

Applicant:

Proposal: Change of use of former petrol filling station, workshop and showroom premises (in part of the former Nissan Car Dealership) to form warehouse (Class B8) with trade counter

Ward: Banbury Grimsbury and Hightown

Councillors: Cllr Andrew Beere
Cllr Claire Bell
Cllr Shaida Hussain

Reason for Referral: CDC owned land

Expiry Date: 29 September 2017 **Committee Date:** 28 September 2017

Recommendation: Approve

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site relates to a former car show room and workshop/testing centre (previously known as the Antelope Garage) situated to the south east of Banbury town centre. The site encompasses a corner plot, situated in a prominent location at the junction of Swan Close Road and Upper Windsor Street. The unit itself sits within a wider industrial area and is accessed alongside the existing petrol filling station (which is currently in the process of changing occupier).
- 1.2. The existing building is comprised of a part single storey, part two storey, industrial type building which is constructed of brick and grey profiled metal cladding above. The building has relatively large openings at the front, consistent with its use as a car show room, with smaller openings at the back.
- 1.3. The application site is not a listed building but is situated within the designated Oxford Canal Conservation Area and adjacent to the locally listed building occupied by 'Laser Sailcraft'. The north east corner of the site is partially within Flood Zone 2. There are no other site constraints relevant to this application.

2. DESCRIPTION OF PROPOSED DEVELOPMENT

- 2.1. The application seeks permission for the change of use of the rear half (the northern section) of the existing Antelope Garage building. An internal partition wall would be installed to divide the building into two separate units. Permission is sought for the change of use of this part of the building to use Class B8 with ancillary trade counter.
- 2.2. The application does not seek permission for any external alterations and should any be required, these may require permission in the future, given that the site is situated within the Conservation Area. Furthermore, no consent has been sought for any advertisements and should any be proposed, separate advertisement consent may be required.

3. RELEVANT PLANNING HISTORY

3.1. There is no planning history directly relevant to the proposal:

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, 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. The final date for comments was 14.09.2017.

5.2. 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.

BANBURY TOWN COUNCIL

6.2. BANBURY TOWN COUNCIL: raises **no objections** to the proposals.

STATUTORY CONSULTEES

6.3. CANALS AND RIVERS TRUST: **no comments** in regard of the application.

6.4. ENVIRONMENT AGENCY: **no comments** at the time of writing this report.

6.5. THAMES WATER: **no comments** at the time of writing this report.

6.6. OXFORDSHIRE COUNTY COUNCIL HIGHWAYS: **no objections** to this proposal. It is noted that there is good access to and from the site and the number of vehicle movements generated by the proposals would be negligible.

NON-STATUTORY CONSULTEES

6.7. CDC ENVIRONMENTAL PROTECTION raises **no comments** in regard to noise, air quality, odour or light. It was further noted that as the proposal was for a change of use only, they did not wish to comment in respect of contaminated land at this stage.

6.8. CDC PLANNING POLICY: **no comments** at the time of writing this report.

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)

- PSD 1: Presumption in favour of sustainable development
- SLE 1: Employment Development
- Banbury 1: Banbury Canalside
- ESD6: Managing Flood Risk
- ESD15: The Character of the Built and Historic Environment
- ESD 16: The Oxford Canal

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C28: Layout, design and external appearance of new development
- C31: Compatible uses with residential areas

7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Banbury Vision and Masterplan 2016 (SPD)
- Banbury Conservation Area Appraisal 2004
- Oxford Canal Conservation Area Appraisal 2012
- Banbury Conservation Area Appraisal (Draft 2017)

8. APPRAISAL

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

- Principle of development
- Design, and impact on the character of the area
- Residential amenity
- Flooding
- Highway Safety

Principle of 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. Policy PSD 1 of the CLP 2031 (Part 1) echoes these aspirations and states that wherever possible, development should improve the economic, social and environmental conditions in the area.

