

**Caravan Park
Station Approach
Banbury
OX16 5AB**

18/00293/OUT

Applicant: Land Group (Banbury) Ltd

Proposal: Outline application for the development of car park and caravan park on land to the west of Banbury Railway Station to comprise up to 63 apartments all within Use Class C3; provision of vehicular and cycle parking together with all necessary internal roads and footpaths; provision of open space and associated landscape works; and ancillary works and structures.

Ward: Banbury Grimsbury And Hightown

Councillors: Cllr Andrew Beere
Cllr Claire Bell
Cllr Shaida Hussain

Reason for Referral: *Major application*

Expiry Date: 18 May 2018

Committee Date: 25 October 2018

Recommendation: Approve subject to Section 106 agreement

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

Proposal

This application is made in outline with all matters reserved except access. The application proposes up to 63 flats, including affordable housing. Vehicular access is proposed from Station Approach

Consultations

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

- OCC Highways, Environment Agency, NHS Oxfordshire Clinical Commissioning Group, and Banbury Town Council

1 letter of objection have been received from Network Rail as owner of Station Approach and statutory consultee

Planning Policy

The application site forms part of Policy Banbury 1 – Canalside redevelopment area. It is located within the town centre of Banbury, adjacent to the canal, River Cherwell, near to Banbury Train Station and adjacent to the Oxford Canal Conservation Area.

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

Conclusion

The key issues arising from the amended application details are:

- Principle of development
- Planning appeal history
- Loss of caravan site

- Access for cars and pedestrians
- Heritage impact
- Impact upon canal and river
- Drainage matters
- Environmental health matters
- Infrastructure

The report looks into the key planning issues in detail, and officers conclude that the proposal is acceptable subject to conditions and to the applicants entering into a legal agreement concerning affordable housing and the infrastructure contributions set out in the main report. The scheme meets the requirements of relevant CDC policies

RECOMMENDATION - GRANT PERMISSION SUBJECT TO CONDITIONS AND LEGAL AGREEMENT

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 a 0.56 hectare site situated in the area covered by Policy Banbury 1: Banbury Canalside. It lies between the Oxford Canal and River Cherwell. It is accessed off Station Approach via a road way that leads between a Chiltern Rail car park and a disused warehouse building. The site is currently in use as a residential caravan park with 18 pitches and the above mentioned car park. The site also includes a building used as a religious meeting room.
- 1.2. The site is bounded to the west by the Oxford Canal towpath from which it is separated by a 1.8 metre high fence alongside the current caravan site and by a wall and fence alongside the car park. The towpath is about 1.5 - 2.0 metres below the existing application site level. On the opposite side of the canal are various commercial buildings and uses in Lower Cherwell Street. To the south lie the modern warehouse/industrial units in Haslemere Way, which is accessed off Tramway Road. To the east the existing caravan site is bounded by the River Cherwell, which has extensive tree/shrub growth on both sides of the river. Further to the east is a fuel storage yard with above ground tanks and beyond that the station forecourt. To the east of the car park section of the application site lie disused brick buildings (although the surrounding yard areas are used as public car parking).

2. DESCRIPTION OF PROPOSED DEVELOPMENT

- 2.1. This application is made in outline with all matters reserved except access. The application proposes 63 flats. The application is accompanied by a revised illustrative site layout plan indicating that the flats would be accommodated in three buildings, three stories high. Affordable housing is proposed in accordance with Council policy.
- 2.2. Car parking for 62 cars is shown as being situated within an enclosed central courtyard, along the southern boundary of the site, between the northern building

and the remainder of the site, and alongside the access way. Revised illustrative elevations are also provided showing all buildings with pitched roofs, with the blocks facing the canal shown with multiple gables facing the canal and balconies.

- 2.3. The submitted drawings show the ability to provide an east-west through-route for pedestrians/cycles across the middle part of the site with allowances made for bridges across the river and canal. The application does not include the provision of these bridges or routes to them from the station forecourt and Lower Cherwell Street; those would need to cross third party land.
- 2.4. The application is also accompanied by
 - A flood risk assessment
 - A surface water drainage strategy
 - A transport statement
 - A phase 1 habitat survey report
 - A planning statement, and
 - A design and access statement

3. RELEVANT PLANNING HISTORY

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

17/01233/OUT Outline application for the development of land to the west of Banbury Railway Station to comprise 44 apartments all within Use Class C3; provision of vehicular and cycle parking together with all necessary internal roads and footpaths; provision of open space and associated landscape works; and ancillary works and structures.

