

## OXFORD CITY PLANNING COMMITTEE

12th April 2022

**Application number:** 21/02513/FUL

**Decision due by** 20th January 2022

### Extension of time

**Proposal** Demolition of existing hotel. Erection of a three storey 38no. bedroom hotel (use class C1) and creation of 1no. 2 bedroom maisonette (use class C3). Provision of plant room, soft landscaping, vehicular and cycle parking and bin storage.

**Site address** Victoria Hotel, 178 - 184 Abingdon Road, Oxford, Oxfordshire – see **Appendix 1** for site plan

**Ward** Hinksey Park

**Case officer** Jennifer Coppock

**Agent:** Mr Michael Gilbert      **Applicant:** The Edge Hotel (Oxford) Ltd

**Reason at Committee** Major development

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## 1. RECOMMENDATION

1.1. The Committee is recommended to:

1.1.1. **resolve** that if an appeal had not been lodged the application would have been refused for the reasons given in the report

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

finalise the recommended reasons referred to in paragraph 1.1.1 above for the purposes of defending the appeal including such refinements, amendments, additions and/or deletions as the Head of Planning Services considers reasonably necessary.

1.1.3. The reasons that the application would have been refused for are as follows:

1. Having had regard to the proposals being situated in a high flood risk area and the proposals potentially putting more people at risk, insufficient information has been submitted, in particular the application is deficient in its failure to provide a comprehensive flood warning and evacuation plan in accordance with policy RE3 of the Oxford Local Plan 2036 and paragraphs 167 of the NPPF.

2. Insufficient information has been submitted, in particular the application is deficient in its failure to provide nocturnal bat surveys and therefore the extent to which the species may be impacted cannot be fully assessed on the basis of the submitted information. The application therefore does not conform to the requirements of Policy G2 of the Oxford Local Plan 2036.
3. Insufficient information has been submitted, in particular the application is deficient in its failure to provide a sufficient drainage strategy with consistent calculations and acceptable half drain down times and therefore, the proposal does not conform to the requirements of Policy RE4 of the Oxford Local Plan 2036.

## **2. EXECUTIVE SUMMARY**

- 2.1. This report considers the proposal to demolish the existing hotel on site and erect a part three, part two storey hotel in C1 use with 38no. guest bedrooms and 1no. 2 bedroom maisonette in C3 use with provision for vehicular and cycle parking, refuse storage, soft landscaping and a separate single storey building to accommodate mechanical plant. The applicant has sought to address a number of the reasons for refusal set out in the previous decision notice (ref. 20/01156/FUL) with regards to design and sustainability, however there are a number of outstanding matters that have not been resolved by the submission of this application. These include; the absence of bat surveys, the absence of justification for the demolition of a locally listed heritage asset following the listing of the building in March 2022, the submission of an inadequate drainage strategy and flood warning and evacuation plan. Therefore, Officers are recommending refusal for the reasons set out above and detailed within this report.
- 2.2. It is important for the Planning Committee to note that the applicant unexpectedly lodged an appeal against non-determination in March 2022, notwithstanding the efforts made by officers to work with the applicant to resolve outstanding matters as detailed at paragraphs 7.2 and 7.3 below.

## **3. LEGAL AGREEMENT**

- 3.1. If this application had been recommended for approval, it would not be subject to a legal agreement.

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

- 4.1. The proposal would be liable for CIL payments of £26,448.98.

## **5. SITE AND SURROUNDINGS**

- 5.1. The site comprises The Victoria Hotel, a two storey property which was originally three separate dwellings, all built in the 1800's. A number of run-down and unused outbuildings and a hard surfaced car park are located to the rear of the site. The hotel has an external footprint (including outbuildings) of 592sq. m. and an approximate gross internal area of 688.2sq.m. Vehicular and pedestrian access to the hotel is from Abingdon Road. The surrounding area does not form part of a Controlled Parking Zone (CPZ).

