

**Treetops, 28 Dashwood Road, Banbury  
OX16 5HD**

**21/02260/F**

**Case Officer:** Shona King

**Applicant:** Marshall Oakwood Developments Ltd

**Proposal:** Change of Use from Class C1 guest house to 9-bed HMO (Sui Generis)

**Ward:** Banbury Cross and Neithrop

**Councillors:** Cllr Banfield, Cllr Hodgson and Cllr Perry

**Reason for Referral:** Member call-in from Cllr Hodgson raising the following areas of concern:

- Impact on the local residents
- Car parking and highway safety
- Negative impact on a designated Conservation Area
- Noise and Disturbance
- Insufficient provision for communal recycling and refuse facilities

(Another call-in request by Cllr Banfield was received after the call-in deadline)

**Expiry Date:** 02 September 2021

**Committee Date:** 09 September 2021

---

**SUMMARY OF RECOMMENDATION: GRANT PERMISSION, SUBJECT TO CONDITIONS**

**1. APPLICATION SITE AND LOCALITY**

- 1.1. The application site is situated within a residential area to the southern edge of the town centre. It is a semi-detached property with hardstanding, providing on-site parking for 3 vehicles, to the front served by an access from Dashwood Road.

**2. CONSTRAINTS**

- 2.1. The application site is within a designated Conservation Area.

**3. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 3.1. The proposal is for the change of use of the property from a 7 bedroomed guest house to a 9 bedroomed HMO (house in multiple occupation). No external alterations are proposed.

**4. RELEVANT PLANNING HISTORY**

- 4.1. The following planning history is considered relevant to the current proposal:
- CHN 220/77 – Change of use from private house into a guest house. Approved
  - CHN602/79 – Conversion of garage to lounge. Approved

- 07/00146/F - Demolition of retaining wall to provide additional car parking for guest house. Withdrawn
- 07/00678/F - Demolition of retaining wall to provide additional car parking for guest house. Refused
- 08/00231/F - Extension to existing car parking area. Refused - Appeal (08/00069/REFAPP) dismissed
- 13/01912/F - Retrospective application for tarmac hardstanding and landscaping to create car parking area. Approved
- 14/00069/DISC – Application for Approval of Matters Reserved by Condition 2 of 13/01912/F. 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. This application has been publicised 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 **5 August 2021**, although comments received after this date and before finalising this report have also been taken into account.

6.2. 10 letters of objection have been received. The issues raised by third parties in support of the application are summarised as follows:

- Lack of parking
- Overdevelopment
- Quality of living environment/lack of facilities
- Loss of tourist accommodation/family rum business
- Bin storage
- cycle parking
- mix of housing in area already
- high concentration of HMOs in area
- highway safety
- crime and antisocial behaviour
- impact on the Conservation Area
- families will not be attracted to the area
- could be used for other purposes without needing consent
- noise and pollution
- management of property
- impact on local residents/property owners
- loss of value to surrounding property
- surrounding properties more difficult to sell
- Article 4 Direction will have negative impacts
- Receptive to conversion to a smaller number of flats
- No HMO letting management plan
- HMO licencing requirements

6.4. The comments received can be viewed in full on the Council's website, via the online Planning Register.

## 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: **Objection:**

- The conversion and use as a 9 bed HMO will be an overdevelopment of the site which will result in an unacceptable standard of accommodation for the proposed residents which will also impact upon the character and amenity of the surrounding area which is part of the Banbury Conservation Area and upon the amenities of nearby residents
- The proposal will have insufficient car parking to meet likely demand resulting in further demand for limited on-street parking

### CONSULTEES

7.4. LOCAL HIGHWAY AUTHORITY: **No objections** – The proposal will not have a significant detrimental impact (in terms of highway safety and convenience) on the adjacent highway network. The parking requirement for the proposed use is similar to the existing. Cannot demonstrate sufficient harm to warrant refusal of the application.

7.5. CDC BUILDING CONTROL: **Comment** - The proposed bedrooms will require a protected escape route. The proposed basement bedroom requires either an escape window or protected escape route. Sound insulation testing will apply to all rooms. It is unclear how solid waste storage, i.e. bin storage, will be managed.

