

Case Officer: James Kirkham

Applicant: Gigo Leisure Ltd

Proposal: Part three storey, part two storey development of 14 flats with ground floor commercial units, on land to rear on 7 High Street and car parking area to rear accessed from George Street

Ward: Banbury Cross And Neithrop

Councillors: Cllr Hannah Banfield
Cllr Surinder Dhesi
Cllr Cassi Perry

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS AND SUBJECT TO A S106 LEGAL AGREEMENT

Proposal

The current application seeks permission to redevelop the site (a service yard) for a mixed use development comprising commercial space on the ground floor and 14 flats on the upper floors.

Consultations

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

- Banbury Civic Society

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

- Banbury Town Council, CDC Strategic Housing, OCC Highway, Archaeology, OCC Drainage, Thames Water

1 letters of support has been received.

Planning Policy and Constraints

The site lies within the area identified as Banbury Town Centre shopping area. It also lies within Banbury Conservation Area. The application has also been assessed against the relevant policies in the NPPF, the adopted Local Plan and other relevant guidance as listed in detail at Section 8 of the report.

Conclusion

The key issues arising from the application details are:

- Principle of development
- Heritage, design, and impact on the character of the area
- Residential amenity
- Highways
- Affordable housing
- Ecology impact
- Infrastructure
- Other matters

The report looks into the key planning issues in detail, and Officers conclude that the proposal is acceptable subject to conditions and a 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. The application site is a service yard to the rear (south) of properties onto the High Street in Banbury Town Centre. The site is currently laid to hard standing with a vehicle access from George Street with palisade gates. The remainder of the site is surrounded by a brick wall. Pepper Alley runs along the eastern boundary of the site and the car park serving Lloyds Bank exists to the west of the site.

2. CONSTRAINTS

2.1. The application site is within Banbury Conservation Area and also within the setting of a number of listed buildings which are predominantly situated on the High Street. The site is noted as potentially contaminated land and also is identified as an area of high levels of radon. There are records of bats and swifts within 250m of the site.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

3.1. The current application seeks permission for a mixed use development on the site. This would include commercial development on the ground floor (flexible use class A1, A2, A3, B1 and D1 use) with 14 flats provided on the upper floors of the building. The building would be sited with frontage onto George Street and Pepper Alley with a 3 storey building along the George Street frontage and the southern part of the Pepper Alley frontage. The building would then reduce to two storeys along the remainder (northern part) of the Pepper Alley frontage. The building would be constructed of a mix of brick and render with a series of pitched roofs in slate.

3.2. A rear parking court providing 18 parking spaces would be provided on the site accessed via a drive thru element of the building from George Street.

3.3. The form, massing and detailed design of the development has been amended during the course of the application and the officer assessment in this report is based on the latest set of amended plans.

3.4. *Timescales for Delivery:* The applicant has not indicated the timescale for delivery of the site.

4. RELEVANT PLANNING HISTORY

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

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
07/01040/F	Installation of new security fencing and access gates to rear of property	Application Refused

08/01968/F	Two/three storey office development (as amended by drawing numbered PL02-RevC received 11.11.08 with agent's email of same date and drawing numbered PL01-RevC received 12.11.08 with agent's email of same date).	Application Permitted
11/00559/F	Extension of time-limit of 08/01968/F - Two/three storey office development (as amended by drawing numbered PL02-RevC received 11.11.08 with agent's email of same date and drawing numbered PL01-RevC received 12.11.08 with agent's email of same date).	Application Permitted
18/00027/SO	Three storey development of flats, with 3 No ground floor commercial units, on land to rear of 7 High Street. Car parking area to rear accessed from George Street.	Screening Opinion not requesting EIA

5. PRE-APPLICATION DISCUSSIONS

- 5.1. The following pre-application discussions have taken place with regard to this proposal:

<u>Application Ref.</u>	<u>Proposal</u>
17/00004/PREAPP	A new development of 26 flats in a mixture of one and two bedrooms with 28 car parking spaces. The development is arranged in two buildings with one unit on the George Street frontage with a further building running at right angles into the site. These buildings will form a new square off Pepper Alley

- 5.2. The principle of redeveloping the site was supported. It was considered that residential at ground floor level was not appropriate and that commercial uses should be explored for a mixed use development. Information in relation to the loss of the service yard was also requested. The design put forward proposed the building set away from Pepper Alley and the creation of a parking square. This was not considered to be appropriate for the Conservation Area, which is characterised by traditional properties being located immediately to the back edge of the highway. Concerns were raised relating to the proposal for 3 storey development across the site and the detailed design of the building due to its scale, mass and design. Advice was also provided on affordable housing levels and highways matters.

6. RESPONSE TO PUBLICITY

- 6.1. 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 14.03.2019, although comments received after this date and before finalising this report have also been taken into account.

