

**The Old Malthouse  
St Johns Road  
Banbury**

**18/01159/LB**

**Applicant:** Mr M Morrison Morrison Property Consultants Limited

**Proposal:** Change of use from B1(a) offices to provide 25 No residential apartments with ancillary parking, bin storage and amenity area (Resubmission of 17/02168/LB)

**Ward:** Banbury Cross And Neithrop

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

**Reason for Referral:** Listed building consent associated with a major development

**Expiry Date:** 27 September 2018      **Committee Date:** 20 September 2018

**Recommendation:** Refuse

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

### **Proposal**

The application seeks permission to convert the existing Grade II listed office into 25 flats. This would largely consist of internal works to create a new 2<sup>nd</sup> and 3<sup>rd</sup> floor to the building, including physical works to the roof structure. Some external works would also be undertaken including new windows and roof lights.

### **Consultations**

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

- CDC Conservation, Banbury Civic Society, Georgian Group

2 letters of objection have been received and 1 letter of support have been received.

### **Planning Policy**

The site is a Grade II Listed Building and lies within the Banbury Conservation Area. The application has also been assessed against the relevant policies in the NPPF, the adopted Local Plan and other relevant guidance.

### **Conclusion**

The report looks into the key issues in detail, and officers conclude that the proposal is unacceptable against the relevant policies for the following reasons:

1. Harm to the listed building through the alterations to the historic roof structure

## **RECOMMENDATION - REFUSE**

**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 is a Grade II listed former malthouse located on the corner of St Johns Road and Calthorpe Road to the south of Banbury town centre. It is also located within Banbury Conservation Area and within the setting of numerous listed buildings including the terrace properties to the south of the site on Calthorpe Road.
- 1.1. The property is an attractive brick building with a symmetrical frontage consisting of sash windows and stone and stucco detailing giving a grand appearance. It has the appearance of a two storey building from St Johns Road. The building was originally used as a maltings but has had a series of uses since then with its authorised use currently as a B1 Office use. The ground floor of the building has partially been converted to car parking with access provided to the western side of the building. Car parking also exists to the front of the site which sits perpendicular to the St Johns Road.

**2. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 2.1. The application seeks to address the reasons for refusal of the previous scheme (See section 3 below) by providing additional marketing information in relation to the loss of the employment use and also by providing amended details and additional information in relation to the impact on the listed building and conservation area.
- 2.2. The current application seeks consent to convert the office to 25 flats (22no 1 beds and 3no 2 beds). A planning application seeking planning permission for the works is also on this agenda (18/01158/F).
- 2.3. Internally a new ground floor flat would be provided in the south east corner of the building on an existing area of parking. The building currently has office accommodation across the first floor and also part of the second floor office at the eastern end of the building. The remainder of the second floor and space above consists of a large roof void which houses the complex roof structure of the building which is of historic interest.
- 2.4. The proposals would extend the second floor across the entire building (with the exception of three voids to the centre of the building in the communal area) and also introduce a new third floor at either end of the building. The floor space would then be divided into individual flats. A communal area would exist at the centre of the building at first floor level along with a second floor gallery area which would be open to the ridge. The internal works include a number of works to the roof structure as outlined below in the considerations section.

**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>
18/01159/LB	Change of use from B1(a) offices to provide 25 No residential apartments with ancillary parking, bin storage and amenity area	Pending Consideration

(Resubmission of 17/02168/LB)

77/00461/N	Change of use from storage of furniture to storage and distribution to the trade only of domestic electrical spare parts	Application Permitted
89/00498/N	Demolition of lean to store. Formation of first floor level offices with additional ground floor offices and car parking	Application Permitted restricted to Class B1(a)
05/00103/F 10/00221/F	and Erection of 1 No. detached dwelling (as amended by plans received 23.03.05 and plan Nos. P381/10B & P381/12B received on 19.04.05).	Application Permitted
15/01389/F	3 bedroom dwelling	Application Permitted
17/02167/F	Conversion of building from B1(a) Offices to 25 residential flats, with ancillary parking, bin storage and amenity area.	Application Refused
17/02168/LB	Conversion of building from B1(a) Offices to 25 residential flats, with ancillary parking, bin storage and amenity area.	Application Refused

- 3.2. The above applications 17/02167/F and 17/02168/LB were refused planning permission and listed building consent at Planning committee in February 2018 as the proposal was considered to result in a unjustified loss of an employment use without robust marketing contrary to Policy SLE1 of Cherwell Local Plan Part 1 (2015) and the proposal was also considered to result in unjustified harm to the significance of the listed building and conservation area as a result of the internal works to the building and the number of roof lights proposed.

