



# Appeal Decisions

Inquiry held on 6-9 October 2009  
Site visit made on 9 October 2009

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**Decision date:**  
**18 November 2009**

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## **Appeal A1 Ref: APP/D3125/A/09/2104658**

### **4 Oxford Street, Woodstock OX20 1TR**

- 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 Berkeley Homes (Oxford and Chiltern) Ltd against the decision of West Oxfordshire District Council.
- The application Ref 08/1059/P/FP, dated 13 June 2008, was refused by notice dated 12 February 2009.
- The development proposed is the demolition of Young's Garage and related outbuildings together with the rear extensions to Nos. 6, 8 and 10 Oxford Street, the refurbishment of No. 6 Hensington Road and the construction of 30 dwellings, a health centre and a small shop together with associated vehicle parking, roads and pathways.

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## **Appeal A2 Ref: APP/D3125/E/09/2104660**

### **4 Oxford Street, Woodstock OX20 1TR**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
- The appeal is made by Berkeley Homes (Oxford and Chiltern) Ltd against the decision of West Oxfordshire District Council.
- The application Ref 08/1060/P/LB, dated 13 June 2008, was refused by notice dated 12 February 2009.
- The works proposed are the demolition of sections of free-standing walls to rear yards, certain rear extensions and outbuildings to Nos. 6, 8 and 10 Oxford Street, together with the making good of the retained buildings and the construction of a new courtyard wall to No. 6.

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## **Appeal A3 Ref: APP/D3125/E/09/2104663**

### **4 Oxford Street, Woodstock OX20 1TR**

- The appeal is made under sections 20 and 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant conservation area consent.
  - The appeal is made by Berkeley Homes (Oxford and Chiltern) Ltd against the decision of West Oxfordshire District Council.
  - The application Ref 08/1061/P/DCA, dated 13 June 2008, was refused by notice dated 12 February 2009.
  - The proposal is for the demolition of Young's Garage and related outbuildings together with the rear extensions to Nos. 6, 8 and 10 Oxford Street, the refurbishment of No. 6 Hensington Road and the construction of 30 dwellings, a health centre and a small shop together with associated vehicle parking, roads and pathways.
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**Appeal B1 Ref: APP/D3125/A/09/2104669**

**4 Oxford Street, Woodstock OX20 1TR**

- 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 Berkeley Homes (Oxford and Chiltern) Ltd against the decision of West Oxfordshire District Council.
  - The application Ref 09/0201/P/FP, dated 16 February 2009, was refused by notice dated 28 April 2009.
  - The development proposed is the demolition of Young's Garage and related outbuildings together with the rear extensions to Nos. 6, 8 and 10 Oxford Street and No. 6 Hensington Road, the construction of 36 dwellings, a B1 office building, a small shop and minor alterations to Punch Bowl Cottage.
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**Appeal B2 Ref: APP/D3125/E/09/2104672**

**4 Oxford Street, Woodstock OX20 1TR**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
  - The appeal is made by Berkeley Homes (Oxford and Chiltern) Ltd against the decision of West Oxfordshire District Council.
  - The application Ref 09/0202/P/LB, dated 16 February 2009, was refused by notice dated 28 April 2009.
  - The works proposed are demolition of Young's Garage and related outbuildings and No. 6 Hensington Road and rear extensions of 6, 8 and 10 Oxford Street, construction of 36 dwellings, B1 office building, shop and minor alterations to Punch Bowl Cottage.
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**Appeal B3 Ref: APP/D3125/E/09/2104675**

**4 Oxford Street, Woodstock OX20 1TR**

- The appeal is made under sections 20 and 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant conservation area consent.
  - The appeal is made by Berkeley Homes (Oxford and Chiltern) Ltd against the decision of West Oxfordshire District Council.
  - The application Ref 09/0203/P/DCA, dated 16 February 2009, was refused by notice dated 28 April 2009.
  - The proposal is for the demolition of Young's Garage and related outbuildings together with the rear extensions to Nos. 6, 8 and 10 Oxford Street and No. 6 Hensington Road, the construction of 36 dwellings, a B1 office building, a small shop and minor alterations to Punch Bowl Cottage.
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**Decision**

1. The appeals are dismissed.

**Procedural matters**

2. The planning application that is the subject of Appeal A1 was amended, before consideration by the Council, to include the demolition of 6 Hensington Road,

rather than its refurbishment, and the construction of 36 dwellings, rather than 30 dwellings. The description of the application is thus amended to be 'the demolition of Young's Garage and related outbuildings together with the rear extensions to Nos. 6, 8 and 10 Oxford Street and No. 6 Hensington Road, and the construction of 36 dwellings, a health centre and a small shop together with associated vehicle parking, roads and pathways'. Appeal A1 will be determined on this basis.

3. The Council considered the application for listed building consent (LBC) that is the subject of Appeal A2 to be 'Alterations to 6, 8 and 10 Oxford Street and 6 Hensington Road'. This is an accurate description except for the inclusion of 6 Hensington Road which is not a listed building and would be demolished as part of the overall redevelopment scheme. Appeal A2 will thus be determined on the basis that the application is for 'Alterations to 6, 8 and 10 Oxford Street'.

4. The Council considered the application for LBC that is the subject of Appeal B2 to be 'Alterations to 6, 8 and 10 Oxford Street'. This is an accurate description of the proposed works and Appeal B2 will be determined on this basis.

