

**Case Officer:** Emily Shaw

**Applicant:** Cherwell District Council

**Proposal:** New plant, ventilation louvres, downpipes and drainage

**Ward:** Banbury Cross and Neithrop

**Councillors:** Councillor Hannah Banfield, Councillor Surinder Dheshi and Councillor Cassi Perry

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

**Expiry Date:** 11 October 2019

**Committee Date:** 19 September 2019

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## **EmilEXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION**

### **RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS**

#### **Proposal**

This application relates to unit 36-37 Castle Quay, previously occupied by BHS and currently a vacant unit and seeks planning permission for the operational development associated with the change of use of the unit from retail to mixed use covered under application 19/01478/CDC. This application seeks permission for the installation of external plant to the roof of the building, ventilation louvres on the external elevations, and drainage down pipes.

#### **Consultations**

The following consultees have raised **objections** to the application:

- None received

The following consultees have raised **no objections** to the application:

- CDC Environmental Health

No letters of support have been received to date.

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

The application site lies within Banbury Town Centre and therefore Policy Banbury 7: Strengthening Banbury Town Centre is relevant in the assessment of this application. Policy Banbury 7 supports shopping, leisure and other 'Main Town Centre Uses' in this area. The Banbury Canal Conservation Area lies immediately to the north east of the site, the site however does not lie within the conservation area. Policy ESD16 is therefore relevant in the assessment of the proposals.

The application has also been assessed against the relevant policies in the NPPF, the adopted Local Plan and other relevant guidance as listed in detail at Section 8 of the report.

#### **Conclusion**

The key issues arising from the application details are:

- Principle of development
- Design, and impact on the character of the area and Heritage impact

The report looks into the key planning issues in detail, and Officers conclude that the proposal is acceptable subject to conditions.

**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. The application site comprises unit 36-37 Castle Quay, formerly British Homes Stores, and is located within the town centre of Banbury within the Castle Quay Shopping Centre. The application site comprises a unit measuring a floor space of 16,429 square metres with an existing retail use with ancillary café. The unit has been vacant for a number of years. The application site has an internal frontage into the shopping centre to the south and external frontages to the north east and north west facing the Canal and the adjacent multi storey car park.

### **2. CONSTRAINTS**

2.1 The Banbury Canal Conservation Area lies immediately to the north west of the application site and Flood Zone 2 lies immediately to the north and north west of the application site.

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

3.1. The application seeks planning permission for the operational development associated with the change of use of the ground floor of unit 36-37 Castle Quay from A1 to a mixed use. The operational development proposed comprises the following:

- New ventilation plant to the roof of the building
- 1no. new cast iron down pipe and 2no. ventilation louvres to the north eastern elevation
- 2no. new cast iron down pipes and 6no. ventilation louvres to the north western elevation
- 1no. ventilation louvre to the south western elevation

### **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>
19/00535/CLUP	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	Permitted 31.05.2019

service yard.

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	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.	Permitted 26.09.2018
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.	Permitted 1.06.2018

## 5. PRE-APPLICATION DISCUSSIONS

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

## 6. RESPONSE TO PUBLICITY

6.1. 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 is 18.09.2019; any comments received after finalising this report will be included in the Written Updates published on the day of Planning Committee.

6.2. No comments have been raised by third parties.

## 7. RESPONSE TO CONSULTATION

7.1. 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

7.2. BANBURY TOWN COUNCIL: **No comments received**

### CONSULTEES

7.3. CDC ENVIRONMENTAL HEALTH: **No objections**

## **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)

- Policy PSD1: Presumption in Favour of Sustainable Development
- Policy SLE 2: Securing Dynamic Town Centre
- Policy ESD15: The Character of the Built and Historic Environment
- Policy ESD16: The Oxford Canal
- Policy Banbury 7: Strengthening Banbury Town Centre

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

- Policy S2 – Proposals for retail development in the shopping centre and town centre, Banbury
- Policy C28 – Layout, design and external appearance of new development
- Policy C29 – Appearance of development adjacent to the Oxford Canal

### 8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF) – Section 7 ‘Ensuring the vitality of Town Centres’ and Section 12 ‘Achieving well designed places’
- Planning Practice Guidance (PPG)
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- Banbury Vision and Masterplan

### 8.4. Council Corporate Priorities

Cherwell District Council’s Business Plan for 2019-20 sets out the Council’s three strategic priorities which form our overarching business strategy. Below these are the key actions for the year 2019–20. 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 district.

The three corporate priorities are to ensure the District is “Clean, Green and Safe”, that it supports “Thriving Communities & Wellbeing”, and is a District 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 Plan; (2) increase tourism and increase employment at strategic sites; (3) develop our town centres; (4) protect our built heritage; (5) protect our natural environment; (6) promote environmental sustainability; (7) promote healthy place shaping; (8) deliver

the Growth Deal; (9) delivery innovative and effective housing schemes; and (10) deliver affordable housing.

The remaining key actions may also be of significance to the determination of planning applications and appeals depending on the issues raised.

