

## WEST AREA PLANNING COMMITTEE ADDENDUM REPORT

27 November 2019

**Application number:** 18/02065/OUTFUL

**Decision due by** 20 November 2018

**Extension of time** Not agreed

**Proposal** Hybrid planning application comprising:

(i) Outline application (with all matters reserved save for "access"), for the erection of up to 87,300 m<sup>2</sup> (GIA) of employment space (Use Class B1), up to 550 m<sup>2</sup> (GIA) of community space (Use Class D1), up to 2,500 m<sup>2</sup> (GIA) of Use Classes A1, A2, A3, A4 and A5 floorspace, up to a 180 bedroom hotel (Use Class C1) and up to 480 residential units (Use Class C3), installation of an energy sharing loop, main vehicle access points from A40 and A44, link road between A40 and A44 through the site, pedestrian and cycle access points and routes, car and cycle parking, open space, landscaping and associated infrastructure works. Works to the A40 and A44 in the vicinity of the site.

(ii) Full application for part of Phase 1A comprising 15,850 m<sup>2</sup> (GIA) of employment space (Use Class B1), installation of an energy sharing loop, access junctions from the A40 and A44 (temporary junction design on A44), construction of a link road between the A40 and A44, open space, landscaping, temporary car parking (for limited period), installation of cycle parking (some temporary for limited period), foul and surface water drainage, pedestrian and cycle links (some temporary for limited period) along with associated infrastructure works. Works to the A40 and A44 in the vicinity of the site.  
(Amended plans and additional information received)

**Site address** Oxford North (Northern Gateway) Land Adjacent To A44, A40, A34 And Wolvercote Roundabout, Northern By-Pass Road – see **Appendix 1** for site plan

**Ward** Wolvercote Ward

**Case officer** Nadia Robinson

**Agent** Mr Robert Linnell, Savills      **Applicant:** Thomas White (Oxford) Ltd

**Reason at Committee** Major application

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## 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 **appendix 5** of this report and grant planning permission, subject to:

- the satisfactory completion of a legal agreement under Section 106 of the Town and Country Planning Act 1990 and other enabling powers to secure the planning obligations set out in the recommended Heads of Terms which are set out in **appendix 6** of the report;
- the agreement of appropriate arrangements with Oxfordshire County Council and the applicant about the use of Community Infrastructure Levy payments; and

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

- finalise the recommended conditions as set out in **appendix 5** of this report including such refinements, amendments, additions and/or deletions as the Head of Planning Services considers reasonably necessary;
- finalise the recommended legal agreement under Section 106 of the Town and Country Planning Act 1990 and other enabling powers as set out in this report, including refining, adding to, amending and/or deleting the obligations detailed in the Heads of Terms set out in this report (including to dovetail with and, where appropriate, reinforce the final conditions and informatives to be attached to the planning permission) as the Head of Planning Services considers reasonably necessary;
- complete the Section 106 legal agreement referred to above; and
- issue the planning permission.

## 2. EXECUTIVE SUMMARY

2.1. The West Area Planning Committee on 24 September 2019 resolved to defer consideration of the application pending further information on the following:

- a) Further modelling work around scenario G that looks at the level of affordable housing that could be provided if both cost and value inflation is included; and
- b) A clear review mechanism that captures future improvements in value across the development.

2.2. The minutes of the West Area Planning Committee on 24 September 2019 are included in **appendix 3** of this addendum report.

- 2.3. A copy of the officer's committee report to the West Area Planning Committee is included in **appendix 2** of this addendum report. The report provided a full assessment of how the proposal would accord with policies of the Development Plan when considered as a whole. The report considers the material planning considerations and concludes with a summary of the economic, social and environmental impacts. In reaching a recommendation, officers weighed up the benefits and dis-benefits of the proposed development relative to all material considerations discussed in the report. Overall, the proposed development would bring significant public benefits that accord with these three strands of sustainable development, as set out in the NPPF.
- 2.4. Having taken into account the provisions of the Development Plan, the policies in the NPPF, the views of statutory consultees and wider stakeholders, as well as all other material planning considerations, the proposed development is recommended for approval subject to planning conditions and a Section 106 legal agreement.
- 2.5. Since the application was considered by the West Area Planning Committee and in accordance with the committee resolution, further viability work has been carried out and further detail provided about the review mechanism. The assessment of the impact of inflation on viability was carried out by Jones Lang Lasalle (JLL), the Council's independent viability consultants for the proposed development and is summarised in their report (**appendix 4**). This additional work was subject to further consultation which is summarised in **section 5** of this report. The original committee report (to 24 September committee) and appendices including the JLL viability report and its own appendices were added to the planning application so that all viability information could be accessed from one place. The structure of the review mechanism is included in **appendix 7** and discussed in this report in **section 6a**.
- 2.6. The JLL report on the impact of inflation on costs and values concludes that, because inflation on build costs is forecast to outstrip inflation on sales and rental values, the viability picture for the development worsens if inflation is taken into account in the period projected. The findings support the officer recommendation to approve the application with a level of Affordable Housing at 35 per cent.
- 2.7. The review mechanism would involve three viability reviews, at early, mid and late stages of the development. At each review there is an examination of whether values have increased more than costs. It would be an upwards only review so that the 35 per cent Affordable Housing would be the minimum provided by the development. The proposed approach adopts a model pioneered by the Mayor for London. Surplus in the scheme would be converted to on-site Affordable Housing units or a financial contribution.
- 2.8. This addendum report discusses the additional work carried out since the 24 September West Area Planning Committee as well as clarification on notable issues that were discussed at committee including transport issues,

sustainability and broader viability issues in relation to the quantum of Affordable Housing.

