

Application number: 25/02702/FUL**Decision due by** 9th December 2025**Extension of time** 16th December 2025**Proposal** Change of Use from hair dressing training company with ancillary workshop (Use Class E) to a Day Nursery (Use Class E(f)). Removal of 1no. roller shutter door and insertion of 3no. windows to front elevation and alterations to existing front door. Insertion of 3no. windows to side elevation.**Site address** Unit 11, Kings Meadow, Ferry Hinksey Road, Oxford – **Appendix 1** for site plan**Ward** Osney And St. Thomas Ward**Case officer** Robert Fowler**Agent:** Mr Edward Gillibrand **Applicant:** Mr Coppe van Urk**Reason at Committee** The application was called in by Councillors Pressel, Brown, Ottino, Taylor, Railton and Smith due to concerns over the site's flood risk as a reason for refusal.

RECOMMENDATION

Oxford City Planning Committee is recommended to:

1.1 refuse the application for the reasons given in paragraph 1.2 of this report and to delegate authority to the Director of Planning and Regulation to:

- finalise the reason for refusal including such refinements, amendments, additions and/or deletions as the Director of Planning and Regulation considers reasonably necessary.

1.2 The recommended reasons for refusal are as follows:

- (1) The proposals would involve the use of the application site for a more vulnerable use in the context of flooding in a location that falls within the defined area of highest risk of flooding (Flood Zone 3b). In addition to this the submitted Flood Risk Assessment (FRA) fails to sufficiently consider flood risk as set out in paragraphs 20 to 21 of the Flood Risk and Coastal Change Planning Practice Guidance and its site-specific flood risk assessment checklist. The application is therefore unacceptable in the context of Policy RE3 of the Oxford

Local Plan (2036), Paragraph 170 of the NPPF and the Planning Practice Guidance (PPG).

(2) The proposed development fails to provide adequate cycle parking for staff, parents or visitors travelling to the nursery. As a result the proposed development would be contrary to Policy M5 of the Oxford Local Plan (2036).

2. EXECUTIVE SUMMARY

2.1 This report considers the change of use of an existing industrial on the Kings Meadow Estate, a complex of established industrial units that forms part of the wider Osney Mead Industrial Estate. Planning permission is required for the change of use as a result of conditions imposed on the original planning permission for the site that preclude the use of the site for any purpose other than a light industrial use.

2.2 In addition to the proposed change of use the application seeks planning permission for small-scale alterations to the appearance of the building including removal of an existing roller shutter and the installation of doors and windows.

2.3 The proposed development would be unacceptable in principle because of its impact on flood risk. The proposed development lies within the functional floodplain (Flood Zone 3b) which is the defined highest risk area of flooding. Additionally the access road and much of the surrounding area lies within the Flood Zone 3b which would contribute further to the flooding risk issue as it could preclude safe access and egress to the site in the event of a flood.

2.4 The submitted Flood Risk Assessment (FRA) is inadequate in terms of its methodology and level of information. The Environment Agency who are the statutory consultee on flood matters have objected to the application.

2.5 The application site lies within an industrial estate where there are no pavements and surrounding units are in industrial use. The Local Highway Authority have recommended that some improvements could be carried out to the surrounding site (including marked walkways as there are no pavements) but have not raised objections to the proposals.

2.6 The proposed development does not include provision of cycle storage which is a policy requirement associated with the proposed change of use; the fact that this is not included in the application description and other constraints of the site mean that this could not be resolved by condition.

2.7 The minor alterations proposed to the design of the industrial unit are acceptable in all other respects including design and impact on amenity.

