

## West Area Planning Committee

8<sup>th</sup> September 2020

<b>Application number:</b>	20/01632/VAR
<b>Decision due by</b>	12th October 2020
<b>Extension of time</b>	N/a
<b>Proposal</b>	Variation of condition 28 (Hours of opening) and 29 (Delivery and servicing plan) of planning permission 14/00067/FUL (Demolition of existing retail store. Redevelopment of site with replacement retail store, together with 148 car parking spaces, remodelled access arrangements, cycle parking, landscaping and boundary treatment. (Revised vehicular access arrangements including re-modelling of cycle/pedestrian paths) (Amended Description) (Amended Plans: relocated bus shelter)) to extend the permitted delivery hours for HGVS throughout the week and the hours for e-commerce home delivery vans and browsing on Sundays and bank holiday with amendment of the approved servicing and delivery management plan at Waitrose foodstore.
<b>Site address</b>	110 - 120 Botley Road, Oxford, Oxfordshire, OX2 0HH – see <b>Appendix 1</b> for site plan
<b>Ward</b>	Jericho And Osney Ward
<b>Case officer</b>	James Paterson
<b>Agent:</b>	Mr Tim Williams <b>Applicant:</b> C/O Agent
<b>Reason at Committee</b>	This application is before the committee because it is a variation of a major development.

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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 section 12 of this report and grant planning permission.

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 an application for the variation of conditions 28 and 29 of planning approval 14/00067/FUL, which relates to the land at 110-120 Botley Road and the Waitrose supermarket at this location. The proposals would involve small changes to permitted delivery times and times where customers may enter the store on a Sunday. This will enable half an hour of customer browsing on a Sunday before sales occur, heavy goods vehicles (HGVs) deliveries to be spread over longer hours and for e-commerce home delivery vans to operate from the store between 07:00 and 22:00 throughout the week.
- 2.2. Officers consider that the proposal would accord with the policies of the development plan when considered as a whole and the range of material considerations support the grant of planning permission.
- 2.3. The scheme would also accord with the aims and objectives of the National Planning Policy Framework. The proposal would constitute sustainable development and given conformity with the development plan as a whole, paragraph 11 advises that the development proposal should be approved without delay. Furthermore there are not any material considerations that would outweigh the compliance with these national and local plan policies.

## **3. LEGAL AGREEMENT**

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

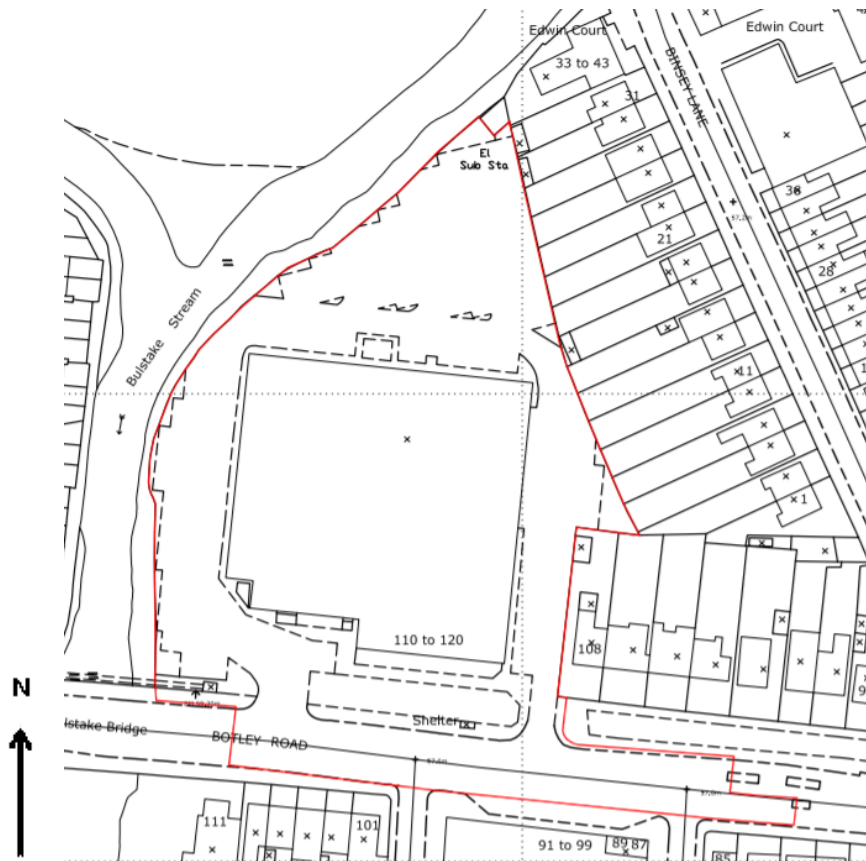
## **4. COMMUNITY INFRASTRUCTURE LEVY (CIL)**

