

Agenda Item 6

WEST AREA PLANNING COMMITTEE

Application number:	19/03013/FUL		
Decision due by	28th January 2020		
Extension of time	21 st August 2020		
Proposal	Demolition of existing building. Erection of a four storey building to create 5 x 2 bed flats and 2 x 1 bed flats. Provision of amenity space, bin and bicycle storage.		
Site address	8 Hollybush Row, Oxford, OX1 1JH, – see Appendix 1 for site plan		
Ward	Carfax Ward		
Case officer	Natalie Dobraszczyk		
Agent:	Mr Alex Cresswell	Applicant:	Robin Swailes Design And Development
Reason at Committee	The application is before the committee because the number of dwellings proposed means that this has to be determined by an area committee.		

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 Head of Planning Services to:

- finalise the recommended conditions as set out in this report including such refinements, amendments, additions and/or deletions as the Head of Planning Services considers reasonably necessary.

2. EXECUTIVE SUMMARY

- 2.1. This report considers the demolition of the existing building 8 Hollybush Row and the erection of a four storey building to create 5 x 2 bed flats and 2 x 1 bed flats, including the provision of amenity space and bin and bicycle storage.
- 2.2. The proposal would fail to comply with the development plan as a whole. The principle of development is acceptable however the demolition of the existing

building is considered to result in moderate less than substantial harm to heritage assets which would not be outweighed by public benefits and which therefore would be contrary to paragraphs 196-197 of the NPPF and Local Plan Policy DH3.

- 2.3. The absence of suitably detailed information means that the proposal would fail to demonstrate that it would utilise sustainable design and construction methods or include an element of on-site renewable or low carbon technologies. As such the proposal would fail to accord Local Plan 2036 Policy RE1.
- 2.4. Notwithstanding this, officers have given significant weight to the fallback position which allow the proposals to be constructed as submitted, and as such do not consider it reasonable to refuse the application on these grounds.
- 2.5. The proposal will not have an unacceptable impact on neighbouring amenity, trees, flooding, archaeology, land quality and highways/ transport. Conditions have been included to ensure this remains the case in the future.
- 2.6. Therefore, it is recommended that the Committee resolve to grant planning permission for the proposed development subject to the conditions set out in section 12 of this report.

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 a CIL contribution of £65,225.79.

5. SITE AND SURROUNDINGS

- 5.1. The application site and its surroundings are located within the city centre, the West End (city centre commercial area) and within the Central Conservation Area. The area is of a predominantly mixed-use in character with built form comprising of both domestic brick terraces of two and three storeys, and larger commercial buildings.
- 5.2. The application property is a part two-storey, partly single-storey building. The building comprises a roof-shape that is pitched with two end-gables, constructed of glazed red brick, dark grey plain roof tiles, and painted timber cladding. The upper floor has three windows with a painted pebbledash finish to the upper floor elevation.
- 5.3. To the immediate north of the site is King Charles House, a part three, part four storey building which provides commercial office accommodation. To the south is no.44 St. Thomas Street which is a two storey non-designated heritage asset which has been converted into residential dwellings. Bounding the site to the east and south east is the residential development known as Castle Mews. To the north west of the site, on the opposite side of Hollybush

Row, is Coopers Jam Factory which is grade II Listed. The Lodge, located to the south west of the site is also grade II listed.

5.4. The site is located within Flood Zones 1 and 2.

5.5. The block plan is shown below:



6. PROPOSAL

- 6.1. The application proposes the demolition of existing building and the erection of a four storey building to create 5 x 2 bed flats and 2 x 1 bed flats. The proposal includes the provision of amenity space and bin and bicycle storage.
- 6.2. At ground floor level, a 1-person unit is proposed measuring approximately 48.8sqm GIA, together with storage for 12 bicycles, waste and recycling, storage space and amenity space.
- 6.3. Both first and second floor levels would contain a 1-bed unit (measuring 60 sqm GIA), a 2-bed unit (measuring 78sqm GIA) and private amenity space to serve both units.
- 6.4. The top floor of the building would house a 1-bed unit (measuring approximately 50 sqm GIA), a 2-bed unit (measuring approximately 62sqm GIA) both with private roof terracing.

7. RELEVANT PLANNING HISTORY

- 7.1. The table below sets out the relevant planning history for the application site (approved schemes are highlighted for clarity):

15/02694/FUL - Demolition of existing public house. Erection of four storey building to provide 5 x 1-bed and 2 x 2-bed flats (Use Class C3). Provision of private amenity space, bin and cycle storage. Approved 27th May 2016.

16/01541/FUL - Demolition of existing public house. Erection of four storey building to provide 5 x 2-bed and 2 x 1-bed flats (Use Class C3). Provision of private amenity space, bin and cycle storage. Appeal Dismissed 12th July 2017.

16/01655/VAR - Variation of condition 2 (approved plans) of planning permission 15/02694/FUL to allow amendments to approved plans including insertion of windows to south elevation, alteration to window position on front elevation, amendments to internal layout and amendments to bin and cycle store to provide individual store. Withdrawn 13th June 2017.

15/02694/CND - Details submitted in compliance with conditions 5 (Sample materials), 6 (Existing materials), 9 (Construction Traffic Management Plan) and 12 (Drainage) of planning permission 15/02694/FUL. Approved 1st March 2017.

15/02694/CND2 - Details submitted in compliance with conditions 7 (Development to salvage existing material) and 11 (Details of underground services and soak) of planning permission 15/02694/FUL. Approved 24th October 2016.

16/03189/FUL - Demolition of existing public house. Erection of a four storey building to create 7 flats (5 x 2-bed and 2 x 1-bed flats (Use Class C3)). Provision of bin and cycle store. Approved 15th May 2017.

