

Application Number: 11/02594/FUL

Decision Due by: 6th December 2011

Proposal: Demolition of existing public house. Erection of 3 storey building to provide retail store on ground floor and 1 x 3-bedroom, 1 x 1-bedroom and 2 x 2-bedroom flats on upper floors. Provision of plant enclosure, service yard, 9 x retail car parking spaces, 7 x residential car parking spaces, cycle parking, bin storage, landscaping and communal open space.

Site Address: Fox And Hounds Public House 279 Abingdon Road
[Appendix 1]

Ward: Hinksey Park

Agent: CgMs Ltd

Applicant: Tesco Stores Ltd

Application called in by Councillors Van Nooijen, McManners, Clarkson and Sinclair to allow consideration of the issues by Committee.

Recommendation: Committee is recommended to support the proposals in principle but defer the applications in order to draw up an accompanying legal agreement relating to access through the site and delegate to officers the issuing of the notice of planning permission on its completion.

APPLICATION BE APPROVED

For the following reasons:

- 1 The proposal forms an appropriate visual relationship with the site and the surrounding development and would positively improve the appearance of the street scene. The revised plans satisfactorily address the concerns raised by the Inspector in dismissing the previous appeal and the proposal would not detract from the amenities enjoyed by neighbouring occupiers. The proposal is therefore considered to be acceptable subject to the completion of a legal agreement which would allow unfettered access across the application site to enable the future development of the adjacent land and complies with adopted policies contained in the Core Strategy 2026 and the Oxford Local Plan 2001 - 2016.
- 2 Objections to the proposal have been received from statutory consultees and

local residents and the comments made have been carefully assessed. However it is considered that the objections raised do not form sustainable reasons for refusing planning permission, particularly given the planning history of the site and that the imposition of appropriate conditions of the planning permission will ensure the provision of an acceptable form of development that will improve the street scene and the character and appearance of the area.

- 3 The Council considers that the proposal accords with the policies of the development plan as summarised below. It has taken into consideration all other material matters, including matters raised in response to consultation and publicity. Any material harm that the development would otherwise give rise to can be offset by the conditions imposed.

subject to the following conditions, which have been imposed for the reasons stated:-

- 1 Development begun within time limit
- 2 Develop in accordance with approved plans
- 3 Samples
- 4 Landscape plan required
- 5 Landscape carry out by completion
- 6 Car parking area
- 7 Car and cycle parking
- 8 Close Weirs Lane access
- 9 Construction Travel Plan
- 10 Service Management Plan
- 11 Staff Travel Plan
- 12 Hours of operation
- 13 Flood Risk Assessment
- 14 Noise levels
- 15 Details of plant
- 16 Contaminated Land - Desktop study etc.
- 17 Further contamination

- 18 Obstructive footway parking
- 19 Details of bollards
- 20 Sustainable construction measures

Principal Planning Policies:

Oxford Local Plan 2001-2016

- CP6** - Efficient Use of Land & Density
- CP1** - Development Proposals
- CP8** - Design Development to Relate to its Context
- CP9** - Creating Successful New Places
- CP10** - Siting Development to Meet Functional Needs
- CP11** - Landscape Design
- TR3** - Car Parking Standards
- TR4** - Pedestrian & Cycle Facilities
- HS19** - Privacy & Amenity
- HS20** - Local Residential Environment
- HS21** - Private Open Space
- RC8** - Neighbourhood Shopping Centres
- RC13** - Shop Fronts
- RC18** - Public Houses

Oxford Core Strategy 2026

- CS2_** - Previously developed and greenfield land
- CS9_** - Energy and natural resources
- CS10_** - Waste and recycling
- CS11_** - Flooding
- CS18_** - Urban design, town character, historic environment
- CS23_** - Mix of housing
- CS31_** - Retail

Other Material Considerations:

- PPS1 – Delivering Sustainable Development
- PPS3 – Housing
- PPS4 – Planning for Sustainable Economic Growth
- PPG13 - Transport
- Balance of Dwellings [BoDS] Supplementary Planning Document

Relevant Site History:

10/01499/FUL

Demolition of public house. Erection of 2 storey building as retail store together with plant enclosure and landscaping. Provision of service area and 16 car

parking spaces all accessed off Abingdon Road

Refused

10/01555/FUL

Demolition of existing public house. Erection of building on three levels consisting of retail store at ground level and 1 x 1 bedroom, 2 x 2 bedroom and 1 x 3 bedroom flats on floors above, together with plant enclosure and landscaping. Provision of service area, 16 car parking spaces to serve the retail store and 7 to serve the residential accommodation accessed off Abingdon Road.

