

## OXFORD CITY PLANNING COMMITTEE

25th January 2022

**Application number:** 21/01645/FUL

**Decision due by** 29th October 2021

### Extension of time

**Proposal** Demolition 2no dwelling houses (use class C3). Erection of 1no. four storey building to provide school boarding accommodation (use class C2) including a 2-bedroom masters flat, and 1no. two storey building to provide 2no. 2-bedroom dwelling houses (use class C3). Provision of vehicular and cycle parking and bin storage. Closure of existing northern vehicular access onto A40. (Amended plans, supporting documents and description)

**Site address** 472-474 , Banbury Road, Oxford, OX2 7RG – see **Appendix 1** for site plan

**Ward** Cutteslowe And Sunnymead Ward

**Case officer** Jennifer Coppock

**Agent:** Mr Julian Philcox    **Applicant:** D'Overbroecks And Keble Homes Limited

**Reason at Committee** The proposed floorspace exceeds 1,000sq.m and therefore, the application proposes a major development.

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## 1. RECOMMENDATION

1.1. Oxford City Planning Committee is recommended to:

1.1.1. **refuse the application** for the reasons considered fully in the report; and

1.1.2. **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.

1.1.3. The reasons for refusal are as follows:

1. The application site would be overdeveloped by virtue of the scale, mass and height of the boarding house, proposed to be developed on the same site as 2no. dwellings. Taken cumulatively, the quantum of development on site represents an overdevelopment with two buildings that do not relate

appropriately to one another. The proposal fails to make the best and most efficient use of land. The quantum of development and insufficient separation distances between the buildings would lead to an unacceptable level of overlooking, loss of privacy, insufficient daylight and overbearing impact on the occupants of the proposed dwellings and therefore, the proposal would conflict with section 11 of the NPPF and policies RE2, RE7 and H14 of the Oxford Local Plan 2036.

2. The scheme incorporates constrained two-tier cycle parking which is not considered most practical for less mobile students and staff nor younger school pupils. The proposal therefore fails to comply with policy M5 of the Oxford Local Plan 2036.
3. The proposed development would lead to air quality levels above current limit values for NO<sub>2</sub>, PM<sub>10</sub> and PM<sub>2.5</sub> and inadequate air quality mitigation measures have been proposed. The application does not therefore comply with policy ENS4 of the Summertown and St Margaret's Neighbourhood Plan and policy RE6 of the Oxford Local Plan 2036.
4. The proposed drainage route through the Root Protection Area of the adjacent off-site horse chestnut tree would unacceptably impact this tree and render the drainage strategy infeasible in conflict with policies G7 and RE4 of the Oxford Local Plan 2036.

## **2. EXECUTIVE SUMMARY**

- 2.1. This report considers the application to demolish the existing two storey semi-detached dwelling houses on site and erect a four storey boarding house for D'Overbroecks school pupils, aged between 11 and 18 years (use class C2). In addition to the boarding house, the existing dwellings would be replaced by a two storey building providing 2no. 2 bedroom dwellings (use class C3). Operational vehicular parking would be provided for the boarding house and cycle parking would be provided for both the boarding house and dwellings.
- 2.2. The principle of replacing the existing 2no. dwelling houses with 2no. smaller dwelling houses is considered acceptable in accordance with policy H5 of the Oxford Local Plan 2036 as there would be no net loss of dwellings on site. There is no longer a Local Plan requirement to maintain family dwellings as there was with the, now superseded, Sites and Housing Plan and Balance of Dwellings Supplementary Planning Document. For clarity, and as set out in more detail below, the boarding house would accommodate school age children between the ages of 11 and 18 and would therefore not be considered 'student accommodation' in accordance with the glossary of the Local Plan 2036: *Accommodation whose main purpose is to house students of sixteen years or above, registered on fulltime courses of an academic year or more in Oxford.* Taking this into account, the requirements and locational criteria of policy H8 of the Oxford Local Plan 2036 are not relevant in this case. The principle of locating a C2 boarding house and 2no. dwelling houses on the site is therefore considered acceptable in principle.

