

Case Officer: Michael Sackey

Applicant: Mr Tom Mason

Proposal: Change of Use of part of building to form 10no apartments (Use Class C3) including the partial demolition and alterations to the rear elevation and associated works – revised scheme of 23/00401/F

Ward: Banbury Cross And Neithrop

Councillors: Councillor Becky Clarke MBE, Councillor Fiaz Ahmed and Councillor Yvonne Greene

Reason for Referral: Development of 10 or more dwellings

Expiry Date: 8 June 2026

Committee Date: 02 July 2026

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

MAIN REPORT

1. APPLICATION SITE AND LOCALITY

- 1.1. The application relates to a Grade II listed building, Borough House, located within Banbury Conservation Area. The building is late Victorian, dating to around 1893, and was previously the Municipal Technical School and Mechanic's Institute. The building is three storeys, and the ground floor of the site has a framing business and an employment consultancy business. The first and second floor have been in use as an office for over 20 years.
- 1.2. Part of the building is associated with Banbury Library to the south-east, which is also a Grade II listed building, and the property to the north-west is the Freemasons Hall. Adjacent to the Freemasons Hall is an access to a rear courtyard area, bound by properties along Marlborough Road, High Street and Albert Street.
- 1.3. Opposite the site, to the south-west is a car park at a higher land level that serves a few shops.

2. CONSTRAINTS

- 2.1. The application site is within Banbury town centre and Conservation Area, the building is a Grade II listed building, and immediately adjacent to a Grade II listed building.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The application seeks planning permission for the conversion of part of the building consisting of the basement, ground floor, first floor and second floor of the building,

partial demolition, a proposed rear extension, and internal alterations to provide 10 self-contained flats.

- 3.2. The basement would have cycle stores, storage areas, and a plantroom.
- 3.3. Flat 1 (2 bedroom) would be set across the ground floor and first floor with Flat 2 (1 bedroom) and Flat 3 (4 bedroom) set across the ground floor.
- 3.4. Flat 4 (1 bedroom) and Flat 5 (1 bedroom) would be set across the first floor with Flat 6 (1 bedroom) would be set across the first floor.
- 3.5. Flat 7 (1 bedroom), Flat 8 (1 bedroom) and Flat 9 (1 bedroom) would all be set across the second floor with Flat 10 (1 bedroom) also set across the second floor with a mezzanine level for the bedroom.
- 3.6. The current application relates to an email and amended plans received on (31.03.2026) at 12:21hrs from the applicant's agent (Ross Middleton) reference "21020 (D) 201 Revision D", "21020 (D) 202 Revision D" and "21020 (D) 203 Revision D" in response to the issues raised with regards to the impact of the development on the Heritage assets and fire safety by Officers during the course of the application.
- 3.7. The current application relates to an email and amended plans received on (27.04.2026) at 16:50hrs from the applicant's agent (Ross Middleton) reference "21020 (D) 204 Revision D" in response to the issues raised with regards to the impact of the development on the Heritage assets by Officers during the course of the application. The assessment and determination of this application is based on the amended plans and additional details and information.
- 3.8. There is a concurrent listed building consent application (Ref: 24/01910/LB) for the internal and external alterations to facilitate the proposed use.

4. RELEVANT PLANNING HISTORY

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

Application: 18/00999/F Permitted 24 September 2018

Change of Use from A2 (Professional and Financial) to B1 (Offices)

Application: 23/00401/F Refused 24 July 2023

Change of Use of part of building to form 10no apartments (Use Class C3) including the partial demolition and alterations to the rear elevation, an external staircase, and internal alterations

Application: 23/00402/LB Refused 24 July 2023

Partial demolition and alterations to the rear elevation, an external staircase, and internal alterations, to facilitate the change of use of part of building to form 10no apartments (Use Class C3)

Application: 24/01910/LB

Partial demolition and alterations to the rear elevation and internal alterations, to facilitate the change of use of part of building to form 10no

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, 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 **23 August 2024**, although comments received after this date and before finalising this report have also been taken into account.
- 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.

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

- 7.2. **BANBURY TOWN COUNCIL:** Banbury Town Council has now considered these applications at its Planning Committee and resolved to raise **no objections**.

OTHER CONSULTEES

- 7.3. **BANBURY CIVIC SOCIETY** - BCS maintains its objection to the scheme, arguing that the conversion of the listed Victorian building into 10 flats would still harm its historic character despite a reduction in subdivision and the removal of the fire escape proposal. However, BCS welcomes the retention of key historic features, considers one parking space per flat appropriate, and notes that a previous reason for refusal (the fire escape) has now been addressed.
- 7.4. **ECOLOGY** - With regard to the development, the roofs look to already be built into with no separate roof void. If any re-tiling, roof works or works to eave spaces are required a bat and nesting bird survey will be required. The same applies if any external features such as fascias, timber cladding or stonework is scheduled to be removed.

Informative notes should be applied to any permission relating to protection of bats and nesting birds.

