

<b>Application No:</b> 12/00198/F	<b>Ward:</b> Grimsbury and Castle	<b>Banbury:</b> Banbury	<b>Date Valid:</b> 16.02.12
<b>Applicant:</b>	Lionsgate Properties		
<b>Site Address:</b>	56 - 60 Calthorpe Street Banbury		

**Proposal:** Extension of time limit to 07/02584/F - Redevelopment of site for retail use on ground floor with 14 no. residential units on three upper floors together with car and cycle parking area to rear

## 1. Site Description and Proposal

- 1.1 56 – 60 Calthorpe Street is currently occupied by a retail development (Iceland) with first floor commercial premises. To the south and abutting the building is 55 Calthorpe Street, a Grade II listed building. A service yard and access road lies to the north and a single storey flat roofed structure forming part of the Iceland coldstore/warehouse occupies a significant portion of the site.
- 1.2 Consent is sought for the extension of the time limit for the commencement of the works approved under application 07/02584/F. The development proposes 14 residential units and 385sq.m of retail floorspace. The building measures some 32m long x 11.5m wide and 12m high.
- 1.3 The layout is designed to separate retail and residential uses and pedestrian access (immediately to the north of 55 Calthorpe Street) and service access (to the north of the proposed building).
- 1.4 The retail unit is designed as open plan with a relatively small storage and refuse unit at the rear. The residential units are all accessed from the rear and are dual aspect where possible. Each apartment has some amenity space in the form of a balcony. A single staircase serves the apartments which also has a lift for disabled access.
- 1.5 The original consent expired on 17 March 2012 however it remains a material consideration in the determination of the current application.

## 2. Application Publicity

- 2.1 The application has been advertised by way of a site notice attached to a lamp post opposite the site. The final date for comment was 29 March 2012. No representations have been received from third parties as a result of this publicity to date.

## 3. Consultations

- 3.1 Banbury Town Council: Object to the application. The application is out of keeping with the street scene, particularly No. 55. It should not be renewed.
- 3.2 Highway Authority: No objections subject to conditions 7 and 8 below and contributions towards Transport and Accessibility.
- 3.3 Head of Safer Communities and Community Development: No objections

- 3.4 Housing Strategy Manager – Affordable Housing – as this is a time limit extension presumably we are not seeking to impose new policy whereby an affordable housing contribution would be required.
- 3.5 Private Sector Housing Manager: All units in the development appear to satisfy the minimum standards set out in the councils Sub Division of Buildings for Residential Use Guidance and so are satisfactory from a Housing Standards perspective.
- 3.6 Head Recreation and Health Improvement Manager - Public Art: Planning obligation required to secure public art in accordance with the adopted Public Art Policy.
- 3.7 Ecologist: No objections
- 3.8 Environmental Protection Officer: No comment to date
- 3.9 County Archaeologist: The site in question has been subject to significant disturbance by previous building/landscaping. We are not, therefore, minded to comment further upon the scheme on archaeological grounds
- 3.10 Environment Agency: No objections
- 3.11 Thames Water: No objections
- 3.12 Police Architectural Liaison Officer: No objections

## **4. Relevant Planning Policies**

- 4.1 National Planning Policy Framework - Achieving sustainable development and sections 1, 2, 6, 7 and 12
- 4.2 South East Plan  
Policies CC6 (Sustainable Communities and Character of the Environment), BE1 (Management for an Urban Renaissance) and BE6 (Management of the Historic Environment)
- 4.3 Adopted Cherwell Local Plan  
Policies SC2 (Maintenance of a Compact Central Shopping Area), C28 (Standards of Layout, Design and External Appearance), C30 (Design and Standards of Amenity and Privacy) and C34 (Views of St Mary's Church)

## **5. Appraisal**

- 5.1 Application 07/02584/F was allowed at appeal following refusal by Members in 2008. The reasons for refusal were:

- 1 In the opinion of the Local Planning Authority the scale and design of the building will appear overdominant, incongruous and out of keeping with the character and scale of neighbouring buildings and the wider streetscene This will not preserve or respect the setting of the adjacent Conservation Area, including views of St Mary's Church, and will cause harm to the character and appearance of the streetscene This will be contrary to PPS1 Delivering Sustainable Development, PPS3 Housing, PPG15 Planning and the Historic Environment, Policies G2 and EN4 of the Oxfordshire Structure Plan 2016 , Policies C28, C30 and C34 of the Cherwell Local Plan and Policies EN40, D3 and D6 of the Non-Statutory Cherwell Local Plan 2011

- 2 The proposed building, due to its scale and design will not preserve the setting of the adjacent grade II listed building contrary to PPG15 Planning and the Historic Environment, Policy EN4 of the Oxfordshire Structure Plan 2016 and Policies EN39 and EN44 of the Non-Statutory Cherwell Local Plan 2011
  - 3 In the absence of an agreement under Section 106 of the Town and Country Planning Act 1990 (as amended) the proposal is considered to be unacceptable as the development fails to secure the necessary financial contributions towards the improvement of existing children's play facilities in the area, off-site sports facilities, public art, refuse and recycling, education, library facilities, fire hydrants, transport infrastructure, Museum Resource Centre, social and health care facilities and waste management facilities. As such the development is contrary to Policies G3 and T8 of the Oxfordshire Structure Plan 2016 and Policies TR1 and R12 of the adopted Cherwell Local Plan, Policies TR4, R8, R10a and OA1 of the Non-Statutory Cherwell Local Plan 2011 and Circular 5/2005
- 5.2 The main issues considered by the Planning Inspector for the appeal were:
    - (i) the effect of the proposed development on the street scene;
    - (ii) whether it would preserve or enhance the character or appearance of the Banbury Conservation Area; and
    - (iii) whether it would preserve the settings of nearby listed buildings.
  - 5.3 The Inspector concluded that the development would comply with the adopted local plan policies (including preserving the setting of the listed buildings and character and appearance of the Conservation Area) and that the standard of design was acceptable.
  - 5.4 A s106 agreement was subsequently completed and the applicant's agent has indicated that they agree to enter into such an agreement again.
  - 5.5 The proposal is exactly the same as that allowed at appeal and whilst the original consent expired on 17 March 2012 the current application was submitted prior to the expiration and it is a material consideration in the determination of this application.
  - 5.6 The main issues considered by the Planning Inspector relating to the design of the development and the impact that it would have on the character and appearance of the Conservation Area and setting of listed buildings are still relevant. The only material change in circumstances since 2009 is the change in policy. Since the previous decision the South East Plan 2009 was adopted in May 2009 and the National Planning Policy Framework (NPPF) was published in March 2012.
  - 5.7 The National Planning Policy Framework sets out the Government's planning policies for England and how these are expected to be applied. At its core is a presumption in favour of sustainable development. The proposed development is considered to be sustainable as it is in a town centre location accessible by public as well as private means of transport and lies close to all major facilities.
  - 5.8 It is therefore considered that the development will comply with the NPPF, Policies CC6, BE1 and BE6 of the South East Plan 2009, and Policies SC2, C28, C30 and C34 of the adopted Cherwell Local Plan.

## **6. Recommendation: Approval**

Subject to:

- i) The applicant entering into a legal agreement requiring contributions towards Transport and Accessibility, Education, Libraries, Museum Resource Centre, Social and Health Care, Waste Management, Indoor Sports, Outdoor Sports, public Art and commuted sum, Local Area of Play Equivalent (off-site contributions for provision of improvements at People's Park) Refuse

and Recycling and administration and monitoring fees for both Cherwell District Council and Oxfordshire County Council.

ii) The following conditions:

1. That 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.

2. Except where otherwise stipulated by condition, the application shall be carried out strictly in accordance with the following plans and documents: Application forms, and the following drawings :

Site Location Plan – LOC1

Existing Site Plan, Elevations – SU01

Existing Site Plan, Elevations – SU02

Proposed Ground Floor / Site Plan – PL01 rev D

Proposed 1st and 2nd Floor Plans – PL02 rev C

Proposed Elevations – PL04 rev C

Proposed Elevations and Sections – PL05 rev C

Proposed 3rd Floor Plans – PL06 rev C.

