

Case Officer: Imogen Hopkin

Applicant: Fellside Estates

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

Ward: Banbury Cross And Neithrop

Councillors: Councillor Becky Clarke MBE, Councillor Matt Hodgson, Councillor Dr Chukwudi Okeke

Reason for Referral: Development of 10 or more dwellings

Expiry Date: 28 July 2023

Committee Date: 13 July 2023

RECOMMENDATION: REFUSE PERMISSION

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, 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 listed building consent for internal and external alterations to facilitate the conversion of part of the ground floor and basement, the first and second floor of the building to 10 self-contained flats. The proposal includes partial demolition, a rear extension and an external staircase.
- 3.2. There is a concurrent planning application for the proposed development.

4. RELEVANT PLANNING HISTORY

- 4.1. None

5. PRE-APPLICATION DISCUSSIONS

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

6. RESPONSE TO PUBLICITY

6.1. This application has been publicised by way of a site notice displayed near the site and an advertisement in the local newspaper. The final date for comments was **16 June 2023**, although comments received after this date and before finalising this report have also been taken into account.

6.2. No comments raised by third parties in relation to the proposals subject of the listed building consent application.

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

7. RESPONSE TO CONSULTATION

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

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

7.2. BANBURY TOWN COUNCIL: **No objections** and supports the change of use.

OTHER CONSULTEES

7.3. CDC CONSERVATION: **Objects** as it would result in less than substantial harm to the heritage assets with no public benefit. The Officer objected to the sub-division of the large rooms, resulting in the loss of the historic plan form that would have a harmful impact on the significance of the listed building. The proposed fire escape and staircase has an overly modern and complicated design that results in a detrimental design to the building.

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)

- ESD15 – The Character of the Built and Historic Environment

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C18 – Development proposals affecting a listed building
- C21 – Proposals for the Re-use of a Listed Building

- C23 – Retention of Features Contributing to Character and Appearance of a Conservation Area

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 issue for consideration in this case is the impact on the historic significance and setting of the listed building(s).

Legislative and policy context

- 9.2. 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.

- 9.3. Section 16(2) of The Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that: *In considering whether to grant listed building consent for any works the local planning authority or the Secretary of State 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.* Further, under Section 72(1) of the same Act the Local Planning Authority has a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of a Conservation Area.

- 9.4. 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.

- 9.5. Conservation Areas and Listed Buildings are designated heritage assets, and Paragraph 193 of the NPPF states that: *when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.* Policy ESD15 of the CLP 2015 echoes this guidance.

- 9.6. The NPPF states that account should be taken of the desirability of new development making a positive contribution to local character and distinctiveness. The NPPF states 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. It goes on to state any harm loss should require clear and convincing justification. The Council also has statutory duties under legislation to have special regard to preserve and enhance heritage assets and their settings which give them elevated weight in planning decisions. The NPPF advises where proposals lead to less than substantial harm to the significance of a heritage asset this should be weighed against the public benefits of the scheme.

Assessment

- 9.7. The site lies within Banbury Conservation Area, which is a designated heritage asset. It is also a Grade II listed building and within the setting of other listed buildings.
- 9.8. The building was listed in 2009 and was previously the Municipal Technical School and Mechanics' Institute. The Conservation Officer assessed the proposal, stating *"the building has a relatively complete historic plan form, with original door openings, large open plan spaces, which allowed appreciation of the large windows and the lofty, high ceilings"*. Further, they commented that the historic plan form is part of the significance of the listed building.
- 9.9. The Conservation Officer advises that the proposed the sub-division of these open plan rooms would result in the loss of the historic plan form. The other internal changes proposed with the blocking/removal and creation of new openings would also have a negative impact. These elements would have a harmful impact on the significance of the listed building, and this harm is *less than substantial*.
- 9.10. The proposed rear fire escape and staircase projects forward of the rear building line at ground floor. The Conservation Officer raised concerns that it would appear overly modern and complicated in its design, as it cascades from the second floor to the ground floor, with the excessive projection. These concerns were relayed to the applicant's agent but unfortunately plans to amend this element have not been forthcoming, so it is unclear whether this is the only way safe exit from the library can be achieved. The rear fire escape and staircase results in a contrived, overly complicated design, which should not be supported on a Grade II listed building.
- 9.11. To the rear of the building is proposed a new 4 storey rear extension, which would replace smaller, existing rear elements. The proposal would extend the existing gable, which is not the best form of design, due to many gables to the rear elevation; however, it is noted it replaces a modern rear extension, and does appear more cohesive. As such and in isolation this element would result in a neutral impact to the significance of the listed building and Conservation Area, and would therefore not surmount to a reason to refuse the application.

Conclusion

- 9.12. Overall, it is considered that the alterations required to facilitate the proposed use would be harmful to the fabric of the listed building and to its significance as a heritage asset. Officers do not consider that the public benefit of the use of the building for 10 flats outweighs this harm. The harm identified relates to the sub-division of the historic plan form, and the overly complicated rear fire exit and staircase proposed. The application therefore results in a poor design, and provides no evidence of alternative solutions for the fire exist, which together compound the less than substantial harm identified, along with no meaningful public benefit to outweigh this harm. As such, the proposal is contrary to Policy ESD15 of the CLP 2015, saved Policy C18 of the CLP 1996, and Government guidance contained within the NPPF.

10. PLANNING BALANCE AND CONCLUSION

- 10.1 The proposal fails to comply with the relevant Development Plan policies and guidance listed at section 8 of this report. Overall, the poor design of the fire escape and the harm to the historic plan form, it is considered that the proposals would result in less than substantial harm to the significance of the heritage asset without any public benefits to outweigh the harm caused and as such the application for listed building consent should be refused.

<h2>11. RECOMMENDATION</h2>

REFUSAL FOR THE REASONS SET OUT BELOW:

1. By virtue of the sub-division, and loss of historic plan form, and the contrived rear fire escape to serve the library, the proposal would demonstrate less than substantial harm to the designated heritage assets, with no public benefit. Therefore, the proposal has a detrimental impact on significance of the Grade II listed building as a designated heritage asset. The harm identified significantly outweighs any public benefits. The proposal therefore fails to accord with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C18 of the Cherwell Local Plan 1996 and guidance contained within the National Planning Policy Framework.

CASE OFFICER: Imogen Hopkin

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