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Cherwell

DISTRICT COUNCIL
NORTH OXFORDSHIRE

Committee: Planning Committee
Date: Thursday 16 January 2020
Time: 4.00 pm
Venue: Bodicote House, Bodicote, Banbury, OX15 4AA

Membership

Councillor James Macnamara (Chairman)

Councillor Andrew Beere
Councillor Hugo Brown
Councillor Colin Clarke
Councillor Chris Heath
Councillor David Hughes
Councillor Cassi Perry
Councillor George Reynolds
Councillor Les Sibley

Councillor Maurice Billington (Vice- Chairman)

Councillor John Broad
Councillor Phil Chapman
Councillor Ian Corkin
Councillor Simon Holland
Councillor Mike Kerford-Byrnes
Councillor Lynn Pratt
Councillor Barry Richards
Councillor Katherine Tyson

Substitutes

Councillor Mike Bishop
Councillor Timothy Hallchurch MBE
Councillor Tony Mephram
Councillor Richard Mould
Councillor Fraser Webster
Councillor Barry Wood

Councillor Surinder Dhesi
Councillor Tony Ilott
Councillor Ian Middleton
Councillor Douglas Webb
Councillor Bryn Williams
Councillor Sean Woodcock

AGENDA

- 1. Apologies for Absence and Notification of Substitute Members**
- 2. Declarations of Interest**

Members are asked to declare any interest and the nature of that interest which they may have in any of the items under consideration at this meeting

3. **Requests to Address the Meeting**

The Chairman to report on any requests to address the meeting.

4. **Minutes** (Pages 1 - 42)

To confirm as a correct record the Minutes of the meeting of the Committee held on 18 December 2019.

5. **Chairman's Announcements**

To receive communications from the Chairman.

6. **Urgent Business**

The Chairman to advise whether they have agreed to any item of urgent business being admitted to the agenda.

7. **Proposed Pre-Committee Site Visits (if any)**

Report of Assistant Director - Planning and Development

This will be circulated at the meeting.

Planning Applications

8. **OS Parcel 9100 Adjoining and East of Last House Adjoining and North of Berry Hill Road, Adderbury** (Pages 45 - 85) **19/00963/OUT**

9. **60-62 Broad Street, Banbury, OX16 5BL** (Pages 86 - 102) **19/01675/F**

10. **Kings End Antiques, Kings End, Bicester OX26 2AA** (Pages 103 - 123) **19/02311/OUT**

Review and Monitoring Reports

11. **Appeals Progress Report** (Pages 124 - 131)

Report of Assistant Director Planning and Development

Purpose of report

This report aims to keep members informed upon applications which have been determined by the Council, where new appeals have been lodged. Public Inquiries/hearings scheduled, or appeal results achieved.

Recommendations

The meeting is recommended:

1.1 To accept the position statement.

12. **Planning Enforcement Report** (Pages 132 - 138)

Report of Assistant Director Planning and Development

Purpose of Report

To inform Members about planning enforcement cases at CDC and update on the current position following the update in October regarding case numbers, formal notices served, enforcement action taken, and prosecutions achieved.

Recommendation

The meeting is recommended:

1.1 To note the contents of the report.

Councillors are requested to collect any post from their pigeon hole in the Members Room at the end of the meeting.

Information about this Agenda

Apologies for Absence

Apologies for absence should be notified to

democracy@cherwellandsouthnorthants.gov.uk or 01295 221591 prior to the start of the meeting.

Declarations of Interest

Members are asked to declare interests at item 2 on the agenda or if arriving after the start of the meeting, at the start of the relevant agenda item.

Local Government and Finance Act 1992 – Budget Setting, Contracts & Supplementary Estimates

Members are reminded that any member who is two months in arrears with Council Tax must declare the fact and may speak but not vote on any decision which involves budget setting, extending or agreeing contracts or incurring expenditure not provided for in the agreed budget for a given year and could affect calculations on the level of Council Tax.

Evacuation Procedure

When the continuous alarm sounds you must evacuate the building by the nearest available fire exit. Members and visitors should proceed to the car park as directed by Democratic Services staff and await further instructions.

Access to Meetings

If you have any special requirements (such as a large print version of these papers or special access facilities) please contact the officer named below, giving as much notice as possible before the meeting.

Mobile Phones

Please ensure that any device is switched to silent operation or switched off.

Queries Regarding this Agenda

Please contact Lesley Farrell, Democratic and Elections
democracy@cherwellandsouthnorthants.gov.uk, 01295 221591

Yvonne Rees
Chief Executive

Published on Wednesday 8 January 2020

Cherwell District Council

Planning Committee

Minutes of a meeting of the Planning Committee held at Bodicote House, Bodicote, Banbury, OX15 4AA, on 18 December 2019 at 4.00 pm

- Present: Councillor James Macnamara (Chairman)
Councillor Maurice Billington (Vice-Chairman)
- Councillor Andrew Beere
Councillor John Broad
Councillor Phil Chapman
Councillor Colin Clarke
Councillor Chris Heath
Councillor Simon Holland
Councillor David Hughes
Councillor Mike Kerford-Byrnes
Councillor Cassi Perry
Councillor Lynn Pratt
Councillor George Reynolds
Councillor Barry Richards
- Substitute Members: Councillor Richard Mould (In place of Councillor Ian Corkin)
Councillor Barry Wood (In place of Councillor Hugo Brown)
Councillor Ian Middleton (In place of Councillor Katherine Tyson)
- Also Present: Tom Plant, Oxfordshire County Council Highways for item 19/01082/F
- Apologies for absence: Councillor Hugo Brown
Councillor Ian Corkin
Councillor Les Sibley
Councillor Katherine Tyson
- Officers: Sarah Stevens, Interim Senior Manager – Development Management
Nat Stock, Minors Team Leader
Matt Chadwick, Senior Planning Officer
Caroline Ford, Principal Planning Officer
Michael Sackey, Assistant Planning Officer
Samantha Taylor, Principal Planning Officer
David Mytton, Solicitor
Lesley Farrell, Democratic and Elections Officer

Declarations of Interest

8. OS Parcel 9507 South Of 26 and Adjoining Fewcott Road, Fritwell.

Councillor Mike Kerford-Byrnes, Non Statutory Interest, as local ward member who had attended Fritwell Parish Council which had been consulted on the application.

11. Bicester Eco Town Exemplar Site Phase 2, Charlotte Avenue, Bicester.

Councillor Lynn Pratt, Non Statutory Interest, as a member of Bicester Town Council which had been consulted on the application.

Councillor Richard Mould, Non Statutory Interest, as a member of Bicester Town Council which had been consulted on the application.

12. 65 Bicester Road, Kidlington, OX5 2LD.

Councillor Ian Middleton, Non Statutory Interest, as a member of Kidlington Parish Council which had been consulted on the application and a separate declaration as being involved in the application and would speak as a ward member but not take part in the debate or the vote.

13. DCS Group, Rear Pt Lxb Rp No 2, Oceans House, Noral Way, Banbury, OX16 2AA.

Councillor Andrew Beere, Non Statutory Interest, as a member of Banbury Town Council which had been consulted on the application.

Councillor Barry Richards, Non Statutory Interest, as a member of Banbury town Council which had been consulted on the application.

Councillor Colin Clarke, Non Statutory Interest, as a member of Banbury Town Council which had been consulted on the application and a separate declaration that he had met with the objector.

14. St Thomas Moore Catholic Primary School, Oxford Road Kidlington OX5 1EA.

Councillor Ian Middleton, Non Statutory Interest, as a member of Kidlington Parish Council which had been consulted on the application.

17. Land adjacent Unit 7, Chalker Way, Banbury, OX16 4XD.

Councillor Andrew Beere, Non Statutory Interest, as a Member of Banbury Town Council which had been consulted on the application.

Councillor Barry Richards, Non Statutory Interest, as a member of Banbury Town Council which had been consulted on the application.

Councillor Barry Wood, Declaration, as a member of the Executive and would leave the Chamber for the duration of the item.

Councillor Colin Clarke, Non Statutory Interest, as a member of Banbury Town Council which had been consulted on the application and a separate declaration as a member of the Executive and would leave the Chamber for the duration of the item.

Councillor George Reynolds, Declaration, as a member of the Executive and would leave the Chamber for the duration of the item.

Councillor Lynn Pratt, Declaration, as a member of the Executive and would leave the Chamber for the duration of the item.

Councillor Richard Mould, Declaration, as a member of the Executive and would leave the Chamber for the duration of the item.

18. Land at Bullmarsh Close, Middleton Stoney.

Councillor Barry Wood, Declaration, as a member of the Executive and would leave the Chamber for the duration of the item.

Councillor Colin Clarke, Declaration, as a member of the Executive and would leave the Chamber for the duration of the item.

Councillor George Reynolds, Declaration, as a member of the Executive and would leave the Chamber for the duration of the item.

Councillor Lynn Pratt, Declaration, as a member of the Executive and would leave the Chamber for the duration of the item.

Councillor Richard Mould, Declaration, as a member of the Executive and would leave the Chamber for the duration of the item.

105 **Requests to Address the Meeting**

The Chairman advised that requests to address the meeting would be dealt with at each item.

106 **Minutes**

The Minutes of the meeting held on 14 November 2019 were agreed as a correct record and signed by the Chairman.

107 **Chairman's Announcements**

The Chairman made the following announcement:

1. Under the Openness of Local Government Bodies Regulations 2014, members of the public were permitted to film, broadcast and report on the meeting, subject to the efficient running of the meeting not being affected.

108 **Urgent Business**

There were no items of urgent business.

109 **Proposed Pre-Committee Site Visits (if any)**

There were no proposed pre-committee site visits.

110 **OS Parcel 9507 South Of 26 and Adjoining Fewcott Road, Fritwell**

The Committee considered application 19/00616/OUT for the erection of up to 28 dwellings and associated site access onto Fewcott Road, at OS Parcel 9507 South of 26 and adjoining Fewcott Road, Fritwell for CALA Homes (Chiltern) Limited.

Gail Barnhill, local resident, addressed the Committee in objection to the application.

Rob Linnell, agent for the applicant, addressed the Committee in support of the application.

In reaching its decision the Committee considered the officer's report and presentation, the written update and the comments of the public speakers.

Resolved

- (1) That authority be delegated to the Assistant Director for Planning and Development to grant permission for application 19/00616/OUT subject to the following conditions (and any amendment to those conditions as deemed necessary:

CONDITIONS

Time Limits

1. No development shall commence until full details of the layout (including the layout of the internal access roads and footpaths), scale, appearance, and landscaping (hereafter referred to as reserved matters) have been submitted to and approved in writing by the Local Planning Authority.

Reason: This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004

2. In the case of the reserved matters, the final application for approval

shall be made not later than the expiration of three years beginning with the date of this permission.

Reason: This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004

3. Application for approval of all the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission and the development hereby permitted shall be begun either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved whichever is the later.

Reason -To comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 5(1) of the Town and Country Planning (General Development Procedure) Order 2015 (as amended).

Compliance with Plans

4. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: Application form and drawing number PL.01 and drawing number J32-3847-PS-001 Rev F included in Mode Transport Planning Technical Note (dated 30.9.19)

Reason – For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and comply with Government guidance contained within the National Planning Policy Framework.

Finished floor levels

5. No development shall take place until details of all finished floor levels in relation to existing and proposed site levels and to the adjacent buildings have been submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall be constructed strictly in accordance with the approved levels.

Reason: To secure an acceptable standard of development that safeguards the visual amenities of the area and the living conditions of existing and future occupiers and to ensure compliance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and government guidance within Section 12 of the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

Accessible and adaptable homes

6. As part of the reserved matters the proposal shall include the

provision of at least 2 bungalows which shall be constructed to meet the Building Regulations M4(2) standards for accessible and adaptable homes. The dwellings shall be provided on site to accord with this standard and shall be retained as such thereafter.

Reason: To provide a mix of dwellings as supported by Policy PH3 of the Mid-Cherwell Neighbourhood Plan (2019), Policy ESD15 of the Cherwell Local Plan and advice in the National Planning Policy Framework.

Land Contamination Desk Study / Site Walkover

7. Prior to the submission of any reserved matters and prior to the commencement of development a desk study and site walk over to identify all potential contaminative uses on site, and to inform the conceptual site model has been carried out by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and has been submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval that it is satisfied that no potential risk from contamination has been identified.

Reason: To ensure that any ground and water contamination is identified and adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

Land Contamination Intrusive Investigation

8. If a potential risk from contamination is identified as a result of the work carried out under condition 7, prior to the commencement of the development hereby permitted, a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals shall be documented as a report undertaken by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place unless the Local Planning Authority has given its written approval that it is satisfied that the risk from contamination has been adequately characterised as required by this condition.

Reason: To ensure that any ground and water contamination is adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework.

This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

Land Contamination Remediation Scheme

9. If contamination is found by undertaking the work carried out under condition 8, prior to the commencement of the development hereby permitted, a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval of the scheme of remediation and/or monitoring required by this condition.

Reason: To ensure that any ground and water contamination is adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

Land Contamination Remediation Works

10. If remedial works have been identified in condition 9, the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 9. A verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that any ground and water contamination is adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework.

Detailed Drainage Scheme

11. As part of any reserved matters for layout and prior to the development commencing detailed designs of the proposed surface water drainage scheme including details of implementation, maintenance and management shall be submitted to and approved in writing by the local planning authority. Those details shall include:
- a) Information about the design storm period and intensity, critical storm duration (1 in 30 & 1 in 100 (+40% allowance for climate change), discharge rates and volumes (both pre and post development), temporary storage facilities, means of access for maintenance, the methods employed to delay, and control surface water discharged from the site, and the measures taken to prevent flooding and pollution of the receiving groundwater and/or surface waters;
 - b) Any works required off-site to ensure adequate discharge of

surface water without causing flooding or pollution (which should include refurbishment of existing culverts and headwalls or removal of unused culverts where relevant);

c) Flood water exceedance routes, both on and off site;

d) A timetable for implementation;

e) Site investigation and test results to confirm infiltrations rates; and

f) A management and maintenance plan, in perpetuity, for the lifetime of the development which shall include the arrangements for adoption by an appropriate public body or statutory undertaker, management and maintenance by a Residents' Management Company or any other arrangements to secure the operation of the surface water drainage scheme throughout its lifetime.

No building hereby permitted shall be occupied until the sustainable drainage scheme for this site has been completed in accordance with the approved details. The sustainable drainage scheme shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan.

Reasons: To ensure that the proposed development can be adequately drained and to manage the flood risk on or off the site resulting from the proposed development in accordance with Policy ESD6 and ESD7 of the Cherwell Local Plan and advice in the National Planning Policy Framework.

Full details of access

12. Prior to the commencement of the development hereby approved, details of the means of access between the land and the highway on Fewcott Road, including position, layout and vision splays shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the occupation of any of the dwellings, the means of access shall be constructed and retained in accordance with the approved details.

Reason - In the interests of highway safety and to comply with Government guidance contained within the National Planning Policy Framework

Details of connection to footpath

13. As part of the reserved matters for layout, full details of the proposed new connection to the public footpath adjacent to the southern boundary of the site shall be submitted and approved in writing by the local planning authority. The connection shall be provided in accordance with the approved details in accordance with a timetable to be first submitted and approved in writing by the Local Planning Authority prior to any works above slab level on any of the dwellings hereby permitted.

Reason: To integrate the development into the surrounding movement network and promote walking in accordance with Policy SLE4 of the Cherwell Local Plan (2015) and advice in the NPPF.

Construction Traffic Management Plan

14. Prior to commencement of the development hereby approved, a Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved Construction Traffic Management Plan shall be implemented and operated in accordance with the approved details.

Reason - In the interests of highway safety and the residential amenities of neighbouring occupiers.

Construction Environment Management Plan

15. Prior to the commencement of the development, a Construction Environment Management Plan (CEMP), which shall include details of the measures to be taken to ensure construction works do not adversely affect residential properties on, adjacent to or surrounding the site together with details of the consultation and communication to be carried out with local residents shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with approved CEMP.

Reason – To protect the amenity of the neighbouring properties in accordance with Policy ESD15 of the Cherwell Local Plan and advice in the National Planning Policy Framework.

Energy Statement

16. Prior to the commencement of any works associated with the construction of a dwelling, details of the means by which all dwellings will be designed and constructed to achieve an energy performance standard equivalent to a 19% improvement in carbon reductions on 2013 Part L of the Building Regulations (unless a different standard is agreed with the local planning authority) shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details and no dwelling shall be occupied until it has been constructed in accordance with the approved energy performance measures.

Reason - In the interests of environmental sustainability in construction in accordance with the requirements of Policy ESD3 of the Cherwell Local Plan 2011-2031 Part 1 and government guidance in the National Planning Policy Framework.

Biodiversity enhancement

17. Prior to the commencement of the development hereby approved including any demolition, and any works of site clearance, and as part of any reserved matters for layout and landscaping, a method statement and scheme for enhancing biodiversity on site such that an overall net gain for biodiversity is achieved, to include details of enhancement features and habitats both within green spaces and integrated within the built environment, shall be submitted to and approved in writing by the Local Planning Authority. This shall also

include a timetable for provision. Thereafter, the biodiversity enhancement measures shall be carried out and retained in accordance with the approved details.

Reason -To ensure the development provides a net gain in biodiversity in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

NOTE: It is advised that this condition include a Biodiversity Impact Assessment to show how a clear net gain for biodiversity will be achieved.

Landscape and Ecological Management Plan (LEMP)

18. Prior to the commencement of the development hereby approved, a Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. This shall include details of all planting, soft landscaping and biodiversity features and management and maintenance ongoing (including funding details and timetable). Thereafter, the development shall not be carried out other than in accordance with the approved LEMP.

Reason -To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Electric charging points infrastructure

19. No development shall commence above slab level until a scheme for a system of ducting to allow for the future installation of electrical vehicle charging infrastructure to serve each dwelling or a scheme showing the provision of electrical vehicle charging points for each dwelling has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details prior to the first occupation of the dwelling.

Reason: To comply with Policies SLE 4, ESD 1, ESD 3 and ESD 5 of the Cherwell Local Plan 2011-2031 Part 1 and to maximise opportunities for sustainable transport modes in accordance with paragraph 110(e) of the National Planning Policy Framework.

Lighting strategy

20. Prior to the installation of any external lighting a full lighting strategy to include illustration of proposed light spill shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.

Reason -To protect the amenity of the locality and habitats of importance to biodiversity conservation from any loss or damage in

accordance with Policy ESD10 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework. Policy PD6 of the Mid-Cherwell Neighbourhood Plan 2019.

Water usage

21. No dwelling shall be occupied until it has been constructed to ensure that it achieves a water efficiency limit of 110 litres person/day and shall continue to accord with such a limit thereafter.

Reason - In the interests of sustainability in accordance with the requirements of Policy ESD3 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Compliance with ecological appraisal

22. The development hereby approved shall be carried out strictly in accordance with the recommendations outlined in sections 9.7, 9.8 and 8.9-8.11 of Extended Phase 1 Survey Report prepared by Lockhart Garratt, dated 12/11/2018.

Reason - To ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Cycle Parking Provision

23. No dwelling of the development hereby permitted shall be occupied until cycle parking has been provided according to a plan showing the number, location and design of cycle parking for the dwellings that has previously been submitted to and approved in writing by the Local Planning Authority. The cycle parking will be permanently retained and maintained for the parking of cycles in connection with the development.

Reason - To ensure appropriate levels of cycle parking are available at all times to serve the development, and to comply with Government guidance contained within the National Planning Policy Framework.

Waste Water

24. Prior to any construction above damp proof course, a scheme for on-site foul water drainage works, including connection points and discharge rates, shall be submitted to and approved in writing by the Local Planning Authority. Prior to the occupation of any phase, the foul water drainage works relating to that phase must have been carried out in complete accordance with the approved scheme.

Reason – To prevent environmental and amenity problems arising from flooding and to accord with Policy ESD6 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance with in the National Planning Policy Framework.

- (2) That the completion of a planning obligation under section 106 of the town and country planning act 1990, as substituted by the planning and compensation act 1991, be secured for the following (and any amendments as deemed necessary):
- a) Provision of and commuted sum for maintenance of open space (including informal open space, mature trees, hedgerows etc) in accordance with the Policy BSC11 of the CLP (approx. 0.2ha of informal open space)
 - b) Provision of a commuted sum of £2,306.68 per dwelling to the upgrading/ provision of local play equipment in Fritwell as no play provision is being provided on site
 - c) Off-site outdoor sports facilities capital provision towards improvement of sports fields in Fritwell. Based on £2017.03 per dwelling. 28no dwellings = £56,476.84
 - d) Off-site indoor sports facilities – Towards Bicester Gymnastics Club to develop a specialist gymnastics (identified in the Councils District Sports Study) - £23,378.51
 - e) Community hall facilities - To be spent on improvements/enhancements to Fritwell Village Hall - £32,266.00
 - f) £106 per dwelling for bins
 - g) Affordable housing provision – 35% (10 units)
 - h) Contribution towards creation of additional secondary school capacity through expansion of Heyford Park School (£118,662 based on current housing mix but will change with different housing mix)
 - i) An obligation to enter into a S278 Agreement will be required to secure mitigation/improvement works, including:
 - Construction of the site access.
 - Extension of the 30mph speed limit.
 - Construction of footway from site access to join existing footpath in village at Hodgson Close
 - Identification of areas to be provided as public highway and provision of visibility splays.
 - Village entry treatment including new vehicle activated sign, relocation of gateway feature and dragons teeth on carriageway.
 - j) Obligation to enter into a S278 agreement to provide upgrades to the public right of way to the south of the site.

111 **Alkerton House, Well Lane, Alkerton, OX15 6NL**

The Committee considered application 19/01736/F for ground and first floor extensions at Alkerton House, Well Lane, Alkerton, OX15 6NL for Mr & Mrs M Wilson.

Councillor Douglas Webb addressed the Committee as local ward member.

Charles Saunders addressed the Committee in objection to the application.

Julian Philcox, agent for the applicant, addressed the Committee in support of the application.

In reaching its decision the Committee considered the officer's report and presentation, the written update and the comments of the public speakers.

Resolved

- (1) That authority be delegated to the Assistant Director for Planning and Development to grant permission for application 19/01736/F subject to the following conditions (and any amendments to those conditions as deemed necessary):

CONDITIONS

Time Limit

1. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.

Reason - To comply with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

Compliance with Plans

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: Drawing No's: 16030/19/SLP1, and 16030/P01 Rev. B, 16030/P02 Rev. B, 16030/P03 Rev. B, 16030/P04 Rev. A, 16030/P05 Rev. A, 16030/P06 all received 22 November 2019

Reason – For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and comply with Government guidance contained within the National Planning Policy Framework.

3. Prior to the commencement of the development hereby approved above slab level, a schedule of materials and finishes for the external walls and roof(s) of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out other than in accordance with the approved schedule and shall be retained as such thereafter.

Reason - To ensure the satisfactory appearance of the completed development and to comply with 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 National Planning Policy Framework.

4. The natural stone to be used on the walls of the extension shall be of the same type, texture, colour and appearance as the stone on the existing building and shall be laid dressed, coursed and pointed to match that of the existing building.

Reason - To ensure that the development is constructed and finished

in materials which are in harmony with the building materials used in the locality and to comply with 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 National Planning Policy Framework.

5. Prior to the insertion of any openings, including the stone mullion windows, hereby approved, full details at a scale of 1:20 including a cross-section, cill, lintel and recess detail and colour/finish, shall be submitted to and approved in writing by the Local Planning Authority. The openings shall not be installed within the building other than in accordance with the approved details and shall be retained as such thereafter.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy ESD 15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

6. The rooflights to be used in the development hereby permitted shall be of a design which, when installed, do not project forward of the general roof surface to which they are installed.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy ESD 15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

7. Prior to the commencement of the development above slab level, a method statement for enhancing biodiversity on site, including types and locations of any nesting/roosting provisions shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the biodiversity enhancement measures approved shall be carried out prior to occupation of the development and shall be retained thereafter in accordance with the approved details.

Reason - To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policies ESD 10 and 11 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

8. Prior to the first occupation of the development hereby approved, the rooflight in the northern facing roof slope shall be fixed shut and fully glazed with obscured glass (Level 3 or above) and shall be retained as such thereafter.

Reason - To safeguard the privacy and amenities of the occupants of the neighbouring property and to comply with Policy ESD 15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C30 of the Cherwell Local Plan 1996 and Government guidance contained

within the National Planning Policy Framework.

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Alkerton House, Well Lane, Alkerton, OX15 6NL

The Committee considered application 19/01737/LB for ground and first floor extensions at Alkerton House, Well Lane, Alkerton, OX15 6NL for Mr & Mrs M Wilson.

In reaching its decision the Committee considered the office's report and presentation, the written update and the address of the public speakers.

Resolved

- (1) That authority be delegated to the Assistant Director for Planning and Development to grant permission for application 19/01737/LB subject to the following conditions (and any amendments to those conditions as deemed necessary):

CONDITIONS

Time Limit

1. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.

Reason - To comply with the provisions of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

Compliance with Plans

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: Drawing No's: 16030/19/SLP1, and 16030/P01 Rev. B, 16030/P02 Rev. B, 16030/P03 Rev. B, 16030/P04 Rev. A, 16030/P05 Rev. A, 16030/P06 all received 22 November 2019

Reason – For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and comply with Government guidance contained within the National Planning Policy Framework.

3. Prior to the commencement of the development hereby approved above slab level, a schedule of materials and finishes for the external walls and roof(s) of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out other than in accordance with the approved schedule and shall be retained as such thereafter.

Reason - To ensure that the completed development is in keeping with and conserves the special character of the existing historic building and to comply with Policy ESD 15 of the Cherwell Local Plan

2011-2031 Part 1, saved Policy C18 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

4. The natural stone to be used on the walls of the extension shall be of the same type, texture, colour and appearance as the stone on the existing building and shall be laid dressed, coursed and pointed to match that of the existing building.

Reason - To ensure that the completed development is in keeping with and conserves the special character of the existing historic building and to comply with Policy ESD 15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C18 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

5. Prior to the insertion of any openings, including the stone mullion windows, hereby approved, full details at a scale of 1:20 including a cross-section, cill, lintel and recess detail and colour/finish, shall be submitted to and approved in writing by the Local Planning Authority. The openings shall not be installed within the building other than in accordance with the approved details and shall be retained as such thereafter.

Reason - To ensure that the completed development is in keeping with and conserves the special character of the existing historic building and to comply with Policy ESD 15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C18 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

6. The rooflights to be used in the development hereby permitted shall be of a design which, when installed, do not project forward of the general roof surface to which they are installed.

Reason - To ensure that the completed development is in keeping with and conserves the special character of the existing historic building and to comply with Policy ESD 15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C18 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

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Bicester Eco Town Exemplar Site Phase 2, Charlotte Avenue, Bicester

The Committee considered application 19/01036/HYBRID for full permission for a Local Centre Community Floorspace (Use Class D1 with ancillary A1/A3), with a total GIA of 552 sqm, and 16 residential units (Use Class C3) with associated access, servicing, landscaping and parking. Outline consent for a Local Centre Retail, Community or Commercial Floorspace (flexible Use Class A1/A2/A3/A4/A5/B1/D1) at Bicester Eco Town Exemplar Site, Phase 2, Charlotte Avenue, Bicester for Barton Willmore LLP on behalf of A2 Dominion.

Rob Fellows, representing Elmsbrook Community Organisation addressed the Committee in objection to the application.

Steven Hornblow and Lauren Patel, agents for the applicant, addressed the Committee in support of the application.

It was proposed by Councillor Pratt and seconded by Councillor Mould that application 19/01036/HYBRID be approved subject to an amendment to condition 24 for a noise management plan to be put in place prior to the commencement of construction rather than occupation.

in reaching its decision the Committee considered the officer's report and presentation, the written updates and the address of the public speakers.

Resolved

- (1) That authority be delegated to the Assistant Director for Planning and Development to grant permission for application 19/01036/HYBRID subject to the following conditions (and any amendments, additions for deletions (if the matter is covered by the S106 agreement) to those conditions as deemed necessary) and the completion of a planning obligation under section 106 of the town and country planning act 1990, as substituted by the planning and compensation act 1991, to secure the matters set out at paragraphs 9.102-9.109 of this report.

CONDITIONS

TIME LIMITS AND GENERAL IMPLEMENTATION CONDITIONS

1. The full development hereby permitted shall be begun before the expiration of two years from the date of this permission.

Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004. The requirement to implement the development within two years is to ensure that essential facilities to serve the development are provided in a timely fashion and to support the sustainability of the site.

2. The development shall not be carried out otherwise than in complete accordance with the approved plans [insert plan nos and received date] and other details [specify] unless a non-material or minor material amendment is approved by the Local Planning Authority under the Town and Country Planning (Development Management Procedure (England)) Order 2015 (as amended).

