



HM Courts &
Tribunals Service



Banbury Magistrates' Court

Planning Opportunity



Image source: Google Streetview

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Executive Summary

Banbury Magistrates' Court ('the Site') is now surplus to the operational requirements of Her Majesty's Courts and Tribunals Services ('HMCTS'). This report has been prepared by JLL Planning, Development & Heritage Team to set out the planning opportunity of the Site, and includes input from JLL Heritage.

The Site and its surroundings

Banbury Magistrates' Court occupies a two-storey, 1930s building which was originally constructed as a police station. The building is locally listed, making it a non-designated heritage asset. The building has car parking for circa 25 staff cars and police custody vehicles.

The Site is well connected to local public bus services and train services.

The Site is located in a mixed use, urban area. Immediately west of the Site is the modern, purpose built police station, beyond which is predominantly residential. To its east is an office building which has extant prior approval under permitted development rights to convert into residential units. The wider local area to the north and south of the Site is predominately residential in character.

Planning history

The Site's planning history includes historic applications for minor works to the building. These applications do not preclude any future planning applications coming forward, not provide any precedent as to how the Site may be developed in the future.

Planning opportunity

The planning opportunity can be summarised as:

- **Loss of community (Class D1) floorspace**

The adopted Local Plan seeks to guard against the loss of community facilities, but is silent on the circumstances where the loss would be acceptable. As such, reference should be made to the NPPF and the presumption in favour of sustainable development.

In our experience, we would expect the Council to ask for evidence that the facility is surplus to operational requirements of HMCTS and other community occupiers. This may involve a period of active marketing for a Class D1 user, although the

policy grounds on which the Council could demand this are limited. To minimise planning risk, we would recommend agreeing the approach to the loss of the existing use with officers, including the scope of any marketing, during pre-application discussions.

Given the Local Plan's silence on the loss of community facilities, it may be difficult for the Council to resist the loss of this Class D1 use.

- **Heritage considerations**

Banbury Magistrates' Court is locally significant in heritage terms, and could potentially be put forward, by local interest groups, to be considered for statutory listing. Historic England will consider any such application if the Site is considered to be under threat from demolition or substantial change.

In order to satisfy the requirements of the NPPF, any planning application for alterations/demolition would need to be supported by a Heritage Statement which sets out the significance of the building and the impact of the proposals on that significance. Therefore, we recommend that a Heritage Consultant is instructed to inform any pre-application meeting with the Local Planning Authority.

- **Form of redevelopment**

The building is a non-designated heritage asset.

Input from a Heritage Consultant is critical to determining whether demolition of the existing building can be justified, or whether any change of use is limited to converting the existing building located on the Site.

Small scale internal and external alterations/extension may be achievable, particularly if this allows the building to remain in use. There may also be scope to construct a new building on the car park to the west of the existing building, subject to how this sits within the existing context.

A balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

- **Alternative uses**

- **Residential**

The Banbury Magistrates' Court Site is considered to be a sustainable Site by virtue of: its brownfield status; its edge-of-centre location and

subsequent easy access to local services and facilities; and, its good access to public transport.

While the Site is not allocated for residential use, the principle of providing residential units in this location would be supported in principle, subject to overcoming the loss of the Class D1 floorspace.

- **Office**

This Site is not allocated for office development, so is defined as a ‘windfall’ site.

The Site is situated in an edge-of-centre location, within easy reach of a range of public transport services. The principle of providing new office floorspace in this sustainable, brownfield town centre location is likely to be supported in principle, subject to overcoming any loss of D1 floorspace and managing the impact on neighbouring residents.

- **Retail**

The Site is not located within a designated shopping centre and does not sit within the town centre. As such, the Site is not in a location to which policy directs Class A1 retail development.

Any retail proposal in this location will need to be supported by a sequential impact assessment. Dependent on the size of a proposal, a retail impact assessment may also be required.

- **Hotel**

As an edge-of-centre Site, the principle of hotel development is likely to be considered acceptable in this location, subject to overcoming the loss of the Class D1 use.

- **Transport, highways and parking**

Car limited development is likely to be supported in this edge-of-centre location by the Council. A full Transport Statement and discussions with the Council’s Highways Department will be required as part of any planning application.

Planning obligations

The Council has not yet adopted a Community Infrastructure Levy ('CIL'). All planning obligations will be secured through a s106 agreement.

1 Introduction

Report purpose

- 1.1 This desk-top report has been prepared by JLL Planning, Development & Heritage Team ('JLL') to set out the planning opportunity of Banbury Magistrates' Court.
- 1.2 The content of this Report is informed by the Team's extensive experience in advising the MoJ on its Court Portfolio, as well as the necessary research and due diligence needed to assess the planning context. No pre-application discussions have been held with the Local Planning Authority, Cherwell District Council ('the Council').

