

Case Officer: Chris Wentworth

Applicant: Mr Patrick Rooney

Proposal: Development of car park and caravan park to comprise up to 63 apartments all within Use Class C3; provision of vehicular and cycle parking together with all necessary internal roads and footpaths; provision of open space and associated landscape works; and ancillary works and structures (resubmission of 18/00293/OUT)

Ward: Banbury Grimsbury and Hightown

Councillors: Cllr Andrew Beere, Cllr Rebecca Biegel, Cllr Sean Woodcock

Reason for Referral: Major Development

Expiry Date: 24 August 2022

Committee Date: 13 July 2023

SUMMARY RECOMMENDATION

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

- 1. THE CONDITIONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY) AND**
- 2. 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 NECESSARY MITIGATION (AND ANY AMENDMENTS AS DEEMED NECESSARY)**

MAIN REPORT

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site comprises a 0.56-hectare parcel of land situated between the Oxford Canal and River Cherwell in the centre of Banbury. The site is within the area covered by Policy Banbury 1: Banbury Canalside.
- 1.2. It is accessed off Station Approach via a roadway that leads between a Chiltern Rail car park and a disused warehouse building. The site is currently in use as a residential caravan park with 18 pitches and a car park. The site also includes a building used as a religious meeting room.
- 1.3. The site is bounded to the west by the Oxford Canal towpath from which it is separated by a 1.8-metre-high fence alongside the current caravan site and by a wall and fence alongside the car park. The towpath is about 1.5 - 2.0 metres below the existing application site level. On the opposite side of the canal are various commercial buildings and uses in Lower Cherwell Street.
- 1.4. To the south are modern warehouse/industrial units in Haslemere Way, which is accessed off Tramway Road. To the east, the existing caravan site is bounded by the River Cherwell, which has extensive tree/shrub growth on both sides of the river.

Further to the east is an area of hardstanding which previously housed a fuel storage yard with above ground tanks. Beyond this is Banbury train station forecourt. To the east of the car park section of the application site lie disused brick buildings (although the surrounding yard areas are used for public car parking). To the north of the site is the road (Station Approach) that leads to the station and provides access to the site.

2. CONSTRAINTS

2.1. The following constraints apply to the site:

- The eastern edge of the site lies in Flood Zone 3;
- Minor groundwater aquifer vulnerability;
- In area of potentially contaminated land;
- Class 1 radon area (0-1% chance of homes being at or above the action level);
- Site lies within Banbury 1 development Allocation area:
- Oxford Canal Conservation Area lies adjacent the western edge of the site;
- Public Right of Way runs along towpath parallel to western edge of the site;
- Bridge 40 metres to north of site is grade II listed.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

3.1. This application is in outline with all matters reserved, except for access. The application proposes 63no. residential apartments with access taken from Station Approach to the north. The application is accompanied by an illustrative site layout plan indicating that the flats would be accommodated in three buildings, each three stories high, two fronting towards the canal and one fronting the river. 63no. parking spaces are indicated. Affordable housing is proposed in accordance with Council policy.

3.2. The submitted indicative drawings show the ability to provide an east-west through-route for pedestrians/cycles across the central part of the site, with allowances made for bridges across the river and canal. The application does not include the provision of either of these bridges or routes to them from the station forecourt and Lower Cherwell Street; they would need to cross third party land to do so.

4. RELEVANT PLANNING HISTORY

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

18/00293/OUT – Outline application for the development of a car park and caravan park on land west of Banbury Railway Station to comprise up to 63 apartments all within Use Class C3; provision of vehicular and cycle parking together with all necessary internal roads and footpaths; provision of open space and associated landscape works; and ancillary works and structures – PERMITTED.

18/00020/SO – Screening Opinion associated with an outline application for the development of a car park and caravan park on land to the west of Banbury Railway Station to comprise up to 63 apartments all within Use Class C3; provision of vehicular and cycle parking together with all necessary internal roads and footpaths; provision of open space and associated landscape works; and ancillary works and structures – EIA NOT REQUIRED.

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

5. PRE-APPLICATION DISCUSSIONS

- 5.1. No pre-application discussions have taken place with respect to this proposal, which replicates what was previously approved under application 18/00293/OUT.

