

**The Old Malthouse  
St Johns Road  
Banbury**

**17/02167/F**

**Applicant:** Morrison Property Consultants Limited

**Proposal:** Conversion of building from B1(a) Offices to 25 residential flats, with ancillary parking, bin storage and amenity area.

**Ward:** Banbury Cross And Neithrop

**Councillors:** Cllr Hannah Banfield  
Cllr Surinder Dhesi  
Cllr Alastair Milne-Home

**Reason for Referral:** The application is a major development

**Expiry Date:** 22 February 2017 - **Committee Date:** 15<sup>th</sup> February 2018  
EOT

**Recommendation:** Refusal

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

- 1.1. The application site is a Grade II listed former malthouse located on the corner of St Johns Road and Calthorpe Road to the south of Banbury town centre. It is also located within the designated Banbury Conservation Area and within the setting of numerous listed buildings including the terrace properties to the south of the site on Calthorpe Road.
- 1.2. The property is an attractive brick building with a symmetrical frontage consisting of sash windows and stone and stucco detailing giving a grand appearance. It has the appearance of a two storey building from St Johns Road. The building was originally used as a maltings but has had a series of uses since then with its authorised use currently as a B1 Office use. The ground floor of the building has partially been converted to car parking with access provided to the western side of the building. Car parking also exists to the front of the site which sits perpendicular to the St Johns Road.

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

- 2.1. The current application seeks permission to convert the office to 25 flats (23no 1 beds and 2no 2 beds). This would consist of a number of internal works, which are subject to a separate listed building consent on this agenda (17/02167/F refers). The external works would consist of the provision 3 new windows in the east elevation, a new second floor window to the west elevation, alterations to some of the fenestration on the rear elevation of the building and numerous rooflights and lanterns to the roof of the building.
- 2.2. At ground floor 24 parking spaces would be provided in total consisting of the frontage parking and the ground floor parking. However, one of these spaces

adjacent to the access would not be usable being only approximately 3.5 metre long. Cycle parking and bin store would also be provided to the rear of the site.

- 2.3. Whilst the internal works do not technically require planning consent and are controlled through the listed building consent process the works do stem as a product of the change of use. Internally a new ground floor flat would be provided in the south east corner of the building on an existing area of parking. The building currently has office accommodation across the first floor and also part of the second floor office at the eastern end of the building. The remainder of the second floor and space above consists of the roof void.
- 2.4. The proposals seek to open up the central part of the building from the first floor level to the roof to create a central atrium which would serve as a communal area. . The first floor would be then be subdivided into flats and the second floor would be extended across the width of the building (with the exceptions of a 3 voids in the centre of the building) to accommodate further flats and a communal shared space for residents. A new third floor would also be placed in the remaining roof void at either end of the building to accommodate 2 new flats.
- 2.5. An area of open space exists to the rear of the site which is on higher land than the ground floor of the building. It is intended to retain this space for a private amenity space to serve the future residents of the flats.

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

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

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
17/02168/LB	Conversion of building from B1(a) Offices to 25 residential flats, with ancillary parking, bin storage and amenity area.	Pending Consideration
15/01389/F	3 bedroom dwelling	Application Permitted
05/00103/F 10/00221/F	and Erection of 1 No. detached dwelling (as amended by plans received 23.03.05 and plan Nos. P381/10B & P381/12B received on 19.04.05).	Application Permitted
89/00498/N	Demolition of lean to store. Formation of first floor level offices with additional ground floor offices and car parking	Application Permitted restricted to Class B1(a)
77/00461/N	Change of use from storage of furniture to storage and distribution to the trade only of domestic electrical spare parts	Application Permitted

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

- 4.1. The following pre-application discussions have taken place with regard to this proposal:

Application Ref.      Proposal  
17/00211/PREAPP    Residential conversion of 25 flats

It was advised that based on the information provided that the proposal would conflict with Policy SLE1. Limited information was provided in regard to the internal alterations and concerns were raised regarding the number of roof lights and terraces in the roof of the building and the impact this would have on the building. Concerns were also raised over the amenity of the neighbouring property and the future amity of some of the residents given the arrangement of the flats. It was also stated that the Council would be seeking an affordable housing contribution commuted sum. Concerns were also raised over the level of parking. Overall it was concluded that based on the information provided by the applicant officers would be unlikely to support the application.

## 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 12.02.2018, although comments received after this date and before finalising this report have also been taken into account.

5.2. The comments raised by third parties are summarised as follows:

- Object to the density of the development due to parking, noise and not being in keeping with the historic quality of the area. The footprint is smaller than Dashwood Apartments and they were only allowed to development 16 apartments due to car parking and noise.
- The velux roof lights in the western elevation will overlook 2 St Johns Road

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.

### PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

6.2. BANBURY TOWN COUNCIL: **No objections.** The Town Council are eager that any development carried out is done so in a sympathetic manner, and that conservation officers are satisfied with any proposed works.

### STATUTORY CONSULTEES

6.3. HISTORIC ENGLAND: **No comment.**

### NON-STATUTORY CONSULTEES

6.4. CDC CONSERVATION: **Comment.** The key issue is whether there is a public benefit to finding a sustainable new use for the building if the current use is no

longer considered to be viable. This is beyond my expertise and should be dealt within in relation to the viability issues being discussed from a planning perspective.

- 6.5. This also relates to the provision of the additional units at third floor – if it can be satisfactorily demonstrated that the conversion of the building can only be achieved by the inclusion of these additional units the harm caused is considered acceptable, but if an alternative use can be found without the need for the additional units then it is not. I will defer to the Planning Officer's judgement on this matter.
- 6.6. If conversion to residential use is considered to be the optimum viable use a limited amount of harm can be weighed against the public benefit of finding a use for the building, but it is important that the harm is minimised.

*Amended plans - rooflights*

- 6.7. In relation to the rooflights it is accepted that in order to convert the building to residential use rooflights are required and it is noted that roof lights have previously been inserted into the roof. The key issue is to minimise the harm to both the physical fabric and the visual appearance of the property. The Design and Access Statement claims:
  - 6.8. *'Within the apartments at second floor level, the rooflights are required to ensure natural light and ventilation within each unit. Within the living spaces, it is important that there is both high and low level light to ensure a comfortable living environment, therefore we propose rooflights in groups of four, which can also be opened up to provide an element of private amenity to the units.'*
  - 6.9. Whilst not wanting to compromise the amenity of the individual occupiers of the units it is my role as heritage professional to ensure that the level of harm to the historic fabric of the building is minimised. I would therefore recommend that the number, size and dimensions of the rooflights do not exceed minimum standards where there is harm to the physical historic fabric of the building.
  - 6.10. It is accepted that there has been historic precedent for elements protruding from the ridge of the roof. Rooflights which sit proud of the roof will be acceptable if they can be used to minimise the number, size and dimensions of rooflights on the plane of the roof and if it can be demonstrated that the additional number of residential units are required. The precise design of these lights would need to be provided, but could be dealt with by condition if required.

*Amended plans – other issues*

- 6.11. It is positive that the proposed roof terraces have been removed from the design.
- 6.12. It is positive that the bottom hung windows have been removed.
- 6.13. The precise design of the proposed external doorways is a detail and can be dealt with by condition if necessary.
- 6.14. **GEORGIAN GROUP: Comment.** The Georgian Group has some concerns with the application. The removal of existing rooflights and the insertion of new rooflights is, in principle, not something we object to. We are concerned with the large number of rooflights proposed. Whilst we acknowledge that the applicants assessment of the viability of the scheme is predicated on the number of rooflights shown in the application it is not suitable for a designated heritage asset and we feel that there must be compromise on their part to reach a mutually acceptable conclusion. This principle also applies to the insertion of a number of new openings in the external

walls. The heritage statement highlights the fact that the building is 'a much-altered building whose main significance lies in its external shell, its unusual roof structure, its position within the streetscape.....'. Inserting windows will remove historic fabric, exacerbating the fact that it is 'much-altered', and greatly affect the 'main significance'.

- 6.15. We are not opposed to the change of use. Historically the building has gone through many phases of re-use, from hosiery works, engineering works and office facilities. We are also conscious of the lack of internal historic fabric due to the various changes of use through time. As a result we are concerned with the removal of a central structural wall – presumably original fabric. Considering the inherent lack of anything historic remaining internally, it is imperative that what remains must be conserved. We ask the Local Authority to give great weight to the National Planning Policy Framework (NPPF) when coming to a decision.
- 6.16. ASSOCIATION OF INDUSTRIAL ARCHAEOLOGY: **Comment.** Residential conversion is not always the most appropriate reuse of an industrial building, but it is usually the most secure. Externally, this building no longer displays typical malthouse features as the fenestration has already been altered to suit subsequent uses. In consequence the new windows which have been designed to match existing ones are not a particular problem, but there are substantially more roof lights than at present. However, the most important changes are internal. Despite subsequent reuses, the floors are still largely open plan as they would have been when the building was in use as a maltings. This dense residential conversion means that the floors are divided up with the partial exception of the ground floor where it is used for car parking which is certainly a suitable reuse. The most interesting feature of this broad building is its roof structure, currently partly hidden by ceiling panels and insulation. As not all full details are shown in the sections it is not entirely clear the extent to which this interesting roof structure will remain visible in the residences. It is to be hoped they will be as visible as possible. Given the unusual nature of the roof structure it is essential the opportunity is taken to fully record it when it is exposed during the conversion. The Association for Industrial Archaeology has no objection to this application but if approved there should be an appropriate recording condition in respect of the roof structure (NPPF para 141 is applicable).
- 6.17. BANBURY CIVIC SOCIETY: **Comment.** In some ways the proposal seems to be a good one in terms of design and the conservation of the historic fabric of this very interesting Grade II-Listed Malthouse. That said, taking a Grade II Listed building of a type whose heritage significance largely derives from its large open floor spaces and irreversibly dividing it up into multiple domestic residential small units undoubtedly causes harm, although in this case that harm would probably be regarded as 'less than substantial harm'. It is nevertheless a step that needs thorough justification.
- 6.18. As noted in the NPPF, para 134 "*Where a development proposal 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, including securing its optimum viable use.*"
- 6.19. Guidance on "optimum viable use" is provided in the Government's 'Planning Practice Guide' and states: *If there is only one viable use, that use is the optimum viable use. If there is a range of alternative viable uses, the optimum use is the one likely to cause the least harm to the significance of the asset, not just through necessary initial changes, but also as a result of subsequent wear and tear and likely future changes.*
- 6.20. *The optimum viable use may not necessarily be the most profitable one...*