6.2. The comments raised by third parties are summarised as follows:

- Support the proposal which could make a valuable contribution to additional to residential population in the Town Centre and which could improve the viability and vitality of the area.
- Incentives should be given to existing businesses in more peripheral locations to occupy the site and focus the commercial uses in the town centre.

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

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.

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

7.2. BANBURY TOWN COUNCIL: **No objection**; considers the amended design is better and more sympathetic to the Conservation Area. In order for the design to overcome the shortage of allocated parking spaces, would encourage the applicant to provide the recommended 43 cycle parking spaces.

CONSULTEES

7.3. CDC CONSERVATION: Comments awaited on the amended plans. Previously raised a number of concerns regarding the design and detailing of the proposal.

7.4. CDC PLANNING POLICY: **No objection**. The principle of the development is broadly supported subjected to detailed considered relating to housing mix, design, access and parking.

7.5. OCC HIGHWAYS: **No objections** subject to conditions on access, surface water drainage, cycle parking provision and a construction traffic management plan. The vehicle access has been widened to 4.1m in accordance with earlier comments. The footway adjacent to the access should have a standard width for its length as it currently narrows at either end. The parking is in accordance with the guidelines for unallocated spaces and need to be to the required dimensions. The commercial units may use the spaces as they are not allocated spaces; however, it is noted it is not unusual for a town centre location.

7.6. 30 cycle parking spaces are provided in accordance with the previous advice (1 per bedroom and 8 visitor spaces). These spaces should all be covered.

7.7. CDC STRATEGIC HOUSING: **Comments**. 30% affordable housing equates to 4 units. The affordable units are all clustered in one block and all are 1 bed in accordance with earlier comments. All the flats should be affordable rent. Raises some concern regarding the size of the second floor flats in relation to the National Space Standard.

7.8. CDC ENVIRONMENTAL PROTECTION: **No objection** subject to conditions on noise report, construction environmental management plan, ground investigation and provision of ducting for the installation of electric vehicle charging points.

- 7.9. CDC LANDSCAPE: **Comments** - No planting is provided on the site and some planting should be provided in the rear courtyard. It is noted that 10 flat usually triggers an off-site contribution for the improvement of a local play area from the developer. However the nearest play areas are in People's Park which was refurbished successfully a few years ago. There is therefore no justification for this contribution.
- 7.10. OCC ARCHAEOLOGY: **No objection** subject to conditions required a stages programme of archaeological works.
- 7.11. OCC EDUCATION: **No objection**.
- 7.12. CDC RECREATION AND LEISURE: **No objection** subject to contributions for off-site outdoor sports facilities, offsite indoor sports facilities and community halls facilities in accordance with the Developer Contributions SPD.
- 7.13. BANBURY CIVIC SOCIETY: **Objects** to some elements to the scheme. The principle is welcome with housing and small commercial units. Concerns regarding the use of render (including potential maintenance and staining) and the plain and overbearing effect of the Pepper Alley frontage, the uninteresting and unsympathetic mass of the roof-scape towards the High Street. Efforts should be made to 're-populate' Pepper Alley by providing street access to some of the residential units along that frontage. Parking and refuse collection are catered for. Some concerns regarding loss of service yard to High Street properties. With regards to the name of the site the Red Lion Yard would be more appropriate.
- 7.14. HISTORIC ENGLAND: **No comments**.
- 7.15. THAMES WATER: **No objection**. The existing waste water systems and water network have capacity for the proposed development. Request informative in relation to the site being situated within 15m of Thames Water waste water assets

8. RELEVANT PLANNING POLICY AND GUIDANCE

- 8.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 8.2. The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the 'saved' policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District's statutory Development Plan are set out below:

CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2031 Part 1)

- PSD1 – Presumption in Favour of Sustainable Development
- SLE2 – Securing Dynamic Town Centres
- SLE4 – Improving Transport and Connections
- BSC2 – The Effective and Efficient Use of Land – Brownfield Land and Housing Density
- BSC3 – Affordable Housing
- BSC4 – Housing Mix
- BSC10 – Open Space, Outdoor Sport and Recreation Provision
- BSC11 – Local Standards of Provision – Outdoor Recreation

- BSC12 – Indoor Sport, Recreation and Community Facilities
- ESD1 – Mitigating and Adapting to Climate Change
- ESD2 and ESD3 – Sustainable Construction
- ESD6 – Sustainable Flood Risk Management
- ESD7 – Sustainable Drainage Systems
- ESD10 – Protection and Enhancement of Biodiversity and Natural Environment.
- ESD15 - The Character of the Built and Historic Environment
- Banbury 7 – Strengthening Banbury Town Centre
- INF1 - Infrastructure

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C23 - Features in conservation areas
- C28 - Layout, design and external appearance of new development
- C30 - Design of new residential development
- ENV1- Development likely to cause detrimental levels of pollution
- ENV12 – Contaminated Land

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- Banbury Conservation Area Appraisal
- Banbury Vision and Master Plan SPD (2016)
- Developer Contributions SPD (2018)

8.4. Council Corporate Priorities

Cherwell District Council's Business Plan for 2019-20 sets out the Council's three strategic priorities which form our overarching business strategy. Below these are the key actions for the year 2019–20. This is a strategy which looks to the future taking into account the priorities and aspirations of the communities who live and work in the district.