2. LEGAL AGREEMENT

2.1 This application is not subject to a legal agreement.

3 COMMUNITY INFRASTRUCTURE LEVY (CIL)

3.1 The proposal would not be liable for CIL if planning permission was granted.

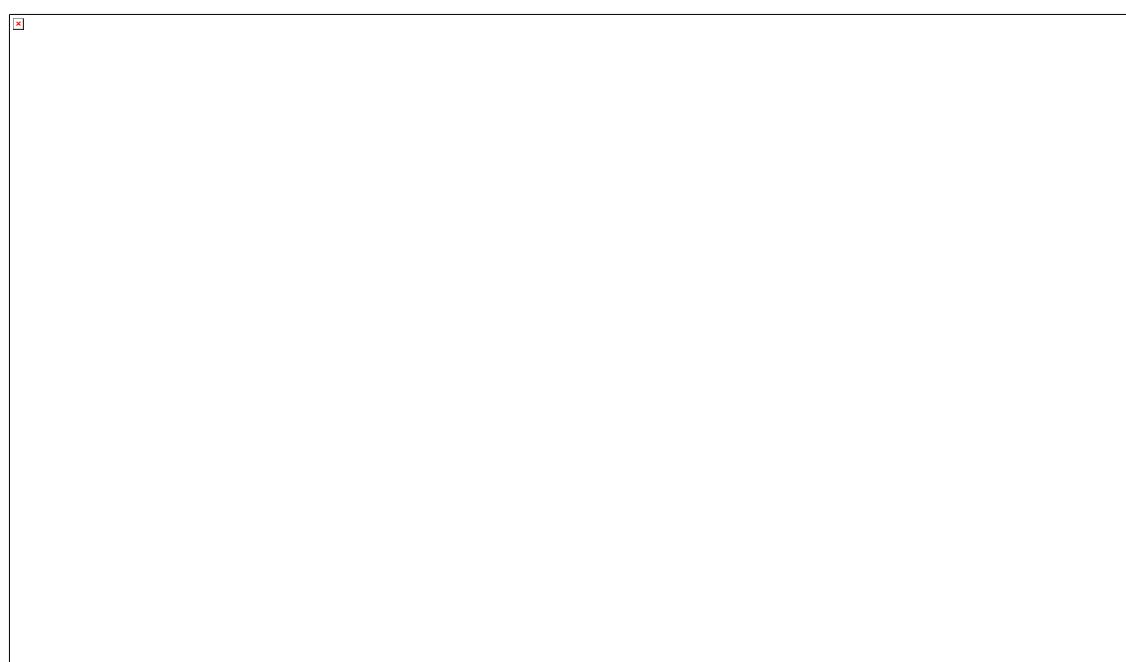
4. SITE AND SURROUNDINGS

4.1 The application site is Unit 11 on the Kings Meadow Estate. The Kings Meadow Estate is located at the entrance to the Osney Mead Industrial Estate and is accessed directly off the mini-roundabout at the junction of Ferry Hinksey Road and Osney Mead. It comprises 21 units of a similar design that were granted planning permission in the late 1980s for light industrial use (reference 87/00820/NF).

4.2 Unit 11 lies in the middle of the Kings Meadow Estate adjacent to the eastern boundary and is serviced by a vehicular access (without a pavement) from a short access drive connected to Ferry Hinksey Road. Unit 11 is typical of the other units in this part of the estate with a red brick façade, large red framed horizontal metal windows and a metal shallow pitched roof. An area at the front of the industrial unit provides space to park two cars.

4.3 The application site was used until recently as an office for a hair dressing training company with a workshop. There are a number of other uses taking place on the industrial estate including a tyre fitting shop (opposite no. 11), antenna design and distribution centre and a mechanical services company (the latter occupy the adjacent unit). Whilst it should be noted that there are some uses taking place on the Kings Meadow Estate that would likely not be considered to be light industrial uses they are nonetheless in commercial use (with some uses having previously been granted planning permission).

See block plan below:



5. PROPOSAL

- 5.1 The application proposes the change of use of the site to a Day Nursery (Use Class E(f)) and involves the removal of 1no. roller shutter door, insertion of 3no. windows to front elevation, alterations to existing front door, and insertion of 3no. windows to side elevation.
- 5.2 The application description makes reference to the existing use of the unit being a 'hair dressing training company with ancillary workshop (Use Class E)'; members should be aware that this has not been certified to be the existing lawful use of the building and that use does not benefit from planning permission. In anycase, it is not clear that the previous use of the site was a Class E use.
- 5.3 Despite the proposed use there are no site plans suggesting that any part of the site would be enclosed to provide an outdoor play space for the day nursery. The existing car parking area is proposed to be used for pick up and drop off. There is no existing cycle parking or proposed cycle parking for staff or visitors. The application description for the proposed development does not include the provision of any other changes to the building or the development of stores in associated with the change of use.

RELEVANT PLANNING HISTORY

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

81/00274/NO - Osney Mead Industrial Estate Ferry Hinksey Road - Outline application for erection of light industrial/warehouse units totalling 38,666 sq. ft. PERMISSION GRANTED 25th August 1983.

87/00820/NF - Kings Meadow Osney Mead - Development for light industrial and ancillary storage/offices. 21 units in 4 two storey blocks (40788 sq. ft total floor space) plus 55 car parking spaces (amended plans). PERMISSION GRANTED 16th October 1987.

87/00923/NF - Land corner Ferry Hinksey Road and Osney Mead - Mixed development for B1 (Business) and B8 (Storage) use, 21 units in 4 two storey blocks (4369,24 sq. m total floor space) plus 70 car parking spaces.(Duplicate application). WITHDRAWN 29th January 1988.

89/00724/A - Entrance to Kings Meadow Ferry Hinksey Road - Non-illuminated free-standing sign board. PERMISSION GRANTED 18th August 1989.

25/00557/CPU - Application to certify that the proposed replacement of 1no side door to east elevation is lawful development (amended plans and description). PERMISSION GRANTED 15th May 2025.

25/01375/FUL - Change of Use from hair dressing training company with ancillary workshop (Use Class E) to a Day Nursery (Use Class E(f)). Removal of 1no. roller shutter door and insertion of 3no. windows to front elevation and alterations to existing front door. Insertion of 3no. windows to side elevation. (additional Flood Risk Assessment). WITHDRAWN 13th October 2025.