6. RESPONSE TO PUBLICITY

- 6.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in a 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 **11 January 2023**, although comments received after this date and before finalising this report would 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.

- 7.2. BANBURY TOWN COUNCIL: **Comment** - Banbury Town Council raise no objections to the principle of the application proposed but want to be assured that as much affordable housing as is viable should be provided on site (or as a contribution off site). With regards to the sketch proposals, they have concerns about the suggested density and layout of the southern end of the site. They would also require financial contributions towards enhancement of cemetery facilities.

- 7.3. CDC BUILDING CONTROL: **Comment** – The proposals will require a Full Building Regulations Application. I would advise that plans are sent to OFRS for comment on access and facilities for fire fighting vehicles.

- 7.4. CDC ARBORICULTURE: **Comment** – Trees proposed for removal do not appear to be significant specimens, with the AIA identifying trees onsite in a poor condition, as such I have no objection providing, they are appropriately mitigated with replanting within the site. This, and the illustrative trees drawn on the site plan will need detailing through a landscaping plan, a schedule detailing sizes and numbers of all proposed trees/plants, Sufficient specification to ensure successful establishment and survival of new planting, including tree pit detail, use of guards or other protective measures.

- 7.5. CDC ENVIRONMENTAL PROTECTION: **Comments** as follows:

Noise – CEMP will be required along with a noise report to show that all habitable rooms will achieve compliance with noise level threshold specified in BS8233:2014.

Contaminated Land – Full phased land contamination conditions will be required.

Air quality – EV charging required. Air quality impact assessment required by condition.

Odour – Odour should be assessed given the nearby industrial and commercial units.

Light – Lighting details should be secured by condition.

Officer Note: Officers have confirmed that the above matters can all be handled by planning condition.

7.6. THAMES WATER: **Comments**

The site is affected by wayleaves and easements and the applicant should undertake appropriate searches to confirm this.

Thames Water has been unable to determine the foul water infrastructure needs of this application and therefore a condition relating to foul water is recommended.

The application indicates that surface water will not be discharged to the public network and therefore Thames Water has no objection; however, approval should be sought from the Lead Local Flood Authority. Thames Water recommend that the developer follows the sequential approach to the disposal of surface water.

The existing water supply network infrastructure is unable to accommodate the needs of the development, therefore a condition relating to water supply upgrades is recommended.

There are water mains crossing or close to the development and Thames Water do not permit the building over or construction within 3m of water mains.

7.7. CDC CONSERVATION: **Comments**

Significance: The boundary of the conservation area around the canal that runs through the centre of Banbury runs along the edge of the site taking in the towpath and canal.

The significance of the site is its abutting the conservation area boundary. Presently, it has a negative impact on the heritage setting of the conservation area as it is overgrown and not in use.

Opposite the site is a building which has been highlighted as a non-designated heritage asset, which was formally a wharf building. There is a listed building diagonally across the canal, which is another former warehouse. Both are constructed in brick, one with hipped roof side elevations onto the canal and the other is gable-end onto the canal.

Appraisal: The proposals to create parking, access and apartments on this former caravan site is welcomed from the built heritage perspective.

The correct design and materials will be of great significance to the conservation area. The proposals put forward some concept designs which have insufficient design to consider the impact on the conservation area.

However, the height of the blocks facing onto the canal frontage need to vary as the wharf buildings opposite are only two storeys tall. It is recognised that the recently constructed terrace, on the former Town Hall Wharf are two storeys with attics and therefore opposite some three storey, two-storey with attics and two storey elements would be appropriate leading to varied mixed frontage onto the canal. The apartment blocks need to be more broken up to reflect the wharf buildings opposite being gable end onto the canal and some front facing to the canal.

The materials will need to reflect those found with the opposite original canal buildings, i.e., brick, slate and stone detailing. There is a small amount of timber weather boarding which could be used to break up the solid brick walling. The use of the original type of materials used in the construction of the canal could be used in an imitative way to reflect the fact that the buildings are modern.

