

Site Address: 60 High Street, Banbury

14/01876/F

Ward: Banbury Grimsbury and Castle

District Councillors: Andrew Beere, Claire Bell and Ann Bonner

Case Officer: Rebekah Morgan

Recommendation: Approval

Applicant: Mr David Stone (Martin and Co)

Application Description: Change of Use from A1 (vacant) to A2 (letting agent)

Committee Referral: Contrary to policy

Committee Date: 22nd January 2015

1. Site Description and Proposed Development

- 1.1 The application site is a mid-terraced located on Banbury High Street. The application site is within Banbury Conservation Area and within the vicinity of Listed Buildings.
- 1.2 The application site is within an area designated as Primary Shopping Frontage within the adopted Cherwell Local Plan. The designation is also proposed to continue within the submitted Cherwell Local Plan 2014.
- 1.3 The application seeks a Change of Use from A1 (retail) to A2 (financial and professional services).

2. Application Publicity

- 2.1 The application has been advertised by way of neighbour letter, site notice and press notice. The final date for comment was the 23rd December 2014. No correspondence has been received as a result of this consultation process.

3. Consultations

- 3.1 Banbury Town Council: No comments received

Oxfordshire County Council Consultees

- 3.2 Highways Liaison Officer: No objections

4. Relevant National and Local Policy and Guidance

- 4.1 Development Plan Policy

Adopted Cherwell Local Plan (Saved Policies)

S3: Primary Shopping Frontage

C28: Layout, design and external appearance of new development

- 4.2 Other Material Policy and Guidance

National Planning Policy Framework

Submission Local Plan (January 2014)

Submission Local Plan (January 2014) (SLP) has been through public consultation and was submitted to the Secretary of State for examination in January 2014, with the examination beginning in June 2014. The Examination was suspended by the Inspector to allow further work to be undertaken by the Council to propose modifications to the plan in light of the higher level of housing need identified through the Oxfordshire Strategic Housing Market Assessment (SHMA), which is an objective assessment of need. Proposed modifications (August 2014) to meet the Objectively Assessed Need were subject to public consultation and the examination is set to reconvene in December 2014. 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.

5. Appraisal

5.1 The key issues for consideration in this application are:

- Relevant Planning History
- Principle of the development
- Visual Amenity and impact on heritage assets
- Residential Amenity
- Highway Safety

Relevant Planning History

5.2 **13/00975/F**: Conversion to form restaurant and 8 bedsits. Application permitted.

Principle of the development

5.3 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The development plan, in this case, consists of the adopted Cherwell Local Plan. The National Planning Policy Framework (NPPF) is a material consideration and appropriate weight will be given to it. The Submission Cherwell Local Plan 2014 is currently going through examination and therefore carries only limited weight.

5.4 The National Planning Policy Framework states that 'for the purpose of decision taking, the policies in the Local Plan should not be considered out-of-date simply because they were adopted prior to the publication of this Framework'. However, as the local policies were adopted prior to 2004, the NPPF also states that 'due weight should be given to relevant policies in existing plans according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)'.

5.5 The adopted Cherwell Local Plan defines the primary shopping frontage within Banbury Town Centre and Policy S3 clearly resists non-retail uses at ground floor level. This policy is considered to have consistency with the National Planning Policy Framework which states that 'local planning authorities should ...define the extent of town centres and primary shopping areas, based on a clear definition of primary and secondary frontages in designated centres, and set policies that make clear which uses will be permitted in such locations'. Therefore, greater weight can be given to this policy when assessing the application.

5.6 The Submission Cherwell Local Plan 2014 aspires to strengthen the town centres within the district and Policy Banbury 7 states that 'shopping, leisure and other town centre uses will be supported within the boundary of Banbury town centre'. As this emerging policy is undergoing examination, only limited weight can be given to it. However, it is useful to demonstrate the Council's aspirations to create a vibrant town centre and to carry forward the designated area of Primary Shopping Frontage.

