

WEST AREA PLANNING COMMITTEE		9th April 2019
Application number:	19/00249/FUL	
Decision due by	1st April 2019	
Extension of time	18th April 2019	
Proposal	Demolition of existing workshop (Use Class B1) to erect a two storey yoga workshop (Use Class D2). Provision of cycle spaces.(Amended description)	
Site address	16 East Street, Oxford, OX2 0AU, – see Appendix 1 for site plan	
Ward	Jericho And Osney Ward	
Case officer	Julia Drzewicka	
Agent:	Adrian James	Applicant: Mr James Pritchard
Reason at Committee	The application has been called-in by Councillors Pressel, Fry, Tanner and Hollingsworth on the ground that there is a massive concern locally about the possible change of use to D2 in the middle of a residential area and the design of the proposed building.	

1. RECOMMENDATION

1.1. West Area Planning Committee is recommended to:

1.1.1. **approve the application** for the reasons given in the report and subject to the required planning conditions set out in section 12 of this report and grant planning permission; and

1.1.2. **agree to delegate authority** to the Acting Head of Planning Services to:

- consider and deal with any new material planning considerations that may be raised through public consultation, which expires on the 11th April 2019 including deciding whether it is necessary to refer the application back to the committee prior to issuing the permission;
- finalise the recommended conditions as set out in this report including such refinements, amendments, additions and/or deletions as the Acting Head of Planning Services considers reasonably necessary; and
- issue the planning permission.

2. EXECUTIVE SUMMARY

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2.1. This report considers the demolition of the existing workshop (Use Class B1) and the erection of a two storey yoga workshop (Use Class D2) and provision of cycle spaces. Less than substantial harm would be caused to the special interest of the Conservation Area by the loss of the existing building. However, this harm is considered justified and outweighed by the public benefits associated with the proposed use and the need to ensure a viable use for the site. The design of the new building responds well to the context and would be of an appropriate high quality that would not detract from the character and appearance of the Conservation Area.

3. LEGAL AGREEMENT

3.1. This application is not subject to a legal agreement.

4. COMMUNITY INFRASTRUCTURE LEVY (CIL)

4.1. The proposal is liable for CIL. The total amount is £1,925.84.

5. SITE AND SURROUNDINGS

5.1. The site is located within the Osney Town Conservation Area, an area of predominantly residential buildings laid out in the mid-19th century by G.P. Hester, the Town Clerk of Oxford. East Street has a riverside setting, facing directly onto the Thames and with the public footpath alongside, the site is in a relatively prominent location in the Conservation Area. On the opposite side of the river is The Old Power Station, a locally important building which is listed on the Oxford Heritage Asset Register; the building is a reminder of the industrial heritage of this part of the city.

5.2. A single-storey workshop building occupies the plot of 16 East Street, which in contrast to the two-storey residential buildings either side of it and as identified in the Osney Town Conservation Area Appraisal creates ‘an important break in the uniformity of the street scene’. The building has white painted brick walls and a corrugated sheet double pitched roof, and features a pair of timber doors with casement window in the gable on its front elevation. There is a gated pedestrian access running along the north side of the building to the rear of the site.

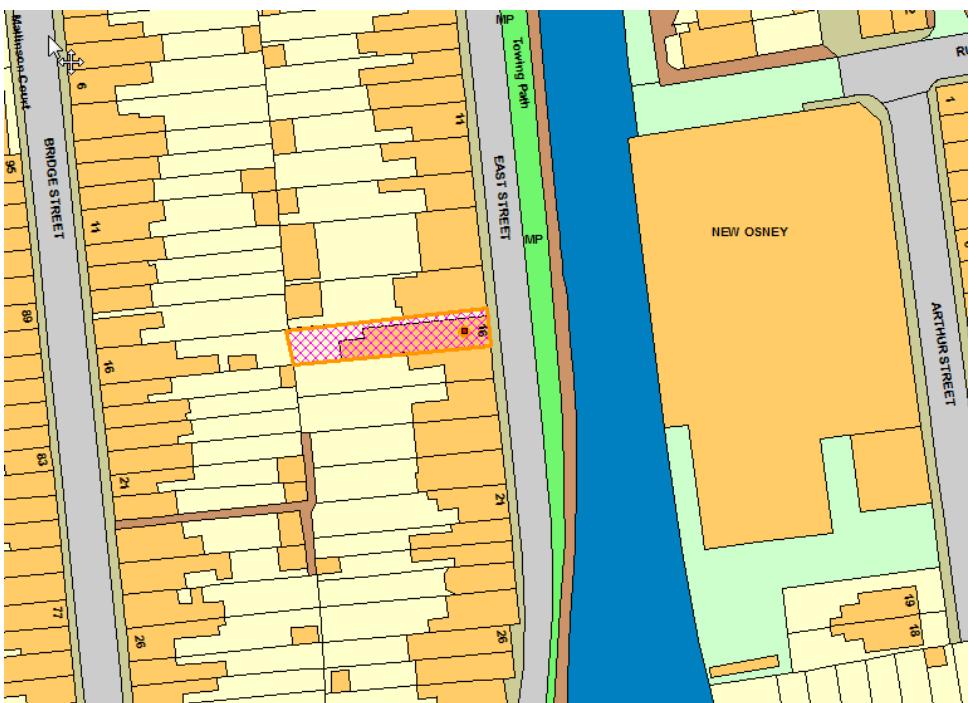
5.3. A comprehensive Heritage Statement, has been prepared by John Moore Heritage Services, and contains a detailed assessment of the building. The building is of four main phases; the earliest phase is the front original garage building from 1926; the second phase is the extension to the rear dating from 1950-52 associated with its change of use from a garage to a dairy; the third is the creation of a small boiler room; and the fourth the construction of a small outbuilding to the rear and the change of use to an artist’s studio circa 1970. From 1970-2016, the building was occupied by Hugh Powell, an artist and sculptor, who lived at 16 Bridge Street for the same period.