- 7.5. **FIRE SERVICE (OXFORDSHIRE)** - In response to the above application, Oxfordshire Fire and Rescue Service have the following comment:

It is taken that these works will be subject to a Building Regulations application and subsequent statutory consultation with the fire service, to ensure compliance with the functional requirements of The Building Regulations 2010.

- 7.6. **CDC BUILDING CONTROL** - A building regulation application is required.

- 7.7. **OCC HIGHWAYS: No objections** subject to standard conditions in respect of Travel plan, cycle parking, electric vehicle charging and car parking provision.
- 7.8. **OCC LEAD LOCAL FLOOD AUTHORITY** - The proposal is for a change of use of the existing building. The impermeable area is not increasing and the existing surface water drainage is to be reused, which is appropriate for the type of development.
- 7.9. **OCC ARCHAEOLOGY** - The proposals outlined would not appear to have an invasive impact upon any known archaeological sites or features. As such there are no archaeological constraints to this scheme.
- 7.10. **CDC RECREATION AND LEISURE: No objection** subject to S106.
- 7.11. **THAMES VALLEY POLICE - No objection** incorporation of 'Secured by Design' principles and/or standards.
- 7.12. **CDC DRAINAGE** - No comments on drainage but ensure Building Control are consulted.
- 7.13. **CDC CONSERVATION (14.07.2025) - (Objects)** The current proposals remain broadly in line with what was submitted previously, with the exception of the omission of the proposed fire escape and the slight reduction in the extent of internal subdivision. As such, it is difficult to support the proposals in their current form as they do not overcome the concerns raised by the previous conservation officer and the level of harm to the listed building would remain as less than substantial (mid-range of the scale). As harm has been identified to the heritage assets, consequently this harm should be weighed up against the public benefits of the scheme as laid out in the NPPF.
- 7.14. **CDC CONSERVATION (15.06.2026) - (No Objections)** We welcome attempts to minimise subdivision of the floor plan etc. It's a significant improvement on the previous iteration. Just a few points- the submission of a demolition plan which highlights any historical features to be removed would be helpful. I note that quite a few of the doorways are still to be blocked off. We will need further details of these - they should be in line with Historic England guidance on fireproofing historic buildings and any existing historic doors and architraves should remain in situ. Further details of required fireproofing/ thermal upgrading/ plastering etc. will be required. Where new walls are proposed they shouldn't cut through existing architectural features i.e. F05/ F08- the lobbies seem to cut through the chimney breast. If they could be set back this would create a neater fit. Details of all new windows/ doors/ panelling/ flooring/ internal walls/ staircases/ AOV system/ services (location of soil pipes etc.) are required.
- 7.15. **PUBLIC ART** - Consulted on (02.08.2024 and 29.10.2024); no comments received.
- 7.16. **STRATEGIC HOUSING** - Consulted on (02.08.2024 and 29.10.2024); no comments received.
- 7.17. **WASTE AND RECYCLING** - Consulted on (02.08.2024); no comments received.
- 7.18. **BANBURY ACTIVE TRAVEL SUPPORTERS** - Consulted on (02.08.2024); no comments received
- 7.19. **PROPERTY AND ASSETS MANAGER** - Consulted on (02.08.2024); no comments received
- 7.20. **THAMES WATER** - Consulted on (02.08.2024 and 29.10.2024); no comments

7.21. **HOUSING STANDARDS** - Consulted on (29.10.2024); no comments received.

7.22. **CLINICAL COMMISSIONING GROUP** - Consulted on (29.10.2024); no comments received.

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
- BSC 1 – District Wide Housing Distribution
- BSC 2 – The Effective and Efficient Use of Land – Brownfield Land and Housing Density
- BSC12 – Indoor Sport, Recreation and Community Facilities
- ESD6 – Sustainable Flood Risk Management
- ESD10 – Protection and Enhancement of Biodiversity and the Natural Environment
- ESD15 – The Character of the Built and Historic Environment
- Banbury 7 – Strengthening Banbury Town Centre

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- H21 – Conversion of Buildings in Settlements
- C21 – Proposals for the Re-use of a Listed Building
- C23 – Retention of Features Contributing to Character and Appearance of a Conservation Area
- C28 – Layout, Design and External Appearance of New Development
- C30 – Design Control

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 Character Appraisal

9. APPRAISAL

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

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

- Residential amenity
- Highway safety
- Drainage
- S106
- Other matters

Principle of Development

Policy Context

- 9.2. The CLP 2015 states that housing growth will be directed towards the urban areas of Banbury and Bicester. Paragraph B.88 states: *'By focussing development in and around the towns of Bicester and Banbury we aim to ensure that the housing growth which the District needs only takes place in the locations that are most sustainable and most capable of absorbing this new growth.'*
- 9.3. Policy BSC 1 of the CLP 2015 sets out the distribution of housing growth throughout the Cherwell District Council area up to 2031, stating 22,840 homes are to be delivered during the plan period, with 7,319 of those to be delivered within Banbury.
- 9.4. The NPPF's key objective is to support the achievement of sustainable development through the planning system; recognising the need to secure gains in the overarching objectives (economic, social, and environmental). In respect of new residential development there is a requirement for the provision of new housing of the right type in the right location at the right time, and that development should also contribute to protecting and enhancing our natural, built, and historic environment, as well as fostering a well-designed and safe built environment (Para. 8). These aims are echoed within the policies of the CLP 2015 which looks to support sustainable development.