- 6.21. *Harmful development may sometimes be justified in the interests of realising the optimum viable use of an asset, notwithstanding the loss of significance caused provided the harm is minimised.*"
- 6.22. The building has functioned perfectly well, for many years, as up-to-date, open-plan, serviced offices. It would need little, or minimal change to continue in such a use if such a use remains viable. To consent to a residential subdivision that will result in "*less than substantial harm*" the Council needs to assure itself that residential use is now the *optimum* viable future use for this building, rather than simply the one that is most profitable for the owner or developer. Thus the Council needs to be satisfied that the existing office use is now economically redundant and that there are no less damaging uses for the building that are less damaging. The only way to demonstrate redundancy is through appropriate marketing at an appropriate value.
- 6.23. Should the Council be content that multi-occupancy residential use *is* the only, or optimum viable use and that the proposal is the least harmful viable use, the council should aim to ensure that the development proposal minimises harm and that it "*enhances or better reveals (the heritage) significance*" of the asset (NPPF para 137) in order to compensate for any harm.
- 6.24. Of the many surviving malhouses of the late Georgian period, this Grade II malhous is prodigious for its unusually wide floor-plan and its exceptionally 'polite' exterior treatment. The timber roof trusses that were provided to span this exceptionally wide-span building in 1834 (illustrated below) are indeed truly prodigious for their period and potentially of national significance in themselves. The roof structure certainly contributes outstandingly to the heritage significance of this Grade II listed malhous and it certainly merits making more apparent in any development proposal for the building.
- 6.25. BCS are pleased with the developer's proposed atrium, although are concerned that this atrium will show only the central part of the roof trusses, rather than revealing their full structure across the whole width of the building. Also concerned at the absence of any detail design regarding of the flats themselves, so it remains uncertain if the roof trusses will remain visible within the flats, or whether the timberwork will need to be concealed within some, or all of them, on account of fire risk.
- 6.26. Whilst open to the idea of residential conversion of this very advanced and interesting building *is* the optimum viable use of this very unusual and historic building, we would nevertheless seek the following:
- Evidence of appropriate marketing to demonstrate the redundancy of the building as offices
  - Further detail of how the roof trusses will be made visible within the flats
  - Further exploration of the potential to enlarge the atrium so as to expose the full width and height of at least three trusses, and
  - The securing through an appropriate condition of a detailed archaeological record of the building to Historic England Level 3, with a Level 4 record of the roof structure.
- 6.27. THAMES WATER: **No objections.**

- 6.28. CDC ECOLOGY: **No objections** subject to the works to the roof being attended by an ecologist and the provision of bird and bat boxes to the building through conditions.
- 6.29. CDC BUILDING CONTROL: **No objections.**
- 6.30. CDC ENVIRONMENTAL PROTECTION: **No objection** subject to noise transmission between the apartments being controlled.
- 6.31. CDC LANDSCAPE: **No objection.** We can only ask for a financial contribution for play on or off site. I assumed that there was insufficient space on site for a 400 m2 LAP, hence the off-site requirement. However if the developer is proposing to manage an on-site play facility through a management company then a financial contribution is unnecessary.
- 6.32. CDC STRATEGIC HOUSING: **No objections** subject to the provision of a commuted sum in relation to off-site affordable housing contribution. The applicants have now come back with a revised commuted sum figure which takes into account our previous comments, including removing the additional uplift to the EUV. Given they have evidenced their figures and used our methodology in calculating the commuted sum I think we need to accept the resulting figure. The figure does not equate to a full affordable housing contribution (due to the viability position) but can provide a useful contribution to additional affordable housing in Banbury.