### 3. LEGAL AGREEMENT

3.1. This application is subject to a legal agreement under Section 106 of the Town and Country Planning Act 1990 to secure the following planning obligations:

- **Affordable Housing:** on-site provision, Affordable Housing adjustment, viability review
- **Public realm:** public open space, children's play space, public art, management plan
- **Transport and highways:** corridor works – A44 and A40, on-site infrastructure, Peartree interchange improvements, car parking management plan, travel plans, travel plan monitoring contribution (£6,000), variation of Traffic Regulation Order in relation to crossings to create safe routes to school (£5,000), contribution for local bus service enhancements (£2.88 million) – all financial contributions to be index-linked to maintain the real value of the payments
- **Other financial obligations:** carbon offset contribution should targets not be reached, off-site biodiversity enhancements
- **Restricted use:** employment space for occupiers within relevant knowledge economy sector
- **Employment initiatives:** community employment plans
- **Non-financial obligations/other:** notices, housing mix, accessibility, energy loop, health and sustainability, sustainable drainage, facilitating comprehensive development, mortgagee's consent, interest
- **Oxford City Council obligations:** spending of contributions, CIL agreement with Oxfordshire County Council, infrastructure in lieu of CIL, external funding, seeking contributions, neighbouring land obligations
- **Oxford City Council fees:** monitoring costs, legal fees

3.2. The Heads of Terms of the legal agreement, under the above headings, are set out in more detail in **appendix 6**. **Appendix 7** sets out the Affordable Housing viability review mechanism in more detail and forms part of the Heads of Terms of the legal agreement.

3.3. A separate agreement, which is referred to within the Section 106 legal agreement, is to be made between the City and County Councils regarding the use of CIL money for infrastructure to reflect the City Council's City Executive Board (CEB) resolution to apply CIL receipts generated from future strategic scale development at Northern Gateway/Oxford North in order to fund investment in highways/transport infrastructure provision to support the delivery of the Northern Gateway strategic site allocation. The applicant will be funding through the planning agreement works directly and

proportionately related to the development. CIL will be used to fund additional works that benefit development in the wider allocation area, and the community at large.

#### **4. RELEVANT PLANNING POLICY**

- 4.1. The relevant planning policies set out in the original committee report to 24 September West Area Planning Committee remain pertinent.
- 4.2. In addition, a National Design Guide was published on 1 October 2019 to support the design objectives of the NPPF. This guide sets out the government's priorities for well-designed places in the form of ten characteristics, and is a material planning consideration in decision making. The essence of these characteristics is already found in the existing policy context and therefore no change to the design assessment of the application is necessary.
- 4.3. The emerging local plan (the Local Plan 2036) remains at examination stage with the hearing due to commence on 3 December 2019. The emerging policies can still only be afforded very limited weight.
- 4.4. On 9 October 2019, Cabinet agreed that the Wolvercote Neighbourhood Plan be submitted to a referendum. A date for the referendum has not been set. The weight to be given to the Plan's policies remains limited.

#### **5. CONSULTATION RESPONSES**

- 5.1. The officers' report (**appendix 2**) provides details of the public consultation that was undertaken with respect to the application prior to its consideration at the 24 September committee, and summarises all the responses received in relation to the application within **section 8** of that report.
- 5.2. Following publication of the JLL report summarising the additional viability work undertaken, the application was re-advertised as follows:
  - Site notices were displayed around the application site on 31 October 2019 with an expiry date of 14 November 2019;
  - An advertisement was published in The Oxford Times newspaper on 31 October 2019.
- 5.3. As well as the JLL report, the full committee report to the 24 September 2019 West Area Planning Committee and its appendices were added to the planning application for ease of reference.
- 5.4. Full copies of the consultation responses listed below are available to view on the public access website and have been taken into consideration within the officers' report.

## **Statutory consultee comments**

### **• Oxfordshire County Council**

- 5.5. No further comment from the County but reiterates need for reassurance that funding will be in place, in a timely manner, for the critical infrastructure and services to make the Oxford North development acceptable in planning terms.
- 5.6. Support for the review mechanism; however any review mechanism should not only address any shortfall against the current affordable housing policy but also shortfalls in funding provision against other critical infrastructure needs required to mitigate the impact of the development.
- 5.7. The appropriate contributions from the development towards the costs of the necessary school expansions should have been included in the viability assessment, i.e. Wolvercote Primary School expansion at £2,738,560 and Special Educational Needs and Disabilities (SEND) schools at £85,424.

### **• Highways England**

- 5.8. As reported verbally to West Area Planning Committee on 24 September 2019 and as noted in the meeting minutes (**appendix 3**), Highways England submitted a comment raising no objection to the application subject to two conditions. These conditions are included in **appendix 5**.

## **Public representations**

- 5.9. Since the publication of the 24 September 2019 West Area Planning Committee report, two further representations in support of the application were received from Advanced Oxford and the Oxfordshire Local Enterprise Partnership (OxLEP). These were reported verbally to committee and are included in the minutes of the meeting (**appendix 3**).
- 5.10. Since 24 September 2019 and following the advertisement of the application outlined above, one combined representation objecting to the application was received from Summertown St Margaret's Neighbourhood Forum, the Wolvercote Neighbourhood Forum and the Oxford Civic Society.
- 5.11. In summary, the main points of objection were:
- The £12.4m benchmark land value (BLV) is queried. The Homes England valuation for the site is £628,000. The difference between the two provides the opportunity for much more affordable housing.
  - The 20 per cent benchmark profit on cost is queried. 2018 Government viability guidance and recent Planning Inspectors' decisions demonstrate that an across-the-board target of 20% is no longer justifiable; a level of 15-20% across a Plan area is suggested in the most recent Government guidance on viability; and lower levels can be justified depending on risk.

- Undervaluation of the future residential and commercial values. Since Oxford North is a very large scheme with a long development period located in the prosperous North Oxford property market, values will rise throughout the development period, and over time well beyond completion.
- Review mechanism is inadequate. It should be part of a Section 106 legal agreement.
- In summary, with a lower BLV combined with a higher valuation of the development, and a profit target that reflects the low risk to the development, the scheme is much more viable, and thus there is adequate land value to meet affordable housing obligations.

## **6. MATERIAL PLANNING CONSIDERATIONS**

6.1. The committee report for West Area Planning Committee 24 September 2019 considers the material planning considerations and sets out the recommendation that planning permission should be granted for the proposal. A copy of the report and its appendices are included within **appendix 2** of this addendum report.

6.2. Officers noted a number of issues that were raised through member questions and deliberations at committee on 24 September 2019. As a supplement to the original committee report, this addendum report seeks to clarify these issues. They are as follows:

- a) Affordable Housing and viability
- b) Transport
- c) Sustainability
- d) Education
- e) Accessibility

6.3. In addition, the further viability work and details of the review mechanism will be assessed and discussed in this addendum report. The comments and representations received following the latest re-advertisement of the application are also covered in this section.

