

**Applicant:** Cherwell District Council

**Proposal:** Improvements to the area in front of the shops

**Ward:** Banbury Ruscote

**Councillors:** Cllr Barry Richards  
Cllr Sean Woodcock  
Cllr Mark Cherry

**Reason for Referral:** CDC Application

**Expiry Date:** 21 June 2017      **Committee Date:** 15<sup>th</sup> June 2017

**Recommendation:** Approve

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## **1. APPLICATION SITE AND LOCALITY**

- 1.1. The site is located on a prominent corner at the intersection roundabout linking Orchard Way and The Fairway, within the Bretch Hill residential area of Banbury. The site comprises an area of hardstanding (constructed from concrete paving and macadam) to the front of a shopping precinct containing a mixture of uses including residential uses, retail uses, a takeaway, a bookmakers and a hair salon. The site also comprises an area of grass adjacent to the highway boundary and there are three trees on the site.
- 1.2. The site is in an area of naturally occurring elevated levels of arsenic, and Swifts (a protected species) have been recorded in the vicinity.

## **2. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 2.1. Planning permission is sought for a number of alterations to the site including:
- The removal of some of the existing hard standing with the extension of the existing grass area;
  - The installation of a triangular section of permeable resin surfacing;
  - The installation of new lighting;
  - The installation of three tree grills around the existing trees on the site;
  - Making good of existing macadam surfacing and resurfacing the areas of concrete paving with macadam;
  - The installation of new benches and bins;
  - Reforming the stairs from The Fairway, along with the replacement of the handrails;
  - The removal of the existing knee rail and alterations and extensions to the existing retaining walls on the site to be constructed from materials to match.

### **3. RELEVANT PLANNING HISTORY**

3.1. The following planning history is considered relevant to the current proposal:

- 09/01776/F - Proposed mixed use development including 4 shops and 33 social housing units – APPROVED on 2<sup>nd</sup> August 2010 (not implemented). This approved scheme proposed the entire demolition of the existing shopping and residential parade and the construction of a mixed use development comprising 4 no shops and 33 no social housing units, associated parking area, bin and cycle storage, landscaped areas and shared amenity area.

### **4. PRE-APPLICATION DISCUSSIONS**

4.1. No pre-application discussions have taken place with regard to this proposal

### **5. RESPONSE TO PUBLICITY**

5.1. This application has been publicised by way of a site notice displayed near the site and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments is 09.06.2017, and any comments received after the finalising of this report will be included in the written updates.

5.2. To date, no comments have been raised by third parties.

### **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.

#### PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

6.2. BANBURY TOWN COUNCIL: **No comments received to date.**

#### STATUTORY CONSULTEES

6.3. None consulted

#### NON-STATUTORY CONSULTEES

6.4. None consulted

### **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)

- ESD15 - The Character of the Built and Historic Environment

## CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C28 – Layout, design and external appearance of new development

### 7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)

## **8. APPRAISAL**

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

- Principle of the Development
- Design, and Impact on the Character of the Area
- Residential Amenity
- Highways Safety

#### Principle of the Development

8.2. Paragraph 14 of the National Planning Policy Framework (NPPF) 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. There is no change of use proposed as a result of the development and so there are no land use implications to consider. As such it is considered that the development is therefore acceptable in principle.

#### Design, and Impact on the Character of the Area

8.4. Government guidance contained within the NPPF requiring good design states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Further, permission should be refused for development of poor design that fails to take the opportunities for improving the character and quality of an area and the way it functions.

8.5. 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.”*

8.6. Saved Policy C28 of the Cherwell Local Plan 1996 exercises control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context.

8.7. The locality in which the site is located is considered to have a suburban character, but officers hold the opinion that the existing expansive hard surfaced area on the site is an urbanising feature that does not make a positive contribution towards the

character and appearance of the area. Thus, the reduction of the amount of hard surfacing on the site along with the increase in the area of grass is considered to be a positive alteration to the site. The other alterations proposed to the hard standing and stairs, as well as the new tree grills, lights, benches and bins, are considered to have a negligible impact upon the visual amenities of the locality, and result in a more legible and inviting public space. The alterations to the retaining walls are also considered to have a limited impact upon the visual amenities of the locality.

- 8.8. Therefore, the proposals are considered acceptable in design terms, in compliance with Policy ESD15 and saved Policy C28 and the NPPF.

#### Residential Amenity

- 8.9. Both local and national planning policy and guidance seek to ensure that development proposals provide an acceptable living environment for existing and future residents. Given the nature of the proposal, being minor alterations to an existing public space, officers consider that it would not have an undue impact upon neighbour amenity.
- 8.10. Whilst the provision of new benches may encourage people to congregate in the area, this is not considered inappropriate given the mix of uses in the shopping precinct, and is unlikely to cause additional nuisance or disturbance to the residents of the flats.
- 8.11. The additional lighting proposed is considered appropriate in this location and will aid with safety and security. It is not considered excessive, or likely to cause a nuisance to the residents of the flats.

#### Highways Safety

- 8.12. Policy ESD15 of the CLP 2031 Part 1 states, amongst other matters, that new development proposals should: *be designed to deliver high quality safe...places to live and work in*. This is consistent with Paragraph 35 of the NPPF which states that: *developments should be located and designed where practical to...create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians*.
- 8.13. The proposal would result in no alterations to the public highway network and pedestrian routes through the site, serving the shops, would be retained. Officers therefore consider that it would have a neutral impact upon accessibility and highways safety.

### **9. PLANNING BALANCE AND CONCLUSION**

- 9.1. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 requires that the three dimensions to sustainable development (economic, social and environmental) are not undertaken in isolation, but are sought jointly and simultaneously.
- 9.2. The proposal is for minor alterations to an area of public open space that would retain and enhance its function, with no adverse impacts on the character of the area, the amenity of residents, or highway safety. The proposed development is therefore considered to constitute a sustainable form of development and it is recommended that permission be granted.

## 10. RECOMMENDATION

That permission is **granted**, 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 Form submitted with the application;
- Design & Access Statement (Job No: 27724) by Baily Garner submitted with the application;
- Drawing Numbers: (OW) 01; (OW) 201 Revision C; and (OW) 203 submitted with the application;
- Drawing Numbers: 3623/E Revision 0 received from the applicant's agent by e-mail on 30<sup>th</sup> May 2017;
- 'Specification for the External Lighting for Orchard Way Shopping Centre' by PJC Consultants received from the applicant's agent by e-mail on 30<sup>th</sup> May 2017;
- Specification details for the 'Starflood' lighting, 'Starbeam' lighting and 'Realta' lighting by Thorlux Lighting received from the applicant's agent by e-mail on 30<sup>th</sup> May 2017; and
- E-mails received from the applicant's agent on 30<sup>th</sup> May 2017.

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.

### 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.