- 4.1. The proposal is not liable for CIL.

## **5. SITE AND SURROUNDINGS**

- 5.1. The purpose-built Waitrose store is located in an out of centre location on the north side of Botley Road. This application mostly relates to the service yard which is located to the west of the store and is surrounded by a 3m high wall, with gates giving access to the A420 Botley Road. Bulstake Stream, a tributary of the Thames, lies adjacent to the northern and western boundaries of the site and separates the service yard from the residential properties in Prestwich Place. There are additional residential properties to the south and east, although these are located some distance from the shop.
- 5.2. The site has been developed under planning permission 14/00067/FUL and now hosts a large supermarket with associated parking and servicing arrangements. The supermarket has been in operation for a number of years.

5.3. See site location plan below:



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Ordnance Survey 100019348

## 6. PROPOSAL

- 6.1. The application proposes to vary planning conditions 28 (Hours of opening) and 29 (Delivery and servicing plan) of planning permission 14/00067/FUL. Permission 14/00067/FUL was the original planning permission for the erection of the Waitrose supermarket on the site. This is in order to extend the permitted delivery hours for HGVs deliveries from 06:00-23:00 from Monday to Saturday and 08:00-19:00 on Sundays and Bank Holidays to 05:00-23:00 throughout the week. This has been proposed in order to allow the deliveries to be better spread throughout the day and to improve logistical and scheduling difficulties at the supermarket. This is proposed via the new Delivery & Servicing Management Plan in relation to condition 29.
- 6.2. Amendments to condition 28 would allow e-commerce home delivery vans to operate during an extended period, from 7:00 to 22:00 daily. Furthermore, customers would be allowed to enter the supermarket half an hour earlier on Sundays and Bank Holidays, from 9:30, for browsing, with tills opening for sales at 10:00.

## 7. RELEVANT PLANNING HISTORY

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

14/00067/FUL - Demolition of existing retail store. Redevelopment of site with replacement retail store, together with 148 car parking spaces, remodelled access arrangements, cycle parking, landscaping and boundary treatment. (Revised vehicular access arrangements including re-modelling of cycle/pedestrian paths) (Amended Description) (Amended Plans: relocated bus shelter). PER 16th May 2014.

14/00067/CND - Details submitted in compliance with condition 37 ( No occupation until pedestrian crossing) of planning permission 14/00067/FUL.. PER 11th August 2014.

14/00067/CND2 - Details submitted in compliance with conditions 4 (part) (Archaeology - evaluation), 6 (Landscape plan required), 8 (Landscape hard surface design - tree roots), 10 (Tree Protection Plan (TPP) 1), 11 (Arboricultural Method Statement (AMS) 1), 15 (Site Contamination Assessment) 17 (Unexpected contamination) and 35 (Landscape management plan) of planning permission 14/00067/FUL. SPL 27th August 2014.

14/00067/CND3 - Details submitted in compliance with conditions 24 (boundary treatments) and 29 (delivery and servicing management plan) of planning permission 14/00067/FUL. PER 11th August 2014.

14/00067/CND4 - Details submitted in compliance with condition 5 (Method statement for demolition) of planning permission 14/00067/FUL.. PER 13th October 2014.