Reason: For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and to comply with Policy BE1 of the South East Plan 2009.

3. No development shall take place until a schedule of the materials and finishes to be used in the construction of the external surfaces of the building hereby permitted has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: To ensure the satisfactory appearance of the completed development and to comply with the National Planning Policy Framework sections 7 and 12, Policy BE1 of the South East Plan 2009 and Policy C28 of the adopted Cherwell Local Plan.

4. No development shall take place until details of any external lighting have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved lighting scheme, and shall be retained as such thereafter.

Reason: To ensure the satisfactory appearance of the completed development and to comply with Policy C28 of the adopted Cherwell Local Plan.

5. No development shall take place until details of a scheme to prevent the discharge of surface water from the development onto the adjoining highway have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: In the interests of highway safety.

6. Development shall not begin until a scheme to deal with contamination of the site has been submitted to and approved in writing by the local planning authority. The scheme shall include an investigation and assessment to identify the extent of contamination and the measures to be taken to avoid risk to the public and the environment when the site is developed. Development shall not begin until the measures approved in the scheme have been implemented and the developer has provided written verification to that effect.

Reason: It is suspected that this site and/or nearby land or water may be contaminated as a

result of former industrial uses or otherwise. To ensure that any ground and water contamination is identified and adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use to comply with Policy ENV12 of the adopted Cherwell Local Plan.

7. Before the development is first occupied, car and cycle parking and manoeuvring areas shall be provided in accordance with drawing PL01 rev D and shall be constructed, laid out, surfaced, drained and completed in accordance with specification details to be submitted to and approved in writing by the local planning authority prior to the commencement of development. These areas shall be retained unobstructed and kept available for the parking of cars and cycles and manoeuvring of vehicles at all times thereafter.

Reason: In the interests of highway safety to ensure the provision of off-street car parking and in the interests of sustainability to comply with Section 1 of the National Planning Policy Framework.

8. The reduction in the width of the existing access road as indicated on drawing PL01 rev D shall be undertaken in accordance with a specification of works first submitted to and approved by the local planning authority prior to the commencement of works on site. The approved works shall be complete before the first occupation of the development hereby approved.

Reason: In the interests of highway safety and to ensure a satisfactory standard of construction and layout for the development.

9. No goods, materials, plant or machinery shall be stored, repaired, operated or displayed in the open.

Reason: In order to safeguard the amenities of the area in accordance with Policy C28 of the adopted Cherwell Local Plan.

### **Planning Notes**

- 1) Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.

### **SUMMARY OF REASONS FOR THE GRANT OF PLANNING PERMISSION AND RELEVANT DEVELOPMENT PLAN POLICIES**

The Council, as local planning authority, has determined this application in accordance with the relevant development plan unless material considerations indicated otherwise. The development is considered to be acceptable on its planning merits as the proposal pays proper regard to the character and appearance of its surroundings and has no undue adverse impact upon the residential amenities of neighbouring properties nor upon highway safety or upon the character and appearance of the Conservation Area and setting of nearby listed buildings. As such the proposal is in accordance with the National Planning Policy Framework, Policies CC6, BE1 and BE6 of the South East Plan 2009 and Policies SC2, C28, C30 and C34 of the adopted Cherwell Local Plan. For the reasons given above and having proper regard to all other matters raised the Council considered that the application should be approved and planning permission granted subject to appropriate conditions as set out above.

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