Assessment

- 9.5. The AMR 2025, including a Housing Land Supply Position Statement, was approved by the Executive on 2nd December 2025. Based on the housing site supply shown in the AMR, the updated position demonstrates that the district has a 3.1 year supply of deliverable sites over the next five years and in addition, the Local Authority has also recently been placed under special measures (Section 62A) in relation to its ability to make decisions on major applications.
- 9.6. As the Council cannot demonstrate a five-year housing land supply, in accordance with the NPPF, any assessment of residential proposals will need to apply the 'tilted balance.'
- 9.7. The site is located within the Banbury 'Town Centre' as defined within the Cherwell Local Plan. Policy Banbury 7 (Strengthening Banbury Town Centre) of the CLP 2015 states that residential development will be supported in appropriate locations in the town centre except where it will lead to a loss of retail or other main town centre uses.
- 9.8. Policy Banbury 7 does not specifically address residential uses at first floor level outside the primary shopping area. However, it does allow for such development inside the primary shopping area, and the Council has been supportive of the change of use of upper floors to residential development in the town centre as it can add to the vitality and viability of the centre as supported by the NPPF.

9.9. Policy SLE1 also states that *“In cases where planning permission is required existing employment sites should be retained for employment use unless the following criteria are met:*

- *the applicant can demonstrate that an employment use should not be retained, including showing the site has been marketed and has been vacant in the long term.*
- *the applicant can demonstrate that there are valid reasons why the use of the site for the existing or another employment use is not economically viable.*
- *the applicant can demonstrate that the proposal would not have the effect of limiting the amount of land available for employment.”*

9.10. The premises is partly vacant, and a marketing report has been submitted accompanying the proposal and supporting the proposal for its change of use, which officers have reviewed and are generally satisfied with. The scheme as originally submitted with this application proposed to retain some the office the use at the ground floor level; however, following consultations with the council’s building Control Team, it was advised that a mixed use scheme particularly with the proposed uses would not be feasible with regards to health safety and fire safety, given that the proposed uses would use a shared access with different uses of residential and offices also being set on the ground floor.

9.11. It is therefore considered that in this instance although there would be some policy conflict with Policy SLE1 and Policy Banbury 7 with the loss of the use of the building as offices, this conflict should be afforded only limited weight given the justification for the loss of the employment use. This policy conflict will need to be weighed in the planning balance.

9.12. It is noted that the principle of a similar development under the previous application (Ref: 23/00401/F) was considered acceptable. The site is in a sustainable location close to the centre of Banbury, and conversions are an appropriate way to secure new residential properties and, in this instance, to also secure the long-term future of a heritage asset. Therefore, the general principle of development, in sustainability terms, is considered acceptable in terms of the location within Banbury.

Conclusion

9.13. The site is in a sustainable location. There is some policy conflict as set out above. This will need to be weighed in the planning balance. Overall acceptability is dependent on other material considerations including heritage impact, design, residential amenity and highway safety, discussed further below.

Design, heritage and impact on the character of the area

Legislative and policy context

9.14. The site is a Grade II listed building, is within the Banbury Conservation Area, and affects the setting of the Grade II listed Banbury Library.

9.15. 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.*

9.16. 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.

- 9.17. Conservation Areas and Listed Buildings are designated heritage assets, and Paragraph 205 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 2015 echoes this guidance.
- 9.18. Policy ESD15 of the CLP 2015 provides guidance as to the assessment of development and its impact upon the character of the built and historic environment. It seeks to secure development that would complement and enhance the character of its context through sensitive siting, layout and high-quality design meeting high design standards and complementing any nearby heritage assets.
- 9.19. BSC2 of the CLP 2015 states that new housing should be provided on net development areas at a density of at least 30 dwellings per hectare unless there are justifiable reasons to lower the density. The Council's Design Guide seeks to ensure that new development responds to the traditional settlement pattern and character of a village. This includes the use of continuous building forms along principal routes and the use of traditional building materials and detailing and form that respond to the local vernacular.
- 9.20. Saved Policies C28 and C30 of the CLP 1996 exercise control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context. New housing development should be compatible with the appearance, character, layout, scale, and density of existing dwellings in the vicinity.
- 9.21. Section 12 of the NPPF is clear that good design is a fundamental to what the planning and development process should achieve. Paragraph 135 of the NPPF states that planning decisions should ensure that developments:
- will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
 - are visually attractive as a result of good architecture, layout, and appropriate and effective landscaping;
 - are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change
- 9.22. No alterations are proposed to the frontage of the building and therefore there would be no impact on this elevation of the existing building.
- 9.23. To the rear of the building is a proposed a new four storey rear extension, which extends the existing gable and generally replicates the architectural detailing and features of the rear elevation of the building. For example, with its adoption of the existing gables and along with its set down and scale, would be subservient to the existing listed building. The fenestrations are relatively balanced to the proposed multi storey extension, mirroring the element of the rear element it would attach to. The materials would also match that of the existing building. This element of the

proposal would enhance the existing building by replacing parts of the existing rear modern elements to be demolished, which were considered unsightly modern extensions by the Conservation Officer. And as advised by the Conservation Officer, the extension element of the proposal constitutes an enhancement in heritage terms and attempts to minimise the extent of the subdivision and along with the omission of the previously proposed fire escape, is acceptable.

