



Appeal Decisions

Hearing Held on 17 January 2023

Site visit made on 18 January 2023

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 9th February 2023

Appeal A: APP/G3110/W/22/3308048 **Jericho Wharf, Canal Street, Oxford OX2 6BG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Cornerstone Land Ltd against the decision of Oxford City Council.
 - The application Ref 20/01276/FUL, dated 28 May 2020, was refused by notice dated 6 April 2022.
 - The development proposed is demolition of existing structures and garages, redevelopment to provide mixed residential, community centre and boatyard uses, including associated works for the provision of new public realm, ramped access to St Barnabas Church and works to the canal.
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Appeal B: APP/G3110/Y/22/3308049 **Jericho Wharf, Canal Street, Oxford OX2 6BG**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) against a refusal to grant listed building consent.
 - The appeal is made by Cornerstone Land Ltd against the decision of Oxford City Council.
 - The application Ref 20/01277/LBC, dated 28 May 2020, was refused by notice dated 5 May 2022.
 - The works proposed are construction of a ramp and steps to the south-west elevation of the church and demolition of curtilage boundary walls to south-west.
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Decisions

Appeal A

1. The appeal is allowed, and planning permission is granted for demolition of existing structures and garages, redevelopment to provide mixed residential, community centre and boatyard uses, including associated works for the provision of new public realm, ramped access to St Barnabas Church and works to the canal, at Jericho Wharf, Canal Street, Oxford OX2 6BG in accordance with the terms of the application, Ref 20/01276/FUL, dated 28 May 2020, and subject to the conditions set out in the schedule at the end of this decision.

Appeal B

2. The appeal is dismissed.

Procedural Matters

3. Appeal B relates to an active place of worship within the Faculty Jurisdiction of the Church of England. The works proposed are therefore covered by the Ecclesiastical Exemption. As set out within the Act, this means that they

require Faculty approval rather than listed building consent. For this reason, were I to proceed to determine Appeal B, my decision would have no lawful effect. Having consulted the main parties on the matter I have therefore resolved to take no further action in relation to Appeal B, which I have necessarily dismissed. As this dismissal is on procedural grounds it has no bearing on the merits of the works proposed, which remain to be properly considered within the context of the Faculty process. To the extent that the proposed works also require planning permission, I shall however consider them in relation to Appeal A below. In this regard my decision should not be seen to prejudice the outcome of any application made for Faculty approval.

4. In the absence of Faculty approval the scheme would be incapable of delivery. This would however be a matter for the appellant to resolve.
5. The scheme was amended during the course of its determination. The description in the banner heading above reflects the amended scheme.

Main Issues

6. The main issues relevant to Appeal A are:
 - whether the scheme would make adequate provision for affordable housing; and
 - the effect of the scheme on heritage assets, and more specifically whether:
(a) it would preserve a Grade I listed building its setting and any of the features of special architectural or historic interest that it possesses, and (b) whether it would preserve or enhance the character or appearance of Jericho Conservation Area (the Conservation Area), including a number of non-designated heritage assets.

Reasons

Background

7. The appeal relates to a canal-side site allocated for mixed use within the Oxford Local Plan 2036, adopted 2020 (the Local Plan). Most of this is a wharf, most recently occupied by a boatyard, which has been disused since 2006. The site also includes a garage block and part of the curtilage of the adjacent church. All are currently in separate ownerships. A broadly similar scheme has been previously approved, but this was never implemented. Whilst interested parties dispute the reasons, the scheme has expired. The previous scheme does not therefore exist as an implementable alternative to the appeal scheme.
8. Requirements relating to the allocation are set out within Policy SP33 of the Local Plan, which outlines a number of elements that a scheme should deliver. Alongside 'residential', these comprise an ambitious range of community/public facilities and infrastructure, including a public open space/square, a bridge, a community centre and a replacement boatyard. Policy SP33 itself makes no specific reference to affordable housing. This is however separately covered by Policy H2 of the Local Plan, whose provisions include scope for flexibility based on viability.
9. Somewhat greater detail is set out within the Jericho Canalside Development Brief SPD 2013 (the SPD). However, this is not referenced within Policy SP33, its own policy references are out of date, and the Council states that it is

expired. Though this is a matter again disputed by interested parties, the above considerations mean that the SPD attracts little weight.