Refused

10/02882/FUL

Demolition of existing public house. Erection of building on three levels consisting of retail store at ground level and 1 x 1 bedroom, 2 x 2 bedroom and 1 x 3 bedroom flats on floors above, together with plant enclosure and landscaping. Provision of service area, 16 car parking spaces to serve the retail store and 5 to serve the residential accommodation accessed off Abingdon Road. Provision of communal open space.

Refused and dismissed on appeal

Representations Received:

2 letters of support: The main points can be summarised as follows:

- More choice of shopping
- Help for the elderly who cannot get to the out of town supermarkets
- Much needed local jobs
- The site used to be a very busy pub
- The building is an eye sore that needs to be redeveloped

4 letters of objection. The main points raised can be summarised as follows:

- Increase in traffic at a very busy junction will increase the potential for accidents
- Existing high pollution levels would increase. None of the previous assessments have taken any account of the air pollution issue which is already at a dangerous level
- The area already has a convenience store with post office both of which would be put at risk
- Whilst the proposed new building looks attractive, the current pedestrian access is inadequate and it will be dangerous
- Could Tesco incorporate a post office in its new store
- Can the petrol filling station site be improved
- This is a piecemeal development; it would be better to redevelop the whole

- site for affordable housing and community facilities
- There are too many Tesco stores in the city

Statutory and Other Consultees:

Highways And Traffic, Thames Water Utilities Limited, Drainage Team Manager, Environment Agency Thames Region.

Thames Water

No objections

Environment Agency

No objection subject to the imposition of conditions relating to:

- Development to be carried out in accordance with the approved Flood Risk Assesemnt
- Contamination investigation
- Flood proofing measures

Oxford Civic Society

This is a handsome building with some forceful character and could sympathetically be remodelled for retail and flats.

Access for cars and lorries is difficult and dangerous as is access for pedestrians.

The petrol filling station could be developed for car parking and a new post office provided in the store.

Oxford Preservation Trust

Regret the loss of another public house in Oxford. Whilst the building is run down, there is no reason why it could not be regenerated and reused. More supermarkets pose a threat to independent shops

Oxfordshire County Council as Local Highway Authority

No objection subject to the following conditions:

- Parking provision and cycle parking as per plan 111331/Ado5 Rev B
- Closure of access onto Weirs Lane
- Service Management Plan to be submitted and approved to include delivery times outside the hours of 23.00 hours and 6.30 hours, 7.30 hours and 9.30 hours and 4.00 hours and 6.30 hours; delivery vehicles turning left out of the site at all times and delivery vehicles no longer than 12.6 metres
- Construction Travel Management Plan to be submitted and approved
- Staff Travel Plan to be submitted and approved
- Scheme for minimising obstructive footway parking [bollards, planting, cycle parking] to be submitted and approved

Officers Assessment:

Site Location and Description

1. The site lies at the junction of Abingdon Road and Weirs Lane and comprises the former Fox and Hounds Public House which has been vacant for some time and is boarded up as a result of fire damage in 2009. There is an existing access off Abingdon Road. The site extends to some 0.17 hectares and the applicant owns a further 0.085 hectares of land which comprises part of the former pub car park and lies immediately to the south of the application site. This land is not part of the application site area.
2. The locality is characterised by terraced and semi detached dwellings with a small parade of local shops further north on the Abingdon Road which together make up the New Hinksey Neighbourhood Shopping Centre.
3. The site is well served by public transport with bus stops to the north and south of the site on Abingdon Road. There is limited on street car parking opposite the site on Weirs Lane and there are no parking restrictions in Peel Place to the east of the site. There is no on street car parking on Abingdon Road.

