

Case Officer: Emily Shaw

Applicant: Cherwell District Council

Proposal: Certificate of Lawfulness for Proposed Development - Internal works for the relocation of public toilet provision to a new location within the existing shopping centre and external alterations to install 2 louvres to external north eastern elevation facing the existing service yard.

Ward: Banbury Cross And Neithrop

Councillors: Cllr Hannah Banfield
Cllr Surinder Dhesi
Cllr Cassi Perry

Reason for Referral: Cherwell District Council is the applicant

Expiry Date: 24th May 2019

Committee Date: 30th May 2019

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: GRANT PERMISSION FOR A CERTIFICATE OF LAWFUL DEVELOPMENT

Proposal

This application seeks a lawful development certificate, submitted under Section 192 of the Town and Country Planning Act 1990, for internal works proposed to part of units 36 and 37 within the existing Castle Quay shopping centre. The proposed works comprise internal alterations within part of the empty units at 36 and 37 to provide a new public toilet facility. The proposed works also include external alterations to install 2 ventilation louvres to the external north eastern elevation, facing the existing service yard.

Consultations

The following consultees have **no objections** to the application, but have made comments:

- CDC Building Control

A current pending application for these proposals is within the building control team. The reception desk has been queried with the developer, by building control, regarding fire load within the mall. This can be dealt with by the introduction of localised sprinklers and materials of limited combustibility being used in the reception desk.

Planning Policy and Constraints

Section 192 of the Town and Country Planning Act 1990 allows for an application to be submitted to the Local Planning Authority to ascertain whether a proposed development is lawful. It is for the Local Planning Authority, based on the information submitted with the application, to assess whether the proposed operations would be lawful, as no operational development or change of use has taken place or the operations that are proposed are

permitted development under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO 2015).

Conclusion

The report looks into the assessment of whether the proposed alterations are lawful, and Officers conclude that the proposal is lawful for the following reasons:

The proposed internal alterations to remove the existing customer toilet facility and to relocate the customer toilets within the existing shopping centre do not constitute operational development and are therefore lawful.

The external alterations to install two ventilation louvres into the north eastern elevation is consider to comprise operational development which is permitted development under Schedule 2, Part 7, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO 2015).

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, 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. The application site is located within the existing Castle Quay shopping centre which lies within Banbury town centre. The site is part of a former department store unit which has been empty for a prolonged period of time.
- 1.2. Recently, a new pedestrian entrance to the shopping centre has been created from the existing multi storey car park located on the north eastern elevation and a temporary corridor access route for visitors into the existing shopping centre. This access will be the main access into the centre during the works to construct Castle Quay 2.

2. DESCRIPTION OF PROPOSED DEVELOPMENT

- 2.1. This certificate of lawfulness application (proposed development) seeks the Local Planning Authorities opinion as to whether the proposals to provide for relocated public toilet facilities within the Castle Quay shopping centre utilising part of what is an empty department store unit, is permitted development.
- 2.2. The existing toilets are located to the centre of the existing centre and are no longer fit for purpose due to limited space and the inability to provide suitable accessible facilities in the current location. The new toilet facility will be more centrally located within Castle Quay once the Castle Quay 2 development is complete.
- 2.3. The development proposed comprises the following:
 - Internal works for the removal of the existing public toilet provision and to relocate the public toilet provision into part of unit 36/37 within the existing shopping centre. The new facility will include male and female toilets, an accessible toilet, a changing place facility, providing a full accessible facility, and a parent room providing 2 changing units, 2 privacy booths for nursing parents and a parent and

child WC. A water fountain and a bottle refill station will be provided and a customer welcome desk.

- The proposed works also include the installation of two ventilation louvres located on the north east elevation facing the existing service yard.

2.4 This application is before Planning Committee for determination as the proposal is located on Council owned land and the applicant in Cherwell District Council.

