

# Site Address: Former Ambulance Station Cope Road Banbury

14/02149/CDC

Ward: Banbury Easington

District Councillor: Fred Blackwell, Kieron Mallon  
and Nigel Morris

Case Officer: Bob Neville

Recommendation: Approval subject to conditions

Applicant: 'Build!' - Cherwell District Council

**Application Description:** Redevelopment of former Banbury ambulance station site to provide 6 dwellings of shared accommodation including 2 self-contained units for staff and all associated parking and amenity space

Committee Referral: CDC Application

Committee Date: 19/03/2015

## 1. Site Description and Proposed Development

- 1.1 The land to which this application relates is the site of the former Ambulance Station adjacent the Fire Station at the junction of Cope Road and Foundry Street northwest of Banbury Town Centre.
- 1.2 In terms of site constraints, the site is not within a conservation area; however there is a grade II listed building (Orchard House) some 55m south of the site. 6 no. Lime trees located along the western boundary of the site are protected by a Tree Preservation Order Ref. TPO 5/2005. There are records of Swifts (a Notable Species) within the vicinity of the site. A Public Right of Way (PRoW) (Restricted Byway) ref. 120/97 runs down Foundry Street along the western boundary of the site. The site is within an area identified as being on potentially contaminated land. A Special Site of Scientific Interest (SSSI) (Neithrop Fields Cutting) lies some 1.3km north-west of the site. There are no other site constraints relevant to planning and this application.
- 1.3 The application seeks permission for the re-development of the former Ambulance Station site to provide 6 dwellings of shared accommodation including 2 self-contained units for staff. The proposed occupants are identified within the Design and Access Statement as being people linked with training and work experience associated Build programme but that units could equally be let to young professionals or occupational groups. The scheme proposes the demolition of offices at the western end of the Fire Station and a shared plant room (dealt with under a separate application for demolition ref. 14/01036/DEM and largely carried out at the time of preparation of this report) and the erection of a row of four 2-storey units with rooms in the roofspace along the frontage of the site with Cope Road and a further two 2-storey units with rooms in the roofspace set back within the plot. The proposal also includes associated permeable parking area, bin and cycle storage and amenity space. The walls of the buildings are to be constructed of multi-red facing brick, with elements of render, under a natural slate roof covering.
- 1.4 The application has been brought forward following pre-application discussions involving several key stakeholders; including both internal and external consultees. The scheme has evolved significantly as a result of these discussions; with various scales, building forms and proposed layouts having been discussed. This has resulted in the scheme that is now presented for determination.

## 2. Application Publicity

- 2.1 The application has been advertised by way of neighbour letter, site notice and press advert. The final date for comment was the 19.02.2015. One email, welcoming the suggested biodiversity enhancements, has been received as a result of this process.

### **3. Consultations**

#### **3.1 Banbury Town Council - No objections**

#### **3.2 Cherwell District Council Internal Consultee:**

**Urban Design Officer - No objections**

**Private Sector Housing Officer - No objections**

**Anti-Social Behaviour Manager - No comments received**

**Environmental Protection Officer - No objections subject to conditions.** I recommend conditions are applied to this application which require additional consideration of arsenic concentrations within the detailed remedial proposals, a detailed remediation scheme is submitted and a report demonstrating the scheme has been undertaken and the site is safe for its proposed end use with regard to land contamination.

I've reviewed the BRD Phase 1 Geo-Environmental Desk Study (reference BRD2038-OR1-A, dated September 2014) and the Geo-environmental site investigation (reference BRD2038-OR2-B, dated January 2015). It is noted that the underlying geology of the site isn't one which is associated with elevated concentrations of naturally occurring arsenic and the soils on site with elevated arsenic concentrations are within made ground. Therefore the risk assessment and recommend the use of the ironstone normal background concentration screening criteria of 220 mg/kg is not accepted for this site, particularly with the proximity to the foundry and the elevated lead concentrations.

The outline remedial proposals i.e. a clean cover depth within this report are adequate to address the potential risk, however the risk from arsenic will require reconsideration and inclusion in the remedial proposals.

More detailed remedial proposals will be required in due course to demonstrate the proposed cover layer depth when the source of the topsoil is known and samples of these soils also, and the proposals for the next stage of investigation, are acceptable. Given the source of the topsoil may not be known yet, I don't recommend requiring the detailed remedial proposals before the development starts (as the outline strategy is acceptable, albeit it requires consideration of arsenic as a contamination source too) but this should be provided as soon as this information is available. The verification of the remedial works will be required prior to occupation.

I recommend applying the following conditions to ensure the developers works to ensure a safe development, are documented and submitted to us through development control:

##### **1. Land Contamination: Remediation Scheme**

When the proposed imported clean cover material is identified and prior to occupation, an assessment of the risk from arsenic and scheme of remediation to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority.