5.4. The heritage significance of the building lies predominantly in its historic, evidential and communal value as representing and illustrating the former light industrial uses that operated in the area, and the development of the local community and small businesses in the latter half of the 20th century.

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5.5. The existing depth of the building is approximately 23.8m. The roof ridge height of the pitched roof is approximately 4.5m and then the latest addition to the building has a sloping roof and its ridge height is approximately 2.9m.

5.6. See block plan below:



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Ordnance Survey 100019348

6. PROPOSAL

6.1. The application proposes demolition of the existing single storey building to erect a two storey contemporary yoga workshop. The proposed development would be sited on a slightly larger footprint to the existing building, extending over the existing pedestrian side access to infill the entire plot width and would be two-storeys in height.

6.2. The overall depth of the ground floor would be approximately 23.5m, the ridge height of the ground floor extension would be approximately 4.7m, the eaves height of the extension along No. 15 would be approximately 2.2m and the eaves height of the extension along No. 17 would be approximately 2.7m. The depth of the first floor would be approximately 12.3m. The overall height of the whole building measuring from ground level would-be approximately 7.4m, the eaves height of the first floor extension from the ground level along No. 15 would be approximately 4.8m and the eaves height of the first floor extension measuring from ground level would be approximately 5.4m. The ground floor extension would feature rooflights and PV panels. The building would be two-storey in height, with a ridge height to match that of the terrace to the north, a two-storey rear wing element and lower single-storey rear extension with asymmetrical pitched roof. The front building line is being proposed to be set back from the street. The aged copper would be installed as a bright copper but in a matter of days it will oxidise to chestnut brown and then a dark-purplish brown. The

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information provided with the application states that copper is a naturally weathering material, with an expected life expectancy in excess of 100 years, which has excellent corrosion resistance, and requires no special maintenance regime requirements. The manufacturer stated that given the location and nature of the cladding, the dark-purply brown cladding will not go the green patina. The aged copper would have a weathered finish, with a texture and quality which would bring interest to the streetscene without resulting in an overly dominant building that would detract from the character and appearance of the Conservation Area. Similarly, the subtle use of the artificially chemically oxidised copper (greened copper) for the chamfered window and door reveals would create interest and a welcomed contrast to the aged copper, whilst not appearing garish alongside the surrounding terraces.

- 6.3. The proposed building comprises an entrance lobby, disabled WC/male changing space, female changing room, private consultation room, staff, admin and reception area on the ground floor and yoga studio on the first floor.
- 6.4. The application form states that 2 full time and 20 part-time, equivalent of 3 full-time employees are being proposed. The hours of opening has been specified in the application form: Monday to Friday: 7.00- 21.30, Saturday, Sunday, Bank Holidays: 9.00- 17.00.
- 6.5. The development is proposed to be car-free and space for bikes has been incorporated within the building.
- 6.6. See proposed elevations below (please note that larger version of these plans will be circulated prior to the committee meeting):



7. RELEVANT PLANNING HISTORY

7.1. The table below sets out the relevant planning history for the application site:

60/00035/N_H - Change of use from garage for vehicles to repair and sale of parts. REF 25th October 1960.

18/01712/FUL - Demolition of existing workshop to erect a three storey workshop (Use Class D2). Provision of cycle spaces.. WDN 3rd September 2018.

8. RELEVANT PLANNING POLICY

8.1. The following policies are relevant to the application:

Topic	National Planning Policy Framework	Local Plan	Core Strategy	Sites and Housing Plan	Emerging Local Plan 2016-2036
Design	8, 11, 124-132	CP1, CP6 CP8, CP10	CS18	HP14	RE2, DH1, D5
Conservation/Heritage	189, 192, 196	HE7			DH3, DH4, DH5
Commercial	20, 80,	EC1	CS28_ CS27_		E1
Natural environment	148-165, 170-183	CP22	CS11		RE3
Social and community	91-93	CP13	CS20_ CS21_		V6, V7
Transport	102- 111	TR3, TR4 TR12			M1, M5
Miscellaneous	7-12, 47, 48	CP.13, CP.24 CP.25		MP1	

**Only limited weight can be given to policies in the emerging Oxford Local Plan 2036 as the plan is only at Proposed Submission Draft stage.*

9. CONSULTATION RESPONSES

9.1. Site notices were displayed around the application site on 19th February 2019 and an advertisement was published in The Oxford Times newspaper on 14th February 2019. Amended site notice was published on the 18th March 2019 and an advertisement and site notice was published in The Oxford Times newspaper on 21st March 2019. The re-advertisement was necessary as the application is a departure from the development plan.

Statutory and non-statutory consultees

Oxfordshire County Council (Highways)

9.2. Secure and enclosed cycle storage is noted in the floor plan and the development is to remain car-free. There appears to be no highway impact with regard to this application. As such, Oxfordshire County Council does not object to this application.