## 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

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  
 ESD1 – Mitigating and Adapting to Climate Change  
 ESD10 – Protection and Enhancement of Biodiversity and Natural Environment  
 ESD15 - The Character of the Built and Historic Environment  
 Banbury 7 – Strengthening Banbury Town Centre

### Cherwell Local Plan 1996 (Saved Policies)

H21 – Conversion of buildings in settlements  
 C18 – Listed buildings

C23 - Features in conservation areas  
C28 - Layout, design and external appearance of new development  
C30 - Design of new residential development  
ENV1 - Development likely to cause detrimental levels of pollution  
INF1 – Infrastructure

### 7.3. Other Material Policy and Guidance

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

## 8. APPRAISAL

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

- Principle of development
- Loss of employment
- Impact on heritage assets and design
- Residential amenity
- Affordable housing
- Open space
- Highway safety
- Ecology
- Other S106 matters
- Other matters

### Principle

8.2. The site is located within the built up limits of Banbury and is close to the town centre which offers a wide range of services and facilities. The Cherwell Local Plan Part 1 2015 has a strong urban focus and directs new housing growth to existing towns including Banbury. It is therefore considered that the principle of utilising the building for flats may be considered acceptable in general sustainability terms subject to the matters discussed below.

### Loss of employment land

8.3. The current site is an authorised B1(a) office and is therefore regarded as an employment site for the purposes of the Local Plan. Policy SLE1 of the Cherwell Local Plan Part 1 (2015) states that:

*In cases where planning permission is required existing employment sites should be retained for employment use unless the following criteria are met:*

- *the applicant can demonstrate that an employment use should not be retained, including showing the site has been marketed and has been vacant in the long term.*
- *the applicant can demonstrate that there are valid reasons why the use of the site for the existing or another employment use is not economically viable,*
- *the applicant can demonstrate that the proposal would not have the effect of limiting the amount of land available for employment.*



*Regard will be had to whether the location and nature of the present employment activity has an unacceptable adverse impact upon adjacent residential uses.*

*Regard will be had to whether the applicant can demonstrate that there are other planning objectives that would outweigh the value of retaining the site in an employment use.*

- 8.4. It goes onto state that new dwellings will not be permitted within employment sites except where this is in accordance with specific site proposals set out in this Local Plan.
- 8.5. The existing employment use does not appear to have a significant adverse impact on the adjacent residential uses and officers are not aware of any such complaints. It is also not considered, that given the Council's ability to demonstrate a 5 year land supply of housing site, the proposal provides sufficient other planning objectives to outweigh the value of retaining the site in an employment use and the long term maintenance of the listed building could equally be achieved by finding a new employment use for the building.
- 8.6. Officers do not consider there are any obvious shortcomings why the building could not be continued to be used as an office and the attractive appearance of the building, availability of on plot parking, proximity to the town centre and flexibility of the office space are likely to be attractive features to some future occupiers.
- 8.7. Therefore the main issue in this case is whether the applicant can demonstrate the building is no longer viable as an employment use. The applicant has submitted a marketing report which states the building has been vacant since March 2016. Marketing began with White Commercial in July 2016 when it was offered to let. The marketing appears to have ended in February 2017 after approximately 7 months on the market when the site began to be marketing for sale. The marketing material relating to the sale of the building made reference to potential for redevelopment for residential purposes. The applicant states that the marketing continued right up to the sale of the building to the applicant in September 2017 however the property was presented to the market as 'under offer' from the start of August 2017 which may have deterred interest in the building from other potential purchasers. Officers had advised at pre-application stage that they would expect to see an 18 month marketing exercise at a competitive price in order to demonstrate a new office cannot be found for the building. The marketing exercise falls short of this period which whilst alone is not decisive is a weakness in the marketing.
- 8.8. During the marketing period according to the agent no other offers were made for the building. A number of enquiries were made when the office was offered to let however none of these progressed and concerns were raised in relation to the quality and layout of the building. During the period for sale the predominant interest in the building was for residential conversion and the only party who viewed the property for office use discounted it due to the level of works required to the building to get it to a modern standard, the layout of the building prohibiting open plan working, concerns regarding the listed status and the lack of a precedence of the building within a residential area.
- 8.9. In regard to whether the building was marketed at an appropriate value the lease was offered on the basis of £10.91sqm. The applicant has provided other examples of leased properties in the area and this price appears to be relatively competitive although it is unclear whether this was based on the current condition of the building or on the basis of it being refurbished. Other evidence submitted by the applicant suggests that the building would need to be refurbished to achieve a new occupier. This is therefore a weakness of the rental marketing.

