

Note of City Council and
Universities' positions
relating to potential
additional modifications to
Policy H2, supporting text
and Glossary

PSD.27A

Note of City Council and Universities' positions relating to potential additional modifications to Policy H2, supporting text and Glossary

1. During the hearing session on Friday 6th December it became clear that a further modification was required to Policy H2 in relation to affordable housing contributions from student accommodation as it relates to University provided accommodation due to their specific role in ensuring the accommodation needs of this specific group are met particularly given the requirement within the plan for the Universities to address the main accommodation needs of their students under Policy H9.
2. A series of exemptions were put forward by the University of Oxford and the council were asked by the Inspector to meet with both Universities to try and formulate, ideally, an agreed proposal.
3. The City Council, both Universities and the Oxford Centre for Islamic Studies (OCIS) met to discuss potential amendments on 12th December. The amendment to H2 shown below was put forward by the City Council and broadly agreed by all parties. The University of Oxford raised particular issues regarding self-contained housing, provided for post graduate students and their families, being excluded from the exemption relating to existing student accommodation. They have also since raised concerns with the reference to "purpose built" student accommodation. We have highlighted the area in dispute in red within the modification proposed by the City Council. Oxford Brookes University have confirmed their position in their comments below.
4. Furthermore, the University of Oxford put forward in their Matter Statement 4 a third exemption it still feels should be included: *c) City Council agrees that site is not suitable for, nor capable of being made suitable for, general purpose housing.* Oxford City Council does not agree that this exemption should be included. This is shown in purple in the modification below.
5. Since the meeting with the two universities, Oxford Brookes University has proposed a further exemption that is not agreed by the City Council. This is set out in Green.
6. At the hearing session it also became apparent that it was unclear whether the policy as it relates to student accommodation applied to a net or gross number of units. The proposed modification clarifies that the contributions apply only to the net gain. This is agreed between all parties and shown in black text.
7. The City Council also considers that a change to the Glossary would also be needed to define a campus to clarify how this policy will be applied and a proposed modification to the Glossary is also shown below. OBU also requested that the Glossary of the plan define OBU's existing campuses. The City Council has no objection to this as it is a matter of fact albeit the City Council do not consider it necessary to make the approach sound. It is therefore considered to be a minor modification. The University of Oxford and OCIS have no comments on the definition of existing OBU campuses. This definition has been included in the suggested modification as agreed text in black. The other parties have also suggested modifications to the campus definition put forward by the City Council and where these are not agreed are set out in the respective colours (Green for OBU and purple for University of Oxford and OCIS). A brief explanation as to why the City Council do not consider the changes necessary are set out in paragraphs 27 and 28.
8. Detailed discussions with Oxford Brookes University has confirmed that the MUGA at Crescent Hall, would be considered as falling within the curtilage of Crescent Hall, University-owned

purpose built student accommodation, and would therefore be exempt from the proposed exemptions in criterion (ii) to Policy H2.

Areas of disagreement

9. Each party has written the following sections to detail their own position.

Oxford City Council's position

Exemption not applying to self-contained accommodation

10. The exemption should be designed to enable the universities to meet their primary student accommodation needs and to meet the threshold set in Policy H9. Self-contained accommodation, e.g. that which is for of post-graduate students and their families, some of whom might qualify for housing under H3 and most of whom would be excluded from H9, is not considered to be a student accommodation need that warrants exemption in this way.
11. In the Sites and Housing Plan it was accepted that self-contained student accommodation is C3 use and therefore should be required to provide 50% onsite affordable housing (none of the exemptions applied to self-contained student accommodation). In drafting the Local Plan 2036 it was agreed that the practical implications of the requirement to provide affordable housing on site may act to sterilise sites. For example the City Council's understanding was that the self-contained student accommodation at Court Place Gardens had not been redeveloped because this would require delivery of 50% onsite social rented and therefore could only ever lead to a loss in quantum of student accommodation, and it may not be practical, operationally, to introduce social rented accommodation to this site. Thus, onsite affordable housing is no longer required on this or any other self-contained student accommodation site. However, it is still considered that self-contained student accommodation is C3 use and should provide affordable housing, although it has been accepted this can be in the form a contribution.
12. The City Council does not agree with the University of Oxford's view that our stance is anomalous. The University's view is that because the Plan does not require contributions from employer-linked affordable housing or communal accommodation there is no rational justification for not exempting self-contained student accommodation. Self-contained student accommodation does not fall under Policy H3 but then the City Council does not consider it is student accommodation that justifies the exception as it does not meet the definition in H9 either. The City Council's view is that employer-linked affordable housing is irrelevant to this requirement because it is delivered under policy H3 and is designed to provide accommodation to meet the affordable housing needs of the institution, not student accommodation needs. Therefore, of course it is not required to also make financial contributions to affordable housing. Policy H9 does not apply to post-graduate research students. It is acknowledged that some but by no means all of these could qualify for employer-linked affordable housing. The housing needs of these students are not considered to be the primary student accommodation needs and they are not included in Policy H9 so the exemption of self-contained student accommodation is not needed for the universities to meet their thresholds.