Reason: To clarify the permission and for the avoidance of doubt.

APPROVED PLANS/ DOCUMENTS TO BE ADDED

3. The development hereby permitted shall be carried out in accordance with the recommendations set out in the Technical Briefing Note:

Ecological Summary by Aspect Ecology dated 15 October 2019 unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect habitats and/or species of importance to nature conservation from significant harm in accordance with the Government's aim to achieve sustainable development as set out in Section 15 of the National Planning Policy Framework

PRE-COMMENCEMENT CONDITIONS

4. No development shall take place until full details of any required retaining structures including their position and construction detailing have been submitted to and approved by the Local Planning Authority. The development shall thereafter be carried out in accordance with the details so approved.

Reason: In order to safeguard the visual amenities of the area and to ensure the development is acceptably constructed in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and the National Planning Policy Framework. This information is required prior to commencement of any development as it is fundamental to the acceptability of the scheme.

5. No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The statement shall provide for at a minimum:
 - a. The parking of vehicles of site operatives and visitors;
 - b. The routeing of HGVs to and from the site;
 - c. Loading and unloading of plant and materials;
 - d. Storage of plant and materials used in constructing the development;
 - e. The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - f. Wheel washing facilities including type of operation (automated, water recycling etc) and road sweeping;
 - g. Measures to control the emission of dust and dirt during construction;
 - h. A scheme for recycling/ disposing of waste resulting from demolition and construction works;
 - i. Delivery, demolition and construction working hours;

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

Reason: To ensure the environment is protected during construction in accordance with Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

6. No development shall take place until a detailed surface water drainage scheme for the site, in accordance with the Infrastruct CS Ltd Flood Risk Assessment and Drainage Statement October 2019 Document

reference: 2346-BBH-ICS-XX-RP-C-07.001, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is first occupied. The scheme shall also include:

- A compliance report to demonstrate how the scheme complies with the agreed drainage strategy for the site and the "Local Standards and Guidance for Surface Water Drainage on Major Development in Oxfordshire"
- Full micro drainage calculations for all events up to and including the 1 in 100 year plus 40% climate change;
- Full infiltration testing at depth of proposed soakaway required to BRE 365;
- Groundwater monitoring
- A Flood Exceedance Conveyance Plan;
- Detailed design drainage layout drawings of the SuDS proposals including cross section details;
- Detailed maintenance management plan in accordance with Section 32 of CIRIA C753 including maintenance schedules for each drainage element; and
- Details of how water quality will be maintained during construction.

Reason: To ensure satisfactory drainage of the site in the interests of achieving sustainable development, public health, to avoid flooding of adjacent land and property to comply with Policy ESD6 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government advice in the National Planning Policy Framework. This information is required prior to commencement of any development as it is fundamental to the acceptability of the scheme.

7. No development shall take place until a report outlining how carbon emissions from the construction process and embodied carbon have been minimised has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the recommendations contained in the approved report.

Reason - To ensure that the development achieves a reduced carbon footprint in accordance with Planning Policy Statement 1: Eco Towns. This information is required prior to commencement of any development as it is fundamental to the acceptability of the scheme.

8. No development shall take place until a Site Waste Management Plan, which shall demonstrate how zero construction waste will be sent to landfill, has been submitted to and approved in writing by the Local Planning Authority. Thereafter the Site Waste Management Plan shall be adhered to throughout the construction phase of the development.

Reason - To ensure no waste is sent to landfill to meet the requirements of the Planning Policy Statement 1: Eco Towns. This information is required prior to commencement of any development as it is fundamental to the acceptability of the scheme.

9. No development shall take place until an updated Overheating Report to consider a predicted 2050 climate scenario has been submitted to and approved in writing by the Local Planning Authority. The report shall consider whether there is a need for additional mitigation required to ensure the development does not overheat in the 2050 climate scenario and full details of that mitigation shall be provided. The development shall be implemented in accordance with the approved details

Reason: To deliver a development that can be mitigated to deal with predicted future climate scenarios in accordance with Policy Bicester 1 of the Cherwell Local Plan Part 1 and Planning Policy Statement 1: Eco Towns. This information is required prior to commencement of any development as it is fundamental to the acceptability of the scheme.

10. No development shall commence until full details of the measures that will be utilised to enable the scheme to achieve true zero carbon, which should include details of offsite measures if necessary, including the timescale for their provision have been submitted to and approved in writing by the Local Planning Authority. The measures agreed shall be implemented in accordance with the approved details.

Reason - To deliver zero carbon development in accordance with Policy Bicester 1 of the Cherwell Local Plan Part 1 and Planning Policy Statement 1: Eco Towns. This information is required prior to commencement of any development as it is fundamental to the acceptability of the scheme.

11. No development shall commence until full details of measures to minimise water use which could include the use of rainwater harvesting or incorporating such other agreed measures, in line with the Masterplan Water Cycle Study have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To support reduction in water use and to achieve the requirements of Planning Policy Statement 1: Eco Town. This information is required prior to commencement of any development as it is fundamental to the acceptability of the scheme.

12. No development shall commence until a noise management plan which at a minimum shall cover the points set out in Section 6. Operational Noise Management Plan in the Acoustics Strategy Report Revision 4 dated 29 November 2019 prepared by Hoare Lea and which shall include details of a noise limited, has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be operated in accordance with the terms of the agreed noise management plan.

CONDITIONS REQUIRING APPROVAL OR COMPLIANCE BEFORE SPECIFIC CONSTRUCTION WORKS TAKE PLACE

13. Samples of the materials to be used in the construction of the walls of the building shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of those works. The development shall be carried out in accordance with the samples so approved.

Reason: To ensure that the materials are appropriate to the appearance of the locality and to ensure the satisfactory appearance of the completed development in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 [C18] of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

14. Samples of the materials to be used in the covering of the roof of the building shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of those works. The development shall be carried out in accordance with the samples so approved.

Reason: To ensure that the materials are appropriate to the appearance of the locality and to ensure the satisfactory appearance of the completed development in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 [C18] of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

15. Notwithstanding the details shown on the approved plans, further details of the architectural detailing of the exterior of the building, including the brick detailing, balconies, windows and doors (and their surrounds), together with the eaves and verge treatment (which shall include a clipped eaves and verge) shall be submitted to and approved in writing by the Local Planning Authority prior to the construction of the building above slab level. The development shall thereafter be carried out in accordance with the approved details.

Reason: In order to safeguard the visual amenities of the [conservation] area [and the significance of the heritage asset] in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996.

16. A plan detailing the proposed parking and turning provision for vehicles to be accommodated within the site (to the north and south of Charlotte Avenue) (including details of the proposed surfacing of the provision), shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of those works. The approved parking and turning facilities shall be laid out and completed in accordance with the approved details before the first occupation of the building. The car parking and turning spaces shall be retained for the parking and turning of vehicles at all times thereafter.

Reason: In the interests of highway safety, to ensure the provision of adequate off-street car parking [and turning/loading/unloading] and to

comply with Government guidance in Section 12 of the National Planning Policy Framework.

17. A scheme for landscaping the site shall be provided to and approved in writing by the Local Planning Authority which shall include:
 - a. details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas and written specifications (including cultivation and other operations associated with plant and grass establishment i.e. depth of topsoil, mulch etc),
 - b. details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,
 - c. full details, locations, specifications and construction methods for all purpose-built tree pits and associated above ground features, to include specifications for the installation of below ground, load-bearing 'cell structured' root trenches, root barriers, irrigation systems and a stated volume of a suitable growing medium to facilitate and promote the healthy development of the proposed trees,
 - d. details of the hard landscaping including hard surface areas, pavements, pedestrian areas and steps.
 - e. details of the proposed construction, materials, surfacing and landscaping of Charlotte Avenue through the site including the footways alongside and the parking area to the south of Charlotte Avenue to also include any proposed street furniture

Such details shall be provided prior to the development progressing above slab level or such alternative time frame as agreed in writing by the developer and the Local Planning Authority. The details approved under a., b. and c. shall be implemented by the end of the first planting season following occupation of the development, and the details approved under d. and e. shall be implemented before the first occupation (residential or commercial) of the building to the North of Charlotte Avenue and thereafter permanently maintained as such.

Reason: To ensure that a satisfactory landscape scheme is provided in the interest of well-planned development and visual amenity and to accord with 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 National Planning Policy Framework.

18. Prior to the installation of any green roofs, details of the construction and planting of these roofs along with details of the maintenance programme that will ensure the long term maintenance of these roofs shall be submitted to and approved in writing by the Local Planning Authority. The green roofs shall be constructed, planted and maintained in accordance with the approved details.

Reason - To ensure the delivery of green infrastructure and biodiversity gain in accordance with Policy Bicester 1 of the Cherwell Local Plan Part 1 2011-2031.

19. Full details of the proposals to enhance biodiversity including the position and type of each suggested enhancement measure shall be submitted to and approved in writing by the Local Planning Authority prior to the development reaching slab level. Thereafter, the biodiversity enhancement measures approved shall be carried out prior to occupation and retained in accordance with the approved details.

Reason: To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy ESD10 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance contained within Section 15 of the National Planning Policy Framework.

CONDITIONS REQUIRING APPROVAL OR COMPLIANCE BEFORE OCCUPATION

20. Prior to the first use or occupation of the development hereby permitted, covered cycle parking facilities shall be provided on the site in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. The covered cycle parking facilities so provided shall thereafter be permanently retained and maintained for the parking of cycles in connection with the development.

Reason: In the interests of promoting sustainable transport modes in accordance with Policies SLE4, ESD1 and Bicester 1 of the Cherwell Local Plan Part 1 2011-2031 and Government guidance contained in the National Planning Policy Framework.

21. Prior to the first use or occupation of the development hereby permitted, waste and recycling storage facilities shall be provided on the site in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. The waste and recycling storage facilities so provided shall thereafter be permanently retained and maintained.

Reason: In the interests of promoting sustainable waste arrangements in accordance with Policies ESD1 and Bicester 1 of the Cherwell Local Plan Part 1 2011-2031 and Government guidance contained in the National Planning Policy Framework.

22. Notwithstanding the submitted Framework Travel Plan, an updated Framework Travel Plan that takes account of the transport movements associated with the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the development hereby permitted. The development shall be operated in accordance with the approved details.

Reason: In the interests of sustainability and to ensure a satisfactory form of development, in accordance with Policies SLE4, ESD1 and Bicester 1 of the Cherwell Local Plan Part 1 2011-2031 and Government guidance contained in the National Planning Policy Framework.

23. Prior to the first occupation of the development a signage strategy for the development shall be submitted to and agreed in writing by the Local Planning Authority. All advertisements shall thereafter be proposed in accordance with the approved signage strategy.

Reason - In order to safeguard the amenities of the area and to comply with Policies C30 and ENV1 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

24. Prior to the first occupation of any unit requiring mechanical ventilation/ extraction, full details of the method of mechanical ventilation/ extraction including an assessment of noise and odours (and whether any odour suppression is required) and any external features shall be submitted to and approved in writing by the Local Planning Authority. The assessment of noise shall demonstrate that noise levels from any mechanical ventilation/ extraction is at least 5dB below typical background noise levels when measured 1m from any nearest residential window assessed in accordance with BS4142:2014. Thereafter and prior to the first occupation of each unit within such use, any approved mechanical ventilation/ extraction shall be installed, brought into use and retained in accordance with the approved details.

Reason - In order to safeguard the amenities of the area and to minimise the risk of a nuisance arising from smells in accordance with Policy ENV1 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

25. Within 3 months following the first occupation of the residential properties above the community centre, either a validation report shall be submitted to the Local Planning Authority showing the noise levels achieved in the residential properties are compliant with indoor ambient noise criteria of Table 4 in BS8233:2014 or if the noise levels are not meeting the target noise levels, details of proposed mitigation to ensure the target levels are met shall be submitted to and approved in writing by the Local Planning Authority. Any approved mitigation shall be provided within 3 months from the date of approval.

Reason: To ensure the creation of a satisfactory environment free from intrusive levels of noise in accordance with Saved Policy ENV1 of the Cherwell Local Plan 1996

26. Prior to the installation of any external lighting, full details of any such lighting shall be submitted to and approved in writing by the Local Planning Authority. All lighting shall thereafter be installed in accordance with the approved details.

Reason - In order to safeguard the amenities of the area and to comply with Policy ENV1 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

27. No building hereby permitted shall be occupied until electric vehicle charging infrastructure, the location of which shall be first agreed in

writing by the Local Planning Authority, has been installed and made available for use. The electric vehicle charging infrastructure shall thereafter be retained and made available for use.

Reason: To comply with Policies SLE4, ESD 1, ESD 3 and ESD 5 of the adopted Cherwell Local Plan 2011-2031 Part 1 and to maximise opportunities for sustainable transport modes in accordance with paragraph 110(e) of the National Planning Policy Framework.

28. The development shall achieve 'Secured by Design' accreditation. No dwelling shall be occupied until accreditation has been achieved and evidence of such accreditation has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure a safe form of development in accordance with Policy ESD15 of the Cherwell Local Plan Part 1 2011-2031 and Government guidance contained within the National Planning Policy Framework.

ONGOING REGULATORY CONDITIONS TO BE COMPLIED WITH AT ALL TIMES

29. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building(s) or on the completion of the development, whichever is the sooner and shall be maintained for a period of 5 years from the completion of the development. Any trees and/or shrubs which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent for any variation.

Reason: To ensure that the agreed landscaping scheme is maintained over a reasonable period that will permit its establishment in the interests of visual amenity and to accord with 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 National Planning Policy Framework.

30. If, during development, contamination not previously identified is found to be present at the site, no further development shall be carried out until full details of a remediation strategy detailing how the unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. Thereafter the remediation strategy shall be carried out in accordance with the approved details.

Reason: To ensure that any ground and water contamination is identified and adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework.

31. Deliveries shall be made and the use of the external spaces associated with the Community Building (including any changing of bins and handling of glass bottles) hereby approved shall be restricted to the following times:
07:00 hours to 21:00 hours.

Reason: To protect the amenities of nearby residents and to comply with Saved Policy ENV1 of the Cherwell Local Plan 1996

32. All non-residential buildings shall be constructed to BREEAM Very Good.

Reason - To support the creation of a low carbon community to achieve the requirements of Policies ESD1 and Policy Bicester 1 of the Adopted Cherwell Local Plan.

33. The residential development shall be constructed so as to meet as a minimum the higher Building Regulation standard for water consumption limited to 110 litres per person per day.

Reason: The site is located in an area of water stress and to comply with Policies ESD3 and ESD8 of the Cherwell Local Plan Part 1 2011-2031 and Government guidance contained within the Eco Town PPS and the National Planning Policy Framework.

34. No building hereby permitted shall be occupied until that facility has been provided with service connections capable of supporting the provision of high speed broadband from the building to the nearest broadband service connection outside the site.

Reason: To facilitate information provision to homes for energy monitoring, travel and home working in accordance with Policy Bicester 1 of the Cherwell Local Plan 2011-2031 Government guidance contained within the Eco Towns PPS and National Planning Policy Framework.

35. Prior to the occupation of any building hereby permitted, its shall be provided with a 'real time information' system.

Reason - To facilitate information delivery and travel information in accordance with Planning Policy Statement 1: Eco Towns.

36. The A1/A3 floorspace within the Community Hub shall not exceed an area of 67m² and shall only be used for A1/A3 uses as defined by the Town and Country Planning (Use Classes) Order 1987 (or their equivalent in subsequent enactments or re-enactments).

Reason: To ensure the scheme meets local retail needs in accordance with Policy Bicester 1 of the Cherwell Local Plan 2011-2031 and Government guidance contained in the Eco Towns PPS and the National Planning Policy Framework.

CONDITIONS THAT APPLY TO THE OUTLINE PART OF THE PROPOSAL
TIME LIMITS AND GENERAL IMPLEMENTATION CONDITIONS

1. Details of the layout, scale, appearance, access and landscaping (hereafter referred to as 'the reserved matters') pursuant to the site granted in outline shall be submitted to and approved in writing by the Local Planning Authority before any development on the outline site takes place and the development shall be carried out as approved.

Reason: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 6 of the Town and Country Planning (Development Management Procedure (England)) Order 2015 (as amended).

2. Application for approval of all the reserved matters pursuant to the site granted in outline shall be made to the Local Planning Authority before the expiration of five years from the date of this permission and the development hereby permitted shall be begun either before the expiration of seven years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved whichever is the later.

Reason: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 5(1) of the Town and Country Planning (Development Management Procedure (England)) Order 2015 (as amended).

3. The development shall not be carried out otherwise than in complete accordance with the approved plans [insert plan nos and received date] and other details [specify] unless a non-material or minor material amendment is approved by the Local Planning Authority under the Town and Country Planning (Development Management Procedure (England)) Order 2015 (as amended).

APPROVED PLANS/ DOCUMENTS TO BE ADDED

Reason: To clarify the permission and for the avoidance of doubt.

4. The development hereby permitted shall be carried out in accordance with the recommendations set out in the Technical Briefing Note: Ecological Summary by Aspect Ecology dated 15 October 2019 unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect habitats and/or species of importance to nature conservation from significant harm in accordance with the Government's aim to achieve sustainable development as set out in Section 15 of the National Planning Policy Framework.

PRE-COMMENCEMENT CONDITIONS

5. No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by the Local Planning Authority. The statement shall provide for at a minimum:
 - a. The parking of vehicles of site operatives and visitors;
 - b. The routing of HGVs to and from the site;
 - c. Loading and unloading of plant and materials;
 - d. Storage of plant and materials used in constructing the development;
 - e. The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - f. Wheel washing facilities including type of operation (automated, water recycling etc) and road sweeping;
 - g. Measures to control the emission of dust and dirt during construction;
 - h. A scheme for recycling/ disposing of waste resulting from demolition and construction works;
 - i. Delivery, demolition and construction working hours;

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

Reason: To ensure the environment is protected during construction in accordance with Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

6. No development shall take place until a detailed surface water drainage scheme for the site, in accordance with the Infrastruct CS Ltd Flood Risk Assessment and Drainage Statement October 2019 Document reference: 2346-BBH-ICS-XX-RP-C-07.001, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is first occupied. The scheme shall also include:
 - A compliance report to demonstrate how the scheme complies with the agreed drainage strategy for the site and the "Local Standards and Guidance for Surface Water Drainage on Major Development in Oxfordshire"
 - Full micro drainage calculations for all events up to and including the 1 in 100 year plus 40% climate change;
 - Full infiltration testing at depth of proposed soakaway required to BRE 365;
 - Groundwater monitoring
 - A Flood Exceedance Conveyance Plan;
 - Detailed design drainage layout drawings of the SuDS proposals including cross section details;
 - Detailed maintenance management plan in accordance with Section 32 of CIRIA C753 including maintenance schedules for each drainage element; and
 - Details of how water quality will be maintained during construction.

Reason: To ensure satisfactory drainage of the site in the interests of achieving sustainable development, public health, to avoid flooding of adjacent land and property to comply with Policy ESD6 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government advice in the National Planning Policy Framework. This information is required prior to commencement of any development as it is fundamental to the acceptability of the scheme.

7. No development shall take place until a report outlining how carbon emissions from the construction process and embodied carbon have been minimised has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the recommendations contained in the approved report.

Reason - To ensure that the development achieves a reduced carbon footprint in accordance with Planning Policy Statement 1: Eco Towns. This information is required prior to commencement of any development as it is fundamental to the acceptability of the scheme.

8. No development shall take place until a Site Waste Management Plan, which shall demonstrate how zero construction waste will be sent to landfill, has been submitted to and approved in writing by the Local Planning Authority. Thereafter the Site Waste Management Plan shall be adhered to throughout the construction phase of the development.

Reason - To ensure no waste is sent to landfill to meet the requirements of the Planning Policy Statement 1: Eco Towns. This information is required prior to commencement of any development as it is fundamental to the acceptability of the scheme.

9. No development shall take place until an updated Overheating Report to consider a predicted 2050 climate scenario has been submitted to and approved in writing by the Local Planning Authority. The report shall consider whether there is a need for additional mitigation required to ensure the development does not overheat in the 2050 climate scenario and full details of that mitigation shall be provided. The development shall be implemented in accordance with the approved details.

Reason: To deliver a development that can be mitigated to deal with predicted future climate scenarios in accordance with Policy Bicester 1 of the Cherwell Local Plan Part 1 and Planning Policy Statement 1: Eco Towns. This information is required prior to commencement of any development as it is fundamental to the acceptability of the scheme.

10. No development shall commence until full details of the measures that will be utilised to enable the scheme to achieve true zero carbon, which should include details of offsite measures if necessary including the timescale for their provision have been submitted to and approved in writing by the Local Planning Authority. The measures agreed shall be implemented in accordance with the approved details.

Reason - To deliver zero carbon development in accordance with Policy Bicester 1 of the Cherwell Local Plan Part 1 and Planning Policy Statement 1: Eco Towns. This information is required prior to commencement of any development as it is fundamental to the acceptability of the scheme.

11. No development shall commence until full details of measures to minimise water use which could include the use of rainwater harvesting or incorporating such other agreed measures, in line with the Masterplan Water Cycle Study have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To support reduction in water use and to achieve the requirements of Planning Policy Statement 1: Eco Towns. This information is required prior to commencement of any development as it is fundamental to the acceptability of the scheme.

12. No development shall commence until an Arboricultural Method Statement (AMS), undertaken in accordance with BS:5837:2012 and all subsequent amendments and revisions indicating the protection to be provided to the trees and hedgerow to the south of the site has been submitted to and approved in writing by the Local Planning Authority. Thereafter, all works on site shall be carried out in accordance with the approved AMS.

Reason - To ensure the continued health of retained trees/hedges and to ensure that they are not adversely affected by the construction works, in the interests of the visual amenity of the area, to ensure the integration of the development into the existing landscape and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of any development as it is fundamental to the acceptability of the scheme.

ONGOING REGULATORY CONDITIONS TO BE COMPLIED WITH AT ALL TIMES

13. If, during development, contamination not previously identified is found to be present at the site, no further development shall be carried out until full details of a remediation strategy detailing how the unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. Thereafter the remediation strategy shall be carried out in accordance with the approved details.

Reason: To ensure that any ground and water contamination is identified and adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework.

14. All non-residential buildings shall be constructed to BREEAM Very Good.

Reason - To support the creation of a low carbon community to achieve the requirements of Policies ESD1 and Policy Bicester 1 of the Adopted Cherwell Local Plan.

15. No building hereby permitted shall be occupied until that facility has been provided with service connections capable of supporting the provision of high speed broadband from the building to the nearest broadband service connection outside the site.

Reason: To facilitate information provision to homes for energy monitoring, travel and home working in accordance with Policy Bicester 1 of the Cherwell Local Plan 2011-2031 Government guidance contained within the Eco Towns PPS and National Planning Policy Framework.

16. Prior to the occupation of any building hereby permitted, its shall be provided with a 'real time information' system.

Reason - To facilitate information delivery and travel information in accordance with Planning Policy Statement 1: Eco Towns.

17. No more than 3000sqm of floorspace shall be provided on the mixed-use area as shown on drawing number ADP-00-XX-DR-A-0910 S2 P1 dated 03.10.2019. The floorspace shall only be used for uses falling within classes A1/A2/A3/A4/A5/B1/D1 as defined by the Town and Country Planning (Use Classes) Order 1987 (or their equivalent in subsequent enactments or re-enactments). No unit shall thereafter be amalgamated.

Reason: To ensure the scheme meets local retail needs in accordance with Policy Bicester 1 of the Cherwell Local Plan 2011-2031 and Government guidance contained in the Eco Towns PPS and the National Planning Policy Framework.

114 **Land adjacent Unit 7, Chalker Way, Banbury, OX16 4XD**

The Committee considered application 19/02443/CDC for the installation of a piece of artwork on a designated site at Land adjacent Unit 7, Chalker Way, Banbury, OX16 4XD for Cherwell District Council.

In reaching its decision the Committee considered the officers report and presentation

Resolved

- (1) That permission be granted for application 19/02443/CDC subject to the following conditions:

Time Limit

1. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.

Reason - To comply with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

Compliance with Plans

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents:

Site Location Plan 6422-150

Site Layout Plan 6422-151

Sculpture Commission 'Figure of Industry' October 2019

Reason – For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and comply with Government guidance contained within the National Planning Policy Framework.

115

65 Bicester Road, Kidlington, OX5 2LD

The Committee considered application 19/01082/F for the demolition of an existing single level dwelling - Class C3(a) - and the erection of 5 x flats in single, two level building - Class C3(a) at 65 Bicester Road, Kidlington, OX5 2LD for Mr Richard Field.

Councillor Ian Middleton addressed the Committee as local Ward Member and did not take part in the debate or vote on the application 19/01082/F.

Neil McCulloch, local resident, addressed the Committee in objection to the application.

In reaching its decision the Committee considered the officer's report and presentation, the written updates and the address of the public speakers.

Resolved

- (1) That authority be delegate to the Assistant Director for planning and Development to grant permission for application 19/01082/F subject to the following conditions (and any amendments to those conditions as deemed necessary):

CONDITIONS

Time Limit

1. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.

Reason - To comply with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

Compliance with Plans

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: Existing Block Plan (190265-A-Ex-80 Revision A); Proposed Block Plan (190265-A-Pr-80 Revision B); Proposed Site Plan (190265-A-Pr-90 Revision B); Proposed Floor Plans (190265-A-Pr-100 Revision B); Proposed Roof Plan (190265-A-Pr-100 Revision B); Proposed Main Elevations (190265-A-Pr-200 Revision B) and Proposed Side Elevations (190265-A-Pr-210 Revision B).

Reason – For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and comply with Government guidance contained within the National Planning Policy Framework.

Material samples

3. Prior to the commencement of the development hereby approved above slab level, samples of the materials to be used in the construction of the external walls and roof of the building hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out other than in accordance with the samples so approved and shall be retained as such thereafter.

Reason: To ensure the satisfactory appearance of the completed development and to safeguard the character and appearance of the area and to comply with Policy ESD15 of the Cherwell Local Plan (2011-2031) Part 1, saved Policies C28 and C30 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Landscaping plan

4. Prior to the commencement of the development hereby approved above slab level, a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme for landscaping the site shall include:-
 - a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas,
 - b) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,
 - c) details of the hard surface areas, including pavements, pedestrian areas, reduced-dig areas, crossing points and steps, and

- d) full details of the design and appearance of the bin storage area.

Thereafter, the development shall be carried out in accordance with the approved details. The hard landscape elements shall be carried out prior to the first occupation of the development and shall be retained as such thereafter.

Reason: In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development, and to comply with Policies ESD1 and 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 National Planning Policy Framework.

Landscaping in accordance with British Standard

5. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with BS 4428:1989 Code of Practice for general landscape operations (excluding hard surfaces), or the most up to date and current British Standard, in the first planting and seeding seasons following the occupation of the building(s) or on the completion of the development, whichever is the sooner. Any trees, herbaceous planting and shrubs which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the current/next planting season with others of similar size and species.

Reason: In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development, to encourage the use of sustainable modes of transport and to comply with Policies ESD1 and 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 National Planning Policy Framework.

Details of access and turning areas

6. Prior to the commencement of the development hereby approved above slab level, full specification details of the vehicular accesses, driveways and turning areas to serve the dwellings, which shall include construction, layout, surfacing and drainage, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the first occupation of any of the dwellings, the access, driveways and turning areas shall be constructed in accordance with the approved details, and shall thereafter remain free from obstruction for vehicles parking and turning.

Reason: In the interests of highway safety, to ensure a satisfactory standard of construction and layout for the development and to comply with Policy ESD15 of the Cherwell Local Plan (2011-2031) Part 1 and Government guidance contained within the National Planning Policy Framework.

Cycle parking details

7. Prior to the first use or occupation of the development hereby permitted, covered cycle parking facilities shall be provided on the site in accordance with details which shall be firstly submitted to and approved in writing by the Local Planning Authority. Thereafter, the covered cycle parking facilities shall be permanently retained and maintained for the parking of cycles in connection with the development.

Reason - In the interests of sustainability, to encourage the use of sustainable modes of transport, to ensure a satisfactory form of development and to comply with Government guidance contained within the National Planning Policy Framework.

EV charging infrastructure

8. No development shall commence above slab level until a scheme for a system of ducting to allow for the future installation of electrical vehicle charging infrastructure to serve the dwelling has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details prior to the first occupation of the dwelling.

Reason: To comply with Policies SLE 4, ESD 1, ESD 3 and ESD 5 of the Cherwell Local Plan 2011-2031 Part 1 and to maximise opportunities for sustainable transport modes in accordance with paragraph 110(e) of the National Planning Policy Framework.