Environmental Agency

9.3. The proposed development will only meet the National Planning Policy Framework's requirements if the planning condition specifying that the development shall be carried in accordance with the submitted flood risk assessment and mitigation measures are included.

Public representations

9.4. 52 representations were received from 41 addresses in the local area, from further afield in Oxford and from beyond Oxford. Oxford Preservation Trust also commented on the proposal. One customer made comment neither objecting to nor supporting the planning application.

9.5. In summary, the main points of 29 objections were:

- Amount of development on site
- Effect on adjoining properties
- Loss of privacy
- Daylight/sunlight
- Effect on character of area
- Effect on conservation area and article 4
- Loss of the visual break, dominant addition within the streetscene
- Effect on pollution
- Effect on privacy
- Effect on traffic
- Noise and disturbance
- On-street parking
- Uses under D2
- Effect on existing community facilities
- Excess of yoga studios in the area
- Design
- Out of keeping
- Materials

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- The site is not suitable for commercial use
- The site is suitable for residential use
- Local plan policies
- Height of proposal
- Hours of opening
- little evidence of local need
- flooding
- Access
- Information missing from plans
- Local ecology, biodiversity
- Open space provision
- Parking provision

9.6. In summary, the main points of 23 support were:

- Need for a dedicated yoga studio
- Modern design
- Osney should have a limited number of small scale commercial properties – economic activity
- If it cannot be used for a residential use, yoga studio would be better than a potentially far more disruptive use
- Effect on character of area
- Effect on existing community facilities
- Public transport provision/accessibility
- No parking
- Environmentally friendly
- Cycling
- Prana studio is closing down
- Positive impact on the local area
- No disturbance from either traffic or noise

10. PLANNING MATERIAL CONSIDERATIONS

10.1. Officers consider the determining issues to be:

- i. Principle of development
- ii. Design and impact on the conservation area

- iii. Neighbouring amenity
- iv. Transport
- v. Flooding

i. Principle of development

- 10.2. The heritage statement identified that the building is of four main phases. The first is the original garage, built in 1926; the second phase comprises an extension undertaken in 1950-52 associated with a change of use from garage to dairy; the third is the construction of a small room to house a boiler at the rear of the building and the change of use of the former garage into a boiler room and the fourth is a change of use to an artist's studio and the construction of the small outbuilding. Prior to the construction of the building, the plot was vacant with direct access from East Street to the rear of 16 Bridge Street (which was in use as a public house). The heritage statement states that the "Ordnance Survey map of 1921 shows the site prior to the construction of the building. The rear yard of 16 Bridge Street extends through to East Street; because of this building's use as a public house greater access to the rear of the building may have been desirable, resulting in a planned gap in the terraces of East Street. The building now known as 16 East Street was built as a garage in February 1926.
- 10.3. Planning permission was granted in 1950 (ref. 50/00984/A_H) for an extension to the existing garage for use as a dairy at 16 Bridge Street. That permission was approved as a temporary permission. In 1952 (ref. 52/02437/A_H) temporary planning permission was granted for a boiler fuel store. This permission had been renewed under permissions 53/02437/A_H, 54/02437/A_H and 57/01454/A_H. In 1960 (ref. 60/01454/A_H) planning permission was granted for a garage. In 1960 (ref. 60/02437/A_H) planning permission was submitted for renewal of temporary consent for the boiler fuel store and shed. Those permissions were in relation to No. 16 Bridge Street. Planning permission was refused in 1960 (ref. 60/00035/N_H) for the change of use from garage for vehicles to repair and sale of parts, this is the first record of the planning history of 16 East Street (as a separate entity). Between 1970 and 2016 the property was occupied by Hugh Powell who used the dairy/garage as an artist's studio. However, there is no record that the site benefited from planning permission for a change of use from garage to artist studio. The building has never been in domestic use and it has always been in an employment use (or arguably used in an unauthorised way as an incidental building to No. 16 Bridge Street). The Land Use Gazetteer lists uses "dairy products making place" as B2, "garage" either as B2 or Sui Generis use" and "art and layout artist's studio" as B1 use.
- 10.4. The assessment has been made in terms of the change of use, and whether there are any benefits to the character and appearance of the Conservation Area in terms of the proposed use. Given the history of the use of the site, officers would consider it an employment site for the purposes of Policy CS28 of the Core Strategy. The site is not a key protected employment site. The preamble to Policy CS28 states that the term employment sites refers only to

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land and premises in Class B or closely related Sui Generis uses, such as builders yards; transport operators; local depots; and retail warehouse clubs. Policy CS28 states that planning permission will only be granted for the change of use or loss of other employment sites (i.e. those not key protected employment sites), subject to the following criteria:

- overriding evidence is produced to show the premises are presently causing and have consistently caused significant nuisance or environmental problems that could not have been mitigated;
- or
- no other future occupiers can be found despite substantial evidence to show the premises or site has been marketed both for its present use and for potential modernisation or regeneration for alternative employment-generating uses; and the loss of jobs would not reduce the diversity and availability of job opportunities; and
- it does not result in the loss of small and start-up business premises, unless alternative provision is made in Oxford.

