



ET Planning

Planning Statement

Client:



4 Cornmarket Street

Oxford, OX1 3EX

*Section 73 Application to vary conditions no.2 and
no.9 of Application Ref. 21/00673/FUL*

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Appendix 1 - Email Correspondence (Dated 05/04/2024)

Appendix 2 - 21/00673/FUL Decision Notice (Granted 12/07/2021)

Appendix 3 - 21/00673/FUL Officer Report

1. Introduction

- 1.1 This statement is produced to support a Section 73 application seeking to respectively vary and remove conditions no.2 and no.9 of approved planning application 21/00673/FUL (granted 16/07/2021).
- 1.2 The variation of condition is required to remove the requirement for cycle storage as the subsequent Building Control application for the scheme cannot be approved owing to fire risk (Appendix 1 comprises email correspondence between the applicant, the LPA and Building Control confirming this position). As such, the scheme cannot be delivered with on-site cycle storage.
- 1.3 This planning statement will cover the background to the application and provide the necessary information to enable its determination by officers at the Council. It will consider the proposal in light of relevant planning policies and other material considerations. The conclusion reached is that key material considerations and the wider objectives of National and Local planning policy support the grant of permission.
- 1.4 In addition to this planning statement, the application is accompanied by the appropriate planning application forms and ownership certificate, duly signed and completed, and the following documents prepared by AK Architects:
 - 1:50 Proposed First Floor Plan (1236-30 Rev. I)
- 1.5 The relevant application fee will be submitted by the applicant separately.

2. Site Location and Description

- 2.1 The application site comprises a five-storey building fronting Cornmarket Street, orientated towards the south-west. The fourth floor of the building comprises a smaller storey providing access to the roof of the building.
- 2.2 The building is located within Oxford City Centre comprising a mix of residential and commercial uses reflective of the busy city centre and wide range of services and amenities.

3. Planning History

- 3.1 The application site has an extensive planning history however, only permissions relevant to this application (and the current chapter of the sites history) has been provided below:
- 3.2 Application Ref 21/00673/FUL 'Change of use of first, second, and enlarged fourth floors from office space (Use Class E) to create 2 x 1-bed and 1 x 2-bed dwelling (Use Class C3). (amended Plans) (Amended Description) Granted Conditionally 16/07/2021
- 3.3 Application Ref 21/00673/CND 'Details submitted in compliance with condition 4 (Construction Traffic Management Plan) of planning permission 21/00673/FUL Approved 21/02/2024

4. Development Proposals

- 4.1 The proposal seeks to vary condition no.2 and remove condition no.9 of 21/00673/FUL in order to remove the requirements for internal cycle storage to be provided as part of the approved development (as the integral store cannot be provided owing to building control regulations).
- 4.2 For clarity condition no.2 is the plan list condition which states:

"Subject to conditions 2, 16 and 17 the development permitted shall be constructed in complete accordance with the specifications in the application and approved plans listed below, unless otherwise agreed in writing by the local planning authority.

Reason: To avoid doubt and to ensure an acceptable development as indicated on the submitted drawings in accordance with Policy S1 of the Oxford Local Plan 2036".

- 4.3 The proposed variation would seek to replace the approved first floor plan no.1236 12 Rev. B with plan no. 1236 30 Rev.I (provided with this submission). The relevant plan list is provided at the bottom of the decision notice and would be altered in the event of approval of the application.
- 4.4 The S73 also offers the chance to correct the drafting error present in condition 2 where it references condition 16 and 17 which do not exist in the permission.
- 4.5 The variation of condition no.2 would coincide with the removal of condition no.9 from the permission removing the requirement entirely for cycle storage to be provided. For clarity condition no.9 states:

"Prior to the first occupation of the approved dwellings, the cycle storage shall be completed as shown on the approved plans unless agreed otherwise in writing by the Local Planning Authority.

Reason: To ensure that there is adequate cycle storage as required by Policies DH1 and M5 of the Oxford Local Plan 2036".

