

## DELEGATED REPORT

**Application Number:** 21/00673/FUL

**Decision Due by:** 13th May 2021

**Proposal:** Change of use of first, second, third and enlarged fourth floors from office space (Use Class E) to create a 2 x 1-bed and 1 x 2-bed dwelling (Use Class C3). (amended plans) (amended description)

**Site Address:** Golden Cross Court 4 Cornmarket Street Oxford Oxfordshire

**Ward:** Carfax Ward

**Agent:** Mr Jake Collinge

**Applicant:** Devonshire Metro Ltd

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### Recommendation:

APPLICATION BE APPROVED

For the following reasons:

- 1 The Council considers that the proposal accords with the policies of the development plan as summarised below. It has taken into consideration all other material matters, including matters raised in response to consultation and publicity. Any material harm that the development would otherwise give rise to can be offset by the conditions imposed.
- 2 The Council considers that the proposal, subject to the conditions imposed, would accord with the special character and appearance of the conservation area. It has taken into consideration all other material matters, including matters raised in response to consultation and publicity.
- 3 The Council considers that the proposal, subject to the conditions imposed, would accord with the special character, setting, and features of special architectural or historic interest of the listed building. It has taken into consideration all other material matters, including matters raised in response to consultation and publicity.

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

- 1 Development begun within time limit
- 2 Development in Accordance with Plans

- 3 Materials
- 4 Construction Traffic Management Plan
- 5 Southern and Eastern Party Walls
- 6 Windows
- 7 Paraphernalia
- 8 Parking Permits
- 9 Cycle stores
- 10 Refuse Storage

### **Main Local Plan Policies:**

#### **Oxford Local Plan 2036**

- S1** - Sustainable development
- S2** - Developer contributions
- DH1** - High quality design and placemaking
- DH3** - Designated heritage assets
- DH6** - Shopfronts and signage
- DH7** - External servicing features and stores
- H4** - Mix of dwelling sizes
- H14** - Privacy, daylight and sunlight
- H15** - Internal space standards
- H16** - Outdoor amenity space standards
- M3** - Motor vehicle parking
- M5** - Bicycle Parking
- V2** - Shopping Frontages in the city centre
- RE1** - Sustainable design and construction
- RE2** - Efficient use of Land
- RE3** - Flood risk management
- RE4** - Sustainable and foul drainage, surface
- RE7** - Managing the impact of development
- RE8** - Noise and vibration
- RE9** - Land Quality
- V1** - Ensuring the vitality of centres

### **Other Material Considerations:**

National Planning Policy Framework  
This application is in the Central Conservation Area.  
Planning Practice Guidance

### **Relevant Site History:**

87/00032/NFH - Change of use from retail shop to photographic retail store, photographic studio and on-premises colour film and print processing (mini-lab). New front (4 Cornmarket Street). WDN 7th April 1987.

92/00535/AH - Internally illuminated fascia lettering and internally illuminated double-sided projecting sign (Retrospective). (4 Cornmarket Street). REF 10th February 1993.

92/00938/NFH - New shop front to Golden Cross Arcade. Change of use of upper floors to office accommodation (class B1) amended plans (4 Cornmarket Street). PER 11th February 1993.

19/02603/ADV - Display of 1no. externally illuminated fascia sign and 1no. non-illuminated hanging sign (amended plans and description).. PER 8th January 2020.

19/02661/FUL - Insertion of 1no. vent grille to side elevation, alteration to 1no. existing extract grille and alterations to shopfront.. PER 17th December 2019.

20/01648/CONSLT - PLEASE NOTE THIS IS NOT A PLANNING APPLICATION. Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2020 (COVID-19) to use pavement for 6 tables and 12 chairs, Monday to Sunday 10:30hrs to 17:30hrs from 4th July to 3rd October 2020. NDR 8th July 2020.