- 10.5. As the proposal is for a change of use from Class B1 to Class D2, the proposed development would be contrary to Policy CS28 as there would be a loss of Class B1 use. The site has been vacant since 2016. No marketing evidence has been provided with the application. The Statement of Need submitted with the application states that "16 East Street was originally marketed as a site for residential development, but it quickly became clear that the Environmental Agency would not approve a new dwelling because of the danger to life during a (notional) future flood". It is assumed that the artist was the sole occupier and did not employ anyone else, however there is no evidence of that. The application demonstrated that the site will employ 2 full time and 20 part-time, therefore the equivalent number of 3 full-time employees. The objective of the Policy CS18 is to safeguard employment sites. Granting consent would not preclude the site from providing a level of employment as the proposed use would create employment opportunities. The proposed employment use would therefore continue to deliver economic development objectives to continue to provide employment. Given the small scale of the site, its location and constraints, the proposed increase in number of employees, history of the site, the proposed yoga studio is on balance considered acceptable.
- 10.6. The emerging Local Plan 2036 would classify this site as a Category 3 employment site. The preamble to policy E1 states that Category 3 sites mainly comprise smaller sites and those not performing as well as Category 2 sites, for example because they are not as well located, or because they do not perform such an important economic function, nor are likely to be able to in the future. Should these sites become available for redevelopment, they will be first required to explore the potential for other employment uses, and then subject to criteria to explore alternative uses in order to help deliver the broader aims and strategy of this Local Plan. Policy E1 of the emerging Local Plan states that planning permission will only be granted for the loss of any

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employment floorspace on Category 3 sites to residential development subject to criteria. The application is not proposing to change to residential development and therefore those criteria are not relevant. The policy E1 goes on stating that beyond this approach, in all cases the suitability of the proposed use will be assessed against the site specific circumstances.

- 10.7. Policy E1 is an emerging policy to which little weight can be given. However, as stated in the report the proposal will still allow some employment use.
- 10.8. Policy CS20 of the Core Strategy states that City Council will seek to protect and enhance existing cultural and community facilities. Artist's studios are considered cultural facilities. A yoga studio could be considered a community facility for the purpose of Policy CS20 of the Core Strategy. Members may consider that this further supports the principle of development.

ii. Design

- 10.9. Policy CS18 of the Core Strategy, HP9 of the Sites and Housing Plan and Policies CP1 and CP8 of the Oxford Local Plan combine to require that planning permission will only be granted for development which shows a high standard of design that respects the character and appearance of the area and uses materials of a quality appropriate to the nature of the development and creates an appropriate visual relationship with the form of the existing building and its surroundings. The site lies within the Osney Town Conservation Area, therefore Policy HE7 of the Oxford Local Plan 2001-2016 applies, which states that planning permission will only be granted for development that preserves or enhances the special character and appearance of the conservation areas or their setting. The policy also states that planning permission will not be granted for proposals involving the substantial demolition of a building or structure that contributes to the special interest of the conservation areas. Paragraph 193 of the National Planning Policy Framework (NPPF) states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 196 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 10.10. The heritage significance of the building lies predominantly in its historic, evidential and communal value as representing and illustrating the former light industrial uses that operated in the area, and the development of the local community and small businesses in the latter half of the 20th century. Although not of any particular special architectural merit, its heritage significance is evidenced through its architectural qualities and appearance, giving its aesthetic value in the context of the street scene. For these reasons, the building is considered a positive addition to East Street and the Conservation Area, contributing to its special character and appearance.
- 10.11. The loss of the existing building would result in some harm to the special character and appearance of the Conservation Area, as it makes a positive

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contribution to its special interest and would thus be contrary to Local Plan Policy HE7 which states that ‘planning permission will not be granted for proposals involving the substantial demolition of a building or structure that contributes to the special interest of the conservation areas’. However the NPPF post-dates this Local Plan policy and as such, where the policies differ from one another, greater weight should be given the NPPF on this matter. NPPF Paragraph 194 states that ‘any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification’. In line with the NPPF considerations, it is considered that the level of harm to the Conservation Area caused by the loss of the building would be less than substantial. The existing building due to its current condition and construction would require a substantial amount of work to bring it up to current building standards, resulting in the loss of a substantial amount of fabric. It is therefore, inevitable that substantial loss and alteration to the building fabric would need to occur as part of any new viable use occupying the site. Officers recommend that the principle of losing the existing building is therefore acceptable.

- 10.12. Paragraph 196 goes on to state that ‘where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use’. The principle of a yoga workshop occupying the plot is considered to be an appropriate use for the site, which would ensure it is retained in a use other than residential which benefits and serves the local community and continues the story and evolution of small businesses within this part of the Conservation Area into the 21st century.
- 10.13. Paragraph 127 of the NPPF states that developments should be ‘sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities)’. The proposed development would be sited on a slightly larger footprint to the existing building, extending over the existing pedestrian side access to infill the entire plot width, and would be two-storeys in height. It is accepted that the increase in floorspace is necessary to ensure the viability of the proposed use, and that the current scheme has reduced the amount of floorspace and height as proposed in comparison to previous schemes. The proposed building is considered to respond successfully to its context, relating to the traditional built form of properties in the vicinity. The proposal is two-storey in height, with a ridge height to match that of the terrace to the north, a two-storey rear asymmetrical roof element and lower single storey rear extension are proposed. The development would be set back from the front building line, it is considered that the proposed building would fit comfortably within the street and maintain the visual gap in the uniformity of the residential terraces either side.
- 10.14. The visual break in the streetscene would be further maintained through the elevation design and materials proposed for the building which include aged copper cladding for the walls and roof, recessed window and door openings with artificially chemically oxidised copper (greened copper) for the chamfered

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reveals, powder-coated metal for the window frames and flood grates, and unfinished timber for the front door. The fenestration proportions reflect the domestic scale of the surrounding properties which would help to integrate the building into the streetscene.