- 5.2. Nos. 182-184, originally a pair of Victorian semi-detached cottages, are red brick under a hipped roof with central chimney stack. No. 180, a more recent addition, dates back to the late 1800's and is double fronted with white rendered walls, a double pile pitched roof and a central chimney stack. Over time, the buildings have been unsympathetically altered with the insertion and alteration of inappropriately designed windows and the addition of a porch and a number of single storey extensions to the rear.
- 5.3. The principal building line of the three properties varies which is characteristic of Abingdon Road, illustrating the development of New Hinksey in the Victorian period.
- 5.4. Internally, the Hotel is run down, so much so, the current owners have been prohibited from operating due to health and safety concerns – the site is now vacant. When last in use, the hotel accommodated 16 letting rooms plus the owner's residential accommodation which is integrated into the footprint of the hotel.
- 5.5. Surrounding built form along the west side of Abingdon Road comprises 2 and 3 storey red brick and rendered properties under pitched tiled roofs. The area is characterised by an interesting variety of roof forms with gable ends of the double pile block adding to the attraction of the area. To the east side of Abingdon Road lies the stone built Oxford Spires Hotel which is set back from the street frontage and undeveloped green belt land.
- 5.6. In terms of planning policy constraints, the site lies within flood zone 3b (functional floodplain) and sits within the Hinksey Hill view cone. The site was adopted as a locally listed heritage asset at planning committee on 23<sup>rd</sup> March 2022. See site location plan below:



Figure 1: Site location plan

## 6. PROPOSAL

- 6.1. This application proposes to entirely demolish the existing buildings on site and replace them with a part two, part three storey 38 bedroom hotel with 1no. 2 bedroom maisonette as a replacement for the existing proprietor's accommodation. The hotel would have an external footprint of 571sq. m. (as opposed to the existing with a footprint of 592sq.m) and the proposed plant room would have a footprint of 18sq. m. therefore, the overall external footprint would result in a marginal decrease from the existing. The height of the hotel to the ridge of the gables at the front elevation would be a maximum of approximately 11m, grading down to 10m to the rear elevation and 8m at the two storey element. The proposed materials palette would include buff brick to the majority of the external walls, dark grey metal cladding to elements of the external walls and dormer windows and slate roof tiles.
- 6.2. A separate plant room, of brick and timber clad form, would be erected to the rear of the hotel to accommodate mechanical plant and Air Source Heat Pumps. Within the

curtilage of the site cycle parking, vehicular parking and soft landscaping would also be provided.

## 7. RELEVANT PLANNING HISTORY

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

20/01156/FUL - Demolition of existing hotel. Erection of a three storey 43no. bedroom hotel (use class C1) and creation of 1no. 2 bedroom dwelling (use class C3). Provision of vehicular and cycle parking and bin storage (amended description). Refused 18th November 2020.

APP/G3110/W/22/3294099 – An appeal was lodged to the Planning Inspectorate against non-determination on 2<sup>nd</sup> March 2022. At the time of report writing, the appeal has not yet started.

7.2. Notwithstanding frequent and pro-active engagement between the case officer and the applicant’s agent regarding deficiencies in the application including: the need for further bat surveys to be carried out between the months of May and September; outstanding objections raised by the Lead Local Flood Authority (LLFA) regarding the submitted, and subsequently amended, drainage strategies; an insufficient flood risk and evacuation plan; and the potential local listing of the buildings; the agent decided to appeal against non-determination. At no point in the consideration of the application had the agent indicated that the application needed to be determined prior to resolving outstanding matters, nor did the agent indicate that an appeal would be lodged. Indeed, at the time the appeal was lodged, officers were waiting for comments from the LLFA on the recently submitted third iteration of the Drainage Strategy. Officers had made it clear that the application would either need to be held in abeyance or withdrawn until bat surveys had been carried out and in the meantime, other matters could potentially be resolved (emails dated 10<sup>th</sup> December 2021 and 17<sup>th</sup> January 2022). The agent did not disagree with this approach.

7.3. Paragraph: 002 Reference ID: 16-002-20140306 of the Planning Practice Guidance states that *applicants should first consider engaging with the local planning authority to establish when an application might be decided, before deciding whether to appeal against non-determination*. Given the absence of any engagement in this regard, it is considered that the applicant has acted unreasonably in lodging a premature appeal against non-determination in this instance.

## 8. RELEVANT PLANNING POLICY

8.1. The following policies are relevant to the application:

Topic	National Planning Policy Framework	Local Plan	Other planning documents
Design	126-136	DH1 - High quality design and placemaking  DH7 - External servicing features and stores	

