

**The Old Malthouse  
St Johns Road  
Banbury**

**17/02168/LB**

**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:** It is associated with a major application on the agenda

**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 relates to 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 however 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 listed building consent for various external and internal alterations to facilitate the conversion of the building into 25 flats (23no 1 beds and 2no 2 beds). There is an associated application for full planning permission on this agenda (17/02167/F refers).
- 2.2. The external works would consist of the provision 3 new windows in the east elevation, a new second floor window to the west elevation and alterations to some of the fenestration on the rear elevation of the building. It would also include the insertion of numerous rooflights and roof lanterns to the top of the roof of the building.

2.3. The internal works would include the following:

- Creation of a new ground floor flat in the south east corner of the building on an existing area of parking.
- The building currently has office accommodation which extends across the first floor and the eastern end of the building at second floor level. The remainder of the second floor and space above currently consists of a roof void. 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 existing first floor would 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 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. New steel columns would be placed in the building at various locations to support the new floors. Within the central atrium these would be visible however within the other parts of the building they would generally be enclosed in the walls.
- A number of works are proposed to the existing roof structure. These are detailed further in the appraisal section of this report.

### 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>
17/02167/F	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:

<u>Application Ref.</u>	<u>Proposal</u>
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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 develop 16 apartments due to car parking and noise.
- The 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 is 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.**

## **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)

- C18: Development affecting a listed building

7.3. Other Material Planning Considerations

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

## **8. APPRAISAL**

8.1. The key issue for consideration in this case is the proposal’s impact on the significance of the listed building.

8.2. The key issue to consider is the impact upon the historic character, interest and fabric of the listed building, and the impact upon the significance of this designated heritage asset. The purpose of the planning system is to contribute to the achievement of sustainable development and the Framework defines this as having 3 dimensions: economic, social and environmental. Also at the heart of the Framework is a presumption in favour of sustainable development and in the context of this application would include conserving and enhancing the historic environment.

8.3. 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 and any harm should require clear and convincing justification. 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, including securing its optimum viable use. Policy ESD 15 of the Cherwell Local Plan echoes this advice. Furthermore Section 66 of the Planning (Listed Buildings and

Conservation Areas) Act 1990 requires that special regard shall be given to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

- 8.4. Saved Policy C18 of the CLP 1996 further advises of the Council's desirability of preserving the listed building or its setting or any features of special architectural or historic interest.
- 8.5. 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'*.
- 8.6. 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 its industrial character.
- 8.7. 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 there 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.
- 8.8. 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 the a number of external balconies, the number of roof lights proposed in the roof slopes is still considered to be excessive 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 areas of core significance of the building. 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 less cluttered.
- 8.9. The existing building appears to have 12 modern roof lights which are not of historic value and therefore their loss is not considered 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 views points 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.

- 8.10. In relation to the internal alterations 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 Georgian Society have raised concerns regarding the loss of an internal structural wall however having sited the site this is a modern intervention and not of historic merit.
- 8.11. The in terms of fabric 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.
- 8.12. 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 were 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 and hence not be concealing 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.
- 8.13. 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.
- 8.14. A number of comments have been received 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 would lead to further intensive subdivision of the internal spaces which would result in some harm to the commercial character of the heritage asset.
- 8.15. The applicant plans to create a central atrium to the building which they argue will allow for a better appreciation of the roof structure and volume of the building. Whilst this is a benefit the amount of roof structure that would be revealed is relatively limited and this is not considered to outweigh the identified harm outlined above.
- 8.16. 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. It is therefore necessary to consider whether there is clear and convincing justification for the harm, whether the proposal would represent the

optimal viable use of the building and whether there are any benefits stemming from the scheme to outweigh the harm to the listed building.

- 8.17. Clearly retaining the building in the existing use or having a new use that did not require the additional level of intervention would mean the building could be brought back into active use without the additional harm arising. The applicant has stated that the existing use of the building as an office is no longer viable and has been marketed for a sustained period as an office without any offers being made and that potential purchasers could have come forward with alternative commercial uses in this period.
- 8.18. A detailed assessment of marketing exercise has been undertaken in the associated full application on this agenda (17/02167/F refers). This concludes that there are a number of weaknesses in the marketing campaign which mean officers do not consider that it has been adequately demonstrated that the use of the building as an office is no longer viable. Amongst these weaknesses is the view that the building has been marketed for sale significantly in excess of its market value is based on evidence submitted by the applicant.
- 8.19. It is therefore currently not considered that the existing use has been demonstrated to be unviable and based on the information provided this is considered to be the optimal viable use of the building at the current time as it could continue an active use for the building without the works to the roof structure, subdivision of space and insertion of significant number of roof lights.
- 8.20. It is also not considered that the number of roof lights is the minimal number to make the scheme viable and although it is acknowledged that applicant wants to provide light filled apartments this needs to be balanced against the need to protect the heritage asset.
- 8.21. In relation to the benefits of the scheme there would clearly be some social and economic benefits associated with the provision 25 flats, including an affordable housing contribution, in a geographically sustainable location. However, the benefits associated with the provision of new dwellings are moderated by the fact that the Council can demonstrate a 5 year supply of housing sites. There would also be some benefit in opening up part of the central atrium to allow a greater appreciation of the extent of the roof structure. However, given the limited extent of this space and the fact that other elements of the scheme elements would obscure the roof structure this is not considered to outweigh the harm.

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

- 9.1. Overall in balancing these matters 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 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. It is not considered that the applicant has adequately demonstrated that the existing use of the building as an office is no longer viable or that the proposal would be the least harmful scheme to deliver a long term viable use of the building. Whilst there are social and economic benefits to the scheme these are not considered to outweigh the harm to the heritage asset. It is therefore recommended that listed building consent be refused.

## **10. RECOMMENDATION**

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

1. The proposed development would result in *less than substantial* harm to the significance of the listed building 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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