RELEVANT PLANNING POLICY

The following policies are relevant to the application:

Topic	National Planning Policy Framework (NPPF)	Local Plan	Other planning documents
Design	131, 135	DH1 – High quality design and placemaking	
Natural environment	161-162, 170-182	RE3 – Flood risk management	Flood Risk and Coastal Change Planning Practice Guidance
Social and community		E1 – Loss of employment floorspace V7 – Infrastructure, cultural and community	
Transport	117-123	M1 – Prioritising walking, cycling and public transport M3 – Motor vehicle parking M5 – Bicycle parking	
Environmental		RE7 – Managing the impact of development	
Miscellaneous	7-12	RE2 – Efficient use of land	

6. CONSULTATION RESPONSES

6.1 Site notices were displayed around the application site on 5th November 2025.

Statutory and non-statutory consultees

6.3 Environment Agency

Object to the proposed development for the following reasons:

We object to the proposed development as it falls within a flood risk vulnerability category that is inappropriate to the Flood Zone in which the application site is located. The application is therefore contrary to paragraph 170 of the NPPF and planning practice guidance (PPG). Additionally, the submitted Flood Risk Assessment (FRA) fails to sufficiently consider flood risk as set out in paragraphs 20 to 21 of the Flood Risk and Coastal Change Planning Practice Guidance and its site-specific flood risk assessment checklist. The FRA does not therefore adequately assess flood risk as required by paragraph 181 of the NPPF. The proposal as submitted is contrary to Local Plan policy RE3 – flood risk management.

We recommend that planning permission is refused on this basis.

Reasons: NPPF Annex 3 classifies development types according to their vulnerability to flood risk. PPG Table 2 provides guidance on which developments are incompatible with certain Flood Zones. This site lies within Flood Zone 3b, which is land defined by the PPG and your Strategic Flood Risk Assessment (SFRA) as having a high probability of flooding.

The proposed development is classed as more vulnerable in accordance with Annex 3 of the NPPF. Table 2 of PPG makes it clear that this type of development is not compatible with this Flood Zone and therefore should not be permitted.

Your local plan policy RE 3: Flood risk management recognises that some carefully planned development in Flood Zone 3b would be allowed providing certain conditions are met. Criteria d) seeks to ensure future occupants will not be put at risk from flooding. This proposal fails to meet criteria d) because the proposed use is more vulnerable to flood risk when compared to the existing/previous use and there is no mitigation to manage flood risk.

The submitted Flood Risk Assessment (ref 5031210-RDG-ZZ-XX-T-FR-0001) fails to sufficiently consider the risk of flooding as set out in paragraphs 20 to 21 of the Flood Risk and Coastal Change Planning Practice Guidance and its site specific flood risk assessment checklist.

In particular, the FRA fails to:

- Adequately take the impacts of climate change into account using appropriate allowances set out in government guidance. Different climate change allowances have been used to assess future flood risk than those advised in 'Flood risk assessments: climate change allowances', without adequate justification. Table 2 of the PPG identifies that this development is incompatible with the Flood Zone. In line with the above referenced climate change allowance guidance, if your Authority considers the development is necessary despite not following table 2, the FRA should use the Gloucestershire and the Vale Management Catchment 2080s higher central allowance (41%)*
- Flood risk mitigation measures to address flood risk for the lifetime of the development included in the design are inadequate because they will not make the development safe or resilient to the flood levels using the Gloucestershire and the Vale Management Catchment 2080s higher central allowance (41%). Consequently, the development proposes inadequate: i. Raised finished floor levels ii. Resistance and resilience measures iii. Safe access and escape routes*

(Extract from Environment Agency, Thames Region consultation response, 17th November 2025)

Public representations

6.4 Comments were received from the following addresses in **support** of the application: : 39, 49 Grandpoint Place, 63 Robinson Road, 54 Arthray Road,

22 Binsey Lane, 30, 38, 39, 4 and 6 Duke Street, 1, 17, 19a, 23, 26 and 43 Hill View Road, Another property in Hill View Road (no number provided), 16 Lamarsh Road, 21a Riverside Road, 12, 27, 37, 41 and 5 Alexandra Road, 22 Boulter Street, 24 Chatham Road, 5 Helen Road, 5, 43 Henry Road, Another property in Henry Road (no number provided), 19 Kings Meadow Ferry Hinsey, 48 Mill Street, 31, 35, 36, 11 and 46 Oatlands Road, 124 Oxford Road, 9 Pochard Place, 15 Seven Sisters Way, 23 West Street, 120 Alexander Close (Abingdon), 35 Bridge Street, Flat 8 Park View Lamarsh Road, 4 Thornhill Close (Wantage), 5, 26 South Street, 31 Harley Road, 7 Rawlinson Road, 17 Lamarsh Road, Kings Meadow Unit 4 and 5 Hawthorn Close.

