

APPLICATION NO.	P19/V0018/FUL
SITE	Bellingers 111 Ock Street ABINGDON, OX14 5DQ
PARISH	ABINGDON
PROPOSAL	Variation of conditions 3, 4, 5, 6, 7, 9, 10, 11, 12 (revised wording of conditions to 'No development 'excluding demolition') on application ref. P17/V0321/FUL
WARD MEMBER(S)	Redevelopment to form 39 apartments for the elderly (sixty years of age and/or partner over fifty five years of age), guest apartment, communal facilities, access, car parking and landscaping. Monica Lovatt Chris Palmer
APPLICANT OFFICER	Churchill Retirement Living Stuart Walker

RECOMMENDATION

It is recommended that authority to grant planning permission is delegated to the head of planning subject to:

- 1. The completion of a new S106 unilateral undertaking or deed of variation to the S106 unilateral undertaking on application P17/V0321/FUL and**
- 2. The conditions listed at Appendix 1**

1.0 INTRODUCTION AND PROPOSAL

- 1.1** This application is referred to planning committee as Abingdon Town Council objects to the proposal.
- 1.2** The application seeks to vary planning conditions attached to planning permission P17/V0321/FUL for the redevelopment of the site to form 39 apartments for the elderly. Planning permission was granted for this development on appeal.
- 1.3** It seeks the variation of the wording of conditions 3, 4, 5, 6, 7, 9, 10, 11 and 12 to allow the demolition of existing buildings within the site prior to submission and agreement of pre-commencement details.
- 1.4** The site, approximately 0.25 hectare in size, is located on the northern side of Ock Street. The site is currently vacant, but previously was a car showroom.

1.5 A location plan showing the site in its local context is provided below:



2.0 **SUMMARY OF CONSULTATIONS & REPRESENTATIONS**

<p>2.1 Abingdon Town Council</p>	<p>Objection.</p> <ul style="list-style-type: none"> • Recommend refusal. The Town Council does not want these conditions relaxed. The Planning Inspectorate had put these conditions in place for an extremely good reason and the Town Council would strongly object to them being removed. • The Committee requested that a construction method statement is obtained. • Members also requested that Churchill Retirement Living formally contact the Town Council in relation to the Michaelmas and Runaway Fairs which take place in October each year. (<i>this is not a material consideration</i>)
<p>Neighbours</p>	<p>13 letters of objection have been received. The concerns raised may be summarised as follows:</p> <ul style="list-style-type: none"> • The access onto Mullard Way must be agreed prior to demolition. • Conditions 4, 11 and 12 relate to demolition. • A construction method statement is required as a new condition to control where construction workers will park and to agree the construction site access route.

	<ul style="list-style-type: none"> • The application implies less restriction in the demolition phase – construction traffic dangers need to be managed for all phases. • The scheme of archaeological investigation and contamination risk assessment must be approved prior to any work commencing - as the proposal will remove underground fuel tanks which may disturb archaeological finds / contamination. • Asbestos may be present in the existing building. • There appear to be no measures to control dust and noise pollution from demolition. • No risk assessment has been provided. <p>The following comments in relation to the proposal were received. These were previously considered at the appeal and were found to be acceptable / not necessary.</p> <ul style="list-style-type: none"> • Traffic generation. • Insufficient parking for proposed use. • Part of the site should be used for parking provision for existing residents.
Oxfordshire County Council	<p><i>Highways</i></p> <ul style="list-style-type: none"> • No objection. <p><i>Archaeology</i></p> <ul style="list-style-type: none"> • No objection.
Conservation Officer	No objection.
Drainage Engineer	No objection.
Countryside Officer	No objection.
Urban Design Officer	No objection.
Environmental Health – Air Quality	No objection.
Environmental Health – Contaminated Land	No objection.
Environmental Health – Protection Team	No objection.

3.0 **RELEVANT PLANNING HISTORY**

3.1 [P17/V0321/FUL](#) - Refused (13/06/2017) - Appeal allowed (13/11/2018)

Redevelopment to form 39 apartments for the elderly (sixty years of age and/or partner over fifty five years of age), guest apartment, communal facilities, access, car parking and landscaping. (As clarified by Flood Risk Assessment accompanying agent's email of 20 March 2017, as amended by drawings and information accompanying agent's email of 11 April 2017 and further clarified by transport note accompanying consultant's email of 15 May 2017, Archaeological Written Scheme of Investigation accompanying agent's email of 22 May 2017 and Section Plans and Shading Study Plans accompanying agent's letter of 26 May 2017)

4.0 **ENVIRONMENTAL IMPACT ASSESSMENT**

4.1 A section 73 application is considered a new application for planning permission under the 2017 Environmental Impact Assessment Regulations. The application is below the regulation thresholds and is not EIA development.