Affordable housing

10. A failure to robustly demonstrate the scheme's inability to provide for affordable housing was the basis upon which planning permission was refused. This was notwithstanding the fact that consultants appointed by the appellant and the Council had previously reached agreement on scheme viability. The Council has subsequently supported its position at appeal within a new viability assessment. This confirms the inability of the scheme to provide any on-site affordable housing, but also asserts that scope exists for a £50k contribution to be made towards off-site provision.
11. Several viability assessments have been set before me. These are variously dated and illustrate ongoing change in prices driven by inflation in property and construction costs. Within this context land and property valuation, and the broader costs of the scheme are all now subject of dispute. These together account for significant differences in the projected level of developer profit considered to be achievable.
12. In relation to land valuation, a gulf of £1.3million separates the main parties, with a £1million valuation now adopted by the Council, and a £2.3million valuation adopted by the appellant. It was clarified at the Hearing that whilst £2.3million had been inputted as a cost by the appellant, this was not a price already paid for land. Indeed, the appellant does not currently own any of the site, and the largest part of it was reportedly last sold for £2.6million. The £2.3million figure was instead a value established through a combination of existing/alternative use value plus a premium, covering the various parts of the site which require assembly.
13. Within this context modelling the existing/alternative use value of the site is made difficult by the lack of directly comparable sites, and the fact that most of the appeal site is long disused and not available for other uses pending redevelopment. However, insofar as differences between the parties can be accounted for by a lack of any premium added to the £1million valuation adopted by the Council, this is clearly at odds with advice within the National Planning Policy Guidance.
14. Nor can it be assumed that assembly of the smaller parts of the site could be achieved at nil cost, albeit the Council's assessment makes no provision for this. The exact means by which site assembly would occur remains to be determined, and thus the costs are again uncertain. However, it seems likely that this would include the acquisition of freehold or leasehold interests in the various parcels of land in question. Within this context the Council conceded at the Hearing that it would seek to extract maximum value from the part of the site that it currently owns. On that basis alone the £1million figure used in its viability assessment is too low.
15. The Council also acknowledged that whilst its new assessment halves the allowance made for contingences, significant doubt exists in relation to various areas of cost including site remediation.

16. Though the parties agreed that higher sale prices might be achieved than had previously been modelled, the lack of any direct local comparison for the scheme creates further uncertainty.
17. My above findings indicate that whilst higher revenues might perhaps be generated by the scheme, its likely costs would also be much higher than have been modelled by the Council. The Council's assessment otherwise acknowledges both the scheme's marginal viability, and its sensitivity to minor changes in costs or values. As such, when taking the above matters into account I can have very little confidence that the scheme would generate the surplus necessary to provide a £50k contribution towards affordable housing.
18. I am therefore satisfied that non-payment of a contribution towards affordable housing would not conflict with Policy H2 of the Local Plan. As such, the £50k secured towards affordable housing by the submitted Section 106 agreement (S106) does not meet the tests set out within Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) and paragraph 57 of the National Planning Policy Framework (the Framework) (collectively 'the tests') and cannot be taken into account.
19. It is common ground that use of a review mechanism to capture a proportion of any uplift in profit above the target return would be fair, and I agree. This would cater for the above uncertainty, providing 60% of any uplift in favour of the Council. Though interested parties argue that all such uplift should be captured, in the absence of any certainty of what such an uplift would be, how it would arise, and if indeed there would be any uplift at all, the agreed apportionment is acceptable. I therefore find that the review mechanism, as secured by the S106, passes the tests, and that on this basis the scheme would make adequate provision for affordable housing.
20. Interested parties state that an option exists for the Canals and Rivers Trust (CRT) to buy back the former boatyard for a peppercorn. Both main parties however state that the agreement, which if extant would clearly place delivery of the scheme in doubt, has expired. It would otherwise be wholly unrealistic to assign a peppercorn value to the site for the purposes of establishing the viability of the appeal scheme, as the current landowner would not sell the land to a developer on such terms. My findings above are therefore unaltered.
21. For the reasons outlined above I conclude that the scheme would make adequate provision for affordable housing. It would thus comply with Policy H2 of the Local Plan as also set out above.

Heritage assets

22. The Council did not refuse planning permission on heritage grounds. This was despite refusing listed building consent on the basis that the public benefits of the scheme would not outweigh the harm that it would cause. Given the applicable statutory duties, logic would suggest that the same conclusion should have been reached in relation to both applications. Whatever the Council's reasoning, it remains necessary for me to consider the matter as set out in the main issues above.

(a) Listed building

23. The site includes a narrow strip of land within the curtilage of the mid-C19th Church of St Barnabus, a Grade I listed building, and would include works to

the west front of the church itself. Insofar as it is relevant to this appeal the special interest and significance of the listed building resides in its Italianate Romanesque style, incorporating a basilica and striking campanile.