In summary, the main points of comment were:

- Support for nursery provision
- Sustainable and convenient location for the proposed development
- The proposals are for a valuable community facility
- The Oxford Flood Alleviation Scheme would ensure that any flood risk or adverse impacts from flooding would be resolved (in the future)
- The proposals align with benefits of '15 minute neighbourhoods'
- Proposals align with ambitions to regenerate Osney Mead
- Application site is accessible by bike
- Site is a safe location
- Planning permission is not required for the development
- Support development despite location in higher flood risk area
- Nursery provider is more affordable than other options
- Site is close to West Oxford Primary School

Comments were received **neither objecting nor supporting** the application from the following address: Unit 19 Kings Meadow

- Understand requirement for nursery provision
- The site sees deliveries from 8am till 4pm of HGVs
- There may be concerns about impact of staff with children walking through the industrial estate
- Parking concerns, provision on the site is poor for drop-off

Officer response

6.5 The objection from the Environment Agency as the statutory consultee on flooding matters carries significant weight. A thorough discussion of their objection and other material considerations relating to flooding and drainage matters are set out in the report below.

6.6 Officers note the comments in support of the proposals which reflects the need for the use proposed; though this does not outweigh the policy context, objections from a statutory consultee or site specific circumstances which make that use unacceptable in this location. The comment neither objecting to nor supporting the proposed development has been carefully considered in the context of the potential conflict between the proposed use and surrounding lawful uses in the immediate environs of the application site.

7. PLANNING MATERIAL CONSIDERATIONS

Officers consider the determining issues to be:

- I. Principle of development
- II. Flooding
- III. Design
- IV. Impact on Amenity
- V. Highways
- VI. Other Matters

I. Principle of development

Planning History

7.1 The application site forms part of an established industrial estate that was granted planning permission in 1987 (reference 87/00820/NF). A condition of the planning permission (Condition 3) restricts the uses of the site to light industrial uses as set out below:

3 (a) Notwithstanding Class B1 of Part B to the Town and Country Planning (Use Classes) Order 1987, the development shall be confined to light industrial use being an industrial use of the type which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.
(b) For the avoidance of doubt, no retail use shall be undertaken at the premises hereby permitted.

Reason

Because of the limited car parking proposed in accordance with the Council's policies and to avoid any uses which are likely to generate additional traffic which would exacerbate traffic problems in the area and cause additional noise & disturbance to residents in Ferry Hinksey Road.

7.2 The above planning condition is highly relevant to this application. The approved use of the site is a business use (Use Class B1). There have been changes made to the Town and Country Planning (Use Classes) Order 1987 (as amended) (the UCO) since the granting of the planning permission. Specifically, in September 2020 there were changes made by the introduction of legislation (referred to as SI 2020/757); the effect of this change meant that most lawful B1 premises were now classified as falling within a new 'Class E' use of the purposes of the UCO. This would allow for a far greater range of uses to be provided within the building including offices, retail and nurseries. It is understood that the applicant in this case took the premises on the basis that they believed that they could use the existing industrial unit as a nursery without the need for a change of use and only subsequently became aware of the existence of the aforementioned condition which restricts the use to light industrial use only after they took

possession of the premises. This has led to the submission of this application and the specific requirement to seek a change of use.

7.3 In considering this application members should be aware that there are a number of units within the vicinity of the application site that are used for purposes other than light industry. Some of these uses may be either unauthorised or lawful over time (with the time limit for enforcement action having expired). This does not weigh in favour of this application and officers consider that the overall characteristics of the area, the presence of light industry in the locality and the nature of the site where there are limited pavements and frequent access by vans and deliveries mean that the condition is still relevant in land use terms.

7.4 There are two other conditions of the planning permission, Conditions 7 and 8 of planning permission (87/00820/NF) which restricted the use of the site to companies that have an operational need in the City and required notification to the Council of who was occupying the site. These conditions are also still extant but are less relevant to the use of the site given what is proposed as part of this application.

7.5 The application includes information relating a previous informal officer view that was sought about the use of the site for training and development workshop with an ancillary office (reference 06/01483/FUL). Officers have referred to the Council's records on this and it is understood that at the time there was an informal advice letter sent suggesting that planning permission was not required. Regrettably the nature of the use and the information included with that application is not on the Council's files but it was concluded in that case that planning permission was not required. This was not a formal decision from the Council that planning permission was not required, only an informal officer view.

7.6 The application that is the subject of this report has a description referring to the existing use of the application site being a 'hair dressing training company with ancillary workshop (Use Class E)'; this has not been certified to be the lawful use of the site (through the granting of a lawful development certificate) and neither does the use benefit from planning permission. The application site has been vacant for a period in excess of 18 months. If the last use of the site was a hair dressing training company with ancillary workshop this may not be a Class E use (for the purposes of the UCO) as this may have fallen within a different use class depending on the nature of the use; if the workshop involved the production of materials for hairdressing (for example) then this may have been considered to be a light industrial use.

7.7 The design and access statement submitted with the application refers to a variation of condition application that was made with respect to condition 3 of 87/00820/NF; seeking to remove the condition which could have facilitated a greater number of potential tenants. It is understood that the application was withdrawn by the applicant as it was no longer required; the withdrawal of the application is not material to the consideration of this application and it is

clear from the correspondence at the time that the applicant believed that Condition 3 of 87/00820/NF was still extant.

