

For: PLANNING AND REGULATION COMMITTEE – 27 JANUARY 2020

By: DIRECTOR FOR PLANNING AND PLACE

Development Proposed:

Proposed retention and continued use of prefabricated units T1 and T3 for a further temporary period of five years.

Division Affected: Cowley

Contact Officer: Emma Bolster **Tel:** 07775 824954

Location: Church Cowley St James CE Primary School,
Bartholomew Road, Cowley, Oxford, Oxfordshire,
OX4 3QH

Applicant: Oxfordshire County Council

Application No: R3.0105/19 **District Ref:** 19/02666/CC3

District Council Area: Oxford City Council

Date Received: 7 October 2019

Consultation Period: 18 October – 8 November 2019

Recommendation: **Approval**

The report recommends that the application be approved.

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• **Part 1 – Facts and Background**

Site and Setting (see site plan Annex 1)

1. Church Cowley St James CE Primary School is located approximately 4 kilometres (2 miles) south west of Oxford City Centre and approximately 0.5 kilometres (0.3 miles) south west of Cowley commercial centre.
2. The school buildings comprise the main single-level brick building and two modular buildings. There are also several smaller sheds/play areas to the perimeter of the hard surface play areas.
3. The school is located to the south of Bartholomew Road in a residential area. There are residential properties to the south and west of the site and a private road runs between these and the school boundary, leading to allotments which are adjacent to the east edge of the school. Bartholomew Road forms the northern boundary.
4. The closest residential properties to the modular buildings are located in Van Diemens Lane. These are approximately 15 metres from both T1 (E223) and T3 (E237).
5. The whole school site lies within Flood Zone 1, which is the area of least flood risk.

Details of the Development

6. It is proposed to retain two existing modular buildings. T1 (E223) is a six-bay, double classroom unit immediately to the rear of the main school building, separated by a covered area. The two classrooms provide general teaching space for up to 30 pupils in each. The modular building is of standard steel and timber construction and has a floorspace of 142 sqm. Planning permission for T1 (E223) lapsed in December 2017.
7. The second modular building to be retained is T3 (E237), which is a standard steel and timber construction, three-bay single classroom unit with a floorspace of 63 sqm. The building is located to the back of the hard-play area to the rear of the main school building. The classroom provides the school library and SEN provision. Planning permission for T3 (E237) lapsed in December 2017.
8. There have been temporary buildings to increase the available teaching space since the first application was issued for a double classroom unit in September 1991. Modular building T1 (E223) was installed to replace modular building E059 after application 03/01046/CC3 (O.12/03) was issued 05 August 2003. This application was for a temporary period of 5 years, which included the condition that the building must be removed and the land left in a tidy and orderly state by 31 August 2008.

9. Planning application 08/01546/CC3 (O.05/08) was issued 07 November 2008 for renewal of consent and continued use of T1 (E223) for a further 5 years. This permission included the condition that the building must be removed and the land left in a tidy and orderly state by 31 October 2013.
10. Planning permission 07/00415/CC3 (O.04/07) for a single classroom modular building was issued 25 May 2007 to replace an existing modular classroom, for a temporary period of 5 years. This permission included a condition that the building be removed and the land left in a tidy and orderly state by 31 May 2012.
11. Planning permission 12/02496/CC3 (R3.0158/12) for renewal and continued use of modular building T1 (E223) and T3 (E237) was issued 17 December 2012. This was for a further temporary period of 5 years. This permission included a condition that the buildings be removed and the land left in a tidy and orderly state by 31 December 2017.
12. The submitted supporting information states that the classroom space provided by both modular buildings T1 (E223) and T3 (E237) is essential to provide sufficient capacity for the current and forecast pupil roll to teach the delivery of the National Curriculum. As of January 2019, when the last pupil census was carried out, the school roll for Reception through to Year 6 was 406 (4-11 years), with a net capacity for 420 pupils in total at the school. There is little change in pupil place demand across all years up to 2025.
13. As of 2010, the county council's cabinet, meeting as the Capital Investment Board, considered the implications of the anticipated reductions in capital funding, whilst there is a requirement to increase additional pupil places to meet 'Basic Need' within the county. As part of the considerations, a decision was made to provide temporary buildings, and to defer the replacement of existing temporary building stock except where deemed essential due to inadequate condition. There are no capital funds available to OCC or the school to provide replacement, permanent build school accommodation to meet 'Basic Need' at this site at the current time.