The information submitted is insufficient to determine how the site's development will impact on the significance of the designated and non-designated heritage asset bounding and opposite the site. However, the right development will be a significant assistance in the regeneration of the area and would likely improve the setting of the conservation area.

Level of Harm: Less than substantial.

Public Benefit: Yes.

Comments: The development abutting the canal conservation area will have a potentially significant public benefit to the area. However, the materials, layout, scale/massing and architectural detailing will be of utmost importance so that it is an enhancement to the adjacent conservation area and other designated and non-designated heritage assets close by.

Officer Note: Officers have confirmed with the Conservation Officer that the response above can be taken as 'comments' and not as an objection as originally submitted.

7.8. CANAL AND RIVER TRUST: **Comments**

Key issues relating to:

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

Suitably worded conditions and a legal agreement are necessary to address these matters.

7.9. OCC TRANSPORT: **No objection** subject to the terms of the existing S106 legal agreement dated 25 June 2019 relating to 18/00293/OUT being applied. Conditions attached to this earlier permission should be reimposed.

7.10. LEAD LOCAL FLOOD AUTHORITY: **No objection** subject to conditions in respect to:

- Detailed surface water drainage scheme for the site;
- SuDS As Built and Maintenance Details.

7.11. OCC EDUCATION: **No objection** subject to following contributions:

Secondary Education: £365,607

Secondary land contribution: £36,663

- 7.12. OCC ARCHAEOLOGY: **Comments** – The site is in an area of archaeological interest, southeast of the historic core of Banbury, between the Oxford Canal and River Cherwell; aerial photographs and LiDAR data suggest that the site has not been developed until relatively recently, and so there is potential for prehistoric to Medieval remains to survive on the site.

An Archaeological Desk Based assessment should be prepared to outline and understand the archaeological potential of the site, and the impact the development would have on any remains. This is to be followed by a programme of archaeological investigations.

Officer Note: OCC Archaeology have subsequently confirmed that archaeological investigations can be secured by condition and are not required before determination.

- 7.13. OCC WASTE MANAGEMENT: **No objection** subject to S106 contribution of £5,919 (index linked) requested towards household waste recycling centres.

- 7.14. ENVIRONMENT AGENCY: **No objection** – The proposed development will be acceptable if planning conditions are included on the planning permission to cover the following points:

- Compliance with Flood Risk Assessment
- Detailed plans of the footbridges to be submitted and approved in writing
- 10m buffer zone alongside River Cherwell requirement
- Landscape and Ecological Management Plan

- 7.15. CDC RECREATION AND LEISURE: **No objection** – Requests contributions towards Community Hall Facilities, Outdoor and Indoor Sport Provision, Public Realm/Public Art.

- 7.16. HISTORIC ENGLAND: Does not wish to offer advice. Recommends consulting with Council's own heritage advisers.

- 7.17. NHS CLINICAL COMMISSIONING (BOBICB): Requests S106 contribution towards the enhancement of Primary Care Facilities in Banbury of £54,432.

- 7.18. CDC STRATEGIC HOUSING: **Comment** – The proposal is for up to 63 flats, indicatively shown in three 3-storey blocks. The illustrative mix set out in the Planning Statement consists of 13no. 1-bedroom units, 46no. 2-bedroom units and 4no. 3-bedroom units. The affordable housing contribution of 30% equates to 19 dwellings, with a tenure split of 14 (rounded up) rented and 5 intermediate.

1. Layout/distribution. Requests that affordable units are distributed throughout the scheme.
2. Size. There is a high level of identified need for 1-bed accommodation, particularly in Banbury therefore we wish to see a higher number of 1-beds in the mix if possible and approximately 40% of the 1-beds as affordable, especially rented. Person occupancy to be maximised, so the 1-beds should be 2-person occupation, the 2-bed units should be 4-person occupation and the 3-bed units should be 5-person occupation, all built to NDSS minimum dimensions.
3. Accessibility. The Developer Contributions SPD requires 50% of rented dwellings to be provided as M4(2) Category 2: Accessible and adaptable dwellings. Preferable for these units to be on the ground floor. Request that all ground floor rented dwellings have a Level-Access Shower installed from the outset. Ideally if one of these flats could be built to Category 3: Wheelchair user dwellings, this would meet an identified need in Banbury.