116

DCS Group, Rear Pt Lxb Rp No 2, Oceans House, Noral Way, Banbury, OX16 2AA

The Committee considered application 19/01254/F for the relocation of an existing loading canopy and replacement with "infill" warehouse between existing warehouses at DCS Group, Rear Pt Lxb Rp No 26, Oceans House, Noral Way, Banbury, OX16 2AA for Mr Denys Shortt.

David Bishton, agent for the applicant, addressed the Committee in support of the application.

In reaching its decision the Committee considered the officer's report and presentation and the address of the public speaker.

Resolved

- (1) That authority be delegated to the Assistant Director for Planning and Economy to grant permission for application 19/01254/F, subject to the following conditions (and any amendments to those conditions as deemed necessary):

CONDITIONS

Compliance with Plans

1. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in

accordance with the following plans and documents: 1988/701 (Site Location Plan); 1988/703 (Proposed Site Plan); 1988/705 (Proposed Ground Floor Plan); 1988/707 (Proposed Elevations) and Nolan Associates Drainage Strategy reference 2019-279.

Reason – For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and comply with Government guidance contained within the National Planning Policy Framework.

Drainage management plan

2. No development shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site using sustainable drainage methods has been submitted to and approved in writing by the Local Planning Authority. The details shall be in general accordance with the Nolan Associates Drainage Strategy reference 2019-279. The approved drainage system shall be implemented in accordance with the approved detailed design prior to the first use of the building hereby approved.

Reason – To comply with Policy ESD7 of the Cherwell Local Plan 2011 – 2031 Part 1 and to ensure that the principles of sustainable drainage are incorporated into this proposal.

Completion of sustainable drainage scheme

3. No building or use hereby permitted shall be occupied or the use commenced until the sustainable drainage scheme for the site has been completed in accordance with the submitted details. The sustainable drainage scheme shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan.

Reason - To comply with Policy ESD7 of the Cherwell Local Plan 2011 – 2031 Part 1 and to ensure that the principles of sustainable drainage are incorporated into this proposal.

117

St Thomas Moore Catholic Primary School, Oxford Road Kidlington OX5 1EA

The Committee considered application 19/02103/F for a multi use Games Area with all weather surfacing (Astro Turf) and sports fencing at St Thomas Moore Catholic Primary School, Oxford Road, Kidlington, OX5 1EA for St Thomas More Catholic Primary School.

Stephen Cowley, local resident, addressed the Committee in objection to the application.

It was proposed by Councillor Billington and seconded by Councillor Middleton that application 19/02103/F be approved subject to authority being delegated to the Assistant Director for Planning and Economy to make modifications to the application and to conduct a consultation on the modifications before being implemented.

In reaching its decision the Committee considered the officer's report and presentation and the address of the public speaker.

Resolved

- (1) That authority be delegated to the Assistant Director for Planning and Economy to make modifications to application 19/02103/F and to conduct a consultation on the modifications before being implemented and then to grant permission for the application subject to conditions.

118 **Manor Cottage, The Square, Epwell, Banbury, OX15 6LA**

The Committee considered application 19/01515/F for the restoration of outbuilding and conversion to habitable accommodation; a single storey garden room extension to the cottage at Manor Cottage, The Square, Epwell, Banbury, OX15 6LA for Mrs E Lejeune-White.

Councillor Douglas Webb addressed the Committee as local ward member.

Andrew Rockett, agent for the applicant, addressed the Committee in support of the application.

It was proposed by Councillor Reynolds and seconded by Councillor Chapman that application 19/01515/F be approved subject to suitable conditions (the exact wording to be delegated to officers) contrary to the officer recommendations. It was believed that application 19/01515/F would be an improvement to the visual amenity and would be of no significant to the heritage asset.

In reaching its decision the Committee considered the officer's report and presentation and the address of the public speakers.

Resolved

- (1) That authority be delegated the the Assistant Director of Planning and Development to grant permission for application 19/01515/F, subject to conditions (the exact conditions and the wording of those conditions to be delegated to the Assistant Director for Planning and Development in consultation with the Chairman).

119 **Manor Cottage, The Square, Epwell, Banbury, OX15 6LA**

The Committee considered application 19/01516/LB for the restoration of outbuilding and conversion to habitable accommodation; a single storey garden room extension to the cottage at Manor Cottage, The Square, Epwell, Banbury, OX15 6LA for Mrs E Lejeune-White.

Councillor Douglas Webb addressed the Committee as local ward member.

Andrew Rockett, agent for the applicant, addressed the Committee in support of the application.

It was proposed by Councillor Reynolds and seconded by Councillor Chapman that application 19/01516/LB be approved subject to suitable conditions (the exact wording to be delegated to officers) contrary to the officer recommendations. It was believed that application 19/01516/LB would be an improvement to the visual amenity and would be of no significant harm to the heritage asset.

In reaching its decision the Committee considered the officer's report and presentation and the address of the public speakers.

Resolved

- (1) That authority be delegated to the the Assistant Director of Planning and Development to grant permission for application 19/01516/LB, subject to conditions (the exact conditions and the wording of those conditions to be delegated to the Assistant Director for Planning and Development in consultation with the Chairman).

The meeting was adjourned at 7.15pm in response to a fire alarm and was reconvened at 7.20pm.

120

Land at Bullmarsh Close, Middleton Stoney

The Committee considered application 19/01709/CDC for the erection of 3 no. wheelchair adaptable bungalows for affordable housing at Land at Bullmarsh Close, Middleton Stoney for Miss Kim Swallowe.

In reaching its decision the Committee considered the officer's report and presentation and the written update.

Resolved

- (1) That authority be delegated to the Assistant Director for Planning and Development to grant permission for application 19/01709/CDC, subject to the following conditions (and any amendments to those conditions as deemed necessary):

CONDITIONS

Time Limit

1. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.

Reason - To comply with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

Compliance with Plans

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: Application form and drawing numbers: 010 Rev A, 011 Rev B, 012 Rev C, 013 Rev C and 014 Rev C.

Reason – For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and comply with Government guidance contained within the National Planning Policy Framework.

Archaeology

3. Prior to any demolition and the commencement of the development a professional archaeological organisation shall prepare an Archaeological Written Scheme of Investigation, relating to the application site area, which shall be submitted to and approved in writing by the Local Planning Authority.

Reason - To safeguard the recording of archaeological matters within the site in accordance with the NPPF (2019).

4. Following the approval of the Written Scheme of Investigation referred to in condition 3, and prior to any demolition on the site and the commencement of the development (other than in accordance with the agreed Written Scheme of Investigation), a staged programme of archaeological evaluation and mitigation shall be carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the Local Planning Authority within 2 years of the commencement of development.

Reason – To safeguard the identification, recording, analysis and archiving of heritage assets before they are lost and to advance understanding of the heritage assets in their wider context through publication and dissemination of the evidence in accordance with the NPPF (2019).

Hedgerow protection

5. No development shall take place until an Arboricultural Impact Assessment and Method Statement, undertaken in accordance with latest British Standard has been submitted to and approved in writing by the Local Planning Authority. This shall include details of hedge protection measures during construction. Thereafter, all works on site shall be carried out in accordance with the approved details.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National

Planning Policy Framework.

Materials

6. Prior to the commencement of any works above slab level to the development hereby approved, and notwithstanding the details submitted, a sample panel of the external walling material to be used in the construction of the dwellings, to demonstrate material, colour, texture, bond and pointing (minimum 1m² in size) shall be constructed on site, inspected and approved in writing by the Local Planning Authority. Thereafter, the walls of the development shall be externally faced in strict accordance with the approved sample panel and shall be retained as such thereafter.

Reason: To ensure the materials are appropriate for the site in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

7. Prior to the commencement of any works above wall plate level of the development hereby approved, samples of the external roof material to be used in the construction of the roof of the development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the samples so approved and shall be retained as such thereafter.

Reason: To ensure the materials are appropriate for the site in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Electric charging points infrastructure

8. No development shall commence above slab level until a scheme for a system of ducting to allow for the future installation of electrical vehicle charging infrastructure to serve each dwelling or a scheme showing the provision of electrical vehicle charging points for each dwelling has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details prior to the first occupation of the dwelling.

Reason: To comply with Policies SLE 4, ESD 1, ESD 3 and ESD 5 of the Cherwell Local Plan 2011-2031 Part 1 and to maximise opportunities for sustainable transport modes in accordance with paragraph 110(e) of the National Planning Policy Framework.

Boundary Enclosures

9. Prior to the commencement of any works above slab level to the development hereby approved, full details of the enclosures along all boundaries and within the site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved means of enclosure shall be carried out in accordance with the approved details prior to the first occupation of those dwellings and shall be retained as such thereafter.

Reason: To protect the character and appearance of the area and provide a safe and durable development in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Landscaping

10. Prior to the first occupation of the development hereby approved, a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme for landscaping the site shall include:-

- (a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas,
- (b) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,
- (d) details of the hard surface areas, including parking area, pavements, crossing points and steps.

The development shall be carried out in accordance with the details approved prior to the first occupation of the development and the hard landscape elements shall be retained as such thereafter.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with BS 4428:1989 Code of Practice for general landscape operations (excluding hard surfaces), or the most up to date and current British Standard, in the first planting and seeding seasons following the occupation of the building(s) or on the completion of the development, whichever is the sooner. Any trees, herbaceous planting and shrubs which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the current/next planting season with others of similar size and species.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Cycle Parking

11. Prior to the first occupation of the development hereby permitted, details of the cycle parking facilities to serve the dwelling hereby approved shall be submitted and approved in writing by the local planning authority. The approved cycle storage facilities shall be provided in accordance with the approved details prior to the first occupation of the development.

Reason - In the interests of sustainability and to ensure a satisfactory form of development, in accordance with Government guidance contained within the National Planning Policy Framework.

Car Parking and Management

12. Prior to the first occupation of the dwellings hereby approved, the parking and manoeuvring areas shall be provided in accordance with the plan approved (Drawing No. 012 Rev C) and shall be constructed from porous materials or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the site. The parking shall be managed in accordance with the details outlined in the email from the agent on 4.11.18 (time 19:02)/ Thereafter, the parking and manoeuvring areas shall be retained and managed in accordance with this condition and shall be unobstructed except for the parking and manoeuvring of vehicles at all times.

Reason – To ensure an adequate level of parking on the site in the interests of amenity, highway safety and flood prevention and to comply with Policies ESD7 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

121 **Appeals Progress Report**

The Assistant Director for Planning Policy and Development submitted a report which informed Members on applications which had been determined by the Council, where new appeals have been lodged, public Inquiries/hearings scheduled, or appeal results achieved.

Resolved

- (1) That the position statement be accepted.

The meeting ended at 7.30 pm

Chairman:

Date:

CHERWELL DISTRICT COUNCIL

PLANNING COMMITTEE

16 January 2020

PLANNING APPLICATIONS INDEX

The Officer's recommendations are given at the end of the report on each application.

Members should get in touch with staff as soon as possible after receiving this agenda if they wish to have any further information on the applications.

Any responses to consultations, or information which has been received after the application report was finalised, will be reported at the meeting.

The individual reports normally only refer to the main topic policies in the Cherwell Local Plan that are appropriate to the proposal. However, there may be other policies in the Development Plan, or the Local Plan, or other national and local planning guidance that are material to the proposal but are not specifically referred to.

The reports also only include a summary of the planning issues received in consultee representations and statements submitted on an application. Full copies of the comments received are available for inspection by Members in advance of the meeting.

Legal, Health and Safety, Crime and Disorder, Sustainability and Equalities Implications

Any relevant matters pertaining to the specific applications are as set out in the individual reports.

Human Rights Implications

The recommendations in the reports may, if accepted, affect the human rights of individuals under Article 8 and Article 1 of the First Protocol of the European Convention on Human Rights. However, in all the circumstances relating to the development proposals, it is concluded that the recommendations are in accordance with the law and are necessary in a democratic society for the protection of the rights and freedom of others and are also necessary to control the use of property in the interest of the public.

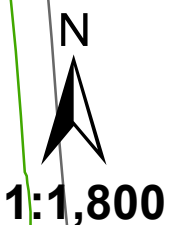
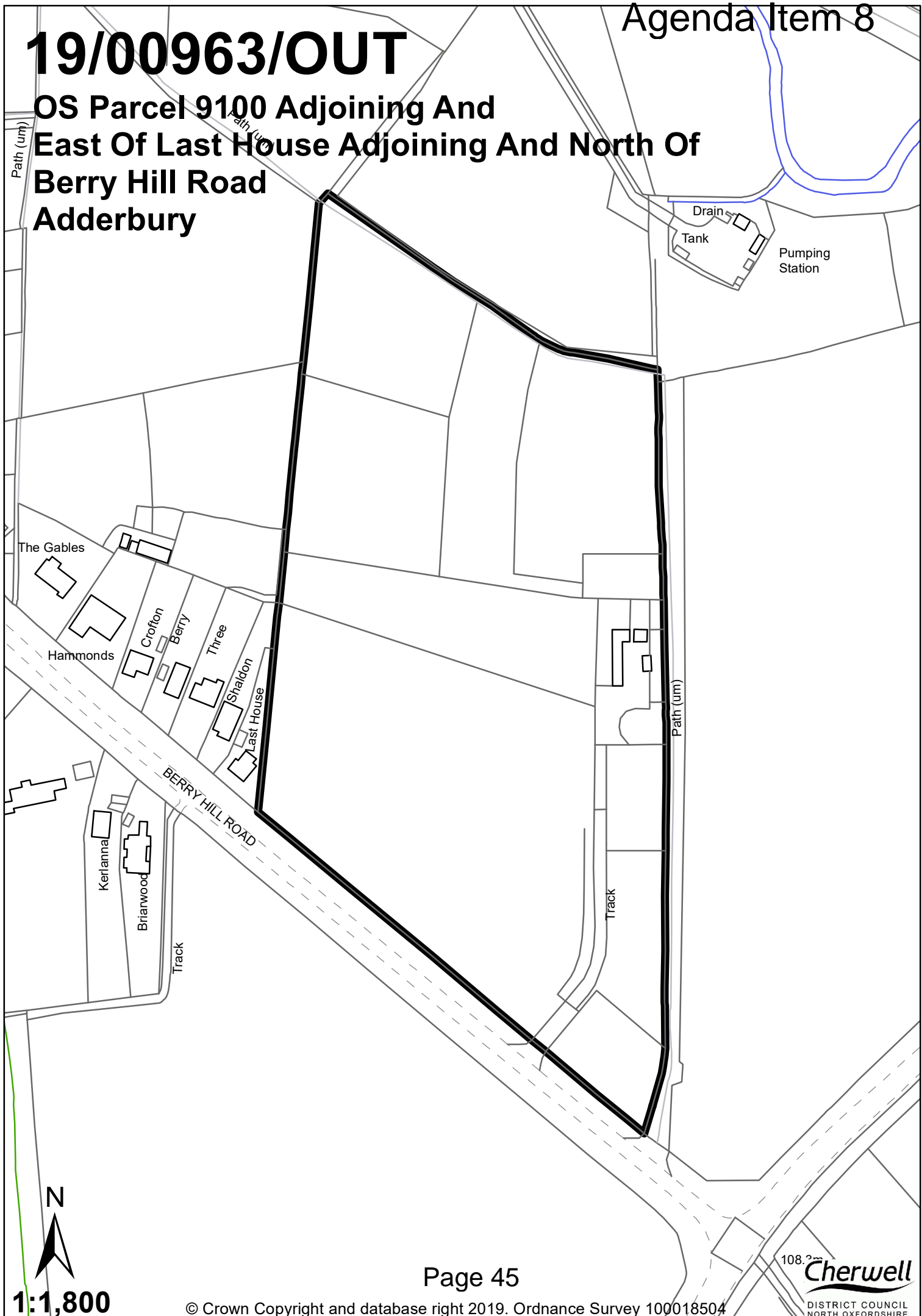
Background Papers

For each of the applications listed are: the application form; the accompanying certificates and plans and any other information provided by the applicant/agent; representations made by bodies or persons consulted on the application; any submissions supporting or objecting to the application; any decision notices or letters containing previous planning decisions relating to the application site

	Site	Application No.	Ward	Recommendation	Contact Officer
8	OS Parcel 9100 Adjoining and East of Last House Adjoining and North of Berry Hill Road, Adderbury	19/00963/OUT	Adderbury, Bloxham and Bodicote	Refusal	Caroline Ford
9	60-62 Broad Street, Banbury, OX16 5BL	19/01675/F	Banbury Cross and Neithrop	Approval	Matthew Chadwick
10	Kings End Antiques, Kings End, Bicester OX26 2AA	19/02311/OUT	Bicester West	Approval	James Kirkham

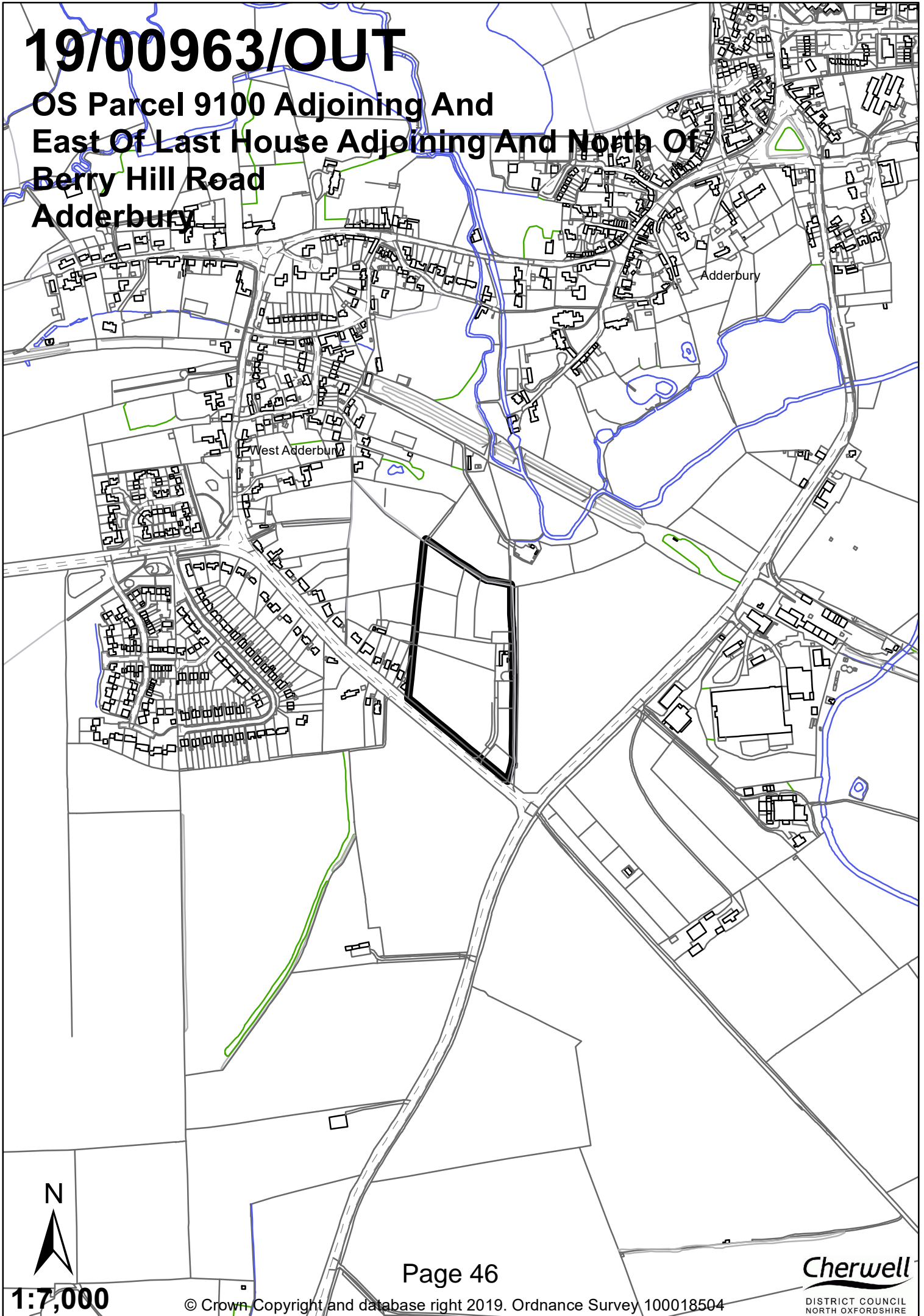
19/00963/OUT

OS Parcel 9100 Adjoining And East Of Last House Adjoining And North Of Berry Hill Road Adderbury



19/00963/OUT

OS Parcel 9100 Adjoining And
East Of Last House Adjoining And North Of
Berry Hill Road
Adderbury



Case Officer: Caroline Ford

Applicant: Hollins Strategic Land LLP

Proposal: Resubmission of application 17/02394/OUT – Outline application for permission for up to 40 dwellings with associated landscaping, open space and vehicular access off Berry Hill Road (all matters reserved other than access)

Ward: Adderbury, Bloxham and Bodicote

Councillors: Councillor Bishop, Councillor Heath and Councillor McHugh

Reason for Referral: Major development

Expiry Date: 31 January 2020

Committee Date: 16 January 2020

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: REFUSE PERMISSION

Proposal

The application seeks permission for a residential development of up to 40 dwellings. The application is made in outline with all matters reserved for later approval apart from access, permission for which is sought at this stage.

Consultations

The following consultees have raised **objections** to the application:

- Adderbury Parish Council, CDC Planning Policy, CDC Landscape

The following consultees have raised **no objections** to the application:

- OCC Highways, OCC Drainage, OCC Education, OCC Archaeology, Thames Water

The following consultees have raised comments/ concerns:

- CDC Ecology, CDC Arboriculture, CDC Waste and Recycling, CDC Building Control, CDC Housing, CDC Recreation and Leisure, CDC Environmental Protection, Historic England, Thames Valley Police

A total of 58 letters of objection have been received.

Planning Policy and Constraints

The site sits outside the Adderbury Settlement boundary as defined by Policy AD1 of the Adderbury Neighbourhood Plan and it has a number of recorded site constraints including that the land has some potential for naturally occurring contamination, ecology and archaeology and public rights of way run within and surrounding the site. In addition, there are heritage constraints including the Adderbury Conservation area to the north and views towards the Grade I listed Church of St Mary.

The application has also been assessed against the relevant policies in the NPPF, the adopted Local Plan (which includes the Adderbury Neighbourhood Plan 2014-2031) and

other relevant guidance as listed in detail at Section 8 of the report.

Conclusion

The key issues arising from the application details are:

- Planning History
- Principle of development
- Landscape and Visual Impact
- Design and layout
- Heritage impact
- Housing mix/ affordable housing
- Residential amenity
- Transport and sustainability of the site
- Flood risk and drainage
- Trees, landscaping and open space – cover benefit of open space provision
- Ecology impact
- Environmental matters
- Sustainability and energy efficiency
- Planning Obligations

The report looks into the key planning issues in detail, and Officers conclude that the proposal is unacceptable for the following reasons:

1. Unnecessary and unacceptable housing development beyond the built-up limits of the village where there is no need for further housing and which is therefore undesirable, unsustainable development. The site is also considered to be distant from local services and facilities such that future occupiers would be highly reliant on the private car for day to day needs.
2. The impact of the development due to its poorly integrated relationship with existing built development beyond the Adderbury Settlement Boundary as defined by the Adderbury Neighbourhood Plan 2014-2031 and its impact on the local landscape character which would cause harm to the rural setting of the village and the character and appearance of the area. The proposal would also cause less than substantial harm to the setting of the Church of St Mary and the harm would not be outweighed by public benefits.
3. The absence of the completion of a satisfactory S106 agreement to secure necessary infrastructure to mitigate the impacts of the development.

Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and recommendations, and Members are advised that this summary should be read in conjunction with the detailed report.

MAIN REPORT

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site is to the south of the village of Adderbury to the north side of Berry Hill Road, close to the A4095 but separated from it by a field and a public right of way. The land extends to 4ha in area and is currently agricultural land surrounded by field hedgerows and trees. To the eastern side of the site is a stable and haybarn and part of the land is currently used for associated equestrian purposes. To the south and east of the site are agricultural fields, to the west is residential development in the form of a ribbon of detached houses set back from Berry Hill Road and to the north is further agricultural land with a sewerage treatment works close to the northern boundary of the site.

2. CONSTRAINTS

- 2.1. In terms of recorded site constraints, the site has some potential for naturally occurring contamination, there are ecological records nearby and a public right of way runs along the northern edge of the site (and to the eastern side but outside of the site). In terms of heritage assets, the Adderbury Conservation Area boundary is approximately 180m to the north of the site, there are views available from Berry Hill Road towards the Grade I listed Church of St Mary and the site has some potential for archaeological interest. Otherwise, there are naturally occurring constraints including the topography of the land, which slopes to the north and the field boundaries of hedgerows/ trees.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The application seeks outline planning permission for a residential development of up to 40 dwellings (the scheme has been amended whilst the application has been with the Council, which will be explained in the appraisal section of the report). All matters are reserved for later approval apart from access, which requires consideration now. The application is accompanied by a range of information, including technical assessments and an indicative layout to demonstrate that the development applied for can be accommodated.

4. RELEVANT PLANNING HISTORY

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

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
02/01009/F	Erection of stable and hay barn and a manège and track to existing access	Application permitted
05/01468/F	1 no. bungalow with associated access and re-site existing stables	Application refused
06/00712/OUT	OUTLINE application for 5 No. detached dwellings, two terraces of 6 No. dwellings for affordable housing. New access, screened parking and amenity area	Application Refused Appeal Dismissed
17/02394/OUT	Outline planning permission for up to 55 dwellings with associated landscaping, open space and vehicular access off Berry Hill Road	Application Refused Appeal Withdrawn

- 4.2. Application 06/00712/OUT was the subject of a planning appeal which was subsequently dismissed. The reasons for the appeal being dismissed were predominantly due to the Inspector finding that the development would have a significant adverse impact on the character and appearance of the area and would conflict with policies which aim to control residential development within the countryside and that the proposed houses would be provided in an unsustainable location. More detailed reasoning from this appeal decision is referred to where relevant in the following appraisal.
- 4.3. An appeal was lodged against the refused application 17/02394/OUT which was due to be heard at a Public Inquiry. The Council had begun some early work to prepare

its case but the applicant withdrew the planning appeal and submitted this application. When it was originally submitted, it proposed the same development and was supported by the same information as the refused application 17/02394/OUT, but following discussion, the applicant indicated that they wished to amend the application to attempt to overcome the reasons for refusal of 17/02394/OUT. The appraisal for this scheme will assess whether the reasons for refusal have been overcome.

5. PRE-APPLICATION DISCUSSIONS

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

6. RESPONSE TO PUBLICITY

6.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was **07/11/2019**, although comments received after this date and before finalising this report have also been taken into account.

6.2. A total of 58 letters have been received in objection to the proposal (this includes comments from households to both the original and amended proposal so multiple responses from the same household). A letter from West Adderbury Residents' Association has also been submitted. The comments raised by third parties are summarised as follows:

- Impact on character and appearance of area: The site is beyond the built-up limits of the settlement of Adderbury outside the residential settlement boundary as per the adopted Adderbury Neighbourhood Plan and would damage the landscape. The land is elevated overlooking the centre of the village. The proposal does not comply with Policy ESD13 of the Cherwell Local Plan.
- The village is struggling to maintain a sense of community taking into account other new developments. The village feels fragmented in terms of east and west. Green spaces within and between settlements are essential to retain the character of villages. Further urbanisation will destroy the villages rural atmosphere enjoyed by villages and visitors and would change the nature of West Adderbury. The development would be out of keeping with the character of Berry Hill Road and would affect the amenity of the adjoining properties.
- Previous developments have affected the character of the village and this is the last remaining uninterrupted view of the church and basin of the village.
- Principle of development: The site was rejected in the 2014 Strategic Housing Land Availability assessment and the 2017 Housing and Economic Land Availability Assessment. Cherwell District Council has a five-year housing land supply and so there is no justification for committing development on unallocated land.
- Historically planning permission has been refused on the site and dismissed at appeal.
- Sustainability: It is in an unsustainable location. It is divorced from the centre of the village and the facilities the village has to offer and residents will be

reliant on the car. The school is not in walking distance and is at capacity. Other facilities in the village are far from the site. The site has limited access to the village centre as the footpaths referred to are not well used and overgrown and are unsuitable for cycling or pushchairs.