7.6. CDC HOUSING STANDARDS: **Comment** –

1. The kitchen layout as proposed is inadequate for an HMO of this size. As proposed the kitchen has one large hob and a one and half basin sink. This increases the likelihood of burns and scalding due to traffic around the hob and sink, and may also discourage occupiers from using kitchen facilities due to them not being available when needed. The Cherwell District Council HMO Standards 2018 require that HMOs occupied by 8-10 people have two complete sets of kitchen facilities (two sinks, two hobs, two ovens etc.) with a minimum of 2000mm x 600mm worktop. Regards should be given to the kitchen layout guidance in the above mentioned HMO Standards document.
2. In order for the first floor rear left room to be suitable for use as a bedroom, it must measure at least 6.51m sq.
3. The basement is an "inner room" where the only escape route is through the dining room. This poses a risk to the basement occupier if a fire starts unnoticed in the dining room. This room must have an alternative means of escape.

4. The en suite bathrooms should meet the space requirements set out in the Cherwell District Council HMO Standards 2018 with regard given to the en suite bathroom layout guidance.

5. If the proposed development is permitted the HMO will be subject to mandatory HMO licensing at the point it is occupied by five persons.

7.7. CDC WASTE AND RECYCLING: **No comment to date**

7.8. THAMES VALLEY POLICE: **Objection:** Considers that the current scheme does not satisfy the requirements of the NPPF as it does not demonstrate how the applicant will create “safe and accessible environments where crime and disorder, and the fear of crime will not undermine quality of life or community cohesion”.

Recommends that further documentation with the following be submitted to the local planning authority for approval before permission is granted and that the applicant consults the Secured By Design, New Homes 2019 guide:

- Security measures
- Cycle storage

## 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 ('CLP 2015') was formally adopted by Cherwell District Council in July 2015 and provides the strategic planning policy framework for the District to 2031. The CLP 2015 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 2015)

- PDS1 – Presumption in favour of sustainable development
- SLE 4 – Improved Transport and Connections
- ESD 3 – Sustainable Construction
- ESD 5 – Renewable Energy
- 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)
- Cherwell Residential Design Guide (2018)

## 9. APPRAISAL

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

- Principle of development
- Impact on heritage assets
- Residential amenity
- Highway safety

### Principle of development

9.2. The National Planning Policy Framework (“NPPF”) outlines there are three dimensions to sustainable development, which require the planning system to perform economic, social and environmental roles. These roles should be sought jointly and simultaneously through the planning system. The NPPF notes that the development plan is the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise.

9.3. The NPPF states that planning should actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling and focus significant development in locations which are or can be made sustainable and that Local Planning Authorities should encourage the effective use of land by re-using land that has been previously developed.

9.4. Policy ESD1 of the CLP 2015 states that measures will be taken to mitigate the impact of development within the District on climate change. This includes development which seeks to reduce the need to travel and which encourages sustainable travel options including walking, cycling and public transport to reduce dependence on private cars.

9.5. The site is located within the built-up limits of Banbury, which has good access to public transport links, local shops and amenities. It is considered that the site is in a relatively sustainable urban location, which in general sustainability terms means that the principle of use of the site for such HMO residential development could be considered acceptable.

9.6. Given the above, it is considered that the principle of converting the guest house to an HMO, is acceptable. However, the overall acceptability of the proposed development in this case is also clearly dependent on it not causing demonstrable harm to the visual amenities of the locality, residential amenities or highway safety and demonstrating compliance with the associated national local guidance in these matters. These issues are discussed below.

### Design and Impact on the character of the area

9.7. Policy ESD15 of the CLP 2015 states new development will be expected to complement and enhance the character of its context through sensitive siting and layout and states all development will be required to meet high design standards. It goes on to state development should respect the traditional pattern of plots and also respect the form, scale and massing of buildings. Development should be designed to integrate with existing streets and buildings clearly configured to create defined active public frontages.