8.3. Policy SLE 1 of the CLP 2011-2031 states that:

Employment proposals at Banbury, Bicester and Kidlington will be supported if they meet the following criteria:

- *Are within the built up limits of the settlement unless on an allocated site*
- *They will be outside of the Green Belt, unless very special circumstances can be demonstrated*
- *Make efficient use of previously-developed land wherever possible*
- *Make efficient use of existing and underused sites and premises increasing the intensity of use on sites*

- *Have good access, or can be made to have good access, by public transport and other sustainable modes*
- *Meet high design standards, using sustainable construction, are of an appropriate scale and respect the character of its surroundings*
- *Do not have an adverse effect on surrounding land uses, residents and the historic and natural environment.*

8.4. The proposal is within the built up limits of Banbury; is outside of the Green Belt; makes efficient use of the site; has good access and can be easily accessed by public transport; does not affect the design or character of the area; and does not have an adverse effect on surrounding uses. The proposals are, therefore considered to be in accordance with Policy SLE 1 of the CLP 2031 (Part 1).

8.5. Policy Banbury 1: Banbury Canalside of the CLP 2031 (Part 1) encompasses 26 hectares of land, including that which is occupied by the application site. *“Banbury Canalside is the name given to the land between Banbury Town Centre and Banbury Railway Station. The successful regeneration of Canalside and its potential to act as a catalyst for change in the town has been a key component of Cherwell District Council’s planning and regeneration aims for a number of years”*. When considering proposals for development in this location, it is important to understand the principles enshrined within the policy, which seeks the following:

Provision of new homes, retail, office and leisure uses, public open space, pedestrian and cycle routes including new footbridges over the railway line, river and canal, and multi-storey car parks to serve Banbury railway station. Re-development would bring about significant environmental benefits in terms of improving the appearance of the built environment, the town centre, and the quality of the river and canal corridor. The wider community will have access to new services and facilities and Banbury’s economy will benefit with the increase in the number of visitors to the town.

8.6. It is also noted that, given the complexities of the site, a separate Supplementary Planning Document (SPD) is to be developed and will form the basis of an Action Plan to take forward this regeneration scheme. It is noted that the ‘Canalside SPD’ is in preparation, but has not progressed since 2013.

8.7. The application seeks a permanent change of use of the northern part of the building to B8 use with ancillary trade counter. Whilst this planning use does not generally conform with the aspirations of this policy, as there has been no progress on the SPD for some time and given that there is no imminent likelihood of a scheme coming forward for the comprehensive redevelopment of the Canalside area, a change of use is considered to be acceptable in this instance. Furthermore, it is considered that a temporary change of use permission would be unreasonable, in planning terms, given the above mentioned circumstances and that the proposed change of use is not, in and of itself, likely to prejudice the implementation of Policy Banbury 1 in the long term.

8.8. Notwithstanding the above, the Council has ownership of the land and is responsible for leasing the property to the applicant. Should the ‘Canalside SPD’ progress in the future, then the Council would have control over whether this site could be vacated to make way for any future development. Whilst this is not necessarily a planning matter, given the control that the Council has over the land, it is considered that the granting of this permission would not inhibit the future implementation of this Policy Banbury 1 and is therefore acceptable in this regard.

Design, and impact on the character of the area

- 8.9. 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.
- 8.10. Policy ESD15 of the CLP 2031 (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. Policy ESD 16 of the CLP 2031 (Part 1) states that the LPA will *‘protect and enhance the Oxford Canal corridor which passes south to north through the District as a green transport route, significant industrial heritage, tourism attraction and major leisure facility through the control of development’*. It goes on to state that *‘the length of the Oxford Canal through Cherwell District is a designated Conservation Area and proposals which would be detrimental to its character or appearance will not be permitted.*
- 8.12. 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.
- 8.13. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that in carrying out its functions as the Local Planning Authority in respect of development in a conservation area: special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. Conservation Areas are designated heritage assets, and Paragraph 132 of the NPPF states that: *when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm loss should require clear and convincing justification.* Policy ESD15 of the CLP 2031 Part 1 echoes this guidance.
- 8.14. The proposal only seeks permission for the change of use of the building and as such there are no external alterations proposed. Given that there would be no change to the overall appearance of the building, and given the building and wider site was previously in commercial use, it is considered that the proposal would not cause harm to the character and appearance of the area, including the Conservation Areas. Thus the proposal would be in accordance with Saved Policy C28 of the CLP 1996; Policies ESD 15 and ESD 16 of the CLP 2031 (Part 1); and Government guidance contained within The Framework.
- 8.15. Notwithstanding the above, the applicants should be advised that, given that the proposal is sited in a designated Conservation Area, any advertisements and external alterations are likely to require ‘Advertisement Consent’ (for which a separate application will be required).