### **a. Affordable Housing and viability**

#### *Policy and guidance*

6.4. Paragraphs 10.39 to 10.46 of the original committee report set out the policy context in relation to Affordable Housing. Importantly, this sets out that whilst the starting point for Affordable Housing provision in Oxford on a qualifying site is to seek a minimum of 50 per cent Affordable Housing, policies CS24 and HP3 set out a legitimate position whereby exceptions to this level of provision can be justified following a full and robust assessment

of viability. A level of Affordable Housing below 50 per cent, if justified by a viability assessment, would therefore be policy compliant.

- 6.5. The NPPF sets out the framework for viability assessments with National Planning Practice Guidance (NPPG) setting out how viability should be assessed in decision taking, including standardised inputs. Thus, and for the avoidance of doubt, officers would make members aware that viability is capable of being a material planning consideration where viability is used as a justification of a particular aspect of an application proposal.
- 6.6. The NPPG gives the principles for carrying out a viability assessment, stating that viability assessment is a process of assessing whether a site is financially viable, by looking at whether the value generated by a development is more than the cost of developing it. This includes looking at the key elements of gross development value, costs, land value, landowner premium, and developer return.
- 6.7. It goes on to state that, in plan making and decision making viability helps to strike a balance between the aspirations of developers and landowners, in terms of returns against risk, and the aims of the planning system to secure maximum benefits in the public interest through the granting of planning permission.
- 6.8. The development viability appraisal work carried out by JLL is in accordance with both the Royal Institution of Chartered Surveyors (RICS) Guidance and the revised Planning Practice Guidance (NPPG), which requires an objective assessment to be undertaken, and in particular since July 2018, promotes standardised inputs to the viability assessment. JLL are the Council's independent financial advisers who operate nationally.
- 6.9. This report will now cover some key points on the inputs to the viability assessment by way of clarification following queries raised at committee on 24 September 2019.

#### *Values*

- 6.10. The principal values that have been inputted into the JLL viability appraisal are private residential sales values, Affordable Housing values and office rents. As a general principle, the higher the values, the better for overall viability.
- 6.11. Private residential sales values range from £574 to £654 per square foot. These are the values proposed by Savills informed by the Oxford residential market. JLL's professional view is that these sales values are at the higher end of the range they would expect but consider that they are justified by the site location and the quality of the proposed scheme.
- 6.12. Affordable Housing values are the rate at which it is anticipated that the Affordable Housing would be sold to a registered social housing provider. Based on a tenure split of 80 per cent social rented and 20 per cent intermediate, the blended rate in the appraisal is £210 per square foot.

Again, this value was proposed by Savills; recent local market evidence supported this value, which is an increase on the value that had previously been used in the appraisal.

- 6.13. Commercial office rents are £33 per square foot.
- 6.14. Overall, the values in the appraisal tend towards the optimistic end of the market evidence, which provides the best case scenario for the viability assessment. Officers see no justification to increase values; however should an increase in values manifest, this would be captured through the review mechanism.

*Phasing and build costs*

- 6.15. The viability assessment is based on the indicative phasing strategy submitted with the planning application. It assumes that the development will take place over 10 years and so build costs, infrastructure items, sales and rentals, CIL payments, etc. appear in the assessment at the appropriate point within the development period. The phasing strategy has been reflected within the Savills appraisal, and the precise timescales within each phase of the appraisal were audited by JLL. This led to a range of detailed queries being raised and discussed with Savills through a series of workshops regarding the phasing assumptions in the model and the detailed cash flow assumptions in the model.
- 6.16. The ‘front-loading’ of the majority of the residential units in phase 1 helps the overall viability position because the value of residential is more quickly realised than commercial values. The timing of certain items of infrastructure is required for planning reasons – such as the provision of highways infrastructure at an appropriate stage to try to embed sustainable transport habits.
- 6.17. Both the applicant’s cost plan and the cost plan produced by the Council’s advisers set out costs in line with the phasing strategy. The scope of the highway infrastructure works was scrutinised by transport consultants for the Council to reduce it where possible. The scheme was value engineered to improve the cost per square foot of the residential and all costs were scrutinised for the Council by Currie & Brown quantity surveyors. This process was done by looking at the detailed specification of the scheme, not using figures from the more generic Building Cost Information Service (BCIS). BCIS, by its very nature, takes a high level approach and would not take into account the infrastructure on this site. To use BCIS would be a less robust approach to the viability appraisal.
- 6.18. There remains a difference between the total cost plan of the applicant and the Council’s quantity surveyor; this is not at all unusual. The two parties also disagree over contingency rates. The lower costs and lower contingency percentages have been used in the various scenarios tested by JLL.

- 6.19. There was discussion at the 24 September committee meeting about whether the cost of the materials was too high and that cheaper, lower quality materials could be chosen by the applicant to reduce costs (and thereby improve viability and the quantum of Affordable Housing). However, the quality of the scheme needs to be of a sufficient level to generate the high values used in the viability appraisal. If you reduce quality overall, the values drop. The result would likely be the same percentage of Affordable Housing but a poorer quality of place. It is officers' view that the right balance between quality and value engineering has been reached. Assessment of the design of the scheme is covered in **section 10** of the original committee report.
- 6.20. The cash flow, phasing and costs have therefore been appropriately dealt with and scrutinised in order to reach the best viability position.