### **Representations Received:**

None Received

### **Statutory Consultees:**

Highways Authority

- No objection, conditions required

Historic England Commission

- No comment

### **Issues:**

- I. Principle
- II. Mix of Dwellings
- III. Design and Heritage
- IV. Neighbouring Amenity
- V. Occupier Amenity
- VI. Cycle Parking

- VII. Car Parking
- VIII. Sustainability
- IX. Drainage
- X. Noise

### **Officers Assessment:**

#### **Site:**

This application relates to 4 Cornmarket Street, which fronts a principal street in the Central Conservation Area in the city centre. The building is four storeys in height; although the majority of the building is set across three storeys there is an existing box-like extension at roof level which also provides access to the roof. The ground floor is currently in a retail use (Use Class E) while the upper floors are in use as office space (Use Class E).

The building currently in situ dates from the 1920's when it was largely rebuilt in the wake of a fire which heavily damaged the previous building. The principal of the building façade consists of a modern shopfront and associated signage at ground floor level with marbled cladding and large metal frames windows above, although the front façade has smaller windows at third floor level. The fourth floor features parapet railings while the extension at this level is set a significant distance from the front building line and is thereby largely obscured from public views from Cornmarket Street.

4 Cornmarket Street abuts the covered passageway into the Golden Cross courtyard, which sits to the north of the building; access to the upper floors of the building, to which this application relates, is achieved via Golden Cross. This façade of the building features a few small window openings and is finished in painted pebbledash render.

#### **Proposal:**

Planning permission is sought to change the use of the first, second, third and fourth floors from office space (Use Class E) to two single-bed dwellings and one two-bed dwelling (Use Class C3). This would entail internal works to form a single-bed flat at each the first and second floor levels and then a duplex flat set across the third and fourth floors. Access to the flats would be achieved via a shared stairway which would open out onto Golden Cross. Some cycle storage for fold-out cycles would be provided in a cupboard within the hallway at first floor level.

Externally, changes are limited to insertion of a new door at fourth floor level, providing access to the roof, and the installation of a balustrade on the rear elevation of the fourth floor. Some reference has been made to the replacement of windows but they were not included in the application description and no specific details have been provided regarding the windows.

The application originally included a fourth floor extension to the building, in order to extend the living space of the top flat to accommodate a third bedroom. This element of the proposal was removed following officers' advice that this element

would have had unacceptable impacts in terms of design and heritage.

## **Assessment:**

### Principle

Where proposals are presented for housing development on unallocated brownfield sites, the City Council will take a positive approach, applying the presumption in favour of sustainable development as per Policy S1 of the Oxford Local Plan 2036.

Policy RE2 states that planning permission will only be granted where development proposals make efficient use of land. Development proposals must make best use of site capacity, in a manner compatible with the site itself, the surrounding area and broader considerations of the needs of Oxford. The development proposal must have a density appropriate for the proposed use, with an appropriate scale and massing, maximise the appropriate density with a built form and site layout appropriate to the capacity of the site.

The application site consists of a tall four storey building with retail uses at ground floor and office uses above. The existing use makes good use of the site, with each floor being used effectively in a Class E use. However, changing the use of the office space to housing would equally make an efficient use of the land; the principle of continuing to optimise the use of the site is considered desirable and the proposal acceptable, when considering Policy RE2. The proposed development would also only entail relatively modest alterations to the site which would not appear visually incongruent in the context of the site. Therefore it is considered that the proposed development would be of an appropriate density for the capacity of the site.

The proposal maximises the capacity of the site. However, a fine balance must be struck between land use efficiency and not overdeveloping the site. This is especially the case here given the constrained nature of the site and resulting sensitivities such as with regard to neighbouring amenity and heritage matters. A comprehensive assessment of all of these issues can be found in the following sections of this report; however, in summary, planning officers consider that the proposal maximises the efficiency of the proposed land use in a manner compatible with the site. Indeed, the proposal would retain the external configuration on the site for the most part.

Policy V2 of the Oxford Local Plan 2036 states that permission will only be granted for A1 uses in secondary shopping frontages; other Class A uses will only be allowed where the proportion of units at ground floor level in A1 use does not fall below 40%. Non-Class A uses will not be allowed where the proportion of Class A units occupying the ground floor falls below 85%. Given the change in use classes following September 2020, the Council is not applying the 40% threshold to retail uses but is applying the 85% threshold to Class E town centre uses, as per the relevant draft technical advice note that is being prepared.

The application would not lead to a decrease in active frontage as the commercial unit at ground floor level would be retained. Therefore the proposal would be acceptable in this regard.