<b>Conservation/ Heritage</b>	189-208	DH2 - Views and building heights	
<b>Housing</b>	119-125	H5 - Development involving loss of dwellings  H14 - Privacy, daylight and sunlight  H15 - Internal space standards  H16 - Outdoor amenity space standards	
<b>Commercial</b>	81-91	V5 - Sustainable tourism	
<b>Natural environment</b>	152-188	G2 - Protection of biodiversity geo-diversity  G7 - Protection of existing Green Infrastructure  G8 - New and enhanced Green and Blue Infrastructure	
<b>Transport</b>	104-113	M1 - Prioritising walking, cycling and public transport  M2 - Assessing and managing development  M3 - Motor vehicle parking  M4 - Provision of electric charging points  M5 - Bicycle Parking	Car and Bicycle Parking TAN
<b>Environmental</b>	7-14, 119-125, 183-186.	RE1 - Sustainable design and construction  RE2 - Efficient use of Land  RE3 - Flood risk management  RE4 - Sustainable and foul drainage, surface  RE6 - Air Quality  RE8 - Noise and vibration  RE9 - Land Quality	Energy Statement TAN

<b>Miscellaneous</b>	7-14, 92-103, 114-118, 119-125.	S1 - Sustainable development  RE5 - Health, wellbeing, and Health Impact Assessment  RE7 - Managing the impact of development	

## 9. CONSULTATION RESPONSES

- 9.1. Site notices were displayed around the application site on 2nd November 2021 and an advertisement was published in The Oxford Times newspaper on 11th November 2021.

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

#### Oxfordshire County Council (Highways)

- 9.2. No objection, subject to a condition requiring a Construction Traffic Management Plan.

#### Oxfordshire County Council (Drainage)

- 9.3. Objection due to inaccuracies in calculations within the Drainage Statement and the half drainage down time not meeting LLFA standards.

#### Oxfordshire Architectural and Historical Society

- 9.4. Objects to the application as it does not provide justification for the demolition of the buildings that have been nominated as locally listed heritage assets. Further, the proposal would damage the streetscape by removing historic varying pitched roof lines, gable ends and chimney stacks. It would remove the historic variety of building lines and frontage and eliminate the historic evolution in building plots which is traceable through historic mapping and is still legible on the ground. The proposal would increase flood risk and parking congestion in the area. The Society also raised that demolishing the buildings and to build from scratch is not a responsible use of energy resources, particularly given climate change. Retention and enhancement of existing building stock is to be preferred where possible.

#### Oxford Civic Society

- 9.5. The applicants have presented a positive response to the reasons for the refusal in 2020 and have incorporated measures in the current application which are intended to overcome earlier objections. The current state of the buildings on this site are an eyesore and it is concluded that the proposed buildings will present a greatly enhanced frontage to the Abingdon Road as well as providing needed welcome facilities for the tourist business in Oxford.

#### Natural England

- 9.6. No comments to make.

#### Thames Water Utilities Limited

- 9.7. No objection subject to a condition requiring a piling method statement due to the sites proximity to a strategic sewer.

#### Oxford Preservation Trust

- 9.8. Supports the efforts made by the applicant to address the previous reasons for refusal. However, would like the impact on the streetscene and Eastwyke Farmhouse to be thoroughly addressed. OPT requested that the application is not determined until it is known whether the buildings are to be locally listed.

#### Environment Agency

- 9.9. No objection, subject to a planning condition to ensure compliance with the submitted Flood Risk Assessment. The submitted flood evacuation plan has not been assessed by the EA.

#### **Public representations**

- 9.10. 4 local people commented on this application from addresses in Lake Street, Norreys Avenue and Summerfield.
- 9.11. In summary, the main points of objection (4 residents) were :
- a. Overdevelopment of site
  - b. Effect on character of area and adjoining properties
  - c. Effect on traffic and increased on-street parking
  - d. Flood risk
  - e. Pollution

#### **Officer response**

- 9.12. Officers have sought to address the above concerns as detailed within the sections below.

### **10. PLANNING MATERIAL CONSIDERATIONS**

- 10.1. Officers consider the determining issues to be:
- a. Principle of development
  - b. Design
  - c. Impact on local heritage asset and nearby listed building
  - d. Ecology

- e. Flood risk and drainage
- f. Neighbouring amenity
- g. Living conditions
- h. Highways