- 5.7 The proposal seeks consent for a Change of Use to A2 (financial and professional services) which is considered to be a non-retail use. This type of use within the area of primary shopping frontage is clearly resisted by policy S3 of the adopted Cherwell Local Plan which seeks to 'prevent the proliferation of Banks, Building Societies and other non-retail uses at ground floor level in the primary shopping frontages'. The Council's concern is that there should not be a reduction in ground floor shopping frontage in these areas. This view is broadly supported by the National Planning Policy Framework which states that LPA's should 'promote competitive town centres that provide customer choice and a diverse retail offer and which reflect the individuality of town centres'. However, the National Planning Policy Framework does not completely rule out non-retail uses as it also states that LPA's should 'recognise town centres as the hearts of their communities and pursue policies to support their vitality and viability'.
- 5.8 When assessing the impact of a proposal on the vitality and viability of the area, consideration must be given to the type of use and how it may encourage other users of the town centre other than for shopping (for example, food uses may encourage the evening use of an otherwise dormant area at that time of day) or how it may encourage people to that side of the town centre by providing a specific service that may not be available elsewhere.
- 5.9 In this case the application site is located at the periphery of the designated area of Primary Shopping Frontage outside of the main pedestrianised area of the High Street, although it is acknowledged that location does not diminish the value of the policy.
- 5.10 The last use of the premises was as an opticians (the unit has been vacant for some time). Although the use is defined as A1 (retail) use, it would not have attracted browsing shoppers in the same way as a typical retail unit and would have met the need of a smaller proportion of the population.
- 5.11 The proposed use is as a letting agent; this type of use typically has an active frontage and operates similar hours to the previous retail use. Although the proposal is a non-retail use, it would have a similar footfall to the previous use as an opticians. Therefore, your officers have found it difficult to identify any harm that would be caused by the proposal.
- 5.12 Unfortunately, due to the current economic climate, the property has been vacant since the last occupier vacated the premises in 2013. The length of time a unit has been vacant does not automatically override the local policy but it must be a consideration in the decision. Furthermore, the applicant is intending to re-locate from further up the High Street, so this is an existing use from within Banbury Town Centre.
- 5.13 The planning history shows that there is an extant consent to convert the ground floor of the premises to a restaurant (A3 use). The planning permission (13/00975/F) does not include any restrictive conditions, therefore the consent were implemented, the applicant could then change from an A3 use to an A2 use without the need for further planning permission as it would fall under permitted development.
- 5.14 Policy S3 of the adopted Cherwell Local Plan is explicit that non-retail uses within the Area of Primary Shopping Frontage should be resisted and therefore, this application should be refused. However, when giving due consideration to all of the factors discussed above, on balance your officers cannot identify any significant harm that would be caused by allowing this particular premises to change to a letting agent.
- 5.15 As identified, the use of the premises as a letting agent would attract some footfall and browsing, probably more so than other A2 uses such as banks or building society.

Therefore, a condition has been recommended to restrict the use of the building to letting agent/estate agent and no other use within Class A2. This would prevent any future change to another use within Class A2 that may have a more detrimental impact on the town centre.

- 5.16 The principle of the development is contrary to Policy S3 of the adopted Cherwell Local Plan, however, given the location of the property, the previous and proposed use and the period of time the property has been vacant, your officers consider that the proposal would not cause harm to the vitality or viability of the town centre and therefore should be approved.

Visual Amenity and impact on heritage assets

- 5.17 Two of the neighbouring properties (including the adjoining premises) are Grade II Listed Buildings and the site is located within the Banbury Conservation Area. With the exception of new signage (a separate application has been submitted), the proposal does not include any external alterations to the building. Therefore, the proposal would not have a detrimental impact on the Conservation Area or the setting of neighbouring listed buildings
- 5.18 The proposal would not have a detrimental impact on visual amenity or heritage assets and complies with government guidance on conserving the historic environment contained within the NPPF and Policy C28 of the adopted Cherwell Local Plan.

Residential Amenity

- 5.19 The property is located within the town centre and there are a number of residential properties within the vicinity of the site (predominantly on upper floors of buildings). The use of the premises for a letting agent would not materially alter the typical hours of operation or the volume of people using the premises when compared to the lawful use as a retail premises.
- 5.20 The proposed change of use would not cause harm to residential amenity and the proposal accords with the core principles of the National Planning Policy Framework.

Highway Safety

- 5.21 The application site is located within the town centre and is in close proximity to a number of public car parking. Given the sites location in the town centre, the provision of on-site parking is not required.
- 5.22 The Local Highway Authority has raised no objection to the proposal. The development would not have a detrimental impact on highway safety and complies with government guidance contained within the National Planning Policy Framework.

Engagement

- 5.23 With regard to the duty set out in paragraphs 186 and 187 of the Framework, initial concerns were raised regarding the principle of the development. Following a discussion with a team leader, the applicant was advised that the application would be referred to the planning committee for final determination. It is considered that the duty to be positive and proactive has been discharged through the efficient determination of the application and by communicating with the applicant/agent.

6. Recommendation

Approval, subject to the following conditions:

1. The works to which this consent relates shall be begun not later than the expiration

of three years beginning with the date of this consent.

Reason - To comply with the provisions of Section 18 of the Planning (Listed Buildings and Conservation Areas) 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, site location plan and drawing number MC-BAN-CHOU.

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 Government guidance contained within the National Planning Policy Framework.

3. The ground floor of the building shall be used only for the purpose of a letting agent/estate agent and for no other purpose whatsoever, including any other purpose in Class A2 of the Schedule to the Town and Country Planning (Use Classes) (Amendment) (England) Order 2005.

Reason – To maintain the vitality and viability of the town centre in accordance with government guidance contained within the National Planning Policy Framework.

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 communicated with the applicant/agent in a positive and proactive way throughout the application process.