible and attract in particular pollinators such as bees and butterflies
- The submission shows that alongside the bar there could be events attracting 200 seated or 400 standing. This could give rise to adverse noise pollution which will have an adverse impact on neighbours
- How will the various activities be controlled – and importantly impact from

amplified music and flashing lights.

- There is a large community immediately alongside the development in Greyfriars Street and south of Thames Street and the potential disruption to these residents needs to be considered.

#### St Ebbes New Development Residents' Association

- Concerned that the proposal could cause undue disturbance to surrounding and nearby households. What controls and restrictions are placed on volume, light, and vibration levels
- The idea of a performance space is a good one but not if the impact of the selected performances is negative in relation to those living in the surrounding area
- There are already agreed restrictions regarding timing, notification and sound levels in relation to the occasional use of Oxpens Meadow (Field in Trust between mill Stream and the Ice Rink) and perhaps a similar approach is warranted in this case.

#### **Officers Assessment:**

#### **Background to Proposals**

1. The site relates to the Westgate Oxford development which measures approximately 5.9ha, and extends from Bonn Square in the north to Thames Street in the south and from Castle Mill Stream in the west to Old Greyfriars Street and Pennyfarthing Place in the east (**appendix 1**).
2. In March 2014 outline planning permission with all matters reserved was granted by the West Area Planning Committee for a retail-led mixed use development of the former Westgate Shopping Centre, Multi-Storey and Surface Level Car Park and Abbey Place Car Park under reference 13/02557/OUT. The reserved matters for the layout, scale, appearance, and landscaping of the development was subsequently approved under reference number 14/02402/RES by the West Area Planning Committee meeting on the 25<sup>th</sup> November 2014. The outline permission and reserved matters are currently being implemented on site.
3. The rooftop level of the Westgate provides access to the cinema, rooftop restaurants and their external dining areas, and flexible events space. The reserved matters application (14/02402/RES) approved the initial design of garden spaces throughout the public realm at rooftop level including the space on the southern edge of the Building 3 rooftop. The Landscape Masterplan set out the concept for three distinct but connected areas - The Kitchen Garden; Kitchen Quad and Pavilion; and Garden Court and Garden Terraces – in these spaces. The specification and materials for these spaces have already been approved as part of condition 5 (Details of Public Realm) of the reserved matters application. This included the specification for the Kitchen Quad area along the southern edge of Building 3 rooftop.
4. This application is an additional reserved matters application which is seeking permission for the landscaping, layout, and scale of the Kitchen Quad and Pavilion area of the rooftop.

5. The scheme includes the provision of a pavilion structure which would enclose the western area of the artificial grass area. The pavilion would be formed from a steel frame with four supporting posts with an integral retractable fabric roof at a height of 4.15m. The pavilion will also have retractable fabric side panels, lighting, and heaters. There would also be a large moveable table to be used as a bar during events and a table for use by the public at other times. At the eastern end of the artificial grassed area there would be a number of modular blocks which can be arranged in different configurations for seating as well as a stage to support events in the quad.
6. In terms of events it is anticipated that these would include yoga classes; temporary art installations; book signings; food and craft fairs; summer garden lunches; seasonal pop up bars; and small acoustic music performances.
7. The principle determining issues in this case would therefore relate solely to the impacts of the proposed canopy as follows
  - Site Layout and Built Form
  - Environmental Impacts – noise and lighting disturbance
  - Conformity to the Environmental Statement and its addendum