- The village facilities have reduced with the closure of the village shop.
- Local bus services have reduced.
- Traffic & transport: There will be a significant increase in traffic including an increase in traffic movements exiting Berry Hill Road onto the A4260. There have been a number of accidents at this junction. Increased traffic would result in increased disturbance and pollution.
- Concerns over the conclusions of the transport statement compared to traffic surveys completed on behalf of the Parish Council.
- A new pathway is shown in a highly dangerous position taking into account traffic entering the village from both directions. The proposed crossing point in Horn Hill Road is close to the junction of three-way traffic and a blind corner.
- The footway at 2m wide would visually dominate and urbanise the well maintained lawns. The position of the crossing at the Horn Hill Road end of the village is in a dangerous place with limited visibility and this is in the conservation area and adjacent to listed buildings and would impact negatively.
- Heritage: Views are available towards the historic St Mary's Church and Conservation area and this should be preserved.
- Archaeology: The site has some archaeological potential and so field evaluations should be undertaken.

Other matters raised:

- Flats must be the answer to housing.
- Concerned about the noise and disturbance the building work would cause.
- The school has struggled with space and has inadequate parking.
- There is an increased risk of flooding.
- Development will be detrimental to local wildlife.
- How does this proposal respond to climate change matters?
- The land is identified as Grade 2 agricultural land and a gasometer was removed so some pollution may be expected.
- Concern regarding the potential for the increase in crime.

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

7. RESPONSE TO CONSULTATION

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

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

7.2. ADDERBURY PARISH COUNCIL: **objects** on the following grounds:

- There is no requirement for further development in the rural areas such as Adderbury and CDC has a 5.6 year housing land supply.
- The site is outside the village built up area and is contrary to CDC policies and Policy AD1 of the Adderbury Neighbourhood Plan.
- The proposal is an overdevelopment of the site.
- Development would detract from important views of the Church and the original and historic centre of the village.
- It would be detrimental to the amenity value of a number of footpaths and bridleways which cross this part of the parish.
- The proposed design does not reflect the character of the linear layout of existing dwelling along Berry Hill Road (subject of Adderbury Neighbourhood Plan policy AD16).
- The application could set a precedent.
- If CDC is minded to approve the proposal, there should be provision for community benefit and a list of requests is made. However, the following specific points are made:
 - The new footpaths along Horn Hill Road are welcomed but residents should be consulted and it should be narrow and in keeping with the area.
 - The Parish Council has plans for traffic calming on Berry Hill Road and S106 funding for this would be welcomed.
 - S106 contributions towards the Parish Council project on the Milton Road is sought.

CONSULTEES

7.3. CDC PLANNING POLICY (two responses received, summarised as follows):
Objection:

- Adderbury is a category A village, one of the more sustainable villages in the District.
- Policy Villages 2 provides for a total of 750 homes to be delivered at the Category A village on new sites of 10 or more dwellings.
- The proposal would assist in meeting Policy Villages 2 housing requirements and could contribute to the provision of affordable housing.

- The Policy Team's initial comments were made in the context of the 2018 Annual Monitoring Report. The conclusions of the Policy Team's most recent monitoring work are now reported in the 2019 Annual Monitoring Report, approved by Members at their Executive meeting on the 06 January 2020, the main relevant conclusions of which are reported in the Officer's appraisal of this application.
- The Secretary of State for Ministry of Housing, Communities and Local Government issues a written statement on 12 September 2018 containing a temporary change to housing land supply policies as they apply in Oxfordshire. The Oxfordshire Authorities will only need to demonstrate a 3 year housing land supply and not 5 years so that the authorities can focus their efforts on the Joint Statutory Spatial Plan.
- The site was considered in the Housing and Economic Land Availability Assessment and was concluded as being unsuitable.
- Adderbury is a historic village and development is required by Policy ESD15 to complement and enhance the character of its context. The advice of the design and conservation team should be sought.
- The site falls within the Adderbury Neighbourhood Plan area. The Plan is now part of the statutory Development Plan and has been formally made by the Council in July 2018.
- The site lies outside of the settlement boundary. Policy AD1 does not support development outside the settlement boundary unless the proposals can demonstrate they can enhance or at least not harm local landscape character.
- Adderbury is a sustainable village and policy villages 2 does make provision for some development to take place in such settlements. However, the HELAA suggests that this is an unsuitable site for development. There is no pressing need for additional land to be released and the merits of providing additional housing needs to be considered alongside issues such as the loss of open countryside, the impact on the existing settlement pattern and the impact on heritage assets and landscape.

7.4. CDC LANDSCAPE (response to original scheme):

- Disappointed that the Design and Access Statement does not include principles that inform the detailed landscape design. The play area should be located within the development so that it is overlooked.
- Comments provided to the various viewpoints submitted, some of which are considered to under-estimate the effects.
- Whilst the development has limited visibility in the wider landscape, there are many other reasons why it is undesirable:
 - The site is surrounded by open countryside apart from one dwelling adjacent at one corner. Last House and the dwelling opposite mark the end of the built up area of Adderbury. As you turn off Oxford Road, it is not clear where the village of Adderbury starts. The site is an important green open space on the edge of the settlement that makes a significant contribution to the character and appearance of Adderbury.

- The proposed development is out on a limb visually and intrudes into open countryside.
 - The existing settlement pattern along Berry Hill Road is one of low density large detached houses with long drives and large gardens. This development does not follow that pattern and is out of character with it. The urban form will not integrate into the existing settlement pattern.
 - The site allows an attractive view of the church which would mostly be lost; it would only be available as a fleeting glimpse from Berry Hill Road.
 - The hedge along Berry Hill Road is a weak screen being thin at the base, gappy and leggy. It is like a line of weak trees which would require works that would make it less effective as a screen. Reinforcing this would be difficult as planting in the shade of other trees is not effective. Sections will be removed for visibility splays and provision of a footpath link. The remainder is likely to be reduced in height, weakening the screen.
 - The development would result in Adderbury village starting as soon as you turn off Oxford Road which would negatively affect the setting of the village.
- LAP and LEAP play areas required to be provided on site with detail provided as to their specification and the revenue cost of ongoing management and maintenance. Also required are commuted sum costs towards ongoing management of the public open space area and balancing ponds.

7.5. CDC LANDSCAPE (response to amended scheme):

- There is little evidence of the difference that the reduction in number of dwellings would make.
- The LVIA states that 'surrounding vegetation... provides substantial separation of the site from its context and in particular the village of Adderbury'. It is considered this is not desirable and does not support the application.
- There is not a substantial tree belt along Berry Hill Road. The evidence shows it is a gappy hedge.
- Not convinced that the slight possibility of the church spire being possibly more visible in the latest proposal is sufficient to reduce the effect of the development.

7.6. CDC ECOLOGY (response to amended scheme):

- The surveys carried out are fine, however should permission be granted, additional surveys would be required in certain conditions. These are mostly outlined in the Ecological Appraisal and can be conditioned with a note to ensure adherence to the recommendations in the Addendum Ecological note 2019. A mitigation strategy for swallows should also be put in place.

- The biodiversity impact assessment shows that approximately 4% net gain could be achieved on site with the current proposed layout, although there is a query regarding whether a moderate condition could be feasible where it is adjacent to the amenity grassland and publicly accessible. CDC has recently agreed to seek to achieve a minimum of 10% in biodiversity net gain. It is considered that more needs to be achieved in the final scheme for the level of net gain to be acceptable and there may be a need for offsetting.
 - Biodiversity enhancements should be included within a Biodiversity Enhancement Scheme or as part of a LEMP. At least 40 bat bricks or bird boxes and swift/ sparrow bricks should be included throughout the development (with regard to most appropriate locations/ clustering). In addition, other enhancements are suggested which would contribute to a net gain. A lighting strategy would be required.
- 7.7. CDC ARBORICULTURE: (response to original scheme): There are a number of trees around the edge of the site and a significant tree on adjacent land to the western boundary. The trees to the north and west are of high value, those to the south and east are of moderate value and those to the south and east form a screen to the proposed development. The trees should be retained and an Arboricultural Method Statement is required to show how the trees will be protected for the duration of the construction activity on site.
- 7.8. CDC ARBORICULTURE (response to amended scheme): The high category trees have been considered and are a suitable distance from the proposed development. The position of properties and associated hard standing should be considered in relation to the root protection areas and future conflict with buildings and gardens.
- 7.9. CDC RECREATION AND LEISURE: Contributions towards offsite outdoor sports and towards community halls are sought towards the Parish Council led project off Milton Road. A contribution is also sought towards offsite indoor sports towards the expansion of/ improvements to Spiceball Leisure Centre in Banbury.
- 7.10. CDC ENVIRONMENTAL PROTECTION (response to original scheme):
- Noise: A Construction Environment Management Plan would be required.
 - Contaminated Land: The phase 1 report submitted states that a further intrusive investigation is required. Conditions should be used to secure this.
 - Air Quality: A detailed air quality impact assessment should be submitted. In addition a condition to require ducting to allow for the future installation of electrical vehicle charging infrastructure should be included.
 - Odour and Light: No comments
- 7.11. CDC ENVIRONMENTAL PROTECTION (response to amended scheme):
- Same response as recorded above.
- 7.12. CDC STRATEGIC HOUSING (response to original scheme): There is a requirement for 35% affordable housing units, 70% for social/ affordable rent and the remainder for shared ownership. Guidance is provided regarding the design, clustering, building and space standards, car parking levels and the need for agreement to be reached regarding the Registered Provider who would take on the units.

- 7.13. CDC STRATEGIC HOUSING (response to amended scheme): As required by Policy BSC3, 35% affordable housing should be provided. These should be split between 70% social rent units and 30% shared ownership units. This would best meet local needs which includes a need for smaller units as well as for rented units to be delivered at social rent level. Guidance is also provided regarding the design, clustering, building and space standards, car parking levels and the need for agreement to be reached regarding the Registered Provider who would take on the units.
- 7.14. CDC BUILDING CONTROL (response to original scheme): A Building Regulations application will be required. A site investigation report should be submitted to determine foundation design and presence of ground contamination, drainage design etc. Consultation with the Fire and Rescue service is advised for access and facilities for fire fighting vehicles.
- 7.15. CDC BUILDING CONTROL (response to amended scheme): No comments.
- 7.16. CDC WASTE AND RECYCLING: The developer will need to refer to the CDC Planning and Waste Management Design Advice regarding the minimum size needed per dwelling for storage of waste and recycling.
- 7.17. OCC HIGHWAYS (response to original scheme): Objection on the basis that the previously agreed access arrangement has not been submitted with the application. S106 contributions were listed and conditions recommended. Concerns were also raised with regard to the consistency of the information contained within the TS regarding general access arrangements. Otherwise, the key points as reported in response to the amended scheme were provided.
- 7.18. OCC HIGHWAYS (response to amended scheme): No objection subject to conditions and S106 obligations. The key points can be summarised as:
- The primary means of vehicular access is acceptable but the suggested reduction in speed limit to 30mph to cover the entirety of Berry Hill Road to the junction with the A4260 Oxford Road is necessary (subject to a TRO).
 - The proposed footway along the northern side of Berry Hill Road will be of benefit to residents of the existing properties along Berry Hill Road and the new crossing point with a pedestrian refuge to cross the A4260 is welcomed.
 - A pedestrian link should be provided between the western side of the site to Berry Hill Road to improve accessibility.
 - The two new bus stops proposed along the A4260 Oxford Road will improve the accessibility of the site by non-car modes and this is welcomed.
 - The analysis of accidents is considered still in date despite the fact that there have been known more recent fatal accidents on the local network from the time the survey was undertaken. This recent accident has been given due consideration.
 - Improvements to the public right of way is sought via a S106 contribution. Also welcomed is the integration of the site with the surrounding/ connecting green infrastructure network.
 - A travel plan may be required

- S106 contributions sought and justification for each is provided (this is expanded upon in the Officer appraisal. A set of planning conditions are also recommended.
- 7.19. OCC DRAINAGE (response to original scheme): Objection on the basis that insufficient evidence was provided to enable full technical drainage/ flooding/ SUDs assessment.
- 7.20. OCC DRAINAGE (response to amended scheme): Objection as previous comments relating to the proposal have not been adequately addressed and there still exists a lack of drainage, flood risk, SUDs information to enable a full technical assessment and audit of the proposal.
- 7.21. OCC DRAINAGE (response to additional information provided): No objection subject to conditions. Full detailed design is required but this can be sought through the imposition of planning conditions.
- 7.22. OCC EDUCATION (response to original scheme): No objection subject to S106 contributions towards nursery and primary and secondary school education. Justification for the requested contributions is provided.
- 7.23. OCC EDUCATION (response to amended scheme): The application would need to contribute towards the need for additional nursery, primary and secondary school places. The amendment in the scale of the application reduces the number of dwellings, and hence pupil generation and would result in changes to the level of contributions required. Revised contributions are set out.
- 7.24. OCC ARCHAEOLOGY (response to original scheme): No objection subject to conditions due to the site being in an area of archaeological interest.
- 7.25. HISTORIC ENGLAND (response to original scheme): Original advice to 17/02394/OUT still stands.
- 7.26. HISTORIC ENGLAND (response to amended scheme): Concerns regarding the application on heritage grounds:
- As set out in original comments, views of St. Mary's Church from surrounding public vantage points including roads and footpaths are an important part of the significance of the church. The church spire was designed to be seen from some distance in the landscape as well as at closer quarters. This visibility reflects the social importance of religion in the middle ages and the manner in which communities used the highly prominent architectural church spire to mark their presence in the landscape.
 - The indicative layout and supporting information for the reduced scheme for up to 40 dwellings acknowledges and establishes the importance of views of the church from Berry Hill Road which is welcome and it is acknowledged that allowing public access to the proposed green space to the north of the site would enable new, clear views of the church which would enable better appreciation of the building within the landscape.
 - The reduction in dwelling number and the amended layout do not fully address concerns regarding the application. The amended masterplan suggests one channelled view of the church from the access point to the western end of the proposed estate and along the road but the separation gap between dwellings appears too close to ensure that the views are clear. In addition, views are over landscaped areas or front gardens which could be

planted or filled with paraphernalia and provides little certainty of views being maintained over the long term. The Eastern side of the site displays fewer houses and greater scope for maintained views towards the church which is welcomed.

- The indicative layout shows adjustments which could result in improved views of the church from Berry Hill Road and that views from within the site could be enhanced. However, to minimise the harm to the significance of the church, the layout could be further improved to provide a sufficiently broad and permanent view from Berry Hill Road towards the church at the western end of the development.
- As further refinements are required to the layout of the scheme, Historic England remain of the opinion that the harm to St Mary's Church and the historic landscape is not justified because the outline scheme does not provide definitive information on the key matter of building layout and landscaping. The Council may be content that this can be handled through reserved matters.

7.27. THAMES VALLEY POLICE (response to original scheme): consider that there are some significant aspects of the design and layout to be problematic in crime prevention design terms and the design and access statement does not address crime and disorder. The concerns related to the excessive permeability of the layout, the number of parking courts and in relation to the design of public open spaces and play areas including the use of planting that reduce the surveillance of the play area. Further guidance regarding what a future scheme would need to consider is also provided.

7.28. THAMES VALLEY POLICE (response to amended scheme): Pleased to see the original layout has been revised and that the parking courts have been removed which is a significant improvement. Some of the perimeter blocks shown in the new layout are rather small, which creates unnecessary permeability and means for boundary treatments to private rear gardens are expose to the public realm which makes them more vulnerable to burglary attempts. Previous advice provided regarding the number of paths leading to the public right of way have not been addressed.

7.29. THAMES WATER:

- No objection with regard to foul water sewerage network infrastructure capacity.
- No objection with regard to surface water as the application indicates that surface water will not be discharged to the public network. If this changes, then further consideration will be required.
- TW have identified an inability of the existing water network infrastructure to accommodate the needs of this development. A condition should be imposed relating to this matter.

8. RELEVANT PLANNING POLICY AND GUIDANCE

8.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

- 8.2. The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the ‘saved’ policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District’s statutory Development Plan are set out below:

CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2031 Part 1)

- 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
- BSC3 – Affordable Housing
- BSC4 – Housing Mix
- BSC8 – Securing Health and Wellbeing
- BSC9 – Public Services and Utilities
- BSC10 – Open Space, Outdoor Sport and Recreation Provision
- BSC11 – Local Standards of Provision – Outdoor Recreation
- BSC12 – Indoor Sport, Recreation and Community Facilities
- ESD1 – Mitigating and Adapting to Climate Change
- ESD2 – Energy Hierarchy and Allowable Solutions
- ESD3 – Sustainable Construction
- ESD5 – Renewable Energy
- ESD6 – Sustainable Flood Risk Management
- ESD7 – Sustainable Drainage Systems
- ESD10 – Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13 – Local Landscape Protection and Enhancement
- ESD15 - The Character of the Built and Historic Environment
- ESD17 – Green Infrastructure
- Policy Villages 1 – Village Categorisation
- Policy Villages 2 – Distributing Growth across the Rural Areas
- INF1 - Infrastructure

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- H18 – New Dwellings in the Countryside
- C8 – Sporadic development in the open countryside
- C27 – Development in Villages to respect historic settlement pattern
- C28 – Layout, design and external appearance of new development
- C30 – Design control
- C33 – Protection of important gaps of undeveloped land

- 8.3. Under Section 38 of the Planning and Compulsory Purchase Act 2004, a Neighbourhood Plan that has been approved at referendum also forms part of the statutory development plan for the area. In this case, the application site falls within the Adderbury Neighbourhood Plan area and the following Policies of the Neighbourhood Plan are considered relevant:

- AD1 – Adderbury Settlement Boundary
- AD2 – Green Infrastructure
- AD16 – Managing Design in Berry Hill Road and St. Mary’s Road

- 8.4. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- Cherwell Residential Design Guide SPD (July 2018)
- Housing and Economic Land Availability Assessment (February 2018)
- EU Habitats Directive
- Natural Environment and Rural Communities Act 2006
- Conservation of Habitats and Species Regulations 2017
- Circular 06/2005 (Biodiversity and Geological Conservation)
- Human Rights Act 1998 (“HRA”)
- Equalities Act 2010 (“EA”)

9. APPRAISAL

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

- Planning History
- Principle of development
- Landscape and Visual Impact
- Design and layout
- Heritage impact
- Housing mix/ affordable housing
- Residential amenity
- Transport and sustainability of the site
- Flood risk and drainage
- Trees, landscaping and open space
- Ecology impact
- Environmental matters
- Sustainability and energy efficiency
- Planning Obligations

Planning History

9.2. Section 4 above considers the planning history of the site which, in brief demonstrates that the Local Planning Authority (“LPA”) has been consistent in its approach to the consideration of development on the site. The 2006 application was also dismissed at appeal and the conclusions of the Inspector will be referred to where relevant in this appraisal.

9.3. The 2017 application (17/02394/OUT) was refused for 5 reasons as follows:

- 1 The development proposed, by reason of its scale and siting beyond the built up limits of the village, in open countryside and taking into account the number of dwellings already permitted in Adderbury as well as Cherwell District Council's ability to demonstrate an up-to-date five year housing land supply, is considered to be unnecessary, undesirable and unsustainable development which would undermine the housing strategy and prejudice a more balanced distribution of rural housing growth planned for in the Cherwell Local Plan Part 1. The site itself is in an unsustainable location on the edge of the village, distant from local services and facilities and would result in a development where future occupiers would be highly reliant on the private car for day to day needs. The proposal is therefore unacceptable in principle and contrary to Policies ESD1, SLE4 and Villages 2 of the Cherwell Local Plan (2011-2031) Part 1, Saved Policy H18 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.
- 2 The development proposed, by virtue of its poorly integrated relationship with existing built development, its extension beyond the built limits of the village (beyond the Adderbury Settlement Boundary as defined in the Draft Adderbury Neighbourhood Plan Referendum version - 2014 - 2031) causing significant urbanisation and its visual impact on the rural character and appearance of the locality, would cause unacceptable harm to the character and appearance of the area and the rural setting of the village and would fail to reinforce local distinctiveness. It would also result in 'less than substantial' harm to the setting of the Church of St Mary and the harm stemming from the proposals are not considered to be outweighed by any public benefits. The proposal is therefore contrary to Policies ESD13, ESD15 and Villages 2 of the Cherwell Local Plan (2011-2031) Part 1, Saved Policies C8, C27, C28 and C33 of the Cherwell Local Plan 1996, Policy AD1 of the Draft Adderbury Neighbourhood Plan Referendum version - 2014 - 2031 and Government guidance contained within the National Planning Policy Framework.
- 3 The Design and Access Statement and indicative layout submitted as part of the application fails to provide sufficient acceptable detail in respect of the design principles set as a basis for the future detailed consideration of the development proposed. The Local Planning Authority is therefore unable to determine whether the development proposed could be satisfactorily accommodated on the site in a manner that would respect its context, enhance the built environment and properly respond to local distinctiveness. The proposal therefore fails to accord with the requirements of Policy ESD15 of the Cherwell Local Plan (2011-2031) Part 1, Saved Policies C27, C28 and C30 of the Cherwell Local Plan 1996 and Government guidance within the National Planning Policy Framework.
- 4 The submitted Drainage Strategy does not provide sufficient certainty to demonstrate that a drainage strategy based on Sustainable Urban Drainage Systems can be appropriately accommodated to deal with the sustainable discharge of surface water. The proposal is therefore contrary to Policy ESD7 of the Cherwell Local Plan (2011-2031) Part 1 and Government guidance contained within the National Planning Policy Framework.

5 In the absence of the completion of a satisfactory Planning Obligation, the Local Planning Authority is not convinced that the necessary infrastructure directly required both on and off site as a result of this development, in the interests of safeguarding public infrastructure, mitigating highway safety concerns, delivering mixed and balanced communities by the provision of affordable housing and securing on site future maintenance arrangements will be provided. This would be contrary to Policy INF1, PSD1, BSC2, BSC9, BSC11 and ESD7 of the adopted Cherwell Local Plan (2011-2031) Part 1 and the advice within the National Planning Policy Framework.

9.4. The applicant withdrew their appeal related to the application refused by the Council in 2018 and submitted this application at the same time which originally sought permission for the same development refused (i.e. for 55 dwellings). However, the applicant wished to attempt to narrow down/ overcome the reasons for refusal and in light of this, amended their application down to be a scheme for 40 dwellings. It is this that is now for consideration and it is the amended scheme that will be considered through this appraisal.

Principle of Development

9.5. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise.

9.6. The Development Plan for Cherwell includes the Cherwell Local Plan 2011-2031 (adopted in July 2015), the saved policies of the Cherwell Local Plan 1996 and a number of adopted Neighbourhood Plans. Relevant to the consideration of this application is the Adderbury Neighbourhood Plan 2014-2031 ("ANP"), which was 'made' on the 16 July 2018 following a referendum held on the 21 June 2018. It therefore forms part of the Development Plan and is material in the consideration of planning applications in the Parish of Adderbury.

9.7. The site is not allocated for development in any adopted or emerging policy document forming part of the Development Plan and is not previously developed other than the current stables. The site sits outside the built-up limits of the village beyond the defined Adderbury Settlement Boundary as set out in the Adderbury Neighbourhood Plan 2014 – 2031.

Policy Context

The Development Plan

9.8. The Cherwell Local Plan 2011-2031 seeks to allocate sufficient land to meet District Wide Housing needs. The overall housing strategy is to focus housing growth at the towns of Banbury and Bicester and one strategic site (Heyford) outside of these towns. Policy ESD1 identifies that in mitigating the impact of development within the district on climate change, growth will be distributed to the most sustainable locations as defined in the Plan and to deliver 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.

9.9. The application site is outside the built up limits of Adderbury, and saved Policy H18 of the Cherwell Local Plan 1996 restricts development outside the built-up limits of settlements except in a number of circumstances; none of which are applicable to this current application. The proposals therefore conflict with Policy H18.

- 9.10. However, in recognising that there is a need within the rural areas to meet local and Cherwell wide housing needs, the Cherwell Local Plan 2011-2031 at Policy BSC1 allocates 2,350 homes for the 'Rest of the District'. Of these, 1,600 homes are allocated by Policy Villages 5 at Former RAF Upper Heyford leaving 750 homes identified for development elsewhere. Policy Villages 2 provides for these 750 homes to be delivered at Category A villages.
- 9.11. Category A villages are identified under Policy Villages 1 of the Cherwell Local Plan Part 1. Policy Villages 1 provides a categorisation of the District's villages to ensure that unplanned, small scale development within villages is directed towards those villages that are best able to accommodate limited growth. Category A villages are those identified as being the most sustainable in the hierarchy of villages in the District.
- 9.12. Adderbury is classified as a category A village by Policy Villages 1. The current proposal does not, however, comply with the type of development identified as being appropriate under Policy Villages 1 due to the site being outside the built up limits of the village (and outside the settlement boundary as defined by Policy AD1 of the ANP) and not representing minor development, being over 10 dwellings.
- 9.13. Policy Villages 2 identifies the Category A villages as being where planned development to meet District housing requirements to help meet local needs should be directed, subject to a detailed assessment as to the proportionate impact of development proposed upon the settlement in question (given the category A settlements vary in size and sustainability) and an assessment of the suitability of the specific site proposed. Policy Villages 2 is therefore the appropriate policy against which to assess this proposal.
- 9.14. The intention of this approach is to protect and enhance the services, facilities, landscapes and the natural and historic built environments of the villages and rural areas whilst recognising the need for some development. Policy Villages 2 advises that these sites would be identified through the preparation of the Local Plan Part 2, through the preparation of Neighbourhood Plans where applicable and through the determination of applications for planning permission. A number of criteria are listed and particular regard must be had to these criteria when considering sites, whether through plan making or the planning application process.
- 9.15. The ANP has been made since the previous application for development on this site was refused. It includes policies that are material to the consideration of this application forming part of the Development Plan. The key policy in respect to considering the principle of the development is Policy AD1, which allocates the Adderbury Settlement Boundary which is defined on the policies map. The policy states that *'development proposals will not be supported outside the Adderbury Settlement Boundary unless it is demonstrated they will enhance, or at least not harm, local landscape character. New isolated homes in the countryside will not be supported except in special circumstances described in paragraph 55 of the Framework. Proposals for the provision of affordable housing on rural exception sites immediately adjacent to the Adderbury Settlement Boundary will be supported where they meet an identified local need and relate well to the built form of the existing settlement'*.
- 9.16. There are no allocations for new housing sites through the ANP. In the supporting text to Policy AD1, reference is made to the scale of recently completed housing schemes and of the schemes that will be built out over the coming years and it explains that the District Council does not consider it desirable or necessary for any additional major contribution from Adderbury to meeting the needs of Local Plan Policy Villages 2 in the plan period by way of new greenfield development on the

edge of the village. The ANP does, however, confirm that in the event of the District's housing supply strategy having to change before the end of the plan period, then its implications will be considered by the Parish and District Councils and the ANP may be reviewed to plan for that eventuality.

- 9.17. In the Examiner's report of the Neighbourhood Plan, the Examiner, in respect of Policy AD1, concluded that the policy is in general conformity with the strategic Policies of the Adopted Cherwell Local Plan Part 1 and provides an additional level of detail or distinct local approach to that set out in the strategic policies. He also concluded that it seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The Examiner did not require the Plan to allocate further sites for housing development and he also noted the number of new dwellings already permitted in Adderbury acknowledging that the contribution from these sites amounts to a significant boost to the supply of housing. He also noted that there was further potential for additional dwellings to be provided on infill plots or through the redevelopment of sites within the proposed settlement boundary as the Neighbourhood Plan does not place a limit on the number of homes that can be provided within the settlement boundary. On this issue, he concluded that Policy AD1 would not lead to the Neighbourhood Plan promoting less development than set out in the Local Plan.

National Policy

- 9.18. The National Planning Policy Framework confirms that there is a presumption in favour of sustainable development. For decision making this means approving proposals that accord with the development plan without delay. The Framework advises that there are three dimensions to Sustainable Development; economic, social and environmental. With regard to housing, the Framework supports the need to boost significantly the supply of housing to meet the full, objectively assessed need for housing. It requires LPAs to identify and update annually a supply of specific, deliverable sites sufficient to provide five years' worth of housing against the housing requirements, with an additional buffer of 5% to ensure choice and competition in the market for land. The Council's 2019 Annual Monitoring Report (AMR), which was approved by Members at the Executive meeting on the 6 January 2020 confirms that the District can demonstrate a 4.6 year housing land supply (for the current period 2019-2024) with a 5% buffer and a 4.4 year housing land supply for the next 5 year period (2020-2025).
- 9.19. In the circumstances that a LPA cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer), there is a presumption in favour of sustainable development and the circumstances at paragraph 11d of the NPPF are engaged. This sets out that the development plan's housing strategy policies must be considered to be out of date which means development should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
- 9.20. However, in respect of the Oxfordshire Authorities, there is a Written Ministerial Statement ("WMS") made in September 2018 concerning the Housing and Growth Deal which is a significant material consideration. The WMS grants the Oxfordshire Authorities flexibility on maintaining a five year housing land supply. This sets out the requirement for a three year supply of deliverable housing sites (with the appropriate buffer) from the date it was made (12/09/2018) until the adoption of the Joint Statutory Spatial Plan in each area, providing the timescales in the Housing and Growth Deal are adhered to.

