

Case Officer: Michael Sackey

Applicant: Cherwell District Council

Proposal: Works to the existing canal elevation are simplified. 2no arched windows (type B) are retained as existing, no amendments to extend the windows or alterations to the existing lean-to roof below. A third window (new) will match the existing arched windows. 2no new windows type A remain as per the original application to match the existing adjacent windows (proposed as non-material amendment to 24/00600/CDC)

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, and the Council is the applicant

Expiry Date: 10 January 2025

Committee Date:
16.01.2025

SUMMARY RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS

1. APPLICATION SITE AND LOCALITY

1.1. The application site is part of the Castle Quay shopping centre, specifically the first floor Unit formally occupied by British Home Stores, above Lock 29. The Castle Quay Shopping Centre is located within Banbury Town Centre.

2. CONSTRAINTS

2.1. The application site is within the setting of the Oxford Canal Conservation Area and Public Right of Way Ref: 120/103/40 runs adjacent to the site.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

3.1. The application seeks consent for changes to planning permission ref. 24/00600/CDC, specifically to make the following changes:

- The retention of the existing two arched windows
- A proposed third arched window matching the existing arched windows
- Two additional windows matching the existing first floor shop front windows

4. RELEVANT PLANNING HISTORY

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

Application: 16/02366/OUT Permitted 1 June 2018

Removal/ Variation of conditions 4 (list of approved drawings) and 9 (enhancement of River Cherwell) to 13/01601/OUT - Condition 4 to be varied to reflect alterations in the access and servicing strategy for Block C, with variations to maximum deviations in block and Condition 9 to be removed as no longer justified.

Application: 17/00284/REM Permitted 26 September 2018

Reserved Matters Application to 16/02366/OUT across the whole development site is sought. Application for approval of reserved matters for scale, layout, appearance and landscaping.

Application: 23/03103/CDC Permitted 16 February 2024

Insertion of two new window openings

Application: 24/00600/CDC Permitted 11 June 2024

New/enlarged shop front windows

Application: 24/01224/CDC Permitted 15 July 2024

New courtyard roof and roof mounted air handling units

5. PRE-APPLICATION DISCUSSIONS

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

6. PUBLICITY AND CONSULTATION

6.1. There is no statutory requirement to consult on, or publicise, applications seeking approval for non-material amendments to an existing planning permission.

7. APPRAISAL

7.1. The key issue for consideration in this case is whether the proposed change(s) can be accepted as non-material; there is no consideration of the planning merits of the proposed changes

7.2. Section 96A of the Town and Country Planning Act 1990 (as amended) states that: "A local planning authority in England may make a change to any planning permission relating to land in their area if they are satisfied that the change is not material". It is also stated that: "In deciding whether a change is material, a local planning authority must have regard to the effect of the change, together with any previous changes made under this section, on the planning permission as originally granted".

7.3. The National Planning Practice Guidance states that: "There is no statutory definition of non-material. This is because it will be dependent on the context of the overall scheme - an amendment that is non material in one context may be material in another. The Local Planning Authority must be satisfied that the amendment sought is non-material in order to grant an application". The judgement on materiality in any particular case is one of fact and degree, also taking into account

the likely impacts of the amendment. Materiality is considered against the development as a whole, not just part of it. The benchmark for forming the judgement on materiality is always the original permission.

- 7.4. The primary change is the omission of the downwards extension of the arched windows approved under application reference (24/00600/CDC). This change would have a visual impact, but would result in a less visually impactful development when compared to the previously approved developments (ref. above). Further, and noting the previous responses from the Conservation Officer, the proposal would not significantly affect the character of the development or locality or raise any new issues in relation to the visual and residential amenity.
- 7.5. Overall, none of the proposed changes would raise any new issues, nor would they necessitate further consultation with any third party consulted at the time of the planning application, and therefore may be considered non-material amendments in the context of the development as a whole.

8. PLANNING BALANCE AND CONCLUSION

- 8.1. The proposal is therefore considered to be non-material, and the application is therefore recommended for approval.

9. RECOMMENDATION

The proposal is considered to be non-material and the application is therefore recommended for approval as described above and in accordance with the drawing number: 40468_01_ELEV01

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