The three corporate priorities are to ensure the District is “Clean, Green and Safe”, that it supports “Thriving Communities & Wellbeing”, and is a District of “Opportunity & Growth”. All three priorities are of significance to the determination of planning applications and appeals. Below these priorities, the key actions which are of most relevance to planning applications and appeals are: (1) deliver the Local Plan; (2) increase tourism and increase employment at strategic sites; (3) develop our town centres; (4) protect our built heritage; (5) protect our natural environment; (6) promote environmental sustainability; (7) promote healthy place shaping; (8) deliver the Growth Deal; (9) delivery innovative and effective housing schemes; and (10) deliver affordable housing.

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

The above corporate priorities are considered to be fully compliant with the policy and guidance contained within the National Planning Policy Framework and National Planning Practice Guidance.

9. APPRAISAL

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

- Principle of development
- Heritage, design, and impact on the character of the area
- Residential amenity
- Highways
- Affordable housing
- Ecology impact
- Infrastructure
- Other matters

Principle of Development

Policy Context

9.2. The application site is located within Banbury Town Centre which is covered by Policy Banbury 7 of the Cherwell Local Plan 2011 – 2031 Part 1. The site is located in the area identified as the Town Centre Shopping Area but is not located within the Primary Shopping Frontage. Policy Banbury 7 supports main town centres uses within the area and states that residential development will be supported in appropriate locations except where they would lead to the loss of retail or other main town centre uses. It goes on to state that mixed use schemes will be encouraged. Banbury Vision and Masterplan SPD identify the area around George Street and Broad Street as a specific area that could benefit from developments that strengthen the vitality of the town centre.

9.3. The NPPF advises that planning decisions should support the role that town centres play at the heart of local communities by taking a positive approach to their growth and management. Paragraph 85 goes on to note that decisions should recognise that residential development can often play an important role in ensuring the vitality of centres and encourages residential development on appropriate sites.

9.4. Policy BSC2 of the Cherwell Local Plan encourages the reuse of previously developed land in sustainable locations.

Assessment

9.5. The site lies within Banbury Town Centre shopping area and is also previously developed land. The proposal to develop the site for a mixed use development, with commercial development on the ground floor and flats above, is considered to positively contribute to the vitality and viability of the town centre and would be in general accordance with Policy Banbury 7 and the Banbury Masterplan which seek to support the town centre. The mix of commercial development on the ground floor (A1, A2, A3, B1 and D1 use class) would be appropriate for the town centre location and would positively add to the activity in the area and provide smaller units. The application provides a wide range of use and also offers a flexible layout where units could merged if a future occupier required.

9.6. The proposed development would not lead to the direct loss of any main town centre use. However, the proposal would lead to the loss of the servicing arrangements for the property on the High Street. That said, this was the same in the earlier permitted scheme on the site for office development, which has not be implemented and it is noted that the majority of the properties on the High Street do not benefit for rear access and have their servicing requirements met from the High Street. Therefore, whilst this is not ideal, it is not considered reasonable for the application to be refused on the basis of this matter.

- 9.7. The site is previously developed land in a highly sustainable location and this is another factor that weighs in favour of the redevelopment of the site.

Conclusion

- 9.8. Overall the principle of a mixed use development with commercial uses on the ground floor and residential development is considered to be acceptable subject to other material considerations.

Heritage, design and impact on character and appearance of area

Legislative and policy context

- 9.9. The site is within Banbury Conservation Area and is also within the setting of a number of Grade II listed building to the north of the site on the High Street and the properties to the west of the site on George Street. There are also a number of locally listed buildings in the vicinity of the site.
- 9.10. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that in carrying out its functions as the Local Planning Authority in respect of development in a conservation area: *special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.*
- 9.11. Likewise Section 66 of the same Act states that: *In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority...shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.* Therefore significant weight must be given to these matters in the assessment of this planning application.
- 9.12. Conservation Areas and Listed Buildings are designated heritage assets, and Paragraph 193 of the NPPF states that: *when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.* Policy ESD15 of the CLP 2031 Part 1 echoes this guidance.
- 9.13. Policy ESD15 seeks to ensure that new development contributes positively to an area's character and identity. It goes on to note that development should be designed to deliver high quality safe, attractive and durable places to live and should be designed to integrate with existing streets and respect the form, scale and massing of existing properties. The NPPF advises high quality buildings and places are fundamental to what the planning system should achieve. Paragraph 127 states developments should function well, be visually attractive, be sympathetic to local character and history and maintain a strong sense of place.
- 9.14. Paragraph 199 of the NPPF states local planning authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible.

