

CHERWELL DISTRICT COUNCIL

Pre-Application Report

Pre-application Reference No:	19/00033/PREAPP
Proposal:	Change of use and alterations/additions to create 37 new residential units
Site Address:	Magistrates Court, Warwick Road, Banbury, OX16 2AW
Date of Site Visit & Meeting	7 th March 2019 on site at 11:30 – 13:00

TECHNICAL ASSESSMENT

Consultations

CDC Building Control:

“Insufficient information at this stage for any Building Control comments.”

CDC Conservation:

“Understanding the heritage assets affected

The Magistrates Court is a non-designated heritage asset which lies within the Banbury Conservation Area. In the latest review of the conservation area the boundary was altered specifically to include the building.

The building is representative of the historical development of police stations and local law courts with its transition from police station, to joint police and law use to sole use as a Magistrate’s Court.

Significance

General significance

The building is of significance as a representative example of the development of the police and legal systems in the 20th Century. The details of the development of police stations and law court buildings are set out in Historic England’s designation guide for ‘Law and Government Buildings’.

The building demonstrates a national phenomenon in a local context and is therefore of high significance within the context of Banbury. The Local Heritage Asset Assessment form for the building gave it a high score of 173 out of a total of 205

putting the building in Register Group A for Local Heritage Assets. Banbury Conservation Area appraisal states 'Banbury Court House is one on its own in terms of buildings within the town'.

The building was specifically designed to convey civic pride and authority. Historic England's designation guide on 'Law and Government Buildings' states: "The architectural vocabulary of the modern court..... attempts to convey function combined with a sense of state authority and civic pride". The Banbury Conservation Area Appraisal states "The building is constructed in stone thereby following the 19th century architectural tradition that equates stone with civic pride, the architectural style is paired down, and the building appears severe but not the point of brutality".

Specific significance

The architectural features and fabric of the exterior of the building are well preserved.

The building occupies an interesting position on the plot, being set back slightly from the general building line of the street. This is a particular characteristic of police, court and other civic buildings and contributes to its significance.

The building continues to convey a sense of civic authority and pride.

The building makes a significant positive contribution to the character and appearance of Banbury Conservation Area.

The building is much altered internally and is unlikely to be of 'listable' quality.

Appraisal of issues

The level of detail provided with the pre-application submission appears to be indicative and it is assumed that the submission is designed to establish certain core principals.

The submission includes a proposal to convert to residential, proposal to convert upper floors to accommodation and to provide dormer windows and other rooflights to facilitate this and to provide large extensions to the rear and west of the building.

- There are no objections to the proposed conversion of the building to residential providing the core significance of the non-designated heritage asset is retained. The building is not listed and therefore there is no control over the subdivision of the internal space.*
- The proposed development will need to be appropriately configured in order to retain the existing façade and in particular fenestration arrangements.*
- There are significant concerns with the proposal to provide dormer windows to the principle frontage of the building (which the Heritage Appraisal recognises as one of the core elements of significance). There would not be an objection in principle with development in the roof space providing any light requirements were constrained to rooflights on the rear elevation and the conversion of this area did not compromise the proportions of the external façade.*
- There are no particular objections to the demolition of the single storey, functional, modern extensions to the rear of the building.*
- There are significant concerns with the proposal for a large three storey extension to the rear of the building on an extremely constrained site in very close proximity to the non-designated heritage asset.*

- *There are very significant concerns with the proposal for large extensions to the west of the site. This is considered to unbalance the symmetrical façade of the building and to undermine part of the core significance of the building and its relationship and position on the plot.*

A Heritage Assessment accompanies the application and contains useful background analysis however there are concerns with the Summary of Significance which states: "The Magistrates Court comprises a much altered former county police station completed in the 1930s. Little of the original complex remains and those sections which have been heavily altered and compromised, with only the police court (court no 1 remaining). This has created an incomplete and poorly preserved complex which, save for its principal façade, no longer expresses the function or architectural quality for the original building. The building retains limited localised architectural and historic significance."

- *The building is representative rather than special in a national context and is unlikely to be considered suitable for listing, but is of high significance in a local context with particularly high communal value.*
- *The Heritage Assessment recognises the importance of the principal façade and it should be a high priority to retain the significance of this within any proposed scheme.*

In relation to the position of the building on the plot the Heritage Assessment states: "Whilst the host building is set back within the site, the massing, architectural detailing and quality of the principal façade ensures that the building retain a dominant presence within the streetscape and its architectural significance can be fully appreciated."

- *This fails to acknowledge that the position of the building on the plot is a key characteristic of these civic buildings and contributes to its significance. In many ways its location adds to its prominence within the street scene because it does not follow the usual building line.*

Level of harm

The indicative scheme outlined in this pre-application would be considered to cause a high level of harm to the significance of the non-designated heritage asset of the Magistrates Court and the character and appearance of Banbury Conservation Area.

Recommendation

Objection to overall proposed scheme. There are no objections in principle to the conversion of the existing building to residential."

CDC Ecology:

"Due to the type, size and plans for this building I would recommend that any full application with these proposals includes submission of a bat and swift survey of the building and further activity surveys or mitigation as required.

In addition the applicant will need to be made aware that we would seek a biodiversity gain from such a development in line with local policy and national guidance and this could be achieved by sensitive landscaping and the incorporation of bird bricks for swifts, house sparrows etc.. and bat tubes into any new buildings. This can be conditioned but it is always productive to have ideas worked into the plans up front for discussion."

CDC Environmental Protection:

Noise: A CEMP will be required that considers amongst other items the potential for noise, dust and other nuisance from the preparation and construction of the site.

A noise report will be required to show that all habitable rooms within the dwelling will achieve the noise levels specified in BS8233:2014 (Guidance on sound insulation and noise reduction for buildings) for indoor ambient noise levels.

There should also be consideration of the external noise levels specified in BS8233:2014 (Guidance on sound insulation and noise reduction for buildings) should external amenity space be provided.

Contaminated Land: We'd like to see information provided at the application stage which demonstrates the development proposal is not adversely affected by land contamination, or can be made suitable for use through remedial works. Our preference is to receive this at application stage although this could be provided through the standard phased four contaminated land planning conditions.

Air Quality: We'd like to make sure make sure this development isn't impacted by poor air quality, understand the impact of this development on local air quality and where mitigation will be required. We'd like to see an assessment of the air quality to be submitted with the application which achieves this and takes note of Cherwell District Councils Air Quality Action Plan.

Residential EV

Measures should be in place to encourage the uptake of low emission transport including the provision of Electric Vehicle (EV) charging infrastructure. Ideally we would like to see ducting in place to allow for the future uptake of EV's by all residents to maximise opportunities for sustainable transport in accordance with Government guidance contained within the National Planning Policy Framework.

Odour: No comments

Light: No comments"

CDC Landscape Services:

"Off-site for play provision construction and maintenance and general green space improvement or on-site requirement for a LAP and general green space maintenances."

OCC Highways:

"At this stage in the process, I set out the main issues/information that will need to be considered with the proposal, and these are:

- An impact assessment for the Warwick Road/Southam Road junction will be required to show the impact this development will have on the junction. LTP4 states that capacity improvements will be required for this junction so contributions may be sought.*
- Information regarding the access points is required, this should show the strategy for dealing with the existing 3 access points. A trip generation*

assessment will also be required to show the impact this development will have and any potential intensification.

- The site is located in a sustainable location and has good access to public transport links.
- However, the nearest bus stop on the inbound route for the B9 service is approximately 260 metres from the junction and as such it is considered that a bus stop is required outside of the development. As a redundant layby already exists outside of the site, this could be redesigned and constructed through a Section 278 agreement.
- Car and cycle parking will be required to be provided to standard within the site.
- The following documents will be required with any full planning application: Transport Assessment, Construction Traffic Management Plan, Travel Plan, visibility splays.
- Thresholds for the size of development requiring either a Transport Statement or Transport Assessment, and either a Travel Plan Statement or a Travel Plan, are contained in the county councils Guidance on Transport Assessments and Travel Plans at <https://www.oxfordshire.gov.uk/cms/content/transport-new-developments>

We can also point you to guidance which is contained on the web, and the following links will direct you to a lot of the basic information needed to assist in the highway and transport consideration of many proposals.

TRICS – National information source for assisting the prediction of trip generation from new developments: <http://www.trics.org/>

Chargeable Pre-application Highways Advice

If you need further assistance, either in the form of meeting, site visit, and or further written advice, we can provide that in accordance with our charging regime, which is also set out on Oxfordshire County Council web site <https://www.oxfordshire.gov.uk/cms/content/pre-application-highways-advice-majorplanning-applications>

We do encourage this further input, as experience proves that well formulated plans prior to planning applications being made frequently produce better results for all parties. In addition, should on the rare occasion the proposals be wholly unacceptable from a transport / highway safety or policy point of view, a more formal input at this stage can avoid abortive costs were the proposals to proceed further.

Legal agreement required to secure

A Section 278 Agreement will need to be undertaken for the design and construction of a bus stop of Warwick Road. Contributions may be sought for junction capacity improvements through a Section 106 Agreement.”

CDC Recreation and Leisure:

Offsite outdoor sports facilities (as per the 2018 SPD guidelines and 2018 Cherwell Sports Study recommendations):

Offsite contribution towards the provision of a full size 3G football artificial grass pitch with floodlights at North Oxfordshire Academy, Banbury, OX16 0UD. Based on £2017.03 per dwelling. 39no dwellings = £78,664.17

Offsite indoor sports facilities (as per the 2018 SPD guidelines and 2018 Cherwell Sports Study recommendations):

Offsite contribution towards an extended or new clubhouse with additional changing at North Oxfordshire Academy, Banbury, OX16 0UD. Based on £335.32 per person.
 $39 \text{ no dwellings} \times 2.49 \times £335.32 = £32,562.93$

Community Hall Facilities (as per the 2018 SPD):

£44,676.00 towards the refurbishment of Ruscote Community Centre, Banbury, OX16 1PH. (Please see calculations as per SPD below).

£2,920.00 per m² for horizontal extension or £2,482.00 per m² for refurbishment.

Average occupancy of 2.49 per dwelling.

0.185m² community space required per resident.

£2,920.00 per m² for horizontal extension.

$39 \text{ no dwellings} \times 2.49 = 97 \text{ no residents.}$

$97 \times 0.185 \text{ m}^2 = 18 \text{ m}^2$

$18 \times £2,482.00 \text{ (horizontal extension)} = £44,676.00$

CDC Strategic Housing:

“On the development of 37 units, we would expect that 12 of these are Affordable Housing units, in line with the 30% stated in our adopted Local Plan Part 1, Policy BSC3 – which is in line with what is proposed on the site.

We do, however, we have very strong reservations about the use of 3 bedroom flats at the expense of any 1 bedroom flats on the site with regards to the affordable housing units – especially in regards to the 3 bedroom Shared Ownership units – these have never sold well in Cherwell.

Of these 12 affordable units, we would recommend an indicative mix of tenures and sizes of the following:-

- 5 x 1b2pF Affordable Rented*
- 1 x 1b2pF Shared Ownership*

- 4 x 2b4pF Affordable Rented*
- 2 x 2b4pF Shared Ownership*

The proportions identified within the Pre-Application Report document have taken the housing mix from the Local Plan Part 1, which in turn is pulled from the SHMA, which is a countywide document. We have used this figure as a starting point, but then have further refined our own housing mix levels which are specific to the Cherwell district by using up-to-date evidence bases to feed-in to our own target figures.

The indicative mix above represents a 70/30 split between Affordable Rented units and Shared Ownership units as also stated in our adopted Local Plan Part 1, Policy BSC3. This also reflects our self-identified district housing need levels.

Although it wasn't set out in the Pre-Application Report as to which of the units would be open market and which would be affordable units, we have issues about mixed tenure units sharing the same communal entrance space, as this is problematic in terms of keeping service charges affordable, and RPs tend to like to have control of block management where possible.

We would expect that 50% of the affordable rented units to meet the Building Regulations Requirement M4(2) Category 2: Accessible and Adaptable Dwellings requirement. Additionally, 100% of the Affordable Rented units are to be built to the government's Nationally Described Space Standard (Technical Housing Standards).

We also expect that the 1 bed units to have a minimum of 1 parking space per unit, and 2 bed units should have a minimum of 2 parking spaces per unit.

The Registered Provider taking on the affordable housing units would need to be agreed with the Council."

Thames Water:

"Waste Comments

Thames Water have assessed and responded to the pre-application based on the information provided to date. Should the development proposal change, Thames Water would need to re-assess the application and review the comments accordingly.

Thames Water would advise that with regard to waste water network and waste water process infrastructure capacity, we would not have any objection to the above planning application, based on the information provided

With regard to surface water drainage, Thames Water would advise that if the developer follows the sequential approach to the disposal of surface water we would have no objection. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. Should you require further information please refer to our website. <https://developers.thameswater.co.uk/Developing-a-large-site/Apply-and-pay-for-services/Wastewater-services>

There are public sewers crossing or close to your development. If you're planning significant work near our sewers, it's important that you minimize the risk of damage. We'll need to check that your development doesn't reduce capacity, limit repair or maintenance activities, or inhibit the services we provide in any other way. The applicant is advised to read our guide working near or diverting our pipes. <https://developers.thameswater.co.uk/Developing-a-large-site/Planning-your-development/Working-near-or-diverting-our-pipes>.

Water Comments

On the basis of information provided, Thames Water would advise that with regard to water network and water treatment infrastructure capacity, we would not have any objection to the above planning application. Thames Water recommends the following informative be attached to this planning permission. Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development."

OCC Education:

"Key Issues

This proposed development would have an impact on educational infrastructure, which includes childcare and nursery education providers, primary schools, secondary schools and Special Educational Needs (SEN) schools.

The scale of this impact will depend on the housing mix and build rate, and will be fully assessed at the time of any future application.

New schools and expansions of existing schools are planned for the Banbury area to meet the needs of housing development, and this proposed development may be required to contribute towards the cost of those schools.

This proposed development lies within the school planning area of Banbury and within the current designated areas of St Mary's CE Primary School and Wykham Park (secondary) Academy. For Special Educational Needs (SEN) provision, the area is served by Frank Wise School.

Early education for funded 2, 3 and 4 year-old children is provided through a mixed market of private and voluntary providers, including pre-schools, day nurseries and childminders, and through schools, including academies and Free Schools.

Information about school planning in this area can be found in the Pupil Place Plan available at www.oxfordshire.gov.uk/cms/content/pupil-place-plan. This Plan is updated annually, and there may have been changes in the school planning context since its publication. The county council's response to any future application will be based on the latest data and information available."

Legal Agreement required to secure:

The following is an indicative guide to the contributions that may be requested toward the expansion of local schools to mitigate the impact of the proposal on education infrastructure. Please be aware that these figures may be subject to change and other service areas may be included. All contributions will be reviewed for compliance with Regulation 123 of the Community Infrastructure Levy Regulations 2010 (as amended) and any other relevant considerations including the proposed housing numbers and mix, and a final decision on the actual contributions that the County Council will require will be made at the time a planning application is submitted."

Rate Per Dwelling

Service	1 Bed	2 Bed	3 Bed	4+ Bed
Primary Education*	£0.00	£2,593.52	£5,949.84	£7,780.56
Secondary Education*	£0.00	£2,077.74	£5,309.78	£8,080.10
Sixth Form*	£0.00	£246.52	£739.56	£1,725.64
Special Education Needs*	£0.00	£128.01	£308.17	£440.92

* Financial contributions have to be indexed-linked to maintain the real values of the contributions (so that they can in future years deliver the same level of infrastructure provision currently envisaged). Amounts shown are to be index linked from 2nd Quarter 2017 using PUBSEC Tender Price Index.

The above rates relate to extension of existing schools only. Please be aware that if, at the time of any future application, the necessary mitigation is through contribution to the cost of building a new school, contributions will be required at a higher rate, which will need to be assessed based on the specific capital project.

Contributions may also be required towards increasing capacity for childcare, and 2-year-olds and 3-year-olds who qualify for free nursery education. The contributions required depend upon the solution identified. For example an early years modular

building is calculated at the average cost recently faced by the county council of providing new accommodation for this age group at £6,670 per child (2nd Quarter 2017). If the solution is a permanent school building then the developer contribution for early years children needs to be calculated using the same cost per pupil as for Primary school pupils.”

Other Consultees: These consultees would be consulted on any subsequent planning application, and should comments be received from these consultees after issuing this report, they will be passed on to you:

- OCC Archaeology
- CDC Waste & Recycling
- CDC Housing Standards

EIA Screening Opinion Required? No

Committee or Delegated Matter? The matter would be referred to Planning Committee given that the application constitutes major development (over ten dwellings).

Policy:

Any application made for this proposal will be considered against the policy guidance contained in the National Planning Policy Framework (NPPF) and policies within The Cherwell Local Plan 2011-2031 Part 1 (CLP) and the ‘Saved Policies’ of the Cherwell Local Plan 1996.

The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015.

The Local Plan and its associated documents are available on the Council’s website: www.cherwell.gov.uk.

The following policies of the Development Plan are of particular relevance to this proposal:

Cherwell Local Plan 2011-2031 Part 1

PSD1: Presumption in Favour of Sustainable Development
SLE4: Improved Transport and Connections
BSC1: District Wide Housing Distribution
BSC2: The Effective and Efficient Use of Land - Brownfield Land and Housing Density
BSC3: Affordable Housing
BSC4: Housing Mix
BSC10: Open Space, Outdoor Sport and Recreation Provision
BSC11: Local Standards of Provision – Outdoor Recreation
BSC12: Indoor Sport, Recreation and Community Facilities
ESD1: Mitigation and Adapting to Climate Change
ESD3: Sustainable Construction
ESD7: Sustainable Drainage Systems (SuDS)
ESD10: Protection and Enhancement of Biodiversity and the Natural

Environment

ESD15: The Character of the Built and Historic Environment

INF1: Infrastructure

Cherwell Local Plan 1996 (Saved Policies)

H21: Conversion of buildings in settlements

C23: Retention of features contributing to the character of a conservation area

C28: Layout, design and external appearance of new development

C30: Design control

ENV1: Environmental pollution

ENV12: Contaminated land

Other Material Policy and Guidance

National Planning Policy Framework (2012)

Planning Practice Guidance

Cherwell Residential Design Guide Supplementary Planning Document (SPD) (July 2018)

Cherwell District Council: Home Extensions and Alterations Design Guide (2007)

Cherwell District Council: Banbury Conservation Area Appraisal (2018)

Historic England: Conservation Principles, Policies and Guidance (2018)

Historic England: Law and Government Buildings – Listed Selection Guide (2017)

PROFESSIONAL ASSESSMENT BY CASE OFFICER

The enquiry seeks planning advice on redeveloping Banbury Magistrates Court for residential purposes. An apartment building is also proposed to the rear of the site. Overall, the proposal seeks 37 residential units on the site.

The key issues for consideration in this case are:

- Relevant Planning History
- Principle of the Development;
- Impact on Character and Appearance and Heritage Assets
- Residential Amenities;
- Accessibility, Highway Safety and Parking;
- Ecological Impact;
- Affordable Housing;
- Infrastructure;
- Other Matters;
- Revised Scheme.

Relevant Planning History

11/00032/F - Retrospective - Galvanised barriers on roof – Approved.

Principle of the Development

Paragraph 11 of the National Planning Policy Framework (NPPF) states that the decision maker should apply a presumption of sustainable development. There are three dimensions to sustainable development, as defined in the NPPF, which require the planning system to perform economic, social and environmental roles. These roles should be sought jointly and simultaneously through the planning system.

Paragraph 12 of the NPPF notes that the development plan is the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise. Cherwell District Council has an up-to-date Local Plan which was adopted on 20th July 2015.

There are two strands to considering the principle of the development in this case, (1) the change of use of the land to the use proposed and (2) the principle of residential development in this location.

The site is currently used as a magistrate's court. There are not specific policies protecting the use of the site and it is questionable whether the use of the building could be regarded as a community facility under Paragraph 92 of the NPPF. Furthermore it appears highly unlikely that when the use of the building as a court ceases that an alternative use to meet a similar day to day need of the community would be found for the building.

Regarding the matter of the principle of residential development on this site, Cherwell District Council can demonstrate a five-year supply of deliverable housing sites and the presumption in favour of sustainable development, as advised by the NPPF, will need to be applied in this context.

There are no adopted Local Plan policies relating specifically to housing development within Banbury. However, the Cherwell Local Plan (2011-2031) Part 1 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."*

In addition to this, Policy ESD1 of the Cherwell Local Plan (2011-2031) Part 1 states that: *"Measures will be taken to mitigate the impact of development within the District on climate change. At a strategic level, this will include:*

- *Distributing growth to the most sustainable locations as defined in this Local Plan.*
- *Delivering development that seeks to reduce the need to travel and which encourages sustainable travel options including walking, cycling and public transport to reduce dependence on private cars."*

The site is located within the built up limits of Banbury, which is a sustainable urban location with good access to public transport links, local shops and amenities and

which in principle is suitable for residential development. Therefore the principle of residential use on the site could be supported. However, the acceptability of proposed development is dependent on other material considerations discussed below.

Impact upon the Heritage Assets

Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard to the desirability of preserving a listed building or its setting should be taken.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention to be given to the preservation or enhancement of designated conservation areas.

Paragraph 189 of the NPPF states that: *“In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance.”*

Paragraph 193 of the NPPF states that: *“When considering the impacts 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.”* Paragraph 194 of the NPPF goes on to state that: *“Any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification”*

Paragraph 197 of the Cherwell Local Plan (2011-2031) Part 1 states that: *“The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.”*

Government guidance contained within the NPPF towards achieving well-designed places states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. The NPPG goes on to note that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Further, Paragraph 130 of the NPPF states that permission should be refused for development of poor design that fails to take the opportunities for improving the character and quality of an area and the way it functions.

Paragraph 127 of the NPPF states that planning decisions should ensure that developments:

- 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;
- Establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive,

welcoming and distinctive places to live, work and visit.

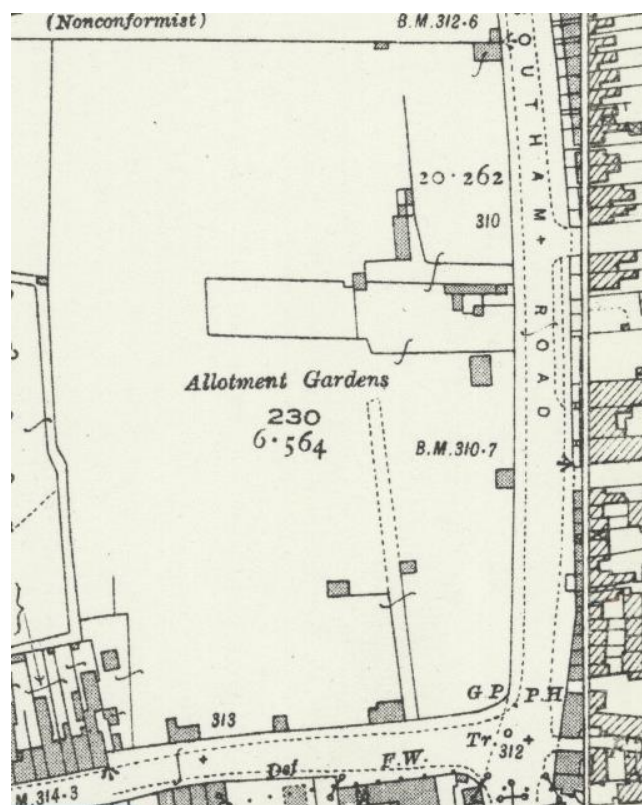
Policy ESD15 of the Cherwell Local Plan (2011-2031) Part 1 states that new development proposals should: *"Conserve, sustain and enhance designated 'heritage assets' (as defined in the NPPF) including buildings, features, archaeology, conservation areas and their settings, and ensure new development is sensitively sited and integrated in accordance with advice in the NPPF and NPPG."* Policy ESD15 also states that: *"New development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design. All new development will be required to meet high design standards."*

Saved Policy C28 of the Cherwell Local Plan 1996 exercises control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context as well as compatible with existing buildings.

The site is within Banbury Conservation Area; the Magistrate's Court is a locally listed building (non-Designated Heritage Asset); and Grade II listed buildings are situated to the east of the site on the east side of Southam Road.

Thus, to begin with, the Local Planning Authority requires a detailed and comprehensive heritage statement that sets out the significance of the heritage assets affected, including any contribution made by their setting, and the impact of the development on that significance. A Heritage Statement has been submitted alongside this pre-application enquiry, which officers have assessed as part of our response.

The site is identified as being within the Main Route Corridor character area of the Banbury Conservation Area within the Banbury Conservation Area Appraisal (BCAA). The site is at the very top (north) of this character area. The BCAA states that the:



1892-1914 Historic Map

“The urban character of the area becomes fragmented going north into Southam Road and, therefore, only a primary school, a public house, Banbury Magistrates’ Court and the 19th century town houses are included within the conservation area.”

The BCAA then provides more information of the Court House: *“Banbury Court House was originally built as the town’s police station in the years after World War II. There is no history associated with the site which was previously open land.”*

The BCAA notes that the buildings of the main route corridor were built at a number of different periods, but as could be seen above in the above map, the Court House was not built until the 20th Century (likely late 1930s). In fact, the BCAA goes on to state that the 20th Century is represented by the construction of one public building, this being Banbury Court House. The BCAA states that: *“Banbury Court House is one on its own in terms of buildings within the town. It was built as a new County Police Station in 1935, following the Borough losing control of its police force to the County in 1925. The building is constructed in stone thereby following the 19th Century architectural tradition that equates stone with civic pride; the architectural style is paired-down and the building appears severe but not to the point of brutality.”*

The Heritage Statement provides a background into the history of the site whilst being occupied as a police station, which also housed a police court, cells and associated accommodation. As set out in the Heritage Statement, the OS Map of 1968 suggests that the site continued to operate as a police station into the mid-late 20th Century. The Heritage Statement sets out that a change in the judicial system was a driving force behind the change to a court. Furthermore, in the 1970s, a new purpose built police station had been constructed immediately to the west of the site. Internal alterations obviously took place as part of this conversion to a magistrate’s court, for example the creation of a new courtroom and associated court facilities. The Heritage Statement sets out internal and external works which have taken place since being used as a magistrate’s court, including the inclusion of an extension to the western site of the building.

It is considered that the building is of significance as a representative example of the development of the police and legal systems in the 20th Century. The building demonstrates a national phenomenon in a local context and provides one with further understanding of the evolution of the town. It is therefore considered that the building is of communal and illustrative historical value, and of high significance within the context of Banbury.

The building was specifically designed to convey civic pride and authority and continues to do so due to its institutional formal appearance and its prominence within the street scene. The architectural features and fabric of the exterior of the building are well preserved. The set back from the general building line of the street is a particular characteristic of civic buildings and contributes to its prominence within the streetscape. It is therefore considered that the building is of aesthetic design value and architectural interest.

It is therefore considered that the locally listed building is of historical and architectural interest and that it makes a positive contribution to the significance of the Banbury Conservation Area, hence its inclusion within the Banbury Conservation Area.

The site falls within a relatively varied context, with residential development to the north, a mid-late three storey police station to the west and a four storey apartment building to the east. It is considered that the setting does not make contribute significantly to

the setting of the locally listed building. However, the building sits comfortably on the site, especially given the limited amount of development to the sides of the building.

Moving on to the impacts of the proposed development:

Proposed dormers: The proposed dormers would give the building a more domestic appearance, thereby eroding the formal appearance of the original building. These dormers would be proposed on the frontage of the building, which the Heritage Appraisal recognises as one of the core elements of significance. Therefore the dormers would negatively impact upon the architectural interest as well as the historic interest of the building, thereby causing *less than substantial* harm to the significance of this locally listed building and the Banbury Conservation Area.

2 ½ storey extension to side: Given the overall scale and massing of this element with its bulky gables and that it would sit forward of the main body of the building and follow the line of the gables, it is considered that this element would not be subordinate to the existing building and would give the building an unbalanced appearance. In my view, therefore, this extension would appear as an awkward addition to the side of this building which would erode the formal appearance of the building. The glazed link would only add to the awkwardness of this extension. This is considered undermine part of the core significance of the building and its relationship and position on the plot.

It is therefore considered that this element would cause demonstrable harm to the visual amenities of the locality, as well as *less than substantial* harm to the significance of the of the locally listed building and Banbury Conservation Area.

The extensions and development to the rear of the site: There are no particular objections to the demolition of the modern extensions to the rear of the building.

The sizeable flat roof development to the rear of the site would run along the rear boundary of the site. There are significant concerns with this proposal for a three storey extension to the rear of the building on an extremely constrained site attached to a non-designated heritage asset.

The development would in essence constitute 'backland' development which would be undesirable in this locality. Development to the rear of buildings is generally subordinate, but due to the overall scale and massing of the proposed development to the rear, this would over-dominate the main building. In fact, this extension would have a greater footprint than the original building. The large extension would also result in a significant amount of development on the site thereby giving the site a cramped appearance (which will cause residential amenity issues as will be discussed below).

In my view the design of the extension with its flat roof, detailing and monotonous appearance means that this element of the development would do little to respect its context, notably the Magistrate's Court.

Thus, by virtue of its siting, scale, massing, form and appearance, this element of the proposed development would constitute an undesirable form of 'backland' development within the locality, as well as incompatible addition to the Magistrate's Court building, that would cause less than substantial harm to the significance of the locally listed building and Banbury Conservation Area, as well as demonstrable harm to the character and appearance of the area.

Regarding the impact upon Grade II listed buildings to the east of the site, the development would be mainly screened from these heritage assets by the town centre

house development. Thus it is considered that the proposed development would not cause harm to the setting or significance of those listed buildings.

Public Benefits

Paragraph 196 of the NPPF states that: *“Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.”* I will go on to discuss this further in the planning balance section at the end of the report

Whilst the proposal would utilise brownfield land in a sustainable urban location, this is not considered to outweigh the harm identified above. Furthermore, the re-use of the building would provide it with a viable use, but it is considered that the serious harm caused by the development would outweigh this benefit especially given that the building could be more sympathetically developed so as to re-use it.

Possibilities

Overall, the current proposal is considered to constitute an overdevelopment of the site. In my view a residential scheme could be acceptable on the site, but an appropriate scheme would likely result in the significant loss in the number of units being proposed.

The proposed development would need to be appropriately configured in order to retain the existing façade and in particular fenestration arrangements. There would not be an objection in principle to use of the roof space providing any light requirements were constrained to rooflights on the rear elevation and the conversion of this area did not compromise the proportions of the external façade.

If you are to extend to the rear, consideration could possibly be given to extending slightly off the rear with linear outshoots (however, consideration will need to be given to the amenities of neighbouring properties to the rear).

Whilst extending to the side of this building may not be unacceptable in principle, the scale and design of the extension put forward is considered to be unacceptable for the reasons outlined above. A single storey extension to the west may be acceptable, so long as this is set behind the main wall of the building and does not unbalance this existing building. The symmetry of the existing building contributes to its formal appearance, and therefore any extension would need not to give the building an unbalanced appearance from the road.

Residential Amenities

Policy ESD15 of the Cherwell Local Plan Part 1 states that new development proposals should consider the amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation, and indoor and outdoor space. Paragraph B.42 in the Cherwell Local Plan Part 1 states that: *“In all cases very careful consideration should be given to locating employment and housing in close proximity and unacceptable adverse effects on the amenity of residential property will not be permitted.”*

Saved Policy ENV1 of the Cherwell Local Plan 1996 states that: *“Development which is likely to cause detrimental levels of noise, vibration, smell, smoke, fumes or other type of environmental pollution will not normally be permitted.”*

Cherwell Householder guidance seeks a separation distance of 22 metres to be achieved between directly facing habitable room windows, such as a rear elevation to rear elevation relationship to avoid unacceptable overlooking, and a distance of 14 metres between a windowless elevation and elevations with a window to avoid overshadowing and loss of outlook.

Due to the confidentiality of the pre-application advice process, a full site visit could not be undertaken and therefore a detailed assessment into the impact upon the amenities of the neighbouring occupants could not be made. That said, I have the following comments to make:

On the matter of privacy and overlooking, the separation distance between the rear wall of the proposed development and the rear walls of the residential dwellings to the rear of the site (No's. 6-9 Arran Close) would fall substantially below the recommended minimum separation distance of 22 metres, being 14 metres between the development and No's. 7-8 Arran Close. Thus, if windows are placed on this rear elevation (which is likely given the amount of units proposed and the amount of bedrooms within them), this separation distance is very likely to be considered unacceptable, especially as these residential properties enjoy a much greater level of privacy at the moment. Furthermore, as there are windows would be on the rear elevation of the building directly next to the rear boundary of the site, in my view this would likely result in unacceptable levels of overlooking into these neighbouring properties.

Regarding outlook and an overbearing impact, whilst the rear to rear relationship may be on the borderline of 14 metres (the recommended minimum separation distance), this guidance is in relation to two storey buildings only. In my view, given that a three storey building is proposed to the rear and that it would run the whole width of the site, the proposal would result in an unacceptable loss of outlook for No's. 7-8 Arran Close as well as create an overbearing impact given the orientation of the proposed development to these neighbouring properties.

Furthermore, I am extremely concerned about the relationship between the front windows in the rear extending element and the rear windows in the existing building. The separation distance would appear to range from ~6-10 metres which is far from adequate. The outlook from these apartments would also be inadequate because of this relationship.

More advice in relation to residential amenity can be found in the Cherwell guidance titled 'Home extensions and alterations design guide for householder planning applications' (2007) at: <http://www.cherwell.gov.uk/index.cfm?articleid=1735>

A good standard of amenity for any future occupants should be provided and it is recommended that you view the Council's subdivision guidance, which contains recommended minimum space standards, in relation to this matter (<http://www.cherwell.gov.uk/planningadvice>) before submitting an application.

The Council's Environmental Protection Officer has requested that a noise report is submitted alongside the application to demonstrate that all habitable rooms within the dwelling will achieve the noise levels specified in BS8233:2014 (Guidance on sound insulation and noise reduction for buildings) for indoor ambient noise levels.

Accessibility, Highway Safety and Parking

Comments from the Oxfordshire County Council Highways Authority have been

received. The consultation response above has detailed the key issues and requirements which would need to be addressed in any future planning application submission.

Ecological Impact

The site has some ecological potential as the site is within 2KM the Neithrop Fields Cutting SSSI and legally protected species have been recorded within the vicinity of the site including swifts.

Section 40 of the Natural Environment and Rural Communities Act 2006 (as amended) places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. A key purpose of this duty is to embed consideration of biodiversity as an integral part of policy and decision making. Paragraph 99 of Circular 06/2005: Biodiversity and Geological Conservation states that: *"It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision"*.

Paragraph 170 of the NPPF states that: *"The planning system should contribute to and enhance the natural and local environment by...minimising impacts on biodiversity and providing net gains in biodiversity."*

Policy ESD10 of the Cherwell Local Plan Part 1 reflects the requirements of the Framework to ensure protection and enhancement of biodiversity. The Authority also has a legal duty set out in the Natural Environment and Rural Communities Act 2006 (NERC 2006) which states that: *"Every public authority must in exercising its functions, must have regard... to the purpose of conserving (including restoring / enhancing) biodiversity."*

Comments from the Council's Ecologist have been received and their full comments are outlined above. In summary, the Ecologist has requested a bat a swift survey of the building and further activity surveys or mitigation as required. For further information, the Council's Ecologist, Dr Charlotte Watkins, can be contacted on: Charlotte.Watkins@CherwellandSouthNorthants.gov.uk or 01295 227912. At the time of writing, the Ecologist is available on Monday and Friday mornings.

