

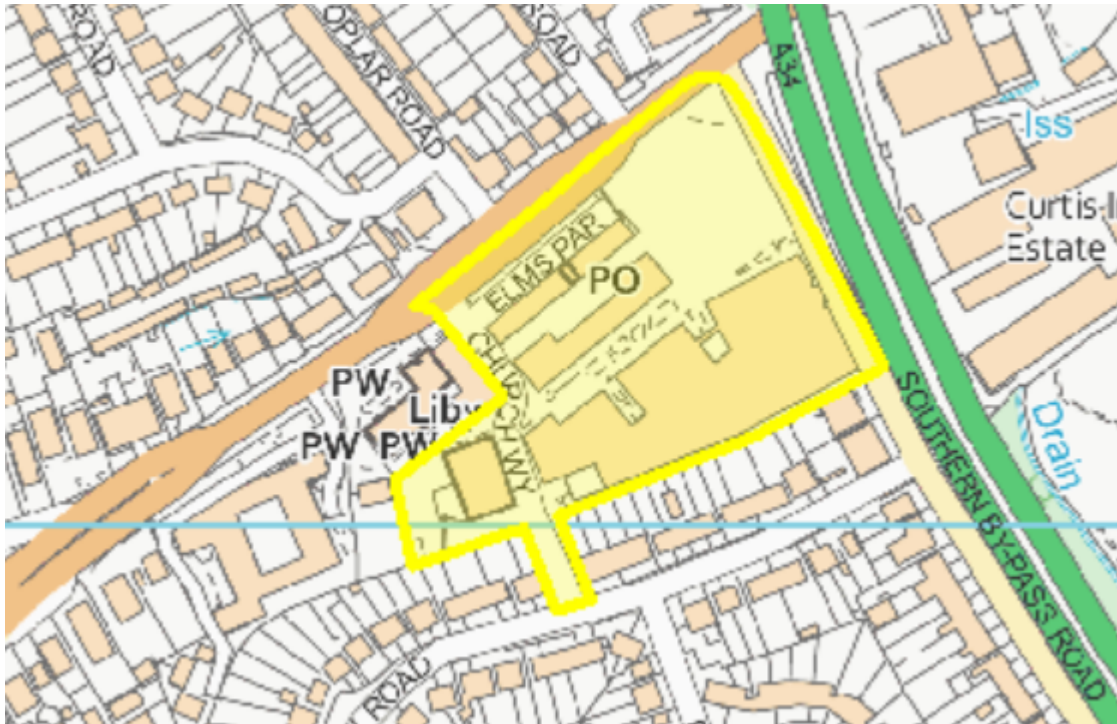
APPLICATION NO.	P23/V0420/MPO
SITE	Botley Centre West Way Botley Oxford, OX2 9LP
PROPOSAL	Variation to amend the restriction on occupation in the 10th schedule of the Section 106 agreement under application reference number P19/V1731/FUL (P16/V0246/FUL) from: For a period of at least 43 weeks per year, not to permit the Occupation of any units of Academic Residential Accommodation by any persons other than full time students attending universities in the City of Oxford, the Vale of White Horse or South Oxfordshire, or employees including (but not limited to) interns and research assistants working or studying at academic institutions in the City of Oxford or the Vale of White Horse. To: For a period of at least 43 weeks per year, not to permit the Occupation of any units of Academic Residential Accommodation by any persons other than Students of Further Education or Students of Higher Education attending academic institutions in the City of Oxford, the Vale of White Horse or South Oxfordshire District Council on a course of study of no less than 16 weeks duration, or employees including (but not limited to) interns and research assistants working or studying at academic institutions in the City of Oxford, the Vale of White Horse or South Oxfordshire District Council.
AMENDMENTS	Change of description 18 September 2024.
APPLICANT	Botley Development Company
APPLICATION TYPE	Modification of Planning Obligation
REGISTERED	22.2.2023
TARGET DECISION DATE	26.2.2024
PARISH	NORTH HINKSEY
WARD MEMBER(S)	Debby Hallett Emily Smith
OFFICER	Stuart Walker

1.0 **INTRODUCTION**

- 1.1 This application comes to committee at the request of Councillor Max Thompson.

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- 1.2 The application relates to planning permission P19/V1731/FUL, which was approved on 14th April 2020. This was one of several amendment applications made to the original planning permission P16/V0246/FUL for the redevelopment of Botley Centre, located at West Way Botley Oxford.