Loss of existing use

7.8 The application site is situated within the Kings Meadow Estate which forms part of the wider Osney Mead Industrial Estate. Local Plan Policy E1 identifies Osney Mead as a category 2 employment site. Policy E1 states that planning permission will not be granted for development that results in the loss of employment floorspace on Category 2 sites, except where:

- d) the redevelopment creates new housing or community use; and
- e) the number of employees in B class uses on the site when the site was at full capacity is retained; and
- f) more efficient use of land can be demonstrated.

7.9 Officers have had regard to the exceptions made in Policy E1 with respect to Category 2 sites and consider that the proposed development is likely to be acceptable in principle. Specifically as a nursery use the proposals would meet a community use that is beneficial in terms of its social and community value. Officers cannot precisely determine how many people were employed on the site when it was last at full capacity but the proposals would generate 15 time jobs and having had regard to the size of the unit this is likely to meet requirement (e) listed above. Lastly, with respect to the efficient use of the site it is has been indicated that the nursery has received considerable support (evidenced by public comments) and is therefore likely to be well-used; on this basis it would be an efficient use of the site.

7.10 As a result of the above, officers recommend that the proposed development would be acceptable in the context of the loss of employment uses on the site in accordance with Policy E1 of the Oxford Local Plan (2036).

Proposed use

7.11 Policy V7 of the Oxford Local Plan (2036) sets out the Council's planning policy with respect to new community facilities which include nurseries. Planning permission will be granted for the alteration and expansion of existing schools, primary healthcare facilities and community centres. Planning permission will be granted for new schools, primary healthcare facilities and community centres where the City Council is satisfied that the following criteria are satisfied.

- a) the location is easily accessible by walking, cycling and public transport; and
- b) the proposal will meet an existing deficiency in provision or access, or the proposal will support regeneration or new development; and
- c) the proposal will not result in an unacceptable environmental impact .

7.12 The application site is situated approximately 600m from the nearest bus stop on Botley Road and is well situated for traffic free cycle routes (specifically for

access to the river and Willow Walk which provide easy cycle access to the City Centre and Botley). The accessibility of the application site from the road and the layout of the industrial estate is less legible and this is considered later in this report. Officers consider that the application site meets the objective (a) with respect to the sustainable nature of the location.

- 7.13 The proposals have come about because the existing nursery premises in St Thomas Street are expected to no longer be available and as a result the proposals would meet a specific deficiency or requirement as required by criteria (b) of Policy V7.
- 7.14 The environmental impacts of the development would be limited in the context of noise, disturbance or other amenity impacts. The application site is surrounded by commercial uses and whilst the nature of the proposed use would operate at different peak hours this would not give rise to an adverse impact in amenity terms. The proposals would give rise to a flooding impact which is dealt with in detail in that part of the officer report; apart from the flooding impacts the proposals would be acceptable in environmental terms.
- 7.15 Paragraph 100 of the NPPF requires Local Planning Authorities to give great weight to the need to create, expand or alter early years provision through the decision making process. Paragraph 100 of the NPPF also requires engagement with providers which has taken place prior to the submission of the application (albeit not as a formal pre-application submission) and during the course of the application.
- 7.16 On the above basis officers recommend that the proposals would likely meet the requirements of Policy V7 of the Oxford Local Plan (2036).

Osney Mead Policy

- 7.17 Policies in the Oxford Local Plan (2036), specifically Policies AOC1 and SP2 consider the redevelopment of parts of Osney Mead. These policies are supportive of the regeneration and redevelopment of the area; this would include the provision of new uses in the area which arguably could include nursery provision. Officers have had regard to the requirements of the Policy, which envisage the redevelopment of the site coming forward in a comprehensive way with the provision of new public space, infrastructure and no loss of employment uses. It is a specific requirement of these policies that any proposals on the site are accompanied by relevant flood risk assessments that consider the impact on flooding from the development as a whole. Officers therefore recommend that the proposed development does not meet the requirements of Policy SP2 of the Oxford Local Plan (2036).

II. Flooding

Assessment of Flood Risk

7.18 Policy RE3 of the Oxford Local Plan 2036 states that planning permission will not be granted for development in Flood Zone 3b except where it is for water-compatible uses or essential infrastructure; or where it is on previously developed land, and it will represent an improvement for the existing situation in terms of flood risk. Development will not be permitted that will lead to increased flood risk elsewhere, or where the occupants will not be safe from flooding.

7.19 Paragraphs 173-181 of the NPPF set out the necessary steps for determining planning applications with respect to flooding impacts. The NPPF sets out the relevant flood risk vulnerability classification in Annex 3 which details specific uses and categorises them by vulnerability; this is particularly important to consider in this case given that the proposals are for a change of use. Officers consider that the extant use of the site would be a building used for general industry or business use which would be a 'less vulnerable use' for the purposes of the NPPF. The proposed use of the site as a nursery would fall within the 'more vulnerable use' classification.