14/00067/CND5 - Details submitted in compliance with condition 15 (Site Contamination Assessment) of planning permission 14/00067/FUL. PER 26th February 2015.

14/00067/CND6 - Details submitted in compliance with condition 36 (Public Art) of planning permission 14/00067/FUL. PER 8th January 2015.

15/01012/ADV - Display of 4 no. internally-illuminated fascia lettering signs, 3 no. non-illuminated freestanding banners, 1 no. non-illuminated totem and 1 no. internally-illuminated totem (t1), 6 no. non-illuminated freestanding signs, 8 no. non-illuminated wall mounted signs, 14 no. lamp post mounted signs, 2 no. non-illuminated manifestations and 51 panels of opaque glazing.. PER 1st June 2015.

14/00067/CND7 - Details submitted in compliance with conditions 9 (Underground Services), 18 (Surface Water Disposal), 21 (Construction Environmental Management Plan) and 22 (Construction Traffic Management Plan) and part discharge of condition 36 (Public art) of planning permission 14/00067/FUL. PER 22nd July 2015.

14/00067/CND8 - Details submitted in compliance with condition 32 (Travel Plan) of planning permission 14/00067/FUL.. PER 22nd July 2015.

14/00067/NMA - Non materials amendments to planning permission

14/00067/FUL to allow alteration to glazed panels, sprinkler tank, gate to service yard, means of escape stairs, fence cladding, generator in service yard, parapet and removal of louvres.. PER 17th September 2015.

15/02545/ADV - Display of 1No. internally-illuminated totem sign.. PER 13th October 2015.

## 8. RELEVANT PLANNING POLICY

8.1. The following policies are relevant to the application:

Topic	National Planning Policy Framework	Local Plan	Other planning documents	Neighbourhood Plans:
Commercial	170-183	V1		
Natural environment	91-101	G2		
Social and community	102-111	G7, G8		
Transport	117-123	M1, M2		
Environmental	117-121, 148-165, 170-183	G2		
Miscellaneous	7-12	S1		

## 9. CONSULTATION RESPONSES

9.1. Site notices were displayed around the application site on 29th July 2020 and an advertisement was published in The Oxford Times newspaper on 30th July 2020.

### **Statutory and non-statutory consultees**

Oxfordshire County Council (Highways)

9.2. No objection

Historic England Commission

9.3. No comment

Natural England

9.4. No comment

### Environment Agency

- 9.5. No objection subject to the conditions required by the EA in the original application are carried forward

### **Public representations**

- 9.6. No local people commented on this application.
- 9.7. One amenity group has commented. They raised concern that insufficient information and justification was submitted with the application in relation to the impact on neighbours' amenity.

### **Officer response**

- 9.8. Officers have considered carefully the comments on these proposals. Officers have come to the view, for the detailed reasons set out in the officer's report, that the reasons for the objections do not amount, individually or cumulatively, to a reason for refusal and that all the issues that have been raised have been adequately addressed and the relevant bodies consulted.

## **10. PLANNING MATERIAL CONSIDERATIONS**

- 10.1. Officers consider the determining issues to be:

- i. Neighbouring amenity
- ii. Ecology
- iii. Transport

### **i. Neighbouring Amenity**

- 10.2. Policy RE7 of the Oxford Local Plan 2036 states that planning permission will only be granted for development that ensures that standards of amenity are protected. This includes the amenity of communities, occupiers and neighbours is protected in addition to not having unacceptable unaddressed transport impacts and provides mitigation measures where necessary.
- 10.3. Bulstake Stream, a tributary of the Thames, lies adjacent to the northern and western boundaries of the site and separates the service yard from the residential properties in Prestwich Place. These, and the residential properties opposite the site on Botley Road, are the closest noise-sensitive properties to the service yard.
- 10.4. The applicant has submitted impact assessments that assesses the noise impact during the suggested revised hours. Predictions have shown that following the procedures BS 4142 the noise level from the loading of the vans which include the operation of the refrigeration condenser and the manoeuvring of the stock and van will be of very low impact. Officers consider that the submitted assessment is sufficient to demonstrate that the impact of the proposal would be minimal and would therefore not give rise to an unacceptable loss of amenity to sensitive neighbouring uses. Council

Environmental Health Officers have reviewed the application and consider that the submitted information is sufficient without the need for further information. Given that these are technical specialists on matters of noise, significant weight had been afforded to their consideration.