9.21. In this case, it is clear that the tilted balance set out by Paragraph 11d is not engaged because the Housing Supply requirement for the District should be taken to be three years in accordance with the WMS (appeal decisions in South Oxfordshire have reached this conclusion). Any conflict with the ANP and whether it would significantly and demonstrably outweigh the benefits of the development will be considered through this appraisal, however it is clear that in this case, the three-year housing land supply position should be adopted.

Monitoring and recent appeal decisions

9.22. The Council's most recent AMR (December 2019) sets out that 953 dwellings have been identified for meeting the Policy Villages 2 requirement which are sites with either planning permission or a resolution to approve and are identified developable sites. This is made up of 582 dwellings either complete or under construction, 333 dwellings with planning permission and 38 dwellings that are considered developable (this 38 is made up of two sites – one with a resolution for approval and one for which the planning permission has lapsed).

9.23. Between 1 April 2014 and 31 March 2019, there were a total of 271 net housing completions. As reported above, there are a further 311 dwellings under construction, and it is reasonable to assume that these dwellings will be completed.

9.24. In recognition that not all sites will necessarily be developed or will not necessarily deliver the full number of dwellings granted, a 10% non-implementation rate has been applied to sites with permission but on which development has not yet started. This reduces the 333 dwellings reported in paragraph 9.16 to 300 dwellings. This would give the number of dwellings identified under Policy Villages 2 either complete, under construction, with planning permission or developable as 920 dwellings. There was also a further resolution for approval granted for a site at Fritwell at the December 2019 planning committee for 28 dwellings, which would also be additional to the 920 dwellings.

9.25. Five appeal decisions have been received over the past year which have considered the application of Policy Villages 2. These are for sites at Launton, Ambrosden, Bodicote, Sibford Ferris and Weston on the Green. The first four were allowed, and the numbers approved at those four sites are included within the figures reported in the December 2019. The key conclusions resulting from the Launton, Bodicote and Sibford Ferris appeals can be summarised as:

- The Policy Villages 2 number of 750 dwellings has not been 'delivered' yet.
- The number of 750 has development management significance in terms of the Local Plan strategy.
- Not all dwellings approved might be delivered (hence the Council's inclusion of a 10% non-implementation rate in the most recent AMR)
- The number of dwellings proposed must be considered as to whether that number would undermine the strategy of the Local Plan
- There is no spatial strategy to the distribution of the 750 houses allocated in the rural areas under Policy Villages 2 beyond distribution to the Category A villages.
- Assessment of the sustainability of the settlement in question is required, and indeed this has been a primary consideration in all of the appeals relating to major housing development at Category A villages, with appeals

at Finmere, Fringford and Weston on the Green having been dismissed, in each case the sustainability of the settlement being a key issue.

Assessment

- 9.26. Adderbury is one of the largest category A villages in the District in terms of size and it is one of the more sustainable in terms of the range of facilities it provides as well as the transport connections available. The village has been subject to a number of large developments approved since 31 March 2014 (3 sites for 120 dwellings); however, a further 65 dwellings were approved in January 2014 giving an overall total of 185 dwellings in the village either under construction or recently completed. The 120 dwellings approved under Policy Villages 2 (i.e. since 31 March 2014) represents 16% of the 750 dwellings and it is for this reason that the Adderbury Neighbourhood Plan does not allocate a further site for development at the village.
- 9.27. The 750 dwellings allocated by Policy Villages 2 have not yet been delivered, and it is acknowledged that in any event this number cannot be considered a ceiling. However, the number does have significance in terms of the spatial strategy of the Local Plan in directing the majority of growth to the towns of Banbury and Bicester whilst limiting growth in the rural areas. There will come a point at which harm will have been caused e.g. through a material exceedance of 750 dwellings delivered under Policy Villages 2, acknowledging that the pipeline of permissions as noted at para 9.24 will, in practice mean a significant exceedance. Whilst Inspectors have confirmed that Policy Villages 2 does not provide a spatial strategy for the distribution of the 750 dwellings allocated at Category A villages, the policy applies to all 24 villages identified by Policy Villages 1 and concentrating a large proportion of the number of new dwellings in a few larger villages would conflict with the spatial strategy of the Local Plan as a whole, which seeks to ensure a sustainable, planned and balanced approach to the distribution of housing in the rural areas.
- 9.28. As has been concluded, the Policies in the Neighbourhood Plan and the Development Plan for the supply of housing can be considered up to date. The provision of 40 additional dwellings in Adderbury would conflict with the spatial strategy for the provision of dwellings in the rural areas given that the village has already accommodated a large proportion of the overall 750 dwellings (16%) (albeit of the 920 dwellings reported in the AMR, the percentage would be 13%) and no further need for development in the village has been identified through the recently adopted Neighbourhood Plan.
- 9.29. Regardless of the conclusion reached in respect of the number of dwellings allocated by Policy Villages 2, Officers consider that the impact of a residential development on this site as will be assessed in detail in the later appraisal means that the site is unacceptable in principle.
- 9.30. It is now necessary to consider those wider impacts of the development against the relevant policies of the Adderbury Neighbourhood Plan and the eleven criteria of Policy Villages 2 and other relevant policies of the Cherwell Local Plan Part 1. The conclusions as to whether the site is suitable, sustainable and acceptable in terms of its wider impacts should be balanced against the need for such development in the circumstances that the District can currently demonstrate over a 3 year housing land supply, the level of development Adderbury has already accommodated and the weight to be attached to the relevant policies of the Development Plan.

Landscape and Visual Impact

Policy Context

- 9.31. Policy ESD13 of the Cherwell Local Plan advises that development will be expected to respect and enhance local landscape character and a number of criteria are highlighted including that development is expected not to cause visual intrusion into the open countryside, must be consistent with local character and must not harm the setting of settlements, buildings or structures. Policy Villages 2 requires that consideration be given to whether significant landscape impacts could be avoided and whether development would contribute in enhancing the built environment.
- 9.32. 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. Policy C8 seeks to limit sporadic development beyond the built limits of settlements. Policy C27 expects that development proposals in villages will respect their historic settlement pattern.
- 9.33. As referred to above, Policy AD1 of the Adderbury Neighbourhood Plan – 2014 – 2031 provides for a settlement boundary, outside of which development will not be supported unless it is demonstrated that it will enhance or at least not harm, local landscape character. The supporting statement to Policy AD1 confirms that in respect of proposals located outside the boundary, the policy is to operate alongside Local Plan Policy ESD13 to ensure that they are compatible with the objective of that policy of protecting and enhancing the local landscape.
- 9.34. The NPPF highlights that the protection and enhancement of the natural, built and historic environment is part of the environmental role of sustainable development and one of the core planning principles also refers to recognising the intrinsic character and beauty of the countryside. The NPPF also emphasises the importance of development responding to character and history with good design being a key aspect of sustainable development.
- 9.35. The site has been considered through the Council's Housing and Economic Land Availability Assessment (February 2018). This concluded that the site is not suitable for development as *'The site adjoins the built-up limits of the village however the site is remote from the services and facilities. The site is considered to be unsuitable and there is a low density and linear development form on the northern side of the road at this gateway to the village. More intensive development in this location would be detrimental to the character of the village and represent a significant intrusion into the countryside (harming its character and appearance). Development would harm the setting of the church. The topography of the north western part of the site also makes development challenging'*.
- 9.36. In addition, and as referred to above, there has been a previous appeal on this site, which dismissed a scheme for residential development (06/00712/OUT). This was a smaller scheme, but the Appeal Inspector's conclusions in respect to the site and its character are material to the consideration of this application. In particular, the Inspector concluded that the appeal site represents a particularly pleasant part of the open countryside and which makes a significant contribution to the character and appearance of this part of Adderbury. It was also identified that the appeal site allows an attractive view of the village church. The development proposed was found to be harmful to the character and appearance of the area and would result in an unsustainable development.
- 9.37. The application sits within the Oxfordshire Landscape Type 'Upstanding Village Farmlands', which is characterised by its undulating landform, well defined geometric pattern of medium sized fields enclosed by prominent hedgerows and with a strong settlement pattern of compact, nucleated villages of varying sizes with little dispersal in the wider countryside.

Assessment

- 9.38. In its amended, reduced form, the area proposed for built development is a reduced area provided to the south of the site with the northern land retained as public open space. The buildings would also be retained to the west of the access route rather than on both sides. A revised addendum LVA is provided with the amended proposal scheme. The LVA addendum confirms that the conclusions of the original LVA addendum remain valid and that the significance of the landscape effects is not changed as not significant impacts overall other than to two viewpoints where a greater impact would be felt by users of public footpaths.
- 9.39. The LVA has been reviewed by the Council's Landscape Officer who continues to raise some concern regarding the landscape effects and continues to consider the development to be unsuitable. Nevertheless, it is agreed that the wider landscape impacts would be limited but that there would be localised impacts, which should be considered further.
- 9.40. The main core of Adderbury is to the north of the application site and, as explained in the Adderbury Conservation Area Appraisal, the historic character of the village has an east-west axis with a strong linear structure defined by strong building lines. It describes that the series of linear streets are linked by winding lanes. Berry Hill Road runs to the south of the application site, with residential properties fronting it and which sit directly to the west of the application site. The properties on either side of Berry Hill Road are predominately large detached units, set back from the roadside, with wide verges giving a low density, linear, ribbon form of development.
- 9.41. The site itself sits adjacent to 'Last House' at the eastern end of Berry Hill Road. The land is greenfield and other than a small area of stabling, it is open and retains a strong rural character. The site is visually part of the open countryside and is an important open space at the edge of the village in contributing to the rural setting of the village as was identified by the Inspector who dismissed the appeal in 2007 for development on the site. A number of public rights of way run within proximity of the site and clear views of the site can be gained by users who would appreciate the rural setting of the village.
- 9.42. The proposed development would involve a large-scale development on the land. The indicative layout demonstrates dwellings fronting towards Berry Hill Road (albeit set behind the existing hedgerow) with the remaining proposed dwellings arranged extending northwards on the site. The proposal is in a reduced form to that previously considered and refused but it remains a block of development resulting in a large cul de sac which is distinctly different to the prevailing pattern of development along Berry Hill Road. The northern most part of the site and a strip to the east of the proposed access road are proposed to remain open and be left undeveloped as public open space. The development would be accessed by a formal access road positioned at the existing access point which would loop round to provide access to all proposed dwellings. The supporting information suggests that the retention of the existing boundary hedgerows would allow the development to be accommodated without causing unacceptable impacts. The southern hedgerow is not substantial and allows views through onto the land and views towards the village beyond. It also finds that *'the surrounding vegetation on three sides as well as the woodland and hedgerows, including that along the elevated former railway, provide substantial separation of the site from its context, and in particular the village of Adderbury'*. The recognition in the LVA as to substantial separation is acknowledged and agreed; this emphasises Officer concerns as to the unsuitability of the site in terms of its impact upon the character of the locality.

9.43. The site is considered to be an important part of the open countryside and was acknowledged by the previous Planning Inspector in 2007. Development on the site would result in the loss of this rural character (which continues along Berry Hill Road given the low density of development and its spacious character) and change the setting of the village extending development towards the A4260. Any development on the site would intrude into the open countryside and be harmful to the rural setting of the village. Development would conflict with the settlement pattern in this part of Adderbury with this being a bolt on estate, which would conflict with the linear arrangement of dwellings along Berry Hill Road. In the previous appeal decision on the site (06/00712/OUT), which proposed a linear row of dwellings and then two rows of houses perpendicular to the road, the Inspector identified that the proposal would have an orientation unlike any other development within the area. It was concluded that such an arrangement would be at odds with the prevailing development pattern. The current proposal is a significantly more in-depth development than the 2007 appeal scheme. The urban form proposed would not therefore integrate into the existing settlement pattern and would represent a significant intrusion into the countryside. It would result in significant urbanisation and be prominent in views from Berry Hill Road and from nearby public rights of way. Whilst the Landscape Strategy in the LVIA identifies the retention and enhancement of the site boundaries, this would aid in screening development behind a tree belt. This is not considered to be sufficient to overcome unacceptable development and in itself, would further emphasise the difference between the application site and the rest of the development along Berry Hill Road, which is not set behind a screen.

Conclusion

9.44. The proposed development would result in a significant urbanisation of an important open rural field adjacent to the edge of Adderbury, visually intruding into the landscape and which would be harmful to the localised landscape, character and rural setting of the village. It would also conflict with the local prevailing settlement pattern. Given the conclusion reached, the proposed development would conflict with Policy AD1 of the Adderbury Neighbourhood Plan 2014 – 2031, Policies ESD13 and Villages 2 of the Cherwell Local Plan Part 1, Policies C8, C27 and C28 of the Cherwell Local Plan 1996 and advice in the NPPF which seeks to protect the intrinsic character of the countryside.

Design and Layout

Policy Context

9.45. Policy ESD15 provides guidance as to the assessment of development and its impact upon the character of the built and historic environment. It seeks to secure development that would complement and enhance the character of its context through sensitive siting, layout and high quality design meeting high design standards and complementing any nearby heritage assets. The National Planning Policy Framework is clear that good design is a key aspect of sustainable development.

Assessment

9.46. The application is in outline with all matters reserved except for access. The application is accompanied by an indicative layout and a design and access statement (DAS). It is expected that an indicative layout and DAS would demonstrate that the development proposed can be appropriately accommodated and which sets appropriate design principles so that future detailed proposals that meet high design standards can be achieved.

- 9.47. The submitted DAS is the same as that submitted pursuant to the originally refused scheme. In respect of that, Officers acknowledged that whilst the DAS sets some appropriate overarching principles, its basis for future proposals was to take reference from the nearby modern development. Concern was raised taking into account guidance in the Council's Residential Design Guide which seeks to ensure that new development responds to the traditional settlement pattern and character of a village. This includes the use of continuous building forms along principle routes and adjacent to areas of the public open space, the use of traditional building materials and detailing and form that respond to the local vernacular.
- 9.48. The submitted heritage assessment identifies that in the Adderbury Conservation Area, there is a limited palette of building materials, and the use of local ironstone for many buildings creates a sense of architectural and visual harmony within the conservation area. It also identifies the strong linear structure of the village.
- 9.49. The indicative layout has reduced the level of development proposed to 40 dwellings. This indicates a greater number of linked dwellings and has attempted to demonstrate some vernacular detailing; however, it does remain the case that the proposal represents a suburban form of development that appears as a bolt on cul de sac on the edge of the village which conflicts with the settlement pattern in this area of the village. This issue further demonstrates that the site is unsuitable for development of the form proposed in principle due to the impact upon local character and the setting of the village as it is difficult to see in what alternative form 40 dwellings could be accommodated on the site.
- 9.50. In relation to the previous proposal, Officers considered that the submitted information in the DAS and the indicative layout would not provide sufficient certainty or an acceptable basis to enable a future detailed scheme to be achieved. This led to a detailed reason for refusal being recommended, which related to this matter. Whilst there are some concerns still present including the position of the play area which is not incorporated into the development so that it is overlooked, the layout of roads that create short cul de sacs which reduce the legibility of the site and the indication of certain design features, it is considered that these matters are detailed matters which could be negotiated at a later stage if a reserved matters application were to be made (i.e. if the site benefitted from outline permission).
- 9.51. A parameter plan has been discussed with the applicant, which demonstrates vistas that would need to be created to enable views to the listed building (to be discussed below). It would be important for this plan to be conditioned approved should the application be considered acceptable to set a basis for the future negotiation of detailed proposals.
- 9.52. Access is a matter for approval as part of this application. The site access is proposed to the eastern side of the southern boundary of the site in the same position as the access to the current stable uses. Officers have some concern that this position is distant from the current edge of the village which further emphasises the impact of urbanisation by development being positioned on this land. It is also questioned whether an appropriate frontage to the development could be achieved taking into account the current indicative layout.

Conclusion

- 9.53. As explained, the nature of a development for 40 dwellings in this location is considered to be unacceptable in principle in respect to the impact upon settlement pattern and character of the village and its rural setting. Officers are not convinced that a future scheme of this scale could be appropriately accommodated that is both

locally distinctive and in keeping with the character of this area of the village or that would enhance the built environment. The indicative layout reinforces this view.

- 9.54. Nevertheless, this concern relates to the principle of a development of this scale in this particular location taking into account the localised impact and settlement pattern. If a development of this scale were accepted on this site in principle, then detailed concerns Officers hold in respect to specific matters such as house types and layout, road layouts and house type detailing could be matters that are negotiated through a reserved matters scheme. On this basis, Officers have not recommended that previous reason for refusal 3 be re-imposed as concerns relating to the principle of development on the site and its impact upon local character, landscape, the setting of the village and the local settlement pattern are covered by recommended reasons for refusal one and two.
- 9.55. Officers consider that the proposal conflicts with Policies ESD15 and Villages 2 of the Cherwell Local Plan Part 1, Saved Policies C27, C28 and C30 of the adopted Cherwell Local Plan 1996 and Government Guidance in the NPPF.

Heritage Impact

Legislative and Policy Context

- 9.56. Section 16 of the NPPF sets out Planning Guidance relating to the historic environment including archaeology. The development would be expected to preserve the significance of designated heritage assets within proximity. It is also provided at paragraph 192 that Local Planning Authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and the desirability of new development making a positive contribution to local character and distinctiveness. The NPPF sets out the tests to be applied where harm to heritage assets is identified.
- 9.57. Policy ESD15 of the Cherwell Local Plan 2011-2031 also refers to heritage assets expecting development to conserve, sustain and enhance designated and non-designated heritage assets. One of the criteria of Policy Villages 2 requires consideration as to whether development would avoid significant adverse impact on heritage. Policy C33 of the Cherwell Local Plan 1996 states that the Council will seek to retain any undeveloped gap of land which is important in preserving the character of a loose knit settlement structure or in maintaining the proper setting for a listed building or in preserving a view or feature of recognised amenity or historical value.
- 9.58. In addition, there is a legal requirement, under S66 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 for a Local Planning Authority to have regard to the desirability of preserving a listed building or its setting. S72 of the same Act requires that within a conservation area, the development of land or buildings shall preserve or enhance the character and appearance of that area.

Assessment

- 9.59. The site is not within the conservation area and there are no heritage assets on the site itself. The Adderbury Conservation Area sits to the north and west of the site. Adderbury also has a number of listed buildings and most of these are too far away from the site to be impacted. However, the Grade I listed Church of St Mary is to the north of the site and there are views from the south towards the church both from the site and the surrounding road and footpath networks. In the previous appeal on the site (06/00712/OUT), the Inspector identified that the appeal site allows an

attractive view of the village church and it was concluded that the siting of the proposed dwellings would result in the loss of an important view towards the church.

- 9.60. The application is accompanied by a Heritage Statement which concludes that the site does not make a contribution to the significance of the listed church as the site has no historic or visual relationship with the asset and whilst there are views of the church spire, these are not clearly visible from Berry Hill Road as the substantial boundary distorts the view. Indeed, it is considered that the views of the church from the south would be improved as the provision of open space with a play area would provide access to views of the church and its spire which are not currently accessible to members of the public. With regard to the conservation area, the assessment does not identify any unacceptable impacts.
- 9.61. There are views available from Berry Hill Road towards the village and the spire of the Church of St Mary. Historic England continue to advise that views of the Church of St Mary from surrounding public vantage points, including roads and footpaths, are an important part of the significance of the church as a historic landscape feature. The church spire was designed to be seen from some distance in the landscape as well as at closer quarters. This visibility reflects the social importance of religion in the middle ages and the manner in which communities used the highly prominent architectural church spire to mark their presence in the landscape.
- 9.62. Development on the site would, by its nature, obscure and change the rural setting of views of the church from the south and Berry Hill Road. This would cause harm albeit less than substantial harm. The NPPF requires that where less than substantial harm is identified to the significance of a designated heritage asset, that this harm should be weighed against the public benefits of the proposal.
- 9.63. In addition to the Heritage Statement, a plan is provided demonstrating how long views to the Church of St Mary from Berry Hill Road could be provided as well as the achievement of new, publicly accessible views from the proposed area of open space. A parameter plan has also been discussed with the applicant which is provided, to ensure that the views proposed to be created would be a clear parameter should outline permission be granted. Whilst Historic England welcome the establishment of views of the church, they do raise concern regarding the likely separation gap between dwellings (which on the indicative plan appears too close to ensure that the views are clear) and that views over landscaped areas or front gardens could be planted with trees or filled with paraphernalia such that it is uncertain that views in the long term would be maintained. It is accepted by Historic England that the reduced scheme has lessened the impact to a degree, particularly due to the proposal not to include residential development to the east of the access road.
- 9.64. The detailed concerns of Historic England are based upon an indicative plan and therefore are matters that could be negotiated at the reserved matters stage (and they provide some recommendations that could also be taken into account such as the need for the layout to be improved to provide a sufficiently broad and permanent view towards the church at the western end of the development).
- 9.65. Whilst the negotiation of a detailed scheme could improve and allow for views through the development towards the church and provide open space for more publicly accessible views to be gained, this does not overcome the overriding concern that the rural setting of the church from the south would be interrupted and that the new views to be created would be funnelled through a housing development rather than across a rural field towards the village and the church. Given the concerns raised by Officers relating to the impact of the development upon the local landscape and character of the village as well as there not being an overriding need

for such a development, it is considered that there are not public benefits that would outweigh the harm to the setting of the listed building and that its setting would not therefore be preserved.

- 9.66. The application proposes to provide a footway west along Berry Hill Road to link into the village network close to the junction with Horn Hill Road. There has been some concern raised that this proposal would be harmful to the character of the conservation area in this location and to the setting of nearby listed buildings due to the urbanisation this would involve. An application from 2015 for development of 5 houses to the south of Little Shotover and East of Cherry Cottage on Horn Hill Road (15/01384/OUT), concluded in the Officer report that the change in order to access that site would have a detrimental urbanising impact on the rural character and appearance of this area of the village which is recognised as an important green space and as a gateway to the historic village in the conservation area appraisal. In dismissing a planning appeal for this scheme, the Inspector identified the change in the informal rural character of the access and its likely increased prominence which was found to be detrimental to the character and appearance of the conservation area at this important gateway. In this case, it is possible that should development have been concluded to be acceptable on this site, the position of the footway could have been negotiated in respect of its position and how it connects into the surrounding highway network or, if there were no alternative, whether there would be a more sympathetic finish available that could maintain character. As such, whilst the concern is noted and Officers agree that in its current form there would be some detrimental impact to this part of the conservation area, this matter does not warrant its own reason for refusal as it is a matter that could be negotiated as to an appropriate alternative.
- 9.67. The County Archaeologist has provided a response to this application which differs from that to the previous application. The advice now is that the site has archaeological potential and as such, conditions are recommended to require further archaeological work to be completed prior to development commencing. This changed response is due to new information that has been added to the Historic Environment Record. New aerial photographic survey data has identified a large circular enclosure within the proposed development area which is likely to be prehistoric in date and has only just become known about. As such, archaeology is now a constraint but it is a matter that could be dealt with via the imposition of conditions if the application were recommended for approval.

Conclusion

- 9.68. Based upon the assessment above, Officers consider that there would be harm to the setting of the grade I listed Church of St Mary as a heritage asset. Whilst the current scheme, compared to that previously refused has been reduced to a degree, there would still remain harm. This harm is less than substantial but would not be outweighed by a public benefit. The proposal would therefore not preserve or enhance the setting of the designated heritage asset and the land is an important undeveloped gap in maintaining the proper rural setting for the listed building. As such, the proposal would conflict with Policies ESD15 and Villages 2 of the Cherwell Local Plan Part 1, Saved Policy C33 of the Cherwell Local Plan 1996 and Government Guidance in the NPPF.

Housing Mix/ Affordable Housing

- 9.69. The NPPF advises that in order to create sustainable, inclusive and mixed communities, Local Planning Authorities should plan for a mix of housing, reflect local demand and set policies for meeting affordable housing need. Policy BSC4 of the Local Plan requires new residential development to provide a mix of homes in

the interests of meeting housing need and creating socially mixed and inclusive communities. Policy BSC3 requires development within locations such as at Adderbury to provide 35% affordable housing on site and provides detail on the mix that should be sought between affordable/ social rent and shared ownership.

- 9.70. The applicant has carried out some work through the processing of the application to propose a mix for the market dwellings. Their proposed mix has taken into account the Oxfordshire SHMA findings, reported in the preamble to Policy BSC3 with a predominant mix in favour of three bedroomed homes. This, they consider demonstrates a commitment to providing the mix of housing that is required in the District with an over-provision of moderately sized family homes representing a benefit that weighs heavily in favour of the development. They have then carried out further work to compare their proposed mix with other recent developments in the village. From this, it is concluded that other approvals in Adderbury have not responded positively to the identified SHMA mix and have therefore not adequately addressed the need for moderately sized homes, which should add further weight in favour of this proposal.
- 9.71. In respect to affordable housing, the applicant proposes 35% affordable housing in line with the requirements of Policy BSC3 and has proposed a mix. The Strategic Housing team usually specify a mix that they consider would best meet local need. In this case, the requested mix includes the required rental properties to be for social rent, for which there is a high need in the District due to reasons of affordability. The applicant has agreed to the rental units being social rented units.
- 9.72. The proposal to include market and affordable housing and to include a mix of unit sizes which respond positively to the required sizes of housing within the District, evidence for which is set out in the Oxfordshire SHMA is a benefit of the proposal. Affordable rent properties as social rented units is also a benefit that carries some weight in favour of the development as it contributes towards the socially sustainable nature of the site. However, that weight can only be attributed moderate weight in the planning balance because the proposal meets the requirements of planning policy. Whilst the scheme could provide a more appropriate mix than other developments have, this matter would have to be weighed in the overall planning balance against the identified harms.

Effect on Neighbour amenity

- 9.73. Policy ESD15 advises of the need for new development to consider the amenity of both existing and future development and this reflects the Core Principle of the Framework, which confirms the need for a good standard of amenity for all existing and future occupants of land and buildings to be secured.
- 9.74. Given the land adjoins only one dwelling (Last House) on Berry Hill Road, care would be required in the future design of a scheme in order to ensure that the residential amenity of this property would not be harmed. Given the size of the site, it is highly likely that a scheme could be accommodated without causing undue harm to the amenity of this property and any others that might be impacted.

Highway safety and sustainability of the site

Policy Context

- 9.75. The National Planning Policy Framework is clear that transport policies have an important role to play in facilitating sustainable development with encouragement provided to sustainable modes of transport to reduce reliance on the private car. It is also clear that applications should be accompanied by a Transport statement if it

would generate significant amounts of movement. This is reflected in Policy SLE4 of the Local Plan. Policy SLE4 and Villages 2, both emphasise the need for consideration to be given to whether safe and suitable access can be achieved.

Assessment

- 9.76. The application is accompanied by a Transport Statement and an addendum has been prepared to respond to the amended scheme of 40 dwellings. The Highway Authority have raised no objections to the proposed development on key matters such as the main access arrangements (vehicular and pedestrian/ cycle) and the proposal to include new bus stops on the A4260. No concerns are raised with regard to transport movements and their impact upon the local highway network.
- 9.77. Detailed matters raised by the Local Highway Authority (LHA) could be controlled and secured by planning condition/ S106 agreement as necessary. This includes the provision of a link at the western side of the southern boundary of the site (which is indicated on the provided parameter plan and the indicative masterplan) and the securing of footway links to the west and east along Berry Hill Road and highway improvements, including the provision of bus stops on the A4260 (the width of the proposed footway on Berry Hill Road is currently being queried as a narrower route is proposed to respond to the Parish Council's request but this has not yet been agreed by the LHA). In addition, requirements around the main point of access as well as the imposition of conditions and other S106 requirements (seeking contributions towards other matters such as improvements to rights of way which will be explained below), could also be secured.
- 9.78. The provision of new links would be important in encouraging the use of sustainable modes of transport. The site is relatively distant from the core of the village where the facilities and services are provided. The LHA has not raised any such concern of this nature but Officers agree with the Inspector for 06/00712/OUT that the site is poorly located and would therefore lead to an increase in car borne commuting even with the proposed transport improvements to increase pedestrian/ cycle accessibility. This would compromise the principles of sustainable development. The LHA has sought contributions towards transport improvements and these would have been pursued should this site have been recommended for approval.
- 9.79. There are a number of public rights of way that run within proximity and within the site. It is not expected that these would be adversely impacted providing they are protected during construction and the LHA has sought contributions for their improvement.

Conclusion

- 9.80. Whilst technical highway safety matters have been addressed such that the site can be safely accessed and its development would not result in a severe impact upon the highway network, the development site is not considered to be well-located to services and facilities. This would compromise the principles of sustainable development. There would therefore be conflict with Government guidance in the NPPF and Policies Villages 2 and SLE4 of the Cherwell Local Plan Part 1 in this regard.