Residential amenity

- 8.16. Paragraph 17 of the NPPF notes that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants

of land and buildings. Policy ESD15 of the CLP 2031 (Part 1) states that new development proposals should consider the amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation, and indoor and outdoor space. Saved Policy C31 of the CLP 1996 states: *in existing and proposed residential areas any development which is not compatible with the residential character of the area, or would cause an unacceptable level of nuisance or visual intrusion will not normally be permitted.*

- 8.17. The application site is situated approximately 100m away from the nearest residential properties (located at Spencer Court and Gatteridge Street). Having regard to this distance (which is considered to be substantial) and the existing uses on the site, it is considered that the proposed use would not give rise to any detrimental impact to any nearby properties beyond what is currently experienced.
- 8.18. In addition to the above, it is noted that the Environmental Protection Officer raises no objections and the proposal is therefore not considered to give rise to any detrimental impact in regard to noise, air quality, odour or light.
- 8.19. The operating hours indicated in the application form (08:00am – 20:00pm Monday to Friday; 08:00am – 18:00pm Saturday; and 10:00am – 17:00pm Sundays and Bank Holidays) are considered to be acceptable and appropriate for its use. It is, therefore, unlikely that the hours of operation would affect the amenity of the occupiers of any residential property. Notwithstanding this, the site is situated within the wider Policy Banbury 1 designation and therefore parts of the adjacent area may have closer residential properties in the future. As this consent is for a permanent permission it would seem reasonable to condition these working hours to protect any future residential amenity.
- 8.20. Having regard to the above, the proposals are not considered to be detrimental to any residential properties (which are situated at a minimum of 100m away) in terms of noise, air quality, odour or light and would therefore be in accordance with Saved Policy C31 of the CLP 1996; Policy ESD 15 of the CLP 2031 (Part 1); and Government guidance contained within The Framework.

Flooding

- 8.21. Policy ESD6 of the Cherwell Local Plan 2011-2031 Part 1 states that: *the Council will manage and reduce flood risk in the District through using a sequential approach to development; locating vulnerable developments in areas at lower risk of flooding. Development proposals will be assessed according to the sequential approach and where necessary the exceptions test as set out in the NPPF and NPPG.*
- 8.22. The proposal would result in the change of use from a building which is in a Sui Generis use to one falling within Use Class B8. Both are considered to be 'Less Vulnerable' within the Environment Agency's 'Flood risk vulnerability classification'. According to their advice, development of 'Less Vulnerable' uses within 'Flood Zone 2' is considered to be appropriate.
- 8.23. No sequential test is required, given that the application is solely for the change of use of the building.
- 8.24. Members are advised that no Flood Risk Assessment (FRA) has been received and, under Policy ESD6 and in accordance with guidance in the NPPF, a FRA is required. A FRA has been requested and is anticipated to be received in advance of the Committee meeting, and therefore this recommendation is subject to a satisfactory FRA being submitted prior to determination.

Highway Safety

- 8.25. The application site has an existing access to the north west of the site, which is accessed via Upper Windsor Street (one way – southbound) and Swan Close Road.
- 8.26. Oxfordshire County Council Highways raise no objections in regard to this proposal. They note that there is adequate access to and from the site and the number of vehicle movements generated by the proposals would be negligible in comparison to the existing arrangement.
- 8.27. Having regard to the above, the proposal is not considered to be detrimental to highway safety or amenity and would therefore be in accordance with Government guidance contained within the Framework.

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 principle of the change of use is considered to be acceptable in accordance with Policies SLE1 and Banbury 1 of the CLP 2031 (Part 1) and Government guidance contained within the NPPF. Furthermore, there would not be a detrimental impact on visual amenity, residential amenity or Highway Safety. The proposal is therefore considered to be sustainable development that accords with the relevant policies of the Development Plan, and in accordance with Paragraphs 12 and 14 of the NPPF permission should be granted.

10. RECOMMENDATION

That permission is granted, subject to the receipt of a satisfactory Flood Risk Assessment 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: PF9861.02 and Transport Statement August 2017 (PF/9861).

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. The operational use of the premises shall be restricted to the following times:-

Monday-Friday – 8.00am to 8.00pm

Saturday – 8.00am to 6.00pm

Sunday and Public Holidays – 10:00am to 5:00pm

Reason - In order to safeguard the amenities of the area and to comply with Policies C31 and ENV1 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

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