**a. Principle of development**

- 10.2. Policy V5 of the Oxford Local Plan 2036 sets out a locational requirement for holiday and short stay accommodation which includes Oxford's main arterial roads where there is frequent and direct public transport to the City centre. Abingdon Road is listed as such an arterial road within footnote 33 and therefore the location of the application site is considered acceptable for new holiday and short stay accommodation in principle.
- 10.3. In accordance with policy V5, proposals must be considered a) acceptable in terms of access, parking, highway safety, traffic generation, pedestrian and cycle movements; b) must not result in a loss of residential dwellings; and c) not result in an unacceptable level of noise and disturbance to nearby residents.
- 10.4. In response to the criteria set out within policy V5:
- 10.5. The access off Abingdon Road would remain unchanged from the existing, and the proposal would result in a reduction in on-site parking in accordance with policy M3. Therefore, criterion a) would be satisfied;
- 10.6. As set out above, the current hotel includes residential accommodation for the owner and in order to comply with policy, the proposal includes the provision of 1no. self-contained 2 bedroom apartment. Therefore, there would be no loss of residential dwellings on site and as such criterion b) would be satisfied;
- 10.7. In terms of levels of noise and disturbance to nearby residents, no information has been provided assessing the potential noise impact from Air Source Heat Pump equipment but from the design of the scheme, noise has been given consideration by the applicant and been mitigated against by placing plant equipment within a separate enclosed structure. Conditions would be imposed to ensure that the proposed plant is designed / selected or the noise attenuated so that the noise emitted is 10dB below the existing background level. Therefore, criterion c) would be satisfied.
- 10.8. In light of the above, it is considered that the proposed development is acceptable in principle in compliance with policy V5 of the Oxford Local Plan 2036.

**b. Design**

- 10.9. 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.

- 10.10. As set out at Policy DH2, the City Council will seek to retain significant views both within Oxford and from outside, in particular to and from the historic skyline. Planning permission will not be granted for any building or structure that would harm the special significance of Oxford's historic skyline. Policy DH2 continues that proposals within view cones that may impact on roofscape should be based on a clear understanding of characteristic positive aspects of the roofscape in the area and should contribute positively to the roofscape, to enhance any significant long views the development may be part of and also the experience at street level.
- 10.11. It is considered that due to the articulated roof form with gables to the street elevation and eaves lines roughly in line with neighbouring properties, the development would sit comfortably within the street, appropriately referencing the existing character, form, scale and massing of the surrounding area. During the consideration of the application, the glazed elements of the building were reduced to ensure that the building would not appear overly dominant within the street scene.
- 10.12. A 3m high brick built enclosed structure with flat roof would be located to the rear of the hotel to accommodate mechanical plant. Attached to this would be a timber clad enclosure with no roof at 1.8m in height to house the Air Source Heat Pumps. It is considered that this relatively unobtrusive built form in sympathetic materials, complementing the palette of the hotel, would relate appropriately to the context of the site itself and the surrounding area.
- 10.13. The revised scheme would not cause harm to local, street level, views due to its reduced scale, bulk, height, massing and use of appropriate materials. The pitched and articulated roof would appropriately respond to the existing variety of adjacent roof forms. In terms of more long distance views, it is considered that the proposed development may be visible from the view cone, however given that the building would be roughly in line with the height of adjacent buildings, it would not materially alter or detract from views.
- 10.14. In light of the above, it is considered that the proposed development would respond appropriately to the character and context of the site, the visual amenity of the area and streetscene, in accordance with policy DH1 of the Oxford Local Plan 2036. Furthermore, the proposal is unlikely to materially impact on long distance views from Hinksey Hill view cone and therefore, the proposal would adhere to the requirements of policy DH2 of the Oxford Local Plan 2036.

**c. Impact on local heritage asset and nearby listed building**

- 10.15. Policy DH5 requires due regard to be given to the impact on the asset's significance and its setting and that it is demonstrated that the significance of the asset and its conservation has informed the design of the proposed development.
- 10.16. The NPPF requires proposals to be based upon an informed analysis of the significance of all affected heritage assets and expects applicants to understand the impact of any proposal upon those assets with the objective being to sustain their significance (paragraph 194). When assessing the impact of a proposal on a non-designated heritage asset the NPPF requires the Local Planning Authority to

undertake a balancing judgement having regard to the scale of any harm or loss and the significance of the heritage asset (paragraph 203).