#### *Land value*

- 6.21. One of the standardised inputs into a viability appraisal is the land value; the NPPG has guidance on how this should be approached. Officers would advise members that, because a viability appraisal is an objective assessment of the development, it assumes a hypothetical landowner and a hypothetical developer. It is not at all uncommon in development for the landowner to also be the developer, as is the case with this application. A land value still needs to be included in the appraisal.
- 6.22. Although a significant portion of the application site was purchased in recent years by the applicant, as per the NPPG, the price paid for the land has not been a consideration in the land valuation.
- 6.23. The NPPG states that, to define land value for any viability assessment, a benchmark land value should be established on the basis of the existing use value (EUUV) of the land, plus a premium for the landowner. The premium for the landowner should reflect the minimum return at which it is considered a reasonable landowner would be willing to sell their land.
- 6.24. Using this guidance, JLL came to a professional judgement that the land value should be set at £12.4 million. The justification for this land value is set out in the August 2019 JLL report, which is appendix 5 of the original committee report.
- 6.25. As set out in paragraph 10.64 of the original committee report, Homes England, in assessing the Council's housing infrastructure marginal viability (HIF) fund bid for the site, used a dramatically lower land value of £628,800 based on existing use value plus 20 per cent. JLL's professional opinion is that this land value would not persuade a landowner to sell. Officers would consider this figure to be at the very lowest end of a reasonable interpretation of NPPG guidance on assessing land value. However, as a government body, it is reasonable and appropriate for the Council to give weight to the Homes England land value. Therefore, JLL produced a number of scenarios using this much lower land value.

- 6.26. There was some debate about the land value at 24 September committee. However, it should be noted that the lowest justifiable land value of £628,000 is that which is used to produce a viable scenario with 35 per cent Affordable Housing. It is only by reducing the land value from £12.4 to the lower £628,000 rate that a scenario that can *just* afford 35 per cent Affordable Housing is reached.
- 6.27. A final point to clarify regarding land value relates to the structure of the viability appraisal. It is structured so that the output of each appraisal scenario is profit on cost. The land value is a fixed input (either at £628,000 or £12.4 million depending on the scenario). Some viability appraisals have land value as the output and profit as a fixed input. Whether the appraisal output is profit or land value does not affect the overall conclusion. In this instance, one would still benchmark land value at £12.4m (or £628,000), which comes to the same thing as benchmarking profit on cost at 20 per cent.

*Developer return or profit*

- 6.28. A return for the developer, or profit, is another input into the viability appraisal. Developers are businesses that need to make decisions on whether or not to develop a site. For a developer to take the risk to embark on a development, and borrow money, they need the investment to generate a return. It is an accepted principle in the planning system that developers need to make a return, as noted in the NPPG (see paragraph 6.7 above).
- 6.29. As noted in paragraph 10.61 of the original committee report, JLL would expect a scheme of this complexity to require a return of around 20 per cent (profit on cost) for a developer to be prepared to proceed and for it to be fundable. JLL generated a number of different viability appraisal scenarios in which various inputs were altered. The profit output from each is then measured against the 20 per cent profit on cost benchmark to ascertain whether the development would be viable or not.
- 6.30. The NPPG states that, for the purpose of plan making, an assumption of 15-20% of gross development value (GDV) may be considered a suitable return to developers in order to establish the viability of plan policies. GDV is the projected value of a development once it is completed. Officers note that the scenario using the £628,000 land value and 35 per cent Affordable Housing produces a profit of 19.7 per cent on cost, which is 16.5 per cent on GDV. Officers are therefore satisfied that the 20 per cent profit on cost benchmark advised by JLL accords with national guidance for a scheme of the scale and programme proposed.
- 6.31. As is apparent from the additional viability work carried out by JLL since the last committee in relation to inflation, development is sensitive to changes in the market; profit can reduce significantly in real-life situations if, for instance, build cost growth exceeds house price growth. The effect of inflation on viability is discussed later in this section of the report.

- 6.32. For the avoidance of doubt, the 20 per cent benchmark profit is the professional view of the Council's independent viability advisers. It is not a level of profit suggested by or required by the applicant. Nor is it a level of profit that the developer would be guaranteed should planning permission be granted. It is a benchmark profit used within an objective viability appraisal as a way of determining what level of Affordable Housing the development can afford.
- 6.33. For all the reasons explored in this section of the report, it is not appropriate to look at the number of pounds of profit JLL anticipate; the relevant metric is the percentage of profit. For instance, a developer building three new dwellings would not need as much *money* in profit as the developer of a skyscraper; both, however, would be looking for a similar *percentage* of profit.
- 6.34. There was discussion at the 24 September committee about the identity of the applicant, Thomas White Oxford, and the suggestion was made that they could proceed with a lower level of profit. National planning guidance requires us to use standardised inputs in an objective appraisal of the development, and not take into account the particular circumstances or identity of the applicant. It would be unreasonable to refuse the planning application because of the identity of the applicant in the same way that it would be unreasonable to impose a condition making a consent personal.
- 6.35. It is also important to distinguish between the figures and assessment that Savills has put forward on behalf of the applicant, and the commercial decisions the applicant may or may not have made in proposing 35 per cent Affordable Housing, and the objective appraisal of the development using standardised inputs that has been carried out by the Council's consultants within the NPPF, NPPG and RICS guidance. It is the latter that we need to have regard to in determining the application.
- 6.36. Finally, in relation to the approach to profit in the viability appraisal, it was suggested at the 24 September committee that benchmarking profit *on cost* would incentivise the developer to increase costs to make more profit. However, it would not be in the developer's interest to increase the costs in their appraisal (unless these will be offset by additional sales revenue/value for the end development). This is because developer's return is the residual item in the development appraisal – it will not increase if costs increase – the level of developer's return will reduce as there will be less residual money available in the scheme (all other things remaining equal).

#### *Risk*

- 6.37. There was discussion at the 24 September planning committee surrounding the risk to the developer. Was risk being 'double counted' in the viability appraisal? Was the level of risk of the project a result of decisions made by the applicant? This issue is addressed in the October 2019 JLL addendum report in section 4 (**appendix 4**), and summarised below.