## Mix of Dwellings

Policy H4 of the Oxford Local Plan 2036 states that sites below the threshold or within the city centre or a district centre should demonstrate how the proposal has had regard to local housing demand, including for affordable housing demonstrated by the housing register. The proposals fall below the threshold for a prescribed mix of dwellings as set out in the policy; the proposals also fall below the threshold for providing on site affordable housing.

The proposal amounts the re-configuration of the existing building to create three dwellings. This is considered acceptable; given the siting of the development so close to the facilities and amenities of the city centre, it is considered appropriate to maximise the number of dwellings in this location.

Officers consider that the development would be acceptable in terms of the type of accommodation provided; this being a highly sustainable site and having the opportunity to provide a greater number of smaller units within in a city centre. The proposal is therefore considered acceptable in terms of a mix of dwellings and Policy H4.

## Design and Heritage

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.

Policy DH3 of the Oxford Local Plan 2016 states that planning permission will be granted for development that respects and draws inspiration from Oxford's unique historic environment (above and below ground), responding positively to the significance character and distinctiveness of the heritage asset and locality. For all planning decisions, great weight will be given to the conservation of that asset and to the setting of the asset, where it contributes to that significance or appreciation of that significance. Where a development proposal will lead to less-than-substantial harm to a designated heritage asset, this harm must be weighed against the public benefits of the proposal, which should be identified by the applicant.

Policy DH7 of the Oxford Local Plan 2036 states that permission will only be granted where outdoor needs are properly accommodated, including refuse and recycling storage. Bins should be provided in accordance with Oxford City Council's Technical Advice Note on bin storage.

The application site is situated within an important part of the conservation area, and within the setting of the Grade I listed Golden Cross complex and the Grade II\* listed 5 Cornmarket Street. Currently the existing principal building has a relatively sympathetic relationship with the adjoining buildings; 3 Cornmarket Street (Grade II\*) and 5 Cornmarket Street (locally significant). The existing rear four storey block, by reason of its height, flat roof & blocky form is quite an imposing structure which has a negative impact on the setting of the Golden Cross complex of buildings (Grade I), its courtyard and the wider roofscape of the Central Conservation Area, particularly as

experienced from Carfax Tower. Its impact on the setting of 3 & 5 Cornmarket is to a lesser degree given it is set back from these buildings.

The proposed changes would largely be internal to the building. The proposed balustrade would reflect those already on site and would appear a congruent addition to the roof. The proposed door at fourth floor level would also be relatively understated and would not exacerbate the existing negative impact of this extension.

Turning to matters of waste storage, it is noted that there is no feasible way of storing waste in the upper floors of the buildings to serve the flats. Equally, storing waste on the street would not be acceptable as this would cause harm to the special character of the surrounding heritage assets as well as encourage anti-social behaviour, such as fly tipping. The application proposes that future occupants use the waste facilities at the service yard for the Covered Market, making use of the terms of a Deed of Easement that covers the site, and is not specific to certain land uses. While this would include walking a distance from the application site to dispose of waste and the service yard may be closed for portions of the day, planning officers consider that this is the only way that waste storage can reasonably be accommodated for the occupants of the proposed dwellings. Furthermore, it is noted that this is the existing arrangement for the occupants of the existing office space. While it is unfortunate that a more practical solution cannot be attained, planning officers consider that this would be the best way of reasonably accommodating waste storage in this location, given the constraints of the site and is acceptable, on balance.

Planning officers have also conditioned works to avoid the southern and eastern part walls to prevent unexpected damage to the historic fabric to neighbouring listed buildings. A construction management plan has also been required by condition to this effect. Furthermore, a condition has been applied to prevent the occupants of the approved flats from retaining or storing paraphernalia at roof level. This is to prevent the roof being cluttered with miscellaneous garden furniture which would harm important views from within the conservation area, notably Carfax Tower.

Having regard to the above, it is considered that the proposal is acceptable in terms of design and heritage matters and therefore Policies DH1, DH3 and DH7.

Regard has been paid to paragraph 192 of the NPPF in reaching a decision. When applying the test outlined in paragraph 196, it is considered that the proposal would cause less-than-substantial harm to the significance of the heritage assets; however this would be outweighed by the associated public benefits, namely the provision of housing in a sustainable location. Therefore, the proposals would be acceptable in terms of their impact on this designated heritage asset.