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy ENV12 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

## 2. Land Contamination: Carry out Remediation

The development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 1. A verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy ENV12 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

## 3. Land Contamination not Previously Found

If, during development, contamination not previously identified is found to be present at the site, no further development shall be carried out until full details of a remediation strategy detailing how the unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. Thereafter the remediation strategy shall be carried out in accordance with the approved details.

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy ENV12 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

**Arboricultural Officer** - There are 6 protected Lime trees on site which are to be retained. I understand that a tree survey was carried out on the site by Sylva Consultancy but it does not appear to be available to view on Iclipse. The work proposed should not have a significant impact on the trees. Some ground works are proposed under the crown spread of the trees. This should be carried out by hand and should not involve any ground excavations within the root protection zones of the trees. An arboricultural method statement should be submitted to provide details of a tree protection plan and a methodology for working within the root protection zones of the protected trees.

**Building Control** - No objections

**Ecologist** - I have no objections on ecological grounds. The trees are being retained and there is unlikely to be any significant impacts on protected species or habitats. I welcome the addition of biodiversity enhancements within each dwelling in the form of bat boxes and bird boxes. I would however concur with the comments made by Chris Mason and request that boxes suitable for swifts are used and that advice is sought from Swift Conservation as to the best siting of these to ensure the benefits to biodiversity in the area is maximised.

**Waste and Recycling Manager** - No comments received

### 3.3 Oxfordshire County Council Consultees:

**Highways Liaison Officer** - No objections subject to conditions

**Rights of Way Officer** - No comments to make on this application

**Drainage** - No comments received

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

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

Adopted Cherwell Local Plan 1996 (Saved Policies)

C28: Layout, design and external appearance of new development

C30: Design of new residential development

ENV12: Development on contaminated land

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

**National Planning Policy Framework (NPPF) - March 2012**

**Planning Practice Guidance (PPG)**

**Submission Local Plan (SLP) - October 2014**

Submission Local Plan (October 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, from 22nd August to 3rd October 2014. Although this plan does not have Development Plan status, it can be considered as a material planning consideration. The examination reconvened and closed in December 2014 and the Inspectors report is likely to be published in March 2015. The Plan sets out the Council's strategy for the District to 2031. The policies listed below are considered to be material to this case:

ESD 16: The Character of the built and historic environment

#### **5. Appraisal**

5.1 The key issues for consideration in this application are:

- Relevant planning history
- Principle
- Neighbour and visual amenity
- Highway safety
- Potential land contamination
- Impact on protected trees

##### **Relevant Planning History**

5.2 05/01869/OUT - Outline - 2 no. Two storey detached houses with double garages (approved)

14/01036/DEM - Demolition of ambulance garage (approved)

##### **Principle**

5.3 The National Planning Policy Framework (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.

5.4 The NPPF positively encourages sustainable development. Paragraph 17 states that planning should actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling and to focus significant development in

locations which are or can be made sustainable. Paragraph 111 states that Local Planning Authorities should encourage the effective use of land by re-using land that has been previously developed.

- 5.5 The site is within the built up limits of Banbury where the principle of new development may be considered acceptable, but having regard to other policies in the development plan, such as Saved Policies C28 and C30. Saved Policies C28 and C30 of the Adopted Cherwell Local Plan seek standards of layout, design and external appearance, including the choice of external finish materials that are sympathetic to the character of the context of the development. Also that new housing development is compatible with the appearance, character, layout, scale and density of existing dwellings in the vicinity, and that provides standards of amenity and privacy acceptable to the local planning authority.
- 5.6 Whilst there are various elements to sustainable development, it is clear that the proposal is considered to be sustainable in so far as it proposes new dwellings on a previously developed site, in a relatively sustainable location, being within walking distance of shops and forms of public transport. In this respect it is considered that the NPPF and the adopted and emerging policies are consistent and the proposal complies with the relevant policies and guidance.

### **Highway Safety**

- 5.7 The Highways Authority considers the proposal to be acceptable in terms of highway safety; subject to conditions requiring full specification details, including drainage and construction of the parking and manoeuvring area, at the site, being submitted and approved and that the access is created in accordance with Highways Authority specifications. I see no reason not to agree with this opinion.
- 5.8 The site is within a 5 minute walk of the town centre and the town's bus and train stations it is considered a relatively sustainable location that has the potential to promote the use of other forms of transport away from the use of private car. On balance, given the sustainable location, the limited amount of parking associated with the proposal is considered acceptable in this instance and on balance it is considered that there would be no significant impact on highway safety as a result of the proposals.