Planning permission was refused in November 2017 on the grounds that:

1. The proposal for the development of this small part of the Canalside regeneration area is contrary to the requirements of Policy Ban 1 in that in the absence of a Supplementary Planning Document or detailed strategic site-wide masterplan it is not possible to form a view on how the proposal will fit in with the overall aspirations of the strategic site and how it will contribute towards the creation of a single integrated community. In these circumstances the proposal may prejudice the development of adjacent sites and may frustrate the provision of necessary infrastructure across the wider site.
2. The Local Planning Authority consider that the access way which will provide vehicular access to the site is inadequate to also serve as the pedestrian access to the site and whilst alternative access for pedestrians may be possible along the canal towpath this has not been secured through agreement with the land owner and a Section 106 agreement and will therefore be contrary to Policy SLE4 of the adopted Cherwell Local Plan.
3. In the absence of a satisfactory Planning Obligation, the Local Planning Authority is not convinced that the necessary infrastructure directly required both on and off site as a result of this development, in the interests of safeguarding public infrastructure, mitigating highway concerns, delivering mixed and balanced communities by the provision of affordable housing and securing future site maintenance arrangements will be provided. This would be contrary to Policy INF1, BSC2, BSC9, BSC11 and ESD7 of the adopted

- 3.2. The applicant appealed against that decision, and it was dismissed on 19 July 2018, but only the second reason for refusal was upheld. The following main aspects of the appeal decision are particularly relevant for the consideration of this application:-

Principle

- 3.3. On the first matter the Inspector concluded that the principle of the residential development of the caravan site part of this proposal is acceptable and would be in general accord with Policy Banbury 1. He said that the absence of a specific SPD for the Canalside area is not a reason why planning permission should be delayed or withheld for an otherwise acceptable development and that whilst he understood some of the Council's concerns about the illustrative layout that these could be dealt with at reserved matters stage.

Access

- 3.4. On the access issue the Inspector agreed with the Council that the access arrangements proposed were not suitable for the intensification of use that would result from the development in particular because of the lack of width for the shared surface access way. He therefore concluded that a safe and suitable access was not proposed and that the scheme should be refused on that basis.

Infrastructure

- 3.5. With regards to infrastructure contributions the appellants had submitted a Unilateral Undertaking. This document had a technical fault and therefore the Inspector did not give it any weight. However, he did comment on the acceptability of the various contributions offered.
- 3.6. The inspector found that the appellants offers concerning affordable housing, canal path upgrade, cemetery provision, footbridge contribution and waste collection would have been justified and satisfactory. With regards to the other contributions offered he found himself unable to comment as there was insufficient information on infrastructure requirements.
- 3.7. A main plank of the Council's case against the proposal was that in the absence of a SPD for Canalside it was not possible to establish a fair and equitable infrastructure contribution that individual sites should be making because the extent of the overall infrastructure needs of the regeneration area had not yet been established. The Inspector found this approach untenable. He said that whilst he agreed that it would be desirable to consider the wider infrastructure requirements as part of the overall Canalside regeneration area he did not consider that to be an essential criteria, and that the development must be assessed on its individual merits.

4. PRE-APPLICATION DISCUSSIONS

- 4.1. No pre-application formal pre-application discussions have taken place with regard to this proposal before it's submission. The application was held in abeyance pending the determination of the appeal. Discussions have been held since the appeal result was known to re-configure the proposal taking into account the Inspector's comments.

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 on the most recent submissions is 23.10.2018

5.2. No comments have been raised by third parties

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 **objected** to this proposal. When considering this application a number of issues that were of concern the Town Council:

The primary issues with this application stem from concerns raised by the planning inspectorate in the previous appeal. They relate to the proposed access and planning obligation arrangements concerning the proposed footbridges and canal towpath enhancements. Concerns have also been raised with district officers about the development being out of character with its surroundings thus not conforming to ESD 15.

Banbury Town Council objects to the revised proposal primarily on the basis of concerns surrounding access at station approach. We believe the proposed shared access would not be sufficient in width or safe enough to handle the potential increase in traffic thus not conforming to SLE 4. Members also expressed concerns with the site potentially being used for non-residential parking purposes and how this would be dealt with..

Any comments received from Banbury TC on the most recent revisions will be reported to Committee in the written update

STATUTORY CONSULTEES

6.3 OXFORDSHIRE COUNTY COUNCIL: initially **objected** to the proposal on the grounds that:

1. An appropriate transport statement had not been provided
2. Visibility splays for the access were not shown. It was unclear whether adequate visibility could be provided since Station Approach is not adopted highway and not in the applicant's control.
3. Details of pedestrian access along the access road were unclear
4. The block of apartments on the car park site did not appear to have any cycle parking.
5. The development proposal could prejudice the bus link along Station Approach required by Banbury Policy 1 and identified in the adopted Banbury Vision and Masterplan SPD.
6. Amendments were required to the Surface Water Drainage Strategy.

