

BOTLEY DISTRICT CENTRE AMENDED DETAILS

Planning application Ref: P13/V2733/FUL (Full Application)

Application Type: Major

Amendment: No. 5 – dated 6th November 2014

Proposal : Demolition of a mix of existing buildings and the erection of mixed use development comprising retail, restaurants and cafés, offices/business starter units, hotel, student accommodation and ancillary facilities, 50no. apartments, library, place of worship (Baptist Church), community hall, crèche, cinema, gymnasium, covered car parking and access, public square, landscaping and associated works, supported by an Environmental Impact Assessment, amended plans and further information submitted on 5th September 2014 & 6th November 2014.

Address: Botley District Centre, West Way, Botley.

RESPONSE FROM CUMNOR PARISH COUNCIL TO THE AMENDED DETAILS, 06/11/14

Introduction

This response should be read in conjunction with the response, 16/03/14, that Cumnor Parish Council (CPC) submitted to the original application and to its subsequent responses to the EIA and the Amended Details of September 2014, in June and September 2014 respectively. CPC does not intend to reiterate here all the points that it made in those earlier responses, but merely to comment on changes that have been made to the proposal as laid out in these latest Amended Details.

These comments are set out in 3 major sections:

- The first explains why it continues to object to the proposed development on the grounds of its scale and examines the anchor role of the proposed supermarket.
- The second comments on the deleterious role played by the decision of the applicant to include properties that at present he does not possess'
- Finally consideration is given to objections raised by CPC to aspects of the proposal that make an unjustified proposal totally unacceptable.

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Scale of the Proposal including the Supermarket

Proposed Scale and Design

In its response to the Amended Plans Submission, 04/09/14, CPC commented, p.2, that the amended proposals sought to address the **Design**, or Form, of the proposal but did almost nothing to address its **Function**, or Content. CPC added, p.3:

The applicant is seeking to create the impression that the content and overall function of the proposal is a given, and that all that now needs to be addressed is the fine tuning of how it will look. CPC takes a different view: namely that this is a once in a generation opportunity to redevelop the site, consequently it is essential that the proposal shall sit comfortably in its setting. It is therefore the nature, scale and content of any redevelopment that is at issue.

And:

The scale of the proposed development is simply avoided in these Amended Details, and it is this perhaps, more than anything, which is the major concern for the vast majority of local residents and their elected representatives. The applicant merely says, Appendix 11.1, p.1: "*As a smaller development was not considered by the applicant as representing a viable option for the site, no such plans were drawn up that could be realistically considered in the ES*". This cursory comment on the part of the applicant is unacceptable.

CPC reiterates and reinforces these comments in this current response.

The applicant's new amendments do nothing to address concerns that relate to the **principles** underlying this development.

There is no evidence that the applicant has taken any notice of comments made about the scale of their proposal, either in their response to the EIA or again in their latest submission. Indeed in their follow up to a meeting with officers at the Vale

which they chose to summarise as Annex 3 of the November 2014 Addendum Statement, it is disheartening to note that there is no evidence that this important matter has been the subject of any discussion between the two parties.

CPC reiterates the comments that it made in response to the Amended Details submission, 04/09/14, as follows:

"CPC believes that the proposal that has been submitted is excessive, both in form and content. In terms of Content, far too much is being crammed onto the site. The application contains many examples of the way that the design has been compromised by the desire to maximise the built volume on the enlarged site (to the detriment of the local area) and of the compromises that have had to be made in attempting to achieve this goal. They include, but not necessarily exhaustively:

- The provision of a supermarket with no associated petrol filling station
- The erection of a hotel with no dedicated parking
- The provision of a large quantity of student accommodation whilst insisting that students will be banned from bringing cars to the site, thus preventing the clogging up of local roads.
- The provision of a six screen cinema when the Vale's own research suggests that the area only needs a 2 screen cinema

Each of these points is examined in greater detail later in this document.

CPC still believes that, though the overlooking and privacy issues affecting houses on Arthray Road and neighbours to the west have been addressed in these Amended Details, the scale of the proposal would still lead to over-dominance.

CPC further believes that the height of the buildings fronting West Way would lead to unacceptable loss of light affecting nos. 62-66 West Way.

