

**60-62 Broad Street
Banbury
OX16 5BL**

16/02529/F

Case Officer: Matthew Chadwick **Contact Tel:** 01295 753754

Applicant: Mentor Inns LLP

Proposal: Alterations to building and change of use to form retail units at ground floor level and 12 No self contained flats over – re-submission of 16/00292/F

Expiry Date: 20/03/2017

Ward: Banbury Cross and Neithrop **Committee Date:** 16/03/2017

Ward Councillors: Councillor Banfield, Councillor Dhesi and Councillor Milne-Home

Reason for Referral: Major application by number of residential units proposed

Recommendation: Approval

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site is located in Banbury town centre and has a frontage onto Broad Street where the road is pedestrianised and backs onto Pepper Alley to the west. The existing building covers the entirety of the site and is a non-designated heritage asset, described in the Council's own listing document as a 'Former Cinema - c.1930s Art-deco / Egyptian cinema'. The application also includes the 3 storey brick building to the north of the main part of the former cinema building. The building was last used as a night club but has been vacant for some time and currently is unoccupied. From reviewing the planning history of the site the authorised use of the building is currently A3 (restaurant).
- 1.2. The building is not statutorily listed but is located within the Banbury Conservation Area and is locally listed. The site lies within a potentially contaminated land buffer zone. Swifts, Whiskered Bats and Brown Long-eared bats have been located in proximity of the site, which are protected species. The site lies within an area of archaeological interest.

2. DESCRIPTION OF PROPOSED DEVELOPMENT

- 2.1. Planning consent is sought for alterations and extensions to convert the building to form two retail units at ground floor level, with 12 flats above arranged over 3 floors.
- 2.2. The ground floor would be used for two retail units which would have a frontage onto Broad Street. There would be an entrance to the flats onto both Broad Street and Pepper Alley. The cycle storage for both the flats and the retail units would be contained on the ground floor, as would the bin storage. To the rear of the building facing onto Pepper Alley would be a store room for the retail unit.

- 2.3. The residential accommodation would be arranged in two blocks of accommodation above the ground floor retail units. The frontage block that would face onto Broad Street would accommodate 6 flats (2 x 2 beds and 4 x 1 beds) across three floors. The rear block that would face onto Pepper Alley would accommodate 6 one bedroom flats across two floors.
- 2.4. The proposed development would retain the existing art deco façade of the building that faces onto Broad Street, including the stepped parapet element. There would be some alterations to this frontage, which would relate to the repositioning of windows and decorative banding and the raising of the lintel of the balcony. There would also be some changes to the shop fronts, with new openings created for both the shops and access to the flats.
- 2.5. The frontage onto Pepper Alley would be three storeys in height and would be constructed from red brick under a pitched roof constructed from slate.

3. RELEVANT PLANNING HISTORY

- 3.1. CHN.699/80: Alterations to internal area, and extension to existing bingo club with amendment to shopfront APPROVED 22 December 1980
- 3.2. 98/01724/F: Change of use from bingo hall (Class D2) to restaurant (Class A3) APPROVED 15 December 1998
- 3.3. 99/00927/F: Proposed alterations to front and rear elevations (as amended by plans received on 3.6.99 and as clarified by agent's letter dated 22.6.99) APPROVED 29 June 1999
- 3.4. 14/00859/F: Alterations and minor extensions to the front and rear facades and change of use to accommodate 2 retail units at ground floor level, 2 mews houses with integral parking to the rear and 6 self-contained flats APPROVED 30 September 2014
- 3.5. 16/00292/F: Proposed extension, alteration and change of use to form 3 no. retail units and 14 no. self contained flats WITHDRAWN 31 May 2016

The application was withdrawn after concerns were raised with three different elements of the scheme.

The first reason was that the alterations to the Broad Street façade and the scale, mass and design of the extensions onto Pepper Alley would have failed to preserve or enhance the character and appearance of the Banbury Conservation Area or the significance of the listed building.

The second reason was that the proposed development was considered to represent an overdevelopment of the site as it would have failed to provide a good level of amenity for future occupiers in terms of overlooking and privacy. The proposal would also have provided inadequate bin storage and cycle storage for residents.

The third reason was that the proposed development would have failed to provide affordable housing or a financial contribution towards off-site affordable housing.

4. PRE-APPLICATION DISCUSSIONS

- 4.1. 16/00286/PREAPP: The proposals were for two retail units on the ground floor, one of which was of a smaller size than that proposed under the current application.

There was to be one flat on the ground floor to the rear onto Pepper Alley and twelve flats above, for a total of thirteen flats. Concerns were raised regarding the size of the smaller retail unit. The staircases to residential units were proposed to be external and concerns were raised with this as it would have had an impact on residential amenity of those units next to the staircases. It was considered that a reduction in the number of units and an increase in the size of the smaller retail units would make the scheme more acceptable. The report was issued on 31st October 2016.