- 9.24. Following discussions and amended plans the Conservation officer has responded to the revised scheme advising and stating that

“We welcome attempts to minimise subdivision of the floor plan etc. It's a significant improvement on the previous iteration. Just a few points- the submission of a demolition plan which highlights any historical features to be removed would be helpful. I note that quite a few of the doorways are still to be block off. We will need further details of these- they should be in line with Historic England guidance on fireproofing historic buildings and any existing historic doors and architraves should remain in situ. Further details of required fireproofing/ thermal upgrading/ plastering etc. will be required. Where new walls are proposed they shouldn't cut through existing architectural features i.e. F05/ F08- the lobbies seem to cut through the chimney breast. If they could be set back this would create a neater fit. Details of all new windows/ doors/ panelling/ flooring/ internal walls/ staircases/ AOV system/ services (location of soil pipes etc.) are required.”

- 9.25. Officers consider that the amended proposal reflects the local distinctiveness of the area and secures a high-quality design, including materials, in line with the Banbury Conservation Area Appraisal (2018) which outlines appropriate building materials that are traditional to Banbury Conservation Area.
- 9.26. The parking proposed for the development would be located to the east and rear of the existing building with no changes to the existing access leading to the rear of building. The proposed parking would be overlooked by habitable room windows within proposed development and also the adjacent and neighbouring buildings and which would provide surveillance in line with the Cherwell Residential Design Guide SPD.
- 9.27. The proposed cycle storage for the development is proposed to the basement and to the rear of the existing building.
- 9.28. Refuse and waste storage bins are proposed to the east and rear of the building. In respect of bin storage, details are shown on the plans, and these are considered acceptable and the details would need to be secured by planning condition.

Conclusion

- 9.29. Overall, for the above reasons and subject to conditions on detailing and materials, the proposal would not adversely affect the character or appearance of the area or cause harm to the significance of the Banbury Conservation Area or the Grade II listed building. The development would also result in public benefit of providing additional dwellings within a sustainable location and securing the long-term future of the heritage asset, and it is thus considered that the proposal accords with Policy ESD15 of the CLP 2015, retained Policy C28 of the CLP 1996 and Government guidance in the NPPF.

Highway Safety

Policy context

- 9.30. Both Policies ESD15 and SLE4 of the CLP 2015 reflect the provision and aims of the NPPF. Policy ESD15 of the CLP 2015 states that: *“New development proposals should be designed to deliver high quality safe, attractive, durable, and healthy places to live and work. Development of all scales should be designed to improve the quality and appearance of an area and the way it functions”*; whilst 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”*.

Assessment

- 9.31. The Local Highway Authority (LHA) has responded to raising no objections to the application advising that the site is located in close proximity to Banbury Town Centre. As such there is a comprehensive range of goods services and opportunities within comfortable walking distance, therefore, the site meets OCC's criteria for car free development, and it is therefore considered acceptable to have 2 units on site without car parking provision. The LHA informed that the submitted Justification Design and Access Statement (PJDas) notes that the development will retain the existing vehicle access on Marlborough Road and retain part of the existing car park (8 spaces) to the rear of the building and that this arrangement is acceptable in principle.
- 9.32. The LHA further advised that the applicant must ensure that spaces are allocated to the dwellings, to avoid the risk of overspill onto the adjacent highway in the event they were to be occupied by office workers. And that the car park should also provide for electric vehicle charging points in accordance with policy EV18 of the Oxfordshire Electric Vehicle Infrastructure Strategy.
- 9.33. The LHA concluded that a revised car parking plan can be submitted in discharge of a condition of planning permission and submitted basement plans show an area labelled "Bike Store" at basement level but no details are given of the type of storage and quantity of bikes it will be able to accommodate. These details can be supplied in discharge of a condition of planning permission.
- 9.34. The provision electric charging infrastructure now falls within the remit of building control and is not considered applicable in in this instance.

Conclusion

- 9.35. Overall, therefore, it is considered that subject to the recommended conditions for a residential travel information pack, cycle parking provision and car parking provision, the proposal would not have a detrimental impact on the highway in terms of safety or convenience and thus accords with Policy ESD15 of the CLP 2015 and Government guidance in the NPPF.

Residential Amenity

Policy Context

- 9.36. Saved Policy C30 of the CLP 1996 requires that a development must provide standards of amenity and privacy acceptable to the Local Planning Authority. These provisions are echoed in Policy ESD15 of the CLP 2015 which states that: *‘new development proposals should consider amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation and indoor and outdoor space’*.