### **Neighbour and Visual Amenity**

- 5.9 The Government attaches great importance to the design of the built environment within the National Planning Policy framework (NPPF). Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.
- 5.10 Saved Policies C28 and C30 of the Adopted Cherwell Local Plan seek standards of layout, design and external appearance, including the choice of external finish materials, which are sympathetic to the character of the context of the development. Further, extensions to dwellings should be compatible with the scale of the existing dwelling, its curtilage, the character of the street scene and should not be visually intrusive.
- 5.11 The scale and the design of the proposed buildings has developed through the course of pre-application discussions and the determination of the application. Design inspiration has been taken from styles and materials seen in the locality and the development looks to provide a transition between the three storey buildings along Foundry Street down to the two storey dwellings along Cope Road.
- 5.12 The materials to be used in the construction of the dwellings are detailed on the application form and within the Design and Access Statement to be multi-red brick,

render and slate. Whilst it is expected that materials will match those in use on buildings within the vicinity it is considered appropriate to condition that samples of materials are submitted and approved prior to the commencement of the development; to ensure that the development is constructed and finished in materials which are in harmony with the building materials used in the locality.

- 5.13 On balance it is considered that the proposals, subject to the proposed conditions in relation to materials, would not significantly detrimentally impact on the character of the street-scene or be visually intrusive and would therefore comply with the provisions and aims of Policies C28 and C30 of the ACLP.
- 5.14 Given the context of the site, scale of development and its relationship with surrounding properties it is considered that there will no unacceptable impacts on neighbour amenity in terms of loss of light, loss of privacy or overshadowing, as a result of the development and is therefore acceptable in this respect.

#### **Potential Land Contamination**

- 5.15 Records indicate that the site is on an area of potentially contaminated land, largely associated with a historic use (foundry works) south of the site. The Council's Environmental Protection Officer raises no objections to the proposals subject to proposed conditions relating to the identification and mitigation of any contamination found during the construction phase. It is considered that subject to the proposed conditions being implemented that the development would accord with the provisions and aims of Policy ENV12 of the ACLP and is acceptable in this regard.

#### **Impact on Protected Trees**

- 5.16 6 no. Lime trees located along the western boundary of the site are protected by a Tree Preservation Order Ref. TPO 5/2005 and are considered to be of high amenity value. The Council's Arboricultural Officer raises no concerns subject to the retained trees being protected and that construction is carried out in accordance with an Arboricultural Method Statement (AMS). It is considered to be appropriate to apply the proposed conditions to any such permission to ensure that the Lime Trees are protected at all time during the construction phase of the development and that it is carried out in a method that causes no harm to the immediate or long-term future of the trees.

#### **Other Matters**

- 5.17 The NPPF advocates a net gain in biodiversity wherever possible. The extended phase one habitat survey, submitted in support of the application makes recommendations in relation bird and bat mitigation measures which should be incorporated into the completed development. In relation specifically to birds, Swifts have been identified in the area and are protected. The Council's Ecologist proposes a condition that swift boxes be incorporated into the new buildings; it considered appropriate to attach such a condition to any such permission in the aim of effecting biodiversity gains at the site.
- 5.18 Whilst no formal comments have been received from the Council's Waste and Recycling Manger it is considered that suitable provision has been made to accommodate waste and recycling at the site and is sufficiently detailed within the supporting information. The bins are clearly accessible and although not under cover it is considered that the positioning of the bins is not visually intrusive and would not be to the detriment of either occupant or neighbouring amenity.

#### **Engagement**

- 5.19 With regard to the duty set out in paragraphs 186 and 187 of the Framework, an on-going dialogue has been maintained by Council officers looking to address problems

or issues that have arisen during the course of both the pre-application discussions and the current applications. Although the application has gone beyond its eight-week determination period, it is considered that the duty to be positive and proactive has been discharged through the interaction between parties in bringing forward a scheme that could be considered acceptable to the Authority.

### **Conclusion**

- 5.20 It is considered that the proposal assessed within this application is an acceptable form of development that causes no significant harm to neighbour amenity or highway safety; the design and scale is sympathetic to the character of the context of the site and provides standards of amenity which are considered acceptable. As such, it is considered to comply with the above mentioned policies and is recommended for approval as set out below.

## **6. Recommendation - Approval subject to the following conditions**

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.

2. Except where otherwise stipulated by condition, the application shall be carried out strictly in accordance with the following plans and documents: Application forms, Design and Access Statement, Phase 1 Geo-environmental Desk Study dated 05/09/2014, Extended Phase 1 Habitat Survey dated 21<sup>st</sup> July 2014 and drawings numbered: C23-PL-01B, C23-PL-02B, C23-PL-03A, C23-PL-04B, C23-PL-05A and C23-PL-06B

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. Prior to the commencement of the development hereby approved, samples of the brick to be used in the construction of the external 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 the satisfactory appearance of the completed development and to comply with Policy C28 of the Adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

4. Prior to the commencement of the development hereby approved, samples of the tile 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 the satisfactory appearance of the completed development and to comply with Policy C28 of the Adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

5. Prior to the commencement of the development hereby approved, details of the external render, including type, texture and colour finish shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the render shall be finished and maintained in accordance with the approved scheme.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy C28 of the Adopted Cherwell Local Plan and Government

guidance contained within the National Planning Policy Framework.