#### 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>
17/00211/PREAPP	Residential conversion of 25 flats

It was advised that based on the information provided that the proposal would conflict with Policy SLE1. Limited information was provided in regard to the internal alterations and concerns were raised regarding the number of roof lights and terraces in the roof of the building and the impact this would have on the building. Concerns were also raised over the amenity of the neighbouring property and the future amity of some of the residents given the arrangement of the flats. It was also stated that the Council would be seeking an affordable housing contribution commuted sum. Concerns were also raised over the level of parking. Overall it was concluded that based on the information provided by the applicant officers would be unlikely to support the application.

#### 5. RESPONSE TO PUBLICITY

5.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, 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 09.08.2018, although comments received after this date and before finalising this report have also been taken into account.

5.2. Objections have been received by 2 parties and 1 letter of support has been received. The comments raised by third parties are summarised as follows:

- A company who are interesting in purchasing the site for an office stated they have been looking for larger office premises in Banbury and found very few offices of this size (8,000 – 12,000sqft) with good parking, open plan working environment, historic character, and close to the town centre and train station which would be beneficial for staff. Other offices in the Banbury do not often meet these requirements. Despite being shown around the building and making 3 offers (1 below asking price, 1 at asking price and 1 substantially higher than asking price) they were all refused. The 3<sup>rd</sup> offer remains open and they claim to be ready to proceed with the purchase. They state that the property is marketed for £750,000 but were informed the seller will only accept offers in excess of £1.8 million. They also state that the seller made it clear that they intended to file another planning application to turn the building into residential flats and were clearly not interested in pursuing a sale as an office. In reference to para 121 of the NPPF as the Council has a 5 year land supply and there is no need to convert the office to meet housing needs. Removing an office space would increase the likelihood of company moving it's highly educated and skilled workforce including, accountants, product designers and marketing professionals to another town or city. This isn't just a problem for Omlet. Without good offices and innovative growing companies, the town centre of Banbury will be much diminished and it's long-term vitality and viability will be harmed
- In favour of converting buildings in the town centre to residential. Assuming the historic feature of the building are retained and conserved the site would make an attractive residential block and would complement surrounding uses. It would appear there is little prospect of the building being used for offices.
- Overdevelopment of the site. Other development in the area were limited to fewer flats.
- Congestion and lack of car parking provision which is already stretched in local area.

5.3. The comments received can be viewed in full on the Council's website, via the online Planning Register.

## **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.

### PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

6.2. BANBURY TOWN COUNCIL: **No objections.**

## STATUTORY CONSULTEES

- 6.3. HISTOIC ENGLAND: **No comment.** Advise should be sought by Councils Conservation Officer.
- 6.4. GEORGIAN GROUP: **Object.** Acknowledge the fact that the applicant has gone some way to addressing concerns about loss of historic fabric but still feel that the number of rooflights is excessive. The justification presented is marginally more robust but essentially a series of modern intrusions into historic fabric were inserted to create rooflights – as visible in the 1929 photograph. These were then removed to put the roof back to its original early nineteenth century form. Maintain objection on the grounds that the number of proposed rooflights is excessive.
- 6.5. As previously stated the building is ‘a much-altered building whose main significance lies in its external shell, its unusual roof structure, its position within the streetscape’. The unusual roof structure is key to the significance of the historic building. Whilst they appreciate the fact that there is a desire to keep the majority of the roof trusses, they have concerns over the removal of sections and the raising of sections. This is the most significant fabric in the building and every endeavour should be made to protect it.
- 6.6. THAMES WATER: **No objections.**

## NON-STATUTORY CONSULTEES

- 6.7. CDC CONSERVATION: **Object.** The previous application was refused on the basis of lack of a robust marketing exercise and the ‘less than substantial’ harm to the listed building through the alterations to the roof, subdivision of the internal space and the number and extent of rooflights proposed on the building. No evidence had been provided that residential was the optimum viable use. The reasons for refusal have not been overcome in this latest application.
- 6.8. It is understood that a full marketing report is to be submitted, but regardless of this there is documented evidence of an offer for the building (for use as an office) above the asking price. Therefore unless it can be demonstrated the offer is not viable it is not possible to demonstrate that the building cannot be utilised for its current (office) use. The harm caused to the building is less than substantial, but is to the core significance of the building (the roof structure) as identified by the Heritage Impact Assessment. If the building were not capable of being utilised for any other use the harm caused could be justified by the public benefit of finding a new use for the building, but at the current time that is not the case.
- 6.9. The application has demonstrated that some of the vertical struts to be removed are of late 20<sup>th</sup> century origin and this has been confirmed on site, but there are still proposed alterations to the historic roof structure including the removal of and cutting of historic purlins and the alteration of location of some of the central, horizontal struts. There are also some concerns with the steel channels that are required for the new floors; the Design and Access Statement identifies that these are reversible, but it is unclear how if these are required for structural stability.
- 6.10. A number of changes have been made to the proposed number and location of rooflights and it has been demonstrated that historically there were a number of rooflights on the building that have since been removed. In comparison to the previous application the rooflights are more logically arranged and will have less of a visual impact, but still appear overly large where there are two sets of roof lights together. Insufficient information has been submitted to demonstrate that the

building is no longer viable in office use and therefore there is no justification for the harm caused to the historic fabric through the proposed alterations to the building.

- 6.11. BANBURY CIVIC SOCIETY: **Object.** The proposal still unacceptably harms the listed building in that it fails to preserve the large floorplates that are so characteristic of the building's original use; still fails to expose the fine and innovative roof structure across the full width of the building at any point (including the proposed atrium); and still provides inadequate detail about the degree to which the roof structure will be preserved or made apparent where it coincides with new walls. A number of struts are to be removed from the roof trusses (although there is no structural study to show that the roof will still function structurally without them). The extent of new rooflights is also now all too apparent also. The previous comments and observation of 'less than substantial harm' (below) thus remain unchanged.
- 6.12. Securing the optimum viable use of the building is supported by paragraph 196 of the NPPF. With regard to the importance of listed buildings finding their optimum viable use (i.e. the use that is viable but which also causes the least possible harm), they previously stated that in order to approve an application for subdivision for residential use, the Council must be satisfied that the current use (large open-plan office space) is no longer a viable use and that a marketing exercise would be needed demonstrate this. Comments have been received on the planning applications which demonstrate that the existing use as an open plan office is still viable. The harm is therefore not justified and they maintain objection to the proposed development, notwithstanding the recent changes.

## 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)

- ESD15 - The Character of the Built and Historic Environment

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

- C18: Development affecting a listed building

- 7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)

## 8. APPRAISAL

- 8.1. The key issue to consider is the impact upon the historic character, interest and fabric of the listed building, and the impact upon the significance of this designated heritage asset.

#### *Policy, Guidance and Legislation*

- 8.2. The purpose of the planning system is to contribute to the achievement of sustainable development and the Framework defines this as having 3 dimensions: economic, social and environmental. Also at the heart of the Framework is a presumption in favour of sustainable development and in the context of this application would include conserving and enhancing the historic environment.
- 8.3. The NPPF advises local planning authorities to take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. It also states when considering the impact of proposed development on the significance of a designated heritage asset, great weight should be given to the assets conservation irrespective of whether any potential harm amounts to substantial harm or less than substantial harm to its significance and requires any harm to have clear and convincing justification. It goes on to state that where development proposals will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including securing its optimum viable use. Policy ESD 15 of the Cherwell Local Plan echoes this advice.
- 8.4. Furthermore Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard shall be given to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 8.5. Saved Policy C18 of the CLP 1996 further advises of the Council's desirability of preserving the listed building or its setting or any features of special architectural or historic interest.

#### *Significance of the listed building*

- 8.6. The application is accompanied by a Heritage Statement which states, '*As a result of the several phases of quite radical internal changes to the building, the key elements in heritage terms of the building are the external shell – particularly the façade to St John's Road – and the broad roof structure with its very unusual and ambitious trusses. The rest of the interior is not considered to be of any great heritage value.*'
- 8.7. The Conservation Officer has also noted that the core significance of the building lies in its roof structure with its trusses spanning the width of the building and the 'surprisingly grand design' of the façade of the building. The design is unusual for a maltings in having just 2 floors, a large number of windows and an elaborate façade.
- 8.8. Given the changes to the buildings over the years there is minimal surviving visible evidence of the functional operation as a maltings however Banbury Civic Society and the Association for Industrial Archaeology have highlighted in the earlier application that the still largely open plan nature of the building also contributes to its significance as this preserves some of the character of its commercial use.

#### *Harm caused by previous scheme*

- 8.9. In the refused application it was considered that the harm caused by the development through the introduction of a significant number of roof lights, internal

alterations to the roof structure including loss of historic fabric, and further subdivision of internal spaces would all lead to harm to the key elements of the significance of the listed building which were not outweighed by the benefits of the scheme or justified particularly in light of the officers conclusions that the existing use of the building as an employment use may still be viable.

#### *Key heritage consideration*

- 8.10. Given the extensive historic alterations which have occurred the building most of the historic fabric inside the building has been lost. However the key element of significance relating to the internal part of the building is the roof structure with its trusses which extend the depth of the building and are noted to be usual and ambitious for the age of the building.

#### *Impact on Roof Structure*

- 8.11. The plans remain broadly similar to the earlier refused proposals. They have been developed in order to minimise the alteration to the roof structure as far as possible within the constraints of the applicant's desired quantum of development and seek to retain visibility of the roof structure where possible. This has been done by placing the new internal walls either side of the roof structure so the roof structure would remain visible within the building and not being totally concealed in new walls. A number of alterations are proposed to the roof structure to accommodate the use including:

- Cutting and removing the purlins in the location of the roof lights to allow for the roof lights to be inserted.
- At second floor level a number of the existing timber struts are situated at 1.7m above floor level and these are proposed to be cut and raised to allow access through them. Where this is occurring the end sections will be retained to allow the original roof structure can be read.
- Removal of a significant proportion of the two central purlins in the roof running through the proposed apartments at head height at second floor level. Part of this will be retained in the central atrium.
- Removal of a number of almost vertical struts in at second floor level to enable access through the flat although these are modern additions.
- Vents and roof lights are proposed on the flat roof element of the building.

- 8.12. All these elements result in some harm to the fabric and form of the roof structure which is a key element of significance to the building. Further harm is caused to the structure and fabric of the roof through works required to provide the additional floor space at 2<sup>nd</sup> and 3<sup>rd</sup> floor level including the insertion of channels to the existing trusses to allow for the insertion of the joists for the proposed floors. This would impact on the fabric of the roof and along with the proposed new internal walls would conceal elements of the existing complex roof structure in more permanent way than the former suspended ceiling did.

- 8.13. The applicant considers that a significant benefit of the scheme would be the removal of the suspended ceiling of the office to allow some of the trusses to be visible to the apex of the roof within the building. However the full width and extent of any truss in the building is not exposed at any point within the building and the more intensive subdivision of the space in other parts of the building restricts visibility of the existing trusses. Whilst it is accepted that in some locations within the building the trusses will be more visible than at present by users of the building, it is important to note that visibility and significance in heritage terms are very different concepts, and this is not considered to outweigh the identified harm.

### *Internal subdivision*

- 8.14. Whilst the existing internal division of spaces is entirely modern as noted above the wide open spaces of the building are contribute to the significance of the building as a former malt house and its commercial use. The residential conversion will lead to a much more intensive subdivision of the internal spaces than present in the office which would result in harm to the commercial character of the heritage asset and the more open nature of the existing roof structure where its complexity and scale can be understood.

### *Steel Support frames*

- 8.15. A number of steel support frames would need to be inserted in the building to support the additional load from the new floors. These would be bolted to the existing first floor concrete floor structure and bolted to the underside of the existing trusses. In the atrium they would be visible however elsewhere it is proposed they would be concealed in the walls.

### *Rooflights*

- 8.16. The number and arrangement of the roof lights proposed was also a concern in the earlier application. Further investigation has been undertaken by the applicant and the position of historical roof lights has been discovered. There is also evidence on some of the original rafters that indicate they were covered by lath and plaster at some point.
- 8.17. The proposal would lead to the removal of a number of modern roof lights which currently exist on the building and are arranged in a rather ad hoc arrangement and do not positively contribute to the significance of the building.
- 8.18. The proposed arrangement of the new roof light is less harmful than the original proposal as the arrangement restores the regularity to the roof scape which previously existed and many of the roof lights will occupy the position of historic roof lights. However the number and size of roof lights is still considered to be significant and result in harm to the external appearance of the building by dominating the roof scape which is another area of key significance.

### *New windows*

- 8.19. The proposal includes a number of new windows to the rear and side elevations of the buildings. There is no objection in principle to these alterations and they generally respect the character and form of the existing building with some utilising historic arrangements. There are some concerns regarding the style of the new new/altered door openings on the rear elevation of the building which upset the balance of the building however, revised details of these could be secured by condition to ensure their design is more in keeping with the 12 pane sash windows which characterise the building if the development was considered to be acceptable in all other regards.

### *Parapet and pediment*

- 8.20. The applicant has also stated that the proposal would lead to the rebuilding of the presently degraded parapet and central pediment however this benefit is not product of the change of use and could be undertaken separately if required.

### *Optimal viable use of the building*

- 8.21. In considering the heritage merits of the scheme securing the optimal viable use of the building is also an important consideration. The Planning Practice Guidance provides guidance on what a viable use of a heritage asset is and how it is to be taken into account in planning decisions (Paragraph: 015 Reference ID: 18a-015-20140306). It notes that putting heritage assets to viable use is likely to lead to maintenance and long term conservation and it is important that any use is viable, not just for the owner, but also the future conservation of the asset. For the reasons set out above regarding the loss of the employment use, the use of the building as an office is still considered viable.
- 8.22. Whilst it is accepted that the use of the building for residential use may also be a viable use the PPG advises that if there is a range of alternative viable uses, the optimum use is the one likely to cause the least harm to the significance of the asset, not just through necessary initial changes, but also as a result of subsequent wear and tear and likely future changes. It also notes that the optimum viable use may not necessarily be the most profitable one.
- 8.23. In this case the optimal viable use of the building is considered to be the existing office uses as this would allow the open plan nature of the building to be retained and also enable the existing significant roof fabric of the building to remain. Officers also do not consider there are any compelling reasons why the use of the building as an office would not be maintained to the same standard as the building in residential use as alluded to by the applicant and therefore the use of the building as an office is considered to be consistent with the long term conservation of the building.

#### *Conclusion and level of harm*

- 8.24. The applicants heritage assessment concludes by stating that if there is any harm resulting from the works, it is at the lowest end of the 'less than substantial' spectrum and considered negligible'.
- 8.25. However officers disagree with this and consider that the harm stemming from the loss of fabric to the roof structure, alterations to the roof structure, intensity of the subdivision of the space, the more permanent nature of the concealment of the roof and excessive number of roof lights would result in a more significant level of harm than the applicant conclude. It is important to note that this harm is to an area of the building which is key to the significance of the heritage asset.
- 8.26. In relation to the benefits of the scheme there would clearly be some social and economic benefits associated with the provision 25 flats, in a geographically sustainable location. However, the benefits associated with the provision of new dwellings are moderated by the fact that the Council can demonstrate a 5 year supply of housing sites. There would also be some limited benefit in opening up part of the central atrium to allow a greater appreciation of the extent of the roof structure
- 8.27. In light of the conclusions reached that the existing use of the building as an office is viable (outlined in the associated full application report) and having regard to the level of harm caused by the proposal to the core elements of significance of the building it is not considered that there is clear and convincing justification for the harm as required by the NPPF. It is also not considered there are other benefits of the scheme which would outweigh the harm to the heritage asset particularly when regard is had to the substantial weight this harm carries. The proposal is therefore considered to be contrary to Policy ESD15 and advice in the NPPF.

## **9. PLANNING BALANCE AND CONCLUSION**

- 9.1. Overall in balancing these matters it is considered that the proposal would lead to 'less than substantial harm' to the significance of the listed building by detrimentally impacting on two key elements of significance. This harm stems from the internal alterations to the roof to provide the residential accommodation, subdivision of the space and also the number and extent of roof lights proposed on the building. It is not considered that the applicant has adequately demonstrated that the existing use of the building as an office is no longer viable. Whilst there are social and economic benefits to the scheme these are not considered to outweigh the harm to the heritage asset. It is therefore recommended that listed building consent be refused.

## **10. RECOMMENDATION**

That consent is refused, for the following reason(s):

1. The proposed development would result in less than substantial harm to the significance of the listed building through alterations to the roof to provide the residential accommodation, subdivision of the internal space and also through the number and extent of roof lights proposed on the building. This harm is not supported by clear and convincing justification and it is not considered, based on the evidence provided, that residential use of the building is the optimum viable use of the building. The social and economic benefits arising from the scheme would not outweigh this harm. The proposal is therefore contrary to Government guidance contained within the National Planning Policy Framework, Policy ESD 15 of the Cherwell Local Plan 2011-2031 and saved Policy C18 of the Cherwell Local Plan 1996.

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