In terms of Form, the failure to produce a 3D scale model, as requested by Oxfordshire County Council, is unforgivable. The applicant's statement that "*Producing a 3D scale model is both time consuming and costly, and once built it is difficult to change and amend*" is fatuous. The reality is that there are numerous model makers equal to this task, who could have produced models in a timely and cost-effective manner. How much more time consuming, costly and difficult to change and amend would be to build a Botley Centre along the lines proposed only to find that scale and function were wrong. The applicant's implied argument that a video is an acceptable alternative is specious. In a video the views available to the curious are under the ultimate control of the video maker. The converse is true with a well-made model."

Supermarket and Associated Planning Issues

The proposal for the supermarket provides a good example of how completely inappropriate is the scale of this submission.

Two to three years ago, when this scheme was in the planning stage, it must have seemed a sensible idea to propose a superstore in Botley to rival in size and scale those at Heyford Hill and Abingdon (Sainsbury's and Tesco respectively). Certainly this proposal is comparable in scale to both, being only 20% smaller than the Tesco superstore.

Even a year ago, the model on which the applicant is relying appeared viable. No longer is that the case.

The impact of the 2008 financial crisis has been profound. Middle and lower income budgets have been squeezed, shoppers are shunning out of town superstores in preference for convenience stores or online shopping and families have been turning in droves to discount retailers. As a consequence all major grocery chains are going

through difficulties. New developments are being put on hold and new super markets are being mothballed when on the point of being opened. These trends will not readily be reversed. The model is bust.

To add to their difficulties, Doric has chosen to submit a proposal without a petrol filling station either on site or nearby. No one from out of the area will drive to a new superstore in a congested area knowing that they then have to drive several miles to fill up. The economics of it simply do not make sense.

CPC is aware that planning authorities commonly take the view that the viability of a scheme is not a planning issue. CPC believes that viability can, on occasion, be a planning issue. Failure of large schemes, such as the one proposed for Botley, have major effects on the locality: for example, seriously damaging the local environment due to the ensuing planning blight and the knock on effect on local businesses.

All schemes need to comply with the **European Landscape Convention** (ELC). The ELC has the status of law as it was ratified by the UK parliament in 2007. The ELC connects peoples' surroundings - the natural and manmade, historic and recent, environment where they live - which is what is meant by "landscape", with their right to enjoy a good "quality of life". Development must safeguard the "landscape", and although it can be modified, the changes must maintain or improve the citizens' quality of life, not detract from it. Planning authorities at every level of government are obliged to integrate the notions of the ELC into their planning policy, and to implement the policies. If they are not consistent, the Vale lays itself open to prosecution and more seriously any consent given must be withdrawn.

To have to withdraw a planning consent would be a catastrophe for the Vale. Against that possibility, CPC would have expected that it would have been prudent for the Vale to have:

- Entered into discussions with the applicants with a view to obtaining reassurance as to the scheme's overall viability.
- Sought competent legal advice as to the risks to which the Vale could be exposed. This is a new and complex area and there is apparently currently no case law.

CPC can find no evidence that the Vale has pursued either course.

Other aspects of the scheme also fail to comply with the terms of the ELC and these are highlighted in subsequent sections.

Areas Added to the Original Development Site

General

The Vale's Core Strategy, 2009, quoted in the original Planning Statement (para 3.6 in that document), made no mention of Field House and Vale House being included in any re-development of Botley. It is true that the draft 2031 Local Plan did and does include these properties but by the time this draft plan was produced the Vale had already committed itself to the whole hearted support of this planning application.

A simple examination of the area of the site suggests that there were two possible logical areas that could have been used to define the area of the Botley District Centre. One is the area of the site currently available to the Developer: most people would agree that this does need redevelopment. The second is based on the area that the Vale has chosen **but would naturally include Barclays Bank and the Church of St Peter and St Paul**. To make a choice that conveniently follows the boundary of a particular developer's proposal is entirely unacceptable.

The Vale is a major beneficiary, if this scheme goes ahead. The inclusion of Field House, Vale House and the vicarage in the 2031 draft Plan was therefore very

convenient for the developer and the Vale. CPC believes that its inclusion should therefore be regarded as special pleading and to constitute a conflict of interest.