Revised Interim Response:

They further comment that an updated transport statement has been received, which is based on the original application for 44 dwellings but now includes the additional 19 dwellings in the block nearest to Station Approach. This predicts that the 19 dwellings will generate 4 additional 2-way movements in the am peak, and 5 in the pm peak. The overall increase over and above the movements associated with the current use, is predicted to be 9 2-way movements in the am and 9 in the pm peaks. This is a relatively small increase and not considered severe. It has minimal impact on the capacity of nearby junctions. **This overcomes our objection reason 1 above.**

At Appendix G of the TA, a drawing has been provided showing that visibility splays of 25m can be provided at the access junction onto Station Approach. This is adequate for the speeds surveyed, though it is still a slight risk that Station Approach is not public highway and not in control of the applicant. **However, this is sufficient to overcome our objection reason 2.**

No further details have been provided regarding the pedestrian access along the access road, or about cycle parking. **Objection reasons 3 and 4 still stand.**

Officer comment - it is anticipated that the revised plans will overcome reasons 3 and 4 above, and that reason 5 will be withdrawn

Objection reason 5 still stands.

An updated Surface Water Drainage Strategy has not been submitted. **Objection reason 6 still stands.**

Officers comment - Subsequently a Drainage Strategy has been submitted and OCC have indicated that they are content

OCC Education: raise **no objections** subject to Section 106 contributions being secured for nursery provision expansion at Harriers Banbury Academy. They do not seek contributions to primary, secondary or SEN provision solely due to the Regulation 123 of the CIL Regs which prevent pooling of contributions and the need to reserve their ability to seek contributions from larger developments in the area in future.

6.4 ENVIRONMENT AGENCY: **object** to the proposed development because there is an inadequate ecological buffer zone to the River Cherwell, and the proposed layout would result in permanent shading of the river channel. They recommend that planning permission should be refused on this basis. They comment that:

- the current proposal offers no ecological buffer between the River Cherwell and the development.
- The applicant has provided a standoff, but this offers no ecological value to local wildlife and the height of the buildings adjacent to the river would result in permanent shading of the bank and channel.
- The redevelopment of the site offers a rare opportunity to enhance degraded river habitat and create a wildlife corridor along the river.
- The riparian zone through Banbury is often heavily developed, leaving little room for wildlife.
- We would like to see the site layout reconfigured to provide an ecological a buffer of a minimum 10 metres in width, measured from the top of the bank, and the building height along the river reduce to ensure that the river and bank are not shaded.

- The new layout should include a scheme for providing new wildlife habitat which will buffer the river from the disturbance associated with development.

It has been suggested that this matter can be overcome by condition. The EA's response to that suggestion is awaited

6.5 THAMES WATER: comment that they have been unable to determine the waste water infrastructure needs of this application. Should the Local Planning Authority look to approve the application ahead of further information being provided, we request that the following 'Grampian Style' condition be applied - "Development shall not commence until a drainage strategy detailing any on and/or off site drainage works, has been submitted to and approved by, the local planning authority in consultation with the sewerage undertaker. No discharge of foul or surface water from the site shall be accepted into the public system until the drainage works referred to in the strategy have been completed." They also draw attention to public sewers crossing or close to the development, and ask that the applicants provide a drainage strategy.

6.6 CANAL AND RIVER TRUST: say that in their opinion as a statutory consultee the main issues relevant to them are

- a) Impact on the heritage, character and appearance of the waterway corridor
- b) Increased use of the towpath
- c) Impact on the structural integrity of the canal due to the proximity of the building to the canal.
- d) Impact on the structural integrity of the canal due to the drainage proposals.
- e) Impact on the biodiversity of the waterway corridor.
- f) Sustainable Energy

They considered that additional information, suitably worded conditions and a legal agreement are necessary to address areas of concern.

With regards to (a) above they say that the development would make a positive contribution to the canalside environment, towpath and to the setting of the Conservation Area. The scale, form and massing of the residential development, as indicated, seems appropriate to the location, and the importance of the canal corridor is recognised as part of those proposals. In principle, this element of the current proposals has the potential to make a positive contribution to the canal, and the overall townscape particularly if it becomes a primary link between the railway station and the town centre.

With regards to increased use of the towpath (b above) CRT seem not to have picked up upon the changed pedestrian access possibilities that the enlarged site provides, and still seek a substantial contribution to the upgrading to the towpath. Further discussion between the parties on this matter is necessary in the light of the development having no connection to the towpath, or at most a secondary access.

On the structural integrity of the canal (c) they note that the application is in outline only, and that layout is a reserved matter. However, the submitted details show the development in close proximity to the canal boundary

On issue (d) above they comment that the drainage methods of new developments can have significant impacts on the structural integrity, water quality and the biodiversity of waterways. It is important to ensure that no contaminants enter the canal from surface water drainage and full details should be submitted and agreed. This detail could be required by condition.

On biodiversity (e) they say the waterways have a rich biodiversity, with many areas benefiting from SSSI, SAC, SLINC or CWS designations. Developments can have an adverse impact on the ecology of the waterways.