5.0 **MAIN ISSUES**

5.1 The main planning considerations relevant to this application are:

1. The principle of varying conditions
2. Conditions 3, 5, 6, 7, 9 and 10
3. Condition 4
4. Condition 11
5. Condition 12
6. Other technical matters
7. Financial contributions

5.2 **The principle of varying conditions**

When planning permission is granted, development must take place in accordance with the permission and conditions attached to it, and with any associated legal agreements. New issues may arise after planning permission has been granted, which require modification of the approved proposals, and under Section 73 of the Town and Country Planning Act 1990 an application can be made to vary or remove conditions associated with a planning permission. One of the uses of a section 73 application is to seek a minor material amendment, where there is a relevant condition that can be varied.

5.3 **Conditions 3, 5, 6, 7 9 and 10**

Condition 3 requires ground levels and proposed slab levels to be submitted and approved. Conditions 5 and 6 requires details for the parking and drop off bays on Ock Street and parking and manoeuvring within the site to be submitted and approved. Condition 7 requires details on cycle parking for staff, residents and visitors and conditions 9 and 10 require surface water and foul drainage details.

5.4 Officers consider these conditions require details solely in relation to the new development and do not relate to the removal of the existing buildings. The

proposed variation to these conditions to insert 'excluding demolition' is therefore acceptable.

5.5 **Condition 4**

Condition 4 requires details of the means of access between the land and the highway on Mullard Way to be submitted and approved and local concern has been raised that these details are required prior to demolition to prevent contractor parking / construction access via Mullard Way.

5.6 The condition however does not require this access to be constructed before work starts on site. The condition states "*Prior to the first occupation of the development, the means of access shall be constructed*". It is also important to note that condition 8 of the extant planning permission will not be changed and will still require the submission and agreement of a Construction Traffic Management Plan before commencement of the development, including demolition within the site.

5.7 The Highway Authority has assessed the proposal and raises no objection. Officers consider the proposed change to condition 4 to exclude demolition is therefore acceptable.

5.8 **Condition 11**

Condition 11 requires an archaeological written scheme of investigation (WSI) to be produced and approved and local concern is, that without it, there is a risk demolition works will destroy any potential archaeology within the site.

5.9 The county archaeologist has confirmed that the required WSI was in fact submitted with the original application and has been agreed, and "*we therefore recommended a single condition to require all work to be undertaken in line with this WSI.*" The agreed WSI contains a section recognising that demolition would need to be undertaken to enable the archaeological investigation to be undertaken. Officers therefore consider it is not unreasonable to replace condition 11 with the county archaeologist's wording as follows:

A staged programme of archaeological evaluation and mitigation shall be carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation submitted with permission P17/V0321/FUL. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the Local Planning Authority.

5.10 Subject to this revised condition, the proposal accords with saved policy HE10.

5.11 **Condition 12**

Condition 12 requires a phased risk assessment to identify potential contaminative uses on the site and if contamination is identified to provide a remediation strategy.

- 5.12 The proposal has been assessed by Environmental Health who confirm “*the applicant has previously provided a copy of a Ground Investigation report and a Remediation Method Statement setting out the proposed remedial works to support the proposed development.*” On this basis, Environmental Health raise no objection to exclude demolition from the phased risk assessment.
- 5.13 Local concern has been raised on potential dust, noise and asbestos pollution arising from demolition of the existing buildings and requests have been made to procure a construction method statement by planning condition. The pollution risk of these matters is controlled through other legislation and officers are mindful that Government advice is explicit planning conditions should not duplicate other legislative controls. As a result, it is considered that the proposals are acceptable in this instance.
- 5.14 **Other technical matters**
Impacts arising from traffic generation, heritage assets, flood risk and residential amenity were previously assessed in detail at the appeal and were considered acceptable by the Inspector. Officers consider the proposed changes to the conditions do not result in any material change to warrant reassessment of these matters.
- 5.15 **Financial contributions**
At the appeal a planning obligation was signed and executed by unilateral undertaking to provide for off-site affordable housing and monitoring. It will therefore be necessary for the applicant to enter into a new agreement to ensure the contributions are secured in relation to this revised application.