Assessment

- 9.37. The proposed development and its proposed flats would all comply with the Nationally Described Space Standards for 1-bedroom flats set across one floor, 1-bedroom flat set across two floors, 2-bedroom flats set across two floors and a 4-bedroom flat set across one floor.
- 9.38. All habitable rooms within the flats are served by appropriately sized windows and therefore benefit from appropriate receipt of light.
- 9.39. There is no outdoor, private residential amenity area provided for the 10 flats proposed, as the outdoor space associated with the development would serve as a parking area. Cherwell's Residential Design Guide SPD states that flats should be served by balconies, roof gardens, or shared gardens. Although there is an area labelled as the accommodation ancillary to the residential units at the basement level. It is appreciated this is a conversion scheme to a listed building, so there is limited scope to introduce new elements to overcome this issue. However, it is noted that People's Park is around 0.3 miles from the site (5-minute walk), and Spiceball Park is 0.5 miles from the site (10 minute walk). Therefore, given the proposal relates to a listed building which can accommodate limited changes, a balanced approach could be taken to this element and would not surmount to a reason to refuse the application.

Conclusion

- 9.40. Overall, therefore, the proposal would not adversely affect the amenities of the adjacent neighbours and buildings, and on balance would result in an acceptable standard of amenity for the future occupiers of the dwellings. The proposal therefore complies with Policy ESD15 of the CLP 2015, saved Policy C30 of the CLP 1996 and Government guidance in the NPPF.

Ecology Impact

Legislative context

- 9.41. The Conservation of Habitats and Species Regulations 2017 consolidate the Conservation of Habitats and Species Regulations 2010 with subsequent amendments. The Regulations transpose European Council Directive 92/43/EEC, on the conservation of natural habitats and of wild fauna and flora (EC Habitats Directive), into national law. They also transpose elements of the EU Wild Birds Directive in England and Wales. The Regulations provide for the designation and protection of 'European sites', the protection of 'European protected species', and the adaptation of planning and other controls for the protection of European Sites.
- 9.42. Under the Regulations, competent authorities i.e. any Minister, government department, public body, or person holding public office, have a general duty, in the exercise of any of their functions, to have regard to the EC Habitats Directive and Wild Birds Directive.
- 9.43. The Regulations provide for the control of potentially damaging operations, whereby consent from the country agency may only be granted once it has been shown through appropriate assessment that the proposed operation will not adversely affect the integrity of the site. In instances where damage could occur, the appropriate Minister may, if necessary, make special nature conservation orders, prohibiting any person from carrying out the operation. However, an operation may proceed where it is or forms part of a plan or project with no alternative solutions, which must be carried out for reasons of overriding public interest.

9.44. The Regulations make it an offence (subject to exceptions) to deliberately capture, kill, disturb, or trade in the animals listed in Schedule 2, or pick, collect, cut, uproot, destroy, or trade in the plants listed in Schedule 4. However, these actions can be made lawful through the granting of licenses by the appropriate authorities by meeting the requirements of the 3 strict legal derogation tests:

- (1) Is the development needed to preserve public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment?
- (2) That there is no satisfactory alternative.
- (3) That the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

9.45. The Regulations require competent authorities to consider or review planning permission, applied for, or granted, affecting a European site, and, subject to certain exceptions, restrict or revoke permission where the integrity of the site would be adversely affected. Equivalent consideration and review provisions are made with respects to highways and roads, electricity, pipe-lines, transport and works, and environmental controls (including discharge consents under water pollution legislation).

Policy Context

9.46. Paragraph 180 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 valued landscapes, sites of biodiversity or geological value and soils; and d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

9.47. Paragraph 186 states that when determining planning applications, local planning authorities should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

9.48. Paragraph 191 of the NPPF states that planning decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should (amongst others) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes, and nature conservation.

9.49. Policy ESD10 of the Cherwell Local Plan 2015 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.

- 9.50. These policies are both supported by national policy in the NPPF and also, under Regulation 43 of Conservation of Habitats & Species Regulations 2017, it is a criminal offence to damage or destroy a breeding site or resting place, unless a licence is in place.
- 9.51. The Planning Practice Guidance dated 2014 post dates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that Local Planning Authorities should only require ecological surveys where clearly justified, for example if there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.

Assessment

- 9.52. The Council's Ecologist (CE) has responded to the application advising that the proposal should be exempt from Biodiversity Net Gain. The CE further advises that with regards to the development, the roofs look to already be built into with no separate roof void, if any re-tiling, roof works or works to eave spaces are required a bat and nesting bird survey will be required and the same applies if any external features such as fascias, timber cladding or stonework is scheduled to be removed. The CE concluded that informative should be applied to any permission relating to protection of bats and nesting birds.

Conclusion

- 9.53. Having regards to the CE's comments and nature of the proposed development, the proposal would be acceptable in terms of the ecology of the site subject to the recommended informative and it would comply with Policies ESD10 and ESD15 of the CLP 2015 and Govt guidance in the NPPF.