Potential contamination of the waterway and ground water from wind blow, seepage or spillage at the site should be avoided and details of pollution prevention measures should be provided. They acknowledge that these issues could be addressed by the imposition of a condition requiring the submission of a Construction and Environmental Management Plan

Finally on sustainable energy (f) they note that the application is not supported by an Energy Statement. In accordance with Policy ESD3 of the adopted Cherwell Local Plan an energy plan setting out the proposals for the site should be included with any reserved matters submission.

The Trust wish to highlight the potential of using the canal for heating & cooling and this should be considered as an option within the energy plan for the site.

6.7 HISTORIC ENGLAND: Comments awaited

NON-STATUTORY CONSULTEES

- 6.8 NHS OXFORDSHIRE CLINICAL COMMISSIONING GROUP (OCCG): would like to register an **objection**. OCCG notes (as submitted to Cherwell DC in January 2017 for inclusion in the Infrastructure Development Plan) that primary medical care in North Oxfordshire is mostly at capacity, and further housing growth will require additional or expanded infrastructure to be in place. OCCG therefore object to this application pending agreement of appropriate contributions to primary care infrastructure. We would be seeking a developer contribution of £54,432 to support improvement of local primary care infrastructure if this development were to go ahead. This calculation is based on OCCG's adopted policy to use a calculation of $2.4 \times \text{number of dwellings} \times £360$ for contributions to health infrastructure. The size of this development does not justify a new separate health centre or equivalent, so we would anticipate funds being used for enhancing existing primary care medical infrastructure to meet the needs of a growing population. We would wish to engage in detailed discussion about the developer contributions for this development.

- 6.9 NETWORK RAIL **objects** to the use of the station roadway as a proposed new access and egress to the applicant's property for residential development purposes as it will result in increased use of the station roadway and have a detrimental impact on station customers gaining access to and exiting the station. The station entrance/exit is via a heavily congested junction, and the additional number of vehicles generated by the proposed new development, would exacerbate the situation and have an adverse impact on the operation of the station and Network Rail's ability to gain urgent access and egress to their property including the railway/depot. The proposed use would also lead to additional wear and tear on Network Rail's station roadway.

In addition Network Rail (as a landowner) is not aware of any formal pedestrian and vehicular access rights over their property, along the station approach roadway between Bridge Street and the applicants property, for the proposed residential use. Network Rail therefore objects to the applicant gaining this proposed access over Network Rail's property unless the applicant is able to provide documentary evidence to Network Rail that they have sufficient access rights over Network Rail's freehold to serve their proposed residential development, whereupon Network Rail would withdraw this specific objection. It is also noted that the applicant has not included the access roadway leading to their development within the attached

redline boundary. The proposal also identifies potential links from the development to the station which will require the consent of Network Rail (and Chiltern Railways) subject to agreement of commercial terms and a formal legal agreement subject to railway and regulatory approvals.

6.10 CDC ENVIRONMENTAL PROTECTION comments on various aspects as follows:-

- Noise: suggests conditions on protecting the flats from noise, and a Construction Environment Management Plan (CEMP)
- Contaminated Land: suggest the normal contaminated land conditions will need to be applied to any approved permission.
- Air Quality: No comments.
- Odour: There is a potential for the proposed residential properties to be affected by odour coming from the nearby industrial and commercial units which should be taken into account and assessed. If mitigation is required this should be in place prior to the first residential occupation.
- Light: No comments

6.11 CDC INVESTMENT AND GROWTH TEAM, REGENERATION AND HOUSING

On a development of 63 units, we would expect that 19 would be Affordable Housing. This is 30% of the total in line with our Affordable Housing Policy for developments in Banbury. Our current policy mix is for 70% of the affordable housing to be for affordable rent with the remainder being shared ownership. The tenure mix should therefore be:-

Affordable Rent

10 x 1 bed (2P) flats

4 x 2 bed (3P) flats

Shared Ownership

5 x 2 bed (3P) flats

The indicative clustering of the affordable units is not acceptable as all of the units should not be clustered together. We would expect in this type of development that there would be no more than 8 units in one cluster.

We would expect that 50% of the rented housing is built to Lifetime Homes standards and comply with part M4(2) of the Building Regulations.

I note that only 63 parking spaces are provided for the scheme as a whole and would suggest that this number needs to be increased as the units are not all one bedroom. The parking for the affordable units should then be proportionately consistent with the total number for the whole site.

The Registered Provider taking on the affordable housing units would need to be agreed with the Council.

6.12 CDC PLANNING POLICY: No comments received

6.13 CDC LEISURE Clarification of their requirements on sports facility and community hall contributions are awaited.

6.14 CDC CONSERVATION - comments on revised proposals awaited

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)

- Policy Banbury 1 : Banbury Canalside
- Policy BSC2: Effective and efficient use of land
- Policy BSC 3: Affordable Housing
- Policy BSC 6 : Travelling Communities
- Policy ESD 6: Sustainable Flood Risk Management
- Policy 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

7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Adopted Banbury Masterplan 2016
- Planning Policy for Traveller Sites 2015 (PPTS)
- Draft Banbury Canalside SPD 2009

8. APPRAISAL

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

- Principle of development
- Planning appeal history
- Loss of caravan site
- Access for cars and pedestrians
- Heritage impact
- Impact upon canal and river
- Drainage matters
- Environmental health matters
- Infrastructure

Principle of Development

- 8.2 Policy BAN1 of the adopted Local Plan provides a detailed policy for the regeneration of the Canalside area and the assessment of applications within the area. It proposes that the area will contain 700 houses and 15,000 m2 of commercial and town centre uses (the latter in the northern part of the site). The policy sets out the infrastructure needs for the development and a whole raft of key site specific design and place shaping principles.