Report contents

- 1.3 This report is structured as follows:
 - **Section 2** - Provides the general site information and summarises the Site's planning policy designations;
 - **Section 3** - Describes the Site and its surroundings;
 - **Section 4** - Analyses the Site's planning history and any nearby useful precedents;
 - **Section 5** - Sets out the planning policies against which any development proposals will be assessed;
 - **Section 6** - Assesses the key planning considerations; and,
 - **Section 7** - Sets out the planning obligation requirements.

2 *General site information*

2.1 This section provides the key, general site information.

Address

2.2 Banbury Magistrates' Court,
Warwick Road,
Banbury,
Oxfordshire,
OX16 2AW.

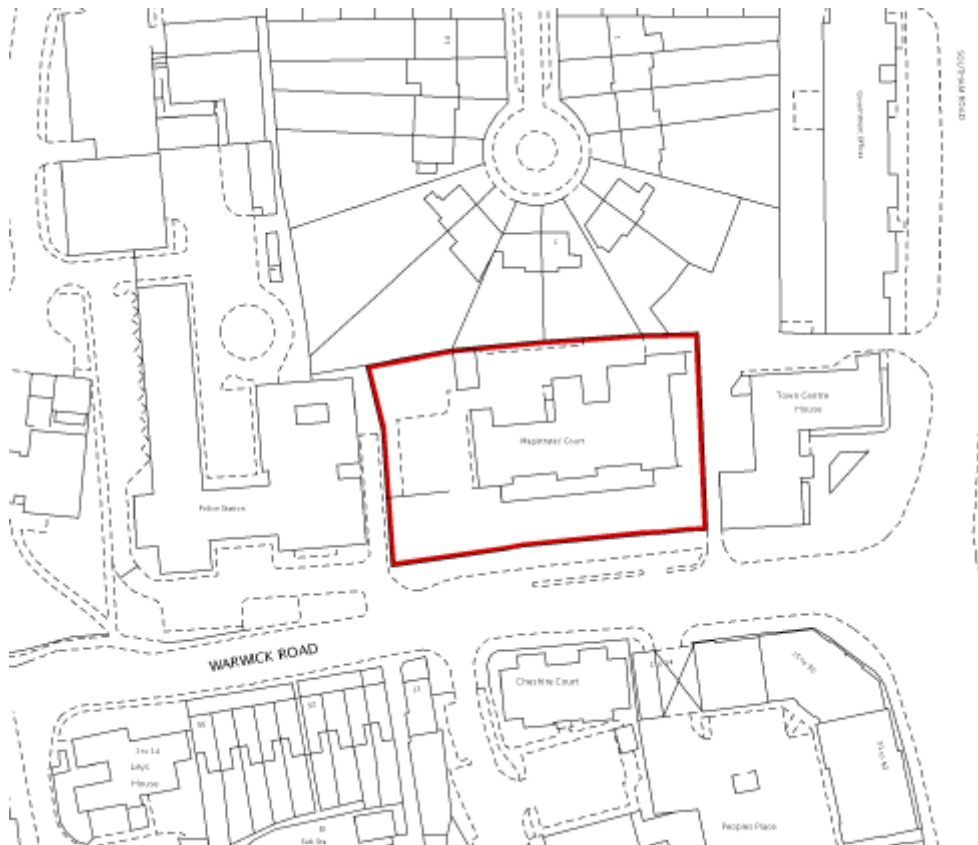


Figure 2.1 Title Plan

Source: HM Land Registry Title SP4540NW

Site Planning Policy Designations

2.3 The Council's adopted Planning Policies Map confirm that the Site is unallocated for planning purposes.



Figure 2.2 Policies Map Extract

Source: Cherwell District Council Policies Map (2015)

Listed Buildings

- 2.4 The Site is not statutorily listed.
- 2.5 The existing building on Site is locally listed, making this a non-designated heritage asset. It should be noted that the Council is currently reviewing the local list of non-designated heritage assets. There is no timescale for the finalisation of this revised list, but we consider that it is likely the building will remain on the local list.

Conservation Areas

- 2.6 The Site is situated immediately to the north (but outside) of the Banbury Conservation Area.

Tree Preservation Orders (TPO)

- 2.7 There are no known TPOs on the Site.

Flood Risk

2.8 A search of the Environment Agency (EA) Flood Map shows that the Site is within:

- Flood Zone 1 - this zone comprises land assessed as having the lowest risk and less than 1 in 1000 annual probability of river or sea flooding in any year (0.1% or greater). All uses are considered appropriate in this zone.