### **Site Layout and Built Forms.**

8. Policy CS18 of the Oxford Core Strategy 2026 requires development to demonstrate high-quality urban design that responds appropriately to the site and surroundings; creates a strong sense of place; attractive public realm; and high quality architecture.
9. The Oxford Local Plan 2001-2016 requires development to enhance the quality of the environment, with Policy CP1 central to this purpose. Policy CP8 states that the siting, massing, and design of new development should create an appropriate visual relationship with the built form of the surrounding area. While Policy HE7 requires proposals to preserve and enhance the special character and appearance of the conservation area.
10. The Design and Access Statement states that the Kitchen Quad has been designed for maximum flexibility in order to create a garden area framed by attractive planters and incorporating places to sit around a central lawn in a similar fashion to an Oxford college quad. The central space is designed to be adaptable and capable of hosting events. The design of the pavilion structure was influenced by the arch which can be found throughout Oxford's college architecture and helps to frame views of the lawn. The pavilion would be a lightweight steel structure with retractable roof and side panels made from a fabric. A long table will be provided in the pavilion. The quad would also include a modular / stackable bench system which can be used to provide a stage or seating areas.
11. In terms of visual impact, the pavilion structure has a height of 4.15m from the floor level of the rooftop which would be comfortably within the maximum height parameter for Block 3 as set out on the parameter plan 16 approved under the

outline planning permission. The design of the Kitchen Quad would sit comfortably within the space at rooftop level, and given it would be sited to the western end of the space would mean that it would not be readily visible from the public realm. Any views would be restricted to high level buildings in the surrounding area, but in this instance the pavilion would be viewed against the backdrop of the South Square roof and the rooftop restaurants of Block 3.

12. The pavilion structure would also not have a material impact on any long range views from the surrounding view cones given its location within the rooftop and the fact that views of this structure would be obscured by other parts of the development (i.e. Block 2) and the South Square roof
13. Officers would therefore support the landscape concept for the Kitchen Quad and Pavilion which would make best use of this rooftop space and provide a pleasing environment that sits comfortably with the rest of the rooftop areas and creates an appropriate visual relationship with the character and appearance of the rest of the Westgate Oxford development in accordance with the aims of the above-mentioned policies.
14. During the consultation process, concerns have been raised as to whether this space would be accessible for all, including those with mobility problems. The rooftop is meant as a fully publically accessible space, with access via lift, escalators, stairwells.

### **Impact on Amenities**

15. The Kitchen Quad is located above the residential properties on the eastern side of Old Greyfriars Street. Therefore the impact of the use of this space on these properties needs to be considered under Oxford Local Plan Policies
16. The outline and reserved matters application approved the principle of rooftop areas with restaurants, external seating areas and public spaces. These elements of Block 3 are set well back from the edge of the building in order to minimise any impact on the residential properties on Old Greyfriars Street.
17. The Design and Access statement indicates that the events space is to be used for yoga classes; temporary art installations; book signings; food and craft fairs; summer garden lunches; seasonal pop up bars; and small acoustic music performances. This is consistent with the types of activities and potential noise levels considered as part of the outline and reserved matters application and as such it is considered that the use of this space would not give rise to any significant adverse impacts. The Design and Access Statement does indicate that non-amplified music will be played within the space, and as such this should be secured by condition.
18. The pavilion structure will be lit by a flexible lighting system that has festoon and spotlighting located in the arches. This will allow the lighting to be focussed and avoid undue spillage beyond the pavilion itself. The proposal would therefore accord with the aims of Oxford Local Plan policy CP20 which seeks to prevent unacceptable levels of light pollution and spillage.

## **Environmental Impact Assessment**

19. The outline planning application for the Westgate development was accompanied by an Environmental Statement (September 2013) and Environmental Statement Addendum (January 2014). The reserved matters application was also accompanied by an Environmental Statement (August 2014) and Environmental Statement Addendum (September 2014).
20. This reserved matters application would constitute a 'subsequent application' under Regulation 2(1) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011. As such the likely significant effects of the proposed development need to be considered.
21. The application has assessed the impact of the proposed canopy against the baseline data in the approved Environmental Statement and its Addendum and identified that the development does not give rise to any new or different significant effects to those identified and assessed previously.

### **Conclusion:**

22. The proposal is considered to be acceptable in terms of the relevant policies of the Oxford Core Strategy 2026, Oxford Local Plan 2001-2016, and West End Area Action Plan 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 planning permission, officers consider that the proposal will not undermine crime prevention or the promotion of community safety.

**Contact Officer:** Andrew Murdoch

**Extension:** 2228

**Date:** 23rd September 2016

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