4. Tenure. As the Council are implementing the Government's First Homes guidance, 25% of the affordable dwellings require to be delivered as First Homes. This 25% will form part of the 30% 2 intermediate element, which equates to 5 on this proposal, comprising all of the intermediate element. For the rented dwellings, we expect these to be social rented, unless the applicant puts forward a justifiable case for affordable rent. If we accept affordable rent, it must be capped at LHA rates, and this should be included in the S106 agreement.
 5. Parking. We note that 63 parking spaces are proposed and suggest that this may be inadequate for the number of potential occupants, although we also recognise that there are sustainability factors which mean that 1 space per dwelling is considered adequate.
- 7.19. CDC LANDSCAPE SERVICES: **Comment** – Townscape/Landscape and Visual Impact Assessment (LVIA) required to assess impact on the character of the conservation area, the proposed bridge and the visual receptors on the tow path. Combined LAP/LEAP required of a minimum 500sqm. Equipped activity zone should be minimum of 10m from the nearest dwelling and 20m from the nearest habitable room façade. Commuted sums requested for maintenance of play areas, open space and trees. Suggested that there is a potential for a riverwalk south of the retained depot and to the rear of the apartments. River maintenance access also required. Tree planting on site encouraged.
- 7.20. CDC PLANNING POLICY: **No objection** subject to justification being provided for the inconsistency with Policy Banbury 1 in terms of the area covered by the application and it can be demonstrated that the proposal would satisfactorily fulfil the relevant design and place making principles of Policy Banbury 1.
- 7.21. CDC ECOLOGY: **No objection** – Submitted Ecological Survey is appropriate. Currently little ecological interest on site however the river and canal are ecologically important. Site also borders North Cherwell Conservation Target Area, so measures to help achieve the CTA objectives should be included.
1. Buffer planting to the river would be an ecological enhancement if it extends further than the existing situation. A LEMP is required. Protection of watercourses during construction also required. Any drainage should include assessment of impacts on water quality and ecology. Lighting strategy required.

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 several 'saved' policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District's statutory Development Plan are set out below:

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

- Policy Banbury 1: Banbury Canalside
- Policy BSC2: Effective and efficient use of land
- Policy [BSC 3: Affordable Housing
- Policy BSC 6 : Travelling Communities

- Policy ESD 6: Sustainable Flood Risk Management
- Policy ESD15 The Character of the Built and Historic Environment

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C28 – Layout, design and external appearance of new development

8.3. Other Material Planning Considerations:

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

9. APPRAISAL

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

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

Principle of Development

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

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

- Proposals should comply with Policy ESD15;
- A distinctive residential proposition for Banbury that integrates well and helps make connections with the adjoining town centre and Railway Station;
- An appropriate location for higher density housing to include a mixture of dwelling styles and types;

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

9.4 Additional requirements for this large complex site include:

- Development proposals will be expected to be in accordance with a Supplementary Planning Document (SPD) for the site. Ideally proposals should come forward for the whole site accompanied by a detailed masterplan but applications for parts of the site may be permitted provided that they clearly demonstrate their proposals will contribute towards the creation of a single integrated community. Applications should cover significant land area within the site in order to achieve continuity in design and delivery of the vision. Reduced levels of open space may be considered if it can be demonstrated that high quality urban spaces are being provided within the scheme and

strong links are being provided to the open areas to the north and the south by improvements to the Canal walkway.

- The Canalside area falls primarily within Flood Zones 2 and 3 at present. It has been subject to flooding in recent years and the Environment Agency (EA) has completed a scheme to provide flood alleviation to the town centre. The scheme will provide a defence for flood events up to the 1 in 200 year (0.5% annual probability) by constructing a flood storage area upstream of the town centre and bunds in places in the Canalside area. To assess the potential flood risk in the Canalside area, a level 2 Strategic Flood Risk Assessment has been undertaken to assess both the fluvial flood risk to the development proposals from the River Cherwell and the flood risk associated with the Oxford Canal. This confirms that with the implementation of the Flood Alleviation Scheme and the implementation of other measures on the site the site can be redeveloped safely. Applications will be required to follow the requirements set out in the Strategic Flood Risk Assessment and a detailed Flood Risk Assessment (FRA) for the site will be required with any planning application include further consultation with landowners and businesses.