24. As suggested within the supporting text of Policy SP33, the scheme would involve demolition of a high rubble stone and brick boundary wall constructed tight across the west front of the church. This is covered as a 'curtilage feature' by the listing of the church, albeit one which is not specifically noted in the list description. Construction of the wall is understood to have occurred after that of the church, and its primary purpose was to separate the church from the adjacent wharf.
25. Though the wall falls within the ownership of the church, it directly abuts the former entrance to the wharf, and buildings within the latter are constructed against it. As such its perceived historic functional relationship resides more with the wharf than the church. This impression is reinforced by the materials from which it is constructed, which do not identically match those externally visible in the construction of the church. Moreover, in views from the southwest, the wall plays a key role in obscuring the lower portions of the west front, detracting from its appreciation. Thus, whilst the wall is clearly a long-standing feature and relic of former industrial/commercial activity within the immediate context, it contributes very little if anything to the special interest and significance of the listed building as a whole.
26. It is unlikely that demolition of the wall would occur in isolation, or indeed outside the context of the appeal scheme. In this regard demolition would open up the west front of the church for the first time since the wall was built, facilitating improvements in access to and around the church, and the laying out of a space broadly evoking an Italian piazza. The latter would provide a complementary feature from within and across which appreciation of the character, design and architectural significance of the west front of the church would be much enhanced.
27. The parties each agree that harm would be caused by demolition of the wall. However, their positions on the matter are otherwise widely separated, and the Council's identification of substantial harm was not set within the context of the designated heritage asset as a whole. My own findings above indicate that the net effect of the works on the significance of the church would be overwhelmingly positive.
28. The provision of a level access to the west front of the church would do no more than slightly obscure part of the existing brick plinth, and the concrete steps serving 2 doorways. The future use of the latter would in turn be facilitated. The form of the level access would correspond well to that of the west front, and would assist its engagement with the proposed public space, allowing for more inclusive access to, and appreciation of the listed building. It is unlikely that any very minor effect the works might have on the overall proportions of the west front would be widely perceived, or perceived as harmful. The only questionable aspect of the proposal appears to be the appropriateness of using materials salvaged from the wall, which, as noted above, do not match the external finishes of the church. I am however satisfied that this is a matter that can be addressed by condition, and that the specification can be given further consideration within the context of any Faculty application.

29. The appeal scheme would entail the addition of a considerable scale and mass of built form within parts of the site which are currently open, or which contain only single storey structures. Consequently, some existing views from the canal of the upper portions of the church, including the campanile, would be obscured, and the prominence of the church would itself be reduced. However, as established above, the quality of these existing views is diminished by the character of the site, the presence of the wall, and the structures attached to it. All detract from appreciation of the significance of the church. The appeal scheme would on the other hand open up the west front of the church, better revealing its significance, and providing a far more direct visual connection with the canal than currently exists. The enhancement achieved would outweigh any adverse effects arising from curtailment of other views.
30. Though interested parties state that the previously approved scheme would have had a lesser impact, as previously stated, that scheme does not exist as an alternative. Therefore, considered on its own merits, I am satisfied that the appeal scheme would achieve an overall enhancement of the listed building and its setting, thus achieving their preservation.

(b) *Conservation Area*

31. The site is located within the Conservation Area. Insofar as it is relevant to the appeal the significance of the Conservation Area resides in its C19th development as a suburb of predominantly terraced housing, bounded on its west side by the canal. The latter is a particularly important feature of the Conservation Area, as is the church.
32. Within this context the wharf and the wall are features closely associated with the history of the canal. It is on this basis that the Council has also identified certain related C19th structures as non-designated heritage assets. The wharf is however for the most part an open, hard surfaced space, which, in the absence of activity, holds little intrinsic interest. Its disused and dilapidated state, as too that of associated structures including the wall, detracts from the character and appearance of the Conservation Area. Similar is true of the modern garage block which also forms part of the site.
33. The scheme would see loss of all the above structures, and the wharf area would see development and a change in use. Its historic identity, as too the historic extent and demarcation of industrial land within Jericho would thus be obscured. The scheme would however see the canal-side area revitalised, and active links to the canal would be re-established through construction of a boatyard. The latter would provide a tangible link to the history of site. To this would be added the associated heritage benefits identified in relation to the listed building above, all of which would be perceived and experienced within the context of the Conservation Area. The net effect would again be overwhelmingly positive.
34. The Radcliffe Observatory, a historic Oxford landmark, is visible in the distance from various parts of the Conservation Area. This notably includes a vista along Cardigan Street, which may or may not have been aligned to provide it. To the extent that this vista is also partly appreciable in winter when viewed across the site from the west side of the canal, it would be obscured by some of the proposed buildings. The vista along Cardigan Street would itself however remain intact. For this reason, as too given my findings above, the slightly adverse effect of obscuring the winter view of Radcliffe Observatory from the

canal would not alter the overall effect of the scheme. I thus find that considered as a whole, the scheme would enhance the character and appearance of the Conservation Area.