5. RESPONSE TO PUBLICITY

5.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records.

5.2. At the time of writing this report, fourteen letters of objection have been received as part of the consultation process. The comments raised by third parties are summarised as follows:

- The town needs a theatre of sufficient size to serve a growing population; this application would lead to the loss of such a facility.
- The building should be retained as it is an important part of the heritage of the town and could become a community asset.
- Banbury has enough town centre retail units, many of which are vacant.
- The application would see the loss of much of the original building.
- The proposed flats could be accommodated in the old Crest Hotel, which has been vacant for a number of years.
- There is no public benefit from empty shops.
- There is no public benefit from 14 flats as Cherwell has a more than adequate 5 year housing land supply.
- The building is a Local Heritage Asset that should be retained.
- The building is disused but not redundant.
- The development would be contrary to Paragraphs 134 and 135 of the NPPF as there would no significant public benefit.
- The building is unique in the town for its architecture, history and cultural venue potential.
- The shift of focus is moving away from the High Street, the use of the building as a cultural venue would alter this shift.
- There are no plans to create new cultural amenities elsewhere in Banbury.

5.3. The comments received can be viewed in full on the Council's website, via the online Planning Register.

6. RESPONSE TO CONSULTATION

- 6.1. 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

- 6.2. BANBURY TOWN COUNCIL: **Objects.** The proposal does not provide full justification for the loss of a community and cultural facility. The building would be better deployed in a non-residential capacity and preserved as a community asset.

STATUTORY CONSULTEES

- 6.3. HISTORIC ENGLAND: No comments received.
- 6.4. OCC DRAINAGE: No comments received.
- 6.5. OCC HIGHWAYS: **No objections**, subject to conditions and a suitable legal agreement. The conditions would relate to the submission of a Travel Information Pack, Construction Travel Management Plan, refuse collection vehicle tracking drawings, a drainage scheme and further details of cycle parking. The Local Highways Authority are seeking a contribution of £13,853.60 to go towards the improvement of pedestrian and cyclist facilities in Banbury town centre.

The development is in a sustainable town centre location in close proximity to the railway station, the bus station and bus stops. It would be possible for residents to access employment and services without the use of a personal motor vehicle. The lack of car parking is therefore considered to be appropriate.

All of the nearby streets have some form of parking control that makes them unsuitable for routine long-term use by residents and therefore it is unlikely that there would be over spill car parking on nearby streets.

The application proposes for the waste to be collected from Pepper Alley. The refuse lorry would not be able to get within 5m of the collection point without reversing into or out of Pepper Alley.

For the redevelopment of brownfield sites, in terms of surface water runoff rates, these sites should be designed to discharge at greenfield rates where feasible. However, as this site mainly entails the reuse of an existing building this requirement is not practical. Therefore, it is suggested that the development should achieve a 5% - 10% betterment over the existing surface water runoff rates at the site. This could be achieved by the incorporation of SUDS into the development, for example, by treating water as a resource by harvesting rainwater for reuse.

The cycle parking facilities for retail unit 1 would be accommodated within the store room and these are unlikely to be used due to the stock being stored in the store room.

- 6.6. OCC PLANNING AND PROPERTY: OCC is not seeking property contributions to mitigate the impact of this development on infrastructure. This is solely due to Regulation 123 of the Community Infrastructure Regulations 2010 (as amended).
- 6.7. THAMES WATER: No comments received.

NON-STATUTORY CONSULTEES

- 6.8. BANBURY CIVIC SOCIETY: **Objects**. The proposal would see the loss of a potential community asset. The loss of a purpose-built facility when a multi-million pound Cultural Quarter is being planned at The Mill would be a waste of an existing facility.

The application would see the loss of a designated Local Heritage Asset within the Banbury Conservation Area with no overwhelming public benefit. Cherwell has an adequate 5 year housing land supply.

The proposal would result in a substantial change in the character and appearance of the Banbury Conservation Area, particularly to Pepper Alley.

Some of the residential units would barely meet the minimum room size standards set out by DCLG.

No off-street parking is proposed and the retail units would likely be serviced from Broad Street, which is a pedestrianised street. The waste facilities would be similarly constrained.

The application has not demonstrated that the building is a surplus facility. The application would fail to address the social impact of sustainable development.

If the application were to be approved, a condition stating that no demolition should be carried out until a binding contract for the whole of the consented development has been made should be included.

- 6.9. BANBURY HISTORICAL ASSOCIATION: No comments received.

- 6.10. BUILDING CONTROL: No comments received.