Assessment

- 9.15. The site lies within Banbury's Medieval Core (as identified within the Conservation Area Appraisal). The Conservation Area Appraisal notes: *'Banbury is an*

increasingly rare example of a market town where the medieval street pattern in the historic core remains substantially preserved. It goes on to note that interlinking historic lanes such as Pepper Alley, Church Walk, Church Lane and Butchers Row with their high levels of enclosure all add to the richness of the townscape.

- 9.16. The service yard currently provides a gap in the otherwise built up area and is not considered to positively contribute to the character and appearance of the area which is noted to be characterised by dense built form with continuous enclosed street frontage. The Conservation Area Appraisal notes that the demolition of buildings around areas such as Pepper Alley has resulted in the loss of historically significant buildings and spaces and that any development proposals should ensure the enclosed and intimate nature of these spaces is ensued and re-establish an intimate built form and historic settlement pattern.
- 9.17. The site and locality currently has a rather degraded appearance. However, recently approved development to the north east of the site in Pepper Alley, proposed redevelopment of the Former Grand and the development of the current site all provide an opportunity to regenerate this area and make a positive contribution to the Conservation Area and in turn the vitality of the town centre.
- 9.18. The proposed building has been sited to respect the traditional pattern of development with a strong continuous frontage and building line close to the back edge of the highway onto George Street and Pepper Alley. This is in line with advice in the Conservation Area Appraisal, which notes the importance of such relationships and sense of enclosure. The proposed development has commercial frontage onto both George Street and Pepper Alley, which would provide some active frontage and add to the vitality of the area.
- 9.19. The three storey scale of the proposed building along George Street is considered to be appropriate for the area and is in keeping with a number of other buildings in the locality. The slight increase in height of the building on the corner is also considered to be acceptable as taller buildings with a greater presence are often seen on corners within the Conservation Area.
- 9.20. The frontage proposed along Pepper Alley is part 3 storey and part 2 storeys. Whilst officers have some concerns regarding the overall extent of 3 storey development proposed along Pepper Alley, some of the proposed residential accommodation is situated with the roof void of the building and the building reduces in scale away from George Street in line with the Conservation Officer's comments on an earlier iteration of the scheme.
- 9.21. Furthermore whilst some of the development on the opposite side of Pepper Alley is already 3 storey in scale, the area of frontage closest to George Street where the proposed development is 3 storey is single storey. Officers are mindful that the scheme needs to ensure that the scale of the building does not result in an oppressive environment being formed in Pepper Alley i.e. pedestrians and those operating at ground floor level being overpowered by the scale of buildings.
- 9.22. However, on balance, the scale of the building is considered to be acceptable having regard to the medieval street pattern with development up against the highway contributes to the significance of the Conservation Area and where interlinking lanes such as Pepper Alley have a high degree of enclosure.
- 9.23. The form of the building has a series of pitched roofs, which is in keeping with the form of buildings locally and a double gable plan form has been used in some places to conceal the depth of the building and reduce the overall height of the building. Whilst a flat roof element is used in the centre of the roof this would not be

visible from most public vantage points due to being screened by other buildings. The overall bulk and massing of the building has been broken up by dividing the building up into a number of smaller elements with varied eaves and ridge heights and minor changes to the alignment of the building frontage. This is considered broadly acceptable and ensures the overall massing of the building is in keeping with the surroundings.

- 9.24. The form and detailed design of the building picks up on the strong sense of rhythm and vertical emphasis that is seen throughout, and characterises many of the buildings and spaces on the Conservation Area. The fenestration of each element of the building is slightly different to differentiate between the different elements of the building and break up the overall mass of the building into smaller segments. The use of a mix of styles of sash windows with deep recesses is an important element, and full details of the architectural detailing of the building would need to be secured through conditions. There are a couple of outstanding issues relating to the placement of chimneys which are still in discussion with the applicant.
- 9.25. It is proposed that the building would be a mixture of brick and render, which is considered to be appropriate for the Conservation Area. Officers have questioned the use of render with the applicant due to concerns over weathering and staining. However, the corner building and the drive-thru element of the building are still shown to the render. Whilst this not considered to be ideal, it is noted that that are a number of other rendered buildings in the locality and it is generally only the upper floors of the proposed building which would be rendered due to the design of the shop fronts. Furthermore the applicant has stated there are stain resistant renders available. On balance this is considered acceptable.
- 9.26. In regard to the setting of the listed buildings, most of these exist on the High Street to the north of the site and many are separated from the proposed development by modern extensions to the rear of the High Street. The proposal is therefore not considered to have a significant impact on the setting of any of these buildings. The proposal would also affect the setting the Wheatsheaf Inn on George Street which is Grade II listed. The proposal would form part of the historic street scene which forms part of the setting of this building, however given the conclusions on the appropriateness of the scale and design of the proposal, the proposed development is not considered to adversely impact on the setting of this building.
- 9.27. In respect of archaeological heritage assets the site is located within an area of archaeological interest and is situated opposite a site that produced evidence of a medieval settlement and there is a chance that such remains may be present on the site. An archaeological evaluation consisting of a single trench was undertaken on part of the site, which recorded C19th and C12th building remains, and it is possible further features exist on site. The County Archaeologist has therefore requested conditions securing a stages programme of archaeological investigation, which can be secured through a planning condition.