Flood Risk and Drainage

Policy Context

- 9.54. The Section 14 of the NPPF covers the issue of meeting the challenge of climate change, flooding, and coastal change. Paragraph 181 of the NPPF states that *when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:*
- a) *within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;*
 - b) *the development is appropriately flood resistant and resilient;*
 - c) *it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;*
 - d) *any residual risk can be safely managed; and*
 - e) *safe access and escape routes are included where appropriate, as part of an agreed emergency plan.*

9.55. Paragraph 182 of the NPPF continues by stating that *major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should:*

- a) *take account of advice from the lead local flood authority;*
- b) *have appropriate proposed minimum operational standards;*
- c) *have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development*

9.56. Turning to the Development Plan, Policy ESD6 of the CLP 2015 essentially replicates national policy in the NPPF with respect to assessing and managing flood risk. In short, this policy resists development where it would increase the risk of flooding and seeks to guide vulnerable developments (such as residential) towards areas at lower risk of flooding.

Assessment

9.57. The application included a Flood Risk Assessment and Drainage Strategy. The Lead Local Flood Authority (LLFA) also responded to the application advising that the proposal is for a change of use of the existing building, the impermeable areas are not increasing, and the existing surface water drainage is to be reused, which is appropriate for the type of development.

Conclusion

9.58. With regards to the comments of the LLFA and the Flood Risk Assessment and Drainage Strategy provided, it is considered that the application would not result in an adverse effect on drainage and flood risk at the site, therefore the proposal would be in accordance to Policy ESD6 of the CLP 2015 and the Government guidance contained within the NPPF.

Archaeology

9.59. The County Council Archaeological Officer has responded to the application advising that the proposals outlined would not appear to have an invasive impact upon any known archaeological sites or features and as such there are no archaeological constraints to this scheme.

9.60. Officers agree with this assessment and the proposal given its nature and extent is considered acceptable in terms of archaeology. and would not conflict with Policy ESD15 of the CLP and Government guidance in the NPPF.

Impact on Local Infrastructure

Policy Context

9.61. Policy INF1 of the CLP 2015 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.”*

9.62. Policy BSC11 of the CLP 2015 states that: *“Development proposals will be required to contribute to the provision of open space, sport, and recreation, together with secure arrangements for its management and maintenance. The amount, type and form of open space will be determined having regard to the nature and size of development proposed and the community needs generated by it. Provision should*

usually be made on site in accordance with the minimum standards of provision set out in 'Local Standards of Provision – Outdoor Recreation.' Where this is not possible or appropriate, a financial contribution towards suitable new provision or enhancement of existing facilities off site will be sought, secured through a legal agreement.”

- 9.63. The Council has an adopted Supplementary Planning Document (SPD) setting out its position in respect of requiring financial and on-site contributions towards ensuring the necessary infrastructure or service requirements are provided to meet the needs of development, and to ensure the additional pressure placed on existing services and infrastructure is mitigated. This is the starting point for negotiations in respect of completing S106 Agreements.

Assessment

- 9.64. Where on and off-site infrastructure/measures need to be secured through a planning obligation (i.e. legal agreement) they must meet statutory tests set out in regulation 122 of the Community Infrastructure Ley (CIL) Regulations 2010 (as amended). These tests are that each obligation must be:

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

- 9.65. Where planning obligations do not meet the above statutory tests, they cannot be taken into account in reaching a decision. In short, these tests exist to ensure that local planning authorities do not seek disproportionate and/or unjustified infrastructure or financial contributions as part of deciding to grant planning permission. Officers have had regard to the statutory tests of planning obligations in considering the application and Members must also have regard to them to ensure that any decision reached is lawful.

- 9.66. Having regard to the above, in the event that Members were to resolve to grant planning permission, the following items would in officers' view need to be secured via a legal agreement with both Cherwell District Council and Oxfordshire County Council in order to secure an appropriate quality of development as well as adequately mitigate its adverse impacts:

Cherwell District Council

- Payment of a financial contribution towards the provision of Community Hall Facilities
- Payment of a financial contribution towards the provision of Outdoor Sport Provision
- Payment of a financial contribution towards the provision of Indoor Sport Provision

Oxfordshire County Council

- Payment of a financial contribution towards the provision of Education

- 9.67. A S106 agreement would need be entered into if the application were to be supported, although no discussions or negotiations about the draft heads of terms have occurred at this stage. In the event that permission was to be approved for this development, it would be subject to an agreed S106 being in place.

10. PLANNING BALANCE AND CONCLUSION

- 10.1. The proposed development would result in the conversion of an existing building and the creation of ten residential units in a geographically sustainable location and provides potential to add vitality to the town centre through additional residential development and securing the long-term future of a heritage asset.
- 10.2. The proposal would result in the loss of office space, and conflicts with Policies SLE1 and Banbury 7 in this regard.
- 10.3. However, for reasons set out in this report, including applying the tilted balance, this conflict is afforded limited weight, and it is considered that this policy conflict is outweighed by the benefits of the scheme providing additional housing and providing a long-term use for the historic building or unit. The external alterations are considered acceptable, and the proposal is considered not to adversely affect the character and appearance of the local area or cause harm to the significance of heritage assets. Overall, the proposed development is considered to constitute a sustainable form of development, and it is recommended that planning permission be granted.