- 6.11. BUSINESS SUPPORT UNIT: No comments received.

- 6.12. CINEMA THEATRE ASSOCIATION: **Objects**. The Grand is an important design by Gomershall and Drury, cinema architects of national importance and remains one of the few examples of their work.

The cinema remains in excellent condition with most of its original features intact and no water penetration, and so could easily be restored and re-used.

The building should be fully protected from demolition by its status as a Local Heritage Asset lying within Banbury's principal Conservation Area.

The Grand's auditorium space is an important community asset for Banbury, which has no similar spaces. It could easily be converted into a performance or public use space of about 500 seats for great public benefit.

The Grand should be designated as an Asset of Community Value for the benefit of the people of Banbury.

- 6.13. CONSERVATION: **No objections**, subject to the submission of further details by condition.

On Broad Street, full details of the raising of the lintel of the balcony and glass balustrades would be required by condition. The design of the shop front, windows and render repair and colour would all be required by condition.

On Pepper Alley, details of windows and doors, rainwater goods and a brick sample panel would all be required by condition.

- 6.14. ECOLOGY: No comments received.
- 6.15. ENVIRONMENTAL PROTECTION: Recommends that a BS8233:2014 survey is undertaken and any mitigation required to achieve the levels for residential properties in that standard is implemented before occupation.
- 6.16. FRIENDS OF THE GRAND THEATRE: **Objects.** The loss of a community asset and purpose-built performance space should be avoided. The development would result in the loss of a Local Heritage Asset within the Banbury Conservation Area. The proposal would result in a substantial change in the character and appearance of the Banbury Conservation Area and there is no public benefit to offset this harm. The off-street parking and servicing facilities are inadequate for 12 flats and 2 retail units.
- 6.17. HOUSING STANDARDS: No comments received.
- 6.18. LANDSCAPE SERVICES: An off-site contribution would be required to improve the existing play area at Old Parr Close. This contribution would be for £27,682.32, which would be triggered on 50% occupancy of the development.
- 6.19. LICENSING: No comments received.
- 6.20. PLANNING POLICY: **No objections.**
- 6.21. RECREATION AND LEISURE: The following contributions are sought for off-site sports and community provision:
- Off-site contribution towards increased outdoor sports facilities: £7,689.50.
 - Off-site contribution towards indoor sports facilities: £5185.38.
 - Community halls provision: £1349.72.
 - Public art contribution: £6080.
- 6.22. STRATEGIC HOUSING: This application is subject to the affordable housing policy of 30% equalling 4 units. However, due to the type of housing provision this will provide, it will be unsuitable to secure affordable housing on site. Issues of housing management present as a problem for these kinds of development at this scale and arrangement, there is also the issue of an uncontrolled service charge element which could impact on the affordability of the flats to any new eligible occupier. An off-site commuted sum which will be based on 40% of the market value of the equivalent 4 flats will be sought.
- 6.23. WASTE AND RECYCLING: The suggestions are not acceptable Broad Street is a very narrow street and there isn't enough room to park the vehicle without blocking the street. Also due to the size of the street and Pepper Alley we cannot reverse the vehicle in. The only solution they could have is to purchase some land at the entrance to Pepper Alley and build a secure bin store.

7. RELEVANT PLANNING POLICY AND GUIDANCE

- 7.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

7.2. The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 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 2031 Part 1)

- PSD1 – Presumption in Favour of Sustainable Development
- SLE2 – Securing Dynamic Town Centres
- SLE4 – Improving Transport and Connections
- BSC2 – The Effective and Efficient Use of Land – Brownfield Land and Housing Density
- BSC3 – Affordable Housing
- BSC4 – Housing Mix
- BSC10 – Open Space, Outdoor Sport and Recreation Provision
- BSC11 – Local Standards of Provision – Outdoor Recreation
- ESD1 – Mitigating and Adapting to Climate Change
- ESD3 – Sustainable Construction
- ESD6 – Sustainable Flood Risk Management
- ESD7 – Sustainable Drainage Systems
- ESD10 – Protection and Enhancement of Biodiversity and Natural Environment
- ESD15 – The Character of the Built and Historic Environment
- Banbury 7 – Strengthening Banbury Town Centre
- INF1 - Infrastructure

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C23 – Features in conservation areas
- C28 – Layout, design and external appearance of new development
- C30 – Design control
- ENV1 – Development likely to cause detrimental levels of pollution

7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Cherwell Home Extensions Guidance (2007)

8. APPRAISAL

8.1. The key issues for consideration in this case are:

- Principle of development
- Design, impact on the character of the area and heritage assets
- Residential amenity
- Affordable housing
- Highway safety
- Other matters