• **Part 2 – Other Viewpoints**

Representations

14. There were no third-party representations received

Consultations

15. Oxford City Council – Objection

Whilst a need has been demonstrated for the retention of the buildings, this need has been continuous for more than 5 years where, for the purpose of policy CP25 of the Oxford Local Plan 2001-2016, short term is defined as up to five years. The City Council cannot continue to support the retention of buildings as the proposal is contrary to policy CP25.

The relevant policies which are relevant to this decision are CP1, CP8, CP10, CP25, TR4 of the Oxford Local Plan 2001-2016 and Policy CS11, CS12, CS16, CS18 of the Core Strategy.

16. OCC Transport Development Control – No objection

There will be no changes to the number of pupils or staff members; nor will there be any changes to the number of car and other parking spaces as a result of this application.

The application proposals are acceptable from a highway safety and traffic movement point of view.

17. OCC Biodiversity – No comment

18. OCC Landscape – No objection

The application seeks the continuation of already existing temporary classrooms on the school grounds. No additional landscape or visual impacts are therefore expected.

Part 3 – Relevant Planning Documents

Relevant planning policies (see Policy Annex to the committee papers)

19. Planning applications should be decided in accordance with the Development Plan unless material considerations indicate otherwise.

The relevant development plan documents are:

- Oxford Core Strategy 2026 (OCS)
- Oxford Local Plan 2001 – 16 (saved policies) (OLP)

20. There is also an emerging Oxford Local Plan 2036. This was submitted to the Planning Inspectorate 22 March 2019 for examination, which was heard from 03 December 2019 to finish by 19 December 2019. These policies have not yet been adopted but have some weight.

21. The Government's National Planning Policy Framework (NPPF). This was first published in 2012 and updated in 2018 and 2019. This is a material consideration in coming to a planning decision. Paragraph 94 states that Local Planning Authorities (LPAs) should give great weight to the need to create, expand or alter schools through decisions on applications, to meet the needs of existing new communities. LPAs should also work with school promoters to identify and resolve key planning issues prior to submission of applications.
22. There is no Neighbourhood Plan in this area.

Relevant Policies

23. Oxford Core Strategy 2026 (OCS):

| | |
|------|--------------------------------|
| CS11 | Flooding |
| CS12 | Biodiversity |
| CS16 | Access to education facilities |
| CS18 | Urban Design Principles |
24. Oxford Local Plan 2001-16 (saved policies) (OLP):

| | |
|-------|--|
| CP.1 | Standards of development |
| CP.8 | Designing Development to relate to its context |
| CP.10 | Siting of Development to meet functional needs |
| CP.13 | Accessibility |
| CP.25 | Temporary Buildings |
| TR4 | Pedestrian and Cycle facilities |
25. Policies of the Oxford Local Plan 2036 (Proposed Submission Draft) (DOLP)

| | |
|------------|---|
| Policy S1 | Presumption in favour of sustainable development |
| Policy G1 | Protection of the Green and Blue Infrastructure Network |
| Policy RE2 | Efficient use of land |
| Policy RE7 | Managing the impact of development |

• Part 4 – Analysis and Conclusions

Comments of the Director for Planning and Place

26. The Communities and Local Government (CLG) letter to the Chief Planning Officers dated 15 August 2011 sets out the Government's commitment to support the development of state funded schools and their delivery through the planning system. The policy statement states that:
“The creation and development of state funded schools is strongly in the national interest and that planning decision-makers can and should support that objective, in a manner consistent with their statutory obligations.” State funded schools include Academies and free schools as well as local authority maintained schools.

It further states that the following principles should apply with immediate effect:

- There should be a presumption in favour of the development of state-funded schools;
- Local Authorities should give full and thorough consideration to the importance of enabling the development of state funded schools in their planning decisions; Local Authorities should make full use of their planning powers to support state-funded schools applications;
- Local Authorities should only impose conditions that clearly and demonstrably meet the tests as set out in Circular 11/95;
- Local Authorities should ensure that the process for submitting and determining state-funded schools' applications is as streamlined as possible;
- A refusal of any application for a state-funded school or the imposition of conditions, will have to be clearly justified by the Local Planning Authority.