11. RECOMMENDATION

DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING TO GRANT PERMISSION, SUBJECT TO

- I. THE CONDITIONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY) AND**
- II. 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) Payment of a financial contribution towards off site indoor sports provision in the locality of £5,063.33 towards strategic facilities (index linked)
- b) Payment of a financial contribution towards off site outdoor sports in the locality of £20,170.30 towards strategic facilities (index linked)
- c) Payment of a financial contribution towards off site provision of community hall facilities of £6,924.78 (index linked)
- d) Payment of a financial contribution towards educational infrastructure TBC
- e) Payment of the Council's monitoring costs TBC.

FURTHER RECOMMENDATION: THE STATUTORY DETERMINATION PERIOD FOR THIS APPLICATION EXPIRES ON 31.07.2026. IF THE SECTION 106 AGREEMENT/UNDERTAKING IS NOT COMPLETED AND THE PERMISSION IS NOT ABLE TO BE ISSUED BY THIS DATE AND NO EXTENSION OF TIME HAS BEEN AGREED BETWEEN THE PARTIES, IT IS FURTHER RECOMMENDED THAT THE ASSISTANT DIRECTOR FOR PLANNING IS GIVEN DELEGATED AUTHORITY TO REFUSE THE APPLICATION FOR THE FOLLOWING REASON:

1. In the absence of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement the Local Planning Authority is not satisfied that the proposed development provides for appropriate planning obligations required as a result of the development and necessary to make the impacts of the development acceptable in planning terms, to the detriment of both existing and proposed residents and contrary to Policies INF1, PSD1, BSC10, BSC11 and BSC12 of the Cherwell Local Plan 2011-2031 Part 1, Policies COM2, COM20, COM23 and COM24 of the draft Cherwell Local Plan 2042, and Government guidance contained within the National Planning Policy Framework.

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 form and following approved plans "21020 (D) 201 Revision D", "21020 (D) 202 Revision D" and "21020 (D) 203 Revision D" and "21020 (D) 204 Revision D"

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.

Brick sample

3. No development shall commence above slab level unless and until a brick sample panel minimum (1m² in size) has been constructed on site to match the brickwork on the existing building and showing the mortar to be used in the repointing and has been inspected and approved in writing by the Local Planning Authority. The external walls of the development shall be laid, dressed, coursed, and pointed in strict accordance with the approved stone sample panel and shall be retained as such thereafter.

Reason - To ensure that the development is constructed and finished in materials which are in harmony with the building materials used in the locality and to safeguard the character and appearance of the Conservation area and the significance of heritage assets and to comply with Policy ESD 15 of the Cherwell Local Plan 2011-2031, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework

Detailed schedule of materials for the extension

4. No development shall commence above slab level unless and until a detailed schedule of materials for the extensions shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out

other than in accordance with the approved details.

Reason - To safeguard the significance of heritage assets and to comply with Policy ESD 15 of the Cherwell Local Plan 2011-2031, saved Policy C18 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Parking provision for vehicles

5. Notwithstanding the details submitted, no development shall commence until and unless a plan detailing the proposed parking provision for vehicles to be accommodated within the site, has been submitted to and approved in writing by the Local Planning Authority. The approved parking facilities shall be laid out and completed in accordance with the approved details before the first occupation of the building. The car parking spaces shall be retained for the parking of vehicles at all times thereafter.

Reason - In the interests of sustainability, to ensure a satisfactory form of development and to comply with Government guidance contained within the National Planning Policy Framework.

Repointing of the brickwork

6. Prior to the any repointing of the brickwork, details including mortar specification details and sample of the repointing to an inconspicuous location to match the core sample of the existing mortar shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out other than in accordance with the approved details.

Reason - To ensure that the development is constructed and finished in materials which are in harmony with the building materials used in the locality and to safeguard the character and appearance of the area and the significance of heritage assets and to comply with Policy ESD 15 of the Cherwell Local Plan 2011-2031, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Treatment of the existing and proposed doors

7. Notwithstanding the submitted details, details of the treatment of the existing and proposed doors shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of those works. The development shall not be carried out other than in accordance with the approved details.

Reason - To safeguard the significance of heritage assets and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Details of the new openings including method statement, materials samples, and details

8. Notwithstanding the details submitted, no development shall commence unless and until details of the new openings including method statement, materials samples, and details to match the existing building have been submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out other than in accordance with the approved details and shall be retained as such thereafter.

Reason - To safeguard the significance of heritage assets and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Joinery details including windows and doors

9. Notwithstanding the details submitted, no development shall commence above slab level unless and until joinery details including windows, doors and at a scale of 1:10 including cross sections and colour/finish have been submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out other than in accordance with the approved details and shall be retained as such thereafter.

Reason - To safeguard the significance of heritage assets and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Details including panelling, flooring, internal walls, staircases, and AOV system/services

10. Notwithstanding the details submitted, no development shall commence above slab level unless and until details including panelling, flooring, internal walls, staircases, and AOV system/services have been submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out other than in accordance with the approved details and shall be retained as such thereafter.