Principle of development

- 8.2. Paragraph 14 of the National Planning Policy Framework states that a presumption of sustainable development should be seen as a golden thread running through decision taking. There are three dimensions to sustainable development, as defined in the NPPF, which require the planning system to perform economic, social and environmental roles. These roles should be sought jointly and simultaneously through the planning system.
- 8.3. The application site lies within the Banbury Town Centre shopping area but outside of the primary shopping frontage (as defined by the Local Plan).
- 8.4. The current application has received considerable levels of objection, including objections from the Theatres Trust and the Banbury Civic Society. It is understood that the building was originally built in 1911 as a 500-seat Grand Theatre. It was remodelled in the 1930's as an art deco Egyptian cinema. It was then used as a bingo hall until the 1998 when planning permission was granted to change the use of the building from a bingo hall (use class D2) to a restaurant (use A3). It was in use as the Chicago Rock Café for a number of years and more recently was used as a nightclub known as Wonderlounge. From reviewing the planning history of the site the authorised use of the building would appear to be as an A3 restaurant use.
- 8.5. One of the significant concerns objectors have raised relates to the loss of the potential community asset as the building offers the opportunity to provide a large theatre space which objectors state does not exist elsewhere in Banbury. It is therefore stated that the proposed development would be contrary to the paragraph 70 of the NPPF which states in 'promoting healthy communities' planning decisions should 'plan positively for cultural buildings' and 'guard against the unnecessary loss of valued facilities'.
- 8.6. However in this case the existing buildings use as a theatre and cinema ceased some time ago and therefore the proposal does not lead to the actual loss of such a use. The authorised use of the building as an A3 restaurant would not be considered a community use. The statements that the building could potentially be used as a theatre are therefore not considered to carry significant weight as this is not the building's current or authorised use. Whilst internally the building may retain some of the attributes and features for a theatre with its large footprint, high ceilings, stage and upper circle/balcony, the building is not statutorily listed and the internal layout of the building could have been altered at any time and without the need for planning consent. As such only limited weight can be attributed to the existing internal arrangement of the building as this could all be removed without the requirement for planning permission.
- 8.7. Furthermore, it is important to note that the alteration, extension and change of use of the site to retail and residential development has already been granted under 14/00859/F. This remains capable of being implemented until October 2017 and is therefore a material consideration which carries significant weight in considering the current application in relation to matters of principle. Additionally there are no local planning policies which allocate the site for a community facilities or theatre use.
- 8.8. In relation to the development plan, Policy Banbury 7 states that retail and other main town centre uses will be supported within the town centre boundary. It goes on to state that residential development will be supported in appropriate locations in the town centre except where it will lead to the loss of retail or other main town centre uses. It further states mixed use development will be encouraged. Policy SLE2 also to guide retail development towards town centre and Policy BSC2 seeks to make effective use of land and states the Council will encourage the re-use of previously developed land such as this in sustainable locations. .

- 8.9. It is therefore considered that the use of the site for retail and residential purposes is considered to be acceptable and would accord with local and national planning policies which seek to guide development in the town centre. The site is not allocated for a community use and the proposal would not lead to the loss of a community facility as the authorised use of the building is as a restaurant and the use of the building as a theatre/cinema ceased many years ago. Furthermore planning consent already exists for the building to be used for retail and residential purposes and the building is currently being advertised for sale on this basis. Therefore the principle of the uses has already been accepted on the site and is considered to remain acceptable.

Design, impact on the character of the area and heritage assets

- 8.10. Policy ESD15 of the Cherwell Local Plan Part 1 states that new development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design. All new development will be required to meet high design standards.
- 8.11. Saved Policy C23 of the Cherwell Local Plan 1996 states that there will be a presumption in favour of retaining buildings and other features which make a positive contribution to the character and appearance of the Conservation Area.
- 8.12. Saved Policy C28 of the Cherwell Local Plan 1996 reflects Government guidance in relation to the design of new development by seeking to ensure that such development is in harmony with the general character of its surroundings and is sympathetic to the environmental context of the site and its surroundings.
- 8.13. Saved Policy C30 states that new housing development should be compatible with the appearance, character, layout, scale and density of existing dwellings in the vicinity.
- 8.14. Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that special attention should be paid to the desirability of preserving or enhancing the character or appearance of the area.
- 8.15. The Conservation Area is defined as a designated heritage asset. The NPPF requires Local Planning Authorities take account of the desirability of sustaining and enhancing the significance of heritage assets and seeks to ensure that new development should make a positive contribution to local character and distinctiveness. It goes on to state when considering the impact of proposed development on the significance of a designated heritage asset, great weight should be given to the assets conservation. It goes onto state that where development proposals will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
- 8.16. The building itself is locally listed and is therefore a non-designated heritage asset in its own right. Paragraph 135 of the NPPF advises that the effect of an application on the significance of a non-designated heritage asset will be taken into account in determining an application and a balanced judgement will be required having regard to the scale of any harm or loss.
- 8.17. As with the earlier application, the current application would retain the façade of the building onto Broad Street. This striking façade, with its art-deco appearance and stepped parapet roof, is considered to be the most significant element of the building and its architectural appearance is considered to be the key reason why the building is on the Councils local list. The fenestration of the building would be altered with