18/01523/FUL - Change of use from drinking establishment (Use Class A4) to Office space (Use Class B1a). Removal of existing chimneys. Approved 6th September 2018.

18/01541/OUT - Outline application (seeking the approval of access, layout and scale) for the redevelopment of Public House (The Adventurer) with four storey building comprising collaborative office space, live/work units, office suites and 3 x 1 bedroom apartments (including private amenity space, bin storage and cycle parking). Withdrawn 17th July 2018.

18/01542/OUT - Outline application (seeking the approval of access, layout and scale) for the redevelopment of Public House (The Adventurer) with four storey building comprising collaborative office space, wet labs, office suites and 3 x 1 bedroom apartments (including private amenity space, bin storage and cycle parking). Withdrawn 17th July 2018.

18/02103/OUT - Outline application (seeking the approval of access/layout/scale) for the redevelopment of Public House (The Adventurer) with four storey building comprising collaborative office space, office space, short stay (hotel) accommodation and 1 x 1 bedroom and 1 x 2bedrooms apartments (including private amenity space, bin storage and cycle parking).(Amended description). Approved 12th November 2018.

19/01161/OUT - Outline application (seeking approval of access, appearance, layout and scale) for the redevelopment of Public House (The Adventurer) with five storey building comprising collaborative office space, office suites (Use Class B1), short stay (hotel) accommodation and 1 x 1-bed and 2 x 2-bed apartments (including private amenity space, bin storage and cycle parking). Withdrawn 26th June 2019.

19/03013/FUL - Demolition of existing building. Erection of a four storey building to create 5 x 2 bed flats and 2 x 1 bed flats. Provision of amenity space, bin and bicycle storage. Pending Consideration.

19/03378/FUL - Demolition of existing building. Erection of a five storey building to create office suites (Use Class B1), 4no. short stay hotel rooms and 1 x 1-bed and 2 x 2-bed apartments. Provision of amenity space, bin and cycle stores. Withdrawn 22nd April 2020.

7.2. As detailed above the application site has a convoluted planning history. To summarise, there are extant permissions for the following schemes:

- 16/03189/FUL - Demolition of existing public house. Erection of a four storey building to create 7 flats (5 x 2-bed and 2 x 1-bed flats (Use Class C3)). Provision of bin and cycle store.
- 18/01523/FUL - Change of use from drinking establishment (Use Class A4) to Office space (Use Class B1a). Removal of existing chimneys.
- 18/02103/OUT - Outline application (seeking the approval of access/layout/scale) for the redevelopment of Public House (The Adventurer) with four storey building comprising collaborative office space, office space, short stay (hotel) accommodation and 1 x 1 bedroom and 1 x 2bedrooms apartments (including private amenity space, bin storage and cycle parking).

7.3. This application is a resubmission of the scheme approved under planning consent 16/03189/FUL. It differs from the approved application only in that it seeks to remove the obligation for affordable housing contributions which were previously required in accordance with Sites and Housing Plan Policy HP4.

8. RELEVANT PLANNING POLICY

8.1. The following policies are relevant to the application:

Topic	National Planning Policy Framework	Local Plan 2036
Design	Paragraphs 124 - 132	DH1, DH6, DH7, H10, H14, H15, H16

Conservation/ Heritage	Paragraphs 184, 189 - 202	DH3, DH4, DH5
Housing	Paragraphs 59 – 76	H2, H4, H10
Natural environment	Paragraphs 148-165, 170 – 183	RE1, RE2, RE3, RE4, RE6, RE7, RE8, RE9, G8
Transport	Paragraphs 102-111	M1, M2, M3, M5
Miscellaneous	Paragraphs 7 – 12, 47 – 48	S1

9. CONSULTATION RESPONSES

- 9.1. Site notices were displayed around the application site on 13th December 2019, 6th April 2020 and 15th July 2020 and advertisements were published in The Oxford Times newspaper on 12th December 2019, 12th March 2020 and 16th July 2020.

Statutory and non-statutory consultees

Oxfordshire County Council (Highways)

- 9.2. No objections subject to conditions relating to restricting resident parking permits and the submission of a Construction Traffic Management Plan (CTMP).

Oxford Preservation Trust

- 9.3. Objected to the proposals on the basis that the existing building should not be demolished because it makes a positive contribution to the character of the Conservation Area. The proposed building was not considered to be visually attractive, not sympathetic to the local character and history of the area and in would not establish nor maintain a sense of place. Concerns were also raised about the quality of the proposed accommodation particularly in relation to limited natural lighting and ventilation and restricted outlook preventing enjoyment of the proposed dwellings.

Oxford Civic Society

- 9.4. Objected to the proposals on the basis that the existing building should not be demolished because it makes a positive contribution to the character of the Conservation Area. Also, objected to the design of the proposed building for being “bulky”, “bland”, “out of scale” and “characterless”. Concerns were raised about the quality of the proposed residential accommodation, specifically regarding lighting, outlook and ventilation.

Oxfordshire Architectural and Historical Society

9.5. Objected to the proposals for the following reasons:

- The negative impact on the Central Conservation Area from the loss of 8 Hollybush Row;
- The negative impact on the Central Conservation Area from the proposed development, which, it is argued, has not been informed by the existing building;
- The significance of the existing building and the impact on a local heritage asset.

Royal Society for the Protection of Birds (RSPB)

9.6. The RSPB did not object to the proposals but requested a condition to secure a minimum of 6 swift bricks be installed as part of the new development.