Special attention has been paid to the statutory test of preserving or enhancing the character and appearance of the heritage assets under Sections 66 and 72 of the Planning (Listed Building and Conservation Areas) Act 1990, which it is accepted is a higher duty. It has been concluded that the development would preserve the character and appearance of the heritage assets, and so the proposal accords with Sections 66 and 72 of the Act.

### Neighbouring Amenity

Policy H14 of the Oxford Local Plan 2036 states that planning permission will only be granted for new development that provides reasonable privacy, daylight and sunlight for occupants of both existing and new homes. Policy H14 sets out guidelines for assessing development in terms of whether it will allow adequate sunlight and daylight to habitable rooms of the neighbouring dwellings.

The proposal would accord with the 25/45 degree access to light test, as set out in Policy H14, and would therefore not give rise to an unacceptable loss of direct daylight to neighbours. Having considered this, the existing arrangement of the site and the orientation of the sun officers consider that the proposal would not give rise to an unacceptable loss of light to neighbours.

The proposed development would not entail significant additions to the building or involve the erection of built form of any substantial bulk. The proposed changes would also be set sufficiently far from neighbours and modest in scale so as to not give rise to unacceptable overbearing to neighbours.

In terms of privacy, the proposed glazing would only offer views that can already be afforded from the existing windows on the site. The proposal would therefore not lead to an unacceptable erosion of privacy to neighbours.

Having considered all of the above, the proposal is acceptable in terms of neighbours' amenity and Policy H14.

### Occupier Amenity

Policy H15 of the Oxford Local Plan 2036 states that planning permission will only be granted for new dwellings that provide good quality living accommodation for the intended use. All proposals for new build market and affordable homes (across all tenures) must comply with the MHCLG's Technical Housing Standards – Nationally Described Space Standard Level 113.

Policy H16 of the Oxford Local Plan 2036 states that planning permission will only be granted for dwellings that have direct and convenient access to an area of private open space. H16 sets out the expectations for the size and quality of outdoor space across various types of dwellings.

All of the proposed dwellings meet the minimum space standards, as set out in MHCLG's Technical Housing Standards – Nationally Described Space Standard Level 113. The proposed dwellings would all have coherent internal layouts and would provide high quality living space for the future occupants.

The proposal is for small flats. Therefore the outdoor amenity space need only be a balcony or small garden, when considering Policy H16. Only the two-bed flat set across the third and fourth floors would have access to any outdoor amenity; the roof terrace. This terrace would offer an acceptable degree of amenity to future occupiers of that flat. The bottom two flats would not have access to any private outdoor amenity space. However, in this specific case, officers note that there is no way of reasonably accommodating any balconies, or similar, on the site. Furthermore, the site is located



in the city centre with good access to local amenity, including outdoor areas of amenity. Therefore, on balance, the proposal is acceptable in this regard.

The proposed dwellings have adequate internal and outdoor amenity and so are acceptable in terms of Policies H15 and H16.

### Cycle Parking

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 7.3. 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.

The proposal offers integral secure parking for two cycle per dwelling in the form of a storage cupboard at first floor level. This is clearly not an ideal solution due to the fact that only fold-out bikes could be readily accommodated and these would need to be taken up a flight of stairs from the street. However, planning officers accept that the constraints of the site means that a formal area of cycle parking at ground floor level cannot be accommodated and that this solution is the only way in which any form of cycle storage could reasonably be accommodated. It is also noted that the site is in the city centre with very good local and national public transport networks. Therefore, on balance, planning officers consider that the proposed arrangement is acceptable, in this instance.

It is noted that the Highways Authority requested a condition seeking details of the proposed cycle parking. This is not considered necessary, when considering paragraph 55 of the NPPF, since cycle storage has been proposed on the submitted plans.

The proposal is acceptable in terms of cycle parking and Policy M5.

### Car Parking

Policy M3 of the Oxford Local Plan 2036 states that in Controlled Parking Zones or employer-linked housing areas where occupants do not have an operational need for a car where development is located within a 400m walk to frequent public transport services and within 800m walk to a local supermarket or equivalent facilities planning permission will only be granted for residential development that is car-free. In all other locations, M3 states that planning permission will only be granted where the relevant maximum standards set out in Appendix 7.3 are complied with.

