

Case Officer: Samantha Taylor

Applicant: Cherwell District Council

Proposal: Design amendments relating to: the addition of access stairs and handrails by the substation (Block C); the erection of a fence and gate to enclose the substation (Block C); additional louvres on the Block C elevation; the addition of a staircase located near to Block A to provide access to the canal (proposed as non-material amendment to 17/00284/REM)

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: 10 May 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 the currently under construction Castle Quay 2 site, at the rear of the Castle Quay Shopping Centre, in Banbury Town Centre. The development consists of 3 blocks housing differing uses, parking and other associated development.

2. CONSTRAINTS

- 2.1. The entirety of the Oxford Canal included with the application boundary forms part of the Oxford Canal Conservation Area. The site is also near to Tooley's Boatyard, a Scheduled Ancient Monument, and to the Mill Arts Centre, a locally listed building.
- 2.2. The site is located within Flood Zone 3 of the adjacent River Cherwell and within an area subject to historical river flooding. Such flooding is a combination of river flooding and flooding from the Oxford Canal, which interacts with the River Cherwell and its tributaries upstream of the site.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

3.1. The application seeks confirmation as to whether the proposed amendments sought constitute a non-material amendment to the earlier Reserved Matters Approval.

3.2. The following changes are sought:

- The addition of access stairs and handrails by the substation (adjacent to Block C)
- The erection of a fence and gate to enclose the substation (adjacent to Block C)
- Additional Louvres on the supermarket elevation (Block C)
- The addition of a staircase located near to Block A to provide access to the canal

4. RELEVANT PLANNING HISTORY

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

17/00284/REM – Reserved matters application to 16/02366/OUT across the whole development site is sought. Application for approval of reserved matters for scale, layout, appearance and landscaping. Approved

16/02366/OUT – Removal/Variation of conditions 4 (list of approved drawings) and 9 (enhancement of River Cherwell) to 13/01601/OUT - Condition 4 to be varied to reflect alterations in the access and servicing strategy for Block C, with variations to maximum deviations in block and Condition 9 to be removed as no longer justified. Approved.

13/01601/OUT - Outline planning permission for the redevelopment of land adjacent to the Oxford Canal comprising; the demolition of the Castle Quay Shopping Centre northern car park and the General Foods Sports and Social Club; change of use of part of the ground floor of the Castle Quay Shopping Centre southern car park and associated works; the erection of a retail foodstore (Use Class A1), hotel (Use Class C3), cinema (Use Class D2), restaurants and cafes (Use Class A3 and A4) and altered vehicular and pedestrian accesses, landscaping, construction of infrastructure, car parking and associated works, including glazed canopy over the Oxford Canal and the construction of pedestrian/cycle bridges over the Oxford Canal and River Cherwell. Details of new vehicular access off Cherwell Drive and alterations to Spiceball Park Road. 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, advertisement of the application is not required. No comments have been received from third parties.

7. RESPONSE TO CONSULTATION

7.1. As the application is for a non-material amendment, advertisement of the application is not required. No comments have been received from any consultees.

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 provision of 2 additional staircases, fencing, gate and louvres, 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. The amendments as set out within the application are considered not to be to the detriment of the overall quality of the development as approved and that 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 drawing numbers:

Block C Foodstore General Arrangement Level 00 407-RM-C-P-000-Rev 5

Block C Foodstore General Arrangement Level 00 (2of2) 407-RM-C-P-002-Rev 6

Block C Foodstore General Arrangement Level 01 407-RM-C-P-100 Rev 6

Block C Foodstore General Arrangement Level 01 (Sheet 2 of 2) 407-RM-C-P-102-Rev 6

Block C Foodstore General Arrangement Level 01 (Sheet 2 of 2) 407-RM-C-P-200-Rev2

Block C Foodstore General Arrangement Roof Plan 407-RM-C-P-300-Rev 6

Block C Foodstore Elevations 407-RM-C-E-110-Rev 6

South East and North West Cladding Elevations-GL C01 to C09/GL C08 to C09 C)-
00-DR-A-20634_Rev C4

Block A Hotel Proposed Ground Floor/Level 01 Plan 407-RM-A-P-100-Rev 5

Option drawing for stair to canal level CQ2-LIA-D0-00-DR-A-01085

Technical Submission – Kingfisher Ventilation Louvres