Public representations

9.7. 2 comments [2 objections] were received from addresses in Castle Mews. Comments were also received from Green Templeton College as the owner of King Charles House.

9.8. Officers note that some of the comments received in response to this application also relate to proposals which were considered under, the now withdrawn, application 19/03378/FUL. Where this is the case they have been highlighted with an asterisk (*).

9.9. The following summarises the comments which were received:

Heritage

- Objections were made to the demolition of the existing building which contributes positively to the heritage of the area. Reference was made to the extension of the Central Conservation Area as a reason for resisting the demolition as well as the recent refurbishment of the existing building.
- The construction of a plain tall wall adjoining the car park of King Charles House would not be conducive to the visual amenity of the conservation area.

Impact on Neighbours

- The developer has not consulted with neighbouring occupiers.
- The proposal would result in overshadowing and loss of light to Castle Mews, specifically 1-9 Castle Mews, where views of the sky would be lost.
- The proposed terraces would result in noise for neighbouring occupiers (*).

- The proposal would result in an adverse impact on the level of daylight within King Charles House.
- The proposal would result in a deleterious effect upon the views to and from King Charles House and the associated car park.
- Concerns that the existing tenants within Castle Mews would leave due to negative construction impacts. Specific reference was made to dust and noise.

Trees/Landscape

- The proposal would remove the existing garden space to the rear of the plot including the wildlife within.
- The proposal would destroy several large established trees within Castle Mews due to the overshadowing created.

Highways

- If the proposal requires any road, or partial road, closures then this would be disruptive for the community.
- If approved, it was requested that construction working hours and construction noise conditions be applied to minimise disruption to the occupiers of King Charles House.

Misc.

- The existing building serves the community well as an office space.
- The proposed development would not benefit the community (*).
- The proposal does not include a noise report or a daylight and sunlight report.
- The swift report submitted as part of the application is misleading as Hollybush Row would be too noisy for swifts to nest (*).

10. PLANNING MATERIAL CONSIDERATIONS

10.1. Officers consider the determining issues to be:

- i. Principle of development;
- ii. Impact on heritage assets;
- iii. Design;
- iv. Affordable Housing;
- v. Housing Mix;
- vi. Impact on neighbouring amenity;

- vii.Trees;
- viii.Flooding;
- ix.Sustainability;
- x.Highways and Transport;
- xi.Other Matters.

i. Principle of development

- 10.2. This application is a resubmission of the scheme approved under planning consent 16/03189/FUL. It differs from the approved application only in that it seeks to remove the obligation for affordable housing contributions which were previously required in accordance with Sites and Housing Plan Policy HP4.
- 10.3. The principle of development has been established by the previous planning permission. All pre-commencement conditions relating to planning consent 16/03189/FUL have been complied with and the applicant has submitted a building control inspection report confirming that excavations for footings for the approved development commenced on 13th May 2020. As such, planning consent 16/03189/FUL is extant and is therefore a material consideration in the determination of this application. The permission established the acceptability of the demolition of the building, the loss of the public house and the creation of residential units on this site.
- 10.4. Notwithstanding this, since the previous consent there have been two material changes, the first being the expansion of the Central Conservation Area which now includes the application site, and the second being the status the adopted Oxford Local Plan 2036.
- 10.5. The National Planning Policy Framework (NPPF) encourages the effective use of land by reusing land that has been previously developed (brownfield land) provided that it is not of high environmental value. Likewise, Local Plan Policy RE2 advocates the efficient use of land.
- 10.6. The principle of the development is therefore considered to be acceptable. Notwithstanding this, the proposed demolition and impact on heritage assets is discussed in section b. of this report.

ii. Impact on Heritage Assets

- 10.7. The NPPF requires proposals to be based upon an informed analysis of the significance of all affected heritage assets and expects applicants to understand the impact of any proposal upon those assets with the objective being to sustain their significance (paragraph 189). In making any such assessment great weight should be given to the asset's conservation (paragraph 193). When assessing the impact of a proposal on a non-designated heritage asset the NPPF requires the Local Planning Authority to undertake a balancing judgement having regard to the scale of any harm or loss and the significance of the heritage asset (paragraph 197).

10.8. The NPPF requires that local authorities seek high quality design and a good standard of amenity for all existing and future occupants of land and buildings. It suggests that opportunities should be taken through the design of new development to improve the character and quality of an area and the way it functions. Policies DH1, DH2 and DH5 of the Oxford Local Plan 2036 require that development proposals incorporate high standards of design and respect local character.

Demolition

10.9. The application site is located within a Conservation Area, therefore, the test under section 72 of the Planning (Listed Buildings and Conservation Area) Act 1990 is relevant and must be given consideration.

10.10. Section 72 states:-

“(1) In the exercise, with respect to any buildings or other land in a conservation area, of any [functions under or by virtue of] any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.”

10.11. There are listed buildings within close proximity to the application site (The Jam Factory, Hollybush Lodge). Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires local planning authorities to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses.

10.12. The application site is located within the Central Conservation Area and in the St Thomas' area historically an extra-mural medieval suburb now characterised by small domestic brick terraces, 19th Century model housing, former brewery buildings and public houses that had an important communal function contributing activity and vibrancy to the area.

10.13. During the 19th Century larger commercial buildings developed along Park End Street with some aspects surviving that demonstrate Oxford's industrial heritage through use of ironwork including Cantay Depositories, a furniture warehouse with cast-iron columns made by the Eagle Foundry in Jericho, and surviving railings to The Lodge boundary on the corner of St Thomas Street and Hollybush Row).

