

Case Officer: Daisy Kay-Taylor

Applicant: Cherwell District Council

Proposal: Removal of imitation chimneys and the installation of solar PV across the roof

Ward: Banbury Ruscote

Councillors: Councillors Watkins, Creed & Cherry

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

Expiry Date: 15 July 2024

Committee Date: 11 July 2024

SUMMARY RECOMMENDATION: GRANT PERMISSION

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site comprises a linear two-storey building of nine residential flats and an area of hardstanding, forming part of a parade of shops including a takeaway food outlet, a convenience store, a bookmaker and a hair salon. The block of flats fronts south-west onto the Fairway and is externally constructed of facing brick with some decorative wood cladding under a shallow plain-tiled pitched roof with false chimneys.
- 1.2. The site occupies a prominent location immediately north-west of the Orchard Way/The Fairway roundabout linking the Bretch Hill and Woodgreen residential areas which lie to the west of Banbury town centre.

2. CONSTRAINTS

- 2.1. The application site is within an area of naturally elevated arsenic levels (low) and swifts have been recorded in the area.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. Planning permission is sought for the removal of six false chimneys and the installation of solar PV panels to the front roof slope of the building.

4. RELEVANT PLANNING HISTORY

- 4.1. The following planning history is considered relevant to the current proposal:
 - **09/01776/F** Proposed mixed use development including 4 shops and 33 social housing units. Permitted 04 August 2010
 - **17/00924/CDC** Improvements to the area in front of the shops. Permitted 19 June 2017
 - **21/03912/F** External and internal refurbishment to the flats. Permitted 10 May 2022

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 was **15 June 2024**, although comments received after this date and before finalising this report have also been taken into account.

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.

- BANBURY TOWN COUNCIL: **support**
- CDC ENVIRONMENTAL HEALTH: **no comments**
- CDC BUILDING CONTROL: **no objection**, a building regulations application will be required

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 2015)

- ESD10 – Protection and Enhancement of Biodiversity and the Natural Environment
- ESD15 - The Character of the Built and Historic Environment

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C28 – Layout, design and external appearance of new development
- C30 – Design of New Residential Development

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Cherwell Design Guide (2018)
- Cherwell Home Extensions and Alterations Design Guide (2007)

9. APPRAISAL

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

- Design, and impact on the character of the area
- Residential amenity
- Ecology

Design, and impact on the character of the area

9.2. The proposed solar PV panels would be located on the front facing (south-west) roof slope and would necessitate the removal of the six false chimneys. The panels would be readily visible from the public domain and the loss of the chimney stacks would have an impact on the character and appearance of the locality.

9.3. While visually prominent, the application site is not sensitive and the application building is not of any particular architectural merit. Further, the proposed panels are low-profile and of an aesthetically clean design that would not result in any significant increase in bulk.

9.4. Overall, although as a general principle the removal of chimneys can lead to diminution of character, it is considered in this instance that that the proposed development would not appear dominant within the street scene or that the loss of the false chimneys would be significantly detrimental to the character and appearance of the area.

9.5. As such, the proposed development accords with Policy ESD15 of the CLP 2015 and retained Policy C28 of the CLP 1996 and government guidance contained within the NPPF.

Residential amenity

9.6. The proposed panels would be set within the existing roof slope and would not overhang the eaves. The proposals would not result in any change to the residential accommodation at the site.

9.7. As such, it is not considered that the proposed development would be to any detriment of the residential amenities in the locality in terms of loss of light, loss of outlook, loss of privacy or overbearing.

9.8. The proposed development therefore accords with Policy ESD15 of the CLP 2015 and retained Policy C30 of the CLP 1996 and government guidance contained within the NPPF.

Ecology

9.9. Policy ESD10 of the Cherwell Local Plan 2015 lists measures to ensure the protection and enhancement of biodiversity and the natural environment, including a requirement for relevant habitat and species surveys and associated reports to accompany planning applications which may affect a site, habitat or species of known ecological value.

9.10. Having considered Natural England's Standing Advice and taking account of the site constraints it is considered that the site has limited potential to contain protected species and any species present are unlikely to be adversely affected by the proposed development. As such no formal survey is required and in the absence of which this does not result in a reason to withhold permission. An informative

reminding the applicant of their duty to protected species would be included on the decision notice and is considered sufficient to address the risk of any residual harm.

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

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

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. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the form and following approved plans: Drawing 003A (Site and Location Plan) and TE0466-DTL-XX-RF-DT-E-9001 Rev P01.

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.

Informative Note

Ecology - Bats are a highly mobile species which move between a number of roosts throughout the year and utilise spaces within buildings such as tiles, soffits and loft areas. Therefore, all works must proceed with caution and should any bats be found during the course of works all activity in that area must cease until a bat consultant and Natural England has been contacted for advice on how to proceed. Under the Wildlife & Countryside Act 1981 (as amended) and the Habitat and Species Regulations 2017 (as amended) it is illegal to intentionally or recklessly disturb, harm or kill bats or destroy their resting places.

Birds and their nests are fully protected under the Wildlife and Countryside Act 1981 (as amended), which makes it an offence to intentionally take, damage or destroy the eggs, young or nest of a bird whilst it is being built or in use. Disturbance to nesting birds can be avoided by carrying out vegetation removal or building work outside the breeding season, which is March to August inclusive.

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