- 10.15. The aged copper would be installed as a bright copper but in a matter of days it will oxidise to chestnut brown and then a dark-purply brown. The information provided with the application states that copper is a naturally weathering material, with an expected life expectancy in excess of 100 years, which has excellent corrosion resistance, and requires no special maintenance regime requirements. The manufacturer stated that given the location and nature of the cladding, the dark-purply brown cladding will not go the green patina. The aged copper would have a weathered finish, with a texture and quality which would bring interest to the streetscene without resulting in an overly dominant building that would detract from the character and appearance of the Conservation Area. Similarly, the subtle use of the artificially chemically oxidised copper (greened copper) for the chamfered window and door reveals would create interest and a welcomed contrast to the aged copper, whilst not appearing garish alongside the surrounding terraces.
- 10.16. Samples of the materials have been provided with the application. There are concerns the grey colour for the window frames and flood grate as they would appear quite dull and flat, and would not work well alongside the copper finishes. Therefore a condition is recommended to be imposed to require that material sample for the window and door frames and flood grating be submitted to and approved in writing by the local planning authority.
- 10.17. Great weight and importance has been given to the desirability of preserving the special character and appearance of the Osney Town Conservation Area as a designated heritage asset. It is considered that the less than substantial harm that would result from the loss of the existing building is justified and outweighed by the need to ensure a viable use for the site and the public benefits that would result, namely the continued use of the site in a business use, beneficial to the community and vitality of the area. The proposed replacement building is considered to be of an appropriate and high design quality that would not detract from the character and appearance of the Conservation Area. The proposal would comply with NPPF paragraphs 127, 193, 194 and 196. Special attention has been paid to the statutory test of preserving or enhancing the character and appearance of the conservation area under sections 72 of the Planning (Listed Building and Conservation Areas) Act 1990, which it is accepted is a higher duty. It has been concluded that the development would preserve the character and appearance of the conservation area, and so the proposal accords with section 72 of the Act.

iii. Impact on neighbouring amenity

- 10.18. Policy HP14 of the Sites and Housing Plan states that planning permission will only be granted for new residential development that provides reasonable privacy and daylight for the occupants of both existing and new homes. HP14 also states that planning permission will not be granted for any development that has an overbearing effect on existing homes.

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- 10.19. The building is located between No. 15 and No.17 East Street. The existing building already extends beyond the neighbouring properties. The existing building runs along the boundary with No. 17 and due to the existing side passage the existing building is set back from the boundary with No. 15 by approximately 1m. The existing roof ridge at 4.5m height runs for approximately 19.2m (from the front elevation) and then the roof drops to 2.9m. The existing building features side windows on the ground floor level and rear facing window and door and rooflights. The existing building already impacts on the neighbouring properties in terms of light, outlook and privacy.
- 10.20. The proposed building does not feature any side windows facing the neighbouring properties. The building proposes a large door, opening out to the garden, which would serve the staff/admin/reception area and a rear window, which would serve the staircase. It is acknowledged that due to the proposed use more people would use the building, however the proposed rear door and window would not be considered harmful in terms of overlooking or loss of privacy as this relationship with terraced properties is not unusual and it would not be necessary to impose a condition to obscure the window serving the staircase. Any overlooking would be very limited and not harmful.
- 10.21. The ridge height of the ground floor extension would be approximately 4.7m, the eaves height of the extension along No. 15 would be approximately 2.2m and the eaves height of the extension along No. 17 would be approximately 2.7m. The depth of the first floor would be approximately 12.3m. The overall height of the whole building measuring from ground level would be approximately 7.4m, the eaves height of the first floor extension from the ground level along No. 15 would be approximately 4.8m and the eaves height of the first floor extension measuring from ground level would be approximately 5.4m. The proposed eaves height of the ground floor level would not be higher than the eaves of the existing building. The proposed building would extend the full width of the plot and therefore the existing 1m wide side passage would be lost. The existing boundary treatment consists of a high brick boundary wall and some vegetation. In terms of the impact on No. 15, the proposed eaves height would not extend higher than the eaves of the existing extension of No. 15. As the building would run along the boundaries with No. 15 and No.17 the building has been designed to have the eaves height as low as possible and due to the pitched-roof a lot of the bulk of the roof would be set away from the boundaries. The proposal would change the outlook afforded to the neighbouring properties, however due to the low eaves, current situation, existing boundary treatment and visually light materials the proposed building would not be considered overbearing or unduly affect the outlook to the occupiers of the property and the additional impact is not significant enough to refuse the application.
- 10.22. The 45/25 degree guidance set out in Appendix 7 of the Sites and Housing Plan has been applied to the neighbouring properties. The proposed first floor extension complies with the 45 degree line. In terms of the ground floor level, the proposed building would breach the 45 degree line, drawn from the rear windows. However the 45 degree line is breached already by the existing building. The uplifted 25 degree line has been applied to the neighbouring rear windows and the proposed development complies with the 25 degree line. It is

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considered that due to the existing building, current impact, the height of the proposed building, its size and scale and the orientation of the proposals relative to the sun it is considered that the proposed development would not have an unacceptable impact on the amount of light afforded to both neighbouring properties.