The recent Addendum to the Planning Statement has justified the expansion of the original site on the basis that the emergence of this Local Plan justifies the redevelopment of the enlarged site (para 2.1 *et seq*). It is the opinion of CPC that far from supporting the application, the draft plan should be excluded from the argument on the grounds that its status is at present uncertain: the validity of the Vale's self-beneficial late alteration has not yet been independently tested.

Irrespective of the view taken as to the proper boundaries of the Botley District Centre, it does not follow that all parts of the centre should be developed at the same time. It needs, as noted above, to comply with the European Landscape Convention (ELC). Failure to do so could have serious consequences for the Vale. A decision that was, to an extent, based on the manipulation of boundaries to the disadvantage of those affected cannot be said to meet the requirements of the ELC.

In this section the cost to the local community associated with the loss of properties not currently in the ownership of the applicant is examined and the lack of advantage to the local community is demonstrated.

Elms Parade:

CPC remains of the opinion that there can be no justification for the demolition of Elms Parade. The applicant does not own it and the current owners have made clear their opposition to its inclusion. The Addendum to the Planning Statement makes no mention of the Parade and appears to believe that, as the demolition is necessary for Doric's overall scheme, it must be justified. This is unacceptable logic.

Field House:

CPC remains of the opinion that there can be no justification for the inclusion of Field House and Vale House in the proposed site. No reason was given in the original Design and Access Statement justifying their inclusion and this omission has never been remedied.

CPC has previously set out the medical evidence supporting the conclusion that serious medical harm is likely to the elderly residents if this development goes ahead.

The Addendum to the Planning Statement simply ignores the proven medical facts concerning the effects of major change on vulnerable persons. It is a measure of Mace's inability to grasp the medical realities facing these persons that they appear to believe that the problems associated with the stress associated with change can be alleviated by an arrangement that "*will allow the eastern section of Field House to be maintained and occupied by residents during the construction (sic) of the replacement accommodation to the west. At which point, the new accommodation will be occupied and the then remaining redundant section of Field House demolished*" (para 3.20). This point could have been put more accurately and succinctly as 'Mace's plan will allow the residents to live on a building site whilst their new accommodation is built'. Such logic cannot be used to justify a change, which is not in the residents' interests.

Vicarage

The applicants have never responded to the criticism that demolition of the vicarage is not in the public interest and that, in particular, the demolition will impair the service that the vicar can deliver to the community. The Applicants have taken the simplistic view that they should be allowed to demolish the existing vicarage in order to allow their scheme to go ahead. The Diocesan Authorities are said to be opposed to the

voluntary sale of this property. The problem of finding a house for the Vicar is clearly seen as the responsibility of the Diocesan Authorities.

Impact of the Inclusion of the Additional Areas of Land

The Addendum Planning Statement makes no attempt to argue that the proposed changes are to the benefit of the present occupants. By way of example, the applicants make much of the improvements that have now been made in the design of the age related accommodation. This is at one with their view that the overall development of the site has been justified and that all that is necessary is to improve the detail; a view that is reinforced by the evident concern, elsewhere in the submission, that there was no provision for a bin store at the new Baptist Church. It cannot be too strongly emphasised that the fundamental criticism is that the demolition of Field House is not necessary from the point of the well-being of its residents. Precisely the same arguments apply to the other buildings currently on this section of the site. They are fit for their present purpose but are a nuisance viewed from the applicant's overall view.

A feature of these adverse effects is that they arise because the applicant together with the Vale, as the major beneficial owner, appears determined to use the powers of one of them to threaten other land owners who do not see the present scheme as being in the best interests of local residents. Had the applicants been willing to confine their activities to land, which they could have acquired voluntarily, the majority of the adverse effects would have been avoided.

Other Issues

Cinema

The Addendum to the Planning Statement states "*Cineworld (UK) were one of the first of the potential tenants... They have now signed and wish to be part of the centre's future.*" As presented this takes the argument no further. The planning committee must perforce make a judgement as to whether this amounts to support for a 6 screen cinema or is merely an expression of general interest.

The committee does have independent evidence. The Vale itself commissioned a Retail and Town Centre Study from Nathaniel Lichfield & Partners, which was published as recently as 14 March 2013. It states (para 5.4) that there "*could be a requirement for 2 screens and around 400 seats, to meet future demand in the district*" (until 2029) but adds (para 5.5) "*given the proximity and availability of cinemas in the nearby centres of Oxford, Didcot and Swindon this may mean that a small cinema within the district would not be a commercially viable option*". The authors conclude (para 5.6) "*Based on the above analysis, this suggests that a 4-6 screen cinema would represent an oversupply of cinema screens to serve the VOWH population*".