6.0 CONCLUSION

- 6.1 The National Planning Practice Guidance (NPPG) advises that “*Care should be taken when considering using conditions that prevent any development authorised by the planning permission from beginning until the condition has been complied with. This includes conditions stating that ‘no development shall take place until...’ or ‘prior to any works starting on site...’ Such conditions should only be used where the local planning authority is satisfied that the requirements of the condition (including the timing of compliance) are so fundamental to the development permitted that it would have been otherwise necessary to refuse the whole permission.*” (Paragraph: 007 Ref ID: 21a-007-20180615).
- 6.2 Considering this advice, demolition of the existing buildings is not crucial to the timing of submitting and agreeing details connected with these conditions. The proposed wording change to the conditions are acceptable.

The following planning policies have been taken in to account:

Vale of White Horse Local Plan policies

Vale of White Horse Local Plan 2031 part 1:
CP01 - Presumption in Favour of Sustainable Development

- CP03 - Settlement Hierarchy
- CP04 - Meeting Our Housing Needs
- CP07 - Providing Supporting Infrastructure and Services
- CP08 - Spatial Strategy for Abingdon-on-Thames and Oxford Fringe Sub-Area
- CP22 - Housing Mix
- CP23 - Housing Density
- CP24 - Affordable Housing
- CP26 - Accommodating Current and Future Needs of the Ageing Population
- CP33 - Promoting Sustainable Transport and Accessibility
- CP35 - Promoting Public Transport, Cycling and Walking
- CP36 - Electronic communications
- CP37 - Design and Local Distinctiveness
- CP38 - Design Strategies for Strategic and Major Development Sites
- CP39 - The Historic Environment
- CP40 - Sustainable Design and Construction
- CP42 - Flood Risk
- CP43 - Natural Resources
- CP44 - Landscape
- CP45 - Green Infrastructure
- CP46 - Conservation and Improvement of Biodiversity
- CP47 - Delivery and Contingency

Saved policies Local Plan 2011:

- DC3 - Design against crime
- DC5 - Access
- DC6 - Landscaping
- DC7 - Waste Collection and Recycling
- DC9 - The Impact of Development on Neighbouring Uses
- DC10 - Effect of neighbouring or previous uses on new development
- DC20 - External Lighting
- HE9 - Archaeology
- HE10 - Archaeology
- HE11 - Archaeology
- NE9 - The Lowland Vale

Vale of White Horse Local Plan 2031 part 2

A publication draft of the Vale of White Horse Local Plan 2031 Part 2 has been subject to Examination and Main Modifications are currently out to public consultation. Its policies are a material consideration although full weight cannot be given to them at present. The following policies are material to the consideration of this application:

- DP2 - Space Standards
- DP8 - Community Services and Facilities
- DP16 - Access
- DP17 - Transport Assessments and Travel Plans
- DP21 - External Lighting
- DP23 - Impact of Development on Amenity
- DP24 - Effect of Neighbouring or Previous Uses on New Developments
- DP25 - Noise Pollution

DP26 - Air Quality
DP27 - Land Affected By Contamination
DP28 - Waste Collection and Recycling
DP33 - Open Space
DP36 - Heritage Assets
DP39 - Archaeology and Scheduled Monuments

Neighbourhood plan

There is no plan for Abingdon.

Adopted Guidance

Vale of White Horse Design Guide SPD – March 2015
Developer Contributions SPD – June 2017

Other Relevant Legislation and Guidance

National Planning Policy Framework 2018
National Planning Practice Guidance
Planning (Listed Buildings and Conservation Areas Act) 1990
Community & Infrastructure Levy Legislation
Section 17 of the Crime and Disorder Act 1998
Obligations under Section 149 of the Equalities Act 2010
Provisions of the Human Rights Act 1998
Natural Environment and Rural Communities (NERC) Act 2006
The Conservation of Habitats and Species Regulations 2010
Localism Act (including New Homes Bonus)