- 10.23. The proposed use of the building would increase the footfall to the building. However the opening hours would be limited to Monday-Friday 7.00-21.30 and Saturday, Sunday and Bank Holiday 9.00-17.00. Those opening hours would be considered acceptable having had regard to the predominantly residential uses that take place in surrounding properties. As the proposed development would be car-free, it is considered that the proposed use would not disturb the neighbourhood in this respect. There are a limited number of openings which would further reduce noise coming out from the building. Furthermore as the building would be new it would benefit from better sound attenuation and insulation than older properties and this would facilitate less disturbance from the proposed use.
- 10.24. Use Class D2 includes yoga studios; other uses falling within that use class include cinemas, concert halls, bingo halls, skating rinks, gymnasiums, other areas for indoor and outdoor sports or recreations not involving motorised vehicles or firearms. A condition is recommended to be imposed to restrict the use to a yoga studio only so that the local planning authority can make an assessment of a different use and prevent a permitted change to a less suitable use; in this way the amenity of neighbouring occupiers would be safeguarded.
- 10.25. Overall, the proposed building and use is considered to be acceptable in terms of neighbouring amenity.

iv. Transport

Car parking

- 10.26. Policy TR3 of the Oxford Local Plan states that planning permission will only be granted for development that provides an appropriate level of car parking spaces no greater than the maximum car-parking standards. Appendix 3 of the Oxford Local Plan states that car-free development will be considered favourably anywhere in Oxford provided that there are excellent alternatives to the car, that shops and services are provided near-by, and that the car-free status of the development can realistically be enforced by planning condition, planning obligation, on-street parking controls or other means.

- 10.27. The site lies just outside of the Central Transport Area. The site is located within the West Oxford Controlled Parking Zone. Due to the location of the development site in a sustainable location within close proximity of excellent public transport services, close proximity to city centre and controlled parking restrictions, it is considered that car-free development would be welcomed and it would comply with Policy TR3 of the Oxford Local Plan.

Cycle parking

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- 10.28. Policy TR4 of the Oxford Local Plan states that the City Council will only grant planning permission for development that: a) provides good access and facilities for pedestrians and for cyclists, and b) complies with the minimum cycle parking standards. Appendix 4 of the Oxford Local Plan states that provision of cycle space for “other development” will be treated on their individual merits, guided by the general principle of 1 space per 5-people (this number is based on staff and students within the building at any one time). There is no specific standard in relation to yoga studios within the Local Plan. The statement of need states that to accommodate classes at popular times and provide a viable include a practice/teaching room would need to be large enough for 16 students plus a teacher.
- 10.29. The submitted floor plan shows 7 cycle spaces within the building. Taking into consideration that each class can accommodate 16 students plus a teacher a minimum of 3 spaces should be provided. As the proposal comprises a consultation room, admin room and yoga studio it is considered that more people would be in the building at any one time therefore 7 cycle spaces is considered to be acceptable. The cycle stands would be located inside the building, within the entrance lobby. The provided location for bikes is considered to be secure and due to its close proximity to the entrance would provide a level access to the street. As there is no car parking available for the property, it is considered that the proposal and its facilities (changing rooms) would encourage people to cycle to the site.
- 10.30. The Local Highways Authority commented on the proposal and did not object. Secure and enclosed cycle storage is noted on the floor plan and the development would be car-free. Officers suggest that there would be no highway impact with regard to the proposal.

v. Flooding

- 10.31. Policy CS11 of the Oxford Core Strategy states that planning permission will not be granted for any development in the functional flood plain (Flood Zone 3b) except water-compatible uses and essential infrastructure. The policy also states that development will not be permitted that will lead to increased flood risk elsewhere, or where the occupants will not be safe from flooding. The National Planning Policy Framework (NPPF) paragraph 163 states when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that: a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location; b) the development is appropriately flood resistant and resilient; c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate; d) any residual risk can be safely managed; and e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan. Paragraphs 164 of the NPPF states that applications for some minor development and changes of use (this includes householder

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development, small non-residential extensions- with a footprint of less than 250m², and changes of use) should not be subject to the sequential or exception tests but should still meet the requirements for site-specific flood risk assessments.

- 10.32. The site lies within Flood Zone 3b, and as such there is an in principle objection as this is not in accordance with Policy CS11 of the Oxford Core Strategy. However, there is an existing large building, which the development is proposing to replace and the submitted Flood Risk Assessment proposes a number of measures to mitigate the risk. The proposed use falls under the classification of “less vulnerable” land use. A Flood Risk Assessment including mitigation measures has been submitted.
- 10.33. There is an existing single storey building, therefore the assessment below is divided into the extension (any new floor space) and the existing floor space (existing building). The finished floor level of the new (extension) part of the building is raised above the 1 in 100 year (1% of an annual exceedance probability (AEP)) + Climate Change level, and the space below this is to be left open as a floodable void. The grilles are shown on the submitted drawings. The remainder of the building (i.e. the existing part) is designed to be floodable, as to reduce off site flood risk compared to current arrangements. The finished floor level of the ground floor admin area is 57.25m AOD (Above Ordnance Datum). The entrance is floodable at a finished floor level of 56.65m AOD to allow for no loss of flood plain storage.
- 10.34. The Environment Agency commented on the application. They have no objection to the proposal subject to condition. The development shall be carried out in accordance with the submitted flood risk assessment (ref. Flood Risk Assessment (FRA) Job No. X172008 dated January 2019 by AKS Ward Construction Consultants). The Environment Agency states that the proposed development would only meet the National Planning Policy Framework’s requirements if the planning condition is included. The condition is proposed to include the following details: 1. The finished floor level of the ground floor admin area is 57.25m AOD. The entrance is floodable at a finished floor level of 56.65m AOD to allow for no loss of flood plain storage; 2. There shall be no raising of existing ground levels on the site; 3. Any walls or fencing constructed within or around the site shall be designed to be permeable to flood water; 4. There shall be no storage of any materials including soil within the 1% annual probability (1 in 100) flood extent with an appropriate allowance for climate change. The Oxford City Council found this condition to be necessary and reasonable and therefore in accordance with paragraph 163 of the NPPF, and Policy CS11 of the Oxford Core Strategy to reduce the risk of flooding to the proposed development and future occupants, the condition is recommended to be imposed.
- 10.35. Therefore, based on the proposed mitigation measures and the fact that there is an existing building on the site, it is considered that the proposed development would not increase flood risk on or off site, subject to the inclusion of the proposed mitigation measures.