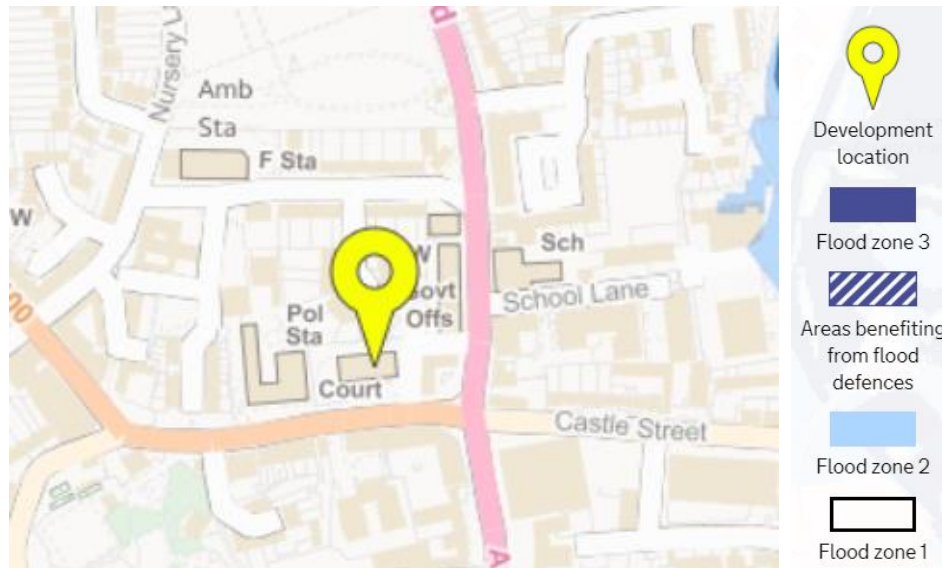


Figure 2.3 Flood Map

Source: Gov.UK Flood Map for Planning

2.9 Given that the Flood Map shows the Site as falling within Flood Zone 1, local policy does not restrict the Site's redevelopment, provided that any redevelopment proposal incorporates appropriate sustainable drainage systems or techniques to limit surface water run-off.

Environmental Considerations

- 2.10 There are no known nature conservation designations of international, national or local importance on or immediately adjoining the Site.
- 2.11 The Site is not within any Area of Outstanding Natural Beauty (AONB), Sites of Special Scientific Interest (SSSI) or Special Protection Areas (SPA).

3 *The Site and its surroundings*

Site description

- 3.1 Banbury Magistrates' Court is located on the north side of Warwick Road in Banbury. It is understood that the building was originally constructed in the 1930s as a police station, and was later converted and extended to accommodate the court. The building is locally listed, making this a non-designated heritage asset.
- 3.2 The building stands at ground plus one upper floor (see Figure 3.1 below).
- 3.3 The building has car parking for approximately 25 staff cars/custody vans to the front and west side of the building, accessed from Warwick Road. Pedestrian access into the building is also from Warwick Road.
- 3.4 The Site has access to a range of public transport modes, including a bus stop located approximately 75m to the west of the Site on Warwick Road (providing access to services 6, 7, 498, B9 and X7 towards Hardwick). Banbury National Rail station is located approximately 1km to the south east of the Site, with train services towards Oxford, Manchester, Birmingham and London Marylebone.



Figure 3.1: Banbury Magistrates' Court

Source: Google Streetview (image capture September 2016)

Description of the surrounding area

- 3.5 The Site is located approximately 100m outside of Banbury's designated town centre, making this an edge-of-centre location. Banbury's town centre contains a mix of commercial uses, including offices, hotels, retail and leisure.
- 3.6 West of the Site is Banbury's modern, purpose built police station. To its east is an office building known as Town Centre House. This has extant prior approval under permitted development to convert into residential. It is unknown if the conversion of the building has yet taken place.
- 3.7 The predominant use in the wider local area to the south, west (beyond the police station) and north (immediately to the rear) of the Site is residential dwelling houses. Those to the north, are largely two storey in height and detached or semi-detached with private gardens.

4 *Planning history*

- 4.1 This section reviews the planning history for the Site, as well as any useful nearby precedents.

The Site

- 4.2 JLL has reviewed the Council's online planning application database, and there are planning applications for minor works on the Site, including ground floor extensions and installation of barriers on the roof have been found (references: 02/02128/OCC and 11/00032/F srespectively). These applications do not preclude any future planning applications coming forward, not provide any precedent as to how the Site may be developed in the future.

The surrounding area

Town Centre House (adjacent to the Site's eastern boundary)

- 4.3 Prior approval was granted on 19 June 2015 (reference: 15/00581/PAJ) for the conversion of the existing office building into 40 residential apartments. This establishes residential use on the north side of Warwick Road, albeit that this was granted under permitted development rights which gives the Council limited grounds on which to refuse approval compared to a planning application.

5 *Relevant development plan*

5.1 This section summarises the relevant planning policies against which any development proposals will be assessed by the Planning Authority.

5.2 Section 38(6) of the Planning & Compulsory Purchase Act 2004 requires that:

“If regard is to be had to the Development Plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the Plan unless material considerations indicate otherwise”

5.3 Copies of the full wording of Section 38 is available on the Government’s website:

<http://www.legislation.gov.uk/ukpga/2004/5/section/38>

Statutory Development Plan

5.4 The Statutory Development Plan for Cambridge City Council includes:

- Cherwell Local Plan 2011-2031 Part 1 (2015);
- Cherwell Local Plan (1996).

