

Case Officer: Andy Bateson

Applicant: Ian Wallace

Proposal: Discharge of Condition 5 (servicing and waste) of 17/00284/REM
Land Adjacent to the Oxford Canal, Spiceball Park Road, Banbury

Ward: Banbury Cross And Neithrop

Councillors: Cllr Banfield, Cllr Hodgson & Cllr Dr Okeke

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

Expiry Date: 29 November 2022

Committee Date: 13 April 2023

RECOMMENDATION: APPROVE

1. APPLICATION SITE AND DESCRIPTION OF APPROVED DEVELOPMENT

- 1.1. The application site relates to the Castle Quay 2 Block B (the Cinema block) service yard in Spiceball Park Road, on the edge of Banbury town centre.

2. CONDITIONS PROPOSED TO BE DISCHARGED

- 2.1. Condition 5 to reserved matters approval 17/00284/REM (reserved matters to outline approval 16/02366/OUT) – states: ***“Arrangements for the servicing and waste disposal from the Blocks shall be in accordance with the Servicing and Waste Strategy document prepared by Leslie Jones Architecture, dated July 2018. Thereafter and prior to the first use of the buildings, the refuse bin storage areas shall be provided in accordance with the approved details and retained unobstructed except for the storage of refuse bins. Details of the compactor proposed in Block B service yard shall be submitted to and approved by the Local Planning Authority prior to its installation.”***

3. RELEVANT PLANNING HISTORY

22/01150/ADV

Advertisement consent for 1No Logo Sign & 2No Fasci Signs – 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 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 varied to reflect alterations in the access and servicing strategy for Block C, with variations to maximum deviations in block; and Condition 9 removed, as no longer justified – Approved.

13/01601/OUT

Outline planning permission for redevelopment of land adjacent to the Oxford Canal comprising; 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 construction of pedestrian/cycle bridges over the Oxford Canal and River Cherwell. Plus, details of new vehicular access off Cherwell Drive and alterations to Spiceball Park Road – Approved.

4. PRE-APPLICATION DISCUSSIONS

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

5. RESPONSE TO PUBLICITY

5.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was **26 October 2022**.

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.

6.2. BANBURY TOWN COUNCIL – No Comments received.

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 re 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

7.3. Other Material Planning Considerations:

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

8. APPRAISAL

8.1. 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

- 8.2. Similar proposals for rear servicing yards with waste storage facilities have been previously approved throughout the Castle Quay 2 development at Blocks A and C and this proposal at Block B is not substantively different other than its visibility onto Cherwell Drive beside the canal bridge. As such, the principle of providing this Service Yard containing the Waste Compactor within the Castle Quay 2 Block B development area has been established.

Design and Impact on the Character of the Area

- 8.3. 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.
- 8.4. The development, which is now retrospective, seeks to provide an area of enclosed service yard to the rear of the Block B Cinema building, fronting onto and directly served from the south side of Cherwell Drive, immediately to the west side of the canal bridge. Save for the vehicular access, the Service Yard is surrounded by tall brick walls of matching form and material construction to the rest of Block B. The waste compactor unit is located in the west side of the yard, close to the front boundary wall, which largely screens it in views from Cherwell Drive.
- 8.5. Overall, Officers consider the form, layout and design of the service yard and the positioning of the waste compactor 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

- 8.6. 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.

- 8.7. 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.
- 8.8. The application site forms part of the Block B Cinema outdoor service yard, which has recently completed 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.
- 8.9. 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 public usage of this area, which is considered to be of public benefit, increasing the understanding of the history of the wider site.
- 8.10. The application proposed a small service yard area for the delivery of goods and the storage of waste materials to be contained in a waste compactor, accessed from and fronting Cherwell Drive but surrounded by tall brick walling of matching design and material finish to the rest of the Block B Cinema that it serves. Overall, the design of the yard and positioning of the waste compactor accord with the previous outline and reserved matters approvals and is considered to be in-keeping with the Castle Quay 2 development and the Conservation Area.
- 8.11. Whilst there may be some less than substantial harm arising from the visibility of the yard from Cherwell Drive, this is considered to be limited given the context in which the development sits, as part of the wider Castle Quay development. The public benefits of providing the additional leisure attraction in the form of the Cinema that the service yard serves is considered to outweigh any less than substantial harm caused to the significance of the Conservation Area.
- 8.12. 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.

9. RECOMMENDATION

- 9.1. That Planning Condition 5 of 17/00284/REM be discharged based upon the following:

Condition 5:

Approved drawings Compactor Location Plan - Centre Wide Plan Ref: CQ2-LJA-XX-00-DR-A-03309; and Waste Compactor Detailed Plan Ref: N 22 SHA.