

WEST AREA PLANNING COMMITTEE

8th SEPTEMBER 2020

Application number: 19/02578/OUT

Decision due by 2nd December 2019

Extension of time

Proposal Outline application (Seeking the approval Access/Appearance/Layout/Scale) for the redevelopment of site to provide residential building containing 9 apartments. Parking, access and associated works.

Site address Land Forming The Site Of Former Cold Arbour Filling Station, 281 Abingdon Road, Oxford, Oxfordshire – see **Appendix 1** for site plan

Ward Hinksey Park

Case officer Michael Kemp

Agent: Mr H Venners **Applicant:** Capital Developments (London) Ltd

Reason at Committee The proposed development would consist of more than 5 residential dwellings.

1. RECOMMENDATION

1.1. The West Area Planning Committee is recommended to:

1.1.1. **Refuse the application** for the reasons given in the report and agree to delegate authority to the Head of Planning Services to:

- Finalise the recommended reasons for refusing the application as set out in this report including such refinements, amendments, additions and/or deletions as the Head of Planning Services considers reasonably necessary.

The refusal reasons are as follows:

1. The development comprises more vulnerable development within an area designed as falling within Flood Zone 3b (functional flood plain). The proposed development would place future occupiers at an unacceptable risk of flooding and would result in a reduction in flood storage, which would increase the existing risk of flooding. The development would be contrary to Policies RE3 and RE4 of the Oxford Local Plan; the provisions of the NPPF, particularly Paragraphs 155 and 163; and relevant National Planning Practice Guidance

relating to Flood Risk.

2. The submitted application does not include sufficient detail outlining sustainable design measures to be incorporated into the new building and evidence has not been provided to demonstrate that the development would achieve a 40% reduction in carbon emissions from a 2013 building regulations compliant base. The development would therefore fail to comply with the requirements of Policy RE1 of the Oxford Local Plan and Paragraph 153 of the NPPF.

2. EXECUTIVE SUMMARY

- 2.1. This report considers an outline planning application for the erection of 9 dwellings on a previously developed site fronting the Abingdon Road. The matters for consideration under this outline application are access, appearance, layout and scale. The solitary reserved matter is landscaping. 3x1 bedroom flats and 6x2 bedroom flats are proposed, which would be located within a single linear building. 10 parking spaces would be provided within an undercroft area below the building. Access to the site would be via the Abingdon Road.
- 2.2. The proposals would involve the redevelopment of a previously developed brownfield site for the purposes of providing housing, which would provide a small windfall contribution towards local housing need, which should be considered as a public benefit of the proposed development in line with Policy RE1 of the Oxford Local Plan and paragraphs 115 and 116 of the NPPF. The development is considered to be acceptable in design terms and would provide adequate standards of amenity for future occupiers, whilst safeguarding the amenity of future occupiers. The development also allows for appropriate means of access and is considered acceptable on highway safety and amenity grounds.
- 2.3. Whilst the application includes some detail on energy efficiency measures which could be incorporated into the design of the development, it has not been demonstrated that the suggested measures would comply with the requirements of Policy RE1 of the Oxford Local Plan. In particular it has not been demonstrated that a 40% reduction in the carbon emissions from a code 2013 Building Regulations (or future equivalent legislation) compliant base case will be met.
- 2.4. The Environment Agency have recently revised the Flood Zone status of the site, since the site was allocated for residential development in the now superseded Sites and Housing Plan. The site now falls within Flood Zone 3b, as opposed to Flood Zone 3a, which was formerly the case. Consequently the site now lies within the functional flood plain and is at a very high and frequent risk of flooding, equivalent to a 1 in 20 year event. The NPPF (paragraph 155) states that development in areas at high risk of flooding should be avoided. In support of the NPPF, the NPPG states that development in Flood Zone 3b should not be permitted unless these uses constitute essential infrastructure or water based uses. An in principle objection has been submitted by the Environment Agency to the development on the basis that the intended use would represent an unacceptable development within Flood Zone 3b in line with the provisions of the NPPF and NPPG.

- 2.5. The proposed residential use of the site would be classed as a more vulnerable use, which would not ordinarily be permitted within Flood Zone 3b. Whilst Policy RE3 of the Oxford Local Plan permits in certain circumstances careful re-development of existing brownfield sites in Flood Zone 3b, this is conditional on there being no increase in the built footprint of the existing building; there being no reduction in flood storage; and where this will not increase the risk of flooding elsewhere or where this would put future occupants at risk of flooding. The proposed development would introduce a more vulnerable residential use onto a site where there is no pre-existing residential use. The development would increase the built footprint on the site, which may reduce flood storage and would place future occupiers at an unacceptable risk of flooding, whilst also increasing the risk of flooding elsewhere. The development would therefore be contrary to policies RE3 and RE4 of the Oxford Local Plan; paragraphs 155 and 163 of the NPPF; as well as the relevant NPPG guidance relating to flood risk.
- 2.6. For the reasons outlined within this report, officers recommend that planning permission be refused.

3. COMMUNITY INFRASTRUCTURE LEVY (CIL)

- 3.1. The proposal would be liable for a CIL contribution if it had been acceptable.

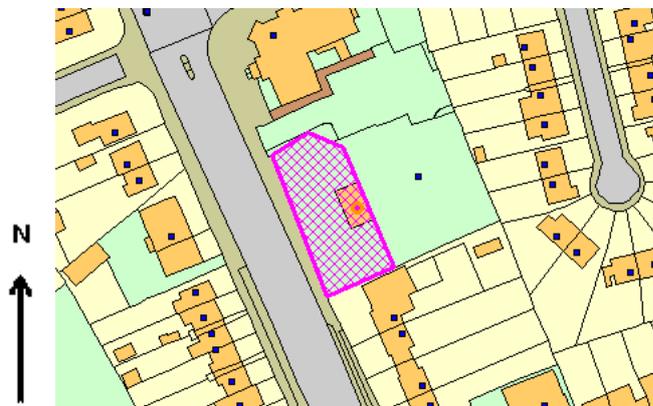
4. SITE AND SURROUNDINGS

- 4.1. The site comprises a frontage plot adjacent to the Abingdon Road, which was formerly occupied by a petrol filling station. The site is previously developed land and is currently being used as a car wash, an unauthorised use, which does not benefit from planning permission and has been the subject of planning enforcement action. The site contains a canopy and ancillary development associated with the car wash use and is surfaced with tarmac hardstanding. The site has been subject of previous planning applications in 2013 (13/02638/FUL) and 2018 (18/02774/OUT) both for developments comprising 9 dwellings. In both instances these applications were withdrawn.
- 4.2. The site immediately to the north was previously occupied by the Fox and Hounds Public House and has since been redeveloped to provide a three storey building which includes a Tesco Express retail store at ground floor level with residential apartments above. The site to the rear (east) of the application site formed part of what was previously the car park for the Fox and Hounds and is currently vacant and overgrown. The rear site has been the subject of recent planning applications for residential development in 2016 (16/01413/FUL) and 2018 (18/00673/FUL), in both instances planning permission was refused on matters relating to design, the impact of development on the residential amenity of adjacent occupiers, the inadequacy of the submitted Flood Risk Assessments and the inadequacy of access to the site.
- 4.3. The application site, the rear site and site to the north, which had been redeveloped for retail and residential use formed an allocation within the now superseded Sites and Housing Plan, though only the northern part of the site has been developed. The site is no longer allocated for development in the new Oxford Local Plan, this is in part due to the size of the site, however the site also

now falls within Flood Zone 3b, following revisions made recently to flood zones by the Environment Agency. This has significant implications in terms of the nature of development which would be considered permissible on the site.

4.4. In terms of character, the area consists mainly of 20th century suburban two storey residential houses fronting the Abingdon Road, which are either semi-detached or consist of small terraces. Properties in the area are typically constructed from dark brick or have a white render finish. Beyond the former Fox and Hounds car park to the rear of the site is Weirs Lane a small cul-de-sac consisting of two storey houses. Several of the dwellings have gardens which extend up to the rear of the former Fox and Hounds car park.

4.5. The site location plan is included below:



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Ordnance Survey 100019348

5. PROPOSAL

5.1. The application seeks outline planning approval for a development of nine dwellings, consisting of 3x1 bedroom flats and 6x2 bedroom flats within a single block, alongside parking and shared and private amenity space. The site would be accessed via a central means of access onto the Abingdon Road. This outline application relates to access, appearance, layout and scale. Landscaping would be the solitary reserved matter.

5.2. The proposed building would be three storeys and would have a flat roof. The building would be finished with white render. The application has been subject to minor revisions which include enlarged balconies and the addition of a visitor cycle parking space.

6. RELEVANT PLANNING HISTORY

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

14/00639/FUL - Formation of temporary car park in association with the Tesco Store on the land adjacent to 281 Abingdon Road, during redevelopment of the approved car park. (Retrospective). Permitted 14th May 2014.
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18/02774/OUT - Outline application (seeking the approval of Access, Appearance, Layout and Scale) for the redevelopment of site to provide
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residential buildings containing 9 apartments. Withdrawn 11th April 2019.

7. RELEVANT PLANNING POLICY

7.1. The following policies are relevant to the application:

Topic	National Planning Policy Framework	Local Plan
Design	124, 127, 130, 131,	DH1
Housing	59, 63	H1, H2, H14, H15, H16
Natural environment	170, 175, 178, 180	G2, G7
Transport	108, 109, 110	M1, M2, M3, M4, 5
Environmental	91, 117, 118, 123, 148, 150, 153, 155, 158, 159, 160, 161, 163	RE1, RE2, RE3, RE4, RE7, RE8, RE9

8. CONSULTATION RESPONSES

8.1. Site notices were displayed around the application site on 21st October 2019 and an advertisement was published in the Oxford Times newspaper on 24th October 2019. The application was advertised as a departure from the development plan as the proposals involved development on land falling within Flood Zone 3b.

Statutory and non-statutory consultees

Oxfordshire County Council (Highways)

8.2. The proposal seeks outline approval of access/appearance/layout/scale for the redevelopment of the site to provide a residential building containing 9 apartments, parking, access and associated works. The proposals are in a highly sustainable location with good access to public transport and local amenities. The proposals are not in a Controlled Parking Zone (CPZ).

8.3. The proposals would need to provide 2 covered and secure cycle parking spaces per dwelling. Drawing no. 2013048 displays 18 covered and secure cycle parking spaces. This satisfies Policy requirements however it is strongly encouraged that the applicant also provide some additional spaces to serve as cycle parking for visitors.

8.4. The proposals provide 10 car parking spaces, 1 per dwelling and 1 unallocated space. This provision is below the recommended standards, more unallocated spaces would ordinarily be required. Despite this, the sites location and Traffic

Regulation Order on the surrounding roads mean that in this instance a relaxation in parking standards could be justified. With regards to traffic generation, the conclusions of the transport statement attached to the design and access statement are generally agreed with and it is accepted that the development represents less vehicle movements than the previous use as a car wash or petrol filling station.

8.5. Oxfordshire County Council do not object to the granting of planning permission, subject to conditions.

Environment Agency

8.6. Object to the proposed development as it falls within a flood risk vulnerability category that is inappropriate to the Flood Zone in which the application site is located. The application is therefore contrary to the National Planning Policy Framework and its associated planning practice guidance. We recommend that planning permission is refused on this basis.

8.7. The PPG classifies development types according to their vulnerability to flood risk and provides guidance on which developments are appropriate within each Flood Zone. This site lies within Flood Zone 3b functional floodplain, which is land defined by the PPG as having a high probability of flooding.

8.8. The development is classed as more vulnerable in accordance with table 2 of the Flood Zones and flood risk tables of the PPG. Tables 1 and 3 make it clear that this type of development is not compatible with this Flood Zone and therefore should not be permitted. This objection is supported by paragraph 158 of the NPPF.

8.9. Where possible the applicant should propose an alternative location for this development, which ensures that any of the works being undertaken, are outside of Flood Zone 3b. Alternatively the applicant should provide their own modelling and or site specific details such as a topographical survey, which show that the proposed development, does not fall within Flood Zone 3b.

8.10. In the absence of an acceptable Flood Risk Assessment (FRA) we object to this application and recommend that planning permission is refused. The submitted FRA does not comply with requirements for site-specific flood risk assessments, as set out in paragraphs 30 to 32 of the Flood Risk and Coastal Change section of the planning practice guidance. The FRA does not therefore adequately assess the development's flood risks. In particular, the FRA fails to: Consider how a range of flooding events (including extreme events) will affect people and property. This objection is also supported by paragraph 163 of the NPPF.

8.11. To overcome our objection, the applicant should submit a revised FRA which addresses the points highlighted above. If this cannot be achieved, we are likely to maintain our objection.

8.12. Specifically the FRA will need to demonstrate that the ground floor flat is set above the 1% annual probability (1 in 100) flood event with an appropriate

allowance for climate change caused. The applicant needs to clarify whether the elevation drawings are accurate because they show that the voids do not extend to the ground floor flat, rather the ground floor flat is the same level as the voids. Therefore, this would not compensate for the loss of floodplain storage caused by the increase in built footprint.

Oxford Civic Society

- 8.13. Oxford Civic Society are not convinced that the present outline application is worthy of planning permission. Apart from the contentious issues of contribution to affordable housing which has perhaps now been settled, the layout proposed sets the buildings so near to the road that we doubt the assertions in paragraphs 5.11- 5.13 of the Design and Access statement that the balconies “are well set back from the road and will sit up at a higher level ensuring their usability” and that the “shared ground floor area will also be a useable and pleasant place given its size and defence from the road by hedging”. The incidence of polluted air and traffic noise must seriously challenge the veracity of these assertions. We conclude that this proposal is probably an overdevelopment: fewer flats could allow the private amenity space, whether balconies or an area at ground level to be provided further from and better protected from the road.
- 8.14. Two other issues cause OCS some concern: contamination and energy management. Contamination at present is serious and although there is submitted a detailed remediation plan it is, of course, as yet untested. Before any occupancy of any new buildings could be allowed there must be proof of the safety of the decontaminated site. As for energy management, the discussion so far submitted does not deserve the name of a plan: it consists simply of a list of nine well-known measures that might be considered but gives no indication that serious thought has been given as yet to how to combine the individual items or to produce an acceptable outcome.
- 8.15. At present OCS advise that this outline application should be withdrawn for further consideration by the applicant or it should be refused.

Public representations

- 8.16. A letter of objection has been received from Gillings Planning on behalf of Reynard Property limited who have an interest in the rear site. Their key points of objection are:
- The development would prejudice development of the rear site, by reason of overlooking.
 - The proposals are an overdevelopment of the site.
 - A more balanced mix of housing should be provided on site.
- 8.17. 2 individual public comments have been received from residents in Peel Place and Abingdon Road in objection to the development. The main points of objection are as follows:
- The proposals would be an overdevelopment of the site.
 - Parking provision would be too high.

- Additional landscaping and planting should be provided.
- Concerns that the development would increase the existing risk of flooding.
- The development would overlook No.360 Abingdon Road and would result in a loss of daylight to this property.
- Further traffic generated by the development would increase pollution and noise.
- The development would worsen issues associated with sewerage capacity.
- Concern that this would set a precedent for development of the rear site, which could be provided as a community garden.
- The height of the proposed building would impact on privacy and natural light to the properties in Peel Place.

8.18. A signed petition containing a number of points of objection was submitted by the Residents of Peel Place and is signed by 14 residents living on Peel Place and one resident of Abingdon Road. The key points of objection are as follows:

- The proposals are an overdevelopment of the site.
- The development would exacerbate the risk of flooding.
- The development would result in a loss of privacy to existing occupiers.
- The development would worsen pollution and noise.
- Existing sewer capacity is inadequate.
- The development would increase traffic generation
- Concerns regarding future redevelopment of the site to the rear.

9. PLANNING MATERIAL CONSIDERATIONS

9.1. Officers consider the determining issues to be:

- Principle of development
- Design
- Neighbouring amenity
- Transport
- Flooding
- Land Quality

Principle of development

9.2. Paragraph 59 of the NPPF requires that to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed; that the needs of groups with specific housing requirements are addressed; and that land with permission is developed without unnecessary delay.

9.3. NPPF Paragraph 11 outlines the overarching requirement that in applying a presumption in favour of sustainable development Local Authorities should be

approving development proposals that accord 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 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.

- 9.4. The site constitutes previously developed brownfield land, the redevelopment of such sites is promoted within paragraphs 117 and 118 of the NPPF and Policy RE2 of the Oxford Local Plan, which should be taken into consideration when assessing the public benefits of residential development on the site.
- 9.5. The site was previously allocated within the Sites and Housing Plan (Policy SP18) for a mixed use of retail and residential development, or entirely residential development. A section of the former Fox and Hounds site was developed for use as a Tesco express store. The site is no longer allocated for development in new Local Plan. In the intervening period between the adoption of the Sites and Housing Plan and the Oxford Local Plan 2036, the site has been re-designated from Flood Zone 3a to Flood Zone 3b, which has significant implications in terms of the in principle acceptability of residential development on the site, as discussed in the later sections of this report.
- 9.6. In summary, there are public benefits associated with the provision of 9 dwellings which will provide a small additional contribution towards local housing supply, along with the visual and sustainability benefits associated with the redevelopment of a longstanding brownfield site, this must however be weighed against the existing flood risk on the site.

Impact on Adjacent Site

- 9.7. The former Fox and Hounds and Filling Station sites fall under separate ownership and consist of three parcels of land, one of which has already been developed. Separate planning applications have previously been submitted on both sites, which has presented issues in terms of the ability for both sites to be developed in an effective manner. In determining previous planning applications on the rear site (16/01413/FUL and 18/00673/FUL) officers concluded that development on the rear site may have a mutually compromising impact on the ability to develop the frontage site. The most recent application for development on the rear site was refused in part for the following reason:

“The proposed development of this rear backland plot by reason of its appearance, internal layout, height, massing and proximity to the western boundary would unacceptably prejudice the re-development of the former petrol station site to the west adjoining fronting the Abingdon Road to the detriment of effective, efficient and acceptable form of development on an allocated site contrary to CP1, CP6, CP8, CP9, CP10 and SP18”

- 9.8. This same scenario also applies to development on the front site, which equally could compromise the ability to effectively develop the rear site. The Sites and

Housing Plan has been superseded since the determination of the most recent planning application on the site and is no longer afforded any weight. Crucially since the determination of previous planning applications on the rear site, both parcels of land now fall within Flood Zone 3b. For reasons discussed in greater depth in this report any form of residential development on either site would likely be considered contrary to Policy RE3 of the Oxford Local Plan and paragraphs 155 and 163 of the NPPF. Given that both sites now fall within Flood Zone 3b, the principle of residential development on either site would not be acceptable, therefore, the matter of whether development on the front site would compromise the ability to effectively develop the rear site is largely redundant.

Affordable Housing

9.9. Policy H2 of the Oxford Local Plan 2036 requires on site affordable housing to be provided only on developments comprising 10 or more dwellings or on sites consisting of 0.5 hectares or larger. The development would consist of 9 dwellings and the site area is below 0.5 hectares in size, provision of on-site affordable housing would not therefore be a requirement in line with Policy H2 of the Local Plan.

Mix of units

9.10. Policy H4 of the Oxford Local Plan requires that new developments of 25 or more units outside of the City Centre and District Centres provide a mix of dwelling sizes, only for the affordable element of developments. The proposed development would be below this threshold and there would be no requirement to comply with a specified mix of units.

Design

9.11. Policy DH1 of the Oxford Local Plan states that planning permission will only be granted for development of high quality design that creates or enhances local distinctiveness.

9.12. The frontage along this particular part of the Abingdon Road consists mainly of two storey semi-detached and terraced houses. The adjacent Tesco building which forms a corner plot with Wiers Lane is of a larger scale and is 2.5 storeys and features a pitched roof. There is a clear transition between the Tesco building and No.295 Abingdon Road, which is a two storey house. The proposed building would be three storeys in height and features a flat roof. The ridge line of the building sits below the pitched roof of the Tesco building and marginally above the roof ridge of No.295. The overall height, massing and scale of the proposed building would relate appropriately within the context of the surrounding development.

9.13. The building would be of a contemporary design with a white render finish. There is no strict uniformity in the general appearance of the surrounding buildings in the area which comprises typically of 20th century suburban development. The surrounding buildings are either darker brick or render in terms of the treatment of the façade of the buildings. In terms of general

appearance and character, officers consider that the building would be acceptable in the context of the street scene.

9.14. Overall it is considered that the general design approach would comply with Policy DH1 of the Oxford Local Plan.

Sustainability

9.15. Proposals for development are expected to demonstrate how sustainable design and construction methods will be incorporated in line with Policy RE1 of the Oxford Local Plan. All development must optimise energy efficiency by minimising the use of energy through design, layout, orientation, landscaping and materials, and by utilising technologies that help achieve Zero Carbon Developments. Planning permission will only be granted for development proposals for new build residential which achieve at least a 40% reduction in the carbon emissions from a code 2013 Building Regulations.

9.16. The Design and Access Statement (appendix 1) includes some detail on energy efficiency measures which could be incorporated into the fabric of the building and the addition of renewables, namely the addition of solar PV panels to the roof of the building. Whilst consideration has been given to the addition of design measures to reduce energy consumption, it has not been demonstrated that the proposals will adequately achieve at least a 40% reduction in the carbon emissions from a code 2013 Building Regulations as required within all residential developments under Policy RE1 of the Oxford Local Plan.

9.17. An Energy Statement is required in order to demonstrate compliance with Policy RE1 and should demonstrate that the intended energy efficiency and renewable measures are sufficient in order to meet the aforementioned 40% carbon reduction requirement. In the absence of sufficient evidence to suggest that this target can be met, the development would fail to comply with under Policy RE1 of the Oxford Local Plan and paragraph 153 of the NPPF.

Amenity

Existing Occupiers

9.18. The site lies in close proximity to a number of existing residential properties. To be acceptable in line with Policy H14 of the Oxford Local Plan, new development must be developed in a manner that will safeguard the residential amenities of the adjoining properties in terms of loss of privacy, natural light and in terms of the general scale of the built form.

9.19. The proposed building would align with the side elevation of the Tesco building to the north, which has a blank side façade facing the site. There would therefore be no loss of light or overlooking of the residential flats in this building. The development would align with the side elevation of No.295 Abingdon Road, a residential house which has been the subject of a two storey rear extension. The building would not project beyond the rear extension to No.295. There are two secondary windows in the side elevation of No.295, though these are secondary windows serving non-habitable rooms. The proposed siting of the

building would not therefore result in a material loss of light to the occupiers of No.295.

9.20. There would be a separation distance of at least 27 metres between the rear of the apartment building and the rear gardens of the existing properties to the east in Peel Place and at least 42 metres between the proposed building and the rear facing windows of the properties in Peel Place. This is a substantial separation distance and it is noted that the rear windows of the proposed flats are angled in a manner which prevents direct overlooking of existing properties to the rear.

9.21. Taking the above factors into consideration, it is considered that the development would comply with Policy H14 of the Oxford Local Plan.

Future Occupiers

9.22. Policy H15 of the Oxford Local Plan states that planning permission will only be granted for new dwellings that provide good quality living accommodation for the intended use. All proposals for new build market and affordable homes (across all tenures) must comply with the MHCLG's Technical Housing Standards – Nationally Described Space Standard Level 1. Each of the individual flats would comply with Nationally Described Space Standards, both in terms of the size of the individual units and in terms of the individual rooms. The development would therefore comply with Policy H15 of the Oxford Local Plan.

9.23. Each of the first and second floor flats are served by external balcony spaces. In the case of the ground floor flat, this would be served by an external terrace. There would also be communal garden areas to the front of the proposed flats which would be accessible to residents. The development would comply with Policy H16 of the Oxford Local Plan which outlines outdoor amenity space requirements for residential dwellings.

Transport

9.24. 10 car parking spaces are proposed on the site, this comprises 9 allocated spaces for each of the 9 units proposed and 1 visitor parking space.

9.25. Policy M3 of the Oxford Local Plan requires that in Controlled Parking Zones (CPZs) or employer-linked housing areas (where occupants do not have an operational need for a car) where development is located within a 400m walk to frequent (15minute) public transport services and within 800m walk to a local supermarket or equivalent facilities (measured from the mid-point of the proposed development) planning permission will only be granted for residential development that is car-free. In all other locations it is expected that new developments would comply with the specified maximum parking standards.

9.26. The application site is in a generally sustainable location and is within 100 metres of bus stops with regular services to Oxford and Abingdon. There is a good range of services and facilities in the area and there is a small Tesco supermarket immediately adjacent to the site. The surrounding roads do not however fall within a Controlled Parking Zone and with the exception of

Abingdon Road are not subject of double yellow controls. Whilst the site is in a generally sustainable location there would be a risk that under provision of on-site parking as part of a low car or car free development would result in an accumulation of vehicles on the surrounding road network. The proposal to provide 1 parking space per dwelling would be in line with the Council's maximum parking standards outlined under Policy M3 of the Oxford Local Plan.

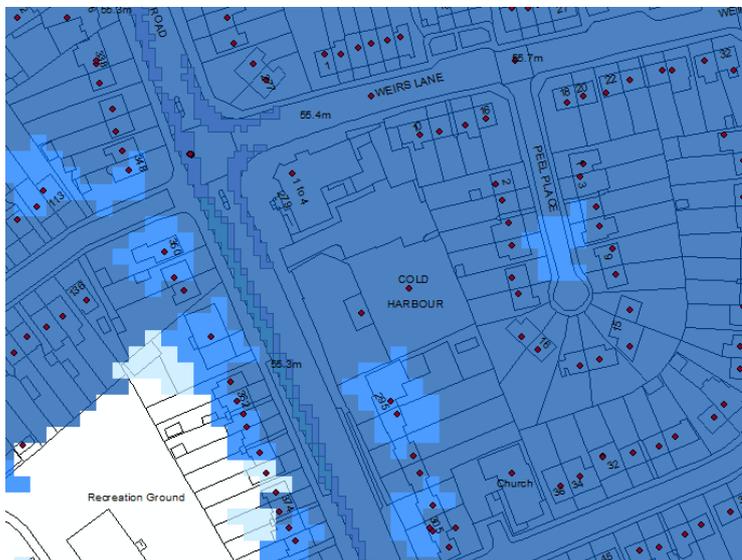
9.27. The site would be accessed from the Abingdon Road, through a single means of access located to the centre of the site. The road is highly trafficked, though visibility is good in both directions and access to the site is considered to be acceptable in highway safety terms.

9.28. Cycle parking would be provided on site, in line with the requirements of Policy M5 of the Oxford Local Plan.

9.29. In terms of highway safety and parking provision, it is considered that the development complies with policies M1, M3 and M5 of the Oxford Local Plan.

Flood Risk

9.30. The application site almost entirely falls within land designated as Flood Zone 3b. Furthermore the surrounding land including access and egress to the site from the Abingdon Road also falls within Flood Zone 3b. The site and the vast majority of surrounding land is therefore considered to be at a very high risk of flooding. The figure below shows in dark blue areas falling within Flood Zone 3b, whilst the areas shown as light blue fall within Flood Zone 3a.



9.31. Paragraph 155 of the NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

9.32. Paragraph 163 of the NPPF states that when determining any planning applications, Local Planning Authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:

a) Within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;

b) The development is appropriately flood resistant and resilient;

c) It incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;

d) Any residual risk can be safely managed; and

e) Safe access and escape routes are included where appropriate, as part of an agreed emergency plan.

9.33. The application is accompanied by a site specific Flood Risk Assessment, though this incorrectly identifies the site as falling within Flood Zone 3a, which was historically the case, however as noted above, the site falls within Flood Zone 3b following recent revisions to the Environment Agency Flood Maps.

9.34. The NPPG clarifies that land within Flood Zone 3b falls within what is deemed to be the functional flood plain and is required for storage of water in the event of flooding. Land within the functional flood plain has a 1 in 20 (5%) annual probability of flooding. NPPG Paragraph 67 clarifies that only water compatible uses and essential infrastructure that has passed the exception test should be sited in Flood Zone 3b. The proposed development does not fall within the category of either essential infrastructure or water based uses and would instead be classed as a more vulnerable use, which would not be permitted in principle within Flood Zone 3b.

9.35. The Environment Agency have submitted an in principle objection to residential development on the site, on the basis that the site falls within Flood Zone 3b and is therefore contrary to NPPF and NPPG requirements which do not allow for the siting of more vulnerable uses within the functional flood plain. Furthermore the EA consider that the submitted FRA does not comply with requirements for site-specific flood risk assessments, as set out in paragraphs 30 to 32 of the Flood Risk and Coastal Change section of the planning practice guidance, in particular the FRA does not consider how a range of flooding events (including extreme events) will affect people and property.

9.36. The Oxford Local Plan (Policy RE3) states that planning permission will not be granted for development in Flood Zone 3b except where it is for water-compatible uses or essential infrastructure, consistent with national Policy. Policy RE3 does allow for the re-use of previously developed land where this would represent an improvement on the existing situation in terms of flood risk. The

approach of the Local Plan Policy is to allow very careful re-development of existing brownfield sites in Flood Zone 3b. This is to make best use of existing sites in the generally sustainable location of Oxford and also because new development has the potential to improve the flood risk situation. The Policy sets out conditions for development in Flood Zone 3b that will ensure the flood risk situation is improved. Conditions include ensuring that the overall built footprint of development on the site is not increased and that flood storage would not be lost.