(c) Conclusion

35. My findings above indicate that the overall effect of the scheme on designated heritage assets would be positive. The scheme would therefore comply with Policy DH3 of the Local Plan which largely reiterates national policy relating to the historic environment set out within the Framework.

Other Matters

36. The S106 secures provision of the boatyard and community centre to shell standard, and subsequent transfer to a third party who would be responsible for completion. Full delivery of the scheme would thus be partly dependent upon outside funding. Though the submissions indicate the likelihood that this would be provided by or through the Jericho Wharf Trust, the S106 does not name any specific party, thus allowing flexibility. As these obligations secure the provision and ultimate delivery of these important community facilities, they pass the tests.
37. Interested parties state that the public space proposed between the church and the canal would be too small to serve a useful purpose. However, though the SPD envisaged its use to hold public events, the requirement set out within Policy SP33 is simply the provision of a 'public open space/square'. Neither size nor use are specified, though such a space would clearly support general circulation. The space proposed would therefore meet the requirements of Policy SP33.
38. Whilst there is no clear basis to impose a condition requiring use of the space for events, landscaping and delivery can be secured in this way. The S106 also contains linked obligations that would secure future maintenance and public access, albeit these are tied to the former boatyard within which the required open space would be provided. The extent that they would be effective in relation to the broader 'public realm', including the small part of the boatyard still owned by the CRT, is uncertain, as not all landowners are party to the S106.
39. Nonetheless, aside from the CRT, the other parcels of land which make up the broader public realm are owned by the Council and the church, and all clearly have an interest in delivery of the scheme. Council and church land is itself already partly accessible by the public, and continuing public access would be essential in relation to continued access to the church itself. As such, I have little reason to doubt that public access could be separately secured in relation to these parcels of land during the process of site assembly. I therefore find that the obligations pass the tests and that their potential limitations would not undermine delivery of the scheme.
40. Interested parties have raised concerns that some aspects of the boatyard design may give rise to operational difficulties. It was however confirmed at the Hearing that these issues were not insurmountable, and some scope for modifications would exist within the context of Condition (11) as outlined below.

41. As noted above, Policy SP33 includes a requirement for the scheme to provide a new bridge over the Oxford Canal for pedestrians and cyclists. It had until recently been envisaged that the bridge would be provided with a landfall within the site, and this was proposed when the application was originally submitted. A bridge in this location would bring activity to the proposed public open space/square, and would be directly available for use by occupants of the development. Whilst interested parties dispute whether objections raised by the CRT can be appropriately resolved, strong objections have also been raised by the Environment Agency (the EA). Thus, no matter how desirable a bridge linking the west side of the canal with the appeal site may be in principle, provision of a bridge in this location is not likely to be possible. Similar applies in relation to the winding facility also required by Policy SP33.
42. The alternative of a £655k financial contribution towards replacement of an existing bridge at Mount Place to the north of the site has been agreed between the main parties. This would again be secured by the S106, and would broadly meet the terms of Policy SP33. This is insofar as a replacement bridge would be new, and would provide more inclusive access for pedestrians or cyclists than the existing bridge. Though it would not be as directly related to the appeal scheme as the bridge originally envisaged, there would be a high likelihood that future occupants of the development would use it, as well as residents of the area to the west of the canal, for whom the bridge would provide easier access to facilities provided on site. Whilst the SPD listed a number of reasons why works to the Mount Place Bridge would not represent a satisfactory alternative to a bridge at the site, circumstances have clearly changed. That and the above being so, I am satisfied that the obligation securing the contribution passes the tests.
43. As the scheme would involve the construction of buildings close to existing residential dwellings it would inevitably give rise to some overbearing of adjacent space and cause a reduction in levels of light. The matter was considered in detail by the Council in assessing the scheme, and also within the submitted Daylight and Sunlight Amenity Study. Having regard to both this evidence, and the otherwise densely developed nature of the locality, I am satisfied that the impacts on living conditions would not be unacceptable.
44. The site lies within easy walking distance of the Oxford Meadows Special Area of Conservation (the SAC). Considered in combination with other plans or projects the development would have a likely significant effect on the integrity of the SAC due to its increased use to support the walking of dogs whose population would rise as a result of the development. In accordance with the Conservation of Habitats and Species Regulations 2017 (as amended) an Appropriate Assessment is therefore required.
45. Dog fouling within the SAC would cause harm to the population of Creeping Marshwort that it contains. This plant is one of the SAC's qualifying features. Given that the conservation objectives of the SAC seek to maintain or restore the integrity of the SAC and its qualifying features, such harm would be at odds with these objectives.
46. A need to address the impact of the scheme on the SAC is an established requirement of Policy SP33. In this regard the Council's previously identified means of mitigation is to install educational signage at the point of entry to the SAC most likely to be used by future occupants of the development. At this

