

# 1 Bear Garden Road, Banbury

12/01606/F

**Ward:** Banbury Easington

**District Councillor:** Fred Blackwell, Kieron Mallon and Nigel Morris

**Case Officer:** Rebekah Morgan

**Recommendation:** Approval

**Applicant:** Mr A Osborne

**Application Description:** Demolition of existing commercial unit to be replaced with 3 no. 1 bed apartments – resubmission of 12/01031/F

**Committee Referral:** Member Request

## 1. Site Description and Proposed Development

- 1.1 The existing building is a two storey, red brick property positioned on the end of a small terrace of residential properties. The application site consists of only the building, which fronts directly onto the street and has no other associated outdoor space. The building is a commercial/industrial unit and its last use was as a joinery workshop. The building is currently vacant.
- 1.2 The building is locally listed and situated within a Conservation Area.
- 1.3 The application seeks consent to demolish the existing building and replace it with 3 no. 1 bed room residential units in the form of a 2 ½ storey building. An associated application (12/01607/CAC) has been submitted which seeks Conservation Area Consent for the demolition of the existing building.
- 1.4 Members will recall that this application was approved at the last meeting subject to the receipt of any further comments from local residents before the expiry of the consultation period. Comments have been received , hence the reference back

## 2. Application Publicity

- 2.1 The application has been advertised by way of neighbour letters, site notice and press notice. The final date for comment is the 25th January 2013. At the time of writing the report.

3 letters have been received. The following Issues were raised

Material planning comments:

- Parking
- Busy and already congested road
- Overlooking as a result of proposal
- Impact on light to neighbouring property
- Overbearing
- Does not fit with the general street scene
- Flats do not appear to conform to current standards

Non-material comments:

- Party wall agreement will be required
- Land ownership issues / demolition of building would affect structures in the neighbours garden
- Neighbouring property would overlook a building site
- Once building is demolished it would leave neighbouring property vulnerable to vandalism and break-in's
- Insufficient space for lorries to deliver building materials

### **3. Consultations**

3.1 **Banbury Town Council:** Objects to the loss of a locally listed building. Would prefer to see a conversion.

#### **Cherwell District Council Consultees**

3.2 **Conservation Officer:** No objections

#### **Oxfordshire County Council Consultees**

3.3 **Highways Liaison Officer:** No objections

#### **Other Consultees**

3.4 **Thames Water:** No objections

### **4. Relevant National and Local Policy and Guidance**

#### **4.1 Development Plan Policy**

Adopted Cherwell Local Plan (Saved Policies)

C28: Layout, design and external appearance of new development

C30: Design of new residential development

South East Plan 2009

CC6: Sustainable communities and the character of the environment

BE1: Management for an urban renaissance

BE6: Management of the historic environment

#### **4.2 Other Material Policy and Guidance**

National Planning Policy Framework

Cherwell Local Plan - Proposed Submission Draft (May 2012)

The draft Local Plan is due out for public consultation in the near future. Although this plan does not have Development Plan status, it can be considered as a material planning consideration. The plan sets out the Council's strategy for the District to 2031.

## Non-Statutory Cherwell Local Plan 2011

In December 2004 the Council resolved that all work to proceed towards the statutory adoption of a draft Cherwell Local Plan 2011 be discontinued. However, on 13 December 2004 the Council approved the Non-Statutory Cherwell Local Plan 2011 as interim planning policy for development control purposes. Therefore this plan does not have Development Plan status, but it can be considered as a material planning consideration.

### 5. Appraisal

5.1 The key issues for consideration in this application are:

- Relevant Planning History
- Visual Amenity and impact on heritage assets
- Neighbouring Amenity
- Highway Safety
- Positive and proactive approach

#### **Relevant Planning History**

- 5.2 Application 95/01368/CAC – Conservation Area Consent granted for the demolition of the building in association with an application to redevelop the site. That application (95/01344/F) granted consent for a three storey (two bedroom) dwelling.
- 5.3 This application is a resubmission of application 12/01031/F. The previous application was withdrawn after concerns were raised relating to the design of the replacement building and the level of detail contained in the design and access statement.
- 5.4 Following a pre-application meeting with the case officer and the Council's conservation officer, the application has been re-submitted with an amended design and a revised design and access statement.

#### **Visual Amenity and impact on heritage assets**

- 5.5 Paragraph 135 of the National Planning Policy Framework states that *'The effect of any application on the significance of a non designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset'*.
- 5.6 The demolition of the building is considered in the committee report for application 12/01607/CAC. This application will consider the impact of the proposed replacement building on visual amenity and the character and appearance on the Conservation Area.
- 5.7 The replacement building has been designed to appear as two houses, although it will actually consist of a flat on each floor. The design is reflective of the small terraces of houses which are a characteristic of the Conservation Area.