- 6.38. There is risk in all development projects, and the level of risk varies depending upon the nature of each project. It is the valuer's task to exercise their professional judgement when appraising any project and make appropriate allowances for risk in the appraisal. This is done typically through contingency allowances on build costs (to cover variations in the detailed scope or unexpected findings once building is underway), and the level of developer's return for risk, or profit, that would be required by developers in the market to incentivise the developer to build. Risks are greater where projects span into a significant period of time (given that the longer the project spans into the future, the more risk there is that circumstances may change in the future). Both return on risk and contingency on costs are standard valuation approaches to reflect the different risks associated with a development of this nature, and hence there is no double counting of risk in the viability appraisal.
- 6.39. JLL note that projects are also more risky where there is a significant level of infrastructure required to be provided, and where the development is seeking to offer a bespoke, mixed used project and create a new place. All of these are relevant risks in the Oxford North project because of the requirements of the Northern Gateway AAP and the cost of infrastructure. The vision for and objectives of the AAP would not be met by a standard construction new-build housing estate or business park development. Officers at the City and County councils have worked with the applicant, guided by the Oxford Design Review Panel, to develop a masterplan that would create a new high-quality piece of the city.
- 6.40. At the 24 September committee, it was suggested that, as the commercial elements of the scheme carry greater risk, it could improve the viability to reduce the quantum of commercial and increase the number of housing units. However, the balance of employment space and houses is set by the AAP; housing is one of the complementary uses to the main employment use for the site and a limit of 500 units is set.
- 6.41. Officers are therefore satisfied with the way in which risk has been dealt with in the design of the proposal and in the objective viability appraisal carried out by JLL.

*Inflation of values and costs*

- 6.42. Further modelling work has been undertaken by JLL to assess the level of Affordable Housing that could be provided if both cost and value inflation is included, as required by the resolution of the West Area Planning Committee on 24 September. The methodology, results and conclusion of this work can be found in JLL's October 2019 addendum report found in **appendix 4**.
- 6.43. The RICS guidance includes the 'effect of inflation' approach to viability assessments and so this is considered a valid approach. Such an approach is an alternative to the approach originally adopted by JLL, i.e. an assessment of current costs and values plus a review mechanism.

- 6.44. In very brief summary, JLL found that, because inflation on build costs is forecast to outstrip inflation on sales and rental values, the viability picture worsens if inflation is taken into account in the period projected.
- 6.45. The table below is an extract from the JLL report and shows the effect of inflation on profit on cost for both the scenario with 50 per cent Affordable Housing (as requested by committee) and the scenario with 35 per cent Affordable Housing (which is the quantum proposed with the application).

Scenario	Viability Position (Developer's Return) Reported to Planning Committee on the 24 September 2019	Developer's Return with Inflation and Growth
Scenario G <i>(land value of £0.628 million, 50% Affordable Housing)</i>	12.02% on cost	7.17% on cost
Scenario E <i>(land value of £0.628 million, 35% Affordable Housing)</i>	19.71% on cost	13.17% on cost

- 6.46. Profit on cost at 7.17 per cent and 13.17 per cent are both well below the objective appraisal's 20 per cent benchmark profit. The findings support the officer recommendation to approve the application with a level of Affordable Housing at 35 per cent.

*Review mechanism*

- 6.47. The applicant has agreed to the principle of a review mechanism in proposing provision of 35 per cent Affordable Housing. Further detail of how such a review mechanism would work was required by the West Area Planning Committee on 24 September 2019. The mechanism would be part of a Section 106 legal agreement, should planning permission be granted.
- 6.48. The structure of the review is set out in **appendix 7** of this report and forms part of the heads of terms of the legal agreement. It comprises an early-, mid- and late-stage review and is an upwards only review so that the 35 per cent Affordable Housing would be the minimum provided by the development. The proposed approach adopts a model pioneered by the Mayor for London. It uses the agreed appraisal inputs on values and costs. At each review there is an examination of whether values have increased more than costs. If there is a surplus at the early- or mid-stage reviews then either the whole or part of the surplus will be used to provide on-site additional Affordable Housing. In the late-stage review part of the surplus would be paid to the Council to be used for Affordable Housing elsewhere.
- 6.49. In addition to the formal review process, the applicant is to provide annual updates on actual sales values and costs so that the Council can monitor these against the figures in the viability appraisal.

- 6.50. This review mechanism would ensure that, if the development proves to be more viable than expected, the increase in value can be captured for the benefit of Affordable Housing – either as on-site housing or as a financial payment.
- 6.51. The County Council has requested that the review mechanism also seek to capture surplus value to use towards infrastructure. There is already provision for “unfunded supporting infrastructure”, as set out in paragraph 10.317 of the original committee report. These are items for the Council to consider funding should additional money become available from this development, from other developments within the AAP boundary, surplus CIL monies, or the recirculation of grant. The purpose of the review mechanism is to deal with the issue of Affordable Housing.
- 6.52. Comparisons were made at the 24 September committee meeting to the approach used for the Westgate development to capture future values. However, it should be noted that this was not a review mechanism, but rather the Affordable Housing contribution agreed at the point the decision was issued. That was for 15 per cent of the sales values of the on-site residential to be paid to the Council as an Affordable Housing contribution.

*Availability of viability information*

- 6.53. The viability appraisal and Affordable Housing statement and proposal (25 per cent) submitted by the applicant in June 2019 were advertised in the usual way. The application was not re-advertised following the applicant’s later Affordable Housing proposal of 35 per cent because it was an improvement on the previous proposal with no other material changes to the application. This is standard procedure in such a scenario.
- 6.54. The technical work that was carried out by JLL is summarised in the committee report, with the August 2019 JLL report appended. The JLL work is advice to the Council and is not part of the application. As with any other material planning considerations and consultee comments (internal or external), officers’ assessment is included in the officers’ report.
- 6.55. The August 2019 JLL report sets out the variable inputs into the appraisal in table 3.1 including where there is agreement or disagreement. In terms of the need for iterations, the JLL report included seven scenarios (and JLL have since been asked to undertake a further scenario to test inflation), which officers consider to be enough sensitivity testing to assist the decision makers.
- 6.56. As noted in **section 5** above, the additional viability work assessing the impact of inflation on costs and values has been published and advertised to give members of the public sufficient time to consider the information, alongside the previous viability report produced by JLL as advice to Oxford City Council.