Response to the third proposed exemption for sites not suitable for general housing, as put forward by the University of Oxford

13. Whilst there may be operational reasons that some sites might not be brought forward for general housing, fundamentally the City Council considers that these sites are suitable for housing (or employer-linked affordable housing). There is no justification for excluding such sites from contributing to affordable housing.

14. We do not consider this clause would be effective as it would not be clear what information the universities could provide to demonstrate a site is not suitable for general housing or how this would be assessed at application stage.

Response to further exemption put forward by Oxford Brookes University after the meeting on 12 December

15. A further exemption was put forward by Oxford Brookes after the meeting held on 12th December. This proposes exempting student accommodation from H2 where he proposed student accommodation is necessary to enable either university to achieve or maintain the student numbers threshold referred to in Policy H9.
16. The City Council does not agree that this exemption should be included in Policy H2. The exclusion creates an internal conflict in the Plan whereby the institutions are encouraged to meet the threshold, but may be discouraged from meeting the threshold if it triggers a need for affordable housing contributions. In any event, the additional exemption is entirely unnecessary. The reason for the proposed exemptions is that they allow the universities to meet their own student accommodation needs within their own sites.

Response to comments relating to the word 'campus'

17. We note that the University of Oxford has raised in their comments an objection to use of the word 'campus' as they are not a campus university. However, they do not seem to be suggesting further changes to the modifications that the City Council has put forward to the Glossary. The City Council would like to point out that 'campus' is a term that is used throughout the plan, including for example in relation to Employer-linked housing in Appendix 3.4 and, for example, in the site name 'Old Road Campus'. It is considered to be a well understood term that applies to many of the University of Oxford's sites, as well as to Oxford Brookes University, especially given that a definition of it is now proposed in the Glossary.

Response relating to application of the exemption to purpose-built accommodation

18. The City Council's proposed modifications to include exemptions in H2 applies only to purpose-built student accommodation. The University of Oxford has suggested that this should be removed so that the exemption applies to all types of student accommodation. The City Council's view is that it should apply only to purpose-built student accommodation. Student accommodation takes several forms. Not all is purpose built; there have been instances in Oxford where general housing to student accommodation. This exception could mean that general housing is converted to student accommodation and thereafter more student accommodation could be placed on the site without any need for contributions, when the site could provide general housing and may even revert back to general housing.

University of Oxford and OCIS' position

Exemption not applying to self-contained accommodation

19. The University of Oxford does not agree that the exception should be limited to either 'purpose-built' or 'communal' student accommodation.
20. As to the former, the University considers that the exception should apply to any student accommodation owned by the University or one of the Colleges even where this is not purpose-

built. Such accommodation is more likely to be in need of redevelopment or refurbishment and such improvement should not be disincentivised.