- 2.3. Notwithstanding the above, the proposal has failed to respond effectively to the site and surrounding area and has not fully taken into account the needs of the two different uses being proposed on the site and how they relate to one another. It is therefore considered that the proposal fails to make the best and most efficient use of land, in conflict with Local Plan policies S1 and RE2 and the NPPF.
- 2.4. In terms of design, the quantum of development being proposed has led to many issues including unacceptable overlooking from the C2 boarding house onto the C3 dwellings. Again, in light of the quantum of development and the close proximity of the buildings to one another, it is considered that the boarding house would have an unacceptably overbearing impact on the proposed dwellings and would reduce the level of daylight received, as set out within the supporting daylight and sunlight assessment. Officers therefore consider that the proposal would not provide acceptable living conditions for the prospective residents. The proposal is therefore considered to conflict with Local Plan policies RE7 and H14 and policy HOS2 of the Summertown and St Margaret's Neighbourhood Plan.
- 2.5. The scheme incorporates constrained two-tier cycle parking which is not considered most practical for less mobile students and staff nor younger school pupils. The proposal therefore fails to comply with policy M5 of the Oxford Local Plan 2036. Had the additional reasons for refusal not have applied, officers would have sought further amended plans to demonstrate that bike storage could be provided in a safe, accessible and convenient manner on site.
- 2.6. The results of the submitted Air Quality Assessment indicate that concentrations at proposed receptor locations within the site boundary would be above relevant air quality objectives for NO<sub>2</sub>, PM<sub>10</sub> and PM<sub>2.5</sub> concentrations. Further, adequate air quality mitigation measures have not been fully incorporated into the scheme. Therefore, the proposal is considered to conflict with policy RE6 of the Oxford Local Plan 2036.
- 2.7. A mature Horse Chestnut tree lies adjacent to the application site, on highways land. Officers consider that the proposed drain route through the tree's Root Protection Area (RPA) would unacceptably impact on the tree and render the amended drainage strategy infeasible in conflict with policies G7 and RE4 of the Oxford Local Plan 2036.

### **3. LEGAL AGREEMENT**

- 3.1. Had the application been recommended for approval, an agreement or unilateral undertaking would have been required in relation to highways works.

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

- 4.1. The proposal would be liable for a CIL payment of £241,837.28.

### **5. SITE AND SURROUNDINGS**

- 5.1. The application site comprises two semi-detached properties. The site is located on a prominent corner of Banbury Road and Elsfeld Way. The properties are

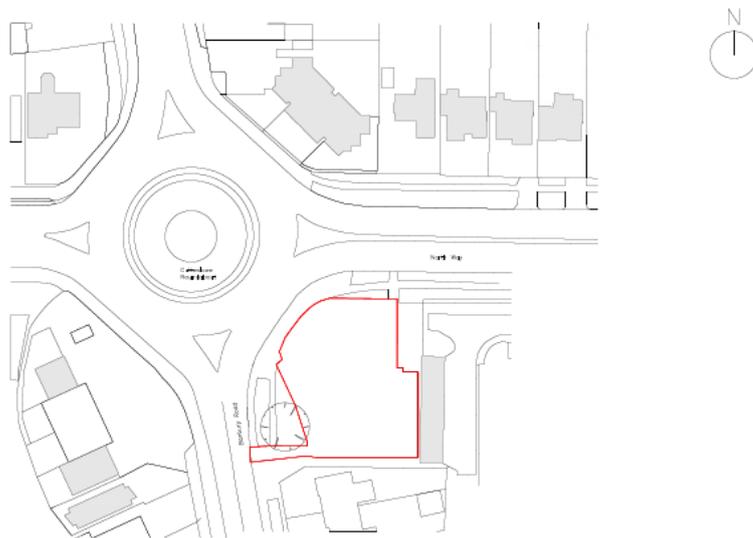
located in close proximity to the Cutteslowe Roundabout. The three storey housing estate on Hawksmoor Road lies to the East of the application site. No. 470 Banbury Road lies to the south of the application site, beyond a pedestrian and cycle path.

5.2. Planning permission for 9no. residential units on the application site remains extant until May 2023 (reference 17/02817/FUL).

5.3. There are four key frontages around the Cutteslowe Roundabout on the junction between Banbury Road and the A40. The application site fronts the south eastern edge of the roundabout. The south western edge features a part two, part three storey development consisting of 9no. 2 bedroom flats (Churchill House) which was granted planning permission in 2007 (ref. 06/02085/FUL). The north western edge features a dwellinghouse (Summers Place). The north eastern edge features a three storey building comprising 6no. 2 bedroom flats and 2no. 3 bedroom flats, this development was granted planning permission in 2009 (ref. 09/00356/FUL). The area is characterised by a variety of architectural styles. The properties in close vicinity to the site are mostly two and three storey. However, the Meadow Gardens development located on Elsfeld Way is part three, part four storey.