Key relevant site specific design and place shaping principles in Policy BAN 1 are set out below:

- Proposals should comply with Policy ESD15
- A distinctive residential proposition for Banbury that integrates well and helps make connections with the adjoining town centre and Railway Station
- An appropriate location for higher density housing to include a mixture of dwelling styles and types
- A high quality design and use of innovative architecture, including the use of robust and locally distinctive materials, which reflect the character and appearance of Banbury, respect the setting of the retained historic buildings and in particular reference the canal side location
- Taking advantage of the accessibility of the town centre, an age friendly neighbourhood with extra care housing and housing for wheel chair users and those with specialist supported housing needs
- A layout that maximises the potential for walkable neighbourhoods and enables a high degree of integration and connectivity between new and existing communities. New footpaths and cycleways should be provided that link to existing networks, with provision of a designated pedestrian and cycle route from the station to the town centre over the canal and river and a new pedestrian / cycle bridge over the railway
- New pedestrian and cycle bridges erected over the Oxford Canal and the River Cherwell to enable and encourage walking and cycling through the site
- The River Cherwell should be maintained in a semi natural state and mature trees should remain
- Provision of a landscape corridor along the edge of the river to facilitate a footpath and cycleway on one or both sides for the length of the river through Canalside to link the open countryside of the Cherwell Valley to the south with Spiceball Park to the north
- Open/urban spaces provided in various locations within the site and new trees planted
- The implementation of proposals in the Movement Strategy including improved junction arrangements on Bridge Street and Cherwell Street to improve traffic capacity but also to facilitate pedestrian movement between the town centre and Canalside
- Parking provision that complies with County Council's Parking Standards for new Residential Developments Policy and will not exceed maximum standards. Some car free areas or areas of reduced levels of parking with innovative solutions to accommodating the private car
- A transport assessment and Travel Plan to accompany development proposals
- Development fronting on to the canal and public access to and from the canal
- Preservation and enhancement of the biodiversity value of the site, with the enhancement, restoration or creation of wildlife corridors (recognising the importance of the river and canal corridors)
- Provision of sustainable drainage in accordance with Policy ESD 7: Sustainable Drainage Systems (SuDS), taking account of the recommendations of the Council's Strategic Flood Risk Assessment
- Compliance with policies ESD 1-5 on climate change mitigation and adaptation
- Take account of the Council's Strategic Flood Risk Assessment for the site

Additional requirements for this large complex site include:

- Development proposals will be expected to be in accordance with a Supplementary Planning Document (SPD) for the site. Ideally proposals should come forward for the whole site accompanied by a detailed masterplan but applications for parts of the site may be permitted provided that they clearly demonstrate their proposals will contribute towards the creation of a single integrated community. Applications should cover significant land area within the site in order to achieve continuity in design and delivery of the vision. Reduced levels of open space may be considered if it can be demonstrated that high quality urban spaces are being provided within the scheme and strong links are being provided to the open areas to the north and the south by improvements to the Canal walkway.
- The Canalside area falls primarily within Flood Zones 2 and 3 at present. It has been subject to flooding in recent years and the Environment Agency (EA) has completed a scheme to provide flood alleviation to the town centre. The scheme will provide a defence for flood events up to the 1 in 200 year (0.5% annual probability) by constructing a flood storage area upstream of the town centre and bunds in places in the Canalside area. To assess the potential flood risk in the Canalside area, a level 2 Strategic Flood Risk Assessment has been undertaken to assess both the fluvial flood risk to the development proposals from the River Cherwell and the flood risk associated with the Oxford Canal. This confirms that with the implementation of the Flood Alleviation Scheme and the implementation of other measures on the site the site can be redeveloped safely. Applications will be required to follow the requirements set out in the Strategic Flood Risk Assessment and a detailed Flood Risk Assessment (FRA) for the site will be required with any planning application include further consultation with landowners and businesses.

8.3 Para C.137 of the Local Plan and the latter part of the Policy indicate that a Supplementary Planning Document (SPD) will be prepared for the site and that applications will be expected to be in accordance with that SPD. The Policy can be read in full in the Local Plan. The Canalside SPD has yet to be formulated.