9.8. Saved Policies C28 and C30 of the CLP 1996 also seek to ensure high quality development, consistent with Paragraph 130 of the NPPF which states that

developments are visually attractive as a result of good architecture, layout and appropriate and effective landscaping and are sympathetic to local character and history including the surrounding built environment and landscape setting . Paragraph 134 states permission should be refused for development that is not well designed.

- 9.9. In the current application no extensions are proposed to the dwelling and no alterations are proposed to the external appearance of the building so there would be no significant visual impact in this respect.
- 9.10. In relation to other visual impacts of the development, the entire frontage of the site is already largely laid to hard surfaced and provides parking for the existing guest house. It is not proposed to change this.
- 9.11. In similar applications concerns are often raised that the conversion of a property to a house in multiple occupation would change the character of the area and be out of keeping with the family housing in the area. The Development Plan is the starting point for determining applications, but in this instance the development plan does not have any specific policy regulating either the loss of tourist accommodation or the subdivision of properties into HMOs.
- 9.12. The NPPF encourages planning decisions to create inclusive and mixed communities. The area does have an established residential character and the character of the proposed use would continue to be residential and appropriate for a residential area. Whilst the type of occupant may be different from the neighbouring properties this in itself is not considered to be harmful to the character of the area and would positively contribute towards creating mixed communities. This is also reflected in the permitted development rights that apply nationally (i.e. development which benefits from automatic planning permission and so does not require a planning application) which allow for single dwellings to be converted into houses in multiple occupations with up to 6 residents without the requirement for planning permission.
- 9.13. Whilst it is accepted that large numbers of property conversions can change the character of an area, as the current application would only result in the conversion of this one property in the street to a house in multiple occupations, with no external alteration, it is not considered that it could be argued that the proposal would have a significant adverse impact on the character of the area.
- 9.14. No details have been provided regarding the bin storage or cycle parking facilities. Given the prominent corner location of the premises and the topography of the area it is considered essential that full details of the location and design of the bin store and covered cycle parking is further assessed. It is recommended that the details are the subject of a condition which is set out below.
- 9.15. Overall, having regard to what can be achieved under national permitted development rights, it is considered the proposed development would be acceptable with regard to the impact it would have on the character and appearance of the area.

#### Impact on heritage assets

- 9.16. The site is within Banbury Conservation Area.
- 9.17. 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.

- 9.18. Conservation Areas are designated heritage assets, and Paragraph 199 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 2015 echoes this guidance.
- 9.19. The proposed change of use is considered to preserve the character and appearance of the Conservation Area as there are no external changes proposed to the building. The character of the area will remain as residential. The provision of the bin stores and cycle parking could have an adverse impact on the character and appearance of the Conservation Area depending upon the siting and design. As set out above it is considered essential that these elements are further assessed and details required by condition.

#### Residential amenity

- 9.20. Both the NPPF and Policy ESD15 of the CLP 2015 seek to ensure development proposals provide a good standard of amenity for both existing and proposed occupants of land and buildings relating to privacy, outlook, natural light and indoor and outdoor space.

#### Residential amenity for proposed occupiers

- 9.21 Whilst the proposed layout currently does not comply with the Cherwell District Council HMO Standards 2018 in respect of room sizes, kitchen layout and means of escape, changes to the internal layout are possible without requiring external alterations to the building. Such changes would enable the accommodation to comply with these standards. Likewise, the proposal does not currently comply with the Building Regulations but changes to the internal layout would overcome this.

#### Residential amenity for neighbouring residents

- 9.22 There are no external changes to the building that would result in any material impact on the amenity of the neighbouring properties by reason of overlooking or loss of light and in terms of the use it is considered that the proposal would not lead to any significant increase in overlooking or loss of privacy to neighbouring properties over and above the existing situation.
- 9.23 Often in such applications concerns are raised in regard to an increase in anti-social behaviour and noise and disturbance. Whilst the potential increase in use of the garden by a potentially larger group of adults may result in some increase in noise and disturbance, this is not considered to be significantly more than could be expected from the existing guest house.
- 9.24 The increase in comings and goings from residents is also not considered to be materially harmful above what could arise from the existing use.