Reason - To safeguard the significance of heritage assets and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Details and positioning of external vents

11. Notwithstanding the submitted details, details and positioning of external vents shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of those works. The development shall not be carried out other than in accordance with the approved details.

Reason - To safeguard the significance of heritage assets and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Details full details of soil vent pipes

12. Notwithstanding the submitted details, details full details of soil vent pipes shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of those works. The development shall not be carried out other than in accordance with the approved details.

Reason - To safeguard the significance of heritage assets and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained

within the National Planning Policy Framework.

No features of architectural or historic interest shall be altered, replaced, or removed.

13. Unless such work is clearly and specifically referred to on drawings or other documents approved, no features of architectural or historic interest shall be altered, replaced, or removed. Any such features encountered during the work shall be drawn to the attention of the Local Planning Authority.

Reason - To safeguard the character and appearance of the area and the significance of heritage assets and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Details for any fire upgrade

14. Notwithstanding the submitted details, details for any fire upgrade shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of those works. The development shall not be carried out other than in accordance with the approved details.

Reason - To safeguard the significance of heritage assets and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Details for any plastering

15. Notwithstanding the submitted details, details for any Plastering shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of those works. The development shall not be carried out other than in accordance with the approved details.

Reason - To safeguard the significance of heritage assets and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Details for any thermal upgrade

16. Notwithstanding the submitted details, details for any thermal upgrade shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of those works. The development shall not be carried out other than in accordance with the approved details.

Reason - To safeguard the significance of heritage assets and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Rainwater goods

17. The rainwater goods installed to serve the development hereby permitted must be cast iron and painted black and shall be retained as such thereafter.

Reason - To ensure and retain the satisfactory appearance of the completed development and to safeguard the significance of heritage assets 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.

Regulation 41 of the Habitat and Species Regulations 2010

18. Where an offence under Regulation 41 of the Habitat and Species Regulations 2010 is likely to occur in respect of the development hereby approved, no works of site clearance, demolition or construction shall take place which are likely to impact on bats until a licence to affect such species has been granted in accordance with the aforementioned Regulations and a copy thereof has been submitted to the Local Planning Authority.

Reason: To ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy ESD10 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Travel Information Pack

19. Prior to first occupation the development a Travel Information Pack shall be submitted to and approved by the Local Planning Authority. Thereafter the first residents of each dwelling shall be provided with a copy of the approved Travel Information Pack.

Reason: To ensure all residents are aware from the outset of the travel choices available to them, and to comply with Government guidance contained within the National Planning Policy Framework.

Covered cycle parking facilities

20. Prior to the first use or occupation of the development hereby permitted, and notwithstanding the details submitted, covered cycle parking facilities shall be provided on the site in accordance with details which shall be firstly submitted to and approved in writing by the Local Planning Authority. Thereafter, the covered cycle parking facilities shall be permanently retained and maintained for the parking of cycles in connection with the development.

Reason - In the interests of sustainability, to ensure a satisfactory form of development and to comply with Government guidance contained within the National Planning Policy Framework.

Details of the waste storage

21. Prior to the first occupation of the development hereby approved and notwithstanding the details submitted, details of the waste storage shall be submitted and approved in writing to the Local Planning Authority. The bin stores shall thereafter be provided in accordance with the approved details prior to the first occupation of the development and shall thereafter be permanently retain in association with the use and used for no other purpose whatsoever.

Reason – In the interests of the amenity of future occupiers and to ensure that the completed development is in keeping with and preserves the character and appearance of the Conservation Area and to comply with saved Policies C28 and C30 of the Cherwell Local Plan 1996, Policy ESD 15 of the Cherwell Local

Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework

Informative Notes

1. **PN21 Third Party Interests** - Planning permission only means that in planning terms a proposal is acceptable to the Local Planning Authority. Just because you have obtained planning permission, this does not mean you always have the right to carry out the development. Planning permission gives no additional rights to carry out the work, where that work is on someone else's land, or the work will affect someone else's rights in respect of the land. For example, there may be a leaseholder or tenant, or someone who has a right of way over the land, or 54 another owner. Their rights are still valid, and you are therefore advised that you should seek legal advice before carrying out the planning permission where any other person's rights are involved.
2. Birds and their nests are fully protected under the Wildlife and Countryside Act 1981 (as amended), which makes it an offence to intentionally take, damage or destroy the eggs, young or nest of a bird whilst it is being built or in use. Disturbance to nesting birds can be avoided by carrying out vegetation removal or building work outside the breeding season, which is March to August inclusive.
3. Your attention is drawn to the need to have regard to the requirements of UK and European legislation relating to the protection of certain wild plants and animals. Approval under that legislation will be required and a licence may be necessary if protected species or habitats are affected by the development. If protected species are discovered, you must be aware that to proceed with the development without seeking advice from Natural England could result in prosecution. For further information or to obtain approval contact Natural England on 0300 060 3900

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