- 8.10. In regard to the marketing period for the sale of the building, the site was marketed for offers in excess of £1 million and as noted above was also marketed as a residential conversion opportunity. The applicant has submitted a formal valuation of the building by a surveyor who has valued the market value of the site below £800,000. Given the site was marketed for well in excess of this value it appears to have been marketed on the basis of the hope value associated with the residential conversion rather than the existing use of the building as an office. Officers consider that the marketing of the property well in excess of the valuation and with the potential for residential conversion would be likely to deter interest from genuine parties which would be looking to use the building for its authorised employment use. This is considered to be a very significant weakness of the testing of the market for the existing office use particularly given the condition of the building meaning that any new owner would be required to make further investment to refurbish the building.
- 8.11. The applicant argues that the valuation of the building they have submitted was done on behalf of a bank and therefore takes a cautious approach to the value of the building. They also state that a commercial agent would have no benefit in marketing the building in excess of its value as they would be unlikely to get a fee and furthermore the marketed value does not prevent people offering under the asking price. However it may be that the agent valued the building based on the residential conversion hope value and the reference to residential conversion in the marketing particulars supports this view. Furthermore the high asking price is likely to detract certain potential purchaser viewing or considering the site. It is noted that the valuation report is based on other transactions in the area so would appear to be realistic price and also takes account of the opinion that the building would need to be refurbished to attract a new user. To market the building significantly in excess of its bank valuation could also mean a future owner could struggle to borrow money to purchase the site.
- 8.12. Whilst it is acknowledged that the building would need some investment to enable a new occupier it is considered the marketing price should reflect this. Officers do not consider there are any obvious shortcomings why the building could not be continued to be used as an office and the attractive appearance of the building, availability of on plot parking, proximity to the town centre and flexibility of the office space are likely to be attractive to some future occupiers.
- 8.13. Overall it is considered that there are a number of weaknesses in the marketing exercise of the building particularly in relation to the marketing price and it is not considered that the applicant has adequately demonstrated that the building is not capable of finding a new occupier for an employment use. The proposal is therefore considered to conflict with Policy SLE1 of the Cherwell Local Plan and the economic benefits of retaining the building in an employment use in a sustainable location.
- 8.14. The applicant argues that the site is not in a designated employment area and if the building were not listed it could be converted to residential under permitted development. In response to these matters Policy SLE1 makes it clear that this policy applies to site which have planning permission for employment uses (para B.48) so is applicable to this site. Furthermore that building does not benefit from permitted development rights as it is a listed building so this matter is not given significant weight as it is not a valid fall-back position. Planning law requires development proposals to be assessed in accordance with the development plan unless material considerations indicate otherwise.
- 8.15. In addition the applicant has referred to examples in the locality where planning permission has been granted for the change of use of building from offices to

residential. They have referred to a scheme a Mercia House in the town centre which was approved under 16/00120/F. In the case of Mercia House the listed building had historically been used as a residential dwelling and it was considered there were benefits associated with re-using the building for this purpose alongside other benefits outweighed the loss of employment land. Clearly the applications site is different, having historically been used for commercial purposes and the officers' conclusions regard the harm to the heritage asset (see below). Each case has to be assessed on its own merits taking into account the particularly circumstances of the case.

#### Impact on heritage assets and design

- 8.16. The site lies within the Banbury Conservation Area and is also a Grade II listed building as such both are 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. The NPPF states when considering the impact of proposed development on the significance of a designated heritage asset, great weight should be given to the assets conservation and any harm should require clear and convincing justification. It goes on to 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. Policy ESD 15 of the Cherwell Local Plan echoes this advice. Furthermore Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area.
- 8.17. Saved Policy H21 states that within settlements the conversion of buildings to dwellings will be treated favourably unless it would detrimentally impact on its historic significance. This is subject to other policies in the plan.
- 8.18. 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.
- 8.19. Policy ESD15 of the Cherwell Local Plan states that new development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design. This includes a requirement for new development to respect the traditional pattern of plots and the form, scale and massing of buildings. It also states development should contribute positively to an area's character and identity by creating or reinforcing local distinctiveness and integrating development into existing streets and spaces and configuring buildings to create clearly defined active frontages. Saved Policy C28 and C30 of the 1996 Local Plan seeks to ensure the layout, scale and design of development is of a high standard.
- 8.20. Saved Policy C18 states that the Council will have special regard to the desirability of preserving a listed building and its setting and will normally only approve works which are minor and sympathetic to the building.
- 8.21. The application is accompanied by a Heritage Statement which states, *'As a result of the several phases of quite radical internal changes to the building, its key elements in heritage terms of the building are the external shell – particularly the façade to St John's Road – and the broad roof structure with its very unusual and ambitious trusses. The rest of the interior is not considered to be of any great heritage value'*.