5.5 The Council is under a legal duty to have regard to all material considerations. These include Central Government policy documents; the National Planning Policy Framework (NPPF) (March 2012) and National Planning Practice Guidance (NPPG) (March 2014).

5.6 Other material considerations include Supplementary Planning Documents (SPDs) and Guidance (SPGs).

5.7 The Council is in the process of preparing a new local plan which will replace the 1996 Local Plan. This is, however, at a very early stage of production and is not currently a material consideration when determining planning applications; we have not, therefore, reviewed early drafts of the document for the purposes of this report.

Site Planning Policy Designations

5.8 The Site is unallocated on the policies map.

5.9 The existing property on Site is designated as a locally listed building. It should be noted that the Council is currently reviewing this list, but no timescales have been set for its publication. We expect that this building will remain on the local list.

Cherwell Local Plan 2011-2031 (2015)

- 5.10 The Cherwell Local Plan provides the planning framework for the city until 2021. This is expected to be in general conformity with the NPPF, although its policies are by definition more localised, and, therefore, more detailed.
- 5.11 While not explicitly stated in the Council's planning policies, the court is considered to be a community facility (Class D1).

General Approach

- 5.12 There is a presumption in favour of sustainable development on brownfield sites (Policy PSD1, Presumption in favour of sustainable development).

Community Infrastructure

- 5.13 Policy BSC12 (Indoor sport, recreation and community facilities) seeks to protect and enhance the quality of existing community facilities. The Local Plan is silent on the circumstances where the loss of community facilities would be considered acceptable. As such, reference will be made to the NPPF and the presumption in favour of sustainable development.

Housing provision

- 5.14 Policy BSC1 (District wide housing distribution) seeks to provide 22,840 new homes across the Borough between 2011 and 2031. Of this, 416 units are expected on windfall sites in Banbury. The Site is not allocated for residential development, so will be considered a 'windfall' site. Proposal for residential developments on windfall sites will be considered in the context of the presumption in favour of sustainable development.

Affordable housing

- 5.15 Policy BSC3 (Affordable housing) requires affordable housing contributions from all schemes that deliver 11 or more (gross) units on site. 30% affordable housing is expected on-site, subject to viability and other site-specific considerations. Affordable housing provision should be split 70:30 between social rented housing and intermediate tenures respectively.
- 5.16 Policy BSC4 (Housing mix) expects a mix of homes, having regard to the following guide:

	1-bed	2-bed	3-bed	4-bed
Market	5%	25%	45%	25%
Affordable	25-30%	30-35%	30-35%	5-10%
All Dwellings	15%	30%	40%	15%

- 5.17 As an edge-of-centre Site, a greater proportion of smaller (1 and 2 bed units) are likely to be considered appropriate.

Unit mix and density

- 5.18 Policy BSC2 (The effective and efficient use of land – brownfield land and housing density) encourages the use of brownfield land in sustainable locations for residential development. The Site is considered to be in a sustainable location because of its edge-centre-location and subsequent easy access to public transport and a range of services.
- 5.19 New residential development is expected to be provided at a density of at least 30 dwellings per hectare unless there are justifiable planning reasons for lower density development (Policy BSC2). As an edge-of-centre Site, a higher density scheme is likely to be considered acceptable.

Office

- 5.20 Policy SLE1 (Employment development) directs employment development, which includes offices, to allocated employment sites. The Site is not allocated for employment uses, so will be considered a ‘windfall’ site. Office development on windfall sites will be supported where:
- The design and use respects the character of the local area;
 - The use is small scale unless it can be demonstrated that there will be no adverse impacts on the character of a village or surrounding environment; and,
 - The proposal and associated employment activities can be carried out without undue detriment to residential amenity, the highway network and the environment generally.

Retail

- 5.21 Policy SE2 (Securing dynamic town centres) directs retail and other main town centre uses to the designated town centre of Banbury. As the Site is within an edge-of-centre location, it is not the preferred location for new retail development. Any proposal for new retail development will need to be supported by a sequential site assessment, showing that there are no available suitable locations within the town centre in the first instance. If the proposal is over 2,000sqm a retail impact assessment will also be required.

Sustainable design

- 5.22 Policies ESD1 (Mitigating and adapting to climate change), ESD2 (Energy hierarchy and allowable solutions) and ESD3 (Sustainable construction) promotes development which incorporates sustainable construction and design to achieve zero carbon development. As part of this, all new non-residential developments are expected to meet at least BREEAM ‘Very Good’.

- 5.23 Policy ESD7 (Sustainable drainage systems) requires all developments to utilise SuDS to manage surface water run-off.

Heritage

- 5.24 Policy ESD15 (The character of the built and historic environment) requires all development proposals to conserve, sustain and enhance both designated and non-designated heritage assets, including buildings, features, archaeology, conservation areas and their settings, and ensure new development is sensitively sites and integrated in accordance with advice in the NPPF.

Transport and highways

- 5.25 Policy SLE 4 (Improved transport and connections) supports proposals that encourage sustainable travel. As an edge-of-centre location, a car limited approach is likely to be found acceptable, subject to the impact this may have on local roads.

‘Saved’ Policies of the Local Plan (1996)

- 5.26 Part of the Local Plan was ‘saved’ in 2007. Like the adopted Cherwell Local Plan (2015), these have a local focus.

Housing

- 5.27 Saved Policy G1 (Allocation of sites for housing) supports residential proposals on sites that have been allocated for residential development. The Site is not allocated for residential development, so any proposal for residential development will be considered on its own merits.
- 5.28 Saved Policy H4 (Housing schemes for the elderly and disabled) supports proposals for supported living in edge-of-centre location such as this, due to the close proximity to the town centre and its facilities.

Affordable housing

- 5.29 Saved Policy H5 (Affordable housing) seeks affordable housing from schemes “*where there is a demonstrable lack of affordable housing to meet local needs*”.

Offices

- 5.30 Saved Policy EMP1 (Allocation of sites for employment generating development) directs new offices (as an employment generating use) to allocated sites. This Site is not allocated for office development, so any proposal for such as use will be considered on its own merits and with regard to the presumption in favour of sustainable development.

Retail

- 5.31 Saved Policies S2 (Proposals for retail development in the shopping centre and town centre, Banbury) and S3 (Primary shopping frontages, Banbury) direct new retail development to the designated shopping frontages within Banbury. The Site does not form part of a designated shopping centre, and is not therefore the preferred location for new retail development.

Transport, parking and highways

- 5.32 Saved Policy TR1 (Transportation funding) stipulates that development should incorporate highways development improvements to ensure that there are no adverse impact(s) on the local highways networks.

Hotels

- 5.33 Saved Policy T2 (Proposals for hotels within settlements) supports proposals for new hotel development within existing settlements, provided that there is no adverse impact on the amenity of neighbouring occupants and on the local highways network.

Design

- 5.34 Saved Policies C28 (Layout, design and external appearance), C30 (Design of new redevelopment development) and C31 (Compatibility of proposals in residential areas) all expect high quality proposals which are compatible with the surrounding area.

Other material considerations

Banbury Vision and Masterplan SPD (2016)

- 5.35 The Banbury Vision and Masterplan seeks to promote Banbury as a regional centre. Policies are in line with the Cherwell Local Plan (2015). No specific reference is made to the Banbury Magistrates' Court Site.

NPPF (March 2012)

- 5.36 The NPPF sets out the Government's planning policies from England and how they are to be applied. It sets out the Government's requirements for the planning system only to the extent that it is relevant, proportionate and necessary to do so.

General Approach

- 5.37 The key driver within the NPPF “*is a presumption in favour of sustainable development*” (paragraph 14). It requires local planning authorities to:
- “*Approve development proposals that accord with the development plan without delay; and*
 - *grant permission where the plan is absent, silent, indeterminate or where relevant policies are out of date, unless:*
 - *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
 - *specific policies in this Framework indicate development should be restricted.”*
- 5.38 Paragraph 111 encourages “*the effective use of land by re-using land that has been previously developed (brownfield land), provided that it is not of high environmental value.*”

Community uses

- 5.39 Paragraph 70 seeks to guard against the “*unnecessary loss of valued facilities and services, particularly where this would reduce the community’s ability to meet its day to day needs*”.

Housing

- 5.40 The Framework seeks to significantly boost the supply of housing (paragraph 47) and requires housing applications to “*be considered in the context of the presumption in favour of sustainable development*” (paragraph 49).

Employment uses

- 5.41 Paragraph 21 supports sustainable economic growth and requires council to identify areas of economic regeneration.

Retail, leisure and tourism uses

- 5.42 Paragraph 24 supports the special protection given to town centre by requiring a sequential test to planning applications for main town centre uses (which include hotels)

that are not in an existing centre and are not in accordance with an up-to-date Local Plan. In other words, retail and leisure uses are directed to town centres in the first instance.

- 5.43 Paragraph 26 requires an impact assessment for proposals out of town centres, which include town centres uses, if the development is over a proportionate, locally set threshold. If there is no locally set threshold, the default threshold is 2,500sqm.

Mixed use development

- 5.44 Paragraph 17 seeks to “*promote mixed use developments, and encourage multiple benefits from the use of land in urban and rural areas*” and “*promote mixed-use developments to create active street frontages to bring together those who work and live in the vicinity*” (paragraph 69).

Sustainability and inclusive design

- 5.45 The NPPF advises that planning decisions should not attempt to impose architectural styles or particular tastes and should not stifle innovation or originality, adding that great weight should be given to innovative design. Visual appearance is considered a significant factor but it is important that design considers connections between people and places.
- 5.46 Paragraph 56 states that “*the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people*”.
- 5.47 Paragraph 58 of the NPPF states that good design is fundamental to achieving sustainable development. Planning decisions should aim to ensure that developments achieve a high quality design response, that has regard to the establishment of a strong sense of place, functions well and adds to the overall quality of the area, responds to local character and history, creates safe and accessible environment, supports local facilities and transport networks and is visually attractive as a result of high quality architecture.