Conclusion

- 9.28. The proposed development is considered to be appropriate in terms of siting, scaling and detailing for the Conservation Area and setting of the nearby listed buildings, and in archaeological terms. Subject to conditions, the proposal is therefore considered to be acceptable in this regard.

Residential Amenity

Policy context

9.29. Policy ESD15 of the Cherwell Local Plan Part 1 states that new development proposals should consider the amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation, and indoor and outdoor space. The NPPF also notes that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Saved Policy ENV12 seeks to ensure that potentially contaminated land is suitable for their intended use.

Assessment

9.30. The proposed development would lead to a change of outlook and degree of overlooking to the buildings on the opposite site of George Street (largely residential) and also the buildings which exist the opposite side of Pepper Alley, many of which benefit from planning consent to have the upper floors converted to residential with commercial uses on the ground floor (like the current application).

9.31. Whilst the distances between the front elevations of the proposed development and these existing buildings is relatively close this is not uncommon in the historic town centre, which has a number of narrow streets and lanes with flats over commercial units. Whilst this is not ideal in terms of residential development, on balance it is considered to be acceptable particularly in light of the heritage constraints of the site and the historic town centre location where residents would be likely to accept a lower level of privacy than in a suburban location. Furthermore it is noted that amendments have been made to reduce the scale of the building along Pepper Alley, where the relationship is particularly tight and this has aided in reducing these impacts to some degree.

9.32. The proposed commercial use of the ground floor units for commercial uses will aid in providing more surveillance and activity in Pepper Alley. However, given the tight nature of the lane it is considered important to control the opening hours of the units to protect the amenity of the upper floor residential units. This can be secured through planning condition.

9.33. The proposed flats are considered to be acceptable in terms of size and layout and would provide a satisfactory standard of amenity for future occupants. The Environmental Protection Officer has also requested a noise report be submitted through condition to ensure that the internal layout of the building provides noise levels in line with the latest British Standards.

9.34. Given the previously developed nature of the site and the possibility for contamination on the site the Environmental Protection Officer has requested a ground investigation condition be imposed on any consent to ensure the site is suitable for the residential accommodation.

Highways

Policy context

9.35. Policy SLE4 states that: *“All development where reasonable to do so, should facilitate the use of sustainable modes of transport (and) development which is not suitable for the roads that serve the development and which have a severe traffic impact will not be supported.”* Paragraph 109 of the NPPF states that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety or the impacts on the road network would be severe.

Assessment

- 9.36. The Local Highway Authority (LHA) has no objection to the application subject to conditions. The parking requirement is in accordance with the OCC Guidelines for unallocated parking and is therefore considered to be acceptable. The use of one of the spaces to the north of the parking area is below the recommended width (2.5m instead of 2.75m when adjacent to a wall) and would therefore be difficult to use. However, given the town centre location of the site and the fact the Council has permitted a number of car-free developments in the locality, even if this space is not used the level of parking proposed is still considered to be acceptable for this highly sustainable location. Whilst the commercial units are not provided with any designated parking the site is located in a town centre where use of the public car parks for staff and customers is not uncommon and is considered to be an acceptable arrangement.
- 9.37. The site makes provision for 30 cycle parking spaces in accordance with the local highway authorities' advice to be used by residents and the commercial units and this is considered to be acceptable.
- 9.38. The LHA is generally satisfied with the access to the site but has some concerns that the footway into the site adjacent to the vehicle access reduces in width closest to George Street, which may force pedestrians into the vehicle access into the site. It is considered a condition could be imposed to require amended plans to show the width of this being maintained to George Street. The traffic generated by the proposal is not considered to result in severe impact on traffic in the area given the relatively modest scale of the proposal.
- 9.39. Given the constrained nature of the site the LHA has requested a construction traffic management plan to mitigate the construction impacts of the development. This should be secured through a condition.

Conclusion

- 9.40. The proposed development is considered to be acceptable in terms of highway matters.

Affordable Housing

Policy context

- 9.41. Policy BSC3 requires development within Banbury to provide 30% affordable housing on site and provides detail on the mix that should be sought between affordable social rent (70%) and shared ownership (30%).

Assessment

- 9.42. The development proposes 30% affordable housing on the site (4 units) in accordance with Policy BSC3 of the Cherwell Local Plan. These are all 1 bed unit and arranged in a single block in accordance with the housing officers earlier requests. This would need to be secured a legal agreement. Discussions are ongoing to the housing officer regarding the tenure of the units and a number of minor details which will be reported in the written update to committee.