vi. Other matters

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- 10.36. The Contamination Questionnaire has been submitted. Although it states within the questionnaire that no fuels or chemicals have been stored at the site, this is considered unlikely based on the historical potentially contaminative uses of the site as a garage and also as a dairy. Both of these former uses have the potential for oils, fuels and chemicals to be stored and utilised on site. In this regard and on the basis that no evidence has been provided to demonstrate absence of contamination risks at the site, it is considered that an appropriate contamination site investigation should be carried out. Therefore two planning conditions are recommended to be imposed to ensure that potential contamination risks are properly addressed and appropriate remedial works are completed to mitigate against any potentially significant contamination risks identified.
- 10.37. Comments have been made that the site should be developed as a residential property. However, the officers have to make an assessment of the proposed development submitted to the local planning authority.

11. CONCLUSION

- 11.1. Having regards to the matters discussed in the report, officers would make members aware that the starting point for the determination of this application is in accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004 which makes clear that proposals should be assessed in accordance with the development plan unless material considerations indicate otherwise.
- 11.2. The NPPF recognises the need to take decisions in accordance with Section 38(6) but also makes clear that it is a material consideration in the determination of any planning application (paragraph 2). The main aim of the NPPF is to deliver Sustainable Development, with paragraph 11 the key principle for achieving this aim. The NPPF also goes on to state that development plan policies should be given due weight depending on their consistency with the aims and objectives of the NPPF. The relevant development plan policies are considered to be consistent with the NPPF despite being adopted prior to the publication of the framework.

Compliance with Development Plan Policies

- 11.3. Therefore in conclusion it is necessary to consider the degree to which the proposal complies with the policies of the development plan as a whole and whether there are any material considerations, such as the NPPF, which is inconsistent with the result of the application of the development plan as a whole.
- 11.4. Although the requirements of policy CS28 of the Core Strategy are not, strictly speaking, fully complied with, the employment opportunities would be provided through this change of use.
- 11.5. The application is consistent in all other respects, subject to conditions, with local and national planning policy. Therefore officers consider that the proposal would accord with the development plan as a whole.

Material considerations

- 11.6. The principal material considerations which arise are addressed below, and follow the analysis set out in earlier sections of this report.
- 11.7. National Planning Policy: The NPPF has a presumption in favour of sustainable development. NPPF paragraph 11 states that proposals that accord with the development plan should be approved without delay, or where the development plan is absent, silent, or relevant plans are out of date, granting permission unless any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole; or specific policies in the framework indicate development should be restricted.
- 11.8. Officers consider that the proposal would accord with the overall aims and objectives of the NPPF for the reasons set out within the report. Therefore in such circumstances, Paragraph 11 is clear that planning permission should be approved without delay. This is a significant material consideration in favour of the proposal.
- 11.9. Officers would advise members that having considered the application carefully including all representations made with respect to the application, that the proposal is considered to be acceptable in terms of the aims and objectives of the National Planning Policy Framework, and relevant policies of the Oxford Core Strategy 2026, and Oxford Local Plan 2001-2016, when considered as a whole, and that there are no material considerations that would outweigh these policies.
- 11.10. Therefore it is recommended that the Committee resolve to grant planning permission for the development proposed subject to the conditions set out in section 12 of this report.

12. CONDITIONS

1 Development begun within time limit

The development to which this permission relates must be begun not later than the expiration of three years from the date of this permission.

Reason: In accordance with Section 91(1) of the Town and Country Planning Act 1990 as amended by the Planning Compulsory Purchase Act 2004.

2 Develop in accordance with approved plans

The development permitted shall be constructed in complete accordance with the specifications in the application and approved plans listed below, unless otherwise agreed in writing by the local planning authority.

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Reason: To avoid doubt and to ensure an acceptable development as indicated on the submitted drawings in accordance with policy CP1 of the Oxford Local Plan 2001-2016.

3 Materials

The materials to be used for the door, wall and roof cladding and window reveals shall be as submitted with the application. The material sample for the window and door frames, and flood grating shall be submitted to and approved in writing by the Local Planning Authority. The approved material and colour for the window and frames and flood grating shall be thereafter used.

Reason: To ensure the satisfactory visual appearance of the new development in accordance with policies CP1, CP8 and HE7 of the Oxford Local Plan 2001-2016 and CS18 of the Oxford Core Strategy 2026.

4 Rooflights and solar panels

Details of the colour finish of the rooflight frames and finished appearance of the solar panels shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be thereafter used.