#### Highway safety

- 9.25. The application site has limited parking to the front of the site. The Local Highway Authority has raised no objection to the application and considers that the proposal will not have a significant detrimental impact (in terms of highway safety and convenience) on the adjacent highway network. The parking requirement for the proposed use is similar to the existing guest house use and given the type of accommodation provided along with the sustainable location of the site, close to

services, facilities and public transport, it is unlikely that all residents would have access to a private car. It is not considered that the application could be refused on grounds of inadequate on-site parking provision.

#### Other matters

- 9.26. The Thames Valley Police Secure by Design Officer was consulted on the application, and has raised concerns regarding how the applicant will create “safe and accessible environments where crime and disorder, and the fear of crime will not undermine quality of life or community cohesion”. In particular concerns have been raised regarding security measures and secure cycle parking.
- 9.27. A condition requiring the submission and approval of details of Secure by Design details is recommended and the wording of this condition has been agreed with Thames Valley Police. Therefore, it is considered reasonable and necessary to impose a condition requiring the submission and approval of details of the Secure by Design measures to be incorporated into the scheme prior to the occupation of the development hereby approved.
- 9.28. All external alterations to the building would require planning permission because the development would not benefit from permitted development rights as an HMO for more than 6 bedrooms is a sui generis use.

### **10. PLANNING BALANCE AND CONCLUSION**

- 10.1. The overall purpose of the planning system is to seek to achieve sustainable development as set out in the NPPF. The three dimensions of sustainable development must be considered in order to balance the benefits against the harm. Section 38(6) of the Planning and Compulsory Act 2004 requires planning applications to be determined against the provisions of the development plan unless material considerations indicate otherwise.
- 10.2. It is considered that the proposed change of use will not adversely affect the character and appearance of the Conservation Area, nor will it result in any significant detriment to the living amenities of the neighbouring properties or to highway safety.
- 10.3. Therefore, it is recommended that permission is granted.

### **11. RECOMMENDATION**

#### **RECOMMENDATION – GRANT PERMISSION, SUBJECT TO THE CONDITIONS SET OUT BELOW:**

##### **Time Limit**

1. 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**

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the application form and the following plans: Site Location Plan, BP1, EFP1



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

3. The development hereby approved shall be limited to no more than 9 bedrooms.

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

#### **Bin Storage and Cycle Parking**

4. The development hereby approved shall not be occupied until details of bin stores and covered cycle parking facilities have been submitted to and approved in writing by the Local Planning Authority. The bin store and cycle parking shall be constructed in accordance with the approved detail and be permanently retained and maintained in perpetuity.

Reason: In the interests of promoting sustainable transport modes and to ensure that proper arrangements are made for the disposal of waste in accordance with Policies ESD1 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

#### **Secure by Design**

5. The development hereby approved shall not be occupied until details of how Secure by Design measures have been incorporated into the development have been submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt the details of how the scheme accords with the secure by design principles shall include but not be limited to: Details of all bedroom doors being certified to PAS24, with a door viewer installed. Details of a secure postal strategy. Details of a visitor notification system (doorbell) for each bedroom. Laminated glass to ground floor bedrooms. The Secure by Design measures shall be implemented in accordance with the approved detail and be permanently retained and maintained in perpetuity.

Reason: In order to ensure the safety and security of any future occupants of the site and to comply with Government guidance contained within the National Planning Policy Framework and the Crime and Disorder Act 1998

#### **EV Charging**

6. The HMO hereby permitted shall not be occupied until it has been provided with a system of ducting to allow for the future installation of electrical vehicle charging infrastructure to serve the building.

Reason - To comply with policies SLE 4, ESD 1, ESD 3 and ESD 5 of the adopted Cherwell Local Plan 2011-2031 Part 1 and to maximise opportunities for sustainable transport modes in accordance with paragraph 110(e) of the National Planning Policy Framework.

**Water efficiency**

7. Prior to the first occupation of the development hereby permitted written confirmation that the development achieves a water efficiency limit of 110 litres/person/day under part G of the Building Regulations shall be submitted to and approved in writing by the Local Planning Authority .

Reason – Cherwell District is in an area of water stress, to mitigate the impact of climate change and in the interest of sustainability and to comply with Policies ESD1 and ESD3 of the adopted Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.