Transport

CPC stands by the comments in its response to the original application. CPC is particularly concerned about the way that development along the Botley Road is taking place piecemeal and it reiterates its firm opinion that, before any regeneration of Botley Centre is given the go-ahead or any major new development is allowed on Botley Road, strategic discussions should take place between the relevant authorities, namely Oxford City Council, the Vale of White Horse District Council and Oxfordshire County Council, with clear and transparent agreements on infrastructure and transport improvements.

Traffic congestion on West Way and Botley Road is already at unacceptable levels. Anyone living in North Hinksey or Cumnor knows that on a regular basis local roads become grid-locked. Such is the density of traffic that it only takes a minor incident on the A34, an all-too-frequent occurrence, or minor road works on Botley Road or in west-central Oxford – blocked drains, for example, or cable laying – for the system to grind to a halt. There is simply no slack in the system to allow for added vehicular traffic arising from this proposal.

Reading the various technical notes and letters supplied by the applicant in support of his application, one could almost believe that there has never been a traffic jam along West Way and Botley Road, and the various roads feeding into them, and never could be.

And yet we read, Oxford Times, Thursday, November 13, 2014, p.1 "*Bus firm in warning that Oxford will grind to a halt*" and p.3 that "*congestion on the A40 between Oxford and Witney will continue to get worse even after improvement works near Wolvercote are finished. Growth at Witney and Carterton would pile on extra pressure.*" To be clear, problems on the A40, as well as intense traffic on the A34, have a direct impact on the traffic through Botley and the Botley Road as a result of drivers crossing the Swinford toll-bridge in a desperate attempt to find a less congested route into Oxford.

Parking

The sticking point for CPC in relation to parking is that there is no dedicated parking for three significant groups of users of the proposed development, namely hotel guests, students and those employed within the development.

The applicant does not accept that their proposal will lead to a demand for on street parking (Transport Assessment Addendum, p.8) and that, even if there were to be such a demand, then an additional c.390 would need to be observed to park on street prior to a 90% stress level being achieved (On-Street Parking Survey). If not on street, with concomitant loss of amenity for local residents, where are regular users of the site to park?

- Hotel guests: CPC accepts that Premier Inn has expressed an interest in the hotel space but that does not alter its view that the vast majority of the guests will arrive by car.

The Addendum to the Planning Statement states (para 3.7) "*...this modest hotel is well located close to the A420 and A34 but more importantly is a short taxi or bus ride from Oxford Railway Station or bus station...*" This 29 word statement implicitly supports CPC's objection and could only have been made by someone who has no knowledge of the traffic situation in Oxford. The reference to the A420 and A34 confirms that many guests will come by car. The majority of these cars will be parked either in the site's car park, where they will occupy spaces that could otherwise be occupied by shoppers, or on the streets. It is true that the stations are geographically close to the site but in terms of travel time they might, for extended periods, just as well be many miles away.

- Students: the applicant clearly believes that, by requiring students to sign an undertaking not to bring a car to college, the problem of student cars is solved. This is a false belief. To back up his assertion the applicant submits a draconian agreement, which he states will be backed up by a planning condition. The only planning condition that the Vale could impose would be that the owners enter into a covenant of the type suggested. However a restrictive covenant is only as good as the willingness to police its terms by those who imposed it. Clearly, given present day reliance on cars, there

would be no pressure on the owners of the hostel to police it with vigour. To do so would diminish the attractiveness of their accommodation to potential customers. More seriously in a recent (2011) planning appeal involving Oriol College and a proposed hostel in the Bartlemas area off Cowley Road, the inspector concluded that the proposed scheme, which was effectively identical with that proposed by the applicant, was unenforceable. The applicant's proposal is consequently worthless: he cannot control student car ownership.

- Employees: the applicant has given much publicity to a recent report from Savills saying that the creation of new businesses at a regenerated Botley District Centre will result in an increase of around 500% in the number of people presently employed on the site. The figure of 1000 jobs has been mentioned. The applicant appears to believe that the problem of getting these persons to and from work can be resolved by management agreements and said as much at the recent Community Forum. This is clearly 'pie in the sky' and completely unenforceable. Botley is not a transport hub. The only routes to the site, other than from the west, are via the A34 or through Oxford. There are no bus routes on this section of the A34 and traffic congestion in Oxford is already severe. Many people currently working in businesses on the site come from a considerable distance. In the absence of designated parking, most would park on local streets.