### *Assessment of level of Affordable Housing*

- 6.57. This section of the report has explained the various inputs into the independent, objective viability assessment and how they have all been scrutinised to reach the best possible viability position in order to maximise the level of Affordable Housing.
- 6.58. It should be noted that, in awarding £10 million of funding, the scheme was considered marginally viable with 25 per cent Affordable Housing by Homes England using a £628,000 land value. Homes England used independent viability assessors to review the appraisal prepared by the applicant.
- 6.59. Officers would remind members that JLL's professional view is that the scheme can only afford 25 per cent Affordable Housing at a tenure split of 80 per cent social rent and 20 per cent intermediate housing. This is because JLL do not endorse the lower £628,000 land value.
- 6.60. Whilst officers consider the Homes England land value to be at the very lowest end of a reasonable interpretation of guidance on land value, as a government body, it is reasonable and appropriate for the Council to give it weight. Therefore, officers asked JLL to produce a number of scenarios using this much lower land value, one of which indicates that the development could just afford to provide 35 per cent Affordable Housing.
- 6.61. The further viability modelling to test whether inflation forecasts would improve viability has clearly demonstrated that this is not the case. This strengthens officers' assessment that 35 per cent Affordable Housing is the most this development can initially be required to provide.
- 6.62. The objection from Summertown St Margaret's Neighbourhood Forum, the Wolvercote Neighbourhood Forum and the Oxford Civic Society concludes that "with a lower BLV combined with a higher valuation of the development, and a profit target that reflects the low risk to the development, the scheme is much more viable, and thus there is adequate land value to meet affordable housing obligations". This report has set out that the lowest reasonable BLV has been used, the values are optimistic, lying at the upper end of the range that the Council's professional advisers would expect, and the profit on GDV is within the NPPG parameters of 15-20 per cent. The further viability work carried out looking at the impact of inflation shows that profit is forecast to decrease significantly.
- 6.63. Officers would also remind members that, should the application go to appeal, the level of Affordable Housing in the application would not necessarily be fixed at 35 per cent; it would be open to the inspector to come to a different view on the level the development can afford.
- 6.64. Policies CS24 and HP3 both allow for a reduction in the level of Affordable Housing from 50 per cent if it can be robustly demonstrated that this level of provision makes a site unviable, in which case developers and the City Council will *work through a cascade approach* until a scheme is made viable. For the reasons explored here and in the original committee report,

supported by the evidence in the appraisal work and two reports from JLL, it is manifest that the application is policy compliant in relation to Affordable Housing.

## **b. Transport**

- 6.65. Assessment of the application with regards to transport and highways is included in the original committee report from paragraph 10.76, and concludes that the development complies with local and national policy in respect of sustainable travel, transport and highways.

### *Link road west of A34*

- 6.66. There was discussion at the 24 September committee meeting about the proposals for a link road to the west of the A34 between the A44 and A40 from Loop Farm roundabout. Such a link road is not required to deliver a development at Northern Gateway and so has not been included in the submitted highway modelling. This issue was discussed at length during the examination of the Northern Gateway AAP in 2015 with the Inspector stating that such a link road “has not been demonstrated to be necessary for development at the Northern Gateway to go ahead”.

- 6.67. Paragraph 6.8 of the AAP states:

*Further improvements could be achieved in the wider area through the provision of a strategic link road to the west of the A34, creating a link between an enlarged Loop Farm roundabout and a new roundabout on the A40. Such a scheme could further ease congestion on the A40 approach and the Wolvercote Roundabout. This proposal is beyond the scope of the AAP as it lies within the neighbouring district of Cherwell. It is not required to deliver the development at Northern Gateway.*

- 6.68. Any such link road would not be within the red line of the development and is beyond the control of the applicant. There is no requirement in the AAP for such a link road, nor is there traffic modelling evidence that would justify it.

### *On-site link road*

- 6.69. A link road is proposed that would run through the central parcel between the A44 and A40; this is designed as a street with two lanes for traffic. The question was raised at committee as to whether this street should have four lanes to be able to accommodate traffic. A four-lane (dual-carriageway) link road was an option, but not the preferred option, in the sustainability appraisal that was carried out in preparation for the AAP. The preferred option was a single-carriageway site access road with junctions to A40 and A44.
- 6.70. Although the link road does provide a route for general traffic and therefore some relief to Wolvercote roundabout, the modelling shows that a dual

carriageway is not necessary to mitigate the traffic impact of the development.

- 6.71. The street is designed as a place, not to be dominated by cars and traffic, but rather with cycle priority and a 20 mph speed limit. There would be enforceable weight restrictions on the street to prevent heavy-goods vehicles (HGVs) from travelling through the site. The design aspiration suggests the street is analogous to Broad Street, where people might stop and experience activities, retail, recreation. This is welcomed. A dual carriageway would not be compatible with this design aspiration.

#### *A40 and A44 improvements*

- 6.72. The development of highways infrastructure on the A40 and A44 is the result of seeking to strike a balance between improved sustainable transport infrastructure (bus and cycle) and highway capacity. Maximising highway capacity to facilitate the private car and minimise queuing is not an approach that would be supported.
- 6.73. It is noted in the original committee report that the traffic modelling indicates the development would result in some betterment and some worsening of traffic on the surrounding highway network. Queuing on the A40 was raised as a concern at the 24 September committee. This queuing would affect cars and other private vehicles. The road improvements proposed on the A40 are designed to connect with the works proposed by the County to create bus priority routes on the A40. The queues will not be experienced by those using public transport and so will act as a motivation to use more sustainable transport modes that bypass queuing.
- 6.74. One of the six objectives of the AAP is to make highways improvements. The highway works are not simply to mitigate the impact of the development; they are a policy objective. The proposed development would deliver these significant improvements to the A40 and A44, and through routes for sustainable transport modes, as required by the AAP.
- 6.75. It should be noted that Wolvercote roundabout is neither within the red line of development nor within the control of the applicant. Improvements to Wolvercote and Cutteslowe roundabouts have been delivered by the County Council through the City Deal funding secured in 2015/16.

#### *Car parking*

- 6.76. The overall parking standard for commercial uses is set by the AAP at 1 space per 50 square metres of employment space. This is below the general standard for the city, which is 1 space per 35 square metres. Car parking numbers for the detailed part of the application are below the AAP standard at 1 space per 63 square metres.
- 6.77. As noted in paragraph 10.156 of the original committee report, the application sets out an ambition to reduce car use over time for trips to and from the site. This will need continual assessment as the development is

built out and beyond, and sustainable travel options increase; a reduction in the number of car parking spaces is therefore proposed to be secured via legal agreement.