the window positions and banding which runs across the front elevation of the building being altered which is similar to the earlier approval. There would also be alterations to the shop front details onto Broad Street. The frontage to the former Grand would broadly be retained with the exception of the most southern part which would have a new shop front. A new shop front and recessed gate to provide access to the residential floors on upper floors would also be provided to the 3 storey building to the north of the site. Further details of these elements could be secured by condition.

- 8.18. In respect of the changes to the Broad Street elevation the Conservation Officer has not objected to the changes proposed to the façade of the building. It is considered that the alterations to the frontage of the building would retain the art-deco appearance and character of the building and it would still be possible to read the two buildings as separate, which they historically were. Therefore the alterations are considered to be acceptable if the window detailing, banding details, shop front details and balcony details were controlled through conditions.
- 8.19. Apart from the main frontage of the building onto Broad Street, the remainder of the building would undergo substantial alteration and extension. These other parts of the buildings are not considered to be of such significance to the character and appearance of the Conservation Area and the Conservation Officer has raised no objection to the loss of these other parts of the buildings which have a more limited presence in the Conservation Area. Therefore in reaching a balanced judgement, as requested by paragraph 135 of the NPPF, the loss and alteration of these other elements is considered acceptable subject to the new development being appropriate to the Conservation Area.
- 8.20. The main part of the frontage residential block facing onto Broad Street would be accommodated within a 4 storey gabled extension which would be situated behind the main stepped parapet roof of the façade of the building, whilst there would be another smaller 4 storey gabled extension which would accommodate the stairways giving access to the residential units. The top two floors of this would be rendered with brick quoins, whilst the second floor level would be constructed from brick to match that used on the rear of the buildings. This would be largely screened by the existing parapet roof and the surrounding building from street level and therefore it is not considered that this would not lead to any significant harm to the character and appearance of the Conservation Area.
- 8.21. The rear of the site faces onto Pepper Alley. Pepper Alley has a very different character and appearance to Broad Street and it is noted within the Conservation Area Appraisal as an interlinking historic lane stemming from the medieval origins of the town. The alley is characterised by a mix of warehouse buildings with a commercial character and appearance. There is a high sense of enclosure along Pepper Alley and it has a mix of 2 and 3 storey buildings which add to the rhythm of the street scene and helps to break up the massing of the buildings. Whilst many of the buildings are currently in a poor state of repair and have a rather dilapidated appearance, there are positive elements which add to the character and appearance of the Conservation Area.
- 8.22. The part of the building that would face onto Pepper Alley would be three storeys in height and would accommodate 6 flats. The proposed development would use red brick and slate, materials which are considered to be appropriate in the context of the simple palette of materials seen on buildings on Pepper Alley. The development would be three storeys in height and would be of a similar scale to the buildings which it would sit adjacent to and is therefore considered appropriate in terms of scale. The existing door openings onto Pepper Alley would be retained, whilst new doors to give access to the bin store area and the corridor to the residential units

would be created. This proposal would alter the appearance of the building that currently faces onto Pepper Alley, however it would retain the commercial character and appearance of the building which is characteristic of the development in Pepper Alley. The proposed design would also provide surveillance on Pepper Alley with the creation of windows servicing the units, which is considered to be a positive element. It is therefore considered that the simple design of the building would positively contribute to the character and appearance of the Conservation Area.

- 8.23. Concerns have been raised regarding the impact of the development on the internal fabric of the building. However the fact that the building is not statutorily listed means that any works to the internal layout and fabric do not need to benefit from planning permission or listed building consent. Therefore, the concerns regarding the loss of these elements are not considered capable of holding any significant weight as the work does not constitute development and could be undertaken without any form of planning consent. Furthermore the loss of this fabric has already been approved under the earlier consent. This is therefore not considered to be a significant constraint to the development.
- 8.24. To conclude, the development is considered to preserve the character and appearance of the Conservation Area. The changes to the Broad Street façade are considered to retain the character of the building and would retain the art-deco appearance of the building subject to planning conditions. The alterations to the Pepper Alley frontage would result in a simple design that would sit comfortably in the context in which it is located, with regards to its scale, appearance and materials palette. The loss of significant parts of the building, though unfortunate, is considered to be acceptable and has been granted planning permission before and as the building is not statutorily listed, any internal changes would not need a planning or listed building consent. The development would deliver a number of new residential and retail units in a sustainable location. The development is therefore considered to be acceptable with regard to its impact on the visual amenities of the area and its impact on designated and non-designated heritage assets.