21. As to the latter, the University considers that the exception should apply to all student accommodation, irrespective of whether it is communal or self-contained:

- a. There is no such distinction in NPPF guidance, or the adopted Local Plan, or anywhere else in the draft Local Plan (throughout which reference is to student accommodation without further distinction being made whether it is communal). Hence, for example, Policy SP 35, Court Place Gardens clearly states it is 'graduate student accommodation' that is the permitted use rather than the wider C3 housing, alongside 'employer-linked affordable housing', without further qualification.
- b. OCC's stance is anomalous, given its stance on employer-linked affordable housing and the redevelopment of existing communal student accommodation. Both these categories are exempt from the requirement to make a financial contribution to affordable housing, but self-contained student accommodation – which is effectively a hybrid of these two – is not. There is no rational justification for this: it is illogical to exclude self-contained accommodation from the definition of employer-linked affordable housing on the basis that the student occupiers may not be employees, but then to argue that this is not student accommodation justifying the exception. Without the exception as requested by the University, the redevelopment of existing self-contained accommodation is in an absurd no-man's land.
- c. Although, in terms of the Use Classes Order, self-contained student accommodation may fall within Class C3, this has no bearing on the reasons for exempting student accommodation from the requirement to contribute to affordable housing. Those reasons apply equally to student accommodation, irrespective of whether it is self-contained or communal.
- d. If and to the extent that the Council is concerned that self-contained student accommodation could later be sold as market housing, (and so circumvent the affordable housing requirement), there is no reason why self-contained student accommodation cannot be limited to just student accommodation as a distinct sub-category of Class C3. For example the original planning permission (72/25454/A_H) at Court Place Gardens was for simply '36 Graduate Married Accommodation Units' not general housing. Further, the University has already addressed this risk by supporting a minor modification to the accompanying text to Policy H2 as set out in the SoCG (H2 para 4) to state:

To prevent new student accommodation constructed as self-contained Use Class C3 dwelling houses being rented or sold as market housing the City Council will consider the use of S106 agreements to prevent the student accommodation being rented or sold in this way.

- e. This is a significant issue for the University, which has committed to building 1,000 units of graduate student accommodation over the next 5 years to meet the needs of its graduate students. The proposed amendment positively disincentivises the University from providing graduate family accommodation as student accommodation. An unwillingness on the part of OCC to acknowledge the correct status of graduate family accommodation is precisely the issue which has caused the overdue redevelopment of Court Place Gardens to stall since the last Sites and Housing Plan (SP9)

22. The University does not understand why OCC has introduced the word ‘campus’ to refer to the Collegiate University’s buildings. Oxford is not a ‘campus’ university and its colleges are autonomous institutions in their own right. The Sites and Housing Plan used the term ‘University or college academic site’ which seems to have been replaced variously by: University facilities, academic accommodation, administrative accommodation and research accommodation.
23. However, on the basis that OCC wish to retain this term, the University has suggested some clarification by way of improvements.

Response to the third proposed exemption for sites not suitable for general housing, as put forward by the University of Oxford

24. The University is seeking this third exception so that there is some flexibility and positivity in the Plan. It would enable there to be a discussion between the Council and the University about whether a previously unforeseen site, being considered for student accommodation, is suitable or not for general housing.

Oxford Brookes’ position

25. Oxford Brookes University welcomes the changes and clarifications set out in this document, but we will need to revisit our position if the proposed changes are not accepted.
26. Our only objection is in respect of the clause currently in the Sites and Housing DPD which exempts those schemes which a University requires to comply with the cap should also be reintroduced. We consider the Council’s reason for excluding this clause as ‘worst case scenario’ planning which excludes fairness and proportionality. In reality, it would be very difficult for the University to exploit the policy as it would require the University to align its recruitment strategy with the programme of third party accommodation providers, increasing the annual intake ahead of a third party PBSA provider obtaining planning approval for their accommodation scheme in order to effect a condition of perpetual non-compliance.

Suggested modifications to Policy H2 relating to student accommodation

b) For new student accommodation **creating a net gain** of **25 or more 20** student units (or **104-** or more self-contained student units), a financial contribution should be secured towards delivering affordable housing elsewhere in Oxford. The contribution will be calculated using the formula in Appendix 3.2. **The contribution will be required only from the number of units creating a net gain.** Alternatively, the affordable housing contribution can be provided on-site where both the City Council and the applicant agree that this provision is appropriate. For mixed-use developments of student accommodation with general housing a pro-rata approach will be used to determine whether a contribution is required, and how much this should be.

