

**The Hill  
Dover Avenue  
Banbury  
OX16 0JE**

**18/00952/CDC**

**Applicant:** Cherwell District Council (Build! Department)

**Proposal:** Variation of Condition 2 (plans) of 17/00197/CDC - Minor amendments to design of scheme

**Ward:** Banbury Ruscote

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

**Reason for Referral:** Application has been made by the District Council

**Expiry Date:** 19 July 2018                      **Committee Date:** 21 June 2018

**Recommendation:** Approve

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

- 1.1. The application relates to an area of community land that is bounded by houses on all sides. The site currently accommodates a community centre and some small grassed areas. The site is bound to the south and west by Dover Avenue, to the north by Edmunds Road and to the east by Bretch Hill. The levels of the land drop to the north of the site and there is a play area to the north.
- 1.2. The site is not located within a conservation area and is not in close proximity to any listed buildings. The ground in close proximity of the site has naturally elevated levels of arsenic.

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

- 2.1. The application comes following the granting of application 17/00197/CDC, for the demolition of the existing community centre accessed off Dover Avenue and rebuild a new community centre
- 2.2. The current application has been submitted under Section 73 of the Town and Country Planning Act and seeks to vary the approved plans condition (Condition 2 of 17/00197/CDC) to slightly alter the design of the scheme and reduce the footprint slightly.
- 2.3. The new community centre would now be constructed from render, vertical composite cladding and red brick. There would be a significant amount of glazing proposed on the building. The roof would be partly finished with a profiled metal sheet material and partly with grey slates on the lower element of the building to the south. External doors, windows and rooflights would be finished in dark grey uPVC, with gutters and downpipes finished in black uPVC.

- 2.4. Access would remain as existing, off Dover Avenue. A new parking and drop-off area would be created to the south-west, with six parking spaces in total.

### **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>
17/00197/CDC	To demolish the existing community centre accessed off Dover Avenue and rebuild a new community centre, 'The Hill', in Bretch Hill, Banbury	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>
16/00289/PREAPP	Construction of a new community centre to replace the existing building and reorganisation of the public open space to improve the provisions for the community

- 4.2. The proposal subject of the pre-application enquiry was the construction of a new community centre to replace the existing building. The principle of redevelopment was considered to be acceptable. With regards to design, it was considered that the replacement building should be an improvement on the existing building and it was recognised that a modern design approach would be appropriate given the area was not architecturally sensitive. A reconfiguration of the layout was encouraged, as it was considered that the building as proposed would have a detrimental impact on the living amenity of the occupiers of the dwellings to the east, on Bretch Hill. The report was issued on 2<sup>nd</sup> November 2016.

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

- 5.1. This application has been publicised by way of a site notice displayed near the site and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments will be 29.06.2018.
- 5.2. No comments have been raised by third parties at the time of writing this report. If any comments are received following the publication of this report, then these shall be included as a written update. The recommendation at the end of this report is subject to no new material planning considerations being raised during the consultation period.

### **6. RESPONSE TO CONSULTATION**

- 6.1. Below is a summary of the consultation responses received at the time of writing this report. Responses are available to view in full on the Council's website, via the online Planning Register.

#### TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

6.2. BANBURY TOWN COUNCIL: No comments received.

#### STATUTORY CONSULTEES

6.3. LOCAL HIGHWAY AUTHORITY: No comments received.

#### NON-STATUTORY CONSULTEES

6.4. ENVIRONMENTAL PROTECTION: No comments received.

### **7. RELEVANT PLANNING POLICY AND GUIDANCE**

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

7.2. The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the ‘saved’ policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District’s statutory Development Plan are set out below:

#### CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2031 Part 1)

- PSD1 – Presumption in Favour of Sustainable Development
- BSC5 – Area Renewal
- BSC10 – Open Space, Outdoor Sport and Recreation Provision
- BSC12 – Indoor Sport, Recreation and Community Facilities
- ESD1 – Mitigating and Adapting to Climate Change
- ESD2 – Energy Hierarchy and Allowable Solutions
- ESD3 – Sustainable Construction
- ESD10 – Natural Environment
- ESD15 – The Character of the Built and Historic Environment
- BAN10 – Bretch Hill Regeneration Area

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

- C28 – Layout, design and external appearance of new development
- C30 – Design control