Site Location

- 1.3 The redevelopment of Botley Centre includes new retail development (Use Classes A1-A5 / Class E) at ground floor level, 140 residential units, a 123-bedroom hotel and 261 units of academic residential accommodation for university staff and students.

2.0 **PROPOSAL**

- 2.1 The proposal seeks to vary the obligation clauses relating to student occupation restrictions.

- 2.2 The original 10th schedule currently states:

“Restriction on Occupation

The Developer covenants with the District Council and the City Council:

1. For a period of at least 43 weeks per year, not to permit the Occupation of any units of Academic Residential Accommodation by any persons other than full time students attending universities in the City of Oxford, the Vale of White Horse or South Oxfordshire, or employees including (but not limited to) interns and research assistants working or studying at academic institutions in the City of Oxford or the Vale of White Horse.”

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2.3 The applicant originally proposed the following change:

“Restriction on Occupation

The Developer covenants with the District Council and the City Council:

1. For a period of at least 43 weeks per year, not to permit the Occupation of any units of Academic Residential Accommodation by any persons other than ~~full time college students, university students or occupants studying for academic purposes attending universities in the City of Oxford, the Vale of White Horse or South Oxfordshire~~, or employees including (but not limited to) interns and research assistants working or studying at academic institutions ~~in the City of Oxford or the Vale of White Horse.~~”

2.4 Following discussions with your planning and legal officers, the following wording has been agreed:

“Restriction on Occupation

The Developer covenants with the District Council and the City Council:

For a period of at least 43 weeks per year, not to permit the Occupation of any units of Academic Residential Accommodation by any persons other than Students of Further Education or Students of Higher Education attending academic institutions in the City of Oxford, the Vale of White Horse or South Oxfordshire District Council on a course of study of no less than 16 weeks duration, or employees including (but not limited to) interns and research assistants working or studying at academic institutions in the City of Oxford, the Vale of White Horse or South Oxfordshire District Council.”

2.5 And the following definitions shall apply:

“Further Education - post-secondary education that is not Higher Education consisting of a formal course of study towards a qualification designed to lead to the award of an accredited certificate diploma or national vocational qualification (NVQ).”

“Higher Education – means tertiary education leading to an academic degree including short-cycle, bachelor, master doctoral level or equivalent.”

“Student of Further Education – a person enrolled at a further education institution on a further education course.”

“Student of Higher Education – means a person enrolled at a higher education institution on a higher education course.”

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2.6 Paragraph 2 of the Tenth Schedule will be retained. Paragraph 2 states:

“The developer covenants with the district council and county council to provide to the district council on the first anniversary and every subsequent anniversary of the first occupation of the Academic Residential Accommodation a monitoring report in a form to be agreed with the District Council, stating the occupation of each resident and the duration of their tenancy or licence agreement in accordance with paragraph 1 of this Schedule for the 12 month period ending with the submission of the monitoring report.”

3.0 SUMMARY OF CONSULTATIONS & REPRESENTATIONS

A summary of responses received is below. All comments received can be seen in full online at www.whitehorsedc.gov.uk.

3.1 Publicity

This application has been publicised in accordance with Article 15 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) and the Council’s procedures, including the Statement of Community Involvement (SCI), December 2022.

3.2 Statutory Consultee responses

Representation	Comments
North Hinksey Parish Council	No response received
Oxfordshire County Council Highways	No objection. It is considered that the proposed wording is acceptable in highway terms.

3.3 Council - professional officer comments

Representation	Comments
Drainage Engineer	No comments to make.
Contaminated Land Officer	No comments to make.
S106 Infrastructure Team	Please notify us if the application is permitted

3.4 Public responses

One letter of objection has been received.

Representation	Comments
Friends of Boars Hill	We are a group of local residents with an interest in planning policy in the Oxford area. We suggest that (a) the 16-week minimum course restriction is reduced to 10-weeks; to allow more genuine students to have access to the purpose-built West Way Square accommodation.