- 8.22. The Conservation Officer considers this assessment to be broadly correct. The Conservation Officer has noted that the core significance of the building lies in its roof structure with its trusses spanning the width of the building and the 'surprisingly grand design' of the façade of the building. The design is unusual for a maltings in having just 2 floors, a large number of windows and an elaborate façade. Given the changes to the buildings over the years there is minimal surviving visible evidence of the functional operation of the building. Banbury Civic Society and the Association for Industrial Archaeology have also highlighted that the still largely open plan nature of the building also contributes to its significance as it would have like this when the building was in use as a maltings and this preserves some for the character of its commercial use.
- 8.23. The proposal includes a number of new windows to the rear and side elevations of the buildings. There is no objection in principle to these alterations and they generally respect the character and form of the existing building. There are some concerns regarding the style of the new new/altered door openings on the rear elevation of the building which upset the balance of the building. However, revised details of these could be secured by condition to ensure their design is more in keeping with the 12 pane sash windows which characterise the building if the development was considered to be acceptable in all other regards.
- 8.24. Significant concerns exist in relation to the number and size of the roof lights proposed on the building and the Conservation Officer and Georgian Society have both raised this as a concern. Whilst the plans have been amended during the course of the application to remove a number of external balconies, the number of roof lights proposed in the roof slopes is still considered significant and results in a cluttered appearance to the roof slopes. This would detract from the external appearance and character of the building which is one of the elements of significance. Whilst it is acknowledged that historically the building appeared to have a number of roof lights the arrangement and appearance of these appeared to be simpler, fewer in number, more industrial in character and resulted in a less cluttered roof space.
- 8.25. The existing building appears to have 12 modern roof lights which are not of historic value and therefore their loss is not considered to harm the significance of the building. However, the proposal to replace these with approximately 60 conservation roof lights is not considered to preserve or enhance the significance of the building and would detrimentally impact on the character and appearance of the external shell of the building. Whilst the visual harm caused to the roof lights to the front of the building would be somewhat moderated by the fact that they are unlikely to be visible from many viewpoints the roof lights on the rear elevation would be more widely available from Calthorpe Road. The applicant argues that this is the minimum number of roof lights to serve the residential conversion. However, a number of the apartments appear to have a large amount of roof lights and based on the information provided it is considered that these could be rationalised. Furthermore it must be remembered that the roof lights are as a result of the residential conversion of the building which officers currently do not consider to be justified.
- 8.26. Whilst technically the internal alterations do not require planning permission in their own right, the alterations proposed are a product of the residential conversion and the quantum of development and therefore need to be given due consideration. Given the extensive historic alterations which have happened to the building through the years most of the historic fabric inside the building has been lost. The key element of significance relating to the internal part of the building is the roof structure with its trusses which extend the depth of the building and are noted to be usual and ambitious for the age of the building.

8.27. The plans have been developed in order to minimise the alteration to the roof structure as far as possible and seek to retain visibility of the roof structure where possible within the constraints of the desired quantum of development. This has been done by placing the new internal walls either side of the roof structure so the majority of the roof structure would remain visible within apartment and not be concealed in new walls. However a number of alterations are proposed to the roof structure to accommodate the use including:

- Cutting the purlins in the location of the cluster of roof lights on the second floor to allow for the roof lights to be inserted.
- At second floor level a number of the existing timber struts are situated at 1.7m above floor level and these need to be raised to allow access through them. Where this is occurring the end sections will be retained to allow the original roof structure can be read.
- Removal of a central purlin in the roof running through the apartments at head height at second floor level. This will be retained in the central atrium.
- Removal of 1 almost vertical strut in flat 17 to enable access through the flat. A similar alteration has already occurred at the west end of the building where office accommodation is already provided.

8.28. All these elements result in some harm to the fabric and form of the roof structure. Further harm is caused to the structure through the insertion of new channels being fixed to the existing trusses and insertion of joists to provide the additional floor space on the second and third floor. This would impact on the fabric of the roof and conceal some elements of the existing roof structure in more permanent way.

8.29. Banbury Civic Society and the Association of Industrial Archaeology have both indicating that the wide open spaces of the building also contribute to the significance of the building as a former malt house. However it is noted that the existing internal division of spaces is currently entirely modern and the existing proportions of the spaces are of no historic significance. That said the residential conversion will lead to further intensive subdivision of the internal spaces which would result in some harm to the commercial character of the heritage asset.

8.30. Overall, it is considered that the proposal would lead to '*less than substantial*' harm to the significance of the listed building by detrimentally impacting on two key elements of significance. This harm stems partly from the internal alterations to the roof to provide the residential accommodation, subdivision of the space and also the number and extent of roof lights proposed on the building. All these are as a result of the residential conversion of the building and the number of dwellings the applicant is seeking to deliver. In accordance with paragraph 134 of the NPPF this harm needs to be weighed against the public benefits of the scheme including securing the optimal viable use of the building.