Flood Risk and Drainage

- 9.81. A flood risk assessment and drainage management strategy is submitted with the application in line with the requirements of Policy ESD6 of the Local Plan and the Framework, given the site extends to over 1ha in area and is predominantly in Flood Zone 1. Policy ESD7 of the Local Plan requires the use of Sustainable Urban

Drainage Systems to manage surface water drainage systems. This is all with the aim to manage and reduce flood risk in the District.

- 9.82. Following the receipt of an objection to the original submission (which was unsurprising given the submitted information was the same as that received for the previously refused scheme for which an objection by OCC was made which resulted in reason for refusal 4), further discussion was undertaken directly between the applicant's Drainage Consultant and OCC resulting in an amended Drainage Strategy being submitted dated November 2019.
- 9.83. This has confirmed that infiltration testing has confirmed that the site is suitable for infiltration drainage techniques and that on this basis, the drainage layout will include soakaways for each house, permeable surfacing, and the inclusion of swales and a basin to intercept overland flows in extreme events. OCC have considered this and confirmed that they raise no objections subject to the imposition of conditions to ensure full detailed designs are provided.
- 9.84. On the basis that the FRA concludes that the site is unlikely to be affected by flood risk and that development could therefore be appropriately accommodated without raising the risk of flooding and that OCC are now satisfied that a suitable drainage solution can be achieved as testing has confirmed that infiltration drainage techniques are achievable, it is considered that there is no reason to re-impose reason for refusal 4. It is considered that the applicant has satisfactorily addressed this reason for refusal and that a suitable drainage arrangement could be achieved.

Trees, Landscaping and Open Space

- 9.85. Policy ESD10 of the Local Plan refers to the protection and enhancement of ecology and the natural environment. It requires the protection of trees amongst other ecological requirements. Policy ESD13 also encourages the protection of trees and retention of landscape features. Policy BSC11 sets out the Council's requirements for local outdoor space provision and play space.
- 9.86. In respect of the existing trees and hedgerows, these form the field boundaries of the site. An Arboricultural report has been submitted with the application and this concluded that no significant trees would require removal to facilitate the new access arrangement. Otherwise, the report suggests the need for management and enhancement of the southern hedgerow to improve the hedgerows quality and long term value. The report also identifies the root protection area of trees and has not identified any indirect negative impacts to trees by way of providing the development proposed. The report identifies the need for tree protection and an Arboricultural Method Statement.
- 9.87. The Arboricultural report also advises that the site provides an opportunity to undertake new tree planting throughout the site as part of a soft landscaping scheme. Landscaping is a matter reserved for later approval, however it is clear to see how this can be achieved as the whole of the northern part of the site is set aside as public open space. The incorporation of street trees within the built up area would need careful consideration given the need for views towards the listed church to be provided.
- 9.88. Policy BSC11 requires the provision of approximately 0.26ha of open space for a development of the scale proposed. The site provides a large area of open space to the north which would significantly exceed this requirement. The applicant has looked at the Council's Open Space studies and has noted that this demonstrates a shortfall in green spaces and play areas across the rural north of the District. It is their view that on this basis, the overprovision of green space on their site should

attract weight in favour of the development. This is particularly on the basis that it will enhance the green infrastructure network, would provide a children's play area, would provide seating facing north to create a space with views towards the Church and provide enhancements to the public right of way network. A discussion has been requested with the Landscape Officer regarding the composition of the open space to ensure that it responds as positively as it can to the identified shortfall.

- 9.89. The provision of a large area of open space is beneficial. Its contribution towards general green/ amenity space provision is noted, however in this case, the reason this area has been left aside rather than proposed for development is due to site constraints (i.e. topography) and the need to provide areas for sustainable drainage. The overprovision of open space, whilst carrying some weight in favour of the development is not considered to override the unacceptable impacts of the development in this case. The provision of open space is a normal requirement related to development and, whilst there are some benefits to this, this attracts minor weight in the planning balance.
- 9.90. Policy AD2 of the Adderbury Neighbourhood Plan provides for a Green Infrastructure Network around and within the village. This comprises a variety of green infrastructure assets including amongst others, footpaths and bridleways. The policies maps identify the public rights of way to the east and north of the site as sitting within the green infrastructure network. The policy requires that the value and integrity of the network is maintained and enhanced. It is accepted that this proposal would comply with Policy AD2 by maintaining the existing routes, contributing to their enhancement and by the provision of open space adjacent to (albeit changing that from farmland, which in itself is not harming those routes).
- 9.91. In respect of play space, the site is required to provide a Local Area of Play as required by Policy BSC11 now that the proposal is for only 40 dwellings. This is currently shown within the area of open space but the location has been raised as a concern by the Landscape Officer. As the layout provided is indicative only, the play facility can be changed in the future as it is not fixed (other than by way of the proposed parameter plan), albeit if it were moved into the area of the site shown for built development, then this may impact upon the number of units that could be provided.
- 9.92. The site does not exceed the threshold for the onsite provision of formal outdoor sports facilities or for allotments. There is a requirement for contributions towards offsite sports facilities.

Ecology Impact

Legislative context

- 9.93. The Conservation of Habitats and Species Regulations 2017 consolidate the Conservation of Habitats and Species Regulations 2010 with subsequent amendments. The Regulations transpose European Council Directive 92/43/EEC, on the conservation of natural habitats and of wild fauna and flora (EC Habitats Directive), into national law. They also transpose elements of the EU Wild Birds Directive in England and Wales. The Regulations provide for the designation and protection of 'European sites', the protection of 'European protected species', and the adaptation of planning and other controls for the protection of European Sites.
- 9.94. Under the Regulations, competent authorities i.e. any Minister, government department, public body, or person holding public office, have a general duty, in the exercise of any of their functions, to have regard to the EC Habitats Directive and Wild Birds Directive.

- 9.95. The Regulations provide for the control of potentially damaging operations, whereby consent from the country agency may only be granted once it has been shown through appropriate assessment that the proposed operation will not adversely affect the integrity of the site. In instances where damage could occur, the appropriate Minister may, if necessary, make special nature conservation orders, prohibiting any person from carrying out the operation. However, an operation may proceed where it is or forms part of a plan or project with no alternative solutions, which must be carried out for reasons of overriding public interest.
- 9.96. The Regulations make it an offence (subject to exceptions) to deliberately capture, kill, disturb, or trade in the animals listed in Schedule 2, or pick, collect, cut, uproot, destroy, or trade in the plants listed in Schedule 4. However, these actions can be made lawful through the granting of licenses by the appropriate authorities by meeting the requirements of the 3 strict legal derogation tests:
- (1) Is the development needed to preserve public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment?
 - (2) That there is no satisfactory alternative.
 - (3) That the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.
- 9.97. The Regulations require competent authorities to consider or review planning permission, applied for or granted, affecting a European site, and, subject to certain exceptions, restrict or revoke permission where the integrity of the site would be adversely affected. Equivalent consideration and review provisions are made with respects to highways and roads, electricity, pipe-lines, transport and works, and environmental controls (including discharge consents under water pollution legislation).

Policy Context

- 9.98. Paragraph 170 of the NPPF states that Planning policies and decisions should contribute to and enhance the natural and local environment by (amongst others): a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils; and d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 9.99. Paragraph 175 states that when determining planning applications, local planning authorities should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.
- 9.100. Paragraph 180 of the NPPF states that planning decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should (amongst

others) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

- 9.101. Policy ESD10 of the Cherwell Local Plan 2011-2031 lists measures to ensure the protection and enhancement of biodiversity and the natural environment, including a requirement for relevant habitat and species surveys and associated reports to accompany planning applications which may affect a site, habitat or species of known ecological value.
- 9.102. Policy ESD11 is concerned with Conservation Target Areas (CTAs), and requires all development proposals within or adjacent CTAs to be accompanied by a biodiversity survey and a report identifying constraints and opportunities for biodiversity enhancement.
- 9.103. These policies are both supported by national policy in the NPPF and also, under Regulation 43 of Conservation of Habitats & Species Regulations 2017, it is a criminal offence to damage or destroy a breeding site or resting place, unless a licence is in place.
- 9.104. The Planning Practice Guidance dated 2014 post dates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that Local Planning Authorities should only require ecological surveys where clearly justified, for example if there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.

Assessment

- 9.105. In this case, an Ecological Appraisal and Biodiversity Impact Assessment has been carried out, with an updated walkover of the site in 2019. The site comprises largely semi improved and improved grassland which will largely be lost under the proposals with a couple of additional habitats proposed to be created. The reports also identified that the site has some ecological value for amphibians, bats and birds and identifies mitigation requirements including the need for updated survey work.
- 9.106. The Council's Ecologist has confirmed that the surveys carried out to date are fine and should permission be granted; additional survey work would be required in certain conditions as set out in the Ecological Appraisal. This could be conditioned to ensure the necessary safeguards and mitigation measures are carried out.
- 9.107. The Biodiversity Impact Assessment has demonstrated that a net gain for biodiversity could be achieved of around 4% with the current proposed layout but this is reliant on some of the semi-improved grassland being fenced off to achieve a moderate condition. Other amenity grassland would not necessarily be fenced off and so its condition is queried. In any event, the Council's Ecologist considers that a greater level of net gain needs to be achieved including to seek a minimum of 10% in biodiversity net gain as has been agreed by the Council's Executive and that offsetting should not be ruled out. Either way, the achievement of net gain needs to be balanced against other matters, including the provision of useable open space. In this case it is not considered necessary to include a reason for refusal relating to the lack of achievement of a net gain for biodiversity because Policy ESD10 does not set a required level and the applicant has demonstrated that a net gain can be achieved. In addition, it is possible that a greater net gain than 4% could be achieved if a detailed scheme were being considered.

9.108. Biodiversity enhancements are suggested for the site within the Ecological Appraisal and a planning condition could be used to secure a scheme for their provision in line with advice regarding the level of provision required. The requirement for a lighting strategy could also be the subject of a planning condition.

Conclusion

9.109. Officers are satisfied, on the basis of the advice from the Council's Ecologist that the welfare of any European Protected Species found to be present at the site and surrounding land will continue and be safeguarded notwithstanding the proposed development and that the Council's statutory obligations in relation to protected species and habitats under the Conservation of Habitats & Species Regulations 2017, have been met and discharged. Should the application have been recommended for approval, planning conditions would have been required to ensure the impacts were controlled.

Environmental Matters

9.110. The application is accompanied by a contaminated land desk study. This identifies that there is a low to moderate risk for ground gas and contamination across the site and that there may be a need for remedial action. Intrusive investigation is recommended to further assess potential risks. Given this conclusion, planning conditions could be recommended to require further contaminated land assessment and to secure appropriate mitigation if this application were to be recommended for approval and this is recommended by the Council's Environmental Protection Team.

9.111. The Environmental Protection Team have recommended a condition to request an air quality impact assessment and to ensure the provision of infrastructure to allow for the future installation of electric vehicle charging infrastructure. A Construction Environment Management Plan is also requested. Based on this, it is considered that any environmental risks can be adequately controlled through the provision of additional information that could be requested via planning conditions.

9.112. A Utility Statement has been submitted confirming that the utilities infrastructure within the vicinity of the site appears to be capable of supporting new mains and services to serve the proposed residential development. There is existing electric, gas, water and telecoms services immediately adjoining the site and these should have sufficient capacity to serve the development and the proposal should not place any undue stress on the delivery of these services to the wider community.

Sustainability and Energy Efficiency

9.113. The Cherwell Local Plan includes a number of energy policies in order to seek development which mitigates and adapts to the future predicted climate change. This relates to locating development in sustainable locations as well as seeking to reduce energy use, making use of renewable energy and sustainable construction techniques as well as achieving reductions in water use. Mitigating and adapting to climate change in order to move to a low carbon economy is a key part of the environmental role of sustainable development set out in the Framework.

9.114. The application is not accompanied by a Sustainability or Energy Statement but sustainability is important with regard to how development adapts to future climate change. This is a matter that it is considered could be addressed by the imposition of a planning condition if the application were to be recommended for approval.

Planning Obligations

9.115. Notwithstanding the Officer's recommendation of refusal, should Members resolve to approve the application, a S106 Legal agreement would be required to be entered into to secure mitigation resulting from the impact of the development both on and off site. This would ensure that the requirements of Policy INF1 of the Local Plan can be met, which seeks to ensure that the impacts of development upon infrastructure including transport, education, health, social and community facilities can be mitigated. This includes the provision of affordable housing. The Authority is also required to ensure that any contributions sought meet the following legislative tests, set out at Regulation 122 of the Community Infrastructure Regulations 2011 (as amended):

- Necessary to make the development acceptable in planning terms;
- Directly relate to the development; and
- Fairly and reasonable related in scale and kind to the development

9.116. The following are sought through this application but Officers have not entered into negotiations with the applicant in respect of these matters due to the recommendation:

- Affordable housing – 35% overall, with the split of 70% social rent and 30% intermediate together with arrangements for its provision
- Play provision in the form of a LAP and arrangements for its long term management and maintenance.
- Open space provisions to include the laying out and regulation of such areas and arrangements for the long term management and maintenance including the provision of commuted sums towards surface water drainage features, public open space and hedgerows.
- Contribution towards the enhancement of public transport services serving the site to pump prime bus services on the A4260.
- Contribution towards the provision of two sets of bus stop pole and premium route standard flags and a bus shelter, plus a commuted sum for long term maintenance.
- Contribution towards access mitigation measures on local public rights of way to the east and north of the site (Footpaths 13, 6, 5 and 24 and bridleway 9). This would fund surface improvement, signing and furniture along the routes.
- Administration costs towards a Traffic Regulation Order to enable the relocation of the existing 30mph speed signage from its current location to a point further east close to the junction with the A4260 to bring the entire Berry Hill Road to 30mph.
- An obligation to enter into a S278 Agreement prior to the commencement of the development.
- Contribution towards Nursery and Primary education to be used towards expanding nursery and primary provision at Christopher Rawlins CE (VA) Primary School.

- Contribution towards Secondary education to be used towards expanding secondary provision at The Warriner School.
- Contribution towards offsite outdoor sports towards the development of sports pitches and changing facilities off Milton Road in Adderbury
- Contribution towards off-site indoor sports towards the expansion of/ improvements at Spiceball Leisure Centre in Banbury (which will serve the new residents)
- Contribution towards the development of community hall facilities off Milton Rd in Adderbury
- Likely contribution towards the improvement of local primary medical care facilities. This matter will need to be checked with the CCG as they have not responded to this planning application but a request was made with respect to the previous application 17/02394/OUT.
- The requirement for an apprenticeship and skills training plan to secure apprenticeships.
- Contributions towards waste and recycling bins

Justification for the requested planning obligations and full details of contributions are available on the file.

9.117. Adderbury Parish Council has prepared a list of requests to secure community benefit. These matters would need to be considered against the statutory tests for the request of planning obligations as set out at paragraph 9.107.

9.118. The applicant has entered into some discussion with the Council's Recreation and Leisure Team regarding the requested contributions towards the new leisure facilities proposed on the Milton Road in Adderbury to gain an understanding of how this project is likely to be funded. As it stands the Parish Council intend to use S106 contributions and external grants to fund the project; however, they have not secured all of the contributions at this stage and so there is currently a funding gap. The applicant's view is that their contribution towards this project would be of significant benefit to the recreation scheme off Milton Road and therefore to the residents of Adderbury. Their view is that, if this scheme were approved, the leisure proposals would be more likely to come forward and therefore enhance the sustainability of the village.

9.119. The application's contributions to the leisure project on the Milton Road in Adderbury would contribute to the project but this would be a proportionate contribution based on the number of new dwellings and would not fill the funding gap. It can only therefore be attributed neutral weight in the planning balance as it is a contribution required to make the development acceptable. In any event, a planning obligation must meet the tests set out at paragraph 9.107 and whilst it must be sought to make the development acceptable in planning terms, this must be balanced against any other impacts of the development. In this case, it is not considered that the requested contributions would outweigh the unacceptable impacts identified.

9.120. Given that there is no legal agreement in place to secure the above referenced matters (notwithstanding the applicant may be prepared to enter into such an agreement), it is necessary for a refusal reason to be imposed as there is no

certainty that the infrastructure necessary to make the development acceptable in planning terms will be secured.

Human Rights and Equalities

9.121. The Human Rights Act 1998 (“HRA”) sets out fundamental freedoms which have been laid out by the European Convention on Human Rights (“ECHR”). In making any decisions, Cherwell District Council (“the Council”) should have due regard to and take into account any implications that may arise under the HRA. As a public authority, it is unlawful for the Council to act in a manner which is incompatible with the ECHR.

9.122. The rights under the ECHR which the Council views as being the most likely to affect planning matters are: Article 6 (the right to a fair trial); Article 8 (right to respect for private and family life); Article 14 (prohibition of discrimination); and Article 1 of the First Protocol (protection of property).

Article 6

9.123. Officers have considered these matters and have resolved that, whilst there are potential rights in play, these will not be affected by the application due to the application being publicised by way of neighbour letter, site notice and in the local press giving affected third parties the opportunity to comment on the application and their views taken into account when considering the application. In this case any comments/concerns raised by third parties are listed above and have been taken into account in assessing the application. In addition, third parties will be invited to the public meeting of the Planning Committee and have the opportunity to speak. Furthermore should a third party be concerned about the way the application was decided they could complain to the Local Government Ombudsman or if they question the lawfulness of a decision can appeal to the Courts for Judicial Review of the application.

Article 8 and Article 1 of the First Protocol

9.124. Officers have considered the duties under both Article 8 and Article 1 of the First Protocol and have resolved that the application does respect the private and family life of neighbours and does not fail to protect the neighbours’ property.

Duty under The Equalities Act 2010

9.125. S149 of the Equalities Act 2010 (“EA”) sets out what is known as the Public Sector Equality Duty (“PSED”). Under the PSED, the Council, as a public authority, must have due regard to the need to, inter alia, advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and has to foster good relations between persons who share a relevant protected characteristic and persons who do not share it. The protected characteristics to which the PSED refers are: (a) age; (b) disability; (c) gender reassignment; (d) pregnancy and maternity; (e) race; (f) religion or belief; (g) sex; (h) sexual orientation.

9.126. Officers have considered the application and resolved that none of the protected characteristics is affected or potentially affected by the application.

10. PLANNING BALANCE AND CONCLUSION

10.1. The overall purpose of the Planning system is to seek to achieve sustainable development as set out within the Framework. The three dimensions of sustainable

development must be considered, in order to balance the benefits against the harm in order to come to a decision on the acceptability of a scheme.

- 10.2. The proposed development would be located adjacent to a Category A settlement, however the village has already accommodated a significant proportion of the rural housing allowance and no further requirement for housing is identified through the Adderbury Neighbourhood Plan 2014-2031. In addition, the Local Planning Authority can currently demonstrate above a three year housing land supply; therefore there is no pressing need for further development. The site itself is positioned some distance from the main services and facilities within the village and therefore future occupiers are likely to be reliant on the private car, which conflicts with Government Guidance in the NPPF and Policies ESD1, BSC1, Villages 1 and Villages 2, which seek to guide rural housing development to locations which reduce the need to travel and reduce the impact on climate change.
- 10.3. The proposal would result in significant environmental harm in proposing development on an important open site on the edge of the village, outside of the Adderbury Settlement Boundary as defined by Policy AD1 of the Adderbury Neighbourhood Plan 2014-2031, intruding into the open countryside, causing urbanisation and being harmful to the rural setting of the village. The development would have a poorly integrated relationship with the prevailing character of Berry Hill Road by virtue of its scale and suburban character and this, combined with harm to the rural character of this part of the village would fail to reinforce local distinctiveness. This would be contrary to Policies AD1 of the Neighbourhood Plan, Policies ESD13, 15 and Villages 2 of the Cherwell Local Plan 2011-2031 and saved policies C8, C27, C28 and C33 of the Cherwell Local Plan 1996.
- 10.4. The site affords positive views across the landscape towards the grade I listed Church of St Mary. The development of the site would change the rural setting of this part of the village and obscure views of the church. Whilst it is possible that some views could be achieved and negotiated through a reserved matters application, there would nevertheless be harm and there are not considered to be public benefits that would outweigh this less than substantial harm.
- 10.5. The development would however contribute affordable housing (including social rented units) and this as well as the construction of dwellings (of an appropriate mix in terms of dwelling size) would bring some economic and social benefits. The application site would also provide a large area of open space which could enable greater public views towards the listed church from the northern part of the site, which has some environmental benefits. The proposal could also make S106 contributions towards various local infrastructure albeit of a proportionate level arising to meet the needs of the development itself which could bring social benefits (however given there is no completed S106 in place there is no certainty of this at this point in time).
- 10.6. However, these benefits are not considered to outweigh the significant environmental harm identified. On this basis and combined with the reasons set out through this appraisal as well as the identified conflict with the policies of the Development Plan, Officers conclude that the proposal does not constitute sustainable development and recommend the application for refusal.

11. RECOMMENDATION

RECOMMENDATION - REFUSAL FOR THE REASONS SET OUT BELOW

- 1 The development proposed, by reason of its scale and siting beyond the built up limits of the village, in open countryside and taking into account the number of

dwellings already permitted in Adderbury, with no further development identified through the Adderbury Neighbourhood Plan 2014-2031, is considered to be unnecessary, undesirable and unsustainable development. The site itself is in an unsustainable location on the edge of the village, distant from local services and facilities and would result in a development where future occupiers would be highly reliant on the private car for day to day needs. The proposal is therefore unacceptable in principle and contrary to Policies ESD1, BSC1, SLE4 and Villages 2 of the Cherwell Local Plan (2011-2031) Part 1, Saved Policy H18 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

- 2 The development proposed, by virtue of its poorly integrated relationship with existing built development, its extension beyond the built limits of the village (beyond the Adderbury Settlement Boundary as defined in the Adderbury Neighbourhood Plan 2014 - 2031) causing significant urbanisation and its visual impact on the rural character, appearance of the locality and local settlement pattern, would cause unacceptable harm to the character and appearance of the area and the rural setting of the village and would fail to reinforce local distinctiveness. It would also result in 'less than substantial' harm to the setting of the Church of St Mary and the harm stemming from the proposals is not considered to be outweighed by any public benefits. The proposal is therefore contrary to Policies ESD13, ESD15 and Villages 2 of the Cherwell Local Plan (2011-2031) Part 1, Saved Policies C8, C27, C28 and C33 of the Cherwell Local Plan 1996, Policy AD1 of the Adderbury Neighbourhood Plan - 2014 - 2031 and Government guidance contained within the National Planning Policy Framework.
- 3 In the absence of the completion of a satisfactory S106 Planning Agreement, the Local Planning Authority is not convinced that the necessary infrastructure directly required both on and off site as a result of this development, in the interests of safeguarding public infrastructure, mitigating highway safety concerns, delivering mixed and balanced communities by the provision of affordable housing and securing on site future maintenance arrangements will be provided. This would be contrary to Policy INF1, PSD1, BSC2, BSC9, BSC11 and ESD7 of the adopted Cherwell Local Plan (2011-2031) Part 1 and the advice within the National Planning Policy Framework.

CASE OFFICER: Caroline Ford

TEL: 01295 221823

Agenda Item 9 19/01675/F

60-62
Broad Street
Banbury
OX16 5BL

PEPPER ALLEY

BROAD STREET

44

63 to 67

Club

60 to 62

56 to 59

5555

55a

5454

77

88

1616

1717

1414

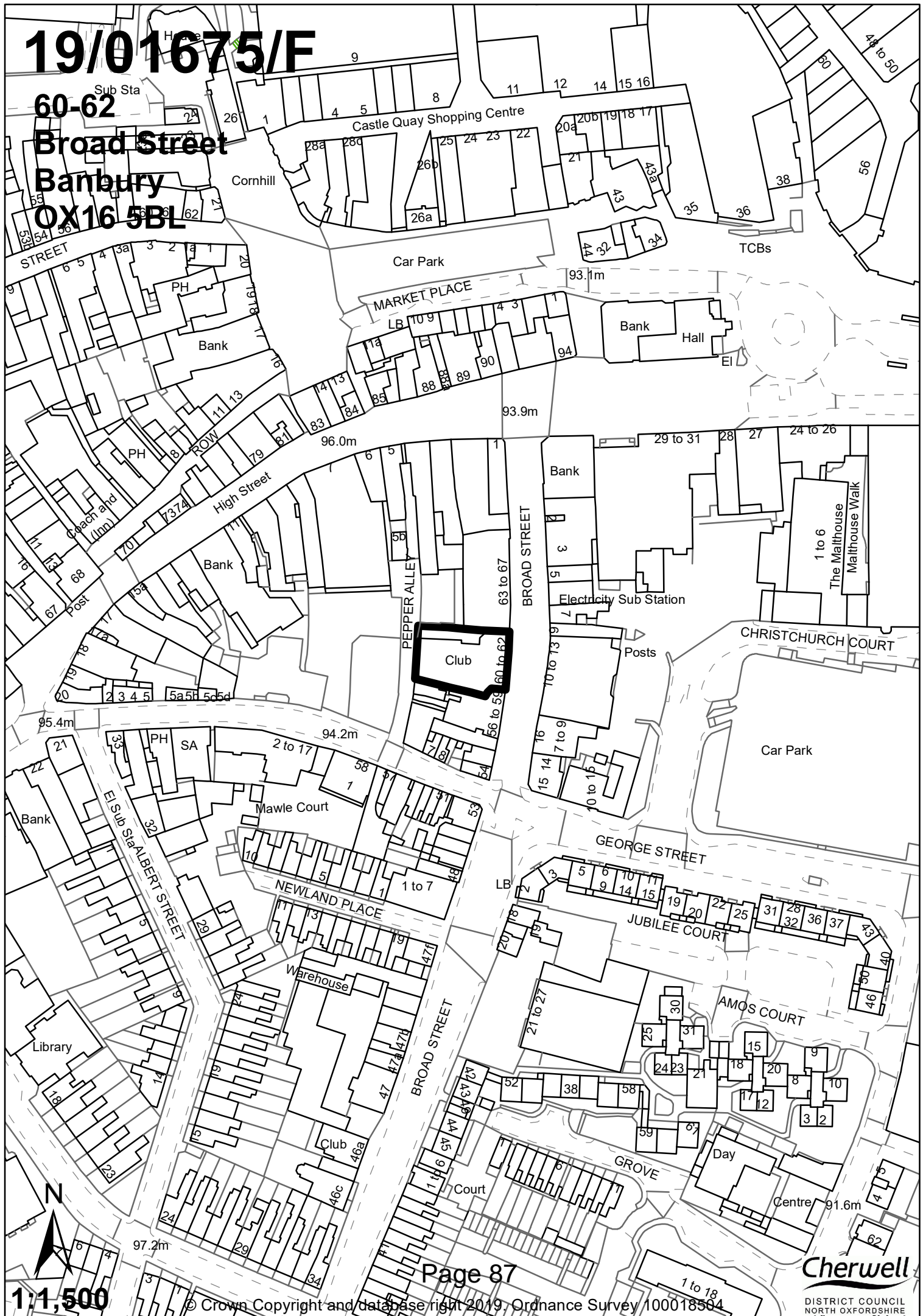


1:300

19/01675/F

60-62

Broad Street Banbury OX16 5BL



Case Officer: Matthew Chadwick

Applicant: Novika Limited

Proposal: Alterations to building and Change of Use to form retail unit at the front at ground floor level and two office units at the rear at ground floor level and the provision of 12 No self-contained dwellings at first, second and third floor level

Ward: Banbury Cross and Neithrop

Councillors: Councillor Hannah Banfield
Councillor Surinder Dhesi
Councillor Cassi Perry

Reason for Referral: Major development

Expiry Date: 23 December 2019

Committee Date: 16 January 2020

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS

Proposal

Planning consent is sought to make alterations to the building and change its use to form one retail unit on ground floor facing Broad Street, two office units at ground floor facing Pepper Alley and twelve flats at first, second and third floor level.

Consultations

The following consultees have raised **objections** to the application:

- OCC Drainage

The following consultees have raised **no objections** to the application:

- Banbury Town Council, CDC Environmental Health, OCC Highways, Thames Valley Police Design Advisor, Thames Water

No letters have been received from the public in support or objection.

Planning Policy and Constraints

The building is locally listed and is within the Banbury Conservation Area. The site lies within a potentially contaminated land buffer zone. Swifts, Whiskered Bats and Brown Long-eared bats have been located in proximity of the site, which are protected species. The site lies within an area of archaeological interest.

The application has also been assessed against the relevant policies in the NPPF, the adopted Local Plan and other relevant guidance as listed in detail at Section 8 of the report.

Conclusion

The key issues arising from the application details are:

- Principle of Development

- Design and impact on the character of the area
- Residential amenity
- Highway safety
- Affordable housing
- Drainage
- Protected species
- Archaeology

The report looks into the key planning issues in detail, and Officers conclude that the proposal is acceptable subject to conditions.

Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and recommendations, and Members are advised that this summary should be read in conjunction with the detailed report.

MAIN REPORT

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site is located in Banbury town centre and has a frontage onto Broad Street where the road is pedestrianised and backs onto Pepper Alley to the west. The existing building covers the entirety of the site and is a non-designated heritage asset, described in the Council's own listing document as a 'Former Cinema - c.1930s Art-deco / Egyptian cinema'. The application site also includes the 3 storey brick building to the north of the main part of the former cinema building. The building was last used as a night club but was vacant for a number of years before being redeveloped as part of planning consent 16/02529/F.

2. CONSTRAINTS

- 2.1. The application building is not statutorily listed but is located within the Banbury Conservation Area and is locally listed. The site lies within a potentially contaminated land buffer zone. Swifts, Whiskered Bats and Brown Long-eared bats have been located in proximity of the site, which are protected species. The site lies within an area of archaeological interest.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. Planning permission is sought for alterations and extensions to the building and its conversion to form one retail unit at ground floor level facing Broad Street, two office units at ground floor level facing Pepper Alley, with 12 flats above arranged over 3 floors.
- 3.2. The ground floor would be used for one retail unit, which would have a frontage onto Broad Street, and two office units which would have a frontage onto Pepper Alley. The cycle storage for both the flats and the retail units would be contained on the ground floor, as would the bin storage.
- 3.3. The residential accommodation would be arranged in two blocks of accommodation above the ground floor retail and office units. The frontage block that would face onto Broad Street would accommodate 6 flats (2 x 2 beds and 4 x 1 beds) across three floors. The rear block that would face onto Pepper Alley would accommodate 6 one-bedroom flats across two floors.

- 3.4. The proposed development would retain the existing art deco façade of the building that faces onto Broad Street, including the stepped parapet element. There would be some alterations to this frontage, which would relate to the repositioning of windows and decorative banding and the raising of the lintel of the balcony. There would also be some changes to the shop fronts, with new openings created for both the shops and access to the flats.
- 3.5. The frontage onto Pepper Alley would be three storeys in height and would be externally faced in red brick under a pitched roof faced in natural slate.

4. RELEVANT PLANNING HISTORY

- 4.1. The following planning history is considered relevant to the current proposal:
- 4.2. CHN.699/80: Alterations to internal area, and extension to existing bingo club with amendment to shopfront APPROVED 22 December 1980
- 4.3. 98/01724/F: Change of use from bingo hall (Class D2) to restaurant (Class A3) APPROVED 15 December 1998
- 4.4. 99/00927/F: Proposed alterations to front and rear elevations (as amended by plans received on 3.6.99 and as clarified by agent's letter dated 22.6.99) APPROVED 29 June 1999
- 4.5. 14/00859/F: Alterations and minor extensions to the front and rear facades and change of use to accommodate 2 retail units at ground floor level, 2 mews houses with integral parking to the rear and 6 self-contained flats APPROVED 30 September 2014
- 4.6. 16/00292/F: Proposed extension, alteration and change of use to form 3 no. retail units and 14 no. self-contained flats WITHDRAWN 31 May 2016
- 4.7. 16/02529/F: Alterations to building and change of use to form retail units at ground floor level and 12 No self-contained flats over – re-submission of 16/00292/F APPROVED 24 April 2017

5. PRE-APPLICATION DISCUSSIONS

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

6. RESPONSE TO PUBLICITY

- 6.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was **24 September 2019**, although comments received after this date and before finalising this report have also been taken into account.
- 6.2. No comments have been raised by third parties.

7. RESPONSE TO CONSULTATION

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

TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

7.2. BANBURY TOWN COUNCIL: **No objections.**

CONSULTEES

7.3. CDC BUILDING CONTROL: The proposed layout does not appear to be in accordance with Approved Document B for means-of-escape. There appears to be a lack of smoke ventilation within the common areas. Some of the opening windows to some of the units overlook the common escape routes. There appears to be inadequate access to all parts of the building for fire rescue vehicles (45 m rule).

7.4. OCC DRAINAGE: **Objects**, due to insufficient information.

7.5. CDC ENVIRONMENTAL HEALTH: **No objections.**

7.6. OCC HIGHWAYS: **No objections**, subject to conditions requiring a CTMP, cycle parking provision and a travel information pack.

7.7. CDC LICENSING: No comments to make.

7.8. CDC RECREATION AND LEISURE: No comments received.

7.9. THAMES VALLEY POLICE DESIGN ADVISOR: **No objections**, subject to a condition stating prior to commencement of development, an application shall be made for Secured by Design accreditation on the development hereby approved. The development shall be carried out in accordance with the approved details, and shall not be occupied or used until confirmation of SBD accreditation has been received by the authority.

7.10. THAMES WATER: **No objections**, subject to a planning note stating that 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

8. RELEVANT PLANNING POLICY AND GUIDANCE

8.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

8.2. The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the ‘saved’ policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District’s statutory Development Plan are set out below:

CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2031 Part 1)

- PSD1 – Presumption in Favour of Sustainable Development
- SLE2 – Securing Dynamic Town Centres
- SLE4 – Improving Transport and Connections
- 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
- ESD1 – Mitigating and Adapting to Climate Change
- ESD3 – Sustainable Construction
- ESD6 – Sustainable Flood Risk Management
- ESD7 – Sustainable Drainage Systems
- ESD10 – Protection and Enhancement of Biodiversity and Natural Environment
- ESD15 – The Character of the Built and Historic Environment
- Banbury 7 – Strengthening Banbury Town Centre
- INF1 - Infrastructure

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C23 – Features in conservation areas
- C28 – Layout, design and external appearance of new development
- C30 – Design control
- ENV1 – Development likely to cause detrimental levels of pollution

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- Cherwell Residential Design Guide (2018)

9. APPRAISAL

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

- Principle of development
- Design, impact on the character of the area and heritage assets
- Residential amenity
- Highway safety
- Drainage
- Financial contributions

Principle of Development

Policy Context

- 9.2. Paragraph 85 of the NPPF states that planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation. Planning policies should define a network and hierarchy of town centres and promote their long-term vitality and viability by allowing them to grow and diversify and allow a suitable mix of uses (including housing).
- 9.3. Policy Banbury 7 of the Cherwell Local Plan 2011 – 2031 Part 1 states that retail and other main town centre uses will be supported within the town centre boundary. It goes on to state that residential development will be supported in appropriate locations in the town centre except where it will lead to the loss of retail or other main town centre uses. It further states mixed use development will be encouraged.

- 9.4. Policy SLE2 of the Cherwell Local Plan 2011 – 2031 Part 1 also looks to guide retail development towards town centre and Policy BSC2 of the Cherwell Local Plan 2011 – 2031 Part 1 seeks to make effective use of land and states the Council will encourage the re-use of previously developed land such in sustainable locations.

Assessment

- 9.5. The site is located within the town centre of Banbury as identified in Policy Banbury 7. The application site has a significant amount of history and was originally built in 1911 as a 500-seat, Grand Theatre. It was remodelled in the 1930s as an art deco Egyptian cinema. It was later used as a bingo hall until 1998 when planning permission was granted to change the use of the building from a bingo hall (use class D2) to a restaurant (use A3). It was in use as the Chicago Rock Café for a number of years and the most recent use was as a nightclub known as Wonderlounge (albeit that latter use did not benefit from planning permission).
- 9.6. The change of use to retail at ground floor with twelve flats above was approved under 16/02529/F in 2017 and this consent has been implemented. Given the town centre location where retail with flats above is considered to be acceptable in principle and this planning history, the principle of development for these elements of the scheme is considered to be acceptable.
- 9.7. The difference between the previously approved scheme and this proposal is that only one retail unit is now proposed onto Broad Street and two office units are proposed onto Pepper Alley. Offices are a main town centre use and therefore the principle of development for this element of the scheme is also considered to be acceptable. Offices have been approved on the ground floor of the new development to the north of the application site on Pepper Alley (16/00970/F) and the provision of office space in this area would increase activity and surveillance onto Pepper Alley relative to that of the previously approved scheme. The one retail unit now proposed would be smaller than the larger of the two approved retail units. However, given that there are a number of larger retail units vacant within the town centre it is considered that the provision of a retail unit of this size would be acceptable.

Conclusion

- 9.8. For the reasons set out, the principle of development is therefore considered to be acceptable and the development would comply with Policies SLE2, BSC2 and Banbury 7 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance contained within the NPPF.

Design, impact on the character of the area and heritage assets

Legislative and policy context

- 9.9. The site is within the Banbury Conservation Area. The building is locally listed and is therefore a non-designated heritage asset in its own right.
- 9.10. Policy ESD15 of the Cherwell Local Plan Part 1 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.
- 9.11. Saved Policy C23 of the Cherwell Local Plan 1996 states that there will be a presumption in favour of retaining buildings and other features which make a positive contribution to the character and appearance of the Conservation Area.

- 9.12. Saved Policy C28 of the Cherwell Local Plan 1996 reflects Government guidance in relation to the design of new development by seeking to ensure that such development is in harmony with the general character of its surroundings and is sympathetic to the environmental context of the site and its surroundings.
- 9.13. Saved Policy C30 states that new housing development should be compatible with the appearance, character, layout, scale and density of existing dwellings in the vicinity.
- 9.14. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that in carrying out its functions as the Local Planning Authority in respect of development in a conservation area: *special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.*
- 9.15. Conservation Areas and Listed Buildings are designated heritage assets, and Paragraph 193 of the NPPF states that: *when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.* Policy ESD15 of the CLP 2031 Part 1 echoes this guidance.
- 9.16. Paragraph 197 of the NPPF 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.

Assessment

- 9.17. The design of the scheme is very similar to the previously approved scheme, with the most significant changes being to the Pepper Alley elevation and the creation of the office units.
- 9.18. As with the previously approved application, the current application would retain the façade of the building onto Broad Street. This striking façade, with its art-deco appearance and stepped parapet roof, is considered to be the most significant element of the building and its architectural appearance is considered to be the key reason why the building is on the Councils local list. The fenestration of the building would be altered with the window positions and banding which runs across the front elevation of the building being altered which is similar to the earlier approval. There would also be alterations to the shop front details onto Broad Street. The frontage to the former Grand would broadly be retained with the exception of the most southern part which would have a new shop front. A new shop front and recessed gate to provide access to the residential floors on upper floors would also be provided to the 3 storey building to the north of the site. Further details of these elements can be secured by condition. It is worth noting that all of these elements have been previously approved.
- 9.19. It is considered that the alterations to the frontage of the building would retain the art-deco appearance and character of the building and it would still be possible to read the two buildings as separate, which they historically were. Furthermore, all of these changes to the Broad Street elevation have been previously approved under 16/02529/F and are therefore considered to be acceptable.
- 9.20. Apart from the main frontage of the building onto Broad Street, the remainder of the building would undergo substantial alteration and extension. These other parts of

the buildings are not considered to be of such significance to the character and appearance of the Conservation Area. Therefore, in reaching a balanced judgement, as requested by paragraph 196 of the NPPF, the loss and alteration of these other elements is considered acceptable subject to the new development being appropriate to the Conservation Area.

- 9.21. The main part of the frontage residential block facing onto Broad Street would be accommodated within a 4 storey gabled extension which would be situated behind the main stepped parapet roof of the façade of the building, whilst there would be another smaller 4 storey gabled extension which would accommodate the stairways giving access to the residential units. The top two floors of this would be rendered with brick quoins, whilst the second floor level would be constructed from brick to match that used on the rear of the buildings. This would be largely screened by the existing parapet roof and the surrounding building from street level and therefore it is not considered that this would not lead to any significant harm to the character and appearance of the Conservation Area.
- 9.22. The rear of the site faces onto Pepper Alley. Pepper Alley has a very different character and appearance to Broad Street and it is noted within the Conservation Area Appraisal as an interlinking historic lane stemming from the medieval origins of the town. The alley is characterised by a mix of warehouse buildings with a commercial character and appearance. There is a high sense of enclosure along Pepper Alley and it has a mix of 2 and 3 storey buildings which add to the rhythm of the street scene and helps to break up the massing of the buildings. Whilst some of the buildings are currently in a poor state of repair and have a rather dilapidated appearance, there are positive elements which add to the character and appearance of the Conservation Area and in recent years a number of redevelopment schemes have been approved with the area being regenerated. One of these schemes is directly to the north of the application site.
- 9.23. The part of the building that would face onto Pepper Alley would be three storeys in height and would accommodate 6 flats. The proposed development would use red brick and slate, materials which are considered appropriate in the context of the simple palette of materials seen on buildings on Pepper Alley. The development would be three storeys in height and would be of a similar scale to the buildings which it would sit adjacent to and is therefore considered appropriate in terms of scale.
- 9.24. The main change in this proposal is the creation of the office units at ground floor level, which would create windows and doors facing onto Pepper Alley. In the approved scheme there were larger doors for a fire escape and entrance to the loading bay of the retail unit. These changes would result in the building appearing slightly less commercial than the approved scheme however the doors and window are aligned with the other openings on the building which would result in a well-designed building. Given the overall design of this element of the building, it is still considered that it would appear commercial and not overly domestic in its design and that it is acceptable in this regard.

Conclusion

- 9.25. This proposal would alter the appearance of the building that currently faces onto Pepper Alley. However, it would retain the commercial style and appearance of the building which is characteristic of the development in Pepper Alley. The proposed design would also provide improved surveillance on Pepper Alley with the creation of windows servicing the office and residential units, which is considered a positive element of the proposals. It is therefore considered that the simple design of the building would positively contribute to the character and appearance of the

Conservation Area and thus that the proposal complies with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policies C23, C28 and C30 of the Cherwell Local Plan 1996 and Government guidance contained within the NPPF.

Residential amenity

- 9.26. Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1 states that new development proposals should consider amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation and indoor and outdoor space.
- 9.27. The residential units would be constructed in two blocks that would be separated by a central courtyard at first floor level. This courtyard will have a communal amenity area which is considered to be a positive element of the proposals.
- 9.28. The two blocks housing the residential units would be separated by a distance of 12.5m. Cherwell Residential Design Guide (2018) specifies a minimum separation distance between residential units of 22m to prevent a loss of privacy.
- 9.29. In the town centre, given the higher density of development, residential units are often significantly closer proximity than 22m and residents do not expect the same level of amenity as they may in a suburban or rural area. Furthermore the 12.5m separation distance proposed under this scheme would significantly exceed that of the previously approved scheme from 2014 and is the same as that of the most recently approved scheme that has been implemented. Given the town centre location of the development, it is considered in this particular instance and for the reasons set out above that the relationship would not cause significant harm to the amenity of future occupiers with regards to loss of privacy or loss of outlook.
- 9.30. Given that neighbouring properties are predominantly commercial in character and the town centre location, the dwellings may be subject to noise from the day and night time economy. A condition was imposed on the extant permission which required a noise consultant's report to be submitted that demonstrated that the flats had acceptable levels of noise. The same condition would be included on any new permission given here.
- 9.31. It is therefore considered that the development would provide an acceptable standard of amenity for both existing occupiers nearby and future occupiers on the site with regards to overlooking, loss of privacy, over-domination and a loss of light and would comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C30 of the Cherwell Local Plan 1996 and Government guidance contained within the NPPF.

Highway safety

- 9.32. Policy SLE4 of the Cherwell Local Plan Part 1 states all development where reasonable to do so should facilitate the use of sustainable modes of transport to make the fullest possible use of public transport, walking and cycling. Policy ESD1 states the Council will support the delivery of development which seeks to reduce the need to travel and reduces dependence on private cars.
- 9.33. The Highways Officer has offered no objections to the application, subject to a number of conditions. These would relate to the submission of a travel information pack, a construction travel management plan and cycle parking details. These were all matters which were conditioned on the previously approved application.

- 9.34. The development would have no car parking spaces, which is the same as the previously approved scheme. Given the town centre location of the development and its proximity to transport services, including bus stops, the bus station and the railway station, it is acceptable for the development to not provide parking spaces on-site. As the streets in the locality all have some form of parking control, it is unlikely that there would be overspill car parking on nearby streets that would cause a safety and amenity problem.
- 9.35. Cycle parking is proposed to serve both the residential and retail units. Twenty cycle parking spaces would be provided to serve the residential units and this is considered to be an adequate level of provision for the residential units. A condition requiring full details of the cycle parking is also proposed.
- 9.36. A construction travel management plan and travel information pack would be required due to the town centre location of the development. A CTMP was approved under 18/00444/DISC and a travel information pack shall be included as a planning condition. Sustainable forms of travel should be encouraged and it should be ensured that the development has the least impact on the local highway network.
- 9.37. It is therefore considered that the development would not cause harm to the safety of the local highway network, subject to the inclusion of appropriately worded conditions and that the development would comply with Policies SLE4 and ESD1 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance contained within the NPPF.

Drainage

- 9.38. Policy ESD6 of the Cherwell Local Plan (2011-2031) Part 1 essentially replicates national policy contained in the NPPF with respect to assessing and managing flood risk. In short, this policy resists development where it would increase the risk of flooding and seeks to guide vulnerable developments towards areas at lower risk of flooding. Banbury 1 states development should take account of the Councils Strategic Flood Risk Assessment.
- 9.39. Policy ESD7 of the Cherwell Local Plan (2011-2031) Part 1 requires the use of Sustainable Drainage Systems (SuDS) to manage surface water drainage systems. This is with the aim to manage and reduce flood risk in the District.
- 9.40. The County Drainage Engineer has objected to the scheme due a lack of information. A drainage strategy was required by condition of the extant permission and a drainage strategy was submitted and approved under a discharge of condition application (18/00444/DISC). Given the similarities of the two schemes, it is considered that this drainage strategy remains to be acceptable and that it would be unreasonable to conclude otherwise.
- 9.41. It is therefore considered that the approved drainage strategy remains to be acceptable and that the development would comply with Policies ESD6 and ESD7 of the Cherwell Local Plan 2011 – 2031 Part 1 and that the development would be acceptable in this regard.

Financial contributions

Policy context

- 9.42. Policy BSC3 of the Cherwell Local Plan Part 1 states that all developments within Banbury and Bicester that include 11 or more dwellings (gross) will be expected to provide at least 30% of new housing as affordable homes on the site. This

provision expects 70% of the affordable housing as affordable/social rented dwellings and 30% as other forms such as shared ownership.

- 9.43. Policy BSC11 of the Cherwell Local Plan Part 1 states that all development proposals will be required to contribute to the provision of open space, sport and recreation, together with secure arrangements for its management and maintenance.
- 9.44. Policies BSC3 and BSC11 state where an applicant considers that this would make a scheme unviable and open book financial viability assessment will be required to be undertaken. Viability assessment is a process of assessing whether a site is financially viable, by looking at whether the value generated by a development is more than the cost of developing it.
- 9.45. Paragraph 57 of the NPPF states is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case. It states that all viability assessments, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available.
- 9.46. The PPG also provides guidance on defining the key inputs into viability assessments. This includes looking at the key elements of gross development value, costs, land value, landowner premium, and developer return.

Assessment

- 9.47. A legal agreement was signed for 16/02529/F which secured £224,000 towards affordable housing and £27,682.32 towards improvement of the existing play area at Old Parr Close.
- 9.48. In this case the applicant has argued that the site would not be financially viable with the provision of affordable housing on the site. The applicant has submitted a viability assessment to support its case which has been subject to consideration by an independent external consultant (Bidwells, in this instance) appointed by the Council to determine whether the key inputs and conclusions are reasonable and robust, having regard to the particular nature of the development and the site. A full copy of the applicant's viability assessment and Bidwells' review of viability on behalf of the Council is available to view on the Council's website.
- 9.49. It is important to note that for a development to be viable the value generated by a development must be more than the cost of its delivery. This includes looking at the key elements of gross development value, costs, land value, landowner premium, and developer return. Without a developer return and landowners' premium, development is unlikely to come forward.
- 9.50. The applicant's viability assessment concludes that it would not be viable to provide any financial contributions. The applicant's appraisal shows a negative residual land value of -£693,000 for the Proposed Scheme (this value is £1.618 million below AGA's proposed benchmark value of £925,000). The applicant therefore concludes that the Proposed Scheme is unviable and cannot sustain any level of financial contribution.
- 9.51. The external consultants' (Bidwells) review of this appraisal disagrees with some of the calculations in the applicants' viability appraisal. The most significant area of disagreement is that Bidwells' appraisal of the Proposed Scheme generates a positive residual land value of £40,861 on the assumption of no financial

contributions. Despite this, the residual land value would still be below the viability benchmark value of the site and the Bidwells review therefore agrees with the applicants' conclusion that the development could not viably sustain any level of financial contribution.

9.52. However, this conclusion is reached on the basis of a developer profit of 20% whereas the Government's planning practice guidance says that a profit of between 15% and 20% is reasonable in carrying out viability appraisals.

9.53. Whereas the profit margin would be c.10% if the affordable housing contribution was required, and 18% without any contributions, the profit margin would still be in the 15-20% bracket with the inclusion of the off-site contribution towards play space.

9.54. Overall it is therefore concluded on the basis of the information provided that the scheme cannot support an affordable housing contribution, whereas it has not been clearly demonstrated that the play area contribution is not viable given its smaller sum. However, the decision maker must consider whether the development meets the tests of Paragraph 56 of the NPPF.

9.55. Paragraph 56 of the NPPF states that planning obligations must only be sought where they meet all of the following tests:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

9.56. The proposed flats comprise 10 one-bedroom units and 2 two-bedroom units. Given that the majority of the occupiers of these flats are likely to be adults with no children, it is considered that this financial contribution is not necessary to make the development acceptable in planning terms and therefore does not meet the tests set out in paragraph 56 of the NPPF. As a result the play area contribution will not be sought.

Conclusion

9.57. The Council's independent review of the viability appraisal agrees that the development would not be viable with the financial contribution towards affordable housing and that officers conclude the LAP contribution would not meet the tests.

Other matters

9.58. The site is located within an area of archaeological interest, however given the nature of the proposed works it is considered that the development would not impact on any archaeological remains in the area.

9.59. The Council's Ecology Officer did not raise any issues with the previously approved application. Given the advanced status of the construction of the approved scheme and that there were no objections on the approved scheme, it is considered that the development would not cause harm in this regard.

10. PLANNING BALANCE AND CONCLUSION

10.1. The principle of changing the use of the site to accommodate retail and residential development has been previously approved and the extant consent has been implemented. The changes to the Broad Street façade are considered to be

relatively minor and would retain the art-deco appearance of the building, considered to be its most important feature and the reason for its listing as a Locally Listed Building. The alterations to the Pepper Alley frontage would result in a simple design that would sit comfortably in the context in which it is located, with regards to its scale, appearance and materials palette and would retain the enclosure that currently exists. Overall, they would preserve the character and appearance of the Conservation Area. It is considered that the development would provide an acceptable level of amenity to future and existing occupiers and that, subject to conditions, the development would not have a detrimental impact on the safety of the local highway network. The proposal would bring an empty site back into use and there would be social and economic benefits which weigh in favour of the development, in particular the provision of additional housing in an environmentally sustainable location. The lack of an affordable housing contribution weighs against the proposal. However, the applicant's viability assessment has demonstrated that the development would not be viable with the inclusion of this contribution, and the Council's independent assessment agrees. In accordance with the NPPF the weight to be given to a viability assessment is a matter for the decision maker. In this case the proposed development would provide twelve flats within the town centre of Banbury and result in the regeneration and reuse of a brownfield site. On balance, given the conclusions of the viability assessment, these factors are considered to outweigh the fact the proposal would not provide affordable housing. Overall, on balance, the development is therefore considered to be acceptable.

11. RECOMMENDATION

RECOMMENDATION – DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT TO **GRANT PERMISSION, SUBJECT TO THE CONDITIONS SET OUT BELOW** (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY)

CONDITIONS

Compliance with Plans

1. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: Location Plan (GAL 273 (PC) 100); Proposed Ground Floor Plan (GAL 273 (PC) 110); Proposed First Floor Plan (GAL 273 (PC) 111); Proposed Second Floor Plan (GAL 273 (PC) 112); Proposed Third Floor Plan (GAL 273 (PC) 113); Proposed East and West Elevations (GAL 273 (PC) 114); Typical Site Section 1 (GAL 273 (PC) 116); Typical Site Section 2 (GAL 273 (PC) 117) and Proposed Sectional Elevations West And East (GAL 273 (PC) 115).

The CTMP dated 16 October 2018 by Genesis Architects Ltd and the drawing titled Site Plan N.T.S. and the details titled 'Drawing Sketch', drawing number EX1800901/001 as approved under 18/00444/DISC.

Reason – For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and comply with Government guidance contained within the National Planning Policy Framework.

2. The external walls of the development to be constructed in brick shall be constructed in strict accordance with the brick sample panel approved under 18/00444/DISC.

Reason - To ensure the satisfactory appearance of the completed development

and to comply with 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 National Planning Policy Framework.

3. The roof of the development shall be externally faced in strict accordance with the slates approved under 18/00444/DISC.

Reason - To ensure the satisfactory appearance of the completed development and to comply with 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 National Planning Policy Framework.

4. The external walls of the development to be finished in render shall be carried out in strict accordance with the render sample approved under 18/00444/DISC.

Reason - To ensure the satisfactory appearance of the completed development and to comply with 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 National Planning Policy Framework.

5. Within one month of the date of this consent, full design details of the shop fronts facing onto Broad Street, including details of materials and finished colour, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the shop fronts shall be finished in accordance with the approved details.

Reason - To ensure the satisfactory appearance of the completed development and to comply with 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 National Planning Policy Framework.

6. Within one month of the date of this consent, full details of the rainwater goods servicing the development, including details of materials and finished colour, shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out other than in accordance with the approved details and shall be retained as such thereafter.

Reason - To ensure the satisfactory appearance of the completed development and to comply with 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 National Planning Policy Framework.

7. Prior to the first occupation of the development, a specialist acoustic consultant's report that demonstrates that internal noise levels do not exceed the levels specified (or gives details of mitigation measures required to achieve these levels) in the British Standard BS 8233:2014 'Guidance on Sound Insulation and Noise Reduction for Buildings', shall be submitted to and approved in writing by the Local Planning Authority. If required thereafter, and prior to the first occupation of the dwellings affected by this condition, the dwellings affected by this condition shall be insulated and maintained in accordance with the approved details.

Reason - To ensure the creation of a satisfactory environment free from intrusive levels of noise and to comply with Policy ESD15 of the Cherwell Local Plan 2011 - 2031 Part 1, Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

8. The development shall not be carried out other than in accordance with the CTMP approved under 18/00444/DISC.

Reason - In the interests of highway safety and the residential amenities of people living in the vicinity of the development and to comply with Policy ESD15 of the Cherwell Local Plan 2011 - 2031 Part 1, Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

9. Prior to the first use or occupation of the development hereby permitted, covered cycle parking facilities shall be provided on the site in accordance with details which shall be firstly submitted to and approved in writing by the Local Planning Authority. Thereafter, the covered cycle parking facilities shall be permanently retained and maintained for the parking of cycles in connection with the development.

Reason - In the interests of sustainability, to ensure a satisfactory form of development and to comply with Policies SLE4 and ESD15 of the Cherwell Local Plan 2011 - 2031 Part 1, and Government guidance contained within the National Planning Policy Framework.

10. A Travel Information Pack, the details of which are to be submitted to and approved in writing by the Local Planning Authority prior to first occupation of the development, shall be provided to every household upon their first occupation of the development.

Reason - In the interests of sustainability, to ensure a satisfactory form of development and to comply with Policies SLE4 and ESD15 of the Cherwell Local Plan 2011 - 2031 Part 1, and Government guidance contained within the National Planning Policy Framework.

11. The development shall not be carried out other than in accordance with the drainage scheme approved under 18/00444/DISC.