- 10.17. Nos. 182 & 184, otherwise known as Tenby Cottage and Swansea Cottage, were constructed as part of the first phase of the development of a settlement at New Hinksey; laid out in response to a demand for housing from workers on Oxford's first railway, which was built parallel to the Abingdon Road in 1844. They are therefore of local historic interest as they provide material evidence of the early effects of the arrival of the railway in Oxford, which would go on to serve as a major stimulus for the development of the suburbs to the south of the city.
- 10.18. Lake Street, Vicarage Road and some of the smaller streets between them also formed part of this first phase of development at New Hinksey, and where mid-19th century dwellings survive these too help to illustrate this period of the local area's history. However, Tenby Cottage and Swansea cottage stand out amongst these mid-19th century dwellings due to their unusual form – having a hipped roof with central stack – attractive polychromatic chequered brickwork, and detailing such as their rubbed brick lintels, which provide the properties with aesthetic/architectural interest.
- 10.19. The buildings therefore meet the criteria for inclusion on the Oxford Heritage Asset Register and were adopted onto the register on 23<sup>rd</sup> March 2022. Nonetheless it is recognised that they have undergone considerable alteration in their conversion to use as part of the Victoria Hotel, which has eroded their architectural interest and their contribution to the streetscape along Abingdon Road, and whilst of a sufficient level for inclusion on the Register the overall level of local heritage significance they possess is relatively low.
- 10.20. The applicant was made aware of the OHAR nomination in December 2021 and that the nominations would be heard at committee in early 2022 (at the time, it was anticipated that the nominations would be heard at February committee but the applicant was updated regarding the anticipated committee dates as internal deadlines shifted). It was understood that the application would be held in abeyance until the outcome of the committee meeting was known. Notwithstanding this, the applicant decided to appeal against non-determination on 2<sup>nd</sup> March 2022 and as such, there was no opportunity to assess the potential impact of the proposal on the local heritage asset as no justification for the entire demolition of the asset had been provided as part of the application. Curiously, the applicant has submitted a heritage statement as an appendix to the submitted appeal statement but did not submit this report as part of the application package. Nevertheless, officers have assessed the appeal heritage statement and comment as follows.
- 10.21. The proposed scheme would see Tenby Cottage and Swansea Cottage demolished in their entirety, which would result in the total loss of their local heritage significance. Therefore, as per the requirements of paragraph 203 of the NPPF and Local Plan policy DH5, a balanced judgement must be made having regard to the low local heritage significance of the asset and the total loss of this significance as balanced against the public benefits that would result from the development proposals, including making more efficient use of a sustainable brownfield site with the development of a highly sustainable new building to

provide much needed short stay accommodation, and associated employment, in this area of the City. It is considered that, undertaking the balancing act, in this particular instance the public benefits offered by the scheme would outweigh the loss of the buildings.

- 10.22. However, as per policy DH5, should the buildings' demolition be permitted at appeal, publicly accessible recording should be made to advance understanding of the significance of the local heritage asset in a manner proportionate to their importance and the impact. In this instance level 3 historic building recording would be considered proportional, and it would be recommended to the Inspectorate that this be secured by a condition on any consent. It is therefore considered that the proposed development would adhere to the requirements of policy DH5 of the Oxford Local Plan and paragraph 203 of the NPPF.
- 10.23. Policy DH3 of the Oxford Local Plan 2036 states that planning permission will be granted for development that respects and draws inspiration from Oxford's unique historic environment (above and below ground), responding positively to the significance character and distinctiveness of the heritage asset and locality. For all planning decisions, great weight will be given to the conservation of that asset and to the setting of the asset, where it contributes to that significance or appreciation of that significance. Where a development proposal will lead to less-than-substantial harm to a designated heritage asset, this harm must be weighed against the public benefits of the proposal, which should be identified by the applicant.
- 10.24. The application site lies approximately 150m from Eastwyck Farmhouse which is a grade II listed building. This listed building is an important reminder of the rural nature of what was once the southern fringes of the City; although converted into a hotel annexe, the farm house is still legible as a rare survival of a detached rural countryside farmhouse set in a rural, verdant, pastoral setting. The proposals would give rise to a very low degree of less than substantial harm to the setting of the listed building. Officers consider that the existing site does not contribute positively to the setting of the listed building and on balance the less than substantial harm in this case would be outweighed by the public benefit of providing a redevelopment and increased efficient use of land. The significant distance between the listed building and the application site significantly reduces the impact of the proposals on the setting of the listed building. In reaching this view, officers have had regard to paragraphs 199-202 of the NPPF in reaching a decision. Therefore, the proposals would be acceptable in terms of their impact on these designated heritage assets.
- 10.25. Special attention has been paid to the statutory test of preserving the listed buildings or their settings under Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990, which it is accepted is a higher duty. It has been concluded that the development would preserve the setting of the nearby listed buildings and so the proposal accords with Section 66 of the Act in respect of listed buildings.

**d. Ecology**

- 10.26. Local Plan policy G2 states that development that results in a net loss of sites and species of ecological value will not be permitted. On sites where there are species and habitats of importance for biodiversity that do not meet criteria for individual protection, development will only be granted where a) there is an exceptional need for the new development and the need cannot be met by development on an alternative site with less biodiversity interest; and b) adequate onsite mitigation measures to achieve a net gain of biodiversity are proposed; and c) offsite compensation can be secured via legal obligation.
- 10.27. A preliminary roost assessment was completed in October 2019, during which small numbers of bat droppings were found in three separate lofts across the building. Additional internal and external inspections were undertaken in June 2021 and February 2022 during which no evidence of roosting bats was found. The updated report (submitted in February 2022, following the Council's request for three nocturnal bat roost surveys) states: *"Although a very small number of bat droppings were found, this is not considered to indicate the presence of a bat roost, and roosting [sic] are considered to be currently absent."* The report assesses the building to be of low suitability for roosting bats on account of the presence of loft voids. Additional potential roosting features are identified in the form of a gap in a boxed eave and an area of missing mortar under roof tiles. The report states that, in the professional judgement of the ecologist, no further surveys are required.
- 10.28. The report does not explicitly discount that bats may have roosted in the lofts previously. However, it states that: *"The most likely scenario is that a bat has investigated the loft spaces in the past, only to leave again without sheltering."* The three loft voids are described as being "separate" in the report. Therefore, for this assessment to be accurate, one bat (or multiple bats) must have flown into three different loft voids and not roosted in any of them.
- 10.29. Officers are not satisfied that the applicant's ecologist has sufficient evidence to support that conclusion. The small number and pattern of older droppings is not sufficient to conclude that bats have never roosted in the loft voids. A more sensible and robust conclusion would be that bats have occasionally roosted in all three voids. Another point of concern with the submitted information is the lack of potential access points identified into the voids with droppings present. The absence of information about how bats may have accessed / exited the loft voids indicates an incomplete understanding of how bats have used /are using the building.
- 10.30. When presence is established, roost characterisation surveys are required. These take the form of nocturnal surveys (i.e. emergence/re-entry surveys). No such surveys have been undertaken. Instead, internal inspections were undertaken in June 2021 and February 2022, with a view to demonstrating that bats are likely absent. Officers do not accept this is an appropriate survey methodology given the evidence recorded within the site previously. Given the evidence recorded, Officers have requested (on three separate occasions) that three nocturnal surveys be undertaken to enable roost characterisation. These should be completed in line with best practice guidance (i.e., between May and September,

with at least two completed before the end of August). Protected species, such as bats, are a material consideration in the planning process and as such, there is a duty of care to give them due regard. At present there is insufficient information to do so.

- 10.31. Protected species surveys cannot be conditioned except in exceptional circumstances - being out of the survey season is not considered an exceptional circumstance.
- 10.32. There is a reasonable likelihood that European Protected Species are present and likely to be impacted by the proposed development. The extent to which the species may be impacted cannot be fully assessed on the basis of the submitted information and therefore this deficiency forms a further reason for refusal if the Council had been in a position to determine the application in line with the requirements of the National Planning Policy Framework (July 2021) and the Conservation of Habitats and Species Regulations 2017 (as amended) and policy G2 of the Oxford Local Plan 2036.

**e. Flood Risk**

- 10.33. Policy RE3 of the Oxford Local Plan 2036 permits development in flood zone 3b where it is on previously developed land and it will represent an improvement for the existing situation in terms of flood risk. Planning permission will only be granted for development within flood zone 3 where: the proposed development will not increase flood risk on site or off-site; and safe access and egress in the event of a flood can be provided; and details of the necessary mitigation measures to be implemented have been provided.
- 10.34. Paragraph 167 of the NPPF also requires planning proposals in flood risk areas to provide safe access and escape routes as part of an agreed emergency plan.
- 10.35. As set out above, the site lies within flood zone 3b (functional floodplain). Flood Zone 3b is defined as “land where water has to flow or be stored in times of flood”, in accordance with Table 1 ‘Flood Risk’ of the Planning Practice Guidance. The proposed development is classed as ‘more vulnerable’ in accordance with Table 2 ‘Flood risk vulnerability classification’ of the Planning Practice Guidance. The proposed land use would however remain the same as the existing with a reduced built footprint. Proposed flood mitigation measures include setting the finished floor levels no lower than 56.65 metres above Ordnance Datum and providing an open undercroft (void) beneath the building floor slab forming a void for flood storage. The Environment Agency raised no objection to the proposal.
- 10.36. However, the proposed development is not considered acceptable in terms of safe access and egress during times of flood – a matter that the Environment Agency do not assess. The proposal would increase the number of rooms to 38 plus 1 no. dwelling from 17, which is a potential increase in occupants at any one time from 34 to 78. Environment Agency /DEFRA guidance is that a route of access/egress should be provided that is safe for all, on the basis that this is not provided, there may be additional burden placed on emergency services in times of flood, if occupants are required to be evacuated. The flood hazard map attached at appendix H of the submitted Flood Risk and Drainage Assessment shows that the