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> |
|-------------------------|--|-----------------------|
| CHN.205/94 | Redevelopment to form extension of Castle Quay and new covered shopping centre, together with the provision of link road from Castle Street to inner relief road, car parking, landscaping and ancillary facilities and the relocation of the bus station | Application Permitted |
| 96/00923/F | Redevelopment to form extension of Castle Centre and new covered shopping centre, new link road from Castle Street to Inner Relief Road, car parking, landscaping and ancillary facilities. Relocate bus station. Amended Plans 14.10.96 | Application permitted |
| 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 Drive and alterations to Spiceball Park Road | Application Permitted |

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| 17/00284/REM | Reserved Matters Application to Application 16/02366/OUT across the whole permitted development site is sought. Application for approval of reserved matters for scale, layout, appearance and landscaping. |
| 18/01426/F | Installation of new entrance doors in north western elevation of former BHS unit to allow pedestrian access to shopping centre from south multi-storey car park. Application permitted |

4. PRE-APPLICATION DISCUSSIONS

- 4.1 No pre-application discussions have taken place with regard to this proposal

5. RESPONSE TO PUBLICITY

- 5.1 This application has not been publicised due to the nature of the application which is a certificate application, seeking the Local Planning Authorities opinion as to whether the works proposed are lawful.
- 5.2 No comments have been raised by third parties.

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.

CONSULTEES

- 7.1. CDC BUILDING CONTROL: **no objections**, but have made the following comments. A current pending application for these proposals is within the building control team. The reception desk has been queried with the developer, by building control, regarding fire load within the mall. This can be dealt with by the introduction of localised sprinklers and materials of limited combustibility being used in the reception desk.

6. APPRAISAL

- 6.1 The key issues for consideration are:
- Whether the proposed internal works are lawful
 - Whether the proposed external works are lawful
- 6.2 Section 55 of the Town and County Planning Act sets out the meaning of development, which is the carrying out of building, engineering, mining and other operations, in, on, over or under land, or the making of any material change of use of any buildings or other land.
- 6.3 Section 192 of the Town and County Planning Act 1990 allows for an application to be made to the Local Planning Authority to ascertain whether proposed development is lawful.

- 6.4 The Town and Country Planning (General Permitted Development) Order 2015 at Schedule 2, Part 7, Class A (Non-domestic extension, alterations etc.) allows for extension and alterations to buildings in retail use.
- 6.5 The works to relocate the toilets are all internal works which relate to the area of the existing toilets and to part of units 36 and 37 within the Castle Quay shopping centre. The works will remove the existing toilets and relocate them into part of unit 36/37, retaining at least half of unit 36/37.
- 6.6 In order to establish whether the internal works are lawful consideration needs to be had as to whether the proposed internal works are in fact development within the meaning set out in Section 55 of the Town and Country Planning Act. Castle Quay shopping centre is a single planning unit and therefore works carried out within the internal arrangement of the shopping centre are not considered to be operational development and furthermore, the proposed internal works do not result in a material change of use of the building. Therefore, the proposed internal works are not development under the meaning within Section 55 and do not require planning permission and are therefore lawful.
- 6.7 The installation of two external ventilation louvres to the north east elevation of the building are considered to comprise operational development as these works will affect the external appearance of the building. The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO 2015) allows for certain types of development to be carried out without the need for planning permission.
- 6.8 Schedule 2, Part 7, Class A of the GPDO 2015 allows for non-domestic extensions and alterations etc. The installation of two external louvres is considered by the Officer to be permitted development under Part 7, Class A of GPDO 2015, as the proposal does not breach any of the requirements or conditions set out in Class A.

7. PLANNING BALANCE AND CONCLUSION

- 7.1 The proposed internal alterations to relocate the customer toilets within the existing shopping centre are not operational development and do not require planning permission and are therefore lawful.
- 7.2 The proposed external alterations to install two ventilation louvres comprises operational development which is permitted development under Schedule 2, Part 7, Class A of Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

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| <p>8. RECOMMENDATION: DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND ECONOMY TO GRANT A CERTIFICATE OF LAWFUL DEVELOPMENT AS SET OUT BELOW:</p> |
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| <p><u>Schedule 1</u></p> |
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| <p>Internal works for the removal of the existing public toilet provision and to relocate the public toilet provision into part of unit 36/37 within the existing shopping centre. The new toilet provision will include male and female toilets, an accessible toilet, a changing place facility providing a fully accessible facility, and a parent room, providing 2 changing units, 2 privacy booths for nursing parents and a parent and child WC. A water fountain and a bottle refill station will be provided and a customer welcome desk.</p> |
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| <p>External works to provide two ventilation louvres to the north east elevation of the building</p> |
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facing the service yard.

Schedule 2

36-37 Castle Quay
Banbury
OX16 5UN

Schedule 3

The proposed internal works are not operational development, within the meaning set out at Section 55 of The Town and Country Planning Act 1990. The proposed internal works do not require planning permission and are therefore lawful.

The proposed external works are permitted development under Schedule 2, Part 7, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

CASE OFFICER: Emily Shaw

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