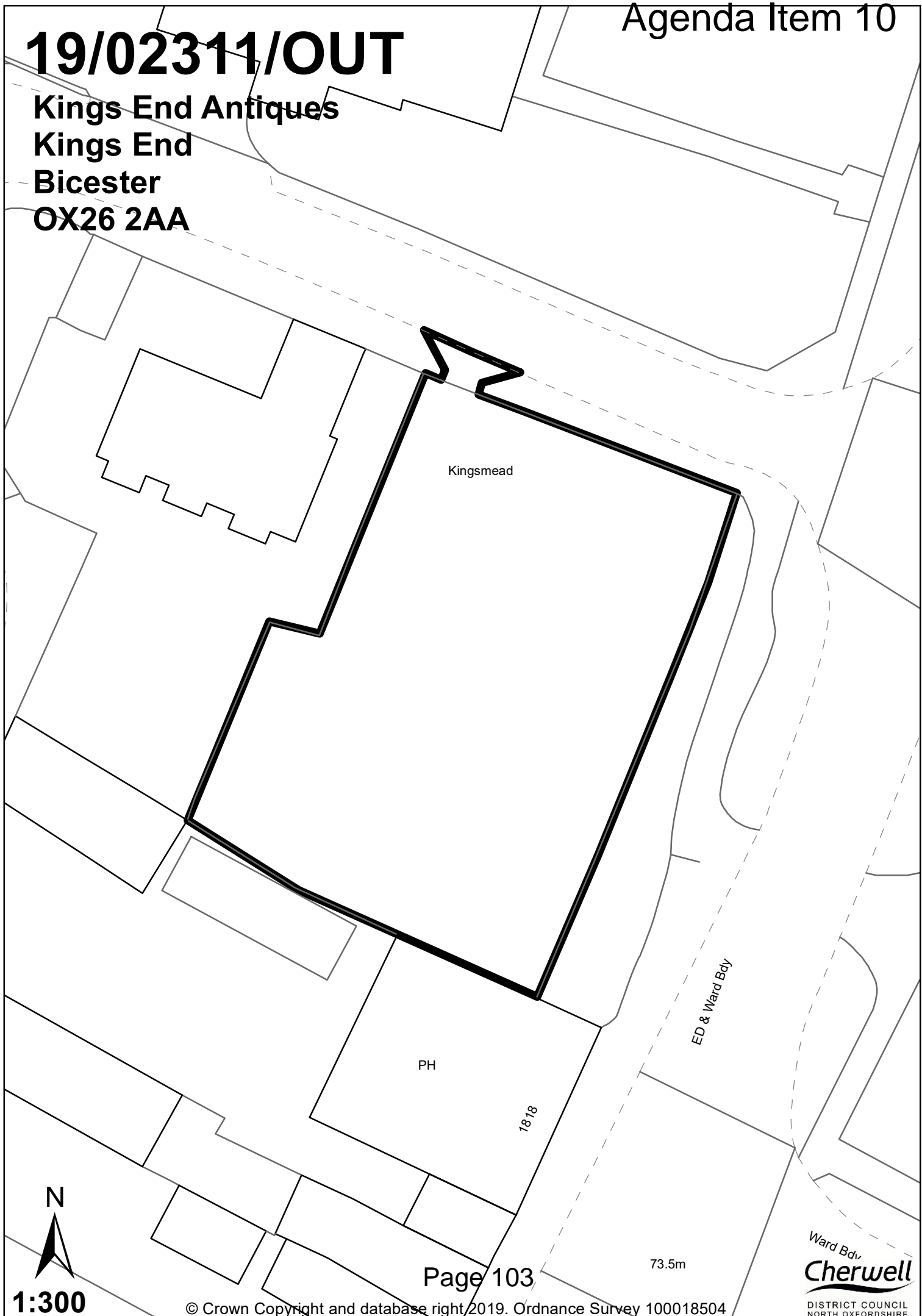
Reason - In the interests of highway safety and flood risk management, to comply with Policies ESD6, ESD7 and ESD15 of the Cherwell Local Plan 2011 - 2031 Part 1, and Government guidance contained within the National Planning Policy Framework.

12. Notwithstanding the provisions of Schedule 2, Part 16 of The Town and Country Planning (General Permitted Development) (England) Order 2015 and its subsequent amendments, no radio or TV aerials, satellite dishes or other antennae shall be affixed to the front façade of the building without the grant of further specific planning permission from the Local Planning Authority.

Reason - To ensure the satisfactory appearance of the completed development and to comply with 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 National Planning Policy Framework.

19/02311/OUT

**Kings End Antiques
Kings End
Bicester
OX26 2AA**



Kingsmead

PH

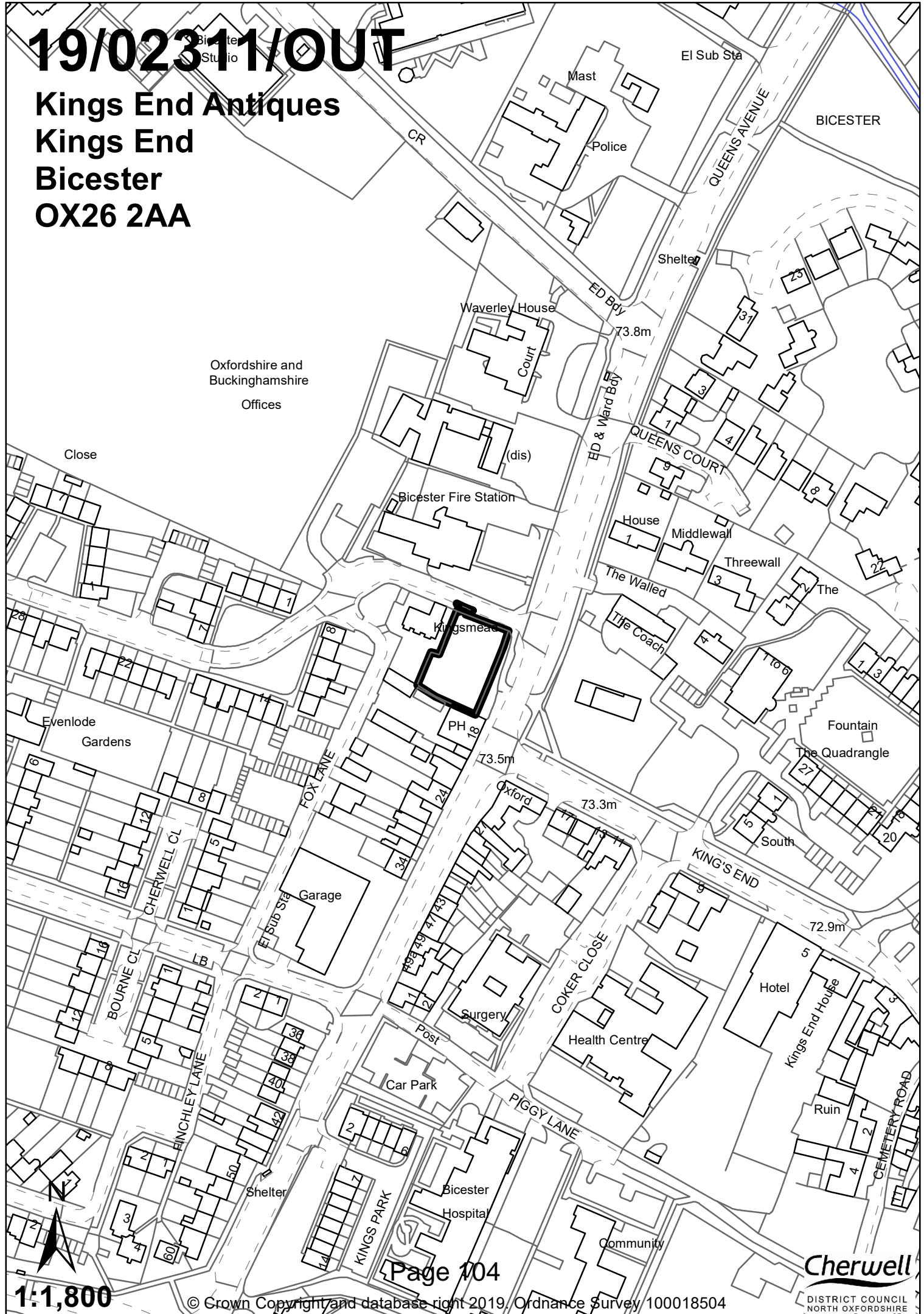
1878

ED & Ward Body

73.5m

19/02311/OUT

**Kings End Antiques
Kings End
Bicester
OX26 2AA**



Oxfordshire and
Buckinghamshire
Offices

Close

Bicester Fire Station

Kingsmead

PH

Garage

Post

Car Park

Bicester
Hospital

Community

Case Officer: James Kirkham

Applicant: Mr Dean Jones

Proposal: 10 apartments within a scheme of 2 to 2.5 storeys

Ward: Bicester West

Councillors: Councillor Les Sibley, Councillor Fraser Webster, Councillor John Broad

Reason for Referral: Major development

Expiry Date: 20 January 2020

Committee Date: 16 January 2020

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS AND SUBJECT TO A S106 LEGAL AGREEMENT

Proposal

The current application seeks permission to erect a building on the site containing 10 apartments. The application is made in outline with all matters (appearance, layout, scale, access and landscaping) reserved.

Consultations

The following consultees have raised **objections** to the application:

- OCC Drainage

The following consultees have raised **no objections** to the application:

- OCC Highways, CDC Conservation, CDC Environmental Protection, CDC Landscape, CDC Waste and Recycling, OCC Education, Thames Waters

1 letter of objection have been received and 1 letter of comment has been received. Councillor Sibley has also made comments on the application.

Planning Policy and Constraints

The site is located within the Bicester Conservation Area and within the setting of a number of listed buildings. This includes The Old Fox Inn immediately to the south of the site and Oxford House which is located at the junction between Kings End and Queens Avenue to the south east of the site. A public right of way also exists to the north of the site which follows the footpath along Kingsclere Road.

The application has also been assessed against the relevant policies in the NPPF, the adopted Local Plan and other relevant guidance as listed in detail at Section 8 of the report.

Conclusion

The key issues arising from the application details are:

- Principle of development

- Heritage impact
- Design, and impact on the character of the area
- Highways
- Residential amenity
- Infrastructure
- Other matters

The report looks into the key planning issues in detail, and Officers conclude that the proposal is acceptable subject to a S106 and conditions.

Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and recommendations, and Members are advised that this summary should be read in conjunction with the detailed report.

MAIN REPORT

1. APPLICATION SITE AND LOCALITY

- 1.1. The application relates to an area of open land situated to the north of The Old Fox Inn (Kings End Antiques Centre) on Kings End which is a main road leading into the centre of Bicester. Kingsclere Road exists to the north of the site beyond which lie the fire station and magistrates courts. The site is laid predominately to hard standing and has been used for the display of garden ornaments for a number of years in association with the antiques centre. A vehicular access exists to the north west corner of the site onto Kingsclere Road. It is currently enclosed with high painted railings. Two lime trees are currently located on the site.

2. CONSTRAINTS

- 2.1. The site is located within the Bicester Conservation Area and within the setting of a number of listed buildings. This includes The Old Fox Inn immediately to the south of the site and Oxford House which is located at the junction between Kings End and Queens Avenue to the south east of the site. A public right of way also exists to the north of the site which follows the footpath along Kingsclere Road.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The current application seeks permission to erect a building on the site containing 10 apartments. The application is made in outline with all matters reserved (namely appearance, layout, scale, access and landscaping). Therefore, the Council is solely considering the principle of residential development and this scale of proposed development on the site.
- 3.2. However, the application has been accompanied by indicative plans which demonstrate one way in which the site could be developed to accommodate 10 apartments. This shows the provision of an L shaped building which would provide frontage onto both Kings End and Kingsclere Road. The building would be a mix of 2 and 2.5 storeys in height, although it should be noted that scale is a reserved matter. Access to the site would be retained in a similar position to the current access from Kingsclere Road and the plans show 10 parking spaces provided to the rear of the building.
- 3.3. *Timescales for Delivery:* The applicant/agent has not indicated a timescale for delivery.

4. RELEVANT PLANNING HISTORY

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

18/00689/F and 18/00690/LB – Change of use from Antiques centre to children's day care nursery, demolition of timber curtilage outbuilding and conversion of remaining curtilage outbuildings and erection of single storey pre-school playroom block – Withdrawn

02/01610/F - Construction of new single and two storey buildings to provide reception area, sales/display galleries, cafe, offices, stores and toilet facilities – Withdrawn

01/00016/LB - Internal and External Alterations (as amended by revised plans accompanying agent's letter dated 19.02.01) - Permitted

00/02523/F – Replacement of existing chain link fencing with 2.5 metre cast iron railings with vehicular access gates – Permitted

95/00923/LBD - Retrospective. Demolition of outbuildings. Demolition and rebuilding of wall - Permitted

98/01594/F and 98/01595/F - Increase height of parts of boundary wall to rear. Re-instate vehicular access new pair stained timber gates - Permitted

5. PRE-APPLICATION DISCUSSIONS

5.1. The following pre-application discussions have taken place with regard to this proposal:

19/00115/PREAPP - Potential redevelopment options at Kings Avenue, Kings End, Bicester

5.2. The above sought advice on redeveloping the site for residential purposes or hotel/leisure uses. It included the Old Fox Inn as part of the development site as well and the proposals were very conceptual and vague. It was advised that the principle of residential development was likely to be acceptable however a number of heritage issues were raised alongside issues of clarification on access, parking and neighbour impact.

6. RESPONSE TO PUBLICITY

6.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records (amend as appropriate). The final date for comments was **22 November 2019**, although comments received after this date and before finalising this report have also been taken into account.

6.2. 1 letter of objection and 1 letter of comment has been received. The issues raised by third parties are summarised as follows:

- Impact on traffic and parking in the locality.
- The access to the site is dangerous.
- Concerns over level of parking

- Concerns over potential overlooking/loss of privacy to neighbouring property.
- The name on the plans are the same as the adjacent property and this should be changed.
- Request the boundary treatment between the application site and Kingsmead is made good prior to the sale of property.

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

7. RESPONSE TO CONSULTATION

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

COUNCILLORS

COUNCILLOR SIBLEY: Requests application be called to committee. The proposal is an over development of the site. Vehicle access to site from Kingsclere Road and/or Queens Avenue is hazardous. On street parking is an issue at the junction. Access to the Probation Centre opposite raises a number of visibility issues onto the narrow Kingsclere Road. The pedestrian crossing adjacent to the site is heavily used. The surrounding roads all suffer from traffic, congestion and air pollution issues. The Bicester School, Bicester Sport Centre, the Probation Centre, the Fire Police stations are all situated on Queens Avenue close to the application site. The T-junction of Queens Avenue and Kings End suffers from traffic congestion and is the main route into and out of the town centre. Also raises concerns regarding the refuse vehicle access and collection of household waste / recycling bins from development

CONSULTEES

- 7.2. OCC HIGHWAYS: **No objections** subject to conditions and S106 contributions. The site is located in a sustainable location. The nearest bus stop is approximately 107m away from the site with the Bicester North train station being an approximately 12-minute walk and 4-minute cycle.
- 7.3. 10 car parking bays are provided which is in line with parking standards and accepted given the sustainable location and on-street parking in the immediate vicinity of the site is restricted, it is therefore considered that this level of parking is appropriate. The vehicle crossover into the parking area will need to be extended to accommodate 2 vehicles passing.
- 7.4. Further information regarding refuse collection is required, if this is to be from within the site tracking for an 11.6m refuse vehicle will be required in addition to tracking for a large family vehicle. Cycle parking will need to be provided on site.
- 7.5. There is a cycle lane adjacent to Queens Avenue which is well used and due to be upgraded in the future. In order for pedestrians and cyclists to have safer and clearer prioritisation across the junction with Kingsclere Road a contribution has been requested for a side road entry treatment. The current situation on Kingsclere Road is that cyclists crossing to get to the cycle paths either side have to give way to vehicular traffic. A £30,000 contribution has been sought to create a side road entry treatment on Kingsclere Road which will give pedestrians and cyclists priority which will help encourage sustainable modes of transport and is in line with the local

transport strategy. The desire line for pedestrians/cyclists is in line with the existing cycle track across the road, this also allows a vehicle to turn into Kingsclere Road before having to give way which should mean traffic flow along Queens Avenue is not negatively impacted.

- 7.6. Request conditions on travel information packs, cycle parking, full details of access and swept path analysis.
- 7.7. CDC CONSERVATION: **No objections** but considerable attention will be required relating to design at reserved matters stage. The area was historically outside of the built up limits of Bicester. However, the area has since been built up on all sides and there is no remaining significance to this open space. The significance lies in the contribution the site makes to the setting of The Fox Inn Public House and the character and appearance of the conservation area in this gateway location. The Fox Inn is noted as a positive landmark in the conservation area appraisal. The proposal needs to retain the strong building lines and ensure the listed building remains the dominant building in the streetscape. The sketch plan is considered to be positive and responds well to the site context; however, care will need to be taken over the depths of the buildings and [floor] levels during reserved matters.
- 7.8. CDC ENVIRONMENTAL PROTECTION: **No objections** subject to conditions. Request a noise report be conditioned to ensure the internal noise environment from traffic noise and the surrounding uses is acceptable. Also request Air Quality Impact Assessment on the nearby Kings End Air Quality Management Area and provision made for electric vehicle charging points.
- 7.9. CDC LANDSCAPE OFFICER: **Comment.** The proposal appears visually in keeping. The size of the development triggers the provision of a LAP but there is no space on site. Therefore an off-site contribution should be sought. Landscaping should be provided to the rear of the site.
- 7.10. CDC WASTE AND RECYCLING: **No objections.** Bin collection would be taken from Kingsclere Road so the bin area needs to be close to this.
- 7.11. CDC SPORTS AND RECREATION: **No objection.** Request contributions towards indoor and outdoor sports provision, community halls and public art.
- 7.12. CDC PLANNING POLICY: **No comments.**
- 7.13. OCC DRAINAGE: **Objection.** Insufficient drainage, flood risk, SuDS usage information provided to enable a full technical assessment of the proposal.
- 7.14. OCC EDUCATION: **No objections**
- 7.15. THAMES WATER: **No objections.** The waste water network and sewage treatment works have capacity for the proposed development. Request informative as development is located within 15m of underground waste water assets. Also request informative if it is proposed to discharge ground water into public sewer.

8. RELEVANT PLANNING POLICY AND GUIDANCE

- 8.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 8.2. The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy

framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the ‘saved’ policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District’s statutory Development Plan are set out below:

CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2031 Part 1)

- PSD1: Presumption in Favour of Sustainable Development
- SLE4: Improved Transport and Connections
- BSC2: The Effective and Efficient Use of Land – Brownfield Land and Housing Density
- BSC10: Open Space, Outdoor Sport and Recreation Provision
- BSC11: Local Standards of Provision – Outdoor Recreation
- ESD1: Mitigating and Adapting to Climate Change
- ESD2: Energy Hierarchy
- ESD3: Sustainable Construction
- ESD6: Sustainable Flood Risk Management
- ESD7: Sustainable Drainage Systems
- ESD15: The Character of the Built and Historic Environment
- INF1: Infrastructure

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C28: New development design
- C30: Design Control
- ENV1: Pollution Control
- ENV12: Contamination

Other Material Planning Considerations

National Planning Policy Framework (The Framework)
Planning Practice Guidance (NPPG)
Cherwell DC New Residential Design Guide SPD (2018)
Developer Contributions SPD
The Planning (Listed Buildings and Conservation Areas) Act 1990

9. APPRAISAL

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

- Principle of development
- Heritage impact
- Design, and impact on the character of the area
- Residential amenity
- Highways
- Infrastructure
- Other matters

Principle of Development

9.2. There are no adopted Local Plan policies relating specifically to housing development within Bicester. However, the CLP 2015 states that housing growth will be directed towards the urban areas of Banbury and Bicester. Paragraph B88 of the CLP 2015 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”.

- 9.3. The application site is positioned within the built up limits of Bicester in proximity of the town centre and has good access to public transport links, local shops and amenities. It is therefore considered to be a sustainable urban location, which in principle is suitable for residential development. It is also a brownfield site which Policy BSC2 of the CLP 2015 encourages the reuse of in sustainable locations. The existing use of the site is not protected by local or national planning policy. In this context the development of the site for residential development is therefore considered to be acceptable in principle, with overall acceptability subject to other considerations discussed below.

Heritage Impact

Legislative and policy context

- 9.4. The site is within Bicester Conservation Area and affects the setting of a number of Grade II listed buildings including the Old Fox Inn immediately to the south of the site.
- 9.5. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that in carrying out its functions as the Local Planning Authority in respect of development in a conservation area: *special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.*
- 9.6. Likewise Section 66 of the same Act states that: *In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority...shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.* Therefore, significant weight must be given to these matters in the assessment of this planning application.
- 9.7. Conservation Areas and Listed Buildings are designated heritage assets, and Paragraph 193 of the NPPF states that: *when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.* Policy ESD15 of the CLP 2031 Part 1 echoes this guidance.

Assessment

- 9.8. The application site is currently a hard surfaced yard with railings around it and was previously use for the sale of garden ornaments and antiques and is not considered to positively contribute towards the character and appearance of the area. The Conservation Officer has noted that this area of land subject to the application historically laid outside of the built up area of Bicester but the surrounding area is now built up and there is not considered to be any historic significance relating to this open space which would be lost as part of the proposal. The main issue in this case is therefore the impact on the setting of the nearby listed buildings and the character and appearance of the Conservation Area in this gateway location.
- 9.9. The Bicester Conservation Area Appraisal (CAA) notes *‘the historic character and appearance of the area is defined by the intermix of terraces of vernacular stone-built dwellings and more polite and formal rendered ones which create strong buildings lines, either fronting straight onto the back of the pedestrian pavement or*

separated by a short strip of garden, on both sides of the road'. The CAA goes onto note that The old Fox Inn and Numbers 4-6 King's End provide visual enclosure to the area and identifies the Fox Inn as a positive landmark.

- 9.10. The current application is made in outline so the plans submitted are only indicative at this stage. However, the indicative plans show the provision of an L shaped building adjacent to the northern and eastern boundaries of the site, which would be in keeping with the traditional arrangement of buildings in the locality with strong linear buildings lines adjacent to the roads.
- 9.11. The indicative sketch elevation plans provided show the provision of a traditionally designed and detailed building which would also be in keeping with the positive characteristics of this part of the Conservation Area and would respond appropriately to the context of the site. The Conservation Officer has raised some concern over the plan depth of the building; however, while important, this issue would be considered at reserved matters stage.
- 9.12. The scale of the building is also indicated to be a mix of 2 and 2.5 storeys, which is considered acceptable in this locality given there are a mix of 2, 2.5 and 3 storey properties in the locality.
- 9.13. The proposal would lead to the loss of two trees, which are currently located on the site; however, these are set back from the road frontage and given the presence of other more imposing trees in the street scene are not considered to significantly contribute to the character and appearance of the locality. No objection has been raised to their loss and their form and appearance is rather unbalanced. Whilst their loss is not ideal it is not considered that this would justify refusal of the application.
- 9.14. Overall the proposal, subject to careful design considerations at reserved matters stage, is considered to preserve the character and appearance of the Conservation Area and the setting of the listed building.

Design and layout

Policy Context

- 9.15. 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.
- 9.5. Paragraph 127 of the NPPF states that planning decisions should ensure that developments:
- Will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
 - 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
 - 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;

9.16. Policy ESD15 of the Cherwell Local Plan Part 1 states that: *“New development proposals should:*

- *Respect the traditional pattern routes, spaces, blocks, plots, enclosures and the form, scale and massing of buildings. Development should be designed to integrate with existing streets and public spaces, and buildings configured to create clearly defined active public frontages.”*

9.17. 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.

9.18. The Cherwell Residential Guide SPD (2018) builds on the above policies and provides a framework to deliver high quality locally distinctive development.

9.19. BSC2 of the CLP 2015 states that new housing should be provided on net development areas at a density of at least 30 dwellings per hectare unless there are justifiable reasons to lower the density.

Assessment

9.20. As noted above the indicative layout and elevation plans are considered to respond positively to the context and respect the character and appearance of the area. Full details of this alongside materials would be considered at reserved matters stage however given the heritage constraints of the site high quality finishes would be required.

9.21. Officers consider that the plans demonstrate successfully how 10 apartments could be accommodated on site. The final size and mix of flats would be subject to reserved matters approval having regard to the constraints of the site and may result in the provision of smaller units to reduce the depth and footprint of the building.

9.22. The indicative layout means that the parking serving the site would be largely screened by the proposed building and would therefore not dominate views from the public realm and this is a further positive of the scheme in this location characterised by strong building lines.

9.23. Concerns have been raised by the Highway Engineer and the public regarding bin collection. Officers has discussed this matter with the Council’s Waste Team who have stated that collection would take place from Kingsclere Road. At reserved matters stage the details and siting of the bin store and bin collection point would need to take account of this.

9.24. The scale of the proposal triggers the requirement for a local area of play on the site in accordance with Policy BSC11 of the CLP 2015. However, given the restricted size of the site this is not possible and is not shown on the indicative layout plans. Officers consider that if it were insisted on this being provided on site it would make the site very difficult to develop given its constraints. Therefore, and taking into account that the development only just meets this threshold and includes a number of 1 bedroom flats, an off-site contribution to the improvement of existing provision of play space in the locality is proposed to be secured through a legal agreement in accordance with the Developer Contributions SPD.

Amenity

Policy

- 9.25. Policy ESD15 of the CLP 2015 (Part 1) requires new development to consider the amenity of both existing and future occupants, including matters of privacy, outlook, natural light, ventilation, and indoor and outdoor space.
- 9.26. Saved Policy ENV1 of the CLP 1996 state development which is likely to cause materially detrimental levels of noise, smell, fumes or other types of environmental pollution will not normally be permitted.

Assessment

- 9.27. The layout submitted is only indicative so it is difficult to make a full assessment of the impacts of the development on residential amenity as these would be subject to consideration in the reserved matters application where layout and appearance would be fully considered. However, the residential nature of the proposal is considered to be compatible with the surrounding land uses which are a mix of residential and commercial uses.
- 9.28. The property that would be most significantly impacted upon by the proposal is Kingsmead to the west of the site. This is a residential dwelling and has several first floor bedroom windows facing over the site. The proposal would lead to an increase in overlooking to this property through the provision of first and second floor windows looking towards the garden and windows on this property. However, it is considered that given the distance between this property and the indicative position of the building, with careful consideration given to the position of habitable windows on the elevation of the proposed building facing Kingsmead, a significant loss of privacy or overlooking could be prevented to ensure an acceptable level of amenity is maintained for this property having regard to the urban location. The proposal would also impact on the outlook to these windows to some extent; however, it is considered that an acceptable solution could be found having regard to the size of the site and the position of the windows.
- 9.29. The proposal would also impact on the amenity of the Old Fox Inn as it would be set back from the front elevation of this building and project to the rear. However, this property is in commercial use so is less sensitive to change and given the distance to the windows on the rear of the Old Fox Inn the impacts are not considered to be materially harmful.
- 9.30. The site lies on a busy main road and is also located adjacent to a number of noise generating uses such as the fire station. In order to ensure that a good standard of amenity is provided for future occupiers of the development the Council's Environmental Protection Officer has requested that a noise report be provided alongside the reserved matters to ensure that appropriate internal noise levels are achieved for the proposed flats.
- 9.31. Overall, on balance, the proposal is considered to be acceptable in regard to the impact on neighbouring properties and proposed occupants, subject to careful consideration at reserved matters stage.

Highways

Policy

- 9.32. Policy ESD15 of the Cherwell Local Plan Part 1 states that: "New development proposals should be designed to deliver high quality safe, attractive, durable and healthy places to live and work. Development of all scales should be designed to improve the quality and appearance of an area and the way it functions." Policy SLE4 states that: "*All development where reasonable to do so, should facilitate the*

use of sustainable modes of transport (and) development which is not suitable for the roads that serve the development and which have a severe traffic impact will not be supported.” The NPPF advises that development should provide safe and suitable access for all and development should only be prevented or refused on transport grounds where the residual cumulative impacts are severe.

Assessment

- 9.33. The application site has frontage to both Kings End (to the east) and Kingsclere Road (to the north) which is a road serving the residential area and the fire station. An access to the existing site currently exists from Kingsclere Road in the north west corner of the site adjacent to the property known as Kingsmead. This access is currently gated and has been used in the past to access the yard area for customers and the business. Double yellow lines exist along Kingsclere Road between the access to the site and Kings End.
- 9.34. Means of access is a reserved matter for a future application. However, the indicative layout shows the access being located in a similar location to the existing access onto Kingsclere Road. The Local Highway Authority (LHA) has raised no objection to the siting of the access in this location on highway safety grounds and it is considered that subject to detail it would provide a safe and convenient access into the site for residents to use. The width of the access would need to be wide enough to accommodate 2 way traffic.
- 9.35. The proposed development is for 10 apartments within the built up limits of Bicester. Given the scale of the proposal the traffic generation from the development is likely to be modest in the context of the existing traffic. No objection has been raised from the LHA on the grounds of traffic impact and it is also important to note that the NPPF advises that development should only be prevented on traffic grounds when the impacts are severe which is not considered to be the case in this application.
- 9.36. The indicative layout shows the provision of 10 parking spaces (1 for each flat). The LHA advises this is acceptable having regard to the site's sustainable location near to the centre of Bicester and bus and train connections. Furthermore, it is noted that there are parking controls in the locality which would prevent on street parking in these areas. Officers agree with this assessment. In order to encourage more sustainable forms of travel from future residents' cycle parking provision is proposed to