

**Applicant:** Cherwell District Council

**Proposal:** Amendment to application 16/02366/OUT and 17/00284/REM - Block C changes to finished floor levels and overall height

**Ward:** Banbury Cross And Neithrop

**Councillors:** Cllr Hannah Banfield  
Cllr Surinder Dhese  
Cllr Cassi Perry

**Reason for Referral:** Application affects Council's own land and the Council is the applicant

**Expiry Date:** 10 January 2019

**Committee Date:** 17 January 2019

---

## **EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION**

### **RECOMMENDATION - GRANT APPROVAL FOR THE NON MATERIAL AMENDMENT**

#### **Proposal**

The application seeks to capture the minor design evolutions that are proposed to the floor levels and elevations of the supermarket block following engagement with the contractors and detailed design.

#### **Consultations**

No consultations have been undertaken with regard to this proposal

#### **Planning Policy and Constraints**

The site lies in Flood Zone 3

The application has been assessed against the relevant policies in the NPPF, the adopted Local Plan and other relevant guidance.

#### **Conclusion**

The key issue arising from this proposal is whether the change proposed amounts to a non-material amendment to the elevational details of the approved building.

The report concludes that the change can be accepted as a non-material change and would not cause a materially harmful impact to visual amenity

**Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and recommendations, and Members are advised that this summary should be read in conjunction with the detailed report.**

## **MAIN REPORT**

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

1.1. This application relates to the Castle Quay 2 development proposals on both sides of the Oxford Canal in Banbury. This specific amendment proposes a change to what is known as Block C – the block containing the supermarket.

## **2. CONSTRAINTS**

2.1. The application site is within flood zone 3 and part of the wider site adjoins the Oxford Canal Conservation Area

## **3. DESCRIPTION OF PROPOSED DEVELOPMENT**

3.1. The application seeks to capture the minor design evolutions that are proposed to the floor levels and elevations of this block through engagement with the contractors and detailed design.

3.2. The specific changes for which permission is sought are

- Changes to the finished floor levels to follow the previously agreed levels with the Environment Agency and within the original flood modelling/storage capacity scenario at the lower level car park
- Changes to the roof/building height of Block C, raising the height between 0.2m and 0.6m. The height amendments are to allow for the changes to the finished floor levels. During the processing of the reserved matters application the height of the roof was reduced by 0.6m when the mezzanine floor in the building was removed. The proposals effectively go back to the originally proposed height.

## **4. RELEVANT PLANNING HISTORY**

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

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
13/01601/OUT	Outline planning permission for the redevelopment of land adjacent to the Oxford Canal comprising; the demolition of the Castle Quay Shopping Centre northern car park and the General Foods Sports and Social Club; change of use of part of the ground floor of the Castle Quay Shopping Centre southern car park and associated works; the erection of a retail foodstore (Use Class A1), hotel (Use Class C3), cinema (Use Class D2), restaurants and cafes (Use Class A3 and A4) and altered vehicular and pedestrian accesses, landscaping, construction of infrastructure, car parking and associated works, including glazed canopy over the Oxford Canal and the construction of pedestrian/cycle bridges over the Oxford Canal and River Cherwell. Details of new vehicular access off Cherwell	Application Permitted

Drive and alterations to Spiceball Park Road

16/02366/OUT	Removal/ Variation of conditions 4 (list of approved drawings) and 9 (enhancement of River Cherwell) to 13/01601/OUT - Condition 4 to be varied to reflect alterations in the access and servicing strategy for Block C, with variations to maximum deviations in block and Condition 9 to be removed as no longer justified.	Application Permitted
17/00284/REM	Reserved Matters Application to 16/02366/OUT across the whole development site is sought. Application for approval of reserved matters for scale, layout, appearance and landscaping.	Application Permitted
17/00147/DISC	Discharge of conditions 1 (reserved matters application), 5 (flood mitigation), 6 (flood management scheme), 7 (floodplain compensation), 9 (archaeological organisation), 10 (archaeological evaluation), 11 (investigation for archaeological mitigation), 12 (archaeological mitigation), 21 (Noise), 23 (surface water and foul drainage) 25 (phasing of works) and 31(SUDs drainage scheme) of 16/02366/OUT	Approved at November Planning Committee
18/00453/DISC	Discharge of conditions 13 (ecological avoidance and mitigation), 14 (ecological enhancement), 15 (landscaping), 18 (arboricultural method statement), 26 (parking specification details) and 32 (construction traffic management and phasing plan) of 16/02366/OUT	Approved at the December Committee meeting
18/00454/DISC	Discharge of conditions 2 (materials) and 4 (levels) of 17/00284/REM	Approved at the December Committee meeting
18/00142/NMA	Non-Material Amendment to 16/02366/OUT and 17/00284/REM - Block B canopy amendments	Approved at the December Committee meeting