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

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

- Canalside is a strategic site, which has the potential to have a profound effect on the long-term vitality and attractiveness of the town centre. It is located between the railway station and the retail heart of the town but is separated from it by the busy Cherwell Street. The development area extends to approximately 20 hectares and includes land to the east of Cherwell Street and to the south of Bridge Street. It has the potential to play a vital role in enhancing activity in the town centre by the relocation of traditional employment uses to more appropriate sites and developing the land for residential, mixed use and related town centre uses. It can also play an important role supporting the planned investment in the railway system, by improving connectivity between the station and the town centre and by providing development opportunities next to the station.
- Canalside can become a vibrant, modern, mixed-use quarter containing residential, office, commercial and retail uses. There is the potential for higher density development to the north of Canalside and close to the town centre, and lower density residential development to the east of Tramway. In some places reduced levels of car parking may be appropriate considering that some living near to the town centre may have less need for access to a private car. The density can be achieved with a majority of family homes on the south and east of the development area, with apartments and three storey town houses to the north and closer to the town centre.
- Cherwell District Council will need to lead the redevelopment process by preparing a SPD, promoting change, investing in infrastructure and enabling the development.

9.7 An appendix to the Masterplan contains an urban framework plan and a list of key principles. This can be seen on the Council's website.

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

Loss of caravan site

- 9.12 The site currently contains a caravan site which has been included in the Council's gypsy and traveller site provision. Policy BSC 6 of the adopted Local Plan deals with the issue of making provision for the needs of the travelling community and Para B.139 of the Local Plan specifically refers to the need to ensure re-provision of any loss as a result of the Banbury Canalside proposals.
- 9.13 In the Annual Monitoring Report 2016 it was demonstrated that there continued to be a need to provide new pitches for travellers and gypsies as the Council cannot currently demonstrate a five-year supply. The recently published GTAA identifies a need for 7 additional pitches for households that match the re-defined definition of who constitutes a traveller or gypsy. The study also identifies a need for up to 20 additional pitches for unknown households (where it is not possible to distinguish whether or not they meet the new planning definition). Current occupiers of the site may well fall into this latter category.
- 9.14 The national Planning Policy on Traveller Sites (PPTS) states (para.21 of Policy G) that local planning authorities should work with the planning applicant and the affected traveller community to identify a site or sites suitable for relocation of the community if a major development proposal requires the permanent or temporary relocation of a traveller site. Local Planning Authorities are entitled to expect the applicant to identify and provide an alternative site, providing the development of the original site is authorised.

- 9.15 The applicant's agent does not accept that this is a site to which the above policies apply as the tenants are considered by the agent to be non-gypsy and non-traveller. Nonetheless, they seek to demonstrate that the current owner also owns or controls other sites that his tenants could move to.
- 9.16 Those other sites were listed in the previous application as being in Mollington, two in Coventry, Shipston on Stour and Trowbridge. There must be some doubt attached to the agent's assertion as it is claimed that none of the previous tenants are gypsy/travellers but the Mollington site only has permission for occupiers who comply with the definition of gypsy and travellers. Furthermore, the other sites are considered too far distant to meet the needs of these tenants who presumably would wish to remain Banbury based. A further site to the south of Tramway Road has also been tabled, but this seems to be unlikely to be acceptable.
- 9.17 Discussions with the County Council Gypsy and Travellers Officer have confirmed that none of the previous caravan pitch occupiers are Gypsies and Travellers, and that it may be some time since such occupiers have used the facility. Furthermore, that permission granted in the 1970's was not specifically for or limited to such occupiers. In these circumstances your Officers consider that a refusal based on the loss of this facility could not be sustained at appeal and that opinion was endorsed in the 2018 approval for residential redevelopment on site.

Previous Approval

- 9.18 The current planning application is a resubmission of an outline residential scheme (now lapsed) that was approved by the planning authority in 2018. The current application remains unchanged from that previously approved, and the site policy position as discussed above remains unchanged. Therefore, the principal of residential development in this location is supported.