routes to a safe area, along Abingdon Road, have been classified as posing a 'Danger to Most' i.e. there will be danger of loss of life for the general public. Pedestrian and vehicular access and egress along existing roads from the hotel is not an option during a flood event and no alternative routes or modes of transport have been proposed by the applicant. The applicant has accepted that the hotel would need to close upon receipt of a flood warning and state that guests would be relocated to either Heather House, a B&B on Iffley Road which is co-owned by the applicant or a 30 bedroom hotel in Abingdon which, at the time of submission of the application, the applicant was due to complete on. Further, the applicant has a hotel operator 'booking.com' account which would enable the last minute booking of hotels. Whilst these are potential solutions, there is absolutely no certainty that these alternative forms of accommodation would have capacity when needed by guests seeking refuge from a site in the floodplain and as above, the guests and occupants of the dwelling would not have a safe route to flood zone 1 from the application site.

- 10.37. On balance, it is therefore considered that the proposal does not comply with requirement f) of policy RE3 of the Oxford Local Plan 2036 and paragraph 167 of the NPPF.

**f. Drainage**

- 10.38. 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. Developers are encouraged to separate foul and surface water sewers on all brownfield sites delivering new development.
- 10.39. The applicants propose to discharge rainwater to a surface water drain. This technique is second from the bottom in the hierarchy set out within the SuDS Manual (CIRIA C753, 2015). The proposed SuDS techniques include permeable paving to the parking spaces. Runoff from the roof would be collected and conveyed via a pipe network into the main sewers in Abingdon Road, with any excess run-off attenuated in the tank located under parking spaces 3-9 to the rear of the site and in the gravel sub-base of parking bays. Potential sediments would be trapped using catchpits. The development proposal would discharge foul water from the application site into the existing foul drainage network running north along Abingdon Road, to the east of the site. Thames Water confirmed, on the 4<sup>th</sup> February 2022, that there is capacity for this strategy.
- 10.40. The Local Lead Flood Authority (LLFA) has objected to the proposal as there are unacceptable inconsistencies in the calculation and drainage plans. Further, there are multiple porous paving sections shown on plan which have not been referenced or modelled in calculations. Further, the half drain down time exceeds 24 hours which does not meet LLFA requirements.
- 10.41. It is therefore considered that the drainage strategy is not acceptable in compliance with policy RE4 of the Oxford Local Plan 2036.

**g. Impact on neighbouring amenity**

- 10.35. Policy H14 of the Oxford Local Plan 2036 requires new development to provide reasonable privacy, daylight and sunlight for occupants of existing homes. Consideration must be given to the degree of overlooking to and from neighbouring properties or gardens, the orientation of windows in both new and existing development in respect of access to daylight, sunlight and solar gain and existing and proposed walls, hedges, trees and fences in respect of their impact on overshadowing both existing and new development. Planning permission will not be granted for any development that has an overbearing effect on existing homes.

#### Privacy

- 10.36. It is considered that the proposed development would not give rise to unacceptable overlooking or perceived overlooking onto residential dwellings to the rear, fronting Summerfield, as there would be a distance of between 23.5m and 27m between these neighbouring dwellings and the proposed development. With regards to nos. 178, 188 and 190 Abingdon Road, the only first floor window to the northern elevation would be obscurely glazed protecting the privacy of no. 178 Nos. 188 and 190 do not feature windows to their side (northern) elevations, further, the proposed windows to the southern elevation of the hotel would serve a stairwell and corridor rather than guest bedrooms where there would be more opportunity for overlooking in any case. It is therefore considered that the proposed development would not materially impact on neighbouring privacy in accordance with Local Plan policy H14.

#### Overbearing

- 10.37. The northern elevation of the hotel would be set 11.3m away from the boundary of no. 178's rear garden which is an acceptable distance, particularly given the dense suburban form of the site location. Further, taking into account the distance between the development and neighbours to the west (Summerfield) and the absence of side windows to nos. 188 and 190, it is not considered that the proposed development would be unduly overbearing on neighbours in accordance with Local Plan policy H14.