location bins are already provided, and their efficiency would be improved in relation to all users of the SAC. Though consulted, Natural England has made no comment.

47. A contribution towards provision of the signage, and its installation, are each secured by the S106. In view of the above, these obligations pass the tests, allowing me to conclude that the development would not adversely affect the integrity of the SAC.
48. Past survey work has identified the roosting of bats within one of the buildings on site. Though bats were absent at the time of the most recent survey, the suitability of the building to support bat roosting has been established. On that basis both parties agree that a European Protected Species License (EPS License) may be required in relation to the demolition of the building in question. Within this context I am satisfied that the Council's consideration of the licensing tests within its updated ecology comment dated 21 December 2022 establish the likelihood that an EPS License would be granted. Mitigation/enhancement measures can otherwise be secured by condition.

Conditions

49. An extensive range of conditions has been proposed which I have considered and imposed on the basis set out below. Where appropriate I have combined and rationalised their content for sake of precision and simplicity, and in order to avoid both duplication and excessive proscription, particularly where details can be appropriately agreed during the course of discharge.
50. Conditions (1) and (2) set out the time period for commencement and identify the approved plans for sake of certainty. The wording used for Condition (2) necessarily provides scope for variation in compliance with other conditions. Amongst other things this allows capacity for changes to the specification of the ramped/level access consistent with any Faculty approval.
51. Condition (3) sets out hours of work in the interests of neighbour amenity.
52. Conditions (4) and (5) relate to flood risk and drainage, requiring implementation of the measures set out in the Flood Risk Assessment and approval of a detailed surface water drainage scheme in order to mitigate/manage flood risk. The conditions satisfy the requirements of the EA and Lead Local Flood Authority.
53. Condition (6) requires implementation of recommendations set out in the Arboricultural Impact Assessment in order to safeguard trees adjacent to the site. The wording used recognises the fact that some of these recommendations are no longer applicable given omission of the bridge. The condition obviates the need for several suggested conditions covering the same topic.
54. Condition (7) requires provision of a CEMP, the need for which principally arises in relation to the biodiversity interest of the Oxford Canal. That being so it is tied to works within the former boatyard.
55. Conditions (8) and (9) cover the investigation and remediation of contamination, and are required given the confirmed/potential presence of contaminants on the parts of the site previously occupied by the boatyard and currently occupied by garages. This is in the interests of health and safety.

56. Condition (10) requires further assessment work in relation to construction activities close to the canal edge. This is in the interests of maintaining its integrity and ensuring safety on site.
57. Condition (11) secures details of works required to the canal. It is negatively worded given that the works will require the permission of the CRT and will extend beyond the boundary of the site. This is also the subject of a linked obligation within the S106, and insofar that provides additional certainty, it passes the tests. The condition remains necessary however given that the obligation does not secure specific details of the works in question.
58. Condition (12) is required to secure provision of the public realm element of the scheme, including the proposed public open space/square. It is negatively worded given that the public realm again includes land in the ownership of the CRT. As noted above, this matter is also the subject of linked and partly overlapping obligations within the S106. The condition remains necessary given that the S106 does not set out any design details or related maintenance requirements.
59. Condition (13) secures approval of further design details of the proposed buildings, drawing together a range of matters whose approval is required to ensure a satisfactory relationship of the development with the church and the broader setting, and mitigation/enhancement in relation to bats and birds.
60. Condition (14) requires provision of a finalised bat sensitive external lighting strategy in order to avoid or mitigate any adverse effects on bats.
61. Conditions (15) and (16) are imposed in the interests of protecting neighbours from undue noise or vibration which could be generated by future operation of the boatyard and community centre. Condition (15) incorporates requirements in relation to fabric performance derived from the submitted noise report. I have not imposed a condition requiring future occupants to also be safeguarded from existing noise, as the submitted evidence does not demonstrate any necessity for this.
62. Conditions (17) and (18) secure details of the future operation of the boatyard and community centre, partly in response to concerns raised by the CRT. This is required in the interests of the environment and neighbour amenity.
63. Condition (19) requires implementation of the scheme in accordance with the submitted Sustainability and Energy Statement, and in this regard clarifies the requirement to provide hydrogen boilers. This is in line with local policy related to air quality and the environment.
64. Condition (20) secures the installation of obscure glazed windows in the interests of neighbour privacy.
65. Condition (21) secures provision and retention of parking space, bin and cycle stores both in the interests of amenity, and ensuring that the development caters for the additional parking demand that it will generate.
66. Though the Council has proposed the comprehensive restriction of householder permitted development rights, no exceptional grounds for this measure have been demonstrated. There is also no requirement for a condition requiring installation of EV charging points as the matter is now covered by the Building Regulations.