Highway Matters

Vehicular and Pedestrian Access

- 9.19 This outline planning application includes the existing surface car park to the south of Station Road, which allows a sufficient carriageway width to accommodate two-way traffic and a pavement. OCC Highways have raised no objections to the proposal subject to the terms of the existing S106 legal agreement dated 25 June 2019 relating to 18/00293/OUT being applied and that conditions attached to that earlier permission are reimposed, which includes cycle storage provision on site.

Connections

- 9.20 The Canal and River Trust continue to seek a contribution towards the improvement of the towpath, which they assume would be more heavily used by residents accessing their properties. Limited information has been provided by the CRT to justify this assumption. The illustrative layout does not show any connection to the towpath, albeit it is possible to conceive of future layouts that might include such provision. Furthermore, such matters could be addressed, in terms of layout and connectivity, at reserved matters stage.
- 9.21 Policy BAN 1 and the masterplan identify the need to improve connectivity within Canalside and between the rail station and the town centre, and that this would require the provision of more crossings across the canal and river. This application proposal recognises that need and shows positions where these could be readily placed leading to and from their site.

- 9.22 The County Council had previously suggested in the 2018 application that a formula by which bridge contributions could be calculated, and the applicants have indicated their willingness to contribute to that extent. In assessing the earlier applications, the LPA considered that only through the mechanism of an SPD could the infrastructure requirements of the Canalside be identified and quantified and their costs apportioned to individual developments. This was seen as further evidence of how that proposal was prejudicial to the wider delivery of the regeneration proposals and was premature to the conclusion of the SPD. Members will have seen that this view was not accepted by the Inspector, and these current arrangements are therefore considered acceptable.

Heritage impact

- 9.23 The Oxford Canal (and its towpath) and the land between the canal and Lower Cherwell Street is a Conservation Area. A brick commercial building on the opposite bank of the canal is a locally listed building. The listed former town hall building in Lower Cherwell Street lies further away to the south on Lower Cherwell Street. The redevelopment of this site for 3-storey residential use is considered acceptable and the change from a caravan site and an open car park can be seen as positive improvements to the setting of the Conservation Area.
- 9.24 The application is accompanied by illustrative elevations which show building positions and designs which are considered by your Officers to be likely to be acceptable. However, given the outline nature of the current application, the illustrative elevations are not for formal consideration at this time. Consequently, it is considered that the development could be undertaken in such a way that it would not cause harm to the character or appearance of, and setting of the Conservation Area, nor would it be detrimental to the setting of the locally listed building, and that these issues can be appropriately addressed further at reserved matters stage.
- 9.25 With regards to the canal other than heritage which is discussed above there is also the need to consider the impact upon the structural integrity of the canal due to the proximity of the building to the towpath and its ecology. The Canal and Rivers Trust point out that land stability is a material consideration. Both the buildings and any ramps to the towpath have the potential to impact upon the stability of the canal infrastructure. This matter can be adequately dealt with at outline stage however by the imposition of a condition(s) requiring that the details of all earth moving, excavations, and foundation design should be submitted to and approved in writing by the local planning authority prior to any commencement.
- 9.26 The Canal and River Trust express concern about the potential for detrimental impacts upon the biodiversity of the canal throughout the construction period and consequently wish to see a condition requiring a construction and environmental management plan attached to any permission granted. On the previous application the CDC ecologist noted that the phase 1 habitat survey provided good baseline information on all matters except the potential impact upon otters.
- 9.27 The Environment Agency expressed concerns about the scale of proposed development and its proximity to the river channel. They advised that a 10-metre-wide buffer should be provided between any buildings and the top of the river bank and that buildings on that side of the site should be reduced in height. It has been ascertained that a 10m wide buffer zone can be provided without impacting upon the delivery of the number of housing units proposed, as this is now shown on the illustrative layout. The potential to reduce the height of the block on this side of the site could be looked at during detailed design at reserved matters stage.

- 9.28 It is suggested that there are good opportunities to provide ecological enhancement as a function of this development through landscaping, provision of bat and bird boxes, etc.