Affordable Housing

Policy BSC3 of the Cherwell Local Plan (2011-2031) Part 1 states that: *"At Banbury and Bicester, all proposed developments that include 11 or more dwellings (gross), or which would be provided on sites suitable for 11 or more dwellings (gross), will be expected to provide at least 30% of new housing as affordable homes on site...All qualifying developments will be expected to provide 70% of the affordable housing as affordable/social rented dwellings and 30% as other forms of intermediate affordable homes."*

As sets out above, the Council's Strategic Housing team have strong reservations about the use of 3 bedroom flats at the expense of any 1 bedroom flats on the site with regards to the affordable housing units – especially in regards to the 3 bedroom Shared Ownership units – as these have never sold well in Cherwell.

Of these 12 affordable units, the Strategic Housing Team would recommend an indicative mix of tenures and sizes of the following:-

- 5 x 1b2pF Affordable Rented
- 1 x 1b2pF Shared Ownership

- 4 x 2b4pF Affordable Rented
- 2 x 2b4pF Shared Ownership

Infrastructure

New development often creates a need for additional infrastructure or improved community services and facilities, without which there could be a detrimental effect on local amenity and the quality of the environment. National planning policy sets out the principle that applicants may reasonably be expected to provide, pay for, or contribute towards the cost, of all or part of the additional infrastructure/service provision that would not have been necessary but for their development. Planning Obligations are the mechanism used to secure these measures.

Policy INF1 of the Cherwell Local Plan (2011-2031) Part 1 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”*. Policy Banbury 2 lists some of the infrastructure requirements required including a new primary school, provision of onsite open space including play space, and community facilities including, ideally, an onsite community hall.

The Council has recently adopted a 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.

A legal agreement would be required for the proposed development. The legal agreement would likely include financial contributions in respect of the following matters (but others may later be sought):

- Off-site outdoor and indoor sports
- Off-site play provision construction and maintenance or enhancement, and general green space provision or improvement/enhancement
- Community hall facilities
- Education
- Health & wellbeing
- Highways matters and infrastructure.

Other Matters

As outlined above, the Council's Environmental Protection Officer has requested that an Air Quality Assessment is submitted alongside the application.

Also noted that the site is on land that is potentially contaminated.

Comments on the Revised Schemes

A formal follow up pre-application enquiry was not submitted, but further design approaches were submitted after I expressed concerns at the site meeting with the

original plans submitted. Given that a formal follow up pre-application enquiry has not been submitted, the comments I will provide on these revised schemes will be limited and not informed by any consultee responses. For more information regarding the Council's pre-application service, please see the following link: <https://www.cherwell.gov.uk/info/115/planning/206/do-i-need-planning-permission/2>

The revised plans follow a relatively similar design approach. The schemes reduce the amount of development to the rear of the original building and such an approach could potentially be acceptable. However, this is dependent on the overall design of the development to the rear as well the impact upon residential amenity.

The rooflights on the front elevation do not address concerns already noted above regarding alterations to the front roof slope of the building and would not be acceptable.

In my view the proposed detached building to the side would fail to sympathetically integrate with the existing built environment. It is considered that the proposed building would appear as a cramped and alien feature within this locality, especially given the narrowness of the building on this tight plot and that it would not front the street. Furthermore, given its height and that it would sit in front of the Magistrate's Court, the proposed building would compete for prominence with the Magistrate's Court thereby negatively impacting upon its significance. I am also concerned about the relationship between the proposed building and the Magistrate's Court building from a residential amenity perspective. Any applications for the revised proposals would not be considered favourably.

CONCLUSION

Whilst the principle of the change of use of the site could be acceptable, it is considered that the proposal would cause less than substantial (but serious) harm to the significance of the locally listed building and Banbury Conservation Area, as well as detrimental harm to the visual amenities of the area.

Furthermore, it is considered that the proposal is likely to result in undue harm in terms of overlooking, loss of privacy, loss of outlook and the creation of an overbearing effect to some of the proposed occupiers of the development and occupiers within the residential properties to the rear of the site.

It is therefore considered that the proposal would be contrary to 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 NPPF. There are considered to be any public benefits which outweigh this harm.

I would therefore advise you that unfortunately any future planning application for these proposals would not be considered favourably.

Substantial alterations are required so as to make the scheme acceptable and my report discusses some possibilities. However, I consider that an appropriate scheme will likely result in the significant loss in a number of units being proposed.

If an application is to be submitted, the proposal will also have to satisfy other considerations which have been discussed above, for instance residential amenity, the ecological impact and highways safety.

Application Types and Fees

An application for such an application is dependent on the number of dwellings proposed (£462 per dwelling house at the time of writing).

Date of Report: 1st April 2019.

Case Officer: Stuart Howden

DISCLAIMER

The above advice represents the professional views of Council Officers and although given in good faith, it cannot prejudice any decision with the Council, as Local Planning Authority, may make at either Planning Committee or delegated officer level.

“Due to the type, size and plans for this building I would recommend that any full application with these proposals includes submission of a bat and swift survey of the building and further activity surveys or mitigation as required.

In addition the applicant will need to be made aware that we would seek a biodiversity gain from such a development in line with local policy and national guidance and this could be achieved by sensitive landscaping and the incorporation of bird bricks for swifts, house sparrows etc.. and bat tubes into any new buildings. This can be conditioned but it is always productive to have ideas worked into the plans up front for discussion.”