Infrastructure

- 9.43. Policy INF1 of the Local Plan states that: *development proposals will be required to demonstrate that infrastructure requirements can be met including the provision of transport, education, health, social and community facilities.* Policies BSC11 and 12 require development to provide indoor and outdoor recreation and community

facilities. The Developer Contributions SPD 2018 provides further guidance on this and is the starting point for such contributions however the local authority is also required to ensure that any contributions sought meet the following tests, set out at Regulation 122 of the Community Infrastructure Regulations 2011 (as amended):

- Necessary to make the development acceptable in planning terms;
- Directly relate to the development; and
- Fairly and reasonable related in scale and kind to the development.

9.44. Having regard to the above, officers have requested that the following contributions from the applicant:

- Off-site outdoor sports facilities - £28,238.42 towards resurfacing of Wykham Park Academy artificial turf sports area.
- Off-site indoor sports facilities - £7,537.99 towards the provision of changing facilities and improvement of car parking at Ricochet Trampoline club
- Community Hall Facilities - £10,320.15 towards refurbishment of Ruscote Community Centre

Other matters

9.45. Policy ESD1 of the Cherwell Local Plan Part 1 states that measures should be taken to mitigate the impact of development within the District on climate change, and Policy ESD2 of the Cherwell Local Plan Part 1 seeks to achieve carbon emission reductions. Policy ESD3 of the Cherwell Local Plan Part 1 encourages sustainable construction methods. The reference to allowable solution in Policy ESD2 and 'zero carbon' are no longer being pursued by the government so are no longer relevant however the water usage requirements of ESD3 are still required to be met. In regard to energy efficiency the Council now seek to secure in excess of that required under the 2013 Building Regulations, up to the equivalent of the (now withdrawn) Code for Sustainable Homes Level 4 – i.e. a 19% improvement in carbon reductions on 2013 Part L of the Building Regulations. An energy statement to demonstrate the feasibility and compliance with this could be controlled through a condition.

9.46. In terms of flood risk the site lies within Flood Zone 1 (lowest area of flood risk). The Lead Local Flood Authority has raised no objection to the scheme subject to a condition requiring a full drainage scheme. Thames Water has raised no objection to the proposal in relation to foul water connection or water supply.

9.47. Paragraph 170 of the NPPF states that Planning policies and decisions should contribute to and enhance the natural and local environment by (amongst others): a) protecting and enhancing sites of biodiversity; and d) minimising impacts on and providing net gains for biodiversity. Policy ESD10 of the Cherwell Local Plan 2011-2031 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. Given the site is largely laid to hardstanding with only a small area of scrub. It is therefore of limited ecological value and subject to mitigation measures and enhancements the proposal is therefore considered acceptable in this regard.

10. PLANNING BALANCE AND CONCLUSION

10.1. The site would provide a beneficial regeneration of an existing underused site for a mixed use development in a sustainable town centre location and would preserve the Conservation Area and the setting of the nearby listed building. The proposal would, on balance, be acceptable in terms of scale and residential amenity and would also provide a policy compliant level of affordable homes. The highway aspects of the scheme are considered to be appropriate and there are not considered to be any other materials consideration which would outweigh the benefits of the scheme. The proposal therefore complies with the relevant Development Plan policies and guidance listed at section 8 of this report, and so is considered to be sustainable development. In accordance with Paragraph 11 of the NPPF, permission should therefore be granted.

11. RECOMMENDATION

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

- a) Provision of 40% affordable housing on site
- b) Payment of a financial contribution towards off site sports, recreation provision and community facilities in the locality as detailed at paragraph 9.40 above.

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 following plans and documents: TBC

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.

Archaeology

3. Prior to any demolition and the commencement of the development a Archaeological Written Scheme of Investigation relating to the application site area shall be submitted to and approved in writing by the Local Planning Authority. Following the approval of the Written Scheme of Investigation referred to above, and prior to any demolition on the site and the commencement of the development (other than in accordance with the agreed Written Scheme of Investigation), a staged programme of archaeological evaluation and mitigation

shall be carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the Local Planning Authority.

Reason - To safeguard the recording of archaeological matters within the site in accordance with the NPPF.

Levels

4. No development shall take place until details of all finished floor levels in relation to existing and proposed site levels and to the adjacent buildings have been submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall be constructed in accordance with the approved levels.

Reason: In order to safeguard the visual amenities of the area in accordance with advice within Section 12 of the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

Drainage

5. Development shall not begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall also include:

- Discharge Rates
- Discharge Volumes
- Maintenance and management of SUDS features
- Infiltration in accordance with BRE365 (including seasonal monitoring and recording of groundwater levels)
- Detailed drainage layout with pipe numbers
- Network drainage calculations
- Phasing
- Flood Flow Routing in exceedance conditions
- No private drainage into the existing or proposed adoptable highway drainage system.