67. I have also not imposed suggested conditions in relation to EPS Licensing, expiry dates for ecological survey information, further ecological surveys and a LEMP. This is because an EPS License would be required under separate legislation, Circular 06/2005 makes clear that surveys should not be required by condition, the submitted surveys are up to date, some of these matters would be covered by the required CEMP, and the limited biodiversity value of the site does not justify production of a LEMP.
68. Though a range of conditions relating to archaeology have also been proposed, they lack sufficient justification given the limited value of the site. I have also not imposed a condition requiring a general construction management plan. This is due to the relatively small size of the site, limited scope to cause unavoidable disturbance to neighbours, and questionable scope to enforce suggested requirements in relation to off-site matters. Amenity is otherwise appropriately addressed in relation to work hours and the environment by other conditions.
69. Finally, as the County Council has indicated that a travel plan is not required for the development, there is no need for a requested condition that would secure this.

Conclusions

70. For the reasons set out above I conclude that Appeal A should be allowed, but that Appeal B should be dismissed on procedural grounds.

Benjamin Webb

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) Unless modified in compliance with the conditions below the development hereby permitted shall be carried out in accordance with the following approved plans: 150905-STL-ALL-ZZ-DR-A-ZZ-00.02 Rev.P54; 150905-STL-ALL-ZZ-DR-A-ZZ-02.51 Rev.P58; 150905-STL-ALL-ZZ-DR-A-ZZ-02.52 Rev.P50; 150905-STL-ALL-ZZ-DR-A-ZZ-02.53 Rev.P46; 150905-STL-ALL-ZZ-DR-A-ZZ-02.54 Rev.P58; 150905-STL-ALL-ZZ-DR-A-ZZ-03-0.1 Rev.P54; 150905-STL-ALL-ZZ-DR-A-ZZ-03.02 Rev.P46; 150905-STL-ALL-ZZ-DR-A-ZZ-01.01 Rev.P58; 150905-STL-ALL-ZZ-DR-A-ZZ-01-02 Rev.P58; 150905-STL-ALL-ZZ-DR-A-ZZ-01.03 Rev.P56; 150905-STL-ALL-ZZ-DR-A-ZZ-01.04 Rev.P56; 150905-STL-ALL-ZZ-DR-A-ZZ-01.07 Rev.P56; 150905-STL-ALL-ZZ-DR-A-ZZ-01.31 Rev.P58; 150905-STL-ALL-ZZ-DR-A-ZZ-V2.03 Rev.P50; 150905-STL-ALL-ZZ-DR-A-ZZ-V2.04 Rev.P46; 150905-STL-ALL-ZZ-DR-A-ZZ-01.20 Rev.P56; 150905-STL-A-ZZ-DR-A-ZZ-01.21 Rev.P56; 150905-STL-A-ZZ-DR-A-ZZ-01.22 Rev.P56; 150905-STL-A-ZZ-DR-A-ZZ-01.23 Rev.P56; 150905-STL-09.04 Rev.P50; 150905-STL-01.30 Rev.P47; 150905-STL-ALL-ZZ-DR-A-XX-90.03 Rev.P37; 150905-STL-ALL-ZZ-DR-A-ZZ-90.02 Rev.P47; 150905-STL-X-ZZ-DR-A-XX-CH_32.01 Rev.P41; 150905-STL-X-ZZ-DR-A-XX CH-02.22 Rev.P41; 150905-STL-ALL-ZZ-DR-A-ZZ-09-0.1 Rev.P51; 150905-STL-ALL-ZZ-DR-A-ZZ-01 P56; 150905-STL-00.04 Rev.P63.