Residential amenity

- 8.25. Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1 states that new development proposals should consider amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation and indoor and outdoor space.
- 8.26. The residential units would be constructed in two blocks that would be separated by a central courtyard at first floor level. This courtyard will have a communal amenity area which is considered to be a positive element of the proposals.
- 8.27. The two blocks housing the residential units would be separated by a distance of 12.5m. The Cherwell Home Extensions Guidance document (2007) specifies a minimum separation distance between residential units of 22m to prevent a loss of privacy. This document is informal guidance and does not form part of the development plan.
- 8.28. In the town centre, given the higher density of development, residential units are often significantly closer proximity than 22m and residents do not expect the same level of amenity as they may in a suburban area. Furthermore the 12.5m separation distance proposed under this scheme would significantly exceed that of the previously approved scheme from 2014. Given the town centre location of the development, it is considered that the relationship would not cause significant harm to the amenity of future occupiers with regards to loss of privacy or loss of outlook.

- 8.29. The neighbouring properties are predominantly commercial in character given the town centre location and therefore the dwellings may be subject to noise from the day and night time economy. The Anti-Social Behaviour Officer has considered this matter and has raised no objection to the application subject to a condition require some noise mitigation measures.
- 8.30. To conclude, it is therefore considered that the development would provide an acceptable standard of amenity for both existing occupiers nearby and future occupiers on the site with regards to overlooking, loss of privacy, overdomination and a loss of light.

Affordable housing

- 8.31. Policy BSC3 of the Cherwell Local Plan Part 1 states that all developments that include 11 or more dwellings (gross) will be expected to provide at least 30% of new housing as affordable homes on the site. This provision expects 70% of the affordable housing as affordable/social rented dwellings and 30% as other forms such as shared ownership. This would equate to 4 units being Affordable Housing for this scheme.
- 8.32. The Strategic Housing Officer has however stated that due to the type of housing provision the application site will provide it will be unsuitable to secure affordable housing on site. This is due to issues with housing management which are likely to be problematic for these kinds of development at this scale and arrangement. They have also raised concern on the issue of an uncontrolled service charge element which could impact on the affordability of the flats to any new eligible occupiers. As a result of this the Strategic Housing Team have requested that in this case an off-site commuted sum should be sought which will be based on 40% of the market value of the equivalent 4 flats.
- 8.33. The agent has stated that the principles of such contributions towards affordable housing are acceptable in principle and negotiations regarding the level of these contributions are ongoing. The recommendation of approval is subject to a suitable level of affordable housing contribution being provided.

Highway safety

- 8.34. Policy SLE4 of the Cherwell Local Plan Part 1 states all development where reasonable to do so should facilitate the use of sustainable modes of transport to make the fullest possible use of public transport, walking and cycling. Policy ESD1 states the Council will support the delivery of development which seeks to reduce the need to travel and reduces dependence on private cars.
- 8.35. The Highways Liaison Officer has offered no objections to the application, subject to a number of conditions. These would relate to the submission of a travel information pack, a construction travel management plan, refuse collection vehicle tracking drawings, a surface water drainage scheme and cycle parking details.
- 8.36. The Highways Liaison Officer has stated that due to the town centre location of the development and its proximity to transport services, including bus stops, the bus station and the railway station, it is acceptable for the development to not provide parking spaces on-site. As the streets in the locality all have some form of parking control, it is unlikely that there would be overspill car parking on nearby streets that would cause a safety and amenity problem.
- 8.37. Cycle parking is proposed to serve both the residential and retail units. Concerns have been raised by the Highways Liaison Officer regarding the cycle parking

provision for the retail units being within the retail storage area. These concerns are noted, however the provision is considered to be acceptable for the use of staff and customers are likely to use cycle parking elsewhere in the town centre. 20 cycle parking spaces would be provided to serve the residential units and this is considered to be an adequate level of provision for the residential units. A condition requiring full details of the cycle parking is also proposed.