The Proposal

4. The application seeks planning permission for the demolition of the existing public house and the erection of a new 2/3 storey building comprising a retail store at ground floor level and 1 x 1 bedroom, 2 x 2 bedroom and 1 x 3 bedroom flats on the upper floors. The application also seeks permission for the provision of a plant enclosure, a service yard, 9 x retail car parking spaces, 7 x residential car parking spaces, cycle parking, bin storage, landscaping and communal open space.
5. The application is accompanied by a Planning Statement, a Flood Risk Assessment and a Design and Access Statement.
6. The plans have been revised in accordance with the appeal decision [copy attached to this report] and in line with two further pre application meetings held between officers and the applicant's agent.
7. Officers consider the principle determining issues to be:
 - Previous Refusal and Appeal
 - Form and Appearance
 - Highways and Parking
 - Amenity Space
 - Legal Agreement

Previous Refusal and Appeal

8. In December 2010, planning permission was refused under delegated powers for a similar proposal for the demolition of the public house and the erection of a 3 storey building to provide a retail store and 4 flats. The 3 reasons for refusal related to:
 - the prominence of the site and the failure of the new building to address the Abingdon Road frontage and satisfactorily ‘turn the corner’;
 - the poor quality of the communal open space to serve the occupiers of the new flats and
 - the provision of 16 car parking spaces to serve the retail store which exceeds the maximum standard as set out in the Oxford Local Plan and would compromise the layout of the site.
9. A subsequent appeal was dismissed by letter dated 12 July 2011. In dismissing the appeal, the Inspector agreed with the Planning Authority that the proposed building would have a greater presence on Weirs Lane than Abingdon Road which would distort the established character of the area. The Inspector also agreed that there was no justification to exceed the maximum parking standards as set out in the local plan and that 16 parking spaces was substantially more than the 9 that would be required under the adopted standards. However the Inspector did not agree that the standard of outdoor amenity space for the occupiers of the flats was inadequate and that the communal open space proposed was of a reasonable quality. The Inspector’s decision on the appeal is attached in Appendix 2 to this report.
10. Moreover paragraph 17 of the appeal decision refers to concerns raised by local residents regarding the potential impact of the development on the viability of existing shops in the area. The Inspector accepts that Government policy recognises the importance of local shops including post offices in local centres but goes on to say that it is evident from the appellant’s Retail Capacity Assessment that there is a considerable, unmet demand for top-up shopping within the vicinity of the site and the proposed store would assist in meeting that need and serve to broaden the range and quality of convenience retail shopping in the area.
11. Throughout the previous application and appeal, the principle of a new retail express store on the site and the loss of the public house have not been at issue. In addition the Environment Agency is not raising any objection to the current proposal on grounds of flooding and is satisfied with the Flood Risk Assessment that has been submitted. Oxfordshire County Council as Local Highway Authority has consistently raised no objection to the proposal on highway safety grounds but has requested the imposition of a number of conditions on any planning permission granted.

Form and Appearance

12. Policy CP1 of the Oxford Local Plan states that planning permission will only be granted for developments that show a high standard of design, that respect the character and appearance of the area and use materials of a quality appropriate to the nature of the development, the site and its surroundings. Policy CP6 states that development proposals should make the best use of site capacity but in a manner that would be compatible with both the site itself and the surrounding area.
13. Policy CP8 of the local plan suggests that the siting, massing and design of any new development should create an acceptable visual relationship with the form, grain, scale, materials and detailing of the surrounding area and policy CP10 states that planning permission will only be granted where developments are sited to ensure acceptable access and circulation and where street frontage and streetscape are maintained, enhanced or created.
14. The proposed new building would be part 2 storey and part 2.5 storey with rooms in the roof space and would have a maximum height of 12 metres. It would be erected using a mix of facing bricks and render for the external walls and clay tiles for the roof. The new retail store would be wholly on the ground floor and would extend to some 369 square metres.
15. The new building would be well broken up with differing room forms, feature gable features and dormer windows. The applicant maintains that it would appear as a 'landmark' building that would repair the street scene, contribute to the enhancement of the area and provide an important focal point for the street.
16. The principal change to the previously refused scheme is the extension of the Abingdon Road frontage by some 4.5 metres to increase the prominence of the new building at this important junction. In addition the proposed entrance to the new store has been repositioned in a more central location on the Abingdon Road frontage which will similarly emphasise this frontage as being the primary elevation. Officers consider that this increase in the length of the new building fronting Abingdon Road will equate more with the size of the existing pub building and its relationship with the street and ensure that the new building 'turns the corner' and contributes to the much needed repair of this part of Abingdon Road.
17. The proposals therefore seek to reduce the prominence of the new building fronting onto Weirs Lane by reducing the gable on the Weirs Lane elevation and reducing the bulk of the roof on the single storey element of the Weirs Lane frontage. This is in line with the Inspector's concerns that the previous scheme was inappropriately weighted in favour of Weirs Lane.