Reason: To ensure the satisfactory visual appearance of the new development in accordance with policies CP1, CP8 and HE7 of the Oxford Local Plan 2001-2016, CS18 of the Oxford Core Strategy 2026, HP9 of the Site and Housing Plan 2011-2026.

5 No demolition before rebuilding contract

The building(s) shall not be demolished before a legally binding contract for the carrying out of the works of redevelopment of the site has been entered into and evidence of the contract has been produced to and agreed in writing by the Local Planning Authority, or in the absence of such a contract an alternative timescale for commencement of the development has been submitted to and agreed in writing by the Local Planning Authority.

Reason: To ensure that the premature demolition of the buildings does not take place to the detriment of the special character and appearance of the Conservation Area, in accordance with policies CP1 and HE7 of the Adopted Oxford Local Plan 2001-2016 and policy CS18 of the Oxford Core Strategy 2026.

6 Flood plan

Prior to occupation/usage, a flood plan shall be submitted to and approved in writing by the Local Planning Authority. This should provide guidance owners/users as to what actions should be taken in the event of a flood, and after a flood to ensure it is safe to occupy/use the facility.

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Reason: To manage flood risk in accordance with Policy CS11 and the NPPF.

7 Flood risk assessment

The development shall be carried out in accordance with the submitted flood risk assessment (ref Flood Risk Assessment (FRA) Job No. X172008 dated January 2019 by AKS Ward Construction Consultants and the following mitigation measures it details:

1. The finished floor level of the ground floor admin area is 57.25m AOD. The entrance is floodable at a finished floor level of 56.65m AOD to allow for no loss of flood plain storage.
2. There shall be no raising of existing ground levels on the site.
3. Any walls or fencing constructed within or around the site shall be designed to be permeable to flood water.
4. There shall be no storage of any materials including soil within the 1% annual probability (1 in 100) flood extent with an appropriate allowance for climate change.

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: In accordance with paragraph 163 of the National Planning Policy Framework (NPPF), to reduce the risk of flooding to the proposed development and future occupants.

8 Contamination

Prior to the commencement of the development a phased risk assessment shall be carried out by a competent person in accordance with relevant British Standards and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR11) (or equivalent British Standards and Model Procedures if replaced). Each phase shall be submitted in writing and approved by the local planning authority.

Phase 1 shall incorporate a desk study and site walk over to identify all potential contaminative uses on site, and to inform the conceptual site model and preliminary risk assessment. If potential contamination is identified in Phase 1 then a Phase 2 investigation shall be undertaken.

Phase 2 shall include a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals.

Phase 3 requires that a remediation strategy, validation plan, and/or monitoring plan be submitted to and approved in writing by the local planning authority to ensure the site will be suitable for its proposed use.

Reason- To ensure that any ground and water contamination is identified and

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adequately addressed to ensure the site is suitable for the proposed use in accordance with the requirements of policy CP22 of the Oxford Local Plan 2001-2016.

9 Remedial works

The development shall not be occupied until any approved remedial works have been carried out and a full validation report has been submitted to and approved in writing by the local planning authority.

Reason- To ensure that any ground and water contamination is identified and adequately addressed to ensure the site is suitable for the proposed use in accordance with the requirements of policy CP22 of the Oxford Local Plan 2001-2016.

10 Only yoga studio

The building hereby approved, shall only be used as a yoga studio and for no other use within use Class D2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the Local Planning Authority can properly consider any alternative use of the premises and to ensure that there is no long term loss of employment space within the City in accordance with policy CS28 of the Oxford Core Strategy 2026.

INFORMATIVES :-

- 1 The development hereby permitted is liable to pay the Community Infrastructure Levy. The Liability Notice issued by Oxford City Council will state the current chargeable amount. A revised Liability Notice will be issued if this amount changes. Anyone can formally assume liability to pay, but if no one does so then liability will rest with the landowner. There are certain legal requirements that must be complied with. For instance, whoever will pay the levy must submit an Assumption of Liability form and a Commencement Notice to Oxford City Council prior to commencement of development. For more information see: www.oxford.gov.uk/CIL
- 2 Your attention is drawn to the provisions of the Party Wall Act 1996. A copy of an explanatory booklet is available to download free of charge from the following website
<http://www.communities.gov.uk/publications/planningandbuilding/partywall>
- 3 In accordance with guidance set out in the National Planning Policy Framework, the Council tries to work positively and proactively with applicants towards achieving sustainable development that accords with the Development Plan and national planning policy objectives. This includes the offer of pre-application advice and, where reasonable and appropriate, the opportunity to submit amended proposals as well as time for constructive discussions during the

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course of the determination of an application. However, development that is not sustainable and that fails to accord with the requirements of the Development Plan and/or relevant national policy guidance will normally be refused. The Council expects applicants and their agents to adopt a similarly proactive approach in pursuit of sustainable development.

- 4 Please note that the responsibility to properly address contaminated land issues, irrespective of any involvement by this Authority, lies with the owner/developer of the site.

11 APPENDICES

- i. **Appendix 1 – Site location plan**

12 HUMAN RIGHTS ACT 1998

- a. Officers have considered the implications of the Human Rights Act 1998 in reaching a recommendation to approve this application. They consider that the interference with the human rights of the applicant under Article 8/Article 1 of Protocol 1 is justifiable and proportionate for the protection of the rights and freedom of others or the control of his/her property in this way is in accordance with the general interest.

13 SECTION 17 OF THE CRIME AND DISORDER ACT 1998

- a. 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.