	<p>The 16-week restriction does not benefit any of the directly concerned parties:</p> <ul style="list-style-type: none">• West Way Square, a locally owned Oxford accommodation business;• International students, who presently, or will come to the UK for Oxford 10-week full-time study courses, and are the intended target of the West Way Square (high-quality purpose-built) student accommodation;• Vale of White Horse, who presently find themselves having to break Green Belt policy, due to a documented shortage of 10-week course student accommodation. From the example overleaf, it is clear there are currently less than 60 bedrooms in all of Oxford for such students;• Local education institutions, who are either already offering or wishing to offer 10-week courses with obvious economic benefits to the City. <p>Adjusting the S106 agreement to allow 10-week course students would be a win-win for all four parties (above) concerned.</p> <p>We note the 16-week period is reportedly an arbitrary figure arrived at by lawyers without reference to education institutions or student needs. The application of arbitrary figures or decisions are not Vale policy.</p> <p>Neighbours at Botley are likely to notice no difference in street activity with a small minority number of students being on 10-week rather than 16-week courses. The facilities at Westway are very good for arrivals and departures and are largely invisible to neighbours.</p> <p>If our suggestion (a) above is not accepted, we would ask that (b) the consultation be called in so the Planning Committee can consider it.</p>
	<p>Example Illustrating the shortage of 10-week course accommodation.</p> <p>The international and well-known Peking University HBSC Business School recently provided the Vale with its professional assessment of the market for 10-week business courses. This was provided in a "Statement of Needs" supporting a higher education business plan for academic courses in Oxford.</p> <p>It stated that "10-week courses form a key part of the Business School [business plan]" (Available on the Vale's Planning Portal; Para 8.14).</p>

	<p>The Vale Officer responded noting that "there are no realistic or feasible [10-week accommodation] options". (Agenda: Officer's Report Para 5.31)</p> <p>This is a direct result of the West Way Square's course length restriction.</p> <p>In relation to this evidence of 10-week course need, please note:</p> <ul style="list-style-type: none"> • The author (HSBC Business School) is a mainstream international university with impeccable business school and higher education credentials. It has schools around the world. Its view of the market for 10-week courses is therefore of significant weight. • HSBC's inward investment into the UK and Oxford (valued currently in excess of £12m) is based on its need for predominantly 10-week courses. (Source as above) That adds further weight to its opinion. • The present fact that this reference no longer offers 10-week courses reflects the situation of no availability of accommodation. This is direct evidence that the Vale and Oxford is currently losing out on economic benefits; benefits that would flow to all parties with the availability of the West Way Square accommodation. <p>(NB: We present this example solely to provide tangible evidence of the demand for 10-week courses, and in turn accommodation, in the opinion of a well-qualified higher education provider.)</p> <p>There is likely very little difference in the enforcement actions needed to ensure use by genuine students in moving from a 16 to 10 weeks restriction.</p>
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4.0 **RELEVANT PLANNING HISTORY**

4.1 Application Number	Description of development	Decision and date
P22/V2434/NM	Non-material amendment to P19/V1731/FUL comprising of the addition of additional glazing to increase the height of the student terrace balustrades.	Approved (23/11/2022)
P20/V0921/FUL	Demolition and redevelopment of existing buildings for new commercial floorspace (Use Classes A1-A5 and B1a) at ground floor level, with development above comprising 150 residential dwellings (C3). Associated car parking and landscaping are also proposed (amended LVIA received 6 July 2020, viability addendum and supporting viability documents	Refused (04/12/2020) - Appeal allowed (12/05/2021)