5. Policy Assessment

- 5.1 **Variation of Condition:** Section 73 of the Town and Country Planning Act 1990 (as amended) allows for the application for planning permission of development of land without complying with conditions subject to which a previous planning permission was granted.
- 5.2 Section 73(2) of the act states: "On such an application the local planning authority shall consider only the question of the conditions subject to which permission should be granted..." (emphasis added).
- 5.3 As such the principle of development or any other material considerations in relation to the original application are only to be considered in so far as their relevance to the condition(s) subject to this application.
- 5.4 It is reiterated Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be determined in accordance with the Development Plan, unless material considerations indicate otherwise. In short, where a proposal accords with the Development Plan permission should be granted, it is established case law that for a development to 'accord' with a Local Plan as a whole does not require compliance with every relevant policy.
- 5.5 Paragraph: 001 reference ID: 21a-0010-20140306 (revision date 06 03 2014) of the National Planning Practice Guidance (PPG) states conditions can either enhance a development or should be used to enable development to proceed where it would otherwise have been necessary to refuse planning permission by mitigating adverse effects. The paragraph goes onto state the objectives of planning are best served when the power to attach conditions to a planning permission is exercised in a way that is

clearly seen to be fair, reasonable and practicable. Likewise the National Planning Policy Framework (2021) ('NPPF') states planning conditions should only be imposed where they are relevant to planning (and to the development permitted), enforceable, precise and reasonable.

- 5.6 In short, if a condition is not necessary to enable planning permission to be granted (because it would still be in accordance with the development plan) then a S73 application for its removal should be granted.
- 5.7 **Cycle Storage:** As per the reasoning of condition no.9 the relevant local plan policies are DH1 and M5 of the Adopted Oxford Local Plan (Adopted 2016 – 2036).
- 5.8 DH1 states that planning permission will only be granted for development of high-quality design that creates or enhances local distinctiveness.
- 5.9 Policy M5 states that planning permission will only be granted for development that complies with or exceeds minimum bicycle parking provision.
- 5.10 Policy DH1 does not provide any requirement in relation to cycle storage however, owing to the general thrust of the plan seeking to incorporate sustainable modes of transport (as per Policy M5) it is likely the provision of dedicated cycle storage is considered to contribute to high-quality design.
- 5.11 The Officer Report in imposing the condition stated that the integral stores would be impractical but that the LPA accepted the constraints of the site and that its location in the City Centre is an area with “very good local and national public transport networks”.

- 5.12 In accepting the constraints of the site permission was granted owing to the existing public transport links in the vicinity. It is considered that owing to these public transport links that the removal of the condition would not prejudice any sustainability objectives.
- 5.13 It should be noted that the National Design Guide states that 800m is considered 'walkable' and generally no more than a 10 minute walk to access facilities. However, the MfS is clear that this is not an upper limit and 2km is considered to offer the greatest potential to replace short car trips.
- 5.14 Regardless the Officer Report states in no uncertain terms: "...the site is within 400m of a supermarket, 800m of frequent public transport and within a CPZ".
- 5.15 For clarity there are four bus stops less than 200m from the application site, whilst Oxford Station is circa 800m away (crows fly). The lack of any dedicated cycle storage is therefore not a barrier to development with public transport options being within less than a 2 minute walk from the development.
- 5.16 Finally, the Officer Report also noted (under the assessment of residential amenity) that in acknowledging the constraints of the site that the site is in a location with good access to amenity (assessed considering the car free implications of the development).
- 5.17 The above should also be viewed in conjunction with the fact that condition no.8 is to be retained as part of the variation ensuring that the development remains car free.
- 5.18 Therefore, the LPA in granting residential development in this location have already accepted there is a range of services/facilities in proximity to the site within walking distance and should further trips beyond 800m and up to 2km be required there are sustainable

transport modes available to accommodate this without the need for bicycles.

5.19 As such, whilst cycle parking is required by Policy M5, the removal of the condition would still result in a development in accordance with the spatial strategy and the local plan and it is therefore considered the variation application should be granted.


5.20 It should also be noted that the applicant is exploring options to provide off-site cycle parking within Golden Cross for the development, whilst this is unable to be secured via this S73 application it should be noted the removal and variation of the conditions does not preclude a separate application to enhance the sustainable transport modes offered to occupiers.

6. Conclusion

6.1 This statement has demonstrated that the proposed variation would still overall accord with the Local Plan and its spatial strategy. The development without cycle storage is in a location that allows occupiers to access services/facilities and wider transport infrastructure without undermining any sustainability objectives and is still able to make an efficient use of land.

6.2 It is considered that the proposed scheme complies with relevant Development Plan Policies and is further supported by National Guidance. Therefore, it is respectfully requested that planning permission is granted.

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