

Case Officer: Samantha Taylor

Applicant: Pizza Express Restaurants Ltd

Proposal: Formation of new external seating area

Ward: Banbury Cross and Neithrop

Councillors: Cllr Banfield, Cllr Hodgson and Cllr Dr Okeke

Reason for Referral: Application affects Council's own land

Expiry Date: 27 July 2022

Committee Date: 14 July 2022

SUMMARY OF RECOMMENDATION: GRANT PERMISSION, SUBJECT TO CONDITIONS

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site is located within Block B of the Castle Quay 2 development. Block B includes the cinema and other leisure facilities, including restaurants. The site is situated on the ground floor of the Block B, adjacent to the canal

2. CONSTRAINTS

- 2.1. The application site is located within the centre of Banbury and within the Oxford Canal Conservation Area.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The application seeks full planning permission for the provision of an area of external seating to Unit 6, a restaurant unit within the cinema and leisure block of the Castle Quay 2 development. The proposed development has an enclosure with the proposal mid-height planters and metal framing above. The framing will be used to hang faux planting and lights.

4. RELEVANT PLANNING HISTORY

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

22/01150/ADV

Advertisement consent for 1No LOGO SIGN, 2No FASCIA SIGN 2No ADDRESS TEXT.

Approved.

21/04089/F

CQ2 Block B Terrace Area - Erection of enclosure area including full height glazed windows and retractable fabric roof and two green wall features.

Approved.

17/00284/REM

Reserved Matters Application to 16/02366/OUT across the whole development site is sought. Application for approval of reserved matters for scale, layout, appearance and landscaping.
Approved.

16/02366/OUT

Removal/Variation of conditions 4 (list of approved drawings) and 9 (enhancement of River Cherwell) to 13/01601/OUT - Condition 4 to be varied to reflect alterations in the access and servicing strategy for Block C, with variations to maximum deviations in block; and Condition 9 to be removed, as no longer justified.
Approved

13/01601/OUT

Outline planning permission for the redevelopment of land adjacent to the Oxford Canal comprising; the demolition of the Castle Quay Shopping Centre northern car park and the General Foods Sports and Social Club; change of use of part of the ground floor of the Castle Quay Shopping Centre southern car park and associated works; erection of a retail foodstore (Use Class A1), hotel (Use Class C3), cinema (Use Class D2), restaurants and cafés (Use Class A3 and A4) and altered vehicular and pedestrian accesses, landscaping, construction of infrastructure, car parking and associated works, including glazed canopy over the Oxford Canal and the construction of pedestrian/cycle bridges over the Oxford Canal and River Cherwell. Details of new vehicular access off Cherwell Drive and alterations to Spiceball Park Road.
Approved

5. PRE-APPLICATION DISCUSSIONS

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

6. RESPONSE TO PUBLICITY

6.1. This application has been publicised by way of a site notice displayed near the site, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was **19 May 2022**.

6.2. No comments have been raised by third parties.

7. RESPONSE TO CONSULTATION

7.1. Below is a summary of the consultation responses received at the time of writing this report. Responses are available to view in full on the Council's website, via the online Planning Register.

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

8. RELEVANT PLANNING POLICY AND GUIDANCE

8.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

8.2. The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the 'saved' policies of the adopted Cherwell Local Plan 1996 though many of its policies

are retained and remain part of the development plan. The relevant planning policies of Cherwell District's statutory Development Plan are set out below:

CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2015)

- 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

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- The Planning (Listed Buildings and Conservation Areas) Act 1990

9. APPRAISAL

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

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

Principle of Development

9.2. A similar proposal has been previously approved under application 21/04089/F for the provision of an enclosure with retractable roof and full height windows and two green walls on the first floor of Block B. As such, the principle of providing external seating within the Castle Quay 2 development area has been established.

Design and Impact on the Character of the Area

9.3. Policy ESD15 of the Cherwell Local Plan seeks to ensure that developments are of an appropriate design, which is compatible with the local context in which they are situated.

9.4. The development seeks to provide an area of enclosure outside of Unit 6, a ground floor of Block B. The seating area would be provided to the front and side of Unit 6. The unit is a restaurant unit, with the external seating area providing additional table covers for the business. The enclosure surrounds the external area, with mid-rise planters in black treated wood, with an inset steel frame above for hanging of faux plants and lights. The use of planters to provide enclosure is something that is seen within leisure developments.

9.5. Overall, Officers consider the design of the external seating area and enclosure is acceptable within the context of the Castle Quay 2 development and wider area. The proposal accords with policy ESD15 of the Cherwell Local Plan 2031 and saved policy C29 of the 1996 Local Plan.

Heritage Impact

- 9.6. The application site lies within the Oxford Canal Conservation Area. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that in carrying out its functions as the Local Planning Authority in respect of development in a conservation area: special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
- 9.7. Conservation Areas and Listed Buildings are designated heritage assets, and Paragraph 193 of the NPPF states that: *when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.* Policy ESD15 of the CLP 2031 Part 1 echoes this guidance
- 9.8. The application site forms part of the Block B Cinema outdoor terrace, which is currently under construction at the Castle Quay 2 development. The earlier grant of consents for a large-scale mixed-use development was considered to result in less than substantial harm to the significance of the Conservation Area that was outweighed by the public benefits of the scheme.
- 9.9. It is acknowledged that there has been substantial change within the Oxford Canal Conservation Area as a result of the Castle Quay 2 development. However, this has also increased the usage of this area, which is considered to be of public benefit, increasing the understanding of the history of the wider site.
- 9.10. The application proposed an area of enclosure to an external seating area outside of a ground floor restaurant, facing the canal. This would serve as an attraction to the public, with vantage points from pedestrian pathways along and over the canal. The materials to be used are black painted wooden planters and steel frames. These will be used to provide planting and faux planting. Overall the design of the seating areas is considered to be in-keeping with the Castle Quay 2 development and the Conservation Area.
- 9.11. Whilst there may be some less than substantial harm arising from the provision of the enclosure and seating area, this is considered to be limited given the context in which the development sites, as part of the wider Castle Quay development. The public benefits of providing an additional leisure attraction is considered to outweigh any less than substantial harm caused to the significance of the Conservation Area.
- 9.12. Overall, the proposal is considered to accord with both National and Local Planning Policies in respect of the impact the proposal would have on the significance of the Oxford Canal Conservation Area.

10. PLANNING BALANCE AND CONCLUSION

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

11. RECOMMENDATION

RECOMMENDATION – GRANT PERMISSION, SUBJECT TO THE CONDITIONS SET OUT BELOW

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:

Site Location Plan 2209/SL01

Proposed External Elevations 2209/P02

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.