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	received September 2020, and amended landscape plans for area between West Way and Block A received 20 October 2020).	
P20/V2354/NM	Non material amendment to application ref. P19/V1731/FUL - amendments to Block B Elevation - Addition of External Service Stairs	Approved (22/10/2020)
P20/V2134/NM	Non material amendment to application ref. P19/V1731/FUL - addendum named 'Technical Note 18 - Evening Parking (dated: June 2020)' to the previously approved 'Technical Note 2 (TN2) - Parking Management Strategy (dated: September 2019) discharged under condition P19/V2425/DIS.	Approved (07/10/2020)
P20/V1810/NM	Non material amendment to application ref. P19/V1731/FUL - updated external plan and machinery - Block C - addition of 8 air conditioning units at first floor level.	Approved (23/09/2020)
P20/V1709/NM	Non-Material Amendment to P19/V1731/FUL to amend Block D Minor Elevational Amendments and Landscaping Amendments.	Approved (21/09/2020)
P19/V1731/FUL	Variation of condition 2- approved plans to application ref P19/V0416/FUL for internal and external changes to block B.	Approved (14/04/2020)
P19/V0416/FUL	Variation of condition 2- approved plans to application ref P17/V3298/FUL for internal and external changes to block E.	Approved (13/05/2019)
P19/V0686/NM	Non-Material Amendment to P17/V3298/FUL to make alterations to Blocks C, D, and F.	Approved (30/04/2019)
P17/V3298/FUL	Variation of Conditions 2 and 4 of P16/V0246/FUL for the inclusion of amended plans (as amended by drawings and information received 19 March 2018 and 25 April 2018).	Approved (18/12/2018)
P16/V0246/FUL	Demolition and redevelopment of existing shopping centre and adjacent buildings (but excluding Elms Parade) for new retail development (Use Classes A1-A5) at ground floor level, with development above comprising 140 residential units (C3), 123-bedroom hotel (C1) and 261 units of academic residential accommodation for university staff and students (sui generis). New community building (incorporating library) and replacement Baptist church (D1), small flexible office space (B1). Associated car parking and landscaping and altered vehicular accesses from West Way, Westminster Way and Arthray Road.(as amended by drawings and information	Approved (16/09/2016)

accompanying agents letter dated 10 May 2016).

5.0 ENVIRONMENTAL IMPACT ASSESSMENT

5.1 An Environmental Impact Assessment is not required for this application.

6.0 POLICY & GUIDANCE

6.1 National Planning Policy Framework and Planning Practice Guidance

6.2 Development Plan Policies

Vale of White Horse Local Plan 2031 Part 1 (LPP1) Policies:

Core Policy 1: Presumption in Favour of Sustainable Development

Core Policy 6: Meeting Business and Employment Needs

Core Policy 11: Botley Central Area

Core Policy 30: Further and Higher Education

Core Policy 33: Promoting Sustainable Transport and Accessibility

Core Policy 35: Promoting Public Transport, Cycling and Walking

A Regulation 10A review (five-year review) for Local Plan Part 1 (LPP1) has been completed. The review shows that five years on, LPP1 (together with LPP2) continues to provide a suitable framework for development in the Vale of White Horse that is in overall conformity with government policy.

Vale of White Horse Local Plan 2031 Part 2 (LPP2) Policies:

Development Policy 16: Access

Development Policy 17: Transport Assessments and Travel Plans

Development Policy 23: Impact of Development on Amenity

6.3 North Hinksey Neighbourhood Plan

Policy TR2 (Parking, Access and Vehicle Charging)

6.4 Supplementary Planning Guidance/Documents

Developer Contributions SPD 2021: Delivering Infrastructure to Support Development.

Joint Design Guide SPD 2022: The Joint Design Guide sets out design principles to guide future development and encourage a design-led approach to development.

6.5 Emerging Joint Local Plan 2041

The Council has prepared a Joint Local Plan (JLP) for South Oxfordshire and Vale of White Horse, which, once adopted, will replace the existing local plans.

The JLP was submitted to the Secretary of State on Monday 9 December 2024 for independent examination. In line with paragraph 49 of the National Planning Policy Framework (NPPF), decision-makers may give weight to relevant policies in emerging plans depending on several factors: the stage of

preparation, the extent of unresolved objections, and the degree of consistency with the NPPF.

The starting point for decision taking remains with the policies in the current adopted plan(/s). The JLP is at an advanced stage of preparation and carries some weight. Where unresolved objections have been received on policies, limited weight should be applied, but where there are no unresolved objections, moderate weight can be applied. Full weight should only be applied, where relevant, following the outcome of the independent examination and adoption of the JLP.

7.0 PLANNING CONSIDERATIONS

7.1 The relevant planning considerations are the following:

- **Principle of development**
- **S106a applications**
- **Changes to Schedule 10**

Principle of development

7.2 The site is allocated for development in the Vale of White Horse Local Plan 2031, Part 1 and permission was granted in September 2016 for a mixed-use redevelopment with variations to plans permitted in December 2018, May 2019, and April 2020. A revised scheme increasing residential unit numbers within the site was allowed on appeal in May 2021. There are no material changes in planning policy since consent was granted and the established principle of the proposal remains acceptable.

S106a applications

7.3 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. The modification and discharge of planning obligations is governed by s.106A of the Town and Country Planning Act 1990 which allows for an application to be made to vary or remove obligations associated with a planning permission.