7.20 Paragraph 44 of the NPPF requires that a site-specific flood risk assessment is required for an application such as this; in this case this has found that the application site lies within the defined highest area of flood risk, Flood Zone 3b. The national planning practice guidance sets out the following table with respect to how planning applications should be assessed with respect to their flood risk in the context of their flood risk vulnerability classification in respective flood zones:

Flood Zones	Flood Risk Vulnerability Classification	Essential infrastructure	Highly vulnerable	More vulnerable	Less vulnerable	Water compatible
Zone 1	✓	✓	✓	✓	✓	✓
Zone 2	✓ Exception Test required	Exception Test required	✓	✓	✓	✓
Zone 3a †	Exception Test required †	X	Exception Test required	✓	✓	✓
Zone 3b *	Exception Test required *	X	X	X	✓ *	

Key:

✓ Exception test is not required

X Development should not be permitted

(Table 2: Flood risk vulnerability and flood zone 'incompatibility', National Planning Practice Guidance, Paragraph: 079 Reference ID: 7-079-20220825, Revision date: 25 08 2022)

7.21 The above is clear that the proposed development would not be acceptable in planning terms. No sequential test or exception test are required in this case to consider whether the use could be provided within the respective flood zone. The table is clear that 'more vulnerable' development in Flood Zone 3b should not be permitted. Officers would suggest that the above matter amounts to meaning that the development proposed in this case, specifically in relation to the proposed use of the site means that this would not be acceptable in principle in flooding terms.

7.22 Officers have had regard to the specific wording of Policy RE3 of the Oxford Local Plan (2036) which does permit development in flood zone 3b where it is on previously developed land and where it will represent an improvement for the existing situation in terms of flood risk. The policy sets out a number of criteria which must all be met in order for the development to be acceptable in the context of Policy RE3:

- a) it will not lead to a net increase in the built footprint of the existing building and where possible lead to a decrease; and
- b) it will not lead to a reduction in flood storage (through the use of flood compensation measures) and where possible increase flood storage; and
- c) it will not lead to an increased risk of flooding elsewhere; and
- d) it will not put any future occupants of the development at risk.

7.23 Officers consider that the development would fail requirement (d) of this set of criteria as the proposed development would involve a change in the use of the building from a 'less vulnerable' use to a 'more vulnerable' use. Officers also consider that the application has failed to identify how safe access and egress to the site would be possible during a flood event having had regard to the extensive area of functional flood plain that surrounds the site which would likely lead to the site being inaccessible.

7.24 The above approach and specifically that the development is not acceptable in flooding terms has been stipulated clearly by the Environment Agency who are the statutory consultee for flooding matters and have objected to the proposed development.

Flood Risk Assessment

7.25 The Environment Agency have raised a specific concern relating to the methodology used in the submitted Flood Risk Assessment; specifically that the climate change allowance for projected future flood risk (applied as a requirement) has taken a lower figure than the required figure in this location. Officers have considered these comments and recommend that if this matter was resolved by the applicant it would not overcome the objections to the application in flooding terms as set out above having had regard to the proposed use and the location of the development in Flood Zone 3b.

7.26 Officers have considered some of the comments made which suggest that the flooding in the area does not affect the application site. It is understood that parts of the application site and the surrounding area last flooded in January 2024 and this was investigated by Council officers as part of our role with respect to the flooding of premises.

Oxford Flood Alleviation Scheme

7.27 The application site lies in close proximity to the proposed Oxford Flood Alleviation Scheme (OFAS). The OFAS scheme is proposed to alleviate flooding in parts of West Oxford, Botley, Grandpont, New Hinksey and South Hinksey. Specifically, the scheme could reduce the risk, frequency and magnitude of flooding events on Osney Mead. Whilst Oxfordshire County Council resolved to grant planning permission for the development in July 2024 subject to a legal agreement the decision has not been issued and the scheme has not been implemented. In any case, the specific improvements that this could arise with respect to the application site are uncertain and it is unlikely that the delivery of OFAS would lead to the redrawing of flood risk areas.

7.28 On the basis of the above, the proposed development would be unacceptable in flooding terms and would fail to meet the requirements of Policy RE3 of the Oxford Local Plan (2036), Paragraph 170 of the NPPF and the Planning Practice Guidance (PPG).

Drainage

7.29 Policy RE4 of the Oxford Local Plan 2036 states that all development proposals will be required 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. Surface water runoff should be managed as close to its source as possible, in line with the drainage hierarchy outlined in the policy. Applicants must demonstrate that they have had regard to the SuDS Design and Evaluation Guide SPD/ TAN for minor development and Oxfordshire County Council guidance for major development.

7.30 The proposals would not include an increase in hard surfaced areas of the site which is already developed and paved in permeable surfacing. Officers consider that if planning permission was granted then some improvements to the existing drainage on the site could be secured by condition. Officers recommend that the proposed development would be acceptable in the context of Policy RE4 of the Oxford Local Plan (2036) and Paragraph 182 of the NPPF.