This requirement is subject to the following exceptions:

- i) The proposal is within an existing or proposed campus site, as defined in the glossary; or**
- ii) The proposal is for redevelopment of an existing **purpose-built communal*** student accommodation site which at the date of adoption of the Plan is owned by a university and which will continue to be owned by a university to meet the accommodation needs of its students; or**
- iii) The proposed student accommodation is necessary to enable either university to achieve or maintain the student numbers threshold referred to in Policy H9; or**

iv) City Council agrees that site is not suitable for, nor capable of being made suitable for, general purpose housing.

If an applicant can demonstrate particular circumstances that justify the need for a viability assessment, and through an open book exercise demonstrate the affordable housing requirement to be unviable, a cascade approach should be worked through with the City Council until development is viable as set out in Appendix 3.13 PPG Para 7.

Across all types of development, where the number of dwellings proposed falls below the relevant thresholds set out above to require affordable housing, the Council will consider whether or not the site reasonably has capacity to provide the number of dwellings that would trigger a requirement to make a contribution towards affordable housing. This is to ensure that developers may not circumvent the policy requirement by artificially subdividing sites or an inefficient use of land. This policy will apply to all types of residential development including conversions and changes of use. * See Appendix 3.3 for more details

*Excluding individual flats within a predominantly communal facility

Suggested modification to the supporting text (in paragraph 3.16) of H2

3.16: Securing new affordable housing on sites as part of larger developments is one way that homes can be provided. The Council will therefore seek that on residential development sites of 10 or more units, a proportion of affordable housing is provided on-site. ~~For smaller residential developments of 4-9 units a financial contribution will be sought in lieu of on-site provision.~~ For residential uses where onsite provision may not be appropriate (e.g. student accommodation) then a financial contribution will be sought. **This requirement is exempted for university campus sites and for redevelopment of existing purpose-built communal student accommodation that is currently and will continue to be owned and/or managed by the university or is needed to ensure the cap set out in Policy H9 is complied with. This will be secured through a planning condition.**

Suggested modifications to the Glossary

27. Set out below is a campus definition that is agreed with OBU with the exception of the insertion of “that or will be” which is not agreed, which is therefore shown in green. The reason the City Council do not agree this is that they do not consider it necessary as the exemption already includes “existing or proposed” campuses and so this causes unnecessary duplication. OBU also requested that the Glossary of the plan define OBU’s existing campuses. The City council have no objection to this as it is a matter of fact albeit the council do not consider it necessary to make the approach sound. However, we consider that it could be included as a minor modification to the Glossary and is included here for completeness.

University Facilities

Accommodation belonging to the University of Oxford comprising of academic, research and administrative uses. • Academic uses: teaching, seminar and lecturing spaces • Research: laboratories and special facilities • Administrative: offices and administrative functions. See Campus site

Academic Accommodation

See University Facilities. See Campus

Administrative Accommodation

See University Facilities. See Campus

Campus

Accommodation occupied by an educational institution and comprising a range of academic institutional uses including academic (teaching, seminar and lecturing spaces), research (laboratories and special facilities) and/or administrative uses (offices and administrative functions).

Oxford Brookes University existing campus sites

- contiguous Headington interests, including Gipsy Lane, Headington Hill Hall and Clive Booth Student Village
- Oxford Brookes University Marston Road Campus

28. University of Oxford and OCIS has requested modifications to the above proposal that the council do not consider necessary to make the plan sound. The amendments remove reference to academic institutional uses which is referred to throughout the plan in relation to site policies and it seems justified and effective to use consistent language. The University of Oxford and OCIS' suggestion as it relates to the campus definition is set out below.

University Facilities

Accommodation belonging to the University of Oxford comprising of academic, research and administrative uses. • Academic uses: teaching, seminar and lecturing spaces • Research: laboratories and special facilities • Administrative: offices and administrative functions. See Campus

Academic Accommodation

See University Facilities. See Campus

Administrative Accommodation

See University Facilities. See Campus

Campus

Accommodation occupied by an educational institution and comprising a range of A site where the principle academic educational institutional uses are academic (teaching, seminar and lecturing spaces), research (laboratories and special facilities) and/or administrative uses (offices and administrative functions).