This was endorsed as part of the National Planning Policy Framework (NPPF) and has been retained in the revised NPPF (2019) which states that local planning authorities should *give great weight to the need to create, expand or alter schools.*

27. There are no changes to the number of pupils or staff as a result of this application, as the retention is to enable Basic Need educational provision in Oxford City to be met. There is no change to car or other parking space provision as part of this application. The CLG letter suggests that planning permission should be granted unless overriding policy or material considerations dictate otherwise. The main issues in relation to this application are design and amenity impacts and the need for the continued use of the temporary classrooms.

Design and Amenity

28. Policy CS18 of the OCS states that development should demonstrate high quality urban design, respect Oxford's unique historic environment and respond positively to the character and distinctiveness of the locality.
29. Saved policy CP.1 of the OLP states that development should show a high standard of design which respects the character and appearance of the area and has suitably inclusive access and arrangements for all members of the community. It also states that the materials used are of a quality and nature appropriate to the development with acceptable access and infrastructure links.
30. Saved policy CP.8 of the OLP states that development should relate to the setting to strengthen and enhance local character. This is to include being well-connected and integrated with the wider area and the design and visual impact respecting and enhancing the style and perception of the area.

31. Saved policy CP.10 of the OLP states that development should be sited to ensure access is practical, with priority given to pedestrians and cyclists. The outdoor needs should be properly accommodated with buildings orientated to provide satisfactory light outlook and privacy, with the use or amenity of other properties adequately safeguarded.
32. Saved policy CP.13 of the OLP states that development should include reasonable access for all members of the community, including children, elderly people and people with disabilities.
33. Policy RE2 of the DOLP states that planning permission will only be granted where development proposals make efficient use of land. Development proposals must make best use of site capacity, in a manner compatible with the site itself, the surrounding area and broader considerations of the needs of Oxford.
34. Modular building T1 (E223) is a six-bay building, which has a grey 'Resitex' coating to the external walls. Other than this, the building is relatively basic regarding form and construction materials, being a largely timber construction with a bitumen felt roof. Modular building T3 (E237) is a standard construction, with a red 'Resitex' coating to the external plywood walls with a bitumen felt roof. The building is basic in form and construction materials.
35. Neither building is considered to reflect high-quality design, so to this extent they are not supported by OCS policy CS18 or OLP policy CP.1. Modular building T1 (E223) relates to the school setting as being a functional, temporary teaching space. It cannot be said to strengthen or enhance local character, as the functional (grey) external decoration to the building is somewhat bland when compared to the rest of the school site. Modular building T3 (E237) also relates to the school setting as a functional, temporary teaching space. The external decoration to T3 (E237) does strengthen the character of the school site. The external decoration, which is dark red and has picture panels, could be said to make a positive contribution to the education environment where the use of colour has been used on the permanent school structures to good effect. The buildings partially meet the requirements of OLP saved policy CP.8.
36. Both buildings could be said to be supported by DOLP policy RE2 insofar that the school is a constrained area and the current siting of the modular buildings provides the required teaching space for the current and predicted pupil roll whilst still allowing for outdoor play areas.
37. Both modular buildings are visible to residential properties, immediately adjacent to the school site. Both buildings are viewed within the context of the school's existing environment, with T1 (E223) being immediately behind the main school building and T3 (E237) being to the back of the school site to the edge of the school's built up area adjacent to the

current hard-play area. There is some screening of the northern and southern boundaries by mature trees/ hedging. Therefore, there would be no change to the overall context of the school buildings' setting and the retention of the two temporary units is consistent with the existing built character.

38. There are no changes being proposed by this application as it proposes that existing buildings and associated uses are retained. Building T1 (E223) being located directly behind the main school building has practical, ramped access to the building itself from the adjacent outside space and hard play area. Building T3 (E237) is accessed across a level hard-standing play area and also has a ramped access. Both are also regulation compliant with the internal layout. Neither building impacts unduly on the neighbouring residential properties as there is mature planting along the southern boundary. I do not consider there to be conflict with the aims of OLP policies CP.10 and CP.13.

