

Case Officer: Samantha Taylor

Applicant: Cherwell District Council

Proposal: External elevation alterations to existing brick facade, including facade finish materials & shopfront

Ward: Banbury Cross and Neithrop

Councillors: Councillor Banfield, Councillor Dhesi and Councillor Perry

Reason for Referral: Application affects Council's own land and the Council is the applicant

Expiry Date: 25 June 2020

Committee Date: 13 August 2020

RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS

REPORT

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site is the former Marks and Spencer retail unit within Castle Quay, Banbury Town Centre. Following the closure of this store, the unit remains vacant. The unit has an A1 use.
- 1.2. The site is a prominent unit, within the Market Place/Bridge Street location.

2. CONSTRAINTS

- 2.1. The application site is within the Banbury Conservation Area and is situated in relatively close proximity to a number of Listed Buildings, which add to the character of the area.
- 2.2. Part of the site falls within Flood Zone 2.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

3.1. Proposal

- The application seeks full planning permission for the following external alterations:
 - Render over the brick façade on Market Place, with a horizontal line detailing
 - Retention of existing archways, with shopfronts pulled forwards towards the arches
 - Painting of the brickwork adjacent to the Wild Lime Public House
 - New paving and balustrading to the entrance area, with render applied to the retaining walls

- 3.2. Whilst it is noted that signage is shown on the submitted plans, this matter is not for consideration as advertisement consent would be required. As such, an informative

is recommended to ensure that signage is not erected without advertisement consent.

- 3.3. Internal alterations are shown on the plans, dividing the large retail unit into two, with a new pedestrian link. These proposals do not require planning permission as the permitted development rights for the building are intact, and these allow for the subdivision of retail units.

4. RELEVANT PLANNING HISTORY

- 4.1. The following planning history is considered relevant to the current proposal:
- 4.2. 20/01966/M106 – Modification to section 106 agreement, to remove the requirement for the store to be occupied by Marks and Spencer for a period 5 years. No decision made.

5. PRE-APPLICATION DISCUSSIONS

- 5.1. The following pre-application discussions have taken place with regard to this proposal:
- 5.2. Advice was given in respect of the proposals, and the documentation that should be submitted as part of an application. Concern was raised regarding the loss of the archway detail, finished render details and removal of the first floor windows. Some amendments have been made prior to the submission of the application.

6. RESPONSE TO PUBLICITY

- 6.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was **24 June 2020**, although comments received after this date and before finalising this report have also been taken into account.
- 6.2. No comments have been raised by third parties.

7. RESPONSE TO CONSULTATION

- 7.1. Below is a summary of the consultation responses received at the time of writing this report. Responses are available to view in full on the Council's website, via the online Planning Register.

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

- 7.2. BANBURY TOWN COUNCIL: **no objections**, the elevational change will lighten this building and improve the appearance of this part of Bridge Street/Market Place

CONSULTEES

- 7.3. CDC CONSERVATION: **no objections**, on balance given the amendments made to the scheme that pre-application advice was sought on. Further information is provided in the below assessment.

8. RELEVANT PLANNING POLICY AND GUIDANCE

- 8.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 8.2. The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the ‘saved’ policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District’s statutory Development Plan are set out below:

CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2031 Part 1)

- ESD15 - The Character of the Built and Historic Environment

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C28 – Layout, design and external appearance of new development

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- The Planning (Listed Buildings and Conservation Areas) Act 1990

9. APPRAISAL

9.1. The key issue for consideration in this case are:

- Design, and Heritage Impact

Design and Heritage Impact

Legislative and policy context

- 9.2. The site is within the Banbury Conservation Area and is in close proximity to a number of Listed Buildings which make a positive contribution to the character and appearance of the Conservation Area.
- 9.3. Whilst in relatively close proximity to the Listed Buildings, it is considered that the site does not form part of their setting and it is their contribution to the character of the Conservation Area that is of importance and adds to its significance.
- 9.4. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that in carrying out its functions as the Local Planning Authority in respect of development in a conservation area: *special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.*
- 9.5. Conservation Areas and Listed Buildings are designated heritage assets, and Paragraph 193 of the NPPF states that: *when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to*

substantial harm, total loss or less than substantial harm to its significance. Policy ESD15 of the CLP 2031 Part 1 echoes this guidance.