10.14. There are also many smaller, domestic residential buildings and 19th Century terrace survivals on Hollybush Row and St Thomas Street. As well as some surviving elements from the numerous breweries that once characterised this area e.g. the brewery chimney on Osney Lane.

10.15. The existing building provides visible evidence of its original function as a public house with some particularly characteristic and thus significant details, namely glazed tiling to lower part of street façade and fascia. The existing building derives importance from the fact that it is one of two surviving public houses in an area where brewing, one of the principal economic activities that was carried out in the area, was at one time numerous. This was highlighted

within the West Oxford Character Assessment (p. 23, 27 and map) one of two documents produced in order specifically to identify local heritage assets. The draft Conservation Area Appraisal when referring to the Western Fringe (Character Zone 6) notes that positive contributors to the area include surviving nineteenth and twentieth century buildings that reflect the historic character of the zone. While the application building is not specifically identified within the Conservation Area Appraisal officers note that its significance and contribution is not reduced as a result of this omission.

- 10.16. In support of the application the applicant has submitted a heritage report and a heritage report addendum. The additional information provided in support of the application concludes that the absence of reference to the building to be demolished from a number of reports and character assessments of the area implies that the building has no architectural or historic value and that, therefore, its demolition would not be harmful to the character or appearance of the Central Conservation Area in which it now sits. The reference in those documents to public houses (plural) and the identification that in this particular part of the conservation area breweries and public houses associated with those breweries were a significant economic activity from the C16, would on the contrary, suggest that the building, by virtue of the fact that its architecture is particularly symbolic of the public house, has a historic value as part of the most consistent and characteristic activity in this part of the conservation area.
- 10.17. The public house is an entity that makes an important contribution to the character of the place. Over time many public houses have been lost from their original, designed function which has a negative impact on the character of the area. However, in many cases the buildings survive and their surviving architectural features are symbolic, pointing clearly to the fact that they were originally built to function as public houses is identified as being important to the character and appearance of the area, and therefore by conclusion it must be considered that they have some value and make some significant contribution to the character and appearance of the area and thus the significance of the heritage asset i.e. the Central (City and University) Conservation Area in which the former Albion public house, the subject of this demolition and subsequent site redevelopment, now sits.
- 10.18. Officers therefore consider that there would be a degree of harm to the character and appearance of the Central Conservation Area, and in particular to the part of the conservation area that has been identified in the City's West End Character Assessment as St Thomas', from the loss of the former Albion public house. It is considered, in line with paragraph 193 of the NPPF that some harm has already been caused by the loss of the building's designed/intended function, however, the surviving architecture is of value and makes a contribution to the area's character and appearance and therefore the harm would be of a "less than substantial" category and that it would be a moderate level of less than substantial harm.
- 10.19. Paragraph 194 of the NPPF states that any harm or loss of the significance of a designated heritage asset, in this case the Central Conservation Area, should require clear and convincing justification. It is not considered that the loss of the building has been adequately justified. It presently has an

“alternative” use (i.e. it currently operates as B1(a) offices which were approved under application 18/01523/FUL) and this could reasonably continue, or indeed the building having been adapted once without complete loss of its distinctive/significant architecture could be adapted again, for example for domestic or another commercial use. The application has not been supported by convincing evidence that this is not appropriate. As such the proposal fails to meet the requirements of paragraph 194 of the NPPF.

10.20. The NPPF sets out that in cases where there is less than substantial harm, states:

“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 (paragraph 196).”

10.21. In terms of public benefits the following have been identified:

- The contribution of 7 residential units towards meeting Oxford’s housing need.
- The development of the site to a higher density and capacity in a part of the City that has comparatively less constraints than more other sensitive locations, making most efficient use of the land.
- Improved sustainability credentials arising from the reconstruction of the building with modern, high quality materials.
- The employment benefits during construction of the dwellings.

10.22. Officers consider that the proposed development would provide some public benefits, however, these would be relatively limited in their scope. In carrying out this balancing exercise officers are mindful of the importance and therefore the weight to be attached to any level of harm to a heritage asset (Barnwell Manor Wind Energy Ltd v East Northants District Council, English Heritage, National Trust & SSCLG [2014]) when considering the weight of valid and justified public benefits that would occur as a result of the demolition of the former PH building and consequent ability to redevelop its site.

10.23. In accordance with paragraph 193 of the NPPF, Officers have given great weight to the conservation of the designated heritage asset and consider that the public benefits arising from the development would not outweigh the moderate level of less than substantial harm arising from the demolition of the existing building, which makes a positive contribution to the character and appearance of this part of the Central Conservation Area and thereby contributes to the significance of the conservation area as a whole. As such the proposal is found to be contrary to paragraphs 196-197 of the NPPF and Local Plan Policy DH3.

10.24. Notwithstanding the above, the ‘fallback position’ attributed by previous planning permissions is a material planning consideration and must also be considered in this instance.

10.25. As set out in the planning history section there are a number of historic and extant permissions on this site. Two of these extant consents (16/03189/FUL and 18/02103/OUT) include the demolition of the existing building and therefore have established the acceptability of the demolition of the building which is a material planning consideration in the determination of this application. The NPPG states that:

“The planning history of a site may be a relevant consideration in the determination of an application... Relevant factors to take into consideration might include evidence as to the reasons why an earlier permission was not implemented, the time that has elapsed since the previous permission expired and the number of similar applications made for the same site.” (Paragraph: 010 Reference ID: 21b-010-20190315)

10.26. Case law dictates that a previous planning permission, even if it has expired prior to implementation, is a material planning consideration (South Oxfordshire DC v Secretary of State for the Environment [1981] 1 WLR 1092 and Spackman v Secretary of State for the Environment (1977) 33 P&CR 430). Likewise, the prospect of the fallback position occurring must be real rather than merely theoretical, and a possibility of it occurring will suffice: Samuel Smith Old Brewery (Tadcaster) v 4 Secretary of State for Communities and Local Government [2009] JPL.

10.27. All pre-commencement conditions relating to planning consent 16/03189/FUL have been complied with and the applicant has submitted a building control inspection report confirming that excavations for footings for the approved development commenced on 13th May 2020. As such, planning consent 16/03189/FUL is extant.

10.28. With regard to the extant permission 18/02103/OUT, this application was made in outline and therefore would require the submission and subsequent approval of a reserved matters application before the development could commence. However, there is suitable time remaining for the applicant to submit a reserved matters application so officers conclude that this consent also has the potential to be implemented.

10.29. In light of the above, officers attribute significant weight to the fallback position and as such, despite the identified harm to the designated heritage asset, do not consider it reasonable to refuse the application on these grounds.

iii. Design

10.30. The NPPF makes it clear that the purpose of planning is to help achieve sustainable development (Section 2), and that design (Section 12) and effects on the natural environment (Section 15) are important components of this.

10.31. Section 11 of the NPPF notes in paragraph 122 that in respect of development density the considerations should include whether a place is well designed and “the desirability of maintaining an areas prevailing character and setting...or of promoting regeneration and change”.

10.32. Paragraph 127 of the NPPF states that decisions should ensure that developments will a) function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; c) are sympathetic in local character and history, including the surrounding built environment and landscape setting; d) establish or maintain a strong sense of place to create attractive, welcoming and distinctive places and e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public open space).

10.33. Local Plan Policy DH1 requires developments to demonstrate high quality design and placemaking.

10.34. The application proposes a four storey residential building with a central stair core and 2 residential units facing east and west on each floor above ground. At ground floor level an east facing 1 bedroom unit is proposed with external storage at the rear of the plot for bin and bicycle storage.

10.35. The proposed residential units would all have internal space standards that comply of the minimums set out in the Nationally Described Space Standard. All units have access to private external amenity space. The space provided is acceptable for the size of units in a city centre location. The proposed units therefore comply with Local Plan Policies H15 and H16.

10.36. The proposed development would be located within a mixed commercial and residential area and there is an ‘A’ road to the front of the site with a pedestrian footway between. There is the potential for noise to affect future occupants and a noise assessment has not been submitted in support of the application. However as officers give significant weight to the fallback position, which would allow the proposals to be constructed as submitted, officers do not consider it reasonable to refuse the application on these grounds.

10.37. The proposed elevations show a predominantly brick building with a recessed top floor in zinc cladding. Steel guards are proposed around the terraces and a glass guard is proposed along the terrace of the four floor property.

10.38. One of the key features of the character of Hollybush Row is the transition from large, landmark buildings which bound Frideswide Square (King Charles House/ The Jam Factory) to the two storey residential scale on St. Thomas’. The application site represents a transition between these two, different characters and as such any new building here needs to respond sensitively and intelligently to this situation in order to be successful and make a positive contribution to the character and appearance of the conservation area. It is also important to recognise that to the north west of the site, on the opposite

side of Hollybush Row, is Coopers Jam Factory which is grade II Listed. The Lodge, located to the south west of the site is also grade II listed.

- 10.39. The proposal would result in a change from an overtly domestic scale building, in keeping with the historic character of St Ebbes, to a much larger building with a single, large mass and deep footprint, however large, residential buildings of this scale are also present within the St Ebbes/ St, Thomas area, including some that are of historic significance. Therefore, officers consider that the proposed massing would be acceptable and would be appropriate within the street scene. The recessed top floor with a contrasting material treatment would reduce the perceived mass of the building when viewed from Hollybush Row and the setting in of this upper floor would help to create a transitional step between the larger King Charles House to the north and the smaller residential properties to the south. The use of recessed brickwork panelling on the northern, eastern and western sides of the building would also help to provide visual interest and articulation in breaking up larger areas of brickwork.
- 10.40. As set out above there would be a moderate level of less than substantial harm to the significance of the conservation area as a result of the loss of the existing building that evidences the public house use. In terms of the proposed replacement building officers consider that while the architecture is relatively conventional, overall the proposal would make a neutral contribution to the significance of the conservation area and, as such, would not be harmful to the character or appearance of the conservation area and the surrounding listed buildings.
- 10.41. Bin storage is located towards the rear of the site within secure storage areas for each residential unit. Officers consider this arrangement to be acceptable.
- 10.42. Therefore, for the reasons set out above, the proposed replacement building is considered to comply with Local Plan Policies DH1 and DH3.

iv. Affordable Housing

- 10.43. The application proposes 7 additional new dwellings. When the previous consent 16/03189/FUL was granted a financial contribution towards affordable housing was required under Sites and Housing Plan Policy HP4 (Affordable Homes from Small Housing Sites).
- 10.44. Since the adoption of Oxford's Local Plan 2036 the requirement for financial contributions towards small scale residential developments (i.e. those not classed as 'major developments' comprising 10 or more residential units) has fallen away. As such, the proposed development of 7 dwellings falls below the threshold whereby a contribution towards affordable housing can be sought in accordance with Paragraph 63 of the NPPF, officers would no longer require the applicants to enter into a Section 106 agreement to provide a financial contribution towards off-site affordable housing.

v. Housing Mix

10.45. The mix of the proposed residential units remains the same as in the existing permission. There is no specific requirement for a mix of units in small developments within the City Centre. The proposed mix therefore is considered to comply with Local Plan Policy H4 (Mix of Dwelling Sizes).

vi. Impact on Neighbouring Amenity

10.46. The Oxford Local Plan Policy seeks to safeguard the amenities of the occupiers of properties surrounding any proposed development. Local Plan Policy H14 (Privacy, Daylight and Sunlight) and Policy RE7 (Managing the Impact of Development) require new residential developments to provide reasonable privacy and daylight for the occupants of both existing and new homes.

10.47. The application site is bounded to the immediate north of the site by King Charles House which provides commercial office accommodation. To the south, with a separation distance of approximately 9 metres, is no.44 St. Thomas Street which has been converted into residential dwellings. Bounding the site to the east and south east is the residential development known as Castle Mews, with a separation distance of approximately 16.4 – 18.7 metres to nos. 1-9 and 18 metres to nos. 20-28. To the north west of the site, on the opposite side of Hollybush Row, is Coopers Jam Factory. The Hollybush Lodge located to the west provides student accommodation.

Castle Mews

10.48. Castle Mews is a residential development comprising 3 blocks, nos. 1-9, 10-12 and 14-19, and 20-28. Blocks 1-9 and 20-28 front St. Thomas Street whereas block 10-12 and 14-19 is set back from the road immediately to the east of the application site. The blocks are separated by a car parking area and hard landscaping.

10.49. Block 10-12 and 14-19 faces towards the south and has no windows on the flank elevation fronting the application site. As such, officers consider there would be no harmful overlooking, overbearing impacts or loss of light to occupiers of this building.

10.50. Block 20-28 is sited approximately 18 metres from the application site towards the south east. Due to the significant separation distance and siting of the two buildings, officers consider that there would not be harmful overlooking, overbearing impacts or loss of light to occupiers of this building.

10.51. Block 1-9 is sited between 16.4 – 18.7 metres from the application site but is immediately opposite the proposed building. The application proposes south facing windows to serve bedrooms and studies on each floor as well as a small terrace area on the top floor (although the majority of the terraced space would face east and west). These windows and the two terraces would afford some overlooking of the outdoor area to the rear of Block 1-9 however, considering the separation distance between the buildings it is considered that this arrangement would not be unduly harmful, especially considering the city centre context of the site. Likewise, the residential use of the proposed

building would be acceptable within the context of the surrounding uses and would not be likely to give rise to an unacceptable level of noise disturbance from the proposed terraces.

- 10.52. Due to the siting of the proposed building in relation to the Castle Mews development, i.e. to the north, and the sun path, the proposal is unlikely to significantly impact on the amount of sunlight available for the Castle Mews blocks or external space.

44 St. Thomas Street

- 10.53. 44 St. Thomas Street comprises six 1 bedroom residential units. The northern most unit has a north facing window which serves a bedroom and fronts the application site. As set out in Appendix 3.7 of the Local Plan, where a main window to a habitable room in the side elevation of a dwelling is affected, development will not normally be allowed to intrude over a line drawn at an angle of 45° in the vertical plane from the sill. In this instance, due to the separation distance, and the set back of the top floor of the proposed building, the 45° line would not be broken. As such, the impact on this unit in terms of loss of light is considered to be acceptable.

- 10.54. None of the proposed windows would result in harmful overlooking of the residential properties at no. 44. St. Thomas Street.

- 10.55. Officers acknowledge that the proposal would result in a larger and taller building being located adjacent to the residential dwelling to the north of 44 St. Thomas Street which would result in a change compared to the existing outlook. While there is potential for this to be overbearing officers consider that due to the fallback position, which would allow the proposals to be constructed as submitted, it would not be reasonable to refuse the application on these grounds

King Charles House

- 10.56. King Charles House is a commercial office building located to the north of the site with a car parking area located towards the north east. Officers note the comments provided by the owners of the property regarding the impact of the proposed elevation fronting the car park area and conclude that while this elevation would be relatively featureless it would not be visible from the public realm and would not be unduly harmful to the outlook from the existing office building.

- 10.57. Likewise, considering the commercial nature of King Charles House, the resultant impact on the east facing windows immediately adjacent to the application site would not warrant the refusal of the application.

Hollybush Lodge/ The Jam Factory

- 10.58. Hollybush Lodge is located approximately 13.6 metres to the west of the application site, across Hollybush Row. Likewise, The Jam Factory is approximately 14 metres to the west. Officers consider that the west facing

windows and terraces would not result in significant impacts in terms of overlooking, overbearing or loss of light to the occupiers of these buildings.

Conclusion

- 10.59. Officers, in considering the impact of the proposed development, as well as the scope of the previously consented schemes, conclude that the proposals would not result in unacceptable impacts on neighbouring amenity so as to warrant the refusal of the application.

vii. Trees

- 10.60. There is a large mature sycamore tree on land adjacent to the site to the south, however the presence of the existing building foundations- in terms of as a barrier to the tree rooting zone, and the distance of the tree from the proposed building form, both indicate that there should be no harm resulting to this significant off-site tree. In any case the tree is also afforded legal protection by virtue of its position within the conservation area.
- 10.61. As such officers consider the proposal to be acceptable and compliant with Local Plan Policy G7 (Other Green and Open Spaces).

viii. Flooding

- 10.62. Local Plan Policies RE3 (Flood Risk Management) and RE4 (Sustainable and Foul Drainage, Surface and Groundwater Flow) state that development must not result in increased flood risk and must manage surface water drainage through Sustainable Drainage Systems (SuDS).
- 10.63. The site falls partially within Flood Zone 2, and therefore the proposal is acceptable in principle. In support of the application a Flood Risk Assessment (FRA) and drainage details have been supplied.
- 10.64. The submitted FRA confirms that the ground floor level would be raised above the modelled flood level, to 57.34m AOD which is acceptable. Officers acknowledge that given the negligible increase in area (and subsequently volume) of the proposal compared to the existing building, there is unlikely to be an adverse effect on flood risk off site.
- 10.65. The other flood mitigation (resilience/resistance) measures as set out within the FRA are acceptable and would accord with the requirements of Local Plan Policy RE3. As such a condition requiring that the development be undertaken in accordance with the submitted FRA has been included.

ix. Sustainability

- 10.66. Local Plan Policy RE1 (Sustainable Design and Construction) states that all developments must minimise their carbon emissions and should demonstrate sustainable design and construction methods and energy efficiency through design, layout, orientation, landscaping and materials. Developments should also include an element of on-site renewable or low carbon technologies,

10.67. The applicant has confirmed that the proposals have considered solar gain and overheating although limited details have been provided in relation to the inclusion of low carbon technology and whether the proposals would be compliant with the required carbon reduction levels.

10.68. Therefore, in the absence of suitably detailed information officers conclude that the submitted details fail to demonstrate that the proposal would utilise sustainable design and construction methods or include an element of on-site renewable or low carbon technologies. As such the proposal would fail to accord with Local Plan 2036 Policy RE1. Notwithstanding this, officers attribute significant weight to the fallback position, which would allow the proposals to be constructed as submitted, and as such do not consider it reasonable to refuse the application on these grounds.

x. Highways and Transport

10.69. Local Plan Policy M1 states that permission will only be granted for development that minimises the need to travel and promotes walking, cycling and public transport. Policy M3 (Motor Vehicle Parking) sets out where car-free developments will be expected and Appendix 7.4 outlines the maximum car parking standards.

10.70. The proposal does not include any car parking facilities to serve the development. The site is located within the Central Controlled Parking Zone. The site is located within walking distance of good public transport facilities, including Oxford Rail and Bus Stations. The proposal is therefore considered acceptable in terms of car parking provision and highway safety.

10.71. Local Plan Policy M5 (Bicycle Parking) and Appendix 7.4 set out the bicycle parking requirements for new developments. The proposal includes 2 covered and secured bicycle parking spaces per dwelling which would be acceptable and compliant with Policy M5.

10.72. A construction traffic management plan will be required by condition as the development is located near key corridors within the city centre and it is necessary to ensure that the construction process minimises disruption to nearby traffic flows wherever possible.

xi. Other Matters.

10.73. Officers consider that it is necessary to include a condition requiring a watching brief for the identification of unexpected contamination to be undertaken throughout the course of development.

10.74. As the application proposes the demolition of the existing building a condition relating to the control of construction dust has been included.

10.75. The application site is of archaeological interest because it is located on the medieval and post-medieval route of Hollybush Row where medieval and post-medieval settlement may be anticipated alongside the road. Officers consider that the proposed development would be acceptable subject to

conditions requiring a written scheme of investigation and post demolition trial trenching would be required.

11. CONCLUSION

- 11.1. Having regard 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. In the context of all proposals paragraph 11 of the NPPF requires that planning decisions apply a presumption in favour of sustainable development, this means approving development that accords with an up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless: the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 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 are inconsistent with the result of the application of the development plan as a whole.
- 11.4. The principal material considerations which arise are addressed below, and follow the analysis set out in earlier sections of this report.
- 11.5. The proposal would fail to comply with the development plan as a whole. The principle of development is acceptable however the demolition of the existing building is considered to result in moderate less than substantial harm to heritage assets which would not be outweighed by public benefits and which therefore would be contrary to paragraphs 196-197 of the NPPF and Local Plan Policy DH3.
- 11.6. The absence of suitably detailed information means that the proposal would fail to demonstrate that it would utilise sustainable design and construction methods or include an element of on-site renewable or low carbon technologies. As such the proposal would fail to accord Local Plan 2036 Policy RE1.
- 11.7. Notwithstanding this, officers have given significant weight to the fallback position which would allow the proposals to be constructed as submitted, and as such do not consider it reasonable to refuse the application on these grounds.

11.8. The proposal will not have an unacceptable impact on neighbouring amenity, trees, flooding, archaeology, land quality and highways/ transport. Conditions have been included to ensure this remains the case in the future.

11.9. Therefore, it is recommended that the Committee resolve to grant planning permission for the proposed development subject to the conditions set out in section 12 of this report.

12. CONDITIONS

1. Development 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. Development in Accordance with Approved Plans

The development hereby 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.

Reason: To avoid doubt and to ensure an acceptable development as indicated on the submitted drawings in accordance with policy DH1 of the Oxford Local Plan 2036.

3. Materials

The materials to be used in the development hereby approved shall be:

- Brickwork - Orange/red multi brick with string detail (at ground floor); first and second floor
- Walls buff brick. Mortar joints to be 10mm wide and raked. Colour of mortar to match more closely the yellow brick colour (i.e. less definition of the mortar to enhance the bricks)
- Roof material- the matt Vieo finish with the standing seam top roll to be 20mm
- Window schedule WD/SCH-01b. Colour to be matt 7016RAL
- Balustrade colour to match matt 7016RAL
- Roof plan showing flues to be carried out in accordance with drawing wd/P/03 and drawings16-016 PL E-01 and 1328/16/M/105.

as previously approved under reference 15/02694/CND. There shall be no variation of these materials without the prior written consent of the Local Planning Authority.

Reason: To ensure a satisfactory appearance and in the interests of the special character of the area and/or building in accordance with policies DH1 and DH3 of the Oxford Local Plan 2036.

4. Brick Salvage

The development hereby approved shall be carried out in accordance with the details contained within the "Glazed Brick Salvage Schedule" as previously approved under reference 15/02694/CND2).

Reason: To ensure the preservation and protection of original materials and features of historic interest and their reinstatement in accordance with policies DH1 and DH3 of the Oxford Local Plan 2036.

5. Screening

Screening in the form of a 1.8m high wall shall be erected along the north and east boundaries serving the flats at the rear of the first, second and third floors of the development together with a 1.8m high screening along the southern boundary serving the ground floor flat as labelled on the approved plans. The buildings the subject of this permission shall not be occupied until the screening has been erected and shall be so maintained.

Reason: In the interests of visual amenity and to enhance the appearance of the area, in accordance with policies DH1 and H14 of the Oxford Local Plan 2036.

6. Construction Traffic Management Plan (CTMP)

Prior to commencement of works a Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the Local Planning Authority. The CTMP should follow Oxfordshire County Council's template if possible. This should identify;

- The routing of construction vehicles and management of their movement into and out of the site by a qualified and certificated banksman,
- Access arrangements and times of movement of construction vehicles (to minimise the impact on the surrounding highway network),
- Details of wheel cleaning / wash facilities to prevent mud, etc. from migrating on to the adjacent highway,
- Details of times for construction traffic and delivery vehicles, which must be outside network peak and school peak hours,

The development shall be completed in accordance with the approved CTMP unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of highway safety and to mitigate the impact of construction vehicles on the surrounding network, road infrastructure and local residents, particularly at peak traffic times. In accordance with policy M2 of the Oxford Local Plan 2036.

7. Construction Dust

The commencement of the development shall not take place until a programme for the suppression of dust during the construction of the development has been

submitted to and approved in writing by the Local Planning Authority. The specific dust mitigation measures to follow should be aligned with the recommendations IAQM Guidance on the assessment of dust from demolition and construction for medium risk sites. No building works shall commence until such approval in writing has been given by the Local Planning Authority. The approved measures shall be employed throughout the entire period of the construction of the development.

Reason: To ensure that the development will not have a harmful impact on the environment and in accordance with policies RE6, RE7 and RE8 of the Oxford Local Plan 2036.

8. Unexpected Contamination

A watching brief shall be undertaken throughout the course of the development to identify any unexpected contamination. Any unexpected contamination that is found during the course of construction of the approved development shall be reported immediately to the Local Planning Authority. Development on that part of the site affected shall be suspended and a risk assessment carried out by a competent person and submitted to and approved in writing by the Local Planning Authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the Local Planning Authority. These approved schemes shall be carried out before the development (or relevant phase of development) is resumed or continued.

Reason: To ensure that any soil 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 RE9 of the Oxford Local Plan 2036.

9. Archaeology

No development shall take place (including demolition) until the applicant, or their agents, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Local Planning Authority. All works shall be carried out and completed in accordance with the approved written scheme of investigation, unless otherwise agreed in writing by the Local Planning Authority.

Reason: Because the development may have a damaging effect on known or suspected elements of the historic environment of the people of Oxford and their visitors, including medieval and postmedieval remains in accordance with Oxford Local Plan 2036 Policy DH4.

10. Bicycle Storage

Before the development permitted is brought into use, the cycle storage areas shall be constructed and laid out in accordance with the approved plans and thereafter such areas shall be retained solely for such purposes unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of highway safety and to promote sustainable modes of travel, in accordance with policies M5 of the Oxford Local Plan 2036.

11. Bin Storage

Before the development permitted is brought into use, the bin storage areas shall be constructed and laid out in accordance with the approved plans and thereafter such areas shall be retained solely for such purposes unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure satisfactory refuse storage is provided at the site.

12. Swift Bricks

A minimum of 6 Swift Bricks shall be incorporated into the construction of the approved building unless otherwise agreed in writing by the Local Planning Authority. The type of Swift Bricks used shall be in accordance with the document "Facts About Swift Bricks" (Royal Society for the Preservation of Birds, dated August 2013).

Reason: In accordance with paragraph 170(d) of the NPPF

13. Parking Permits

The development/proposed unit(s) shall be excluded from eligibility for parking permits prior to occupation.

Reason: To ensure that the development or change of use does not generate an increase in parking demand, restrict existing residents' access to on-street parking and to ensure that the low car nature of the development is met.

14. Flood Risk Assessment

The development shall be carried out in accordance with the submitted Flood Risk Assessment (Monson Flood Risk Assessment Issue F (27th July 2020)) including the resilience and resistance measures it details and a finished floor level of no lower than 57.34m AOD.

These mitigation measures shall be fully implemented prior to occupation. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To prevent an increase in the risk of flooding elsewhere. To reduce the risk of flooding to the proposed development and future occupants and in accordance with adopted Policy RE3 of the Oxford Local Plan 2036.

15. Drainage Maintenance Strategy

The development shall be carried out in accordance with the drainage strategy set out in the Frith: Blake Consulting Ltd. Surface Water Drainage Statement V1. The measures detailed within the approved drainage strategy shall be retained and

maintained thereafter throughout the lifetime of the development to ensure the drainage system remains functional and effective.

Reason: In accordance with adopted Policy RE4 of the Oxford Local Plan 2036.

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 A cost of £2200 to amend the Traffic Regulation Order shall be met by the applicant through a Unilateral Undertaking.

13. APPENDICES

- **Appendix 1 – Site location plan**

14. HUMAN RIGHTS ACT 1998

14.1. 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.

15. SECTION 17 OF THE CRIME AND DISORDER ACT 1998

15.1. 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.

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