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P19/V0018/FUL - APPENDIX 1

No	
1	<p>Time Limit - Variation of Condition</p> <p>The development to which this permission relates must be begun not later than 13 November 2021.</p> <p>Reason: By virtue of Sections 91 to 95 of the Town and Country Planning Act 1990 as amended by section 51 of the Planning and Compulsory Purchase Act 2004.</p>
2	<p>Approved plans</p> <p>The development hereby permitted shall be carried out in accordance with the following approved plans: 10089AD/PA00 Location Plan; 10089AD/PA01 Site Plan Rev A; 10089AD/PA02 Ground Floor Plan Rev A; 10089AD/PA03 First Floor Plan Rev B; 10089AD/PA04 Second Floor Plan Rev B; 10089AD/PA05 Roof Plan Rev A; 10089AD/PA06 Elevations - Sheet 1 Rev A; 10089AD/PA07 Elevations - Sheet 2 Rev A; 10089AD/PA08 Elevations - Sheet 3 Rev C; 10089AD/PA10 Cross Section Rev A; 10089AD/PA101 Street Parking Plan Rev B; 198 LS 0001_C.</p> <p>Reason: To secure the proper planning of the area in accordance with Development Plan policies.</p>
3	<p>Levels</p> <p>No development, excluding demolition, shall take place until details of the existing ground levels of the site and the proposed slab levels of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved slab levels.</p> <p>Reason: In the interests of visual and residential amenity in accordance with policies CP37, CP39 and DC9 of the adopted Local Plan.</p>
4	<p>Access (Mullard Way)</p> <p>No development, excluding demolition, shall take place until full details of the means of access between the land and the highway on Mullard Way including position, layout, visibility splays and provision for pedestrians have been submitted to and approved in writing by the local planning authority. Prior to the first occupation of the development, the means of access shall be constructed and retained in accordance with the approved details.</p> <p>Reason: In the interest of highway safety (Policy DC5 of the adopted Local Plan).</p>
5	<p>Parking and drop off (Ock Street)</p> <p>No development, excluding demolition, shall take place until a scheme for the parking and drop off bays on Ock Street has been submitted to and approved in writing by the local planning authority. Prior to the first occupation of the development, the approved scheme shall be constructed and retained in accordance with the approved details.</p>

Vale of White Horse District Council – Committee Report – 13 March 2019

	Reason: In the interest of highway safety and visual amenity (Policies CP37, CP39 and DC5 of the adopted Local Plan).
6	<p>Parking and manoeuvring areas</p> <p>No development, excluding demolition, shall take place until details of the parking and manoeuvring areas, including pedestrian routes, surfacing, lighting and tracking drawings for vehicle movements, have been submitted to and approved in writing by the local planning authority. Prior to the first occupation of the development, the parking and manoeuvring areas shall be provided in accordance with approved details and shall be retained unobstructed except for the parking and manoeuvring of vehicles at all times thereafter.</p> <p>Reason: In the interest of highway safety, residential and visual amenity (Policies CP37, DC5 and DC9 of the adopted Local Plan).</p>
7	<p>Cycle parking</p> <p>No development, excluding demolition, shall take place until a plan showing the number, location and design of cycle parking for staff, residents and visitors has been submitted to and approved in writing by the local planning authority. The cycle parking shown on the agreed plan shall be provided prior to the first occupation of the development. The cycle parking will be permanently retained and maintained for the parking of cycles in connection with the development.</p> <p>Reason: To encourage the use of sustainable modes of transport (Policies CP33 and CP35 of the adopted Local Plan).</p>
8	<p>Construction Traffic Management Plan</p> <p>No development shall take place until a Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the local planning authority. The CTMP will include a commitment to deliveries only arriving at or leaving the site between 0930 and 1430. Thereafter, the approved CTMP shall be implemented and operated in accordance with the approved details.</p> <p>Reason: In the interest of highway safety and to protect the amenities of the occupants of adjacent dwellings during construction (Policies DC5 and DC9 of the adopted Local Plan).</p>
9	<p>Drainage Details (Surface Water)</p> <p>No development, excluding demolition, shall take place until a surface water drainage scheme for the development, based on sustainable drainage principles, has been submitted to and approved in writing by the local planning authority. The surface water drainage scheme shall include site specific soakage tests to determine the feasibility of infiltration techniques for the development; discharge rates and volumes; maintenance and management plan of SuDS features; sizing of features - attenuation volume; infiltration in accordance with BRE365; detailed drainage layout with pipe numbers; network drainage calculations; and flood routes. The surface water drainage scheme shall subsequently be implemented in accordance with the approved details prior to the first occupation of the development.</p> <p>Reason: To ensure the effective drainage of the site and to avoid flooding (Policy CP42 of the adopted Local Plan).</p>