## **5. PRE-APPLICATION DISCUSSIONS**

- 5.1. Pre-application discussions have taken place with regard to these changes

## **6. RESPONSE TO PUBLICITY**

- 6.1. This application has not been publicised as the Regulations do not require such publicity or consultation

## **7. RESPONSE TO CONSULTATION**

- 7.1. This application has not been publicised as the Regulations do not require such publicity or consultation

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

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

- 8.2. 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
- ESD 6 – Sustainable Flood Risk Management
- SLE 2 - Securing Dynamic town centres
- Banbury 9 – Spiceball Development Area

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

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

- 8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Human Rights Act 1998 (“HRA”)
- Equalities Act 2010 (“EA”)

- 8.4. Council Corporate Priorities

Cherwell District Council and South Northamptonshire District Council’s Joint Corporate Strategy for 2018-19 sets out the councils three strategic priorities which form our overarching business strategy. Below these are the key actions for the year 2018–19. This is a strategy which looks to the future taking into account the priorities and aspirations of the communities who live and work in the districts.

The three corporate priorities are to ensure the Districts are “Protected, Green & Clean”, are places which support “Thriving Communities & Wellbeing”, and are Districts of “Opportunity & Growth”. All three priorities are of significance to the determination of planning applications and appeals. Below these priorities, the key actions which are of most relevance to planning applications and appeals are: (1) deliver the Local Plans for CDC & SNC; (2) increase tourism; (3) protect the built heritage; (4) reduce our carbon footprint & protect the natural environment; (5) mitigate the impact of High Speed 2; and (6) deliver affordable housing.

The remaining key actions are also of significance to the determination of planning applications and appeals in particular delivering the Bicester, Banbury, Kidlington, Brackley, Towcester and Silverstone Masterplans.

The above corporate priorities are considered to be fully compliant with the policy and guidance contained within the National Planning Policy Framework and National Planning Practice Guidance.

## **9. APPRAISAL**

- 9.1. The changes proposed through this non-material amendment application are genuinely minor and will not change the appearance of the building in any significant way.
- 9.2. The changes to the floor levels seek to maintain the flood capacity necessary to comply with requirements of the Environment Agency and will lead to the ability to approve the flood mitigation measures contained in the condition discharge application that was reported to the Committee in November 2018.
- 9.3. The consequent minor raising of the height of the building is considered to not be material. The effective height of the building above Spiceball Park Road will be marginally increased, but this is not considered to be harmful to either users of the road or to the residents of Chamberlaine Court on the opposite side of that road.

## **10. PLANNING BALANCE AND CONCLUSION**

- 10.1. The proposal is considered to be non-material due to its marginal increase in height, thereby having no harmful or material impact on neighbouring residents or the character of the area.

## **11. RECOMMENDATION**

**THAT THE PROPOSED NON MATERIAL AMENDMENT BE GRANTED IN ACCORDANCE WITH THE FOLLOWING WORDING:**

**Cherwell District Council, as Local Planning Authority, hereby approves the non-material amendment described in application ref.no.18/00156/NMA in accordance with the application form and drawing numbers set out in the agents letter dated 13 December 2018. The non-material amendment application, hereby approved, does not nullify the conditions imposed in respect of planning permission 17/00284/REM. These conditions must be adhered to so as to ensure that the development is lawful.**