Reason: In the interests of highway safety in accordance with the National Planning Policy Framework.

Construction Traffic Management Plan

6. Prior to the commencement of development, a construction traffic management plan shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, construction shall be carried out in accordance with the approved details.

Reason: In the interests of highway safety in accordance with the National Planning Policy Framework.

Access details

7. Prior to the commencement of the development hereby approved, full details of the means of access between the land and the highway, including, position, layout, construction, drainage and vision splays shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the means of access shall be constructed and retained in accordance with the approved details.

Reason: In the interests of highway safety in accordance with the National Planning Policy Framework

Land Contamination Desk Study / Site Walkover

8. No part of the development hereby permitted shall take place until a desk study and site walk over to identify all potential contaminative uses on site, and to inform the conceptual site model has been carried out by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and has been submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval that it is satisfied that no potential risk from contamination has been identified.

Reason: To ensure that any ground and water contamination is identified and adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

Land Contamination Intrusive Investigation

9. If a potential risk from contamination is identified as a result of the work carried out under condition 8, prior to the commencement of the development hereby permitted, a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals shall be documented as a report undertaken by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place unless the Local Planning Authority has given its written approval that it is satisfied that the risk from contamination has been adequately characterised as required by this condition.

Reason: To ensure that any ground and water contamination is adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

Land Contamination Remediation Scheme

10. If contamination is found by undertaking the work carried out under condition 9, prior to the commencement of the development hereby permitted, a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with DEFRA and

the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval of the scheme of remediation and/or monitoring required by this condition.

Reason: To ensure that any ground and water contamination is adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

Land Contamination Remediation Works

11. If remedial works have been identified in condition 10, the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 10. A verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that any ground and water contamination is adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework.

Sustainable Construction

12. Prior to the commencement of any works associated with the construction of a dwelling, details of the means by which all dwellings will be designed and constructed to achieve an energy performance standard equivalent to a 19% improvement in carbon reductions on 2013 Part L of the Building Regulations (unless a different standard is agreed) shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details and no dwelling occupied until it has been constructed in accordance with the approved energy performance measures.

Reason - In the interests of environmental sustainability in construction in accordance with the requirements of Policy ESD3 of the Cherwell Local Plan 2011-2031 Part 1.

Biodiversity

13. A method statement for enhancing the biodiversity of the site shall be submitted to and approved in writing by the Local Planning Authority prior to the development reaching slab level. Thereafter, the biodiversity enhancement measures approved shall be carried out prior to occupation and retained in accordance with the approved details.

Reason : To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy ESD10 of the Cherwell Local Plan 2011 – 2031 Part 1

Noise report

14. Prior to any development above slab level a noise report should be provided and approved in writing by the local planning authority that demonstrate how all habitable rooms within the dwellings hereby permitted will achieve the noise levels specified in BS8233:2014 (Guidance on sound insulation and noise reduction for buildings) for indoor noise levels. Thereafter, and prior to the first occupation of the dwellings, the dwellings shall be insulated and maintained in accordance with the approved details.

Reason : To protect the amenity of the future occupiers of the development in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1 and advice in the NPPF.

Hard landscaping

15. Unless an alternative time frame is agreed in writing by the developer and the Local Planning Authority, no development shall commence above slab level unless a scheme for the landscaping the site has been submitted to and approved in writing by the Local Planning Authority, which shall include details of the hard landscaping including hard surface areas, pavements, pedestrian areas and steps. The approved scheme shall be implemented prior to the first occupation of the development and shall be retained as such thereafter.

Reason : To ensure that a satisfactory landscape scheme is provided in the interest of well planned development and visual amenity in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Bin store

16. Prior to any works above slab level full details of the bin store enclosures shall be submitted and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details and permanently retained as ancillary to development.

Reason : In the interest of well planned development and visual amenity of the area in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Architectural detailing

17. Notwithstanding the details shown on the approved plans, further details of the architectural detailing of the exterior of the development, together with the eaves and verge treatment, shall be submitted to and approved in writing by the Local Planning Authority prior to the construction of the building above slab level. The development shall thereafter be carried out in accordance with the approved details and shall be retained as such thereafter.

Reason: In order to safeguard the visual amenities of the area and the significance of the heritage asset in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Shop fronts

18. Prior to the installation of any shop front full details of the shop fronts shall be submitted and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details prior to the first occupation of the building and shall be retained as such thereafter.

Reason: In order to safeguard the visual amenities of the area and the significance of the heritage asset in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996.

Schedule of materials

19. A schedule of materials and finishes to be used in the external walls and roof(s) of the building shall be submitted to and approved in writing by the Local Planning Authority prior to the construction of the building above slab level. The development shall thereafter be completed in accordance with the approved details and shall be retained as such thereafter.