- 8.38. A construction travel management plan and travel information pack would be required due to the town centre location of the development and these shall be included as planning conditions. Sustainable forms of travel should be encouraged and it should be ensured that the development has the least impact on the local highway network.
- 8.39. Policy SLE4 of the Cherwell Local Plan 2011 – 2031 Part 1 states that new development in the District will be required to provide financial or in-kind contributions to mitigate the transport impacts of development. In this respect the Highways Liaison Officer has requested a contribution of £13,853.60 to go towards the improvement of pedestrian and cyclist facilities in Banbury town centre. The Highways Liaison Officer has stated that as the Broad Street/George Street junction is a busy intersection for both vehicles and pedestrians, improvements would make it safer for pedestrians. As the residents would be living in a car-free development, safe walking routes would be required.
- 8.40. In considering such requests paragraph 204 of the National Planning Policy Framework states that planning obligations should only be sought where they meet all of the following tests:
- Necessary to make the development acceptable in planning terms;
 - Directly related to the development; and
 - Fairly and reasonably related in scale and kind to the development.
- 8.41. The comments of the Highway Liaison Officer are noted, however it is not considered that the contribution would be necessary to make the development acceptable and would therefore fail to meet all of the tests set out in Paragraph 204. A crossing with tactile paving exists at Broad Street/George Street and is located in the opposite direction to the town centre and therefore the proposal is not considered to lead to a significant increase in pedestrian flows in this area. It is therefore considered that this contribution would not be necessary to make the development acceptable in planning terms.
- 8.42. In terms of surface water runoff rates, the Highways Liaison Officer has suggested that the development should achieve a 5% - 10% betterment over the existing surface water runoff rates at the site. The Highways Liaison Officer has stated that this could be achieved by the incorporation of SUDS into the development by treating water as a resource by harvesting rainwater for reuse. The application proposes the use of a green wall and this offers the opportunity to capture rainwater from the roof for use. A surface water drainage scheme based on sustainable drainage principles shall therefore be requested as a condition.
- 8.43. Concerns have been raised regarding the refuse collection arrangement; as if the bins were to be collected on Pepper Alley then the refuse vehicle would need to reverse up Pepper Alley. If the bins were to be collected on Broad Street, then they would need to be dragged 30m to the vehicle.

- 8.44. The waste and recycling officer has been consulted and has expressed concerns with the refuse collection arrangement. It is considered that an acceptable arrangement could be secured on the site and that a waste and recycling collection strategy shall be conditioned to ensure this if access for bin collection was not achievable from Pepper Alley alternative provision could be made for collection from Broad Street, as the existing properties in the vicinity get their waste collected from the end of Pepper Alley or on Broad Street.
- 8.45. To conclude, it is therefore considered that the development would not cause harm to the safety of the local highway network, subject to the inclusion of appropriately worded conditions.

Other matters

- 8.46. Policy ESD3 of the new Cherwell Local Plan states that all new residential development will be expected to incorporate sustainable design and construction technology to achieve zero carbon development through a combination of fabric energy efficiency, carbon compliance and allowable solutions in line with Government policy. In respect of water efficiency, it also states that Cherwell District is in an area of water stress and so developments should achieve a limit of 110 litres/person/day.
- 8.47. The supporting text to Policy ESD3 explains that its requirements are to be applied flexibly, but with the onus on the developer to demonstrate why the requirements cannot be met. It is considered that this can be addressed by way of a condition requiring the submission, approval and then implementation of a sustainable construction strategy detailing the measures to be incorporated into the development to satisfy the requirements of Policy ESD3. Therefore officers are satisfied that the development can be made acceptable in this respect.
- 8.48. Landscape services have sought a contribution of £27,682.32 for an off-site contribution to improve the existing play area at Old Parr Close. The agent has agreed to the principle of a contribution to improve the play area and negotiations are ongoing regarding the level of these contributions.
- 8.49. OCC have confirmed that whilst the proposal will have some impact on community infrastructure such as education, libraries, museums and adult day care they do not wish to pursue a contribution in this case given the pooling restriction relating to the S106 contributions for such projects. They therefore need to reserve their ability to seek pooled contributions from larger developments than this that may occur in the area in future. Therefore in this instance they are not pursuing any contributions to these facilities.
- 8.50. The Leisure Projects Officer has requested a number of contributions outdoor sports facilities, indoor sports facilities, Community halls provision and Public art contribution. It has not been made clear that the contributions would be necessary to make the development acceptable in planning terms or that they would be directly related to the development. They would therefore fail to comply with the tests set out in Paragraph 204 of the NPPF. These recommendations are based on the advice provided within the draft planning obligations supplementary planning document (SPD) (2011). Given the relatively small scale of the proposal and the limited weight of this draft SPD, officers do not believe such a requirement can be sufficiently justified or is necessary to make the impact of the development acceptable as required by paragraph 204 of the NPPF.

