

Case Officer: Iwona Gogut

Applicant: Mr Mehdi Mohajeri

Proposal: Change of Use from Class E to F1 Educational support

Ward: Banbury Cross And Neithrop

Councillors: Cllr Becky Clarke, Cllr Matt Hodgson, Cllr Dr Chukwudi Okeke

Reason for Referral: Application affects Council's own land

Expiry Date: 11 November 2024

Committee Date: 07 November 2024

SUMMARY OF RECOMMENDATION: GRANT PERMISSION, SUBJECT TO CONDITIONS

1. APPLICATION SITE AND LOCALITY

1.1. The application site is located within the existing Castle Quay shopping centre which lies within Banbury town centre. The site was last used as a retail unit and has been vacant for a prolonged period of time. The site is within a predominantly commercial area for the shopping centre.

2. CONSTRAINTS

2.1. The site is located adjacent to but outside of the designated Banbury Conservation Area and Historic Town Core which is considered to be of archaeological interest. There are numerous Grade II listed buildings located to south and west of the site within the Banbury Market Place.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

3.1. The applicant seeks planning permission for the change of use from class E to class F1 at unit 60 Castle Quay. The proposal is for the unit to operate as a Kumon centre which provides English and Maths tuition for children from as young as two years old up to teenagers. The focus is on key study skills such as independent learning, time management plus building character and resilience.

3.2. The proposal would require the use of the ground floor area only, would serve between 40-50 students per day and would employ between 6 and 8 staff.

4. RELEVANT PLANNING HISTORY

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

96/00923/F. Redevelopment to form extension of Castle Centre and new covered shopping centre, new link road from Castle Street to Inner Relief Road, car parking, landscaping, and ancillary facilities. Relocate bus station. Amended Plans 14.10.96. Permitted.

19/00535/CLUP. Certificate of Lawfulness for Proposed Development - Internal works for the relocation of public toilet provision to a new location within the existing shopping centre and external alterations to install 2 louvres to external northeastern elevation facing service yard. Permitted.

24/01317/T56. Change of Use from Class E to F1 Educational support - Kumon Banbury. Refused.

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 **25 September 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.

7.2. BANBURY TOWN COUNCIL: No objections

7.3. BANBURY CIVIC SOCIETY: Comment. More clarity required on 'Education Support' and concerns over loss of the unit for non-commercial use.

7.4. CONSERVATION: No objections

7.5. WARD COUNCILLOR: 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 2015)

- ESD15 - The Character of the Built and Historic Environment
- SLE2 – Securing Dynamic Town Centres
- Banbury 7 – Strengthening Banbury Town Centre

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)

9. APPRAISAL

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

- Principle of development
- Design, and impact on the character of the area.
- Residential amenity
- Highway safety

Principle of Development

Assessment

- 9.2. The proposed change of use stands to be assessed in light of the government advice on ensuring the vitality of town centres and the guiding principles contained within the National Planning Policy Framework (NPPF). The application site is within a retail shopping centre and the wider area has a number of different uses such as tourism, restaurants, leisure or cultural and community uses. F1 uses are not referred in the NPPF (Paragraph 7) that identifies ‘main town centre uses’.
- 9.3. The application seeks planning permission for the change of use of the current Class E retail unit to Class F1 educational centre to support children’s normal school education by providing additional English and maths tuition. Although not a state funded school, the use is still classed in the F1 category, in that it provides an educational use.
- 9.4. The unit has been empty for some time; CDC’s Senior Property Officer has confirmed in an email (received on 19/09/2024 at 14:00hrs) that the premises was vacated by Thorntons (chocolate store) on 17/05/2021 and that the unit was occupied on a short-term basis by DAM Health and has been vacant since October 2022 (however, the lease ran from 19th April 2022 to 18th April 2023).
- 9.5. Policy SLE2 of the CLP 2031 requires main town centre uses to be directed towards the existing town centre of Banbury, Bicester, and Kidlington. The proposal is within the town centre and although the proposed use is not considered to be a main town centre use as defined in the NPPF, officers are of a view that it would be appropriate for the area.
- 9.6. It is considered that whilst Policy SLE2 and Policy Banbury 7 direct certain uses to the town centre, they do not exclude other appropriate uses being permitted in these areas. Other relevant planning consideration would need to be taken into account such as (a) maintaining the vitality of the area through the re-use of the existing vacant unit (as stated above, the unit has been empty since October 2022) (b) the size of premises required for the business (the applicant has confirmed that only the ground floor would be used) (c) and the associated benefits of accepting this type of business

in the town centre (footfall generation, benefits to local shops and businesses, parking etc.) would also be in the proposal's favour.

- 9.7. The proposal is considered to represent a sustainable form of development and would provide both social and economic benefits through the services offered and by bringing the unit back into active use. In addition, the council has an opportunity to support town centre businesses as they adapt and create new opportunities to meet the evolving habits and demands of the district's residents.
- 9.8. Policy Banbury 7 further state that the proposals for town centre uses would be considered against Policies SLE2, ESD10 (not relevant in this instance) and ESD15. Subject to compliance with Policy ESD15, the principle of the proposed development is considered to be broadly acceptable, subject to the further considerations discussed below.

Design and impact on the character of the area.

Assessment

- 9.9. The proposed change of use would not have any significant impact on the visual amenity of the site as there would not be any external alterations (other than the insertion of external signage) to the existing unit. The proposal development would therefore accord with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1.

Residential amenity

Assessment

- 9.10. The site lies within an area that is commercial in character and would not have any significant impact on neighbouring occupiers. As such, it is considered that the proposal would not adversely affect the living conditions of neighbouring properties and would therefore accord with Policy ESD15 of the CLP 2015 in this respect.

Highway safety

Assessment

- 9.11. The Highway Local Authority was consulted on the previously submitted T56 application (Change of Use from Class E to F1 Educational support - Kumon Banbury) and raised no objections and advised that 'the site has sufficient vehicle and cycle parking within Castle Quay to cope with additional demand'. Therefore, it is considered that the application is acceptable in terms of highway safety.

10. PLANNING BALANCE AND CONCLUSION

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

11. RECOMMENDATION

**TO GRANT PERMISSION, SUBJECT TO THE CONDITIONS SET OUT BELOW
(AND ANY AMENDMENTS DEEMED NECESSARY)**

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 and documents: site location plan, proposed floor plan, Kumon Planning Statement and information received by email on 30/09/2024 at 15:39hrs from Louise Mohajeri

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.

CASE OFFICER: Iwona Gogut