7.3. Other Material Planning Considerations

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

### **8. APPRAISAL**

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

- Principle of development
- Design and impact on the character of the area
- Residential amenity
- Highway safety

- Environmental protection

8.2. The National Planning Policy Practice Guidance (PPG) advises:

*In deciding an application under section 73, the local planning authority must only consider the disputed condition/s that are the subject of the application – it is not a complete re-consideration of the application. A local planning authority decision to refuse an application under section 73 can be appealed to the Secretary of State, who will also only consider the condition/s in question. (Paragraph: 031, Reference ID: 21a-031-20140306)*

- 8.3. As such, the assessment in this case is limited to considering the merits of the applicant's request for the revision of Condition 2 of 17/00197/CDC (approved plans condition), to be varied to allow for a revised design and smaller footprint.
- 8.4. Given the context of the site nature of the proposed amendments to the approved scheme, it is considered that the only impacts would be those on the overall appearance of the buildings and the visual amenities of the site, its setting within the wider street-scene and potential impacts on residential amenity.

Principle of development

- 8.5. The principle of development was previously considered acceptable with the granting of permission 17/00197/CDC. It is considered that the amendment now proposed do not introduce any further considerations that would result in the principle of the development no longer being seen in a favourable light. The principle is therefore considered acceptable.

Design and impact on the character of the area

- 8.6. Saved Policy C28 of the adopted Cherwell Local Plan 1996 exercise control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context of the development.
- 8.7. Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1 states that new development should complement and enhance the character of its context through sensitive siting, layout and high quality design. Furthermore, new development should be designed to improve the quality and appearance of an area and contribute positively to an area's character and identity by creating or reinforcing local distinctiveness.
- 8.8. The site is surrounded by dwellings constructed from a variety of materials, including red brick, buff brick and render. The existing community centre is constructed from buff brick and has a number of pitched roof elements that have been attached to form one building. The existing community building now looks aged and is not of high architectural quality.
- 8.9. The proposed building would be larger in scale than the existing building, both in terms of its footprint and its height. The building would have a maximum height to ridge of 9 metres, which the applicant has stated is to accommodate a badminton court. However, the building would sit comfortably within the site and would not be significantly larger in height than the dwellings which it would be located in close proximity to. The ridge height of the building now proposed would be 0.5m lower than that of the previously approved scheme.
- 8.10. The proposed building has a relatively simple design, with pitched roofs and flat roofs and a number of different materials. The proposed building would be constructed from red brick, composite cladding and render. Given the variety of

materials used in close proximity of the site, it is considered that the materials proposed are acceptable. The design is considered to be acceptable and would be a significant improvement upon the existing building and would be broadly similar, albeit slightly simpler, than the recent approval.

- 8.11. The design of the proposed building is considered to be acceptable and would result in an enhancement of the visual appearance of the community centre on the site. It would be of a scale and siting that would be appropriate in its context and would not appear unduly dominant or out of keeping with the scale of neighbouring housing, and the contemporary design approach is considered to be acceptable and the materials used would not cause harm to the visual amenities of the locality.

#### Residential amenity

- 8.12. The proposed changes, by reduction in height and footprint do not have an impact on neighbour amenity compared to the approved scheme.

#### Highway safety

- 8.13. The proposals would not introduce any further impacts on highway safety above those assessed and considered acceptable under application 17/00197/CDC. The details required by conditions attached to the previous consent can be carried across.

#### Environmental protection

- 8.14. The site lies within an area where there are naturally elevated levels of arsenic within the ground. With the previous application, the applicant has submitted a land contamination report that identifies an area where lead has been found.
- 8.15. At the time of writing this report, the Environmental Protection Officer has not commented on this scheme, but on the recently approved scheme the Environmental Protection Officer offered no objections to this element of the proposal, subject to conditions.

### **PLANNING BALANCE AND CONCLUSION**

- 9.1. The principle of development is considered to be acceptable given that the new building would be replacing an existing community centre on the site. The creation of a purpose-built community centre would result in a benefit for the local population with regard to community centre provision. The design and scale of the development proposed is considered to be appropriate. The buildings would sit comfortably within the site and the wider context of the area and, subject to conditions, would not have a detrimental impact upon the local highway network or the amenity of the occupiers of neighbouring properties.