- 9.37. In relation to Policy RE3 of the Oxford Local Plan the proposed development would not represent an improvement on the existing situation in terms of decreasing flood risk. The existing site comprises hardstanding and other small structures associated with the unauthorised car wash use on the site, all of which do not benefit from planning permission. The proposed use would decrease the extent of hard surfacing, however the proposed development would add built form to the site, comprising a structure covering a ground floor footprint of 95sqm, which has the potential to put pressure on existing drainage and impede water flows in the event of flooding. The submitted FRA notes that there is no land available on the edge of the flood plain (Flood Zone 1) to provide flood compensation on a level for level basis. Development on the site would in officer's view reduce flood storage within the functional flood plain, which would in turn increase the risk of flooding.
- 9.38. The proposed residential use of the site would be classed as a more vulnerable use and future occupiers of the flats on the site would be placed at great risk of flooding, not least the occupiers of the ground floor flat. There would be an unacceptable risk to future occupiers, particularly as there is no safe means of evacuation in the event of flooding given that the surrounding land also falls within Flood Zone 3b. The applicants have not adequately demonstrated within the FRA that there is an acceptable emergency procedure to deal with evacuation in the event of an emergency. Development of the site would also place existing occupiers at an increased risk of flooding as the development would result in a reduction in flood storage, which is required within the functional flood plain.
- 9.39. The submitted FRA includes a number of proposed measures to mitigate the risk of flooding which includes the introduction of voids under the ground floor, attenuation of surface run off through below ground cellular storage and setting the finished floor level of the building 300mm above the 1 in 100 year plus climate change flood level. Whilst such measures may be expected as part of the exception test to manage flood risk on sites within Flood Zone 3a, these measures do not adequately justify the siting of development in the functional flood plain given the reduction in flood storage and high flood risk to existing and future occupiers.
- 9.40. The proposed development would be contrary to policies RE3 and RE4 of the Oxford Local Plan; paragraphs 155 and 163 of the NPPF; as well as the relevant guidance contained within the NPPG relating to Flood Risk as the development would constitute more vulnerable development within Flood Zone 3b, which would place future occupiers at unacceptable risk of flooding, whilst increasing the risk of flooding elsewhere through a reduction in flood storage.

Land Contamination

9.41. Risks associated with land contamination have been assessed in relation to this site, subject to conditions it is considered likely that any risks associated can be adequately mitigated by the provision of appropriate conditions. It is therefore considered that there would be no conflict with the provisions of Policy RE8 of the Oxford Local Plan.

10. CONCLUSION

10.1. On the basis of 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 it clear that proposals should be assessed in accordance with the development plan unless material considerations indicate otherwise.

10.2. 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 the 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 the Framework taken as a whole.

10.3. The application proposes the residential redevelopment of a longstanding previously developed site. This would typically be supported in line with Policy RE2 of the Oxford Local Plan and paragraphs 115 and 116 of the NPPF. The proposals would also provide a total of 9 additional dwellings which would contribute to local housing need.

10.4. Whilst the appearance of the building is considered acceptable in design terms, the application does not contain sufficient detail on sustainability measures to satisfy the requirements of Policy RE1 of the Oxford Local Plan. In particular it has not been demonstrated that a 40% reduction in the carbon emissions from a code 2013 Building Regulations (or future equivalent legislation) compliant base case will be met. Consequently the development would fail to satisfy the requirements of Policy RE1 of the Oxford Local Plan and paragraph 153 of the NPPF.

10.5. Whilst the site was previously allocated for residential development in the now superseded Sites and Housing Plan, at which time the site fell within Flood Zone 3a, the Flood Zone status of the site and surrounding land has since been amended and now falls within Flood Zone 3b. The NPPG makes clear that only water compatible uses and essential infrastructure uses are considered permissible within Flood Zone 3b. The proposed residential use is classed as a 'more vulnerable' use and would not be permitted in line with national Policy.

10.6. Whilst Policy RE3 of the Oxford Local Plan allows for the careful redevelopment of brownfield sites within Flood Zone 3b, this is strictly conditional on the overall built footprint on the site not being increased, there being no decrease in flood storage and there being no risk of increased flooding or risk to future occupiers. The development would add additional built form to the site in the form of a new structure and would introduce a more vulnerable use to a site, where there is no pre-existing residential use. It is therefore considered that the development presents an increased risk of flooding through a resulting reduction in flood storage on site, whilst also placing future occupiers of the residential dwellings at an unacceptable risk of flooding. For these reasons the development is considered to be contrary to policies RE3 and RE4 of the Oxford Local Plan; paragraphs 155 and 163 of the NPPF; and the specific flood risk guidance outlined within the NPPG. The benefits associated with the proposed development, namely the visual and sustainability benefits associated with the redevelopment of this brownfield site and the benefits arising from the relatively small contribution of 9 dwellings towards local housing need do not outweigh the clear and identified harms relating to flood risk.

10.7. It is therefore recommended that the Committee resolve to refuse planning permission for the reasons given at paragraph 1.1.1 of this report with delegated authority being given to the Head of Planning services to finalise the wording of those reasons.

11. APPENDICES

- **Appendix 1 – Site location plan**

12. HUMAN RIGHTS ACT 1998

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

13. SECTION 17 OF THE CRIME AND DISORDER ACT 1998

13.1. 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 refuse planning permission, officers consider that the proposal will not undermine crime prevention or the promotion of community.

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