Assessment

- 9.6. Informal pre-application advice was sought, and guidance from the Conservation Team was provided. Below provides an assessment of the advice that was given and the current proposal.
- 9.7. Concerns were raised with the silver pearl render, which is not a material that is in keeping with the character and appearance of the Banbury Conservation Area. Whilst it is accepted that the existing building does not positively contribute to the Conservation Area, this character should be preserved and enhanced, as required by planning policy and legislation. Some amendments to the provision of render have been made, and the application, whilst it retains the use of render, are limited to the front elevation. The finished details of the render are to be provided and will be requested as part of a condition. The side elevation adjacent to the Wild Lime Public House is to be painted white, which is a more traditional and in-keeping elevational treatment within the Conservation Area. It is proposed that artwork may be placed on this elevation, however, no details are provided.
- 9.8. The arches at ground floor level on the front elevation give the building a traditional appearance of the Conservation Area, and it was suggested this form should be retained. The proposal retains the arches, with the shopfront glazing brought forwards to just behind the arches. This retains the traditional archway detail and preserves the character of the area.
- 9.9. It was advised that removal of the first floor windows should be avoided as these add visual interest to the elevations and continue the pattern of fenestration seen through out the Conservation Area, which is important to its character. The proposed plans shows that the first floor windows remain as being removed and the horizontal render pattern applied to the front elevation. In the opinion of Officers this would cause less than substantial harm to the character and appearance of the Conservation Area.
- 9.10. To ensure that the proposals are suitable, further details of the hardstanding, render, artwork and glazing are required by planning condition and form part of this recommendation.
- 9.11. Cumulatively, Officers consider the proposals to alter the external elevations of the retail unit would result in less than substantial harm to the character and appearance of the Conservation Area.
- 9.12. As required by the NPPF, where a proposal would cause less than substantial harm to a designated heritage asset, the public benefits of the proposal must be considered and weighed against the harm caused and where appropriate, securing its optimum viable use.
- 9.13. In this case, there are considerable public benefits arising from safeguarding the optimum viable use of the site for retail purposes through securing an end user for the retail units. The proposals have been developed with a specific retail end user and will help secure the letting of this unit. This would bring back a large retail premises back into use, supporting the needs of the local community as well as the economic growth of the Town Centre.
- 9.14. Therefore, whilst the less than substantial harm caused to the character and appearance of the Conservation Area is regrettable on balance this moderate harm

is outweighed by the considerable public benefits arising by bringing the site back into a public retail use, supporting the community and Town Centre. Therefore, the proposal is considered to comply with ESD15 of the Cherwell Local Plan and Paragraph 196 of the NPPF.

- 9.15. In forming this assessment, the Local Authority has discharged its statutory duty to pay special attention to the desirability of preserving and enhancing the Conservation Area.

10. PLANNING BALANCE AND CONCLUSION

- 10.1. The proposal complies with the relevant Development Plan policies and guidance listed at section 8 of this report, and so is considered to be sustainable development. In accordance with Paragraph 11 of the NPPF, permission should therefore be granted

11. RECOMMENDATION

RECOMMENDATION – DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT TO **GRANT PERMISSION, SUBJECT TO THE CONDITIONS SET OUT BELOW** (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY)

CONDITIONS

Time Limit

The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.

Reason - To comply with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

Compliance with Plans

Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents:

Location Plan, PMBAM-PWA-00-00-DR-A-0100-G1

Site Plan, PMBAM-PWA-00-00-DR-A-01010G1

Existing & Proposed Elevations, PMBAM-PWA-00-ZZ-DR-A-0105-G1

Reason – For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and comply with Government guidance contained within the National Planning Policy Framework.

Details of Render

Full design details of render shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of those works. Thereafter, the development shall be carried out in accordance with the approved details.

Reason : To ensure that the completed development is in keeping with and

conserves the special character of the existing historic building and to comply with Saved Policy C18 of the Cherwell Local Plan 1996 and Government guidance contained within Section 16 of the National Planning Policy Framework.

Details of Hardstanding

Full design details of hardstanding shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of those works. Thereafter, the development shall be carried out in accordance with the approved details.

Reason : To ensure that the completed development is in keeping with and conserves the special character of the existing historic building and to comply with Saved Policy C18 of the Cherwell Local Plan 1996 and Government guidance contained within Section 16 of the National Planning Policy Framework.

Details of the Artwork

Full design details of any artwork on the side elevation (Drawing: Existing & Proposed Elevations, PMBAM-PWA-00-ZZ-DR-A-0105-G1) as shown on shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of those works. Thereafter, the development shall be carried out in accordance with the approved details.

Reason : To ensure that the completed development is in keeping with and conserves the special character of the existing historic building and to comply with Saved Policy C18 of the Cherwell Local Plan 1996 and Government guidance contained within Section 16 of the National Planning Policy Framework.

Details of Glazing

Full design details of the glazing, sliding doors and infill panels shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of those works. Thereafter, the development shall be carried out in accordance with the approved details.

Reason : To ensure that the completed development is in keeping with and conserves the special character of the existing historic building and to comply with Saved Policy C18 of the Cherwell Local Plan 1996 and Government guidance contained within Section 16 of the National Planning Policy Framework.