### **9. RECOMMENDATION**

That delegated authority is given to the Assistant Director for Planning Policy and Development to grant permission subject to:

- (a) no new material planning considerations being raised during the remainder of the consultation period, and
- (b) subject to the following conditions (and any amendments to those conditions as deemed necessary):

- 1. The development to which this permission relates shall be begun not later than

22<sup>nd</sup> March 2020.

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: WG673 – 001; WG673 – 003 Rev B; WG673 – 004 Rev B; WG673 – 005 Rev B and WG673 – 006 Rev A.

Reason – For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and comply with Government guidance contained within the National Planning Policy Framework.

3. Prior to the commencement of the development hereby approved, samples of the brick, render and composite cladding to be used for the external walls of the development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the samples so approved.

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

4. Prior to the commencement of the development hereby approved, a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme for landscaping the site shall include:-
  - (a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas,
  - (b) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,
  - (c) details of the hard surface areas, including pavements, pedestrian areas, reduced-dig areas, crossing points and steps.

Thereafter, the development shall be carried out in accordance with the approved landscaping scheme.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

5. Prior to the commencement of the development hereby approved, full specification details (including construction, layout, surfacing and drainage) of the turning area and car parking spaces to be provided within the curtilage of the site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first occupation of the development, the turning area and car parking spaces shall be constructed in accordance with the

approved details and shall be retained for the parking and manoeuvring of vehicles at all times thereafter.

Reason - In the interests of highway safety, to ensure the provision of off-street car parking and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

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

Reason - In the interests of sustainability and to ensure a satisfactory form of development in accordance with Policies SLE4 and ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1 Government guidance contained within the National Planning Policy Framework.

7. Prior to the commencement of the development hereby approved, a Construction Management Plan (CMP) for the site shall be submitted to and approved in writing by the Local Planning Authority. The submitted CMP shall include the following:

- Details of the routing of construction traffic and delivery vehicles and associated signage.
- Details of times for construction traffic and delivery vehicles, which must be outside network peak and school peak hours.
- Details of wheel cleaning/wash facilities – to prevent mud etc, in vehicle tyres/wheels, from migrating onto adjacent highway.
- Details of the parking of site related vehicles (construction workers, traffic and delivery vehicles etc.) to be accommodated within the site.
- Details of the arrangements for keeping local residents informed of site deliveries and other highway related impacts of the construction phase of development.

Thereafter, the CMP shall be implemented in accordance with the approved details and shall be adhered to throughout the construction phase of development.

Reason - In the interests of highway safety and to mitigate the impact of construction vehicles on the surrounding highway network, road infrastructure and local residents, in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy ENV1 of the Cherwell Local Plan 1996, and Government guidance contained within the National Planning Policy Framework

8. Prior to the installation of any external lighting required in association with the approved development, full details of the siting, design and technical specification of the lighting shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the lighting shall be installed and retained in accordance with the approved details.

Reason - In order to safeguard the amenities of the area and to comply with Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

9. Prior to the installation of any external extraction or air conditioning equipment or any other fixed plant associated with the approved development, full details of the siting, design and technical specification of the plant and equipment shall be submitted and approved by the Local Planning Authority. Thereafter, the plant and equipment shall be installed and retained in accordance with the approved details.

Reason - In order to safeguard the amenities of the area and to comply with Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

10. Prior to the commencement of the development hereby permitted, a comprehensive intrusive investigation in order to characterise the type, nature and extent of lead contamination present, the risks to receptors and to inform the remediation strategy proposals shall be documented as a report undertaken by a competent person and in accordance with DEFRA and the Environment Agency's *'Model Procedures for the Management of Land Contamination, CLR 11'* and submitted to and approved in writing by the Local Planning Authority. No development shall take place unless the Local Planning Authority has given its written approval that it is satisfied that the risk from contamination has been adequately characterised as required by this condition.

Reason – To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

11. If contamination is found by undertaking the work carried out under condition 10, prior to the commencement of the development hereby permitted, a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with DEFRA and the Environment Agency's *'Model Procedures for the Management of Land Contamination, CLR 11'* and submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval of the scheme of remediation and/or monitoring required by this condition.

Reason – To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

12. If remedial works have been identified in Condition 11 the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under Condition 11. A verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.

Reason – To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled



waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

13. If, during development, contamination not previously identified is found to be present at the site, no further development shall be carried out until full details of a remediation strategy detailing how the unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. Thereafter the remediation strategy shall be carried out in accordance with the approved details.

Reason – To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

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