Biodiversity, Flooding and Surface Water

39. Policy CS11 of the OCS states that development will not be permitted in the functional flood plain except water-compatible uses and essential infrastructure. Unless it is not feasible, developments should incorporate sustainable drainage design. Development will not be permitted where there is an increased risk of flooding.
40. Policy CS12 of the OCS states that development will not be permitted that results in a net loss of sites and species of ecological value. Where there is opportunity, development will be expected to enhance Oxford's biodiversity, create links between natural habitats and a strategic Oxford habitat network and to include features beneficial to biodiversity.
41. Policy G1 of the DOLP states that Green and open spaces and waterways of the Green and Blue Infrastructure Network as defined on the policies map are protected for social, environmental and economic functions. Planning permission will not be granted for development that would result in harm to the Green and Blue network except where that development cannot be provided elsewhere in a suitable location, there is no harm to biodiversity function and losses can be mitigated or replaced elsewhere
42. Modular buildings T1 (E223) and T3 (E237) have been on site for 16 years and 12 years respectively. There is no change to the siting or use of the buildings, which have been demonstrated as required to ensure sufficient pupil capacity at the school. There is no additional development proposed and the school site is within Flood Zone 1, the lowest area of risk. There is no impact on the adjacent tree planting and no change proposed to any of the existing tree or hedge planting to the site's boundary or internal areas. There is no objection or requirements from the county ecologist or Lead Local Flood Authority team to be

addressed. The application is not contrary to OCS policies CS11 and CS12 or DOLP policy G1.

Temporary Consent and Need

43. National Planning Practice Guidance¹ advises that temporary planning permission should rarely be justified to be granted for more than one period of time. Thereafter, permission should be either refused or granted permanently. However, it also states that temporary permission may be appropriate where it is expected that the planning circumstances will change in a particular way at the end of that period.
44. Policy CS16 of the OCS states that the City Council will work with the County Council and other agencies to improve access to all levels of education thorough new or improved facilities throughout Oxford. Community as well as education use will be sought.
45. Saved policy CP.25 of the OLP states that permission for temporary buildings will only be granted where there is a short-term need clearly identified, the building will not affect visual attractiveness, access, existing buildings or parking provision and if permission is granted, a condition is attached to require the building's removal within a specific period.
46. This is the third application for building T1 (E223), for a further temporary period of 5 years and the second application to retain building T3 (E237) for a further temporary period of 5 years. The Justification Statement in support of this application sets out that it is necessary to retain both buildings in order for the school to continue to provide the necessary space to meet the statutory requirements to teach and deliver the National Curriculum.
47. The school does not have sufficient permanent accommodation to meet these needs, nor available capital funding itself for the County Council to provide permanent accommodation at this time. Although it is concerning that there is a demonstrated on-going requirement for the space provided by these temporary buildings, it may be that after a further period of five years, circumstances may have changed, and provision can be made for permanent replacement of the space provided by both T1 (E223) and T3 (E237). Therefore, although there is an identified need, the ongoing retention of temporary buildings is contrary to policies OCS CS 16 and OLP saved policy CP.25.
48. Neither building is considered suitable for permanent retention due to their design and materials. The design and materials reflect that the buildings were intended to be temporary. The condition report provided for T1 (E223) demonstrates that there are some important maintenance and restoration required to maintain the building to an acceptable

¹ Paragraph 14 Reference ID: 21a-014-20140306

standard and if left, the works could become uneconomical to carry out. The report provided for T3 (E237) demonstrates that for the building's age (20 years), it is in a reasonably good condition. However, it will also require routine maintenance and repair to keep the building in a useable condition.

49. Although the buildings are not suitable for permanent retention, it is considered that there is sufficient justification for a renewed temporary consent for both buildings, despite the conflict with OCS CS policy 16 and OLP saved policy CP.25. This is due to the strong support given for applications at state schools in the NPPF (paragraph 94 and the 2011 ministerial letter). There is also the fact that circumstances may change by the end of a further 5-year period, to allow for the provision of permanent, alternative accommodation for the classrooms, library and SEN provision currently within the modular buildings.

Other Issues

50. Saved policy TR4 of the OLP states that permission will only be granted that provide good access and facilities for pedestrians and cyclists, complies with the minimum cycle parking standards. New non-residential development should provide shower and changing provision in accordance with thresholds and minimum standards.
51. Policy RE7 of the DOLP states that development should ensure that the amenity of communities, occupiers and neighbours are protected, there are no unaddressed transport impacts and mitigation measures are provided where necessary.
52. This application is a renewal of existing development rather than new development. This application is not proposing any change to the existing arrangements for cycle or other vehicle parking on site. There are no changes proposed to the cycle provision, as there is no proposed change to the pupil roll. There is existing pedestrian access with no change proposed to alter this in any way. The application is simply to retain the status quo of what is already existing and provided on site. The application is not contrary to OCS saved policy TR4 or DOLP policy RE7.

Conclusion

53. The NPPF sets out a presumption in favour of sustainable development. This is supported by policy S1 of the DOLP. This means taking a positive approach to development and approving those applications which accord with the development plan, unless material considerations indicate otherwise.
54. This application seeks to continue to provide necessary accommodation for school functions in two existing modular buildings. There would be no change to the existing situation and no harm to amenity or detracting

from the surrounding environment. Both buildings are of a basic design and construction. However, a further temporary period is justified for both buildings by the need to continue to provide the teaching space for the existing and forecast pupil intake.

55. Whilst I do consider that the approval of this application is in accordance with the guidance set out in the ministerial letter dated 15th August 2011 and paragraph 94 of the NPPF, I also consider it appropriate to attach an informative, advising that it is not considered satisfactory that provision which is required to meet an ongoing educational need continues to be provided in temporary accommodation, which would appear to be coming to the end of economic, operational life in both cases. The applicant should address this issue and work to bring forward a planning application for a permanent alternative to be considered prior to the expiry of the five years temporary permission.

Recommendation

56. **It is RECOMMENDED that Application R3.0105/19 be approved subject to conditions to be determined by the Director of Planning and Place, to include the following:**
- i. Detailed compliance;**
 - ii. Temporary 5 year consent.**

SUSAN HALLIWELL
Director of Planning and Place

January 2020

Annex 1 – Informatives

Compliance with National Planning Policy Framework

In accordance with paragraph 38 of the NPPF Oxfordshire County Council takes a positive and creative approach and to this end seeks to work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. We seek to approve applications for sustainable development where possible.

We work with applicants in a positive and creative manner by;

- offering a pre-application advice service, and
- updating applicants and agents of any issues that may arise in the processing of their application and where possible suggesting solutions. In this instance, there was an objection from the City Council on the grounds of conflict with development plan policy with regard to the temporary planning permissions and the provision of improved educational facilities. A solution has not been found for this issue but the over-riding educational need for the development is considered to outweigh these policies in the planning balance.

Informative

National planning practice guidance paragraph: 14 Reference ID: 21a-014-20140306 does not support the ongoing grant of temporary planning permission and states that it will rarely be justifiable to grant a second temporary permission. It is not considered satisfactory that provision which is required to meet an ongoing educational need continues to be provided in temporary accommodation. The applicant should address this issue and work to bring forward a planning application for a permanent alternative to be considered prior to the expiry of the five years temporary permission.

Informative

Based on the conclusions of the General Condition Survey Report provided as part of this planning permission renewal for both T1 and T3, it is unlikely that the modular double classroom unit and modular single classroom unit would remain useable for the life of the permission hereby granted, if the proposals for identified replacement works and external areas maintenance are not possible to complete.

Annex 2 - European Protected Species

The Local Planning Authority in exercising any of their functions, have a legal duty to have regard to the requirements of the Conservation of Species & Habitats Regulations 2017 which identifies 4 main offences for development affecting European Protected Species (EPS).

1. Deliberate capture or killing or injuring of an EPS
2. Deliberate taking or destroying of EPS eggs
3. Deliberate disturbance of a EPS including in particular any disturbance which is likely
 - a) to impair their ability –
 - i) to survive, to breed or reproduce, or to rear or nurture their young, or
 - ii) in the case of animals of a hibernating or migratory species, to hibernate or migrate; or
 - b) to affect significantly the local distribution or abundance of the species to which they belong.
4. Damage or destruction of an EPS breeding site or resting place.

Our records and the habitat on and around the proposed development site indicate that European Protected Species may be present but are unlikely to be impacted by the proposed development. Therefore no further consideration of the Habitat Regulations is necessary.