The development proposal would result in the net gain of three new dwellings. Given that the site is within 400 of a supermarket, 800m of frequent public transport and within a CPZ, the new dwelling must be car free. The proposal is for car free dwellings and officers are satisfied that cars could not be readily accommodated

on the site. However, condition 8 has been included excluding this unit from eligibility for car parking permits.

The proposal is therefore acceptable in terms of car parking and Policy M3.

### Sustainability

Policy RE1 of the Oxford Local Plan 2036 states that planning permission will only be granted where it can be demonstrated that sustainable design and construction principles, set out in RE1, have been incorporated. It is expected that 25% of energy will be on-site renewables; water consumption must also meet the requirements of Building Regulations Part G2. An Energy Statement will be submitted to demonstrate compliance with this policy for new-build residential developments (other than householder applications) and new-build non-residential schemes over 1,000m<sup>2</sup>. On schemes of five or more residential dwellings or 1000m<sup>2</sup>. The Energy Statement will include details as to how the policy will be complied with and monitored.

It is noted that this development would not include new-build residential development, but rather the existing and subdivision of an existing building to create new dwellings. Therefore the requirements of Policy RE1 would not apply.

The proposal is acceptable in terms of Policy RE1 and sustainability.

### Drainage

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. Minor householder extensions may be permitted in Flood Zone 3b, as they have a lower risk of increasing flooding. Proposals for this type of development will be assessed on a case by case basis, taking into account the effect on flood risk on and off site. Development will not be permitted that will lead to increased flood risk elsewhere, or where the occupants will not be safe from flooding.

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.

The application site is in a Flood Zone 1 area and is therefore not at significant risk of flooding. The proposal would also not entail an increase to the size of the footprint of the building or development at ground floor level which may alter the existing drainage strategy for the site.

The proposal is therefore acceptable in terms of drainage and Policies RE3 and RE4.

### Noise

Policy RE8 of the Oxford Local Plan 2036 states that planning permission will only be granted for development proposals which manage noise to safeguard or improve amenity, health, and quality of life. Planning permission will also not be granted for development that will generate unacceptable noise and vibration impacts. Planning permission will not be granted for development sensitive to noise in locations which experience high levels of noise, unless it can be demonstrated, through a noise assessment, that appropriate attenuation measures will be provided to ensure an acceptable level of amenity for end users and to prevent harm to the continued operation of existing uses.

It is considered that the proposed dwellings would be unlikely to result in a significant increase to the amount of noise on the site, compared to the existing arrangement. While it is noted that there is a public house, and other such amenities, in close proximity to the site, it is considered that there would likely be sufficient relief from this source of noise so as to not give rise to unacceptable noise and disturbance to future occupants. Furthermore, it is noted that in a town centre location, such as this, there would be an expectation for a reasonable degree of noise.

Considering the above, the proposal is acceptable in terms of noise and Policy RE8.

### **Conclusion:**

It is considered that planning permission should be granted, subject to conditions.

### **Human Rights Act 1998**

Officers have considered the Human Rights Act 1998 in reaching a recommendation to grant planning permission, subject to conditions. Officers have considered the potential interference with the rights of the owners/occupiers of surrounding properties under Article 8 and/or Article 1 of the First Protocol of the Act and consider that it is proportionate.

Officers have also considered the interference with the human rights of the applicant under Article 8 and/or Article 1 of the First Protocol caused by imposing conditions. Officers consider that the conditions are necessary to protect the rights and freedoms of others and to control the use of property in accordance with the general interest. The interference is therefore justifiable and proportionate.

### **Section 17 of the Crime and Disorder Act 1998**

Officers have considered, with due regard, the likely effect of the proposal on the need to reduce crime and disorder as part of the determination of this application, in accordance with section 17 of the Crime and Disorder Act 1998. In reaching a recommendation to approve, officers consider that the proposal will not undermine crime prevention or the promotion of community safety.

**Background Papers:**

21/00673/FUL

**Contact Officer:** James Paterson

**Date:** 15th July 2021