III. Design

7.31 Policy DH1 of the Oxford Local Plan 2036 states that planning permission will only be granted for development of high-quality design that creates or

enhances local distinctiveness. Proposals must be designed to meet the key design objectives and principles for delivering high quality development, set out in Appendix 6.1 of the Oxford Local Plan (2036).

7.32 Officers recommend that the external changes proposed to the existing industrial unit would represent a minor form of development that would be acceptable in terms of its design impacts. The proposals include the loss of the existing roller shutter and replacement with windows that are similar design to the upper floor windows. New windows are proposed on the side elevation with a similar design.

7.33 On the above basis the proposed external changes would be a sympathetic and high quality development that would meet the requirements of Policy DH1 of the Oxford Local Plan (2036) and Paragraph 135 of the NPPF.

IV. Impact on Amenity

7.34 Policy RE7 of the Oxford Local Plan 2036 states that planning permission will only be granted for development that ensures that standards of amenity are protected including the amenity of communities, occupiers and neighbours. Developments must also not have unacceptable unaddressed transport impacts. Where developments do impact standards of amenity then appropriate mitigation measures should be provided where necessary. The factors the City Council will consider in determining compliance with the above elements of this policy include visual privacy, outlook, sunlight, daylight and overshadowing.

7.35 The proposed development is not located close to any residential properties and would therefore not impact on sunlight, daylight or privacy for local residents. Officers have had regard to the proposed changes to the building and the use and consider that this would likely be acceptable in terms of its impact on surrounding uses. As a result, the proposed development would be acceptable in the context of Policy RE7 of the Oxford Local Plan (2036).

V. Highways

7.36 Policy M1 of the Oxford Local Plan 2036 states that planning permission will only be granted for development that minimises the need to travel and is laid out and designed in a way that prioritises access by walking, cycling and public transport.

7.37 Policy M3 of the Oxford Local Plan 2036 states the parking requirements for all non-residential development, whether expansions of floorspace on existing sites, the redevelopment of existing or cleared sites, or new non-residential development on new sites, will be determined in the light of the submitted Transport Assessment or Travel Plan, which must take into account the objectives of this Plan to promote and achieve a shift towards sustainable modes of travel. The presumption will be that vehicle parking will be kept to the minimum necessary to ensure the successful functioning of

the development. In the case of the redevelopment of an existing or previously cleared site, there should be no net increase in parking on the site from the previous level and the Council will seek a reduction where there is good accessibility to a range of facilities.

7.38 The proposed development could involve an increase in the number of journeys made to the application site, especially at the beginning and end of the nursery's opening hours. The application site, whilst accessible in terms of access to nearby bus routes and traffic free cycle routes can only be accessed through a shared vehicular and pedestrian space in an industrial estate. Whilst Oxfordshire County Council in their role as the local highway authority have not objected to the application they have suggested that some changes could be made within the parking area or parts of the surrounding site to improve safety. Officers question whether routes through the site could be changed as these may lie outside of the application site. A management plan could be required for the opening hours and operation of the nursery that could assist with the impacts of the use especially at peak times and this could be secured by planning permission if this was granted.

7.39 It is a requirement for nurseries to have outdoor space provision or access to outdoor space for children required by the regulatory body that inspects childcare providers (OFSTED). Officers queried this requirement with the applicant and their agent as there is currently no garden or outdoor space on the site. It is understood in this case that the applicant is seeking to lease some nearby land for this purpose. Officers recommend that a condition to deal with the management of this aspect of the development would be required in the event that permission was granted as this could involve an increase in journeys to and from the site, passing the adjacent industrial units during the working day. These journeys are likely to include the children and staff attending the nursery who are accessing this space, which therefore necessitates safety measures in order to provide safe access and egress from the site.

7.40 On the above basis the proposed development would be acceptable in the context of Policy RE7 of the Oxford Local Plan (2036) and Paragraph 116 of the NPPF.

Cycle Parking

7.41 Policy M5 of the Oxford Local Plan 2036 states that planning permission will only be granted for development that complies with or exceeds the minimum bicycle parking provision as set out in Appendix 7.4. Bicycle parking should be, well designed and well-located, convenient, secure, covered (where possible enclosed) and provide level, unobstructed external access to the street. Bicycle parking should be designed to accommodate an appropriate amount of parking for the needs of disabled people, bicycle trailers and cargo bicycles, as well as and facilities for electric charging infrastructure.

7.42 The application does not include details relating to cycle parking either for staff, visitors or parents dropping off or collecting children. The submitted

design and access statement suggests that cycling to the nursery is a popular transport mode for users and the site is highly accessible to nearby traffic-free routes. During the course of the application officers raised the lack of cycle parking provision with the applicant and their agent and they have suggested that this could be provided in the front (car) parking area of the site which would provide sufficient space. However, as the application description does not include provision of cycle parking and there are no plans showing the design, layout or number of cycle stands this has to form a basis for refusal.