10	<p>Drainage Details (Foul Water)</p> <p>No development, excluding demolition, shall take place until a detailed scheme for foul water drainage of the development has been submitted to and approved in writing by the local planning authority. The approved scheme shall be fully implemented prior to the first occupation of the development.</p> <p>Reason: To ensure the effective drainage of the site in the interest of public health (Policies CP42 and DC9 of the adopted Local Plan).</p>
11	<p>Archaeological Investigation</p> <p>A staged programme of archaeological evaluation and mitigation shall be carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation submitted with permission P17/V0321/FUL. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the Local Planning Authority.</p> <p>Reason: To enable a proper archaeological investigation of the site and the identification and recording of any items of archaeological importance (Policy HE11 of the adopted Local Plan).</p>
12	<p>Contamination</p> <p>No development, excluding demolition, shall take place until a phased risk assessment has been undertaken in accordance with current Government and Environment Agency Guidance and Approved Codes of Practice. Each phase shall be submitted to and approved in writing by the local planning authority.</p> <p>Phase 1 shall incorporate a desk study and site walk over to identify all potential contaminative uses on site, and to inform the conceptual site model. If potential contamination is identified, a Phase 2 investigation shall be undertaken.</p> <p>Phase 2 shall include a comprehensive intrusive investigation in order to characterise the type, nature, and extent of contamination present and the risks to receptors. If significant contamination is identified, the investigation shall inform the Phase 3 remediation strategy.</p> <p>Phase 3 requires that a remediation strategy be submitted to and approved in writing by the local planning authority to ensure that the site will be rendered suitable for its proposed use.</p> <p>The development shall not be occupied until any previously approved remediation strategy has been carried out in full and a validation report confirming completion of these works has been submitted to and approved in writing by the local planning authority.</p> <p>Reason: To ensure that any ground, water and associated gas contamination is identified, and all necessary remediation works are carried out in the interest of the safety of the development and the environment, and to ensure the site is suitable for the proposed use (Policies DC10 and DC12 of the adopted Local Plan).</p>

13	<p>Materials (Samples)</p> <p>Prior to development above slab level, details of all materials to be used externally in construction shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved materials details.</p> <p>Reason: In the interest of visual amenity (Policy CP37 of the adopted Local Plan).</p>
14	<p>Landscaping Scheme</p> <p>Prior to development above slab level, details of both hard and soft landscape works shall have been submitted to and approved in writing by the local planning authority. These details shall include:</p> <ul style="list-style-type: none"> i) earthworks showing existing and proposed finished levels or contours; ii) hard surfacing materials; iii) schedules of trees and shrubs to be planted (noting species, plant sizes and numbers/densities) iv) means of enclosure and retaining structures; v) boundary treatments, including the retention of any existing boundary treatments; vi) an implementation programme, including phasing of work where relevant. <p>All hard and soft landscaping works and boundary treatments shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with the agreed implementation programme. Thereafter, the landscaped areas shall be maintained for a period of 5 years. Any trees or shrubs which die or become seriously damaged or diseased within 5 years of planting shall be replaced by trees or shrubs of a similar size and species to those originally planted.</p> <p>Reason: To ensure the implementation of appropriate landscaping which will improve the environmental quality of the development (Policies CP44 and DC6 of the adopted Local Plan).</p>
15	<p>Travel Plan</p> <p>Prior to the first occupation of the development hereby permitted, a Travel Plan Statement meeting the requirements set out in the Oxfordshire County Council guidance document "Transport for New Development: Transport Assessments and Travel Plans" shall be submitted to and approved in writing by the local planning authority.</p> <p>Reason: To support access by sustainable modes of transport (Policies CP33 and CP35 of the adopted Local Plan).</p>
16	<p>Travel Information Packs</p> <p>Prior to the first occupation of the development hereby permitted, details of Travel Information Packs shall be submitted to and approved in writing by the local planning authority. A Travel Information Pack will be provided to every resident on first occupation and a copy of the Travel Information Pack shall be maintained on the premises for inspection by residents and visitors at all times.</p>

Vale of White Horse District Council – Committee Report – 13 March 2019

	<p>Reason: To support access by sustainable modes of transport (Policies CP33 and CP35 of the adopted Local Plan).</p>
17	<p>Acoustic Insulation</p> <p>Prior to the first occupation of the development hereby permitted, the development shall be acoustically insulated in accordance with a scheme which shall have been submitted to and approved in writing by the local planning authority. This may include treatment of the site boundaries, the provision of acoustic barriers/bunds, and/or the treatment of the development to include insulating walls and roofs and providing double glazed windows and mechanical ventilation. The acoustic insulation works shall be maintained in accordance with the approved scheme.</p> <p>Reason: To protect the amenities of adjacent dwellings (Policy DC9 of the adopted Local Plan).</p>
18	<p>Age Restriction - 60 years</p> <p>At no time shall the development hereby permitted be occupied by persons under the age of 60 years, unless in the case of a couple where one person is over the age of 60 years, the second person shall not be under the age of 55 years.</p> <p>Reason: In the interests of highway safety with regard to parking (Policies CP26 and DC5 of the adopted Local Plan).</p>

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