Reason: To ensure that the materials are appropriate to the appearance of the locality and to ensure the satisfactory appearance of the completed development and to preserve the significance of the heritage asset and in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Brick Sample Panel

20. The external walls of the building shall be constructed in brickwork, of a type, colour, texture, face bond and pointing which is in accordance with sample panels (minimum 1 metre squared in size) which shall be constructed on site to be inspected and approved in writing by the Local Planning Authority before the commencement of the brickwork. The sample panels shall be constructed in a position that is protected and readily accessible for viewing in good natural daylight from a distance of 3 metres. The panel shall be retained on site for the duration of the construction contract.

Reason: To ensure that the materials are appropriate to the appearance of the locality and to ensure the satisfactory appearance of the completed development and to preserve the significance of the heritage asset and in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Render

21. Prior to its occupation, the external wall(s) of the element of the building shown rendered shall be rendered in accordance with a colour and texture sample which shall have first been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the development is constructed and finished in materials which are in harmony with the materials used in the area and to preserve the significance of the heritage asset and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Sample of roof materials

22. Samples of the slates to be used in the covering of the roof of the buildings shall be submitted to and approved in writing by the Local Planning Authority prior to the construction of the building above eaves level. The development shall be carried out in accordance with the samples so approved and shall be retained as such thereafter.

Reason: To ensure that the materials are appropriate to the appearance of the locality and to ensure the satisfactory appearance of the completed development in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Window and door details

23. Notwithstanding the details on the submitted plans, details of the construction, including cross sections, cill, headers, reveal and colour / finish of the proposed windows and doors to a scale of not less than 1:10 shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of that work. The development shall be carried out in accordance with the approved details and shall be retained as such thereafter.

Reason: In order to safeguard the visual amenities of the area and the significance of the heritage asset in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Boundary treatments

24. Full details of the enclosures along all boundaries and within the site shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of those works. Such approved means of enclosure shall be erected prior to the first occupation of any of the buildings and shall be retained as such thereafter.

Reason: To ensure the satisfactory appearance of the completed development and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policies C28 and C30 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Cycle Parking Provision

25. Prior to the first use or occupation of the development hereby permitted, details of the covered cycle parking facilities shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the covered cycle parking facilities shall be provided prior to the first occupation of the building and permanently retained and maintained for the parking of cycles in connection with the development.

Reason: In the interests of maximising the opportunities for sustainable travel in accordance with the National Planning Policy Framework.

Parking provision

26. The proposed access and parking, turning areas shall be provided in accordance with the approved plans before first occupation of the development hereby permitted. The access, parking and turning facilities shall thereafter be retained for use in connection with the development for those purposes only.

Reason : In the interests of highway safety, to ensure the provision of adequate off-street car parking to comply with Government guidance in Section 12 of the National Planning Policy Framework.

Rainwater goods

27. All rainwater gutters and downpipes, etc. shall be cast iron or aluminium manufacture and painted black unless alternative details are otherwise first approved in writing by the Local Planning Authority.

Reason: In order to safeguard the visual amenities of the area and the significance of the heritage asset in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996

Roof lights

28. All rooflights shall be conservation grade rooflights and shall fit flush with the plane of the roof and shall not project forward of the roof slope into which they are inserted.

Reason: In order to safeguard the visual amenities of the area and the significance of the heritage asset in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Water Efficiency

29. No dwelling shall be occupied until it has been constructed to ensure that it achieves a water efficiency limit of 110 litres person/day and shall continue to accord with such a limit thereafter.

Reason - In the interests of sustainability in accordance with the requirements of Policy ESD3 of the Cherwell Local Plan 2011-2031 Part 1.

EV Charging points

30. No building hereby permitted shall be occupied until it has been provided with a system of ducting to allow for the future installation of electrical vehicle charging infrastructure to serve that parking space.

Reason : To comply with Policies ESD 1, ESD 3 and ESD 5 of the adopted Cherwell Local Plan 2011-2031 Part 1 and to maximise opportunities for sustainable transport modes in accordance with the National Planning Policy Framework.

Ventilation and Fume Extraction

31. A scheme for the ventilation and extraction of cooking fumes shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the use of any part of the building as a A3 use. The approved

system shall be installed and operated in accordance with the approved scheme at all times the building is in use for the purposes hereby permitted.

Reason: To protect the amenities of nearby residents and the character of the area and to comply with Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Open hours

32. Prior to the occupation of any unit for use class A3 full details of the opening hours of the use shall be submitted and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details.

Reason: To protect the amenities of nearby residents and to comply with Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Exclusion of fencing/ walls to frontage

33. Notwithstanding the provisions of Class A of Part 2, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting or amending that order) no gate, fence, wall or other means of enclosure shall be erected, constructed or placed in front of the front wall of any buildings and the highway at any time, without the grant of further specific planning permission from the Local Planning Authority.

Reason: In order to retain the open character of the development and area in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.