6. Prior to the commencement of the development hereby approved, full details of the enclosures along all boundaries and within the site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved means of enclosure, in respect of those dwellings which they are intended to screen shall be erected, in accordance with the approved details, prior to the first occupation of those dwellings.

Reason - To ensure the satisfactory appearance of the completed development, to safeguard the privacy of the occupants of the existing and proposed dwellings and to comply with Policies C28 and C30 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

7. Prior to the construction of the dwellings hereby approved, the proposed means of access between the land and the highway shall be improved to geometry as plans submitted, formed, laid out and constructed strictly in accordance with Oxfordshire County Council's specification and guidance.

Reason - In the interests of highway safety and to comply with Government guidance contained within the National Planning Policy Framework

8. Prior to the commencement of the development hereby approved, full specification details (including construction, layout, surfacing and drainage) of the parking and manoeuvring areas shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first occupation of the development, the parking and manoeuvring areas shall be provided on the site in accordance with the approved details and shall be retained unobstructed except for the parking and manoeuvring of vehicles at all times thereafter.

Reason - In the interests of highway safety and to comply with Government guidance contained within the National Planning Policy Framework

9. a) No retained tree shall be cut down, uprooted, damaged or destroyed, nor shall any retained tree be pruned in any manner, be it branches, stems or roots, other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority. All tree works shall be carried out in accordance with BS3998: Recommendations for Tree Works.

b) If any retained tree is cut down, uprooted, destroyed or dies, another tree shall be planted in the same place in the next planting season following the removal of that tree, full details of which shall be firstly submitted to and approved in writing by the Local Planning Authority.

In this condition a "retained tree" is an existing tree which shall be retained in accordance with the approved plans and particulars; and paragraphs (a) and (b) shall have effect until the expiration of five years from the date of the decision.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy C28 of the Adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

10. Prior to the commencement of the development hereby approved, an Arboricultural Method Statement (AMS), undertaken in accordance with BS:5837:2012 and all subsequent amendments and revisions shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, all works on site shall be carried out in accordance with the approved AMS.

Reason – To ensure the continued health of retained trees/hedges and to ensure that they are not adversely affected by the construction works, in the interests of the visual amenity of the area, to ensure the integration of the development into the existing



landscape and to comply with Policy C28 of the Adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

11. Prior to the commencement of the development hereby approved, a mitigation strategy for swifts, which shall include details of the location and design of alternative nest sites to be provided, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the commencement of the development, the alternative nesting sites shall be provided in accordance with the approved document.

Reason - To ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy C2 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

12. When the proposed imported clean cover material is identified and prior to occupation, an assessment of the risk from arsenic and scheme of remediation to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority.

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy ENV12 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

13. The development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 12 A verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy ENV12 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

14. If, during development, contamination not previously identified is found to be present at the site, no further development shall be carried out until full details of a remediation strategy detailing how the unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. Thereafter the remediation strategy shall be carried out in accordance with the approved details.

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy ENV12 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

#### **PLANNING NOTES**

1. Planning permission only means that in planning terms a proposal is acceptable to the Local Planning Authority. Just because you have obtained planning permission, this does not mean you always have the right to carry out the development. Planning permission gives no additional rights to carry out the work, where that work is on

someone else's land, or the work will affect someone else's rights in respect of the land. For example there may be a leaseholder or tenant, or someone who has a right of way over the land, or another owner. Their rights are still valid and you are therefore advised that you should seek legal advice before carrying out the planning permission where any other person's rights are involved.

2. With reference to condition 7, the guidance referred to is available at <http://www.oxfordshire.gov.uk/cms/content/dropped-kerbs>
3. The applicant's and/or the developer's attention is drawn to the requirements of the Control of Pollution Act 1974, the Environmental Protection Act 1990 and the Clean Air Act 1993, which relate to the control of any nuisance arising from construction sites. The applicant/developer is encouraged to undertake the proposed building operations in such a manner as to avoid causing any undue nuisance or disturbance to neighbouring residents. Under Section 61 of the Control of Pollution Act 1974, contractors may apply to the Council for 'prior consent' to carry out works, which would establish hours of operation, noise levels and methods of working. Please contact the Council's Anti-Social Behaviour Manager on 01295 221623 for further advice on this matter.

#### **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), an on-going dialogue has been maintained by Council officers looking to address problems or issues that have arisen during the course of both the pre-application discussions and the current applications. Although the application has gone beyond its eight-week determination period, it is considered that the duty to be positive and proactive has been discharged through the interaction between parties in bringing forward a scheme that could be considered acceptable to the Authority.