### **c. Sustainability**

- 6.78. The energy strategy for the site is based on an innovative, low-carbon energy loop system based on ground-source heat pumps. It is important to note that the detailed part of the hybrid application exceeds the 20 per cent target set out in policy CS9 by achieving a 25.7 per cent reduction in energy consumption compared with the level that would be achieved by meeting the minimum compliance threshold for Building Regulations. By targeting BREEAM Excellent, which is to be secured by legal agreement, the application would comply with the standards in emerging policy RE1.
- 6.79. Various queries were raised at 24 September committee in relation to sustainability and the energy strategy for the site.

#### *Energy hierarchy and “fabric first”*

- 6.80. The approach to the energy sustainability of the development is set out in the Design and Access Statement: Masterplan in section 9.8. It states that the proposed strategy to reduce carbon emission follows the energy hierarchy in order of priority:
1. Passive design measures: high fabric performance, effective façade design for daylighting and to limit excessive solar gains in summer as well as conduction losses in winter.
  2. Active design measures: high efficiency lighting and heating, ventilation, and air-conditioning systems and adequate controls.
  3. Low & Zero Carbon Technology: energy sharing loop connected to ground-source heat pumps and photovoltaic (PV) panels.
- 6.81. The energy strategy therefore starts with a “fabric first” approach to maximise reduction in energy through passive design measures. These are the most robust and effective measures for reducing CO<sub>2</sub> emissions as performance is unlikely to deteriorate significantly with time.
- 6.82. “Fabric first” means that buildings are designed so that they are extremely efficient and need less energy than a building of standard construction. This is done through a number of methods including maximising airtightness, using super-high insulation, optimising solar gain through the provision of openings and shading, optimising natural ventilation, using thermal mass of the building fabric and using energy generated by occupants and equipment. This is best practice and is a government advocated approach to energy efficiency, supported by the recently published National Design Guide in paragraphs 138-141.

### *Plot orientation*

- 6.83. The question of whether building and plot orientation had been designed to optimise the use of solar panels was raised at 24 September committee. Primary, secondary and tertiary routes and the interconnectivity of these, together with important connections to places beyond the site have informed the setting out of the blocks that are indicated in the masterplan. The Design and Access Statement for the development sets out a number of parameters that would underpin the detailed design of later phases of the whole development. The design of buildings including roofs and the alignment of these is not a fixed parameter. It would be entirely possible to design a roofscape of south-facing slopes on a block that was set out between routes aligned in order to make appropriate connections. There are many examples of good architecture where roof alignment is not defined by footprint.
- 6.84. The only building orientations which are defined at this stage are those which relate to key street frontages along the A40, A44 and the link road. These relate to the existing urban context and the parameters and illustrative masterplan respond to them. All the others will be developed at later stages as detailed designs emerge, should planning permission be granted. They will be subject to design review, dialogue with officers and formal approval through the reserved matters process. Roof orientations, to support the use of solar panels, will similarly be developed at a later date, and can be designed to optimise the potential for PV use, alongside the other design considerations.

### *Energy sharing loop*

- 6.85. It was queried at 24 September committee whether the proposed energy sharing loop was a low-carbon technology. The system is a low-carbon solution because it is based on ground source energy systems. The system minimises the amount of thermal energy wasted to atmosphere by moving it to where it can be best utilised/recycled on the site. It is less carbon intensive than a traditional district heating arrangement (with an energy centre with gas-fired Combined Heat and Power (CHP) and boilers) and lends itself to a future where the electricity grid is further decarbonised.

### *Photovoltaic (PV) panels*

- 6.86. Although passive measures such as high-performance building fabric have been prioritised, and the energy sharing loop is expected to provide significant carbon savings to the scheme, other low and zero carbon technologies are also proposed. Photovoltaic (PV) panels are part of the wider energy strategy for the whole site and these would be wired into the local power network to reduce the consumption of grid electricity by the energy loop pumps and other electrical loads.
- 6.87. PV panels are proposed to be incorporated into phase 1a as a whole. At this stage full planning permission is only sought for part of phase 1a; the residential part of phase 1a is part of the outline application only. The roofs

of the residential buildings are considered the most suitable location for the installation of PV panels in design terms.

- 6.88. Officers consider that the focus on fabric-first principles and the energy loop is appropriate, having regard to energy hierarchy best practice.

*Climate emergency*

- 6.89. Further to committee discussion on 24 September, officers would seek to clarify the effect of the Council's declaration of a Climate Emergency on 28 January 2019 on planning application decisions. The declaration does not alter the obligation of the Council as local planning authority to determine applications in accordance with the Development Plan unless there are material considerations that indicate otherwise. With respect to national energy policy, the requirements for local planning authorities are to include in the development plan policies that ensure development and land use in the local planning authority's area contribute to the mitigation of, and adaptation to, climate change. The principal component of the Council declaration is the setting up of a Citizens Assembly which would make recommendations on the key decisions around both target deadlines to reach zero carbon and the types of costed measures required to meet those targets.
- 6.90. As such, there are no material considerations that would give rise to a deviation from the requirements of the development plan in respect of sustainable energy.

**d. Education**

- 6.91. The County Council has commented that it would like reassurance that funding will be in place, in a timely manner, for the critical infrastructure and services to make the Oxford North development acceptable in planning terms.
- 6.92. The original committee report sets out how the infrastructure necessary to make the development acceptable in planning terms is to be secured.
- 6.93. As set out in paragraph 10.35 of the original committee report, the Council's Affordable Housing and Planning Obligations SPD states that off-site infrastructure including additional school places which are associated with new development and consequent population or economic growth shall be funded with CIL. A decision as to whether primary and SEND education should be funded by CIL is not within the decision-making powers of this committee; it is a decision made in another forum.

**e. Accessibility**

- 6.94. The question of whether the application would be required to meet the standards of inclusive design was raised at the 24 September committee. The Heads of Terms of the Section 106 legal agreement includes a section on health and sustainability with the following summary:

- Reasonable endeavours shall be used to ensure that the principles of good design for health and wellbeing are embedded into the design of the Development and to explore new and innovative strategies for working in partnership across sectors to deliver the best possible wellbeing outcomes for current and future tenants and residents
- 6.95. As a result of committee discussions, officers propose that the heads of terms be altered to incorporate the principles of inclusive design into the requirements, i.e. to ensure the development is designed so that it aims to remove the barriers that create undue effort and separation, and enables everyone to participate equally, confidently and independently in everyday activities.