The correctness of this conclusion is shown by an advertisement currently displayed on an existing office on the site. It advertises offices to let and as an inducement adds "*dedicated parking available*".

The parking arrangements as conceived are clearly the best that the developer can suggest. They are equally clearly unworkable and can only cause disturbance and major loss of amenity to local residents.

Delivery Vehicles

The new shared service delivery yard is a clear improvement but the logistics of supplying goods and services from there to the shops appears not to have been given serious consideration, notably to those shops at some distance from the yard. It seems inevitable that, in practice, the shops and other facilities facing on to West Way will rely on delivery vehicles parking in the loading bays or bus stops on West Way leading to significant problems for buses and their passengers, as well as to pedestrians.

Noise Pollution

Here CPC's primary concern is not so much with noise from the development causing problems for local residents but rather the effect that noise pollution from the A34 will have on residents of the proposed accommodation within the development, specifically students and hotel guests. CPC reiterates its opinion that, if there is to be accommodation on this site, it should have been placed at the end of the site furthest from the A34 and not directly looking out onto it. CPC has been unable to find the promised noise profile.

Air pollution

Previous submissions from CPC have pointed out the dangers posed by air pollution. There is now a general consensus concerning air pollution. Baldly stated: it is that **there is no safe level of air pollution.**

CPC reiterates a point it made in its earlier response: "*The absence of PM monitoring near the development site is a significant oversight, especially since young persons,*

notably students, will spend lengthy periods living in the accommodation on the eastern end of the development which is closest to the A34. The provision of the student accommodation close to this polluted road is contrary to Policy DC10 of the Local Plan."

Local Housing

There are currently 60 single bed rooms in Field House together with 6 two person rooms in the garden. The increase to 50 in the number of rooms in the proposed Age Restricted Housing cannot disguise the fact that this represents a net reduction in rooms available and that there is no proposal to replace the existing small day centre run by the WRVS. Additionally there are no plans to replace any of the existing market rented flats in the existing shopping precinct and in Vale House. These changes taken together, lead to the conclusion that under the present proposal there will be a net reduction in available dwellings of approximately 50. Given the Vale's desire to build in the green belt, this is clearly a significant planning issue.

Reductions in the number of residential properties are not what local residents want. What they want is more affordable homes so that their children can afford to buy into the property market locally.

CPC believes that it is completely unacceptable that there is no provision for affordable housing on a site of this size when there is such a crying need for it and such a shortage in the Vale as a whole.

Student Housing

CPC reiterates its opposition to student accommodation of this nature and size in this location.

In the context of student accommodation, the Addendum to the Planning Statement first makes a series of generalisations that could best be described as 'motherhood and apple pie'. It gets down to serious points in paragraph 3.11 where one finds the statement "*Another benefit to bespoke student accommodation... is that more robust controls can be put in place to manage behaviour, noise and car parking.*" This response ignores the fact that these additional controls are often the reason that students choose not to live in such accommodation.

Similarly in 3.12 the applicants state "*Within well managed, bespoke accommodation such as that proposed here tenancy agreements can control all of the above mentioned matters. Through the imposition of what are now quite standard planning conditions and the use of clauses within a legal agreement an LPA can insist on prior approval of management plans and specific controls on student car parking and use.*" Oxford City held this view with regard to on street parking and had insisted on the use of such agreements in the past. However in 2011, as noted above, a planning inspector ruled that they were unenforceable.

CPC has previously explained why it fully supports the conclusions drawn in the paper "*Why student accommodation in Botley would sit empty*", submitted by WOCC. The applicants have claimed that a further investigation has confirmed the viability of the proposed building. The Planning Committee may well take the view that the risk of viability is the developer's and not a planning issue. The Committee may however wish to consider what practical use could be made of this specialised building, a building without any associated car parking, should the proposed use fail. This is clearly a planning issue (via the ELC) because of the ability for a large empty building to blight the entire area.

Conclusion

For all the reasons cited, Cumnor Parish Council considers that this application should be REFUSED.