#### Residential amenity

8.31. Both the NPPF and Policy ESD15 of the Local Plan Part 1 seek to ensure development proposals provide a good standard of amenity for both existing and proposed occupants of land and buildings.

8.32. The change of use of the building is not considered to significantly impact on the amenity of the neighbouring properties by virtue of level of activity or disturbance given the authorised use as an office would already generate relatively high levels of movement. Concerns were raised with the applicant regarding the existing and proposed windows/roof lights on the western elevation of the building which directly overlook the rear garden of the adjacent properties. It is acknowledged that many of

these windows already exist however the nature of the proposed use is likely to result in further levels of overlooking at certain times of the day and at weekends which would be more intrusive to the neighbouring properties. In order to mitigate this impact to some extent the applicant has shown the lower part of the sash windows to be obscurely glazed which would provide more limited views into the neighbouring garden but also allow for outlook through the upper panes to future residents. Given that the large number of existing openings which already directly overlook this neighbouring and the proposed mitigation, this is considered to be acceptable. The other new openings on the building are not considered to impact significantly on the amenity of the neighbouring properties.

- 8.33. The proposed dwellings are all considered to be of an adequate size to provide a good standard of amenity. The windows to the ground floor flats (unit 1 and 2) would face directly onto the parking areas to the front of the building which is far from ideal from a residential amenity perspective in terms of privacy, outlook and noise and disturbance, but given that this is an existing parking arrangement on balance this is considered to be acceptable.
- 8.34. A number of the proposed flats have windows facing into the central atrium and officers have concerns that residents and visitors would be able to view directly into these flats whilst using the communal areas which are provided in the building. Whilst these windows are advantageous to the amount of light received in the flats it is considered they would need to be fitted with opaque glazing to ensure the future residents had a good standard of amenity in terms of privacy. On balance the amenity of the future residents is considered to be acceptable.

#### Affordable Housing

- 8.35. 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 7.5 units in the scheme. It states that financial contributions in lieu of on-site provision will only be acceptable in exceptional circumstances.
- 8.36. In this case as the site is being treated as a single block of flats with a relatively high provision of communal facilities (leading to additional service charges) the Housing Officer has requested a commuted sum for affordable housing be sought rather than on site provision.
- 8.37. When the application was originally submitted the applicant made no provision for affordable housing and submitted a number of viability appraisals in order to justify this. Officers did not agree with the way the applicant had assessed the existing site value which was a key component in making the scheme viable or not.
- 8.38. However, the applicant has now agreed to pay a commuted sum to the provision of affordable housing based on the difference between the residual land value of the site without affordable housing less the residual land value of the site with affordable housing. This is the method outlined in the Affordable Housing Viability Study Update Report 2013 which formed part of evidence based for the Local Plan. Given the particular circumstance of this case the housing officer has agreed to this. This would need to be secured through a Section 106 agreement. The proposal is therefore considered to comply with Policy BSC3 of the Local Plan.

#### Highway safety

- 8.39. The application site is situated approximately 160m walking distance to the southern edge of the designated town centre in the Local Plan. The town centre provides a wide range of services and facilities for residents and opportunities to use public transport. The proposal provides 24 parking spaces although one of these spaces adjacent to the access would not be usable being only approximately 3.5 metre long. The proposal also provides 39 cycle parking spaces.
- 8.40. Whilst comments from the highways authority (LHA) have not been received on the amended plans they did comment on the originally submitted proposal. The proposed access to the parking areas already exists and is considered to be acceptable subject to further details on the operation of the gated access.
- 8.41. In relation to the parking requirement the LHA has indicated that when assessed against OCC's parking standards the proposal would require between 30 and 37 parking spaces depending on whether spaces were allocated or unallocated. It has objected to the application on the lack of adequate parking provision and note that the surrounding streets are heavily parked and additional on-site parking could lead to residents parking in unsafe spaces and hinder the safe and efficient operation of the highway network.
- 8.42. It is noted that the Parking Standards used to calculate the parking requirement cover the whole of the area they define as 'urban' which does not take account of the proximity of the site to the town centre and would be applicable for the whole of Banbury. In order to justify a lower parking requirement that applicant has provided census data which covers the application site and the surrounding town centre area. This shows that existing car ownership in the locality at the time of the census (2011) was 0.44 cars per flat and that 454 of 727 flats were car free. Officers acknowledge that this covers a large part of the town centre and therefore requested the applicant provided the data for the area to the south of the site further from the town centre to increase the robustness of this data. In this area further from the town centre the car ownership for flatted development was 0.73 cars per flat and 125 of the 339 flats were car free. Taken this higher figure and applying it to the current development it would require 19 parking spaces for residents theoretically leaving 4/5 spaces for visitors.
- 8.43. The LHA has raised concerns that this data stems from the 2011 census so is therefore dated. However, this is the latest census data available and it is not considered there are any significant social or economic events which would have led to a higher level of car ownership in flatted development since this data was collected. The data the applicant has provided is much more specific to the site than the generic Parking Standards and therefore officers consider it provides a more robust picture of the likely parking demand and acknowledges the proximity to the town centre. Therefore officers consider the development would be acceptable in this regard. Full details of the proposed parking allocation to ensure a certain level of visitor parking is provided could be secured by way of a condition.
- 8.44. In relation to the provision of cycle parking the LHA has indicated that 39 cycle parking spaces should be provided. The plans have been amended to show this and comments are on the amended details are awaited from the highway engineer.
- 8.45. Concerns were also raised regarding disabled access to the building as this is not possible from the front elevation. Level access have been provided to the rear of the building and given the listed status of the building and this being an existing access this is considered to be acceptable.