## **7. OTHER MATERIAL CONSIDERATIONS**

### *Equalities Act*

- 7.1. The application has been assessed against the relevant sections of the Equalities Act 2010, and it is not considered that the application discriminates against people with protected characteristics specified in the Act. The protected characteristics are:

- age
- gender reassignment
- being married or in a civil partnership
- being pregnant or on maternity leave
- disability
- race including colour, nationality, ethnic or national origin
- religion or belief
- sex
- sexual orientation.

### *Human Rights Act 1998*

- 7.2. 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.

### *Section 17 of the Crime and Disorder Act 1998*

- 7.3. 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.

## **8. CONCLUSION**

- 8.1. Having regards to the matters discussed in this report and committee report to 24 September 2019 West Area Planning Committee (**appendix 2**), officers would make members aware that planning decisions must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004). The National Planning Policy Framework represents up-to-date government planning policy and is a material consideration that must be taken into account where it is relevant to a planning application. This includes the presumption in favour of sustainable development found at paragraph 11 of the Framework, which requires approving development proposals that accord with an up-to-date development plan without delay.
- 8.2. Section 2 of the NPPF lists the three dimensions to sustainable development: economic, social and environmental. These roles are interdependent and need to be pursued in mutually supportive ways to achieve sustainable development. These roles will now be considered in weighing up the benefits and dis-benefits of the proposed development relative to all material considerations discussed in this report.

### *Economic impacts*

- 8.3. The Northern Gateway is a key strategic site which has been allocated in the Core Strategy for employment space focussed on Oxford's key strengths in the knowledge economy – science and technology, research, bio-technology and spin-off companies from the universities and hospitals. One of the objectives of the OxLEP Strategic Economic Plan for Oxfordshire 2016 is to deliver flagship gateway developments and projects that stimulate growth. Northern Gateway is identified as such a project.
- 8.4. This application would bring significant economic benefits through provision of employment space tailored to the needs of the city, supporting economic growth, underpinned by the necessary infrastructure to deliver the site. Over 4,000 jobs are anticipated to be provided on the site, with the construction work providing jobs during the build phase. Paragraph 80 of the NPPF states that significant weight should be placed on the need to support economic growth and productivity and therefore this economic benefit of the proposal is afforded significant weight.

### *Social impacts*

- 8.5. The application would provide up to 480 new homes including 168 affordable homes of which 135 units would be social rented and targeted to those in greatest housing need. The urgent need for more homes and the constrained supply in Oxford is well documented and understood; therefore

this contribution on an employment-led development would be significant in addressing the shortfall in housing and of clear social benefit. It would support the Government's objective of significantly boosting the supply of homes as set out in paragraph 59 of the NPPF.

- 8.6. The illustrative masterplan and details within the Design and Access Statement: Masterplan demonstrate the proposal's high-quality urban design. The overall landscape proposals and public spaces further assure that the development would be well-designed, thereby providing high-quality public realm and supporting social well-being. As required by the NPPF, officers have had due regard to the supportive comments of the ODRP in assessing the design quality of the proposed scheme.
- 8.7. The overall sustainable transport benefits that the development would bring include hugely improved cycle and bus infrastructure on transformed stretches of the A40 and A44 within the application site. Improved bus services via the Eastern Arc would be delivered, and an obligation to work collaboratively to create a cycle link northwards to Oxford Parkway would be secured. These improvements to sustainable transport bring social benefits by offering healthier travel options and increasing connectivity and accessibility of facilities.
- 8.8. The dis-benefit of the development in social terms is the impact on heritage assets (the setting of both Wolvercote with Godstow Conservation Area and the Manor and Church Farmhouses) set out in **section 10d** of the original committee report. The balancing exercise required by the NPPF for less than substantial harm to heritage assets concluded that the public benefits of the development significantly outweigh the harm. As such, the proposal would meet the test of paragraph 196 of the NPPF and would accord with Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

#### *Environmental impacts*

- 8.9. The social benefit of the transformation of the A40 and A44 in slowing traffic, greening, and improving bus and cycle infrastructure would also deliver significant environmental benefits, transforming what is currently a hostile environment and providing much improved sustainable travel options.
- 8.10. Similarly the high-quality urban design and landscape proposed would bring environmental as well as social benefits.
- 8.11. As set out in the report, air quality, vehicular traffic, noise and drainage can all be appropriately managed to prevent any harmful impact and the proposals comply with the relevant local and national planning policies.
- 8.12. The proposed energy loop provides a significant environmental benefit in bringing power to the development without the need for gas or to produce emissions. The system would be modular allowing each phase to connect to the loop, and has the potential to grow beyond the site.

- 8.13. In ecology terms, there would be a gain in linear habitats on site but a net loss of biodiversity within the site. The latter is a dis-benefit which is to be mitigated through the creation of off-site habitats in nearby Cutteslowe Park. This is anticipated to result in an overall net gain in habitats, as required by the NPPF. Any shortfall would be dealt with through financial contributions to an appropriate scheme, secured by legal agreement.
- 8.14. Overall, the proposed development would bring significant public benefits that accord with the three strands of sustainable development set out in the NPPF. Having taken into account the provisions of the Development Plan, the policies in the NPPF, the views of statutory consultees and wider stakeholders, as well as all other material planning considerations, the proposed development is recommended for approval subject to the planning conditions set out in **appendix 5** and a Section 106 legal agreement whose Heads of Terms are set out in **appendices 6 and 7**.
- 8.15. It is recommended that the Committee resolve to grant planning permission for the development proposed subject to the satisfactory completion (under authority delegated to the Head of Planning Services) of a legal agreement under Section 106 of the Town and Country Planning Act 1990.

## **9. APPENDICES**

- **Appendix 1** – Site location plan
- **Appendix 2** – Committee report to 24 September 2019 West Area Planning Committee
- **Appendix 3** – Minutes for the 24 September 2019 West Area Planning Committee
- **Appendix 4** – JLL additional viability report – impact of inflation on costs and values
- **Appendix 5** – Recommended conditions
- **Appendix 6** – Heads of terms of Section 106 legal agreement
- **Appendix 7** – Review mechanism structure

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