Heritage

- 5.48 Paragraph 128 requires applicants to describe the significance of any heritage assets affected by planning applications, including any contribution made by their setting. The level of detail should be proportionate to the asset’s importance and no more than is sufficient to understand the potential impact of the proposal on their significance.
- 5.49 Paragraph 131 requires local planning authorities to take account of:
- “*The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
 - *The positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and,*

- *The desirability of new development making a positive contribution to local character and distinctiveness”.*

5.50 Paragraph 132 states that great weight should be given to the conservation of designated heritage assets proportionate to its significance. Designated heritage assets include World Heritage Sites, Schedule Monuments, Listed Buildings, Protected Wreck Sites, Registered Park and Gardens, Registered Battlefields or Conservation Areas designated under relevant legislation. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification.

5.51 Paragraph 135 requires the effect of an application of the significance of a non-designated heritage asset to be taken into account when determining applications. *“In weighing applications that affect directly or indirectly 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”.*

Transport and highways

5.52 Paragraph 32 refers to transport, noting that all developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. The NPPF further states that plans and decisions should take account of whether:

- *“The opportunities for sustainable transport modes have been taken up depending on the nature and location of the Site, to reduce the need for major transport infrastructure;*
- *Safe and suitable access to the Site can be achieved for all people; and*
- *Improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe”.*

5.53 The NPPF highlights that transport strategies need to be considered and should be balanced in favour of sustainable transport modes. Paragraph 30 states that there is a general presumption in favour of reduction in congestion and greenhouse gas emissions.

6 *Planning considerations and planning opportunity*

- 6.1 This section sets out the key planning considerations for any change of use or redevelopment scheme for the Site.
- 6.2 It should be noted that the Council is the process of preparing a new local plan. This is, however, at a very early stage of production and is not currently a material consideration when determining planning applications; we have not, therefore, reviewed the early draft of the document for the purposes of this report.

Loss of existing use

- 6.3 The Site is currently in use as Magistrates' Court (Class D1) with ancillary offices. Whilst 'civic' buildings are not specifically protected by planning policy, as a starting point, the courts will be treated as a community use and, therefore, considered against policy relating to the loss of community facilities. The NPPF (paragraph 70) seeks to guard against the *"unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs"*.
- 6.4 This protection is carried down into adopted Local Policy BSC12, which seeks to protect existing community facilities. The local plan is silent in regards to the circumstances where the Council would accept the loss of a community facility, so reference would be made to the NPPF and the presumption in favour of sustainable development.
- 6.5 In our experience, we would expect the Council to ask for evidence that the facility is surplus to operational requirements of HMCTS and other community occupiers. This may involve a period of active marketing for Class D1 use. To minimise planning risk and delay, we would recommend agreeing with officers during pre-application discussions how to address the loss of the existing use, and the scope of any marketing.
- 6.6 The court is a unique community use and the disposal of the court demonstrates that the building is surplus to the operational requirements of HMCTS. A statement to this effect should be prepared by HMCTS and be made available as part of the marketing documents. The statement should confirm that as part of court reform, court provision is being consolidated and there will be no shortfall in provision of court use through the redevelopment for alternative use(s).
- 6.7 Given the Local Plan's silence on the loss of community facilities, it may be difficult for the Council to resist the loss of this Class D1 use.

Summary

Adopted policy is silent on the circumstances where the loss of a community facility would be acceptable to the Council. As such, reference will be made to the NPPF, which seeks to guard against the unnecessary loss of used community facilities.

This facility is now surplus to the operational requirements. We anticipate that the Council will expect the Site to be marketed to other Class D1 occupiers before the loss of the Class D1 use would be found acceptable, although there are limited policy grounds on which they can demand this.

Heritage considerations

- 6.8 JLL Heritage has reviewed the existing building, and their advice has been incorporated into the paragraphs below.
- 6.9 Banbury Magistrates' Court was constructed on Warwick Road in 1935 in the Tudor Cotswold vernacular style and is located in a prominent position on Warwick Road amongst numerous modern developments. The building was opened in 1936, initially as a Police Station, before being repurposed to fulfil the local requirement for a courthouse. The site is not statutory listed nor is it located within a conservation area. There are designated heritage assets within the vicinity of the site, which include a number of grade II listed buildings as well as the Banbury Conservation Area, which is located to the south of the courthouse.
- 6.10 Cherwell District Council maintains a Local List of Heritage Assets which contribute to the local character and distinctiveness of North Oxfordshire, although this is currently being reviewed and updated as part of an ongoing programme of conservation area appraisals. The existing building located on the Site is locally listed, and we do not expect that it will be removed from the list as part of the Council's wider, ongoing review.
- 6.11 Paragraph 128 of the National Planning Policy Framework (NPPF) 2012 sets out the information requirements for determining applications and 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'.*
- 6.12 The NPPF also identifies that heritage assets not only include those which are designated (often with statutory protection) but also those assets identified by the local planning authority which could include local listing or buildings of townscape merit. Any such designations, for the purposes of the NPPF, are considered to constitute Non-Designated

heritage assets. Given the existing building's local listing, which we understand is based on it being considered to have a degree of historic and architectural interest, this means that it is a non-designated heritage asset. Paragraph 135 of the NPPF is therefore relevant; this 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 affect directly or indirectly 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'.

- 6.13 In order to satisfy the requirements of the NPPF, any planning application would need to be supported by a Heritage Statement which sets out the significance of the existing building and the impact of the proposals on that significance.
- 6.14 There is potential that the existing building could be put forward, by local interest groups, to be considered for statutory listing. Historic England will consider any such application if the existing building is considered to be under threat of demolition or substantial change. Their assessment comprises two stages, an initial assessment to ascertain whether the site merits further investigation, followed by a full assessment resulting in a recommendation as to whether to list the site.

Summary

Banbury Magistrates' Court is locally significant in heritage terms, and could potentially be put forward, by local interest groups, to be considered for statutory listing. Historic England will consider any such application if the Site is considered to be under threat from demolition or substantial change.

In order to satisfy the requirements of the NPPF, any planning application for alterations/demolition would need to be supported by a Heritage Statement which sets out the significance of the building and the impact of the proposals on that significance. Therefore, we recommend that a Heritage Consultant is instructed to inform any pre-application discussions with the Local Planning Authority.

Form of development

- 6.15 The building is locally listed and is, therefore, a non-designated heritage asset. The Council will resist any major alteration/demolition of the building (Policy ESD15). In weighing application that affects (directly or indirectly) 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 (NPPF paragraph 135).

- 6.16 Internal alterations and proportionate external alteration(s) or extension(s) to the building may be achievable, particularly if this allows the existing building to remain in use. There may also be scope to construct a new building on the car park to the west of the Site, subject to how this sits with the existing property.
- 6.17 It is possible that the existing building's heritage value is not sufficiently significant as to prevent its demolition and subsequent replacement with a new build development. Further work is needed to determine this, however, with input from a Heritage Consultant.

Summary

The building is a non-designated heritage asset. Small scale internal and external alterations/extension may be achievable, particularly if this allows the building to be in use. There may also be scope to construct a new building on the car park to the west of the existing building, subject to how this sits with the existing building.

Determining whether demolition of the existing building is justified requires further input from a heritage consultant, and should also consider potential resistance from local interest groups as well as the Council.

Alternative uses

- 6.18 At the heart of the NPPF, is a “*presumption in favour of sustainable development*” (paragraph 14) which encourages effective use of previously developed (brownfield) land and a mix of land uses. In addition, paragraph 17 sets out numerous core planning principles, designed to assist in achieving sustainable development, which includes encouraging the “*effective use of land by reusing land that has been previously developed, provided that it is not of high environmental value*”. The principle of development in this location would be considered sustainable by virtue of the Site's brownfield status and edge-of-centre location.

Residential

- 6.19 The NPPF seeks to boost the supply of housing (paragraph 47) and requires housing applications to be considered in the context of the presumption in favour of sustainable development (paragraph 49). At a local level, the current adopted Local Plan seeks to make provision for 22,840 homes in the period 2011-2031 (Policy BSC1), with 416 of these on windfall sites in Banbury.
- 6.20 The Council's latest Annual Monitoring Report (December 2017) confirms that the Borough is currently meeting its housing requirement. In addition, the Council has a 5.5 year demonstrable land supply.

- 6.21 Local policy directs housing development in the first instance to allocated residential sites (policy BSC1). The Site is not allocated for residential use, meaning that its residential redevelopment will be considered on the grounds of it being a ‘windfall’ site and having regard to the presumption in favour of sustainable development (NPPF paragraph 47). The Site is sustainable, in so much as it is a brownfield site within an edge of centre location, with good access to public transport and local facilities and services.
- 6.22 National guidance also lists housing as a town centre use.
- 6.23 Given the above, the principle of residential use in this location is, therefore, likely to be acceptable. Consideration will need to be given to managing noise impacts from the adjoining police station and Warwick Road.

Affordable Housing

- 6.24 Affordable housing will be sought from all schemes that deliver 11 or more residential units. The Council seeks 30% of units as affordable, to be delivered on-site, subject to viability and other site-specific considerations. Policy BSC3 seeks a split 70:30 between social rented housing and intermediate tenures.

Housing Density and Housing Mix

- 6.25 The density of residential development on brownfield sites is expected to be at least 30 dwellings per hectare (Policy BSC2). If the demolition of the existing building can be justified, a redevelopment proposal that is denser than 30 units per hectare is likely to be considered appropriate in this edge-of-centre location. Density policy requirements are likely to be relaxed for conversion of the existing property.
- 6.26 The housing mix of new homes is expected to be appropriate for the location, whilst having regard to the mix guidelines in Policy BSC4. Given the Site’s edge-of-centre location, a scheme which provides a greater quantum of smaller (1 and 2 bedroom) units is likely to be considered acceptable.

