

**Case Officer:** Michael Sackey

**Applicant:** Mr F Sharma

**Proposal:** Change of Use of former doctors surgery to Class E to facilitate the expansion of the Londis shop and for minor internal alterations

**Ward:** Banbury Ruscote

**Councillors:** Cllr Cherry, Cllr Watkins and Cllr Woodcock

**Reason for Referral:** Application affects Council's own land

**Expiry Date:** 13 March 2023

**Committee Date:** 09.03.2023

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## **SUMMARY RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS**

### **1. APPLICATION SITE AND LOCALITY**

1.1. The application relates to 5A Bradley Arcade, which is part of a three-storey building with retail units and a doctor's surgery at the ground floor level and flats on the upper floor levels. The site is located in Banbury, the building is not listed or within a Conservation Area.

### **2. CONSTRAINTS**

2.1. There are no site specific constraints to affect the application's assessment.

### **3. DESCRIPTION OF PROPOSED DEVELOPMENT**

3.1. The current application is for the change of use of the former doctors' surgery to facilitate the expansion of the existing Londis shop adjacent to the property. The proposal also involves minor internal alterations.

### **4. RELEVANT PLANNING HISTORY**

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

**Application: 07/01895/OUT** Permitted 2 January 2008

Outline - Development comprising of B1 and B2 uses (previous permission 00/02338/OUT)

### **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 way of a site notice displayed near the site 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 **14 February 2023**, 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.

### TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

- 7.2. BANBURY TOWN COUNCIL: **no objections**

### OTHER CONSULTEES

- 7.3. OCC HIGHWAYS: **no objections**
- 7.4. WARD COUNCILLOR (Banbury Ruscote): **Consulted on (29.12.2023); no comments received.**
- 7.5. CDC BUILDING CONTROL: **no objections, a full plans application will be required for the proposals.**
- 7.6. CDC ENVIRONMENTAL HEALTH: **no objections**

## 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 on 20th 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)

- ESD15: The Character of the Built and Historic Environment
- PSD1: Presumption in Favour of Sustainable Development

### CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C28 – Layout, design and external appearance of new development
- ENV1 – Environmental pollution

### 8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)

## 9. APPRAISAL

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

- Principle of the change of use
- Other matters

#### Principle of change of use

##### *Policy*

9.2. Government guidance contained within the NPPF explains that the purpose of the planning system is to contribute to the achievement of sustainable development. This is defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs.

9.3. Policy PSD1 contained within the CLP 2015 echoes the NPPF's requirements for 'sustainable development' and that planning applications that accord with the policies in the Development Plan will be approved without delay unless material considerations indicate otherwise.

9.4. The NPPF does not change the statutory status of the development plan as the starting point for decision making. *'Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted'* (NPPF, Para. 12). Cherwell District Council has an up-to-date Local Plan which was adopted on 20th July 2015. The presumption in favour of sustainable development, as advised by the NPPF, will therefore need to be applied in this context.

##### *Assessment*

9.5. The application is accompanied by a cover letter setting out that the applicant is the tenant of the Londis store, leasing the units from Cherwell District Council, and proposes to expand the operation of the Londis Store, which would include the expansion of the Post Office Counter to provide an improved facility for local residents. The cover letter states that the proposed internal alterations include the introduction of a doorway access between the existing store and the unit previously used as a doctor's surgery.

9.6. The applicant's agent has also submitted information during the course of the application confirming that the existing unit operated on a part time basis, closed during lockdown in 2020 and did not re-open. The unit has been vacant since 2020 and the agent advised that the building has been advertised since 2022.

9.7. The Council's Interim Estates Surveyor has also confirmed that the property has been marketed since June 2022 and has attracted no interest from medical providers.

9.8. Prior to the 2020/1 amendments of the Use Classes Order, the existing use was Class D1 and the proposed use Class A1; this change of use would have required planning permission.

9.9. However, under the Use Classes Order amended in 2020/21, the existing use and the proposed use both fall within Class E. While Class E is subdivided, that is, the

existing use is Class E(e.) and the proposed use is Class E(a), any change of use within Class E does not amount to development and may take place without planning permission, unless there have been any conditions placed on any planning permission relating to the site which restrict the use. In this instance there are no such conditions and therefore the proposed retail use is to be considered acceptable.

#### Other matters

- 9.10. The only proposed external alterations relate to the new (extended) Londis advertisement above the existing openings on the north and west elevations. This is not included in the description of development, does not form part of the current application and may require separate advertisement consent.
- 9.11. The proposed internal alterations do not amount to development and therefore do not require planning permission.
- 9.12. In light of the above, the proposals are considered not to have any implications for visual or residential amenity or local highway safety.

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

- 10.1. The proposed development is acceptable in principle, would respect the character and visual amenities of the area, and would not result in harm to residential amenity or highway safety. The proposal therefore complies with Policies PSD1 and ESD15 of the CLP 2015, saved Policies C28 and ENV1 of the CLP 1996 and the relevant paragraphs of the NPPF. Therefore, the application is recommended for approval subject to appropriate conditions.

### **11. RECOMMENDATION**

That permission is granted, subject to the following conditions.

#### **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 in accordance with the following plans and documents: Site location plan 1:1250, Elevations/Proposed, Ground floor/Proposed and CAR PARK PLAN.

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.

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