- 3) Works, deliveries and servicing undertaken in relation to implementation of the development hereby permitted shall only take place between the hours of 08:00 – 18:00 Monday to Friday, and 08:00 – 13:00 on Saturdays. No works, deliveries or servicing shall take place on Sundays and Public/Bank Holidays.
- 4) The development hereby permitted shall be carried out in accordance with the submitted Flood Risk Assessment reference 150905-BWB-ZZ-XX-RP-YE-0001_FRA Rev.P02, as modified by plans 150905-STL-01.30 Rev.P47, 150905-STL-ALL-ZZ-DR-A-ZZ-WIP_01.11 Rev.P45, and 150905-BWB-22-XX-DR-YE-0008_S2-P04, and the mitigation measures detailed shall be fully implemented prior to the first occupation or use of the development. The mitigation measures shall thereafter be retained and maintained.
- 5) Construction of the buildings hereby permitted shall not commence until a scheme of surface water drainage, a timetable for its implementation, and a management and maintenance plan, has been submitted to and approved in writing by the local planning authority. The approved scheme shall then be implemented in accordance with the approved timetable and thereafter managed in accordance with the approved management and maintenance plan.
- 6) The development hereby permitted shall be carried out in accordance with the submitted Arboricultural Impact Assessment reference PA-14886, including the recommendations that it outlines, to the extent that these remain relevant.
- 7) The development hereby permitted shall not be commenced within the part of the site previously used as a boatyard until a construction environmental management plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include the following:
 - a) risk assessment of potentially damaging construction activities;
 - b) identification of biodiversity protection zones in respect of protected and notable species and habitats;
 - c) practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts on biodiversity during construction (may be provided as a set of method statements) and biosecurity protocols;
 - d) the location and timing of sensitive works to avoid harm to biodiversity features;
 - e) contingency/emergence measures for accidents and unexpected events, along with remedial measures;
 - f) responsible persons and lines of communication;
 - g) the role and responsibilities on site of a qualified ecological clerk of works or similarly competent person if required, and times and activities during construction when they need to be present to oversee works; and
 - h) use of protective fences, exclusion barriers and warning signs.The development shall then be carried out in accordance with the approved CEMP.
- 8) The development hereby permitted shall not be commenced within the parts of the site previously used as a boatyard, and currently occupied by a garage block, until a phased risk assessment has been carried out by a competent person in accordance with relevant British Standards and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR11) (or equivalent British Standards and Model Procedures if replaced),

submitted to, and approved in writing by the local planning authority. The risk assessment shall include the following components:

- a) Phase 1: A preliminary risk assessment which identifies all previous uses potential contaminants associated with those uses a conceptual model of the site indicating sources, pathways and receptors potentially unacceptable risks arising from contamination at the site;
- b) Phase 2: a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals, including off-site; and
- c) Phase 3: a remediation strategy, validation plan, and monitoring plan. The validation plan shall provide details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The development shall then be implemented in accordance with approved risk assessment.

- 9) Any unexpected contamination that is found during the course of construction of the development hereby permitted shall be reported immediately to the local planning authority. Development on that part of the site affected shall be suspended and a risk assessment carried out by a competent person and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development (or relevant phase of development) is resumed or continued.
- 10) No works in relation to the development hereby permitted shall take place within a zone 10 metres from the edge of the Oxford Canal until a risk assessment, details of foundation designs, and a construction method statement has been submitted to and approved in writing by the local planning authority. The details submitted shall be sufficient to demonstrate that the works would not have a detrimental impact on the integrity of the canal. The development shall then be implemented in accordance with the approved details.
- 11) No more than 50% of the dwellings hereby permitted shall be occupied until a full scheme of works to the Oxford Canal, including works to the canal basin, the provision of three docks and associated moorings, and any associated works to the canal wall, banks and bed, has been implemented in accordance with details which have first been submitted to and approved in writing by the Local Planning Authority. The details submitted shall include designs and specifications, a methodology, impact assessment, and any necessary mitigation measures, and shall be sufficient to demonstrate that the works would not have a detrimental impact on the structural integrity of the canal, its future operation and use.
- 12) No more than 50% of the dwellings hereby permitted shall be occupied until a Public Realm Maintenance, Use and Management Strategy applicable to the public realm as identified on the approved plans, has been implemented in accordance with details which have first been submitted to and approved in writing by the Local Planning Authority. The Strategy shall set out a scheme of hard and soft landscaping which covers/includes:

- a) a design rationale explaining how the scheme relates to the context, and facilitates public access, and future management/maintenance, including in relation to the requirements of Conditions (17) and (18);
 - b) surfacing materials;
 - c) boundary treatments;
 - d) street furniture, including bollards, lighting columns, signage, cycle stands, CCTV and public information board(s);
 - e) physical measures to prevent parking outside marked spaces;
 - f) a schedule of tree and other planting, whose specification shall seek to optimise biodiversity value; and
 - g) maintenance requirements.
- 13) Prior to commencement of construction above slab level of the buildings and ramped access hereby permitted, a detailed specification of:
- a) the materials/finishes to be used in their external fabrication;
 - b) boundary treatments;
 - c) the nature, location and design of any building-mounted solar photovoltaic installation;
 - d) the design and location of any building-mounted CCTV or lighting; and
 - e) details of the provision of in-built features to support the roosting/nesting of birds and bats, as informed by the submitted ecological assessments, shall be submitted to and approved in writing by the local planning authority. The development shall then be implemented in accordance with the approved specification.
- 14) Prior to the commencement of construction above slab level of the development hereby permitted, a finalised bat-sensitive external lighting strategy shall be submitted to and approved in writing by the local planning authority. The strategy shall be in accordance with the latest guidance issued by the Institution of Lighting Professionals and Bat Conservation Trust. All external lighting shall then be provided and thereafter operated in accordance with the approved strategy.
- 15) The building envelope of the boatyard and community centre hereby permitted shall achieve a minimum acoustic rating of R_w 47db, and any noise generated by their use shall not at any time exceed a value of 10 dB below the minimum external background noise level, at a point 1 metre outside any window of any residential and other noise sensitive property.
- 16) Any machinery or plant installed at or in relation to the boatyard and community centre hereby permitted shall be mounted with proprietary anti-vibration isolators, with fan motors isolated from the casing, and silenced.
- 17) Prior to the first use of the boatyard and basin hereby permitted a management/operational plan covering:
- a) hours of operation;
 - b) servicing/deliveries;
 - c) pollution control measures;
 - d) waste disposal; and
 - e) measures to prevent the use of the basin as a winding hole,

shall be submitted to and approved in writing by the Local Planning Authority. The boatyard and basin shall thereafter be operated in accordance with the approved management/operational plan.

- 18) Prior to the first use of the community centre hereby permitted a servicing deliveries plan shall be submitted to and approved in writing by the local planning authority. Use of the community centre shall thereafter be undertaken in accordance with the approved plan.
- 19) The development hereby permitted shall be implemented in accordance with the strategies outlined in the Sustainability and Energy Statement dated November 2020, in relation to which, for the avoidance of doubt, the dwellings hereby permitted shall be fitted with ultra-low NOx hydrogen boilers meeting a minimum standard of <40mg/kWh for NOx.
- 20) The following windows within the development hereby permitted shall be fitted with obscure glazing:
 - a) the first floor community centre window in the north elevation adjacent to 10 Canal Street, and
 - b) the first floor oriel windows in the east elevation of the terrace of 13 houses, excluding any small panes of glass facing south, and shall be non-opening below 1.7 metres above finished floor level. The windows shall thereafter be retained.
- 21) The dwellings hereby permitted shall not be occupied until the bin stores, cycle stores and vehicular parking spaces shown on the approved plans have been provided in accordance with the approved plans and made available for the storage of refuse, cycles and the parking of vehicles respectively. The bin stores, cycle stores and vehicular parking spaces shall thereafter be retained and kept available for such use at all times.

APPEARANCES

For the Appellant

Dougal Anderson	Stride Treglown
Oliver Holland	Cornerstone Land
Hugh Lacey	Quod
Nick Owens	Keystone Law
Andrew Ross	Turley

For the Council

Felicity Byrne	Principal Planning Officer
Tristan Carlyle	Ecology and Biodiversity Officer
Thomas Glasson	BNP Paribas Real Estate
Andrew Murdoch	Planning Manager
Katherine Owen	Principal Conservation Officer

Interested Parties

Michael Barnes	Local Resident
Charlotte Christy	Jericho Community Association
Colin Cook	Former Local Councillor/Planning Committee Chair
Mark Davis	Jericho Living History Trust
David Edwards	Jericho Wharf Trust
Sarah Edwards	Local Resident
Tom Hassall	Rewley Park Management Company
Bruce Heagerty	Jericho Community Boatyard
Steph Pirrie	Jericho Wharf Trust/Jericho Living History Trust
Susanna Pressel	Local Councillor
Phyllis Starkey	Jericho Wharf Trust
George Taylor	Jericho Community Association
John Temple	Member of St Barnabus Congregation
Steve Watts	Jericho Community Boatyard

Documents presented at the Hearing

Canals and Rivers Trust letters