8.4 In December 2016 the Council adopted the Banbury Vision and Masterplan as a supplementary planning document. That document includes proposals to connect the town centre to the rail station and has a section that identifies the key urban design and development principles for strategic sites identified in the Masterplan including the Canalside area. It includes the following statements:

- Canalside is a strategic site, which has the potential to have a profound effect on the long term vitality and attractiveness of the town centre. It is located between the railway station and the retail heart of the town, but is separated from it by the busy Cherwell Street. The development area extends to approximately 20 hectares and includes land to the east of Cherwell Street and to the south of Bridge Street. It has the potential to play a vital role in enhancing activity in the town centre by the relocation of traditional employment uses to more appropriate sites and developing the land for residential, mixed use and related town centre uses. It can also play an important role supporting the planned investment in the railway system, by improving connectivity between the station and the town centre and by providing development opportunities next to the station.
- Canalside can become a vibrant, modern, mixed-use quarter containing residential, office, commercial and retail uses. There is the potential for higher density development to the north of Canalside and close to the town centre, and lower density residential development to the east of Tramway. In some places

reduced levels of car parking may be appropriate considering that some living near to the town centre may have less need for access to a private car. The density can be achieved with a majority of family homes on the south and east of the development area, with apartments and three storey town houses to the north and closer to the town centre.

- Cherwell District Council will need to lead the redevelopment process by preparing a SPD, promoting change, investing in infrastructure and enabling the development.

- 8.5 An appendix to the Masterplan contains an urban framework plan and a list of key principles. This can be seen on the Council's web-site.
- 8.6 In the absence of a Canalside SPD it is difficult to form an accurate assessment of the way in which this small (but now enlarged) site would integrate into this wider regeneration and development opportunity. In your officers opinion the appeal site should have been brought forward in conjunction with the areas of land to the north, so that all of the area between the canal and the river, north of Haslemere Way could be considered together.
- 8.7 The site has now been enlarged to take in the car park land adjacent to Station Approach. It now only lacks the small warehouse site at the north-eastern corner of the land between the river and canal. This is a substantial improvement over the previously refused scheme, and given the Inspectors comments it is considered acceptable to approve the principle of residential development of this scale at this time.
- 8.8 However, without clear knowledge of the likely land uses and form of development to west and east on the opposite sides of the canal and river respectively it still cannot be guaranteed that this development will not prejudice what may be promoted on those sites.
- 8.9 Whilst the illustrative plans show the opportunity to form bridges across the canal and river, it is not known, and will not be known until the adoption of an SPD, whether these necessary connections are in the right place. The illustrative layout plan now shows the possibility of providing a pedestrian and cycle connection across the site in a central location, rather than the previously shown route at the most southern end. Connections to west and east seem more likely to be able to be achieved on this alignment and again therefore it is considered that this scheme is now approvable.

Loss of caravan site

- 8.8 The site currently contains a caravan site which has been included in the Council's gypsy and traveller site provision. Policy BSC 6 of the adopted Local Plan deals with the issue of making provision for the needs of the travelling community and Para B.139 of the Local Plan specifically refers to the need to ensure re-provision of any loss as a result of the Banbury Canalside proposals.
- 8.9 In the Annual Monitoring Report 2016 it was demonstrated that there continued to be a need to provide new pitches for travellers and gypsies as the Council cannot currently demonstrate a five year supply. The recently published GTAA identifies a need for 7 additional pitches for households that match the re-defined definition of who constitutes a traveller or gypsy. The study also identifies a need for up to 20 additional pitches for unknown households (where it is not possible to distinguish whether or not they meet the new planning definition). Current occupiers of the site may well fall into this latter category.

- 8.10 The national Planning Policy on Traveller Sites (PPTS) states (para.21 of Policy G) that local planning authorities should work with the planning applicant and the affected traveller community to identify a site or sites suitable for relocation of the community if a major development proposal requires the permanent or temporary relocation of a traveller site. Local Planning Authorities are entitled to expect the applicant to identify and provide an alternative site, providing the development of the original site is authorised.
- 8.11 The applicant's agent does not accept that this is a site to which the above policies apply as the tenants are considered to be non- gypsy and non-traveller, but in any event they seek to demonstrate that the current owner also owns or controls other sites that his tenants could move to. These were listed in the previous application as being in Mollington, two in Coventry, Shipston on Stour and Trowbridge. There must be some doubt attached to this assertion as it is claimed that none of the previous tenants are gypsy/travellers but the Mollington site only has permission for occupiers who comply with the definition of gypsy and travellers. Furthermore the other sites are considered too far distant to meet the needs of these tenants who presumably would wish to remain Banbury based. A further site to the south of Tramway Road has also been tabled, but this seems to be unlikely to be acceptable.
- 8.12 Discussions with the County Council Gypsy and Travellers Officer have confirmed that none of the previous caravan pitch occupiers are Gypsies and Travellers, and that it may be some time since such occupiers have used the facility. Furthermore that permission granted in the 1970s was not specifically for or limited to such occupiers. In these circumstances your officers consider that a refusal based on the loss of this facility could not be sustained at appeal.