7.43 The area at the front of the site is also constrained and currently used for car parking (some of which would likely be required to be retained); officers recommend that this presents additional challenges with finding a suitable location for cycle parking.

7.44 The proposed development would involve a change of use of the site that would likely increase the requirement for cycle parking, as this has not been included in the proposals then this requirement would not be met. The application is therefore contrary to Policy M5 of the Oxford Local Plan (2036).

VI. Other Matters

Best Interests of the Child

7.45 Article 3.1 of the United Nations Convention on the Rights of the Child provides that “In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration”. Section 11 of the Children Act 2004 requires Local Authorities to, “make arrangements for ensuring that...their functions are discharged having regard to the need to safeguard and promote the welfare of children...”

7.46 Article 3 and the Children Act 2004 principle of the ‘best interests’ of the child are accepted that in planning decisions concerning children. Planning case law says that their best interests must be of primary importance, and that planning decisions ought to have regard to that principle. This principle is a material consideration in planning decisions where Article 3 and Section 11 of the Children act are engaged. As outlined in the above report the education, safety and welfare needs of children, particularly those attending the nursery have been carefully considered. In this case it is considered that the proposed development would not be acceptable due to the location of the development in a high flood risk area; this is a view that is supported by a statutory consultee.

7.47 Several impacts on children were identified within the representations from the public. These relate principally to the provision of childcare given the loss impending loss of the existing nursery. Officers have had regard to the requirement for nursery provision in line with Policy V7 of the Oxford Local

Plan (2036) and Paragraph 100 of the NPPF. Officers recommend that the above requirements have been met including consideration of Article 3.1 of the United Nations Convention on the Rights of the Child and the Children Act 2004.

Ecology

7.48 Policy G2 of Oxford Local Plan 2036 states that important species and habitats will be expected to be protected from harm, unless the harm can be appropriately mitigated. It also outlines that, where there is opportunity, it will be expected to enhance Oxford's biodiversity. This includes taking opportunities to include features beneficial to biodiversity within new developments throughout Oxford.

7.49 The proposed development would involve small-scale changes to the existing building and no proposals would impact on the roof. Whilst the application site lies close to areas of open space, watercourses and mature vegetation the existing building is in good condition and is unlikely to be used by bats and their roosts. Officers recommend that if planning permission is granted then an informative relating to unexpected ecology should be included with any decision in the unlikely event that bats are encountered.

7.50 Given the nature of the proposals they would not be subject to statutory biodiversity net gain requirements.

7.51 On this basis the proposed development would be acceptable in the context of Policy G2 of the Oxford Local Plan (2036), the Wildlife and Countryside Act (1981) (as amended) and the Habitats Regulations (2017).

8. CONCLUSION

8.1 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.

8.2 Officers recommend that the application should be refused because of the impact on flood risk. The proposed development would involve a change of use to a more vulnerable use in a high flood risk area which means that the development is unacceptable in planning terms. The submitted flood risk assessment also uses a methodology which is incorrect in terms of the climate change allowance.

8.3 An objection from a statutory consultee, the Environment Agency's advice is reflected in the officer recommendation. In the event that planning permission is granted then reconsultation with the Environment Agency

would be necessary in order for them to be provided an opportunity to respond with respect to conditions or requests for further information.

- 8.4 The proposals also fail to provide details of cycle parking and as a result of this not being included in the application description this cannot be required by condition if planning permission is granted.
- 8.5 Other aspects of the proposals including highways, drainage and ecology could be resolved or conditions imposed if planning permission is granted.
- 8.6 The NPPF has a presumption in favour of sustainable development. NPPF paragraph 11 states that proposals that accord with the development plan should be approved without delay, or where the development plan is absent, silent, or relevant plans are out of date, granting permission unless any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole; or specific policies in the framework indicate development should be restricted. Policy S1 of the OLP 2036 repeats this.
- 8.7 Officers consider that the proposal would fail to accord with the overall aims and objectives of the NPPF and policy S1 for the reasons set out within the report. Therefore in such circumstances, planning permission should be refused.
- 8.8 Officers would advise members that having considered the application carefully including all representations made with respect to the application, that the proposal is considered to be unacceptable in terms of the aims and objectives of the National Planning Policy Framework, and relevant policies of the Oxford Local Plan 2016-2036, when considered as a whole, and that there are no material considerations that would outweigh these policies.
- 8.9 It is recommended that the Committee resolve to refuse the planning application.

APPENDICES

Appendix 1 – Site location plan

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.

RIGHTS OF THE CHILD

The UN Convention on the Rights of the Child (UNCRC) outlines the fundamental rights of every child, regardless of their race, religion or abilities. The Convention has 54 articles that cover all aspects of a child's life and set out the civil, political, economic, social and cultural rights.. The UK ratified the UNCRC in 1991 making it binding under international law, however the UK does not automatically incorporate international treaties into domestic law. The principles of the UNCRC informed the Children Act 2004. As set out in the above report, in reaching a recommendation for approval, officers consider that the proposal will not undermine the rights of the child under the Convention and the Children Act.