Drainage Matters

- 9.29 The site lies within a wider area that is within Flood Zones 2 and 3, albeit that it is provided with protection from flooding by the Banbury Flood Alleviation Scheme. The application site itself however is a small island of Zone 1. The Environment Agency raise no objections with respect to site drainage provided that the submitted Flood Risk Assessment proposals are carried out. OCC LLFA raises no objection to the proposal subject to the imposition of planning conditions to secure a detailed surface water drainage scheme for the site along with SuDS Maintenance Details. The LPA raises no objection to this approach.

Environmental Health matters

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

Infrastructure

- 9.31 Given the housing mix proposed (26 x 1-bed and 37 x 2-bed) the level of education contributions is relatively low and as a consequence of the CIL Regulations OCC do not consider that contributions are warranted for anything other than nursery school provision. A contribution of £39,462 has been requested by OCC for the footbridges and discussions on this is a matter of continued discussion with the applicant and OCC. This follows a similar premise to the 2018 permission.

- 9.32 The liability for infrastructure contributions on this strategic housing site would be sought through a S106 legal agreement which is likely to cover the following:

- Affordable housing (@35% provision);
- Canal towpath contribution – £57,750 – To be index linked to current 2023 figures;
- Cemetery contribution – as per previous 2018 formula (awaiting confirmation from Banbury Town Council);
- Community hall contribution - £8,673.78 – To be index linked to current 2023 figures;
- Footbridge contribution - £39,462;
- Health and well-being contribution – £54,432 – To be index linked to current 2023 figures;
- Sports facility contribution – 52,601.56 (Off-site Indoor Sports Facility);
- Sports facility contribution – £127,072.89 (Off-site Outdoor Sports Facility);
- Waste contribution – £6,678 – To be index linked to current 2023 figures;
- LEAP off-site provision contribution – £ 20,779.15 – To be index linked to current 2023 figures.

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

10. PLANNING BALANCE AND CONCLUSION

- 10.1. During the life of this application the illustrative plans and accompanying Design and Access Statement have been amended to produce an outline scheme that demonstrates that a comprehensive, rather than piecemeal, development could be achieved on this site, and subject to conditions, would ensure that the quality on this site would set the standard for other development on nearby sites.
- 10.2. In terms of the connectivity through the site and the appropriate level of contributions, it is considered that the pedestrian/cycle route shown across the site and the negotiated Section 106 package of infrastructure contributions are satisfactory. Overall, therefore the current scheme is considered acceptable and recommended for approval, subject to conditions and the completion of a S.106 agreement.

11. RECOMMENDATION

- DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT TO GRANT PERMISSION, SUBJECT TO**
- (a) THE CONDITIONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY) AND**
- (b) 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):**

Conditions to follow in full in written updates

CONDITIONS

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

S106 OBLIGATIONS

- a) Affordable housing (35% provision).
- b) Canal towpath contribution – £57,750 – To be index linked to current 2023 figures.
- c) Cemetery contribution – as per previous 2018 formula (awaiting confirmation from Banbury Town Council).
- d) Community hall contribution - £8,673.78 – To be index linked to current 2023 figures.
- e) Footbridge contribution – £39,462.
- f) Health and well-being contribution – £54,432 – To be index linked to current 2023 figures.
- g) Sports facility contribution – 52,601.56 (Offsite Indoor Sports Facility).
- h) Sports facility contribution – £127,072.89 (Offsite Outdoor Sports Facility).
- i) Waste contribution – £6,678 – To be index linked to current 2023 figures.
- j) LEAP offsite provision contribution – £20,779.15 – To be index linked to current 2023 figures.

FURTHER RECOMMENDATION: THE STATUTORY DETERMINATION PERIOD FOR THIS APPLICATION EXPIRES ON 23 AUGUST 2023. 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 AND DEVELOPMENT 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 infrastructure contribution 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 BSC3, BSC10, BSC11 and INF1 of the Cherwell Local Plan 2015 and its Planning Obligations SPD 2018 and Government guidance contained within the National Planning Policy Framework.

CASE OFFICER: Chris Wentworth

TEL: