

Height of Development.

5. Details of the height and other dimensions of the building are given in the report to West Area Planning Committee starting at paragraph 11. At its highest point the building would rise to 10.1m, though the third floor accommodation would be set back from the western facade of the building facing the rear of the Mill Street properties with the height at the leading edge being set at 7.5m. As the report to West Area Planning Committee indicates, whilst Mill Street is made up in the main of two storey terraced properties, there are a number of taller buildings in the locality, including at points close to the railway line, for example at Gibbs Crescent, Westgate Hotel, the Youth Hostel and developments north of the railway station at Roger Dudman Way. At these locations taller buildings can provide a buffer between the railway lines and the residential areas they adjoin.
6. In short Officers are satisfied that a three storey building located at this site is appropriate and for the reasons also indicated below and would not cause harm to neighbouring properties such as to warrant the refusal of planning permission.

Overdevelopment and Overbearing Impact.

7. The adopted Oxford Local Plan is not prescriptive as to the optimum density for developments of student accommodation as the sites they occupy can vary greatly in context, and are often sited within tight urban environments within the city centre and elsewhere. However the Plan does expect that efficient use is made of available sites, including brownfield ones, in view of the scarcity of development land within the city. As student accommodation is not provided with individual gardens or car parking in the same way as family housing, (other than for an on - site warden, servicing needs etc), then this means that optimum use can be made of sites, squarely in line with national and local policy guidelines. That said the development must still meet the tests of neighbourliness set out in a range of Local Plan policies. In this regard the proposed building would be located at a minimum of 33m from the nearest facing window in the Mill Street properties for example, extending to as much as 39m. This compares to a commonly accepted minimum distance between facing windows serving habitable rooms of 21m. Moreover the windows serving the development are angled to further protect the privacy not only of the residents of Mill Street but also those of the young occupiers of the development itself.
8. For the reasons indicated above and at paragraphs 8 to 13 of the attached report in particular, Officers are satisfied that the location of the new building to the eastern side of the application site with retained and new tree planting to soften its appearance and mitigate the loss of existing greenery, represents a satisfactory relationship to the Mill Street properties and would not be overbearing. Moreover as rail services continue to expand along the lines to Oxford with the possibility of a southern bay platform and electrification by 2016, then the new building provides at least some protection from noise emanating from the adjacent railway lines, especially for those properties located most centrally to the development.

Wildlife.

9. Surveys of the application site were undertaken by Ecoconsult Wildlife Consultancy in August 2010 and again shortly afterwards. Whilst the survey revealed potential for birds nesting there was only low potential for bat roosts and no evidence of reptiles being present or any UK priority species. Paragraph 33 of the main report refers. Nevertheless if planning permission is granted, then it is recommended that a resurvey is undertaken before commencement of the development. In the event of a further survey revealing protected species, then a licence would be required from Natural England for their removal and relocation prior to development proceeding. In addition to new habitats created as a consequence of the new landscaping referred to previously, it is also recommended that bird and bat boxes be included in the development if permitted.

Summary.

10. Whilst the concerns of local residents are fully acknowledged, officers have concluded that there are no cogent reasons why the proposed development should be refused planning permission. The site is a brownfield one which although currently displaying an amount of greenery, has been subject to tipping and an unimplemented planning permission in the past. Officers are satisfied that it would not cause loss of light or privacy to neighbouring properties, or to be overbearing. The opportunity also exists to replace some of the currently poor quality trees and planting with new specimens and to include and encourage new wildlife habitats. There would be no student car parking on the site or on street, and students would be supervised around the clock. Some measure of protection from railway noise would be achieved, improvements to Osney Lane undertaken and contributions to Council services secured by legal agreement. There are no objections to the proposals from any statutory agencies. In sum the development makes good use of this brownfield site which due to its narrow configuration and location adjacent to the railway line has only limited potential to accommodate other forms of development.
11. Committee is recommended to support the proposals in line with the conditions and legal agreement detailed at the head of the 13th July 2011 report to West Area Planning Committee.

Human Rights Act 1998

Officers have considered the Human Rights Act 1998 in reaching a recommendation to grant planning permission, subject to conditions and accompanying legal agreement. Officers have considered the potential interference with the rights of the owners/occupiers of surrounding properties under Article 8 and/or Article 1 of the First Protocol of the Act and consider that it is proportionate.

Officers have also considered the interference with the human rights of the applicant under Article 8 and/or Article 1 of the First Protocol caused by imposing

conditions with accompanying legal agreement. Officers consider that the conditions and legal agreement are necessary to protect the rights and freedoms of others and to control the use of property in accordance with the general interest. The interference is therefore justifiable and proportionate.

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 grant permission subject to conditions and an accompanying legal agreement, officers consider that the proposal will not undermine crime prevention or the promotion of community safety.

Background Papers: 11/00927/FUL

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APPENDIX D

6.0 THE REASONS FOR THE REFUSAL OF PLANNING APPLICATION REFERENCE 11/00927/FUL

Reason 1

- 6.1. The development proposed included a three storey building and additional student rooms in comparison to the current proposal. The development has been amended such that the building comprises a two storey building which would be approximately the same height as the majority of the Mill Street properties facing the site. It has been designed such that when viewed from the west, it would appear as three linked buildings of a scale similar to the surroundings. From the east, the elevations include greater articulation and a lower height than the previous proposal.
- 6.2. The footprint of the building proposed would be no different in principle from the long terrace of houses in Mill Street. Its scale, bulk and mass would be consistent with the existing buildings in Mill Street and the surrounding area. The building would be set some 33 to 39 m from the backs of Mill Street properties and, at two storeys, would not overbear on those properties. It would be set away from the west boundary with Abbey Walk and its height, location on the site, scale and mass would be consistent with the existing buildings. The building would comply with the Council's sunlight and daylight code. It would exceed the normal distances between buildings (21 m.) in most respects and where closer, special features have been incorporated into the design to avoid any adverse amenity impacts.
- 6.3. The building proposed would not be over-dominant or out of place. It would

improve the site in its context. It would not be over-bearing as it would be set away from the western boundaries with Mill Street and Abbey Walk, have a height consistent with the existing houses and flats and conform to the Council's standards. Whilst the design of the building remains in a modern idiom, this is not a conservation area but an impoverished site on the edge of the railway which has the capacity for a new building of a different style to the buildings nearby. The design is high quality and consistent with national planning policy which accepts that slavish adherence to the design of existing buildings is not a requirement in order to achieve successful new developments. This is ably demonstrated in the examples provided in the publication "Buildings in Context". The draft NPPF makes clear that innovation in design should be encouraged: this building would be visually attractive, involve good architecture and appropriate landscaping as suggested by NPPF. As PPS1 makes clear: "Local planning authorities should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles". Further details of the scheme are set out in the Design and Access Statement.

Reason 2

- 6.4 This reason lacks precision and clarity. Its wording in respect of the style of the new building runs counter to advice in PPS1 (above) and the draft NPPF.
- 6.5 The proposed building would have a height, scale, and massing consistent with the surroundings. It would have a domestic scale and would improve the site significantly from its run down appearance. The site is part of the former railway land and did not possess a residential character in the past. It is separated from the Mill Street properties and lies along the edge of the railway facing a car park, which is allocated for a mixed use development in the West End Area Action Plan.
- 6.6 Rather than causing detriment to the appearance of the area, the building, together with its landscaping would improve it. It would strengthen the physical form of the area which is described in the Design and Access Statement.

Reason 3

- 6.7 This reason for refusal implies that the proposed student accommodation would in some unspecified manner unbalance the local community. It does not indicate how this is expected to happen or what harmful effects would flow from this alleged impact. The Council's officers have been unable to provide evidence of the way in which the community would be unbalanced or how many student units there are in the area.
- 6.8 The area which is served by Botley Rd comprises the following streets: Arthur St, Barrett St., Gibbs Crescent, Mill St., Millbank St., Osney Lane, and Russell Street.
- 6.9 The Council's records have been investigated to ascertain how many properties in the streets are registered as HMOs. Only one property is registered as such. Overall, we estimate that there are some 251 residential units in these streets with a further number being developed at the Osney Mill site, all of which will be individual flats and houses. There is no dedicated or purpose built student accommodation of which we are aware.
- 6.10 Currently, residential properties in the specified area may be used for Use Class C3 or Use Class C4 uses as a consequence of changes made to the Use Classes and General Permitted Development Orders by the Government. The Council has introduced a City-wide Direction under Article 4 of the latter Order to prevent the change of use from Use Class C3 to C4 without the benefit of planning permission. This would not apply to those properties which continued to be occupied in accordance with Use Class C3. The Direction comes into effect in April 2012.
- 6.11 The Oxford Local Plan makes clear that the Council's intention is to reduce the number of students living outside provided accommodation. This is carried forward in the Oxford Core Strategy which notes at paragraph 7.4.1 that " students who live outside purpose built accommodation tend to house share in the private market. This affects the availability of larger houses in the general market, therefore increasing the amount of purpose built

accommodation will be beneficial to the wider market". It goes on to note that "student accommodation should be purpose built and managed in a way that attracts students to take it up. There should be no unacceptable impact on amenity for local residents".

- 6.12 Policy CS25 was revised by the Inspectors considering the objections to the Core Strategy who noted that purpose built accommodation should be permitted for non-University colleges and that it was not acceptable to discriminate against them.
- 6.13 There is an existing main educational campus at Trajan House and students travel back and forth to the campus at present. If the new accommodation is occupied by Bellerbys, the occupier of Trajan House, there is likely to be less footfall from students up and down Mill Street.
- 6.14 The site itself is discreet and the student occupiers would be managed by a resident caretaker or warden, a situation which does not exist with students occupying individual houses. The site has a railway line to one side and has good access to the facilities and services locally and in the City Centre, where access can be readily achieved across the existing railway bridge.
- 6.15 Our conclusion is that there is no justification for this reason for refusal; it is a makeweight reason which was included at the eleventh hour without any cogent evidential support. There is no evidence that the accommodation proposed would adversely and in some unspecified way affect the local community. There is no evidence to show that the accommodation would "unbalance" the community or that it would be harmful.
- 6.16 Notwithstanding this, the proposed development reduces the number of student rooms proposed on the site.

Reason 4

- 6.17 This reason for refusal refers to an alleged impact on the privacy of occupiers of 1 and 2 Abbey Walk from the last proposed development by way of

overlooking from nearby windows to bedrooms.

- 6.18 The proposed development includes windows which are angled away from any direct view of those properties or the limited side windows to the bedrooms (2 in number). Louvres have been added to the first five bays of the angled windows which would further avoid any potential for overlooking from the bays towards Nos 1 and 2 for a distance of at least 21m, the normal distance used by the Council to judge such matters. There is proposed to be a 2 meter high fence along the west boundary with those properties which would be supplemented by new landscape planting.
- 6.19 Whilst it is not accepted that the earlier proposed development would have the consequences to which the refusal reason relates, this application includes further protection to avoid alleged overlooking.

7.0 CONCLUSIONS

- 7.1 The proposed development has been revised since the last refused scheme in order to address the reasons given for its rejection. The Council's officers and the West Area Committee found that the earlier scheme was acceptable. However, these views were not accepted by the Planning Review Committee which refused planning permission.
- 7.2 The current proposals seek permission for a building of reduced height, of amended design, with increased landscaping, with a lesser occupancy on the site. The site is previously-developed land in which respect the most efficient use should be sought. The Council's last refusal raised no objection to the development of the land, in principle.
- 7.3 The details of the scheme respond to the refusal reasons and the Council's policies and standards. The development would be consistent with the Council's policies and standards and the presumption should be in favour of the grant of planning permission. The development would be a sustainable development in which respect the draft NPPF also indicates that there should be a presumption in its favour.

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