7.4 The relevant planning considerations for this application are only the matters for which the modification is sought. All the other matters were dealt with as part of the approved application and are not for re-consideration here.

Changes to Schedule 10

7.5 The proposed changes to schedule 10 are set out in section 2 of this report. As originally submitted, it was considered the applicant's proposed amendment would result in a substantial change to the student accommodation restrictions associated with the original planning permission. There was concern on the extent to which the proposed change to the legal agreement would derestrict student occupancy. For example, the original proposal sought to widen the scope of the occupation of the potential occupiers, as well as remove the geographical restriction.

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- 7.6 As the original proposal was acceptable based on being student accommodation to meet the needs of the Vale of White Horse and City of Oxford, officers consider the proposal should still be retained for that purpose, and to meet the needs of students and institutions in the area to which the people will be living and associated impacts. Therefore, the restriction on the occupation should be more tightly focussed on its scope and the geographical restriction should still apply.
- 7.7 In addition, to ensure the building remains in student occupation, the accommodation should have an occupancy restriction within it of a suitable length. Indeed, there are concerns regarding letting periods being unrestricted, which would potentially widen the scope of the potential occupancy of the building, for example to ordinary residential. This would in turn reduce the attractiveness of the building to students and potentially lead to conflict between other occupiers within the wider development. There were also concerns about the time restriction being too short, which would lead to a high turnover of occupants, in turn creating issues of amenity, traffic and potentially a material change of use of the building away from student accommodation.
- 7.8 To address this, a minimum 16week occupation limit was proposed and is considered by officers to be the shortest period for university certificate and diploma courses. Having regard to the final wording provided at the beginning of this report, officers consider it will not result in a material change to the use of the building as student accommodation and will not lead to any other detrimental impacts. The local parish council has been consulted on the application and no objections were received. The revised wording of the clause to be amended is agreed with the applicant and is acceptable.
- 8.0 **Other Relevant Legislation**
- 8.1 **Human Rights Act 1998**
The provisions of the Human Rights Act 1998 have been considered in the processing of the application and the preparation of this report.
- 8.2 **Equality Act 2010**
In determining this planning application, the Council has regard to its equality obligations including its obligations under Section 149 of the Equality Act 2010.
- 8.3 **Crime and Disorder Act 1998**
In considering this application, due regard has been given to the likely effect of the proposal on the need to reduce crime and disorder in accordance with Section 17 of the Crime and Disorder Act 1998. In reaching a recommendation, officers consider that the proposal will/will not undermine crime prevention or the promotion of community safety.
- 9.0 **PLANNING BALANCE AND CONCLUSION**
- 9.1 The proposed wording changes set out in paragraphs 2.4 and 2.5 are acceptable and will not result in a material change to the use of the building as student accommodation and will not lead to any other detrimental impacts. The proposal is in accordance with LPP1 CP1 (Presumption in Favour of Sustainable Development), LPP1 DP16 (Access), LPP1 DP17 (Transport

Assessments and Travel Plans), LPP2 DP23 (Impact of Development on Amenity) and North Hinksey NDP Policy TR2 (Parking, Access and Vehicle Charging) and should be approved.

10.0 RECOMMENDATION

Approval of the amendment to schedule 10 of the s106 agreement to the following wording:

Restriction on Occupation

The Developer covenants with the District Council and the City Council:

For a period of at least 43 weeks per year, not to permit the Occupation of any units of Academic Residential Accommodation by any persons other than Students of Further Education or Students of Higher Education attending academic institutions in the City of Oxford, the Vale of White Horse or South Oxfordshire District Council on a course of study of no less than 16 weeks duration, or employees including (but not limited to) interns and research assistants working or studying at academic institutions in the City of Oxford, the Vale of White Horse or South Oxfordshire District Council.

And the following definitions shall apply:

Further Education - post-secondary education that is not Higher Education consisting of a formal course of study towards a qualification designed to lead to the award of an accredited certificate diploma or national vocational qualification (NVQ).”

Higher Education – means tertiary education leading to an academic degree including short-cycle, bachelor, master doctoral level or equivalent.

Student of Further Education – a person enrolled at a further education institution on a further education course.

Student of Higher Education – means a person enrolled at a higher education institution on a higher education course.

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