Highway Matters

Traffic

- 8.13 As detailed at para 6.3 above, following receipt of amended plans OCC as LHA have no objections with the traffic generated by the proposal. They therefore do not share Network Rail's concerns about congestion on Station Approach.

Vehicular and Pedestrian Access

- 8.14 In the former application both vehicular and pedestrian means of access to Station Approach were proposed to be solely provided via the existing access way which passes between the car park and commercial buildings to the north of the site. This was narrow. Whilst it was wide enough to allow two cars to pass with care, it was not sufficient for wider vehicles to pass one another. There was no separate protected provision for pedestrians who would have to share this width. That application was amended to provide an additional pedestrian access to the site via the canal towpath, but the Council still considered the access arrangements to be unsatisfactory. The Inspector agreed and this was the main point on which the Inspector dismissed the appeal.
- 8.14 As already explained the site has now been enlarged to take in the surface car park north of the original site. This solves the issue of the width of the access, allowing a sufficient carriageway width to accommodate two way traffic and a pavement. Notwithstanding OCC's continued concern about pedestrian access your officers are content that the illustrative layout demonstrates that adequate provision can be made

Cycle Parking and Bus Link

- 8.15 OCC concerns about cycle parking can be dealt with by condition. Their concern about the scheme potentially prejudicing the bus link inherent in the Canalside proposals are not shared, and this objection has now been withdrawn in any event.

Towpath

- 8.16 The Canal and River Trust continue to seek a contribution towards the improvement of the towpath, which they assume will be more heavily used by residents accessing their property. Limited information has been provided by the CRT to justify this assumption. The revised illustrative layout does not show any connection to the towpath, albeit it is possible to conceive of future layouts that might include such a provision. Discussions are to be held with CRT and the applicant about how to progress this matter.

Connections

- 8.17 Policy BAN 1 and the masterplan identify the need to improve connectivity within Canalside and between the rail station and the town centre, and that this would require the provision of more crossings across the canal and river. This application proposal recognises that need and shows positions where these could be placed leading to and from their site.
- 8.18 The County Council has suggested a formula by which bridge contributions could be calculated and the applicants have indicated their willingness to contribute to that extent. In assessing the earlier application your officers considered that only through the mechanism of an SPD could the infrastructure requirements of the Canalside be identified and quantified and their costs apportioned to individual developments. This was seen as further evidence of how that proposal was prejudicial to the wider delivery of the regeneration proposals and was premature to the conclusion of the SPD. Members will have seen that this view was not accepted by the Inspector, and these current arrangements are therefore considered acceptable.

Heritage impact

- 8.19 The Oxford Canal (and its towpath) and the land between the canal and Lower Cherwell Street is a Conservation Area. A brick commercial building on the opposite bank of the canal is a locally listed building. The listed former town hall building in Lower Cherwell Street lies further away to the south on Lower Cherwell St. The redevelopment of this site for 3 storey residential use is considered acceptable and the change from a caravan site and an open car park can be seen as positive improvements to the setting of the Conservation Area.
- 8.20 The application is accompanied by illustrative elevations which show building positions and designs which are considered by your officers to be likely to be acceptable, although the CRT had changed its position from supporting the earlier scheme to having reservations about the northern element of the new scheme (note - the illustrative plans have been subsequently changed to show the same format of development on both parts of the site) Of course the illustrative elevations are not for formal consideration at this time. Consequently it is considered that the development could be undertaken in such a way that it will not cause harm to the character or appearance of, and setting of the Conservation Area, nor will it be detrimental to the setting of the locally listed building, and that these issues can be addressed further at reserved matters stage.

Impact upon the canal and river

- 8.21 With regards to the canal other than heritage which is discussed above there is also the need to consider the impact upon the structural integrity of the canal due to the proximity of the building to the towpath and its ecology (Drainage issues are discussed below under a separate heading)
- 8.22 The Canal and Rivers Trust point out that land stability is a material consideration. Both the buildings and any ramps to the towpath have the potential to impact upon the stability of the canal infrastructure. This matter can be adequately dealt with at outline stage however by the imposition of a condition requiring that the details of all earth moving, excavations, and foundation design should be submitted to and approved by the local planning authority.
- 8.23 Clearly both the canal and the river have rich biodiversity. The Canal and River Trust express concern about the potential for a detrimental impact upon the biodiversity of the canal through the construction period and consequently wish to see a condition requiring a construction and environmental management plan attached to any permission granted. On the previous application the CDC ecologist noted that the phase 1 habitat survey provides good baseline information on all matters except the potential impact upon otters.
- 8.24 The Environment Agency have objected to the scale of development and its proximity to the river channel. They advise that a 10 metre wide buffer should be provided between the buildings and the top of the river bank and that buildings on that side of the site should be reduced in height. It has been ascertained that a 10m wide buffer zone can be provided without impacting upon the delivery of the number of housing units proposed, as this is now shown on the amended illustrative layout, and that reducing height of the block on this side of can be looked at during detailed design at reserved matters stage. It is suggested that there are good opportunities to provide ecological enhancement as a function of this development through landscaping, provision of bat and bird boxes etc.