Highways and Parking

18. In accordance with the Inspector's recommendations, the current plans propose 9 car parking spaces to serve the retail store [including one disabled space] together with 7 car parking spaces to serve the residential flats. These would be safeguarded for residential use only by the installation of some form of automatic bollards. In the interests of pedestrian safety, similar bollards would also be installed at the entrance to the service yard.
19. The scheme also provides 12 cycle parking spaces and these are located outside the entrance to the store. Oxfordshire County Council as Local Highway Authority are not raising any objection to the application subject to conditions on the planning permission requiring the submission and approval of travel plans, construction travel plan and servicing plan for deliveries to the new store.
20. Apart from the actual number of car parking spaces, the proposals are the same as previously proposed to which no objection was raised.

Amenity Space

21. Policy HS21 of the Oxford Local Plan states that planning permission will not be granted for new residential development where insufficient or poor quality private open space is proposed. It goes on to say that each dwelling should have access to a private open space, possibly in the form of a balcony and that family dwellings of two or more bedrooms should have exclusive use of an area of private open space.
22. The 2 x 2 bedroom flats would both have access to private balconies and the 3 bedroom flat would have access to a large balcony measuring 17 square metres. The one bedroom flat would not have any private amenity space; however an area of communal open space extending to 145 square metres is proposed at the back of the site accessed across the car park. The poor quality of this open space comprised one of the reasons for refusing the previous scheme.
23. In dismissing the appeal, the Inspector considered the issue of amenity space and concluded that the larger flats have generous balconies and that the communal open space would provide an acceptable area for outdoor use that would be private and not unduly enclosing. Officers therefore consider that, given the Inspector's comments, it would not be reasonable to refuse the current application on grounds of inadequate amenity space.

Legal Agreement

24. The site has become very unsightly in the street scene and this is compounded by the poor state of the adjoining site, a former petrol filling station, which is in separate ownership. Ideally this site needs to be

developed in conjunction with the residual Tesco owned land to the rear in order to fully repair the street scene along this part of Abingdon Road.

25. In highway safety terms, an additional access from the Abingdon Road to serve this adjacent land is unlikely to be acceptable or supported by the Local Highway Authority. It is therefore important to secure alternative access onto this land to allow future development to proceed there. To this end negotiations have been on going with the current applicants to enter into a legal agreement to secure such unfettered access. At the time of writing, a draft legal agreement has been drawn up accordingly. Committee will be updated at the meeting as to whether the legal agreement has been finalised.

26. Officers take the view that access onto the adjacent site should enable some form of future development to take place that will contribute to the environmental improvement and proper planning of the area. Whilst the applicants are not prepared to become involved in any such future development themselves, they have fully co-operated with the Planning Authority to ensure that the necessary access will be available.

Sustainability

27. The site lies in a sustainable location within easy access of shops, services and public transport links and the proposal would constitute a sustainable form of development that would make more efficient use of an existing brownfield site.

Conclusion:

28. The proposal forms an appropriate visual relationship with the site and the surrounding development and would positively improve the appearance of the street scene. The revised plans satisfactorily address the concerns raised by the Inspector in dismissing the previous appeal and the proposal would not detract from the amenities enjoyed by neighbouring occupiers. The proposal is therefore considered to be acceptable subject to the completion of a legal agreement which would allow unfettered access across the application site to enable the future development of the adjacent land and complies with adopted policies contained in the Core Strategy 2026 and the Oxford Local Plan 2001 – 2016.

Human Rights Act 1998

Officers have considered the Human Rights Act 1998 in reaching a recommendation to grant planning permission, subject to conditions. 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. Officers consider that the conditions 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 planning permission, officers consider that the proposal will not undermine crime prevention or the promotion of community safety.

Background Papers:

10/01555/FUL
10/02882/FUL
11/02594/FUL

Contact Officer: Angela Fettiplace

Extension: 2445

Date: 21st November 2011

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