9. PLANNING BALANCE AND CONCLUSION

- 9.1. The principle of changing the use of the site to accommodate retail and residential development has been previously approved and the extant consent could still be implemented. The proposed development would not result in the direct loss of a theatre or cinema, as the building is currently authorised to be used as a restaurant (use class A3). The changes to the Broad Street façade are considered to be relatively minor and would retain the art-deco appearance of the building, considered to be its most important feature and the reason for its listing as a Locally Listed Building. The alterations to the Pepper Alley frontage would result in a simple design that would sit comfortably in the context in which it is located, with regards to its scale, appearance and materials palette and would retain the enclosure that currently exists. Overall they would preserve the character and appearance of the Conservation Area. It is considered that the development would provide an acceptable level of amenity to future and existing occupiers and that subject to conditions; the development would not have a detrimental impact on the safety of the local highway network. The proposal would bring an empty site back into use and there would be social and economic benefits which weigh in favour of the development. On balance, the development is therefore considered to be acceptable.

10. RECOMMENDATION

That permission is granted, subject to a legal agreement securing contributions towards affordable housing and an off-site play area and 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 conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: Application forms, Design and Access Statement, 1590 – LP – BP, 1590 – P – 10, 1590 – P – 11, 1590 – P – 12, 1590 – P – 13a, 1590 – P – 14 and 1590 – P – 15.

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.

3. Prior to the commencement of the development hereby approved, a brick sample panel (minimum 1m² in size) shall be constructed on site which shall be inspected and approved in writing by the Local Planning Authority. Thereafter, the external walls of the development to be constructed of brick shall be constructed in strict accordance with the approved brick sample panel.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

4. Prior to the commencement of the development hereby approved, samples of the slate to be used for the covering 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 ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

5. Prior to the commencement of the development hereby approved, samples of the render to be used for 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 the satisfactory appearance of the completed development and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

6. Prior to the commencement of the development hereby approved, full details of the doors and windows, including a cross section and colour/finish, together with cill and lintel details shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the door and windows shall be installed in accordance with the approved details.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

7. Prior to the commencement of the development hereby approved, full design details of the shop fronts facing onto Broad Street, including details of materials and finished colour, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the shop fronts shall be finished in accordance with the approved details.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

8. Prior to the commencement of the development hereby approved, full details of the rainwater goods servicing the development, including details of materials and finished colour, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the rainwater goods shall be installed in accordance with the approved details.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

9. Prior to the commencement of the development hereby approved, a specialist acoustic consultant's report that demonstrates that internal noise levels do not exceed the levels specified (or gives details of mitigation measures required to achieve these levels) in the British Standard BS 8233:2014 'Guidance on Sound Insulation and Noise Reduction for Buildings', shall be submitted to and approved in writing by the Local Planning Authority. If required thereafter, and prior to the first occupation of the dwellings affected by this condition, the

dwellings affected by this condition shall be insulated and maintained in accordance with the approved details.

Reason - To ensure the creation of a satisfactory environment free from intrusive levels of noise and to comply with Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

10. Prior to the commencement of the development hereby approved, a Construction Traffic Management Plan (CTMP) for the site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the plan shall be implemented and operated in accordance with the approved details.

Reason - In the interests of highway safety and the residential amenities of people living in the vicinity of the development.

11. Prior to the first use or occupation of the development hereby permitted, covered cycle parking facilities shall be provided on the site in accordance with details which shall be firstly submitted to and approved in writing by the Local Planning Authority. Thereafter, the covered cycle parking facilities shall be permanently retained and maintained for the parking of cycles in connection with the development.

Reason - In the interests of sustainability, to ensure a satisfactory form of development and to comply with Government guidance contained within the National Planning Policy Framework.

12. A Travel Information Pack, the details of which are to be submitted to and approved in writing by the Local Planning Authority prior to first occupation of the development, shall be provided to every household.

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

13. Development shall not begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall also include:

- Discharge Rates
- Discharge Volumes
- Maintenance and management of SUDS features
- Sizing of features – attenuation volume
- Infiltration in accordance with BRE365
- Detailed drainage layout with pipe numbers
- SUDS – Permeable Paving, Rainwater Harvesting, Green Roof
- Network drainage calculations
- Phasing
- No private drainage into the public highway drainage system

Reason - In the interests of highway safety in accordance with the National Planning Policy Framework

14. No demolition (including the demolition of the auditorium) and no removal of internal features, shall be carried out until a binding contract for the whole of the consented development has been made and agreed in writing by the Council.

Reason: To protect the character and appearance of the conservation area and to protect the significance of the Local Heritage Asset should the consented development not proceed.

15. Notwithstanding the provisions of Schedule 2, Part 1, Class H of The Town and Country Planning (General Permitted Development) (England) Order 2015 and its subsequent amendments, no radio or TV aerials, satellite dishes or other antennae shall be affixed to the front façade of the building without the prior express planning consent of the Local Planning Authority.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.