Summary

The Banbury Magistrates’ Court Site is considered to be a sustainable Site by virtue of: its brownfield status; its edge-of-centre location and subsequent easy access to local services and facilities; and, its good access to public transport.

While the Site is not allocated for residential use, the principle of providing residential units in this location would be supported in principle, subject to overcoming the loss of the Class D1 floorspace.

Office Use

- 6.27 Office floorspace is defined within the NPPF as a main town centre use. At a local level, this Site is not identified for office development so will be considered a ‘windfall’ site (policy SLE1). Current adopted policy will consider the merits of office floorspace on a site-by-site basis whilst having regard to the presumption in favour of sustainable development (NPPF paragraph 14). The Site is sustainable, in so much as it is a brownfield site within an edge-of-centre location, with good access to public transport and local facilities and services.
- 6.28 Given the above, the principle of office use in this location is likely to be acceptable. Any proposal will need to demonstrate that the operation of any office will not have an adverse impact on neighbouring residential amenity and the local highways network.

Summary

This Site is not allocated for office development, so is defined as a ‘windfall’ site.

The Site is situated in an edge-of-centre location, within easy reach of a range of public transport services. The principle of providing office floorspace in this sustainable, brownfield town centre location is likely be supported in principle, subject to overcoming any loss of D1 floorspace and managing the impact on neighbouring residents.

Retail

- 6.29 Retail (Class A1) is defined within the NPPF as a main town centre use and, therefore, in accordance with the sequential approach set out in the NPPF are directed to the town centre in the first instance. At a local level, new retail development is directed to the designated shopping frontages within the town centre (Policy SE2).
- 6.30 The Site is not located within the town centre, but is close by and would be considered an edge-of-centre location. As such it is not the preferred location for new retail floorspace. If retail was proposed on the Site, the Council will require a sequential test to be undertaken, demonstrating that there are no preferable, available sites within the town centre that could accommodate the proposed Class A1 use. The Council has a locally set threshold for a retail impact assessment in this location of 2,000 sq m.

Summary

The Site is not located within a designated shopping centre. As such, the Site is not in a location to which Class A1 retail development is directed.

Any retail proposal in this location will need to be supported by a sequential impact assessment. Dependent on the size of a proposal, a retail impact assessment may also be required.

Hotel

- 6.31 Hotels are identified as a main town centre use and, therefore, in accordance with the sequential approach set out in the NPPF they are directed to the city centre in the first instance. At a local level, a more flexible approach is taken, with support being given to hotels within existing urban areas where there will be no adverse impact on neighbouring residential amenity and the local highways network (Saved policy T2).
- 6.32 As an edge-of-centre Site, the principle of hotel development is likely to be considered acceptable in this location, subject to overcoming the loss of the Class D1 use.

Summary

The Site is situated in an edge-of-centre location where the principle of hotel development is supported, subject to overcoming the loss of the Class D1 floorspace. Further consideration will need to be given as to how a hotel could be successfully serviced, to avoid impacting on the amenity of neighbouring residents.

Access / Highways / Parking

- 6.33 Given the close proximity to a number of public transport options, a car limited development is likely to be supported here. The Council has no set maximum or minimum car/cycle parking standards. A transport consultant should be instructed to assess and justify any proposed car parking arrangements.
- 6.34 A full Transport Statement and discussions with the Council's Highways Department will be required as part of any planning application.

Summary

Car limited development is likely to be supported in this edge-of-centre location by the Council. A full Transport Statement and discussions with the Council's Highways Department will be required as part of any planning application.

Infrastructure

- 6.35 Developers should consider the infrastructure requirements needed to support and service the proposed development. Any development will be subject to impact assessments including traffic, environment, and school capacity.

7 *Planning obligations*

- 7.1 The Council has not yet adopted a Community Infrastructure Levy ('CIL'). All planning obligations will be secured through a s106 agreement.
- 7.2 The Council is currently consulting on a draft Developer Contributions SPD. The draft document suggests that, when the SPD is adopted, the following obligations may be sought:
- Affordable housing;
 - Air quality management;
 - Apprenticeships and skills training;
 - Community hall facilities;
 - Community safety and policing;
 - Education;
 - Flood risk management;
 - Healthy town programme;
 - Indoor sport, outdoor sport and recreation;
 - Nature conservation and biodiversity;
 - Public realm and public art; and,
 - Highways improvements.
- 7.3 It is worth noting that CIL regulations limit the Council's ability to pool s106 obligations. In effect the levy regulations restrict the use of generic s106 tariffs for items that are capable of being funded by CIL. Authorities who refer to generic types of infrastructure (e.g health facilities) will be unable to collect more than 5 contributions towards those generic funding pots. Similarly, contributions for a specific item of infrastructure (e.g. local school) can only be pooled from up to 5 separate planning applications (since 2010).



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