- 10.5. Therefore the proposal would be acceptable in terms of neighbours' amenity and Policy RE7.

**ii. Ecology**

- 10.6. Policy G2 of Oxford Local Plan 2036 states that important species and habitats will be expected to be protected from harm, unless the harm can be appropriately mitigated. It also outlines that, where there is opportunity, it will be expected to enhance Oxford's biodiversity. This includes taking opportunities to include features beneficial to biodiversity within new developments throughout Oxford.
- 10.7. It is noted that the extended period for deliveries to be made to the store, via HGVs, in conjunction with the vehicle movements to and from the site via ecommerce would lead to an impact on the biodiversity on the site by extending the hours of activity on the site. However, it is considered that this impact would be extremely small, especially given the site's location next to the busy Botley Road, and therefore would not cause harm to the ecology of the area
- 10.8. The proposal would therefore have an acceptable ecological impact and would accord with Policy G2.

**iii. Transport**

- 10.9. Policy M2 of the Oxford Local Plan 2036 states that where a Delivery and Service Management Plan is provided this should set out how deliveries will be managed and demonstrate how impacts will be minimised including congestion, safety noise and how zero or ultra-low emission and last mile opportunities will be considered. The policy notes that the movement of goods and materials by road can have a significant impact on the quality of the environment and the health and wellbeing of residents, in terms of noise, congestion and air pollution. However, commercial deliveries will always need to be made to Oxford and this should be done in the most sustainable way to reduce negative impacts.
- 10.10. The proposed change allowing customers to enter the shop half an hour early on Sundays and Bank Holidays is a very minor change which is unlikely to result in additional journeys being made to the site, rather this would likely spread out customer arrivals to the site. This change would not have a negative impact on the public highway.
- 10.11. The proposed changes to allow additional home deliveries to operate from the site would also likely not give rise to an unacceptable impact on the highway. It is noted that shopping habits are changing in nature from purchases from physical 'brick and mortar' shops to online shops, particularly due to the

COVID-19 pandemic. It is therefore reasonable to allow such operations to occur from the application site. While this would result in an increase in delivery vehicles coming and going to the site, it is considered that this would likely not have a negative impact on the highway given that there is likely to be a corresponding drop in cars visiting the site due to customers receiving home delivery.

10.12. The proposed amendments to the permitted delivery times would also not increase the supermarket's impact on the public highway. The proposal would not lead to a necessity to increase the number of delivery and service vehicles but rather allow their delivery times to be staggered. Given that there would be no net increase in vehicle movements resulting from this, this is considered acceptable.

10.13. It is also noted that the Oxfordshire County Council Highways Authority raise no objection to the proposal; given that they are the statutory consultees on matters of the public highway, their view has been afforded substantial weight.

## **11. CONCLUSION**

11.1. It is recommended that the Committee resolve to grant planning permission for the development proposed subject to the conditions set out in section 12 of the report.

11.2. Having regards to the matters discussed in the report, officers would make members aware that the starting point for the determination of this application is in accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004 which makes clear that proposals should be assessed in accordance with the development plan unless material considerations indicate otherwise.

11.3. The NPPF recognises the need to take decisions in accordance with Section 38 (6) but also makes clear that it is a material consideration in the determination of any planning application (paragraph 2). The main aim of the NPPF is to deliver sustainable development, with paragraph 11 the key principle for achieving this aim. The NPPF also goes on to state that development plan policies should be given due weight depending on their consistency with the aims and objectives of the Framework. The relevant development plan policies are considered to be consistent with the NPPF.

11.4. Therefore it would be 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.

11.5. In summary, the proposed variations to the approved development would be acceptable. The proposal is suitable in terms of national planning policy and complies with the relevant policies of the Oxford Local Plan 2036.

11.6. Therefore officers consider that the development accords with the development plan as a whole.



11.7. *Material considerations*

- 11.8. The principal material considerations which arise are addressed above, and follow the analysis set out in earlier sections of this report.
- 11.9. National Planning Policy: the NPPF has a presumption in favour of sustainable development.
- 11.10. NPPF paragraph 11 states that proposals that accord with the development plan should be approved 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 the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
- 11.11. Officers consider that the proposal would accord with the overall aims and objectives of the NPPF for the reasons set out within the report. Therefore in such circumstances, paragraph 11 is clear that planning permission should be granted without delay.
- 11.12. Officers would advise members that, having considered the application carefully, the proposal is considered to be acceptable in terms of the aims and objectives of the National Planning Policy Framework and relevant policies of the Oxford Local Plan 2036 when considered as a whole. There are no material considerations that would outweigh these policies.
- 11.13. It is recommended that the Committee resolve to grant planning permission for the development proposed subject to the conditions set out in section 12 below.

**12. CONDITIONS**

- 1 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 The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) (Glanville Consultants, Jan 2014 Ref: TR8110222.DB.LR.028) and the following mitigation measures detailed within the FRA:
1. Finished floor levels to be constructed at a minimum of 57.68m AOD (100-year flood level).
  2. Flood resilience measures to be incorporated into design and construction of the building in accordance with Section 5.41

3. Maximum rates of surface water discharge from the development to be minimised (to approximately 10 litres/second with levels of on-site attenuation increased to manage the 1 in 100 20% return period critical rainfall event).
4. Additional flood storage to be created by reducing existing levels of car parking around the site in accordance with Sections 5.28-5.36.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason: To prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided and to reduce the risk of flooding to the proposed development and future occupants in accordance with the requirements of Policy RE3 of the Oxford Local Plan 2036.

- 3 Upon occupation of the development regular inspection and maintenance of the banks of the Bulstake Stream shall take place, in accordance with the Maintenance and Monitoring Plan (Michael Woods Associates, March 2014), be commenced. Thereafter it shall be implemented for the lifetime of the development.

Reason: To ensure the condition of the banks do not increase flood risk or lead to a deterioration in the ecological value of the watercourse in accordance with the requirements of Policies G2 and RE3 of the Oxford Local Plan 2036.

- 4 Access to the Bulstake Stream shall be maintained in accordance with the arrangements shown in Figures 1 and 2 of the Maintenance and Monitoring Plan (Michael Woods Associates, March 2014).

Reason: To ensure the access is available for both routine and emergency maintenance of the Bulstake Stream in order to ensure flood risk is not increased in accordance with the requirements of Policy RE3 of the Oxford Local Plan 2036.

- 5 Noise output from any mechanical ventilation or plant associated with the development shall be noise attenuated so that it is 10dB below the existing background level when measured one metre from the boundary with the nearest dwelling.

Reason: To ensure the amenity enjoyed by occupiers of neighbouring properties is not adversely affected in accordance with the requirements of Policies RE7 and RE8 of the Oxford Local Plan 2036.

- 6 All ground resurfacing to form the customer car park and customer vehicular access points shall be SUDS (sustainable urban drainage systems) compliant and retained as such thereafter.

Reason: To avoid increasing surface water run off and thereby attenuating flood risk in accordance with Policy RE4 of the Oxford Local Plan 2036.

- 7 The sustainability measures recommended to be included in the development (as set out in the executive summary in the accompanying "Sustainability Statement" ref: A3501) must remain installed and fully operational. These measures shall be retained in full working order at all times thereafter.

Reason: In the interests of sustainability in accordance with the requirements of Policy RE1 of the Oxford Local Plan 2036.

- 8 The boundary treatments approved under application reference 14/00067/CND3 shall be retained in perpetuity.

Reason: To ensure compliance with Oxford Local Plan Policy DH1.

- 9 The alterations to the highway and verge (including re-location of the existing bus shelter) as shown in drawing nos. 078.05.05 Rev. J and TR8110222/SK200 Rev. D shall not be altered without the prior written consent of the local planning authority.

Reason: To ensure that the impact of the proposals on the highway network is adequately mitigated in accordance with the requirements of Policy M2 of the Oxford Local Plan 2036.

- 10 The cycle parking facilities set out in the locations shown on drawing no. 078.05.05 Rev. J shall be retained as such in perpetuity.

Reason: In the interests of sustainable travel in accordance with the requirements of Policies M1, M2 and M5 of the Oxford Local Plan 2036.

- 11 All car parking spaces (including the eight wheelchair accessible parking spaces) shown on drawing no. 078.05.05 Rev. J shall be retained as such in perpetuity.

Reason: To ensure that there is sufficient off-street parking provided to reduce the possibility of indiscriminate parking in surrounding roads in accordance with the requirements of Policies M2 and M3 of the Oxford Local Plan 2036.

- 12 Customers shall not be present on the premises, nor shall there be any sale of food to customers on the premises during the following times:

Monday to Saturday inclusive before 7am and after 10pm

Customers shall not be present on the premises before 9:30 am on Sundays and nor shall there be any sale of food to customers on the premises during the following times:

Sunday before 10am and after 6pm

There shall be no delivery of food to customers off the premises during the following times:

Monday to Sunday inclusive and Bank Holidays before 7am and after 10pm.

Reason: In the interests of the amenities of nearby occupiers and the area generally in accordance with the requirements of Policies RE7 and RE8 of the Oxford Local Plan 2036.

- 13 Deliveries and servicing shall only take place during the times and in the manner specified in the approved report 'Delivery & Servicing Management Plan' and drawing 'Delivery Vehicle Swept Paths 16.5 Articulated Lorry' (ref: TR8110222/SP14 Rev C).

Reason: In the interests of the highway network and the amenity enjoyed by neighbouring properties in accordance with the requirements of Policies RE7 and M2 of the Oxford Local Plan 2036.

- 14 Any external lighting shall remain only in accordance with the positions, orientations and specifications shown in the submitted document "Car Park and Service Yard Lighting" dated 04/03/2014. Any further lighting or any variation to this approved lighting shall require the prior written consent of the local planning authority.

Reason: To ensure the proposals do not adversely affect river ecology in accordance with the requirements of Policy G2 of the Oxford Local Plan 2036.

- 15 The development shall retain all biodiversity enhancement and mitigation measures set out in Sections 6.5 and 7 of the Ecological Survey produced by Michael Woods Associated, dated March 2014, Version 5 in perpetuity.

Reason: To ensure the proposals contribute towards biodiversity enhancements in accordance with the requirements of Policy G2 of the Oxford Local Plan 2036.

- 16 The use of the development shall remain in accordance with the travel plan approved under application reference 14/00067/CND8.

Reason: To ensure compliance with Oxford Local Plan Policies M1 and M2.

- 17 The areas shown for storage, warehouse and office purposes on drawing no. 078.05.07 shall at no time be used to provide retail floor space.

Reason: To ensure that the local planning authority can give consideration to the impacts of additional retail floorspace against Policy V1 of the Oxford Local Plan 2036 and all other material planning considerations.

- 18 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order), no extensions to the approved building shall be constructed or any additional internal mezzanine floorspace created without the prior written consent of the Local Planning Authority.

Reason: The Local Planning Authority considers that even a minor enlargement of the development should be the subject of further consideration in the interests of the highway network and the vitality of town centres in accordance with the requirements of Policy V1 of the Oxford Local Plan 2036.

- 19 The landscaping throughout the site shall be maintained in accordance with the details approved under application reference 14/00067/CND2.

Reason: To ensure compliance with Oxford Local Plan Policies DH1 and G7.

- 20 The public art approved under application reference 14/00067/CND7 shall be retained in perpetuity.

Reason: To ensure compliance with Oxford Local Plan Policy DH1.

- 21 The formal pedestrian crossing system on Botley Road in the development shall be maintained in accordance with the details approved under application reference 17/02029/CND.

Reason: To ensure compliance with Oxford Local Plan 2036 Policy M1.

### **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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