5. Conservation area consent (CAC) is only required for, given the judgement in the case of *Shimizu (UK) Ltd v Westminster City Council [1997] JPL 523*, the total or substantial demolition of an unlisted building in a conservation area. The Council therefore amended the description of the demolition in Appeals A3 and B3 to be 'Demolition of Young's Garage, related buildings and 6 Hensington Road'. However, 6 Hensington Road is not within a Conservation Area and Appeals A3 and B3 will thus be determined on the basis that the applications are for the 'Demolition of Young's Garage and related buildings'.

### **The appeal site and its surroundings**

6. The virtually flat, roughly rectangular, appeal site is about 0.56 hectares. It has a south-west frontage to Oxford Street, a north-west frontage to Hensington Road and a north-west boundary to The Punchbowl, a hotel on the corner of the junction of Oxford Street and Hensington Road. The site has a south-east boundary to New Road, partly a cul-de-sac residential road and partly a public footpath linking that road and Oxford Street, and a north-east boundary to a telephone exchange and 8 Hensington Road, a residential property. Along the northern half of the frontage to Oxford Street and alongside the pavement is a terrace of four Grade II listed buildings adjoining The Punchbowl, nos. 4-10 Oxford Street. Attached to the rear of nos. 6-10 are various extensions in various uses. The extensions to the rear of no. 6 are within the site but the original terraced building itself is outside the site.

7. The southern half of the south-west frontage is open and occupied by a second-hand car sales business that occupies the site of a former garage. Cars are displayed under the original forecourt canopy of the garage, within a modern glass sided building close to 4 Oxford Street and on hardstanding to the rear of the same building. Office accommodation for the car sales business is in a small part of the L-shaped, single storey, former Woodstock Railway Station building that is set back behind the forecourt canopy and close to the New Road footpath. The larger part of the station building and a modern storage building that adjoins the station building are occupied by Midland Felt Roofing Ltd (MPR). This business also occupies open ground to the rear of the station building and an office building that is one of the rear extensions to the listed buildings.

8. Located to the rear of the car park to The Punchbowl is a modern two-storey dwelling, Punch Bowl Cottage, that has a gable end on the pavement to Hensington Road. To the north-west of the dwelling and set back from the road is 6 Hensington Road, a vacant, two storey, double fronted, brick built Victorian dwelling that has front, side and rear gardens. To the rear of this dwelling are two rows of garages and other buildings in a variety of storage uses. All of these are within the site.

9. Outside the site and on the opposite side of Hensington Road to no. 6 and Punch Bowl Cottage is traditional residential development on both sides of Union Street, and on the opposite side of the New Road footpath to the former station building is The Old School, a dwelling that occupies the buildings of the former Woodstock Church of England Primary School. The only currently used access into the site is off Oxford Street between the glass building and the forecourt canopy.

10. To the east of the site is mainly modern residential development and to the west is the town centre of Woodstock. At the heart of the town centre is the Town Hall at Market Place. Three streets, High Street, Market Street and Park Street, converge at Market Place and the majority of commercial and retail activity in the town is on these three streets. At the west end of Park Street are gates that mark one entry into the grounds that surround Blenheim Palace. The town centre is the centrepiece of Woodstock Conservation Area (WCA), which includes built development around the town centre including the terrace of listed buildings along the south-west frontage of the appeal site. About 60% of the site, the former station building, the land occupied by the car sales business, the extensions to the rear of the listed buildings and Punch Bowl Cottage, are also within the WCA. 6 Hensington Road and the rows of garages are outside the WCA.

### **The proposed developments – the subjects of Appeal A1 and Appeal B1**

11. Both proposals are for the comprehensive redevelopment of the appeal site and both would include the relocation of the site access off Oxford Street to a point close to the New Road footpath. Both schemes would include the demolition of the former station building and related outbuildings, the rear extensions to 6, 8 and 10 Oxford Street, and 6 Hensington Road. Both schemes would include the construction of 36 dwellings in the same form and layout. Ten of the dwellings would be in a terrace of units attached to the south-east gable of 4 Oxford Street and fronting onto the pavement to this street. The remaining twenty-six dwellings would be in two, three and four storey blocks to the rear of the existing and proposed frontage development. Both schemes would include a small ground floor shop in the proposed terraced unit adjoining 4 Oxford Street.

12. The proposals differ in the intended use of a three storey building that would be built between Punch Bowl Cottage and 8 Hensington Road though the form, size, style and elevations of the alternative buildings would be similar. The Appeal A1 building would be a health centre whereas the Appeal B1 building would be a use class B1 office building (office building). Access to the building would be through the site from the relocated access off Oxford Street though an existing, gated, unused access off Hensington Road, between Punch Bowl Cottage and the proposed building, would be maintained for emergency purposes. The health centre would have a drop off lay-by on its Hensington Road frontage and both buildings would have undercroft parking for ten vehicles.

13. Woodstock has one doctors' surgery and the concept of the health centre is predicated on the relocation of that surgery to what would be a more central location in the town. The doctors' surgery had previously given an indication that they wished to relocate to the site but the necessary legal agreements have not been signed. The Appellants are hopeful that the doctors' surgery will relocate and have entered into a Section 106 Unilateral Undertaking to make land available for sale as a general practitioners' surgery or health-care centre for a period of three years after the commencement of development on the appeal site. This factor notwithstanding, the health centre is an integral element of the Appeal A1 scheme and the appeals will be determined on the basis that the health centre would be built if planning permission were to be granted for the redevelopment scheme A.

14. The application that is the subject of Appeal B1 and the associated applications for LBC and CAC were submitted after refusal by the Council of the applications for the Appeal A1 scheme. The Appellant has entered into a Section 106 Unilateral Undertaking to make the B1 office building site available for sale or lease for a period of three years after the commencement of development on the appeal site. It is therefore an integral element of the Appeal B1 scheme and the appeals will be determined on the basis that the office building would be built if planning permission were to be granted for the redevelopment scheme B.

### **The proposed works to the listed buildings - the subjects of Appeal A2 and Appeal B2**

15. The proposed works to the four listed buildings on Oxford Street is the same in both cases. The various extensions to the rear of three of the buildings would be demolished and the rear elevations and yard areas of the four buildings would be remodelled. Neither the Council nor any third party has raised any significant concerns about the proposed works to the listed buildings and no reason has been found to conclude that the works would harm the special architectural and historic interest of the buildings. The Council accepted at the Inquiry, in both cases, that if planning permission were to be granted for the redevelopment scheme that there would be no impediment to the grant of LBC.

### **The proposed demolition of unlisted buildings in the WCA - the subjects of Appeal A3 and Appeal B3**

16. The proposed demolition of unlisted buildings in the WCA is the same in both cases. The demolition of the glass sided building, the forecourt canopy and the modern storage building attached to the former station building is not contentious. The demolition of the former station building concerns the Council and residents of Woodstock. However, the Council accepted at the Inquiry, in both cases, that if demolition of the station building was considered to be acceptable as part of a redevelopment scheme, there would be no impediment to the grant of CAC.

### **The Development Plan**

17. The Development Plan includes the West Oxfordshire Local Plan 2011 (LP), relevant policies of which have been saved under a direction dated 2 June 2009 made by the Secretary of State for Communities and Local Government.

## **The main issues in Appeal A1 and Appeal B1**

18. The main issues are:

- The effect of the demolition of the former station building on the character and appearance of the Woodstock Conservation Area;
- The effect of the proposed development on the character and appearance and setting of the Woodstock Conservation Area and on the setting of listed buildings on Oxford Street;
- The effect of the proposed development on the amenities of residents of 8 Hensington Road;
- Whether the proposed development makes appropriate provision for affordable housing;
- Whether the loss of an existing employment site would be outweighed by substantial planning benefits and would thus comply with LP policy E6.

## **Reasons**

The demolition of the former station building

19. In 2008 English Heritage considered, for the second time, whether the station building was worthy of being included in the statutory list of buildings of special architectural and historic interest. The conclusion of the Advisor's Report was that "The former GWR station at Woodstock does not have the special interest required...to merit inclusion on the list". This does not, however, have a bearing on whether the building does, or does not, make a positive contribution to the character and appearance of the WCA. The Council, the Town Council and some local residents maintain that it does.

20. Both main parties and the Town Council have considered advice in English Heritage's publication 'Guidance on conservation area appraisals'. The guidance advises that "When considering the contribution made by unlisted buildings to the special architectural or historic interest of a conservation area, the following questions might be asked". It is worth considering these questions and the first is; "Is the building the work of a particular architect of regional or local note"? The architect of the building is not known and it is even possible that the building was a copy of a standard station pattern.

21. "Has the building qualities of age, style, materials or any other characteristics which reflect those of at least a substantial number of buildings in the conservation area"? There are other buildings of the Victorian era in the WCA but none of these are, given that the building is a standard station building, of the same style. The building is built in Cotswold stone as are most other buildings with any lengthy history in the area. The station building, in this regard, is not remarkable and does not have any characteristics that are noteworthy. It does not have any qualities that reflect those of a number of buildings in the WCA.

22. "Does the building relate by age, materials, or in any other historically significant way to adjacent listed buildings, and contribute positively to their

setting”?. The listed buildings within the site and fronting Oxford Street are significantly older than the station building though, unsurprisingly, they are built in the same materials. The listed buildings do retain, in part, their original burgage plots but the station building does not intrude into these. The station building does not contribute positively to the history or setting of the listed buildings.

23. “Does the building serve as a reminder of the gradual development of the settlement in which it stands, or of an earlier phase of growth”?. A branch line to Woodstock was first proposed in 1885 and the line and station were opened in 1890. This occurred partly on the initiative of the 8<sup>th</sup> Duke of Marlborough who promoted the new line as a means of passage for visitors to and from Blenheim Palace. The railway line provided train access from Woodstock to Oxford and beyond and, amongst other things, enabled the manufacturers of gloves in the Woodstock area to thrive by providing a means of transport for their goods.

24. After the Second World War the train service on the line declined. The line and station closed in 1954 and the line was lifted in 1958. There is no evidence of the line within the town and the station is the only reminder of Woodstock’s previous connection to the country’s rail network. The building does therefore serve as a reminder of the gradual development of the settlement but this conclusion could be directed at any building in the WCA. Furthermore, the history of the line has been documented and is the subject of a book by Stanley C Jenkins, ‘The Woodstock Branch’. The history of the station building is well documented in writing and in photographs.

25. “Does the building have significant historic association with established features such as the road layout, burgage plots, a town park or a landscape feature”?. The station building was built where the railway line ended and it has no specific designed relationship to Oxford Street or to any other landscape features. In this regard, the original pattern of development in this part of the town was probably cleared away when the railway arrived and to make way for the construction of the station building.

26. “Does the building have landmark quality, or contribute to the quality of recognisable spaces, including exteriors or open spaces within a complex of public buildings”?. The aforementioned book includes scale drawings of the station building that illustrate an unremarkable structure that was neither exceptional in design or decoration. It does not have any landmark quality, either in itself or through being positioned prominently in a scene or vista, and is not part of a complex of public buildings. It is worth considering here the relationship of the building to the street scene and to ‘the quality of recognisable spaces’.

27. On the opposite side of Oxford Street to the station building is its junction with Rectory Lane. Roadside development either side of the junction is at oblique angles to Oxford Street and there is a triangular ‘island’ in between the two accesses into Rectory Lane off the main road. There is a degree of spaciousness here though, on the Rectory Lane side of Oxford Street, the space is clearly defined by built development. This space is in between the dense development of the town centre to the west and the relatively open space to the east between School House, even though this building adjoins the highway, and almshouses at Caroline Court. These buildings mark the traditional south-eastern extent of the town.

28. The transition between relatively open development and dense development in the town centre is undermined by the open space on the north-east side of Oxford Street between School House and no. 4, which is partly occupied by the station building. This building, given its scale and design and position set back from the road, provides no enclosure to the transition space. The building, in fact, is a 'weak' feature in townscape terms and in the street scene and, together with its forecourt area, undermines the quality of the recognisable space that is the junction between Oxford Street and Rectory Lane.

29. "Does the building reflect the traditional functional character of, or former use within, the area"?. The building is a reminder of a past feature of the town, the branch railway line that supported former uses, and does reflect, to a degree, a former functional character. That former functional character is, however, undermined by the unsympathetic alterations that have been carried out to the building; in particular the reconfiguration of the original entry and exit doors to provide a large glazed shop front for the convenience store that was part of the former garage.

30. "Has the building significant historic association with local people or past events"?. The aforementioned book records some personalities who have been associated with or who passed through the station building, including several Churchills, and the 8<sup>th</sup> Duke of Marlborough had a part to play in its development. However, this aspect of the building is well documented and the building, in itself, bears no mark of any association with people or past events.

31. "Does the building's use contribute to the character or appearance of the Conservation Area"?. The building's original use, given the degree of alteration to which the building has been subjected and the removal of the railway line, is no longer recognisable. The current car sales use of the building and its forecourt area detracts from the character and appearance of the WCA. The last question of the ten posed in the EH guidance document asks whether the building is associated with a designed landscape within the Conservation Area. It is not, and even in its original form it was not associated with a designed landscape.

32. The building does serve as a reminder of the gradual development of the settlement but this is well documented and is a comment that could be directed at any other building in the town. The building does have historic association with personalities of significance but, again, this is well documented and there is no mark on the building of this association. Furthermore, as indicated in the guidance, positive answers to one or more of the questions only 'could' provide the basis for considering that the building makes a positive contribution to the WCA. In this case there are only two partly positive answers and these are qualified by the degree to which the building and its history has been documented.

33. LP policy BE6 states that applications for the demolition of unlisted buildings in a Conservation Area will only be permitted if the structure to be demolished makes no positive contribution to the character and appearance of the area or the demolition forms part of redevelopment proposals that will positively enhance and improve the character and setting of the Conservation Area.

34. Taking all the aforementioned factors into account and all other matters mentioned by the Council, the Town Council and local residents, the former station

building makes little contribution to the Conservation Area. The demolition of the building, in itself, would not adversely affect, and would thus preserve, the character and appearance of the WCA. The proposed demolition would, therefore, comply with the first part of LP policy BE6. However, it is accepted that consent for demolition of a building that makes little contribution to a Conservation Area is dependant upon the grant of permission for the redevelopment of its site.

The Conservation Area and listed buildings on Oxford Street

35. The proposed development, in both cases, is a comprehensive scheme and the part of the development that would be outside the WCA, in terms of its effect on the WCA, cannot be separated from the part of the development that would be inside the WCA. In some respects the proposed scheme is commendable but in others it is not.

36. It has been suggested that the gable end of 4 Oxford Street, which is prominent in views along the street on entering the town from the south-east, marks the beginning of the town centre. This blank gable is not significant in townscape terms and does not mark the point where the town centre starts. This point is further west where there is a relatively narrow gap between the frontage of 6 Oxford Street and the angled corner of 11 Oxford Street and 50 High Street. Before this Oxford Street increases significantly in width towards its junction with Rectory Lane. As previously mentioned this transition space is undermined by the openness of the appeal site on the north-east side of the main road.

37. The terrace of units that would be attached to the south-east gable of 4 Oxford Street and that would front onto the pavement to this street would close the open aspect across the site and would reinforce the transition space. It would comprise three units. The central unit would be three storeys in height and the two outer units would be two storeys with attic dormers. The scale of the units is appropriate in this edge of town centre location and the units have been sensitively designed, particularly in terms of style and materials, to reflect the incremental form of terraced development that is one of the main characteristics of traditional development in the town.

38. The terraced units would be at an angle to the pavement which would widen out towards the proposed vehicular access into the site at its south corner. This widening of the pavement would provide the opportunity for trees to be planted within the pavement. Such planting is a feature of the town centre and would add to the mature planting that already exists opposite on the 'island' and in front of 1-11 Oxford Street. The access into the site would be, for its first part, alongside the New Road pedestrian footpath and these would be appropriately confined between the high wall to the garden around The Old School and the end gable of the new terrace. Development along the frontage to Oxford Street would enhance the transition space and the character and appearance of the WCA.

39. On the north-west side of the New Road footpath the station building would be replaced by a terrace of three, two storey plus attic, dwellings; units 28-30. The south-east elevation of the terrace would adjoin the footpath. The confinement of part of the footpath between this elevation and the garden wall to The Old School would be appropriate in townscape terms and windows in the elevation would provide some light at night and passive surveillance over the footpath. Behind the

terrace along the frontage to Oxford Street a narrow shared access would lead to a private 'rear courtyard' between the terraced listed buildings and a new terrace of dwellings, units 11-18, at the centre of the site. At ground level the rear courtyard would be a successful series of confined spaces overlooked from private amenity spaces. Original burgage plot boundary walls would be partly retained to define the spaces and to preserve the historic layout of plots in this part of the town.

40. Between the terrace of dwellings at the centre of the site and two terraces of dwellings with rear gardens alongside the north-east boundary of the site would be a 'central courtyard'. This courtyard would have parallel parking spaces on both sides and the site access road would pass through it to the health centre/office building at the north corner of the site. The south-east end of the central courtyard would be closed by units 29 and 30 and the north-west end would be closed by a pair of similar two storey plus attic dwellings, units 21 and 22. There would be no vehicular access through the site to Hensington Road but pedestrians would be able to use this route through the site. They would also be able to gain access through to New Road and this permeability of the site is another positive aspect of the redevelopment scheme.

41. A significant feature of development within the WCA is the difference in scale and form of frontage development to that behind. Frontage development on Oxford Street and on the three streets that converge at Market Place in the town centre is virtually all terraced in form and two and three storeys in height whereas development behind is less formal in form and significantly lower in height. These differences in scale and form contribute to the distinctive character of the WCA. These differences would not be replicated in the proposed redevelopment scheme. On the contrary, the new terrace in the middle of the site that would enclose the rear courtyard would be partly four storeys in height and, more significantly, would be higher than the frontage development it would be to the rear of.

42. Elevation 2 (Oxford Street Looking Northeast) on application drawing no. 0.333.PL105 is instructive in this regard. The elevation shows how residents of the new mid-terraced four storey dwellings would be able to look over the ridge of the new terraced unit that would be attached to 4 Oxford Street from their top storey outdoor terraces. It would, furthermore, be relatively formal in appearance compared to the traditional ad hoc form of backland development elsewhere in the WCA. Even further back in the site development on the north-east side of the main courtyard would be three storeys in height with attic rooms in steep pitched roofs. Elsewhere in the WCA development reduces in scale to the rear of frontage development but in the proposed scheme the scale of frontage development is continued across the site. The scale of development to the rear of existing and proposed frontage development on Oxford Street would be out of keeping with the character of the area. The existing frontage development comprises four listed buildings and the proposed redevelopment scheme, for the reasons set out above, would intrude into, and would thus not preserve, the setting of the listed buildings.

43. The other main criticism of the proposed scheme is the lack of visual permeability within the main courtyard and, consequently, the lack of any visual connection with traditional development in the WCA. Within the courtyard there would be virtually no views out and views within the courtyard would be almost wholly of modern 3 and 4 storey dwellings all of which would have first or second storey balconies on their frontages overlooking the courtyard. Such features are

not found on dwelling frontages elsewhere in the WCA and, as a common feature, would be incongruous. The development, in itself, is not unattractive and the balconies and other design features have been sensitively incorporated into the overall scheme. It would, however, be on a site adjoining the town centre of a historic settlement which has a distinctive character and appearance. Given its form, scale, formal appearance and lack of visual permeability, the housing elements of the proposed redevelopment scheme would have a significant adverse effect on the character and appearance of the WCA.

44. The three storey health centre/office building would be uncompromisingly modern in design. It would have a flat roof that would be about 1.5 metres higher than the steep pitched gable roofs of 8 Hensington Road and Punch Bowl Cottage to either side. It would have distinctly horizontal proportions, it would terminate the vista along Union Street from the north-west, and it would be set close to the pavement to Hensington Road and, most importantly, in front of the building line of dwellings to the north-east. Again, whilst not unattractive in itself, it would dwarf nearby development, its proportions would be incongruous and it would be prominent in views along Union Street and along Hensington Road towards the town centre and the WCA. Though it would be situated outside the WCA the health centre/office building would harm the setting of the WCA.

45. LP policy BE5 requires that the character or appearance of a Conservation Area is not eroded by the introduction of unsympathetic development proposals either within or affecting the setting of the designated area and LP policy BE8 requires that development should not detract from the setting of a listed building.

46. The terraced frontage element on Oxford Street and the terraced dwellings alongside the New Road footpath would be sympathetic elements of the proposed redevelopment scheme. However, the bulk of the housing elements, given their scale and form in particular, and the health centre/office building, given its prominence and scale, would not be sympathetic. The redevelopment scheme, as a whole and in both cases, would adversely affect, and would thus not preserve, the character and appearance and setting of the WCA and the setting of listed buildings on Oxford Street. The proposed redevelopment schemes do not therefore comply with LP policies BE5 and BE8. The demolition of the former station building does not form part of redevelopment proposals that will positively enhance and improve the character and setting of the Conservation Area and its demolition does not therefore comply with the second part of LP policy BE6.

The amenities of residents of 8 Hensington Road

47. 8 Hensington Road (the dwelling) is a semi-detached two storey dwelling with a south-west side elevation facing towards the appeal site and, specifically, towards the part of the site that would be occupied by the health centre or office building. The dwelling has a rear element that extends out from the main part of the building. The ground floor of this rear element is a dining room and patio doors provide access directly from this room to a paved area and also to the enclosed rear garden. In the side elevation of the dwelling is a ground floor kitchen window and a first floor bedroom window. Towards the rear of the dwelling and filling the gap between the dwelling and the high boundary wall to the appeal site is a garage. The area in front of the garage and outside the kitchen window is covered by a pergola that supports vegetation.

48. The proposed flat roofed health centre/office building would be about 9.5 metres high overall. Its north-west elevation would extend about 4 metres beyond the rear element of the dwelling, and would extend beyond its front elevation. This elevation of the health centre would be built close to the boundary to the neighbouring residential property whereas the office building would be built about one metre from the boundary. This slight difference in location of the proposed buildings is not significant in assessing the effect of the proposed buildings on the amenities of neighbouring residents. For comparison purposes the dwelling has an eaves height of about 5 metres, an overall height of about 8 metres and the head height of the ground floor kitchen window is about 2.5 metres above ground level.

49. The most used part of the rear garden at the dwelling will be the patio area immediately outside the dining room. The side elevation of the proposed health centre/office building would be no more than about 6 metres from the patio area. Given its height, proximity and position the proposed building would dominate the patio area and would have an overbearing effect on the rear garden. Given its height and orientation to the west of the patio and garden area the proposed building would overshadow the dwelling's private amenity area after about mid-afternoon throughout the year. This would be at the time of day when the patio area in particular is likely to be most in use. The proposed building would significantly reduce sunlight in, and would dominate, the rear private amenity area.

50. Currently, sunlight and daylight filters through vegetation supported by the pergola to the kitchen in the dwelling. The side elevation of the proposed building would be no more than about 4.5 metres from the kitchen window. Given its height, proximity and extent to both sides the proposed building would seriously reduce sunlight and daylight in the dwelling's kitchen. More importantly, given that it is a habitable room, the outlook from the first floor bedroom window would be of the proposed building's almost blank side elevation that would rise to about 4.5 metres above the window. Not only would the outlook from this window be bleak but the proposed building, given its proximity, height and orientation, would reduce sunlight and daylight in the first floor bedroom.

51. In the proposed health centre building there would be a first floor window to a community counselling room in the side elevation facing towards the dwelling. In the proposed office building there would be three narrow angled first floor windows to an open plan office area in the same side elevation. In both cases it would be reasonable and necessary to impose a condition to require the fitting and retention of opaque glass in the first floor windows facing towards the dwelling to alleviate any concern regarding overlooking. However, given its height, extent, orientation and proximity to the neighbouring residential property, the proposed building would result in a loss of sunlight and daylight both internally and externally at the dwelling. Furthermore, the construction of the building would result in a loss of outlook in one of the dwelling's bedrooms, and would dominate the patio area and would have an overbearing effect on its rear garden.

52. The proposed development, in both cases, would have a serious adverse effect on the amenities of residents of 8 Hensington Road. The proposed redevelopment schemes thus conflict with LP policy BE2, which states that proposals will only be permitted if, amongst other things, the proposal retains a satisfactory environment for people living in the area. The harm that would be

caused to the amenities of neighbouring residents is sufficient reason, in itself, to dismiss the appeals and to refuse planning permission, in both cases.

#### Affordable housing

53. LP policy H11 relates to the provision of affordable housing and states that up to 50% affordable housing will be sought in a development such as that proposed. Detailed guidance on policy H11 is provided in a Supplementary Planning Document 'Affordable Housing' (SPD) that has been prepared in accordance with statutory requirements and that was formally adopted by the Council in April 2007. Paragraph 3.4 of the SPD advises that "Lower levels of provision (of affordable housing) on any site will be accepted where it is demonstrated that full provision would render a development unviable".

54. It is the Appellants' case that their proposed development would not be viable if any affordable housing were to be provided. They have, nevertheless, entered into a Unilateral Undertaking to provide five affordable flats. The Council, however, maintains that "Both the proposed schemes would be viable in providing 36% affordable housing, comprising 10 social rented units and 3 shared ownership units". The main parties agree on many of the costs incurred and values derived from building the proposed mixed use development. They disagree, however, on several main costs and values. The most significant of these are the existing use value of the land, the date of commencement of finance arrangements, the value to be derived from selling the market housing, the cost of building the residential elements of the development, and developer profit.

55. The main parties' valuations of the current existing value of the land are not dissimilar but the Appellant has sought to add a 10% premium. Though the site is owned by the Appellants it must be assumed, for valuation purposes, that the land is being acquired now. It is unreasonable to assume that an existing owner and user of the land would not require a premium over the actual value of the land to offset inconvenience and assist with relocation. The Appellants addition of the 10% premium is not unreasonable in these circumstances.

56. The Appellants have been actively pursuing the development of the land for about two years and it is likely that Agents were first instructed in the summer of 2007. The site is previously developed land in a sensitive location relative to listed buildings and the WCA, and has required the input of several professionals to provide the necessary information to support the applications and it is not surprising that two years have elapsed between first discussions on development of the site and the date of assessing the economic viability of providing an element of affordable housing. It is unrealistic, therefore, for the Council to allow for finance arrangements from only three months before potential commencement on site and not unreasonable for the Appellants to allow for finance arrangements from the date of purchase of the site.

57. The Council's witness does not live in the area and consulted only one local estate agent on the current housing market. The list of properties he assessed to establish an average private residential receipt included properties sold as far back as February 2003 and included only three properties sold in 2008-9. He sought to assert, also, that Woodstock has its own microclimate in terms of property values and that new build properties attract a premium. There is no evidence to support

these assertions. On the contrary, a property in a modern development on the outskirts of Woodstock sold in 2007 for about £3500 per square metre whereas its similar neighbour sold in May 2008 for about £2900 per square metre; a fall of about 17%, which suggests that there has been a downturn in the local housing market. Furthermore, only one property referred to by the Council's witness has sold for more than his estimated average private residential receipt and this was an individual, high specification, detached dwelling with its own private garden; not in any way comparable to dwellings proposed on the appeal site.

58. The Appellant's witness on this subject does live in the area and has consulted several local estate agents and his own company's new homes department. He considered properties sold no further back than April 2008 and made adjustments for comparability and the movement in the market since the date of each transaction. He also gave careful consideration to the detailed layout and orientation of the site when attributing a potential value to each of the proposed dwellings. His evidence was more credible than that provided by the Council's witness and his estimate of the average private residential receipt for the private dwellings, just over £3000 per square metre, is reasonable.

59. The Council's witness has used BCIS data, albeit from the upper quartile range to reflect the quality of the Appellant's developments, to estimate the build cost of the proposed development. This is a somewhat arbitrary method. The Appellant's witness had the benefit of the Appellants' estimated costs of building the actual proposed development on the appeal site. This evidence was not challenged at the Inquiry and has been used to estimate the overall build cost. There is no evidence to suggest that the build cost has been inflated in any way and it is worth noting that other unchallenged evidence indicates that the estimated build cost per square metre would be less than that of two other recent similar developments built by the Appellants. Again, the Appellants' witness's evidence is credible on this matter and his build cost estimates are reasonable.

60. The Appellants' witness's estimates of the value of the land, the revenue that would be derived from the development, and of finance and build costs, are reasonable. Evidence produced by the Appellant's witness at the Inquiry, which was not challenged, applied his reasonable estimates to the Council witness's other figures; which are based on the provision of 36% affordable housing. Applying all of the estimates would result in the Appellants incurring a deficit of about 2.1%. On this basis the development would not be viable. From the same evidence and 'splitting the difference' on build cost but with no affordable housing the Appellants would achieve a profit of about 16.5%. This would be less than the 17% profit which the Council's witness asserts "...would make the development viable". The witnesses disagree on what would be an acceptable profit but, given that even with no affordable housing the development would provide less than the lowest suggested acceptable profit, there is no reason to reach a conclusion on this matter.

61. From all the evidence provided it is likely that any provision of affordable housing would result in the redevelopment schemes being less than viable. The Appellants' Unilateral Undertaking to provide five affordable flats is therefore considered to make appropriate provision for affordable housing. The SPD indicates that viability of a particular scheme influences the level of provision of affordable housing. Taking the specific circumstances of the site and the development into account, the proposed redevelopment schemes do not conflict with LP policy H11.

Employment land

62. LP policy E6 states that the change of use of existing premises and sites with an established employment use to non-employment uses will not be allowed unless, setting aside two other possibilities for compliance with the policy, substantial planning benefits would be achieved by allowing alternative forms of development.

63. The appeal site is in established employment use even though MPR are carrying forward relocation to another site because a temporary planning permission for their use of part of the site has expired. The Appellants accept, in any event, that the redevelopment proposals for the site must comply with LP policy E6. In this regard they maintain that the proposals would achieve substantial planning benefits and would therefore comply with the policy. They suggest that the proposed redevelopment scheme would, amongst other things, benefit the townscape of Woodstock, the fabric and setting of listed buildings and the WCA, the provision of affordable housing, and highway matters.

64. Whilst the proposed frontage development on Oxford Street would benefit the townscape of Woodstock, as would the removal of the majority of buildings on the site, the proposed redevelopment scheme as a whole would not. Nor would it benefit the setting of listed buildings on Oxford Street or the WCA, and the absence of harm to the fabric of the listed buildings cannot be regarded to be a substantial planning benefit. If the appeal site was not in employment use the housing element of a redevelopment scheme would still be required to comply with policy H11 and to include, if viable, a proportion of affordable housing. The provision of affordable housing as part of the proposed redevelopment scheme cannot therefore be regarded to be a substantial planning benefit.

65. Visibility for drivers of vehicles exiting the site at the existing access onto Oxford Street is sub-standard to the north-west whilst visibility at the proposed access would meet current standards in both directions. The suitability of the proposed access is only relevant to consideration of the proposed redevelopment schemes and the fact that it would have adequate visibility splays cannot be regarded to be a planning benefit. Furthermore, the proposed access could only be provided if the station building were to be removed and this would not occur unless a redevelopment scheme for the site is acceptable. There are no highway matters that can be considered to be substantial planning benefits.

66. The Council has prepared and published a Strategic Housing Land Availability Assessment (SHLAA), which identifies sites with the potential for housing to meet the future housing needs of the District. The appeal site is identified in the SHLAA and "...is considered suitable for a mixed use development, including housing". The SHLAA is an Interim Report and has been prepared only to inform future decisions on where housing could be located but it does provide an indication of whether sites are being considered as suitable for housing. Furthermore, the SHLAA does provide an indication that the site is likely to be developed in the future for a mixed use, including housing. It is in recognition of this limitation that the Appellants have proposed a mixed use scheme for the site.

67. The health centre or office building has therefore been included in the redevelopment scheme to satisfy a Council commitment, if that is what is suggested in the SHLAA, to seek a mixed use of the site rather than a wholly housing use.

This does not constitute local planning policy but Council Officers have clearly maintained such a commitment in pre-application discussions and this commitment is likely to be carried forward into the future. Either proposed use for the north corner of the site would create employment opportunities but this would offset the loss of the whole site for employment and, given the SHLAA 'commitment' for the future of the site, must therefore be regarded to be a planning requirement for the redevelopment of the site, rather than a planning benefit.

68. This conclusion is made, to a degree, because the local doctor's surgery has not committed to relocation to a health centre at the north corner of the appeal site, and because the alternative office building is speculative. The Appellants have made a commitment, by entering into Unilateral Undertakings to provide for either of these employment opportunities for a period of three years after, and if, planning permission is granted for either or both of the planning appeals. If, after that three year period, neither possible employment opportunity has been realised, there would inevitably be pressure on the Council to permit alternative housing use.

69. If this were to occur the site would, potentially, be in a wholly housing use, apart from the shop unit on the Oxford Street frontage. This factor reiterates the previous conclusion that both employment opportunities on part of the site are planning requirements rather than planning benefits. There is no evidence to indicate that substantial planning benefits would be achieved by allowing either alternative form of development of the appeal site that has an established employment use. The loss of an existing employment site would not be outweighed by substantial planning benefits and both proposed redevelopment schemes thus conflict with LP policy E6.

70. Consideration has been given to the emerging Local Development Framework, to the West Oxfordshire Economic Study and to the West Oxfordshire Sustainable Community Strategy, amongst other documents referred to by the Appellants. However, nothing in these documents outweighs the conflict with a policy of the Development Plan.

#### Other matters

71. The three dwellings that would stand alongside the New Road footpath have been designed to overcome concerns regarding overlooking of The Old School and its associated garden area. There would be adequate parking within the redevelopment scheme for residents of the dwellings and their visitors though rather than allocating all the spaces to the dwellings it would be necessary to specify visitor parking spaces. This could be the subject of a planning condition.

72. The Appellants maintain that the office building could sustain around forty jobs and the health centre would be likely to support nearly as many. The ten parking spaces at the health centre/office building, even with a Green Travel in place, would be inadequate and would lead to increased demand for parking at the nearby public car park on Hensington Road. The survey carried out on behalf of the Appellants into use of the car park was inconclusive on whether there would be sufficient capacity to accommodate parking associated with the health centre/office building. This is a matter, however, for future consideration if a further planning application is submitted to the Council for the redevelopment of the site.

73. All other matters mentioned, both in support and opposition to the proposed schemes, have been taken into account. None of these matters, either individually or collectively, outweigh the conclusions reached on the main issues.

### **Conclusions**

74. Both redevelopment proposals would make appropriate provision for affordable housing. However, the redevelopment proposals for the appeal site would adversely affect, and would thus not preserve, the character and appearance and setting of the Woodstock Conservation Area and the setting of listed buildings on Oxford Street. The proposals would, in addition, have a serious adverse effect on the amenities of residents of 8 Hensington Road and would not include substantial planning benefits to outweigh the loss of an existing employment site. Planning permission for the redevelopment proposals must therefore be withheld and, in both cases, conservation area consent and listed building consent must also be withheld.

*John Braithwaite*

Inspector



#### INTERESTED PERSONS:

Mr J Banbury	Resident of Woodstock
Mr C Bayliss	Chairman of Wake up to Woodstock and resident of Woodstock
Mr Harvey	Resident of Woodstock
Mr D Allen	Resident of Woodstock
Mr Wheaton	Resident of Woodstock
Mr B Wheatley	Resident of Woodstock
Mr P Redpath	Resident of Woodstock

#### DOCUMENTS

- 1 Appellant's list of appearances.
- 2 Council's letter of notification of the Inquiry and list of those notified.
- 3 Mr Bird's Opening Statement on behalf of the Appellant.
- 4 Unilateral Undertaking for Land to Rear of Oxford Road, Woodstock (Surgery).
- 5 Unilateral Undertaking for Land to Rear of Oxford Road, Woodstock (B1).
- 6 Statement of Common Ground.
- 7 Agreed application drawings.
- 8 Council's suggested conditions.
- 9 Mr Mellor's Statement on behalf of Woodstock Town Council.
- 10 Mr Carritt's Statement.
- 11 Photographs submitted by Mr Wheatley.
- 12 Statement by Mr Allen.
- 13 Photographs and plans of Woodstock Railway Station submitted by Mrs Redpath.
- 14 Planning Permission 09/0156/P/FP.
- 15 English Heritage advice and recommendation on appl. no. 08/1059/P/FP.
- 16 Extracts from highway publications.
- 17 Historical photograph of Woodstock Railway Station.
- 18 Photocopy of postcard of Oxford Road, Woodstock.
- 19 Historical aerial photograph of the appeal site.
- 20 Building Housing Cost Index by BCIS.
- 21 BCIS All-in Tender Price Indices.
- 22 Definition of main contractor's preliminaries.
- 23 Nationwide House Price Indices.
- 24 Final Agreed and Unagreed Costs and Value.
- 25 Nationwide press release on house prices.
- 26 Alterations to Mr Solomon's Appraisals.
- 27 Mr Eve's Appraisal Summary.
- 28 Mr Solomon's Updated Appraisal for appl. no. 09/0201/P/FP.
- 29 Mr Solomon's Comparative Appraisal of 14% and 50% Affordable Housing.
- 30 Mr Solomon's Adjusted Prices.

- 31 Mr Solomon's Updated Appraisal for appl. no. 08/1059/P/FP.
- 32 Building cost data for housing developments.
- 33 WODC Annual Monitoring Report 2008.
- 34 1877 map of Woodstock.
- 35 E-mails between My Lyzba and Mr J Westerman of WODC.
- 36 E-mails from Mr J Westerman to Mr Lyzba dated 7 May 2009.
- 37 West Oxfordshire Design Guide.
- 38 WODC Affordable Housing SPD adopted April 2007.
- 39 Printouts of visual presentation to the Inquiry by Mr Neill-Smith.
- 40 The Woodstock Branch by Stanley C Jenkins.
- 41 Outline of Closing on behalf of the LPA.
- 42 Closing Submissions on behalf of the Appellant.

## **PLANS**

- A Drwg. No. 0.333.PL101 Rev B – Overall Site Layout Plan (Office Scheme).
- B Drwg. No. 099d/136 – Site Layout Plan (Health Centre Scheme).
- C Drwg. No. 0.333.PLA100 – Car Parking Plan.
- D Plan extract showing relationship of Office/Health Centre Building to 8 Hensington Rd.
- E Drwg. No. DAT/9.0A – Mr Carritt's alternative access off Oxford Street.