

Case Officer: Samantha Taylor

Applicant: Cherwell District Council

Proposal: Amendment to Lock 29 canal front elevation to replace two existing windows with bi-folding doors (proposed as non-material amendment to 19/01478/CDC)

Ward: Banbury Cross and Neithrop

Councillors: Councillor Banfield, Councillor Hodgson, and Councillor Perry

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

Expiry Date: 19 July 2021

Committee Date: 15 July 2021

SUMMARY RECOMMENDATION: THE PROPOSAL IS CONSIDERED A NON-MATERIAL AMENDMENT AND THE APPLICATION IS RECOMMENDED FOR APPROVAL

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site is part of the Castle Quay Shopping Centre, specifically Units 36-37. The application proposes amendments to the Lock 29 Canalside frontage, adjacent to the hotel which is currently under construction.
- 1.2. The Castle Quay Shopping Centre is located within Banbury Town Centre.

2. CONSTRAINTS

- 2.1 The Banbury Canal Conservation Area lies immediately to the northwest of the application site and Flood Zone 2 lies immediately to the north and northwest of the application site.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The application seeks confirmation as to whether the amendment sought – altering 2 glazed openings to provide bi-fold doors for additional access constitutes a non-material amendment to the earlier application 19/01478/CDC through which planning permission was granted for the change of use at ground floor level from A1 with ancillary A3 space to a sui generis/mixed use comprising A1, A3, A4, A5, D1 and D2 uses.
- 3.2. There is no change of use or additional quantum of development sought through the application.

4. RELEVANT PLANNING HISTORY

4.1. The following planning history is considered relevant to the current proposal:

19/01658/CDC – New plant, ventilation louvres, downpipes and drainage – Approved.

19/01478/CDC – Change of use from A1 with ancillary A3 to a sui generis/mixed use (at ground floor only) comprising use classes A1, A3, A4, A5, D1 and D2. New Toilet provision for Staff. – Approved.

19/00535/CLUP – Certificate of lawfulness for proposed development, internal works for the relocation of public toilet provision to a new location within the existing shopping centre and external alterations – Approved.

5. PRE-APPLICATION DISCUSSIONS

5.1. No pre-application discussions have taken place with regard to this proposal.

6. RESPONSE TO PUBLICITY

6.1. As the application is for a non-material amendment, publicity is not required and no public comments have been received.

7. RESPONSE TO CONSULTATION

7.1. As the application is for a non-material amendment, public consultation is not required. No consultation responses have been received.

8. OFFICER APPRAISAL

8.1. The key issue for consideration in this case is whether the proposed change(s) can be accepted as non-material; there is no consideration of the planning merits of the proposed changes.

8.2. Section 96A of the Town and Country Planning Act 1990 (as amended) states that: *“A local planning authority in England may make a change to any planning permission relating to land in their area if they are satisfied that the change is not material”. It is also stated that: “In deciding whether a change is material, a local planning authority must have regard to the effect of the change, together with any previous changes made under this section, on the planning permission as originally granted”.*

8.3. The National Planning Practice Guidance states that: *“There is no statutory definition of non-material. This is because it will be dependent on the context of the overall scheme - an amendment that is non material in one context may be material in another. The Local Planning Authority must be satisfied that the amendment sought is non-material in order to grant an application”.* The judgement on materiality in any particular case is one of fact and degree, also taking into account the likely impacts of the amendment. Materiality is considered against the

development as a whole, not just part of it. The benchmark for forming an assessment on materiality is always the original permission.

- 8.4. The proposed amendments detailed above would not affect the scale or general form of the buildings as previously approved. It is considered that, whilst the revised opening details, as set out in the application would affect the external appearance of the proposed development, the amendment would not introduce any further considerations above those previously assessed and considered acceptable when granting the original permission.
- 8.5. The amendments set out within the application would not be to the detriment of the overall quality of the development as approved and they could be considered non-material amendments in the context of the development as a whole.

9. RECOMMENDATION

- 9.1 The proposal is considered to be non-material and the application is therefore recommended for **APPROVAL** as described above and in accordance with the drawing number:

Banbury CQ1 Lock 28 Bifolding door proposal – Proposed Plan and Elevation, 3787 AP(01) 001 Revision P01