#### Daylight and Sunlight

- 10.38. In terms of the impact on light for neighbouring residential properties and specifically the 45/25 degree test set out in Policy H14 of the Oxford Local Plan 2036, the 45 degree line would not be contravened when applied to the nearest habitable windows of no. 188 Abingdon Road. However, the 45 degree line would be contravened when applied to the nearest habitable windows of no. 178 Abingdon Road. When applied to the rear elevation plan, the 25 degree line would not be contravened and therefore it is considered that the proposal would not materially impact on the level of daylight and sunlight enjoyed by this property.
- 10.39. With regards to the residential properties to the rear of the application site, it is considered that the orientation of the proposed building and distance from neighbouring properties is such that the proposal would not unacceptably impact on the levels of daylight and sunlight to these residential neighbours.

- 10.40. A daylight and sunlight assessment plan was submitted as part of the application which further illustrates that the proposed development would not impact on surrounding dwellings with regards to daylight and sunlight received in accordance with Local Plan policy H14.
- 10.41. Taking into account all of the above, it is considered that the proposed development would not materially impact on neighbouring amenity in compliance with policy H14 of the Oxford Local Plan 2036.

**h. Living conditions**

- 10.42. Proposed dwellings are required to meet nationally described space standards as required by policy H15 of the Oxford Local Plan 2036. In accordance with the national space standards (March 2015), a two storey, 2 bedroom dwelling for 3 people is required to have a minimum floor area of 70sq. m. with single bedrooms measuring 7.5sq. m. and at least 2.15m in width. Double bedrooms must measure 11.5sq. m. and at least 2.55m in width. The floorspace of the proposed 2 bedroom apartment would measure 82.4sq. m. The bedrooms would measure between 8.5sq. m. (single) and 13.6sq. m. (double) with a minimum width of 2.9m. Windows to the apartment would be orientated to the south and west, benefitting from the afternoon and early evening sun.
- 10.43. Policy H16 requires 1 or 2 bedroom flats to provide either a private balcony, terrace or direct access to a private or shared garden. The proposed apartment would provide an area of outdoor amenity space to the rear of the property measuring approximately 27.5sq. m., meeting policy requirements.
- 10.44. It is considered that the proposed internal and external living conditions would comply with the requirements of policies H15 and H16 of the Oxford Local Plan 2036.

**i. Highways**

- 10.45. In the case of the redevelopment of an existing or previously cleared site, policy M3 of the Oxford Local Plan 2036 states that there should be no net increase in parking on the site from the previous level and requires a reduction in parking where there is good accessibility to a range of facilities.
- 10.46. The application proposes to reduce the number of vehicular parking spaces by 4, from 17 to 13. The application site is in a highly sustainable location with good access to public transport and local amenities and is therefore considered an appropriate location to reduce parking on-site in accordance with policy M3. In light of the requirements of policy M3, the proposal is considered acceptable in terms of its vehicular parking provision.
- 10.47. Policy M5 of the Oxford Local Plan 2036 requires hotels to provide at least 1 bicycle parking space per 5 non-resident staff (or other people), plus 1 space per resident staff. The proposal provides 10 covered and secure cycle parking spaces, which is considered satisfactory in accordance with policy requirements.

**j. Other Matters**

- 10.48. The application site address is listed as 178-184 Abingdon Road whereas the application site location plan only demarcates 180-184 Abingdon Road. 178-184 Abingdon Road is listed as the application site address by the applicant. This is because the application site address is taken from the address of the application property and it is listed this way in the Royal Mail database and the Council's database. Officers are satisfied that the application site location plan is correct and this defines accurately the area where the development is proposed to take place.

## **11. CONCLUSION**

- 11.1. The application is deficient in its failure to provide a number of sufficient and required surveys and assessments and therefore Officers have not been able to assess the proposals fully. Further, the submitted Flood Warning and Evacuation Plan and Drainage Strategy are considered insufficient for the reasons set out above. Therefore, Officers are recommending that the committee resolve that had it been in a position to refuse the application, it would have been refused for the reasons given at paragraph 1.1.3 of this report.
- 11.2. Having regards to the matters discussed in the report, officers would make members aware that the starting point for the consideration 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 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*

- 11.6. The principal material considerations which arise have been addressed in earlier sections of this report.
- 11.7. National Planning Policy: the NPPF has a presumption in favour of sustainable development.

- 11.8. 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.
- 11.9. 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.
- 11.10. 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.
- 11.11. It is recommended that the Committee resolve that had it been in a position to determine the application, planning permission for the development proposed would have been refused for the reasons given at paragraph 1.1.3 of this report.

## **12. APPENDICES**

Appendix 1 – Site location plan

Appendix 2 – OHAR nominations form

### **HUMAN RIGHTS ACT 1998**

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.

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

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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