- 5.8 The building would be constructed of reclaimed brick to match the existing building and would have a slate roof. The overall height of the building has been reduced (from previous application) so that it steps down from the adjoining property. A neighbour has commented that the new building will not fit within the character of the street scene. However, careful consideration has been given to the overall street scene and in our opinion the building will be in keeping with other properties in the area. Overall, the design of the new building will sit comfortable within the context of the Conservation Area.
- 5.9 Although dormer windows are not traditional features and are not seen on the terraced houses in the area; they are considered appropriate in this case as the development is new build.
- 5.10 Conditions have been recommended to ensure the quality of the finish and the materials are appropriate for the Conservation Area.
- 5.11 The proposal is acceptable within the context of the site and will not have a detrimental impact on visual amenity or the character and appearance of the Conservation Area. The proposal complies with government guidance on conserving and enhancing the historic environment contained within the National Planning Policy Framework, Policies CC6, BE1 and BE6 of the South East Plan and Policy C28 of the adopted Cherwell Local Plan.

#### **Neighbouring Amenity**

- 5.12 When assessing the impact of the proposed development on neighbouring amenity, consideration must be given to the existing building and its current relationship with the neighbouring properties. The eaves height of the replacement building will be 400mm higher than the existing building and the ridge height will be 900mm higher than existing.
- 5.13 The gable end of the proposed building faces the rear of the properties on Crouch Street. The building is not considered to be anymore overbearing than the current situation. The relationship between the buildings on this side of Bear Garden Road is very close knit, and this will not change.
- 5.14 The proposal will bring the site back into active use and therefore overlooking is a potential concern. The proposed building only contains windows on the front elevation; therefore there will not be any overlooking of the properties on Crouch Street or the areas to the rear of the site. As the proposed properties are flats, they will not benefit from permitted development rights. Therefore, planning permission would be required for the insertion of any additional windows in the building.
- 5.15 The properties on the opposite side of Bear Garden Road are set back from the highway. There will be a distance of approximately 15m between the front elevation of the proposed building and the front of the dwellings opposite. Therefore, the proposal will not result in undue overlooking of these neighbouring properties.
- 5.16 It is considered therefore that the proposal will not have a detrimental impact on neighbouring amenity and accords with the core principles of the National Planning Policy Framework and Policy C30 of the adopted Cherwell Local Plan.

### **Highway Safety**

- 5.17 The existing site does not have any on-site parking provision and this will not change as a result of the redevelopment of the site. The application site is within walking distance of the town centre and major public transport interchanges.
- 5.18 There is a limited amount of on street parking and neighbours have raised concerns regarding parking. The existing lawful use of the building has to be considered; the proposed flats are unlikely to generate significantly more traffic than if the building was reinstated with a commercial use.
- 5.19 Furthermore, the Local Highways Authority has raised no objections to the application. The application has submitted information in their design and access statement to support the suitability of the site as a 'car-free' development.
- 5.20 The proposal will not have a detrimental impact on highway safety and complies with government guidance on promoting sustainable transport contained within the National Planning Policy Framework.

### **Positive and Proactive Approach**

- 5.21 The applicant and his agent entered into pre-application discussions with the case officer and the Council's conservation officer. The concerns raised in relation to the previous applications discussed prior to the resubmission of the applications.
- 5.22 With regard to the duty set out in paragraphs 186 and 187 of the Framework, no problems or issues have arisen during the application. It is considered that the duty to be positive and proactive has been discharged through the efficient and timely determination of the application.

## **6. Recommendation**

**Approval**, subject to the following conditions:

1. S.C 1.4A (RC2) – [Time]
2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the application forms and the following plans and documents: Drawing number 001, drawing number 002A, drawing number 003A, drawing number 004A and drawing number 005A received 12 November 2012.

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 the National Planning Policy Framework.

3. Prior to the commencement of the development hereby approved, samples of the brick to be used in the construction of the walls of the development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter

the development shall be carried out in accordance with the samples so approved.

Reason - To ensure that the development is constructed and finished in materials which are in harmony with the building materials used in the locality and to comply with Policy BE1 of the South East Plan 2009 and Policy C28 of the adopted Cherwell Local Plan.

4. Prior to the commencement of the development hereby approved, samples of the Welsh slate to be used in the construction of the roof of the development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the samples so approved.

Reason - To ensure that the development is constructed and finished in materials which are in harmony with the building materials used in the locality and to comply with Policy BE1 of the South East Plan 2009 and Policy C28 of the adopted Cherwell Local Plan.

#### **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 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 its context and seeks to preserve the character and appearance of the surrounding area and has no undue adverse impact upon the residential amenities of neighbouring properties, highway safety or the significance of heritage assets. As such the proposal is in accordance with Policies BE1, BE6 and CC6 of the South East Plan, Policies C28 and C30 of the adopted Cherwell Local Plan and government guidance on conserving and enhancing the historic environment, requiring good design and promoting sustainable transport and within the core principles contained in the National Planning Policy Framework. 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.

#### **STATEMENT OF ENGAGEMENT**

In accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No 2) Order 2012 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council having worked with the applicant/agent in a positive and proactive way as set out in the application report.