Drainage Matters

- 8.24 The site lies within a wider area that is within Flood Zones 2 and 3 albeit that it is provided with protection from flooding by the Banbury Flood Alleviation Scheme. The application site itself however is a small island of Zone 1. The Environment Agency raise no objections with regards drainage provided that the submitted Flood Risk Assessment measures are carried out. OCC's previous objection on drainage grounds has been withdrawn.

Environmental Health matters

- 8.25 Issues related to noise, construction environmental and contaminated land can be dealt with by condition. The EPO also draws attention to the potential for the proposed residential properties to be affected by odour coming from the nearby industrial and commercial units.

Infrastructure

- 8.26 Given the housing mix proposed (26 x 1-bed and 37 x 2-bed) the level of education contributions is relatively low and as a consequence of the CIL Regulations OCC do not consider that contributions are warranted for anything other than nursery school provision . A contribution of £39,462 has been requested by OCC for the footbridges and discussions on this is a matter of continued discussion with the applicant and OCC.

8.27 The liability for infrastructure contributions on this strategic housing site would ideally be assessed on the basis of the emerging SPD for Canalside. Such matters as transport, education, sports facilities, open space and play provision (amongst others) need assessing holistically so that a fair apportionment per housing unit can be established in cases where the site is coming forward in a non-comprehensive way (as in this case). However, this viewpoint was not accepted by the Inspector in determining the appeal. The applicant content with the majority of the requests received (subject to assessing final justifying evidence)

8.28 The legal agreement is likely to cover

- Affordable housing as previous UU
- Canal towpath contribution – This matter is still being discussed by the applicant and CRT
- Cemetery contribution – as previous formula
- Community hall contribution – pro rata increase from previous UU on the basis of 63 units rather than 44
- Footbridge contribution calculated on basis set out in OCC response
- Health and well-being contribution with pro rata increase as above
- Public art contribution with pro rata increase as above
- Sports facility contribution with pro rata increase as above
- Waste contribution with pro rata increase as above
- Education contribution as revised in latest correspondence

This will cover all of the infrastructure contributions etc. that can reasonably be required from this development

PLANNING BALANCE AND CONCLUSION

- 9.1. The enlargement of this site from the scheme previously refused and dismissed at appeal has resulted in the provision of an acceptable vehicular and pedestrian access, that being the only matter upon which the appeal Inspector agreed with the Council in its previous refusal of permission.
- 9.2. During the life of this application the illustrative plans and accompanying Design and Access Statement have been amended to produce an outline scheme that demonstrates that a comprehensive, rather than piecemeal, development can be achieved on this site, and subject to conditions, will ensure that the quality on this site will set the standard for other development on nearby sites.
- 9.3. Whilst it is unfortunate that the Inspector did not accept our arguments concerning the issues caused by having to consider approving the scheme in advance of an SPD for the Canalside area in terms of the connectivity through the site and the appropriate level of contributions, your officers consider that the pedestrian/cycle route now shown across the site and the negotiated Section 106 package of infrastructure contributions are satisfactory. Overall therefore the latest scheme is considered acceptable.

10. RECOMMENDATION

Delegate to the Assistant Director of Planning Policy and Development to grant planning permission, subject to:

- No new material considerations being raised by consultees and third parties to the amended plans
- Completion of a planning obligation under Section 106 of the Town and

Country Planning Act 1990, as substituted by the Planning and Compensation Act 1991, in accordance with the summary of the Heads of Terms set in para 8.28;

- Conditions relating to the matters detailed below (the exact conditions and the wording of those conditions to be delegated to the Assistant Director for Planning Policy and Development).

Draft summary of conditions, detailed conditions will follow in written updates

1. Standard condition requiring submission of all reserved matters except access
2. Reserved matters to be submitted within 3 years
3. Development to be undertaken within 2 years of approval of reserved matters
4. Development in accordance with application forms, and in general accord with site layout and revised Design and Access Statement
5. Provide 10 metre ecological buffer zone to river
6. Full details of access including pedestrian access to be submitted
7. Cycle parking required to OCC standard
8. Layout plan to accommodate turning of refuse vehicle
9. Construction Traffic Management Plan required
10. Surface water drainage scheme details
11. Development in conformity with FRA and set floor levels
12. Require construction methodology and management plan with particular reference to impact upon the canal and river
13. Foul and surface water drainage details required
14. Construction and environment management plan required
15. Contamination investigation
16. Contamination mitigation if found
17. No occupation until contamination mitigation completed
18. Protected species survey and mitigation
19. Biodiversity enhancement method statement required
20. Require Energy statement
21. Require noise report

CASE OFFICER: Bob Duxbury

TEL: 01295 221821