8.46. The LHA raised concerns that the bins would need to be pulled approximately 35m to allow collection. The applicant has indicated this would be undertaken by a caretaker and given the constraints of the site this is considered to be acceptable.

#### Other matters

8.47. Policy BSC10 requires new residential development to contribute to open space, sport and recreation provision commensurate to the need generated by the proposals. It goes on to state that the level of open space, and its management and maintenance, will normally be required to be provided on site in accordance with BSC11 of the Cherwell Local Plan 2015. Given the scale of the proposal in this case the development would require a general green space and amenity area.

8.48. In the current case there is a green space to the north of the building which would be provided as an amenity space for the use of residents. This would appear to meet the needs of the residents and would be required to meet the requirements of Policy BSC11 for open space. The management of this space would need to be provided for and could be controlled through a condition. It is noted that there is an extant planning permission for a new dwelling on this part of the site and if the current proposal were to be granted a planning condition/legal agreement would need to ensure this permission was not implemented as without this space the proposal would conflict with the requirements of the Policy BSC11.

8.49. Policy ESD10 seeks to protect biodiversity and the natural environment. A bat survey has been undertaken and found no evidence of bat roosting within the building. Subject to conditions requiring ecological supervision of certain activities and biodiversity features including bird and bat boxes the Council's ecologist is satisfied with the proposal.

8.50. Details of drainage could be provided by condition and given the type of accommodation being proposed OCC have not requested an education contribution.

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

9.1. The planning system requires social, economic and environmental benefits to be sought jointly in making planning decisions and reinforces the plan-led basis of the planning system to ensure sustainable outcomes.

9.2. In this case the proposal would provide a new use for a listed building and would provide new housing in a geographically sustainable location. However, this benefit has to be viewed in the context of the ability of the Council to demonstrate a 5 year land supply. The proposal would also provide a commuted sum to aid with the delivery of affordable housing in the locality. It would also provide economic benefits associated with the construction period and through the new homes bonus.

9.3. Weighing against the proposal it would lead to the loss of existing employment provision in a geographically sustainable location without robust justification leading to economic harm. This would conflict with the provisions of the Development Plan which carries significant harm. The proposal would also result in environmental harm through causing '*less than substantial*' harm to significance of the listed building and Conservation Area for which the Council must have special regard.

9.4. Given that this harm stems from the residential conversion of the building which has not been adequately justified through a robust marketing campaign and the existing use of the building may still be viable it is not considered that there is clear and convincing justification for this harm as required by the NPPF and it is not considered to represent the optimum viable use of the building. Whilst officers have



concluded that the residential amenity, highway matters, biodiversity and open space requirements comply with the Development Plan these weigh neutrally in the planning balance.

- 9.5. Overall, it is considered that the harm resulting from the development would not be outweighed by any of the benefits and it is recommended that planning permission be refused.

## **10. RECOMMENDATION**

That permission is refused, for the following reason(s):

1. The applicant has failed to demonstrate through a robust marketing exercise that the site is no longer viable to be retained for its existing employment use. The proposed development would therefore lead to the unjustified loss of employment land in a sustainable location and result in economic harm contrary to Policy SLE1 of the Cherwell Local Plan Part 1 (2015) and advice in the NPPF.
2. The proposed development would result in *less than substantial* harm to the significance of the listed building and conservation area through alterations to the roof to provide the residential accommodation, subdivision of the internal space and also through the number and extent of roof lights proposed on the building. This harm is not supported by clear and convincing justification and it is not considered, based on the evidence provided, that residential use of the building is the optimum viable use of the building. The social and economic benefits arising from the scheme would not outweigh this harm. The proposal is therefore contrary to Government guidance contained within the National Planning Policy Framework, Policy ESD 15 of the Cherwell Local Plan 2011-2031 and saved Policy C18 of the Cherwell Local Plan 1996.

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