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 key issues for consideration in this case are:

- Principle of development
- Design, and impact on the character of the area and heritage impact
- Impact on residential amenity

### Principle of Development

9.2. The National Planning Policy Framework (NPPF) sets out the purpose of the planning system which is to contribute to the achievement of sustainable development. The planning system has three overarching objectives in relation to sustainable development and these are; an economic objective, a social objective and an environmental objective which is to be pursued in a positive way and at the heart of this is a presumption in favour of sustainable development. Paragraph 85 of the NPPF seeks to ensure viable town centres are achieved through locating main town centre uses within town centres and this proposal meets this objective. Paragraph 127 sets out considerations to be had in relation to new developments and good quality design.

9.3. The application site is located within the town centre of Banbury and is located within the Castle Quay shopping centre. Policy SLE 2 and Policy Banbury 7 of the Cherwell Local Plan 2011-2031 seek to secure retail, leisure and other 'Main Town Centre Uses' within the town centre of Banbury. This application seeks permission for the operational development which is required to facilitate the change of use of unit 36-37 from A1 to a mixed-use space. The proposed ventilation plant located on the roof and ventilation louvres in the external elevations will provide ventilation to the ground floor units to allow alternative uses in this town centre location which will meet the requirements of Government guidance contained within the NPPF and Local Plan policies SLE 2 and Policy Banbury 7 in relation to securing active town centre uses within Banbury.

### Design, and impact on the character of the area and Heritage Impact

9.4. Local Plan policy ESD15 seeks to ensure that new development complements and enhances the character of its context through sensitive siting, layout and high-quality design.

9.5. The site sits immediately adjacent, but not within, Oxford Canal Conservation Area. Local Plan policy ESD16 seeks to ensure that development is not detrimental to the Conservation Area and supports proposals which will promote transport, leisure and tourism related uses, as well as supporting enhancement of the canal's active role in mixed used development in urban settings.

9.6. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that in carrying out its functions as the Local Planning Authority

in respect of development in a conservation area: *special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.*

- 9.7. Conservation Areas and Listed Buildings are designated heritage assets, and Paragraph 193 of the NPPF states that: *when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.* Policy ESD15 of the CLP 2031 Part 1 echoes this guidance.
- 9.8. The proposed plant which is to be sited on the roof of the building will not be visible from ground level above the current parapet/roof of the existing building and therefore this element of the proposal will have no adverse impact on the visual amenities of the area or on the setting of the adjacent canal Conservation Area.
- 9.9. The proposed ventilation louvres and new downpipes located to the north western, south western and north eastern elevations will be visible from the public domain, however due to their size and proposed colouring to match the existing ventilation louvres in the building would not be considered to visually harm the character and appearance of the area. In terms of the impact on the adjacent canal Conservation Area the louvres would be visible within a large elevation facing the canal and would be coloured to match all existing external fenestration and therefore the louvres would not be prominent when viewed from the canal and therefore the impact on the adjacent heritage asset will be limited. The proposed operational development would therefore be in accordance with Government guidance within the NPPF in relation to visual amenity and heritage assets and in accordance with Local Plan policy ESD15 and ESD16 and saved Local Plan policy C28 and C29.

#### Impact on Residential Amenity

- 9.10. As noted in the report for the associated application for change of use (ref:19/01478/CDC), the site is located in a mixed use area with Castle Quay 2 (which includes a mixture of leisure and retail uses) being constructed between the site and the nearest residential properties. In this context, the proposed operational development is not considered likely to lead to unacceptable impacts on the amenity of the nearest residential properties.

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

- 10.1. The proposal complies with the relevant Development Plan policies and guidance listed at section 8 of this report, and so is considered to be sustainable development. In accordance with Paragraph 11 of the NPPF, permission should therefore be granted.

## **11. RECOMMENDATION**

RECOMMENDATION – DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT TO **GRANT PERMISSION, SUBJECT TO THE CONDITIONS SET OUT BELOW** (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY)

### CONDITIONS/REASONS FOR REFUSAL

#### **Time Limit**

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

the expiration of three years beginning with the date of this permission.

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.

**Compliance with Plans**

2. The development shall not be carried out otherwise than in complete accordance with the approved plans:
  - Site Location Plan – drawing number TB\_19\_1683 P-EX001 01
  - Indicative Ventilation System – drawing number 11350-M-001 T1
  - Indicative M&E Roof Services – drawing number 11350-ME-001 T1
  - Existing Roof Plan – drawing number TB\_19\_1683 PEX013 01
  - Proposed External Elevations – drawing number TB\_19\_1683 P121 01
  - Existing External Elevations – drawing number TB\_19\_1683 PEX021 01
  - Proposed General Arrangement Plan (Above ground drainage) – drawing number TB\_19\_1683 P101 01
  - Existing Ground Floor Plan – drawing number TB\_19\_1683 PEX010 01

unless a non-material or minor material amendment is approved by the Local Planning Authority under the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).

Reason: To clarify the permission and for the avoidance of doubt.

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