5.4. The existing properties are set back from the street. The site features a small garden area at the front of the properties and large driveway at the side and rear, which can be accessed from Banbury Road and Elsfeld Way.

5.5. See location plan below:



## 6. PROPOSAL

6.1. The application is made in full and proposes to demolish the existing semi-detached dwelling houses in C3 use and erect a four storey building, measuring a maximum of 13.3m in height. The building would provide a boarding house (use class C2) to accommodate up to 78 students, aged between 11 and 18 years, studying at D'Overbroecks College and would provide plant, laundry and store rooms at basement level, bedrooms, a warden's flat, communal areas and

bicycle and bin storage on the ground floor and bedrooms and common rooms on the first, second and third floors.

- 6.2. The development would also provide a two storey building, measuring approximately 9m in height, comprising 2no. 2 bedroom dwellings in C3 use.
- 6.3. The total floorspace of the scheme would measure 1, 647sq. m.
- 6.4. The existing vehicular access from North Way (A40) would be closed and used for pedestrian and cycle access only. The vehicular access onto Banbury Road would be retained and a second pedestrian access would be created.
- 6.5. Two tier bicycle parking and 2no. operational car parking spaces are proposed to serve the boarding house. The dwellings would be car-free with parking for 2no. bicycles each.
- 6.6. During the determination of the application, officers sought to improve the design of the scheme by requesting the amended plans and amended/ additional supporting documents that are now subject to determination. However, officers are still not satisfied that the amendments proposed by the applicant address fundamental concerns.

## **7. RELEVANT PLANNING HISTORY**

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

<p><u>472-474 Banbury Road</u></p> <p>19/02366/OUT - Outline application with all matters reserved apart from access for the demolition of two existing dwellings and erection of one four storey building and one two storey building for school boarding accommodation (use class C2) and associated parking, cycle and bin storage and closure of existing access onto A40. Refused 28<sup>th</sup> May 2020.</p> <p>19/00564/FUL - Temporary change of use to form operation of a hand car wash for a period of 6 months (retrospective). Withdrawn 18th March 2020.</p> <p>17/02817/FUL - Demolition of 2no. semi-detached dwellings and detached garage. Erection of building to provide 9no. residential units (3 x 3-bed, 5 x 2-bed and 1 x 1-bed). Provision of covered and secure bicycle parking and refuse/recycling storage. Provision of communal and private amenity areas and car parking. Closure of existing vehicular access on to Elsfield Way (A44/northern ring road). Approved 7th May 2020</p> <p>17/03436/FUL - Temporary change of use to form operation of a hand car wash for a period of 6 months (retrospective). (Amended description). Refused 7th March 2018</p> <p><u>472 Banbury Road</u></p> <p>01/01908/FUL - Demolition of garage. Erection of double garage. Approved 14th</p>
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December 2001.

63/13596/A\_H - Vehicular crossing and garage base. Approved 10th December 1963.

63/14167/A\_H - Vehicular access and garage base (revised). Permitted Development 10th December 1963.

67/19216/A\_H - Garage for private car. Permitted Development 12th September 1967.

70/22425/A\_H - Conversion of existing storeroom into lavatory. Permitted Development 27th January 1970.

96/00359/NF - Change of use from house to Community Police Office. Approved 29th April 1996.

474 Banbury Road

87/01284/NF - Change of use from house to interview suite. Approved 12th January 1988.

08/01527/FUL - Formation of new access ramp with handrail and alterations to doors and windows all in connection with the requirements of the Disability Discrimination Act. Approved 22nd September 2008.

7.2. Pre-application discussions took place in January 2021 with the agent and applicant. Officer's informal advice and concerns largely reflect the reasons for refusal set out within this report.

## 8. RELEVANT PLANNING POLICY

8.1. The following policies are relevant to the application:

Topic	NPPF	Local Plan	Other planning documents	Neighbourhood Plans:
Design	126-136	RE2 - Efficient use of Land  DH1 - High quality design and placemaking  DH7 - External servicing features and stores		

<b>Housing</b>	60-80	<p>H5 - Development involving loss of dwellings</p> <p>H14 - Privacy, daylight and sunlight</p> <p>H15 - Internal space standards</p> <p>H16 - Outdoor amenity space standards</p>		<p>HOS2 – Local character and distinctiveness.</p> <p>Policy HOS3 - Density, Building-design Standards, and Energy Efficiency</p>
<b>Natural environment</b>	174-188	<p>G2 - Protection of biodiversity geo-diversity</p> <p>G7 - Protection of existing Green Infrastructure</p> <p>G8 - New and enhanced Green and Blue Infrastructure</p>		
<b>Transport</b>	104-113	<p>M1 - Prioritising walking, cycling and public transport</p> <p>M3 - Motor vehicle parking</p> <p>M5 - Bicycle Parking</p>	Parking Standards SPD	<p>TRS1 – Sustainable transport design</p> <p>TRS2 – Sustainable transport</p>
<b>Environmental</b>	152-173	<p>RE1 - Sustainable design and construction</p> <p>RE4 - Sustainable and foul drainage, surface</p> <p>RE6 - Air Quality</p> <p>RE8 - Noise and vibration</p> <p>RE9 - Land Quality</p>	Energy Statement TAN	<p>ENS2 - Renewable Energy</p> <p>ENS4 - Air Pollution</p>
<b>Miscellaneous</b>	7-14	<p>S1 - Sustainable development</p> <p>RE7 - Managing the impact of development</p> <p>RE5 - Health, wellbeing, and Health Impact</p>	External Wall Insulation TAN,	

		Assessment		
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## 9. CONSULTATION RESPONSES

9.1. Site notices were displayed around the application site on 13th August 2021 and an advertisement was published in The Oxford Times newspaper on 12th August 2021.

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

#### Oxfordshire County Council (Highways)

9.2. The scheme was considered acceptable in highway safety terms, subject to conditions relating to cycle parking, Construction Traffic Management Plan, Student Accommodation Management Plan, Travel Plan and parking permits. Financial contributions would also be sought to fund cycle improvements on Banbury Road and Travel Plan monitoring.

#### Lead Local Flood Authority

9.3. Objection due to the impact on the RPA of the Horse Chestnut tree.

#### Thames Water

9.4. No objection, subject to conditions relating to water mains and a piling method statement. An informative relating to water pressure was also recommended.

#### The Summertown and St Margaret's Neighbourhood Forum

9.5. Objects to the application as it is proposing student accommodation rather than 100% housing. Further, the scheme should be providing 50% affordable units.

#### Oxford Civic Society

9.6. Objects to the application as it conflicts with policy H8 of the Oxford Local Plan 2036 by providing student accommodation outside of the locational criteria. The proposal would also contribute to the 'institutionalisation' of Summertown. Given the sites proximity to a highly polluted part of the City, it would be unacceptable to expose the proposed youthful occupiers to the poor air quality. Traffic congestion near to the site access would lead to potential danger to residents travelling to school campuses.

### **Public representations**

9.7. One local person commented on this application from Lonsdale Road.

9.8. In summary, the main points of objection (one resident) were:

- The proposal compromises the delivery of housing in Oxford.
- The proposal conflicts with the locational criteria of policy H8 of the Oxford

Local Plan 2036.

- Poor air quality.
- Concern regarding student safety entering and existing the site close to Cutteslowe roundabout.
- Congestion issues.

### **Officer response**

9.9. In response to comments made in relation to policy H8 of the Oxford Local Plan 2036, officers wish to make clear that this application does not propose 'student accommodation' in accordance with the Local Plan glossary (*Accommodation whose main purpose is to house students of sixteen years or above, registered on fulltime courses of an academic year or more in Oxford.*) The proposed boarding house would accommodate school children between the ages of 11-18 and would therefore not be considered 'student accommodation' and would not be required to adhere to the locational criteria of policy H8. The Summertown and St Margaret's Neighbourhood Forum stated that the proposal needs to contribute towards affordable housing, officers assume the Forum is referring to the requirements of policy H2 in relation to student accommodation. Again, the proposed development would not constitute as student accommodation and therefore, there would be no requirement to make an off-site contribution towards affordable housing.

9.10. With regards to local concerns relating to congestion and highway safety, the Highways Authority made no objection to the proposal on highways safety grounds as set out below.

9.11. Officer concerns relating to air quality are set out in more detail below.

## **10. PLANNING MATERIAL CONSIDERATIONS**

10.1. Officers consider the determining issues to be:

- a. Principle of development
- b. Design and living conditions
- c. Neighbouring amenity
- d. Highways and cycle parking
- e. Air quality
- f. Trees
- g. Drainage
- h. Ecology

### **a. Principle of development**

10.2. The site currently comprises 2no. semi-detached dwelling houses (use class C3). These properties were granted planning permission to be used by Thames Valley Police as a Community Police office (Ref: 96/00359/NF) and

interview suite (Ref: 87/01284/NF). Condition 4 of each permission required the properties to revert back to family dwellings upon Thames Valley Police ceasing use of the properties:

- 10.3. *'Upon Thames Valley Police ceasing to use [472 and 474] Banbury Road for the purpose hereby granted permission, the property shall revert back to a single family house.'*

*Reason: The Local Planning Authority would not normally grant planning permission involving the loss of a single family house at this location except in exceptional circumstances of this case.'*

- 10.4. The properties are no longer occupied by Thames Valley Police and therefore, the lawful use of the properties is as dwelling houses (use class C3).
- 10.5. Policy H5 of the Oxford Local Plan 2036 does not permit the net loss of self-contained dwellings on a site and as such, the proposed development would include the provision of 2no. self-contained dwellings in C3 use, in contrast with the previous application (ref. 19/02366/OUT) which was refused in principle, amongst numerous other reasons, as it did not propose to replace the existing 2no. dwellings on site. It is acknowledged that the existing dwellings are much more generously proportioned than the proposed residential units, however the Local Plan 2036 does not resist the loss of family dwellings. In this respect, the principle of proposing a boarding house in C2 use whilst retaining 2no. dwellings in C3 use on the application site is acceptable.
- 10.6. For clarity, the applicant has argued that there would be a net increase in dwellings on site, taking into account the warden's flat located within the boarding house. However, this unit would be inextricably linked to the C2 school accommodation use and therefore is not considered to contribute to the delivery of C3 dwellings. Nonetheless, the scheme would not result in a net loss of dwellings and so would still comply with policy H5.
- 10.7. The NPPF sets out the presumption in favour of sustainable development and the Core Principles encourage the efficient use of previously developed land. Policies S1 and RE2 of the Oxford Local Plan 2036 are consistent with this approach, policy RE2 requires that development proposals must make best use of site capacity, in a manner compatible with the site itself, the surrounding area and broader considerations of the needs of Oxford. The development proposal must have a density appropriate for the proposed use, with an appropriate scale and massing, maximise the appropriate density with a built form and site layout appropriate to the capacity of the site. It is here where the proposal fails to adhere to the principle of local and national policies.
- 10.8. The proposal has failed to respond effectively to the site and surrounding area and has not fully taken into account the needs of the two different uses being proposed on the site and how they relate to one another. The extent of built form and positioning of the buildings, in poor relation to one another, would lead to an unacceptable impact on the amenity of prospective occupiers of the

C3 dwellings in particular, as set out below in more detail. It is therefore considered that the proposal fails to make the best and most efficient use of land, in conflict with Local Plan policies S1 and RE2 and the NPPF.

- 10.9. For clarity, the applicants have argued that the currently proposed extent of built form is comparable to the extant scheme for 9no. residential flats, taking into account its ancillary bin and bicycle storage. However, it is important to distinguish between the two schemes; this current application proposes two separate uses with differing needs whilst the extant scheme would work cohesively. Furthermore, and importantly, the built form of the bicycle and bin storage cannot be compared to that of a two storey building providing residential accommodation.

**b. Design and living conditions**

- 10.10. Policy DH1 of the Oxford Local Plan 2036 stipulates that planning permission will only be granted for development which shows a high standard of design, and which respects the character and appearance of an area and uses materials appropriate to the site and surroundings. Policy HOS2 of the Summertown and St Margaret's Neighbourhood Plan supports new development where it responds positively to local character and distinctiveness.
- 10.11. In terms of the proposals' response to the site and its surrounding context, the proposed flat roofs fail to respond successfully to the predominantly pitched roof character of the area. A pitched roof would give interest to the building silhouette and compliment the residential character of the area. However, it is accepted that the extant scheme, with its flat roof, is a material consideration in determining this application and that the applicants have sought to better articulate the roof of the boarding house during determination by partially setting back the upper floor of the boarding house and therefore, this element of the proposals design does not form a reason for refusal.
- 10.12. Policy H14 of the Oxford Local Plan 2036 requires new development to provide reasonable privacy, daylight and sunlight for occupants of both existing and new homes. Policies H15 and H16 require new residential developments to provide acceptable indoor and outdoor living conditions.
- 10.13. Fundamentally, the quantum of development being proposed has led to many design issues including unacceptable overlooking from the C2 boarding house onto the C3 dwellings, for example from the directly facing lobby windows. Mitigation measures such as blank façades to the side elevations at first floor level of the dwellings are undesirable in design terms and the quantity of obscured glazing required to minimise overlooking would unacceptably impact on the outlook for prospective residents. Another indication that the site has been overdeveloped and the dwellings squeezed onto the site, to satisfy the requirements of policy H5, are the placement of high level ground floor windows that would look directly out onto the rear wall of the adjacent garages serving the Hawksmoor flats. These windows would allow minimal daylight into the habitable ground floor rooms and would provide no outlook.

- 10.14. The four storey northern section of the boarding house would sit approximately only 3.5m to the north of the dwellings. Given the close proximity of the buildings to one another, the four storey boarding house would have an unacceptably overbearing impact on the proposed dwellings, in respect of outlook and would reduce the level of daylight received. The supporting daylight and sunlight assessment states that the kitchen/ living room windows (essentially serving the whole ground floor) of the northernmost dwelling would fail to meet the required values '*due to the fact that they are facing north*'. Officers consider that this would also be the result of the four storey boarding house blocking daylight/ sunlight and that mitigation measures, including the removal of windows and doors to the western elevation of the dwelling, to overcome the overbearing impact of the boarding house, have unacceptably impacted on living conditions for the prospective residents. Again, a result of the sites overdevelopment and lack of cohesion between the two separate uses on site.
- 10.15. The dwellings would be served with private areas of outdoor amenity space, measuring approximately 23sq. m. and would share an area of communal amenity space measuring 54sq. m. It is considered that this provision, coupled with the sites close proximity to Cutteslowe Park, would comply with the requirements of policy H16.
- 10.16. It is apparent that careful consideration has not been given to the living conditions of the prospective residents on site nor to how the two buildings respond to one another. The overdevelopment of the site has led to many design and amenity issues as highlighted above. The proposal is therefore considered to conflict with Local Plan policies DH1 and H15 and policy HOS2 of the Summertown and St Margaret's Neighbourhood Plan.

### **c. Impact on neighbouring amenity**

- 10.17. The proposed buildings would be located to the north of 470 Banbury Road and to the west of Hawksmoor Road flats and garages. The garages are located along the eastern boundary of the application site. The distance between the boarding house and the rear elevation of the Hawksmoor Road flats would be approximately 30m, the distance between the boarding house and the side boundary of 470 Banbury Road would be 25m. The distance between the C3 dwellings and the side boundary of 470 Banbury Road would be approximately 6m. The distance between the C3 dwellings and the rear elevations of the flats on Hawksmoor Road would be approximately 23m.

#### Privacy

##### *Hawksmoor Road flats*

- 10.18. Given the separation distance between the scheme and the Hawksmoor Road flats, it is not considered that the proposal would lead to overlooking onto these dwellings to the east.

## *470 Banbury Road*

10.19. The closest south facing windows, fronting 470 Banbury Road, would be set approximately 18m from the side boundary and given the absence of any side windows to the upper floors of no. 470, it is considered that the boarding house would not lead to unacceptable overlooking onto this neighbouring property. The dwellings have been designed to omit windows overlooking this property at first floor level. It is therefore considered that the dwelling would also not overlook no. 470.

### Overbearing

10.20. The proposed development would change the outlook afforded to the neighbouring properties, however the distance between the proposed development and the Hawksmoor Road flats and no. 470 Banbury Road, and the presence of a large evergreen tree within the garden of no. 470 directly facing the proposed dwellings, is considered sufficient so as to ensure that the proposed development would not create an unacceptable outlook and would not be considered overbearing.

### Loss of light

10.21. The proposed development, due to the distance from the neighbouring habitable windows, the impact from the existing buildings and the sun's orientation, is not considered would cause an unacceptable level of harm to the amenities of the neighbouring properties in terms of loss of light.

10.22. In summary, overall the proposal is considered to comply with policy H14 of the Oxford Local Plan 2036 with respect to its impact on neighbouring properties.

### **d. Highways and cycle parking**

10.23. Oxford has the ambition to become a world class cycling city with improved air quality, reduced congestion and enhanced public realm. Road space within the city is clearly limited and to achieve its ambition there is a need to prioritise road space and promote the sustainable modes of travel. Policies M1, M2, M3, M4 and M5 of the Oxford Local Plan 2036 seek to deliver these objectives.

### Sustainability, access and highway safety

10.24. The site sits within a sustainable location with good access to public transport and is within walking/cycling distance to local amenities and the city centre. The County Council is in favour of sustainable development where residents have attractive alternative transport methods to the car, this is particularly important for car-free developments as proposed. The site is within the North Summertown Controlled Parking Zone (CPZ) meaning that the units could be excluded from eligibility for parking permits.

10.25. In terms of movement, the scheme would result in fewer vehicle trips than its existing use which is beneficial. There could be a small increase at term

start/end when students would be dropped off but a student accommodation management plan would be secured by condition if permission were to be granted, setting out allocated time slots to suit the car park which would spread congestion out across a time period.

10.26. The site access has been operating for a number of years with no recorded incidents associated with the access. The vast majority of movements from the site would be by foot, bike or public transport and would be focused south of the site. There is good existing pedestrian infrastructure in the area, this allows safe movement by foot to the nearest bus stops which are 170m southbound and 200m northbound from the site, both are considered an acceptable walking distance. There is also a pedestrian crossing between the site and the bus stops which is beneficial for bus users and pedestrians accessing the site. The cycle infrastructure in the area is very disjointed and is generally poorer southbound than northbound along Banbury Road. There are plans in the future to upgrade cycle and bus infrastructure along the strategic corridor but these plans have not yet been finalised or funded and so there is no certainty to the delivery of this.

#### Cycle parking

10.27. In terms of cycle movement, the majority of people exiting the site on bike would be travelling south along Banbury Road either into Summertown, the city centre or their place of study. There is a lack of cycle infrastructure along the eastern side of Banbury Road. Once cyclists get to the bus lane which starts at Carlton Road, the Traffic Regulation Order (TRO) allows them to use the bus lane which takes them off the main carriageway but prior to this cyclists are not segregated from motor vehicles. As a result of this proposed development, there would be a large number of cyclists using the road and with cars potentially entering Banbury Road at a significant speed and therefore cyclists should be segregated for safety reasons. It is Oxfordshire County Council's policy to improve cycle infrastructure, and as such, the highways authority requested financial contributions, if permission were to be granted, to create a cycle lane from the site to Carlton Road where cyclists can then join the bus lane.

10.28. It is proposed that the existing access from the A40 would be blocked up and only used for cyclists and pedestrians which is considered acceptable in highway safety terms.

10.29. The scheme would therefore comply with policies M1, M2 and M3. If permission were to be granted, conditions would be attached to secure a Construction Traffic Management Plan, a Student Accommodation Management Plan and Travel Plan. Financial contributions would also be sought to ensure highway safety and residential amenity would be maintained and congestion would be minimised.

#### Cycle and car parking

10.30. A total of 2 operational parking bays are proposed on site, both of which could be used as disabled bays during term time. If planning permission were to be

granted, officers would attach a condition to ensure measures were in place to prevent the spaces being used by the occupants of the dwellings. It is considered that there is adequate manoeuvring space behind the bays for cars to safely turn within the site and exit in a forward gear. Refuse/deliveries would have to take place from Banbury Road but as this already occurs, this is considered satisfactory.

10.31. 52 cycle parking spaces are proposed to serve 78 students within 41 rooms. Local Plan Policy M5 requires 4 spaces to be provided per 4 study rooms, therefore the proposal complies with policy in this respect.

10.32. There is concern around the practicality of the cycle store provided which has been raised with the applicant a number of times since pre-application stage. Firstly, there does not appear to be any space for larger bikes (e-bikes, cargo bikes etc.) which is required by the Local Plan. Secondly, two-tier cycle storage would be problematic for less mobile users and young school age children (the boarding house would accommodate children as young as 11). Further, the aisle width within the cycle store is only 1.8m which is the average length of a bike, this would therefore not give sufficient room for manoeuvring. The highways authority did not raise a formal objection to the application on these grounds but did request a condition, if permission were granted, to ensure that the applicant would make suitable arrangements for cyclists. The applicant has argued that two-tier cycle storage has been provided at other D'Overbroecks sites, however these were approved in accordance with previous Local Plan policies and objectives and therefore this argument is not considered to carry sufficient weight. Had the additional reasons for refusal not have applied, officers would have sought further amended plans to demonstrate that bike storage could be provided in a safe, accessible and convenient manner on site. However, officers consider it necessary to add the unacceptability of the cycle parking as a reason for refusal.

10.33. It is therefore considered that the proposal would not currently comply with policy M5 of the Oxford Local Plan 2036.

#### **e. Air quality**

10.34. Policy RE6 of the Oxford Local Plan 2036 requires new development to mitigate its impact on air quality and minimise or reduce exposure to poor air quality. The application site is located within the Oxford city-wide Air Quality Management Area (AQMA), declared by Oxford City Council for exceedances of the annual mean NO<sub>2</sub> air quality objective (AQO). Analysis of DEFRA's Urban background maps and of all pollutant concentrations at monitoring locations in the surrounding area of the application site, show a clear breach of the annual mean NO<sub>2</sub> AQO.

10.35. The results of the submitted Air Quality Assessment (AQA) indicate that concentrations at proposed receptor locations within the site boundary would be above relevant air quality objectives for NO<sub>2</sub>, PM<sub>10</sub> and PM<sub>2.5</sub> concentrations. Further, adequate air quality mitigation measures, including; the introduction of mechanical ventilation, the avoidance of opening windows facing directly onto the A40 and the replacement of opening windows with

non-opening windows directly facing the A40, have not been fully incorporated into the scheme. Page 24 of the submitted Air Quality Assessment includes a table of design 'options' and the mitigation measures mentioned above are simply 'to be considered' rather than confirmed as part of the proposal. An amended AQA was requested by officers but this was not forthcoming.

10.36. Therefore, the proposal is considered to conflict with policy RE6 of the Oxford Local Plan 2036.

#### **f. Trees**

10.37. Policy G7 of the Oxford Local Plan 2036 will not permit development that results in the loss of green infrastructure features such as hedgerows, trees or woodland where this would have a significant adverse impact upon public amenity or ecological interest.

10.38. A mature Horse Chestnut tree lies adjacent to the application site, on highways land. The Arboricultural Impact Assessment submitted within the Tree Survey, concludes that the proposed development impacts on the tree would be acceptable. However, the assessment has not taken into account the submitted drainage strategy which proposes a drain route through the tree's Root Protection Area (RPA).

10.39. In light of the above, it is considered that the proposal would conflict with policy G7 of the Oxford Local Plan 2036.

#### **g. Drainage**

10.40. Policy RE4 of the Oxford Local Plan 2036 requires all development proposals to manage surface water through Sustainable Drainage Systems (SuDS) or techniques to limit run-off and reduce the existing rate of run-off on previously developed sites.

10.41. As above, the revised drainage strategy incorporates a drain route running through the RPA of the adjacent horse chestnut tree, which would unacceptably impact on the tree. These matters need to be considered in the round, and as such, the impact that this proposal would have on the adjacent tree renders the drainage strategy infeasible in conflict with Local Plan policy RE4. If planning permission were to be granted, a groundwater flow assessment would need to be secured by condition to ensure that groundwater flow is not impacted, in accordance with policy RE4.

#### **h. Ecology**

10.42. Local planning authorities have a statutory duty to consider protected species through the Conservation of Habitats and Species Regulations 2017 (as amended) (hereafter referred to as the 'Habitats Regulations') and the Natural Environment and Rural Communities Act 2006. Bats are protected under the Wildlife and Countryside Act 1981 (as amended) and the Habitats Regulations, which make it an offence to take, injure or kill a bat, disturb a roosting bat, damage or destroy a roost and obstruct access to a roost.

10.43. Officers have reviewed the updated Bat Survey Report (Cotswold Wildlife Surveys, May 2021) and are satisfied that the potential presence of protected habitats and species has been given due regard.

## **11. CONCLUSION**

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

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

11.3. 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.

11.4. In summary, the proposed development is not considered acceptable for the reasons set out within this report and would not accord with the relevant policies of the Oxford Local Plan 2036.

### *Material consideration*

11.5. The principal material considerations which arise have been addressed in earlier sections of this report.

11.6. National Planning Policy: the NPPF has a presumption in favour of sustainable development.

11.7. 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.

11.8. Officers consider that the proposal would not accord with the overall aims and objectives of the NPPF for the reasons set out within the report.

- 11.9. Officers would advise members that, having considered the application carefully, the proposal is not considered 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.
- 11.10. It is recommended that the Committee resolve to refuse planning permission for the development proposed subject to the satisfactory completion (under authority delegated to the Head of Planning Services) of a legal agreement under section 106 of the Town and Country Planning Act 1990.

## **12. APPENDICES**

- **Appendix 1** – Site location plan

## **13. HUMAN RIGHTS ACT 1998**

- 13.1. 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.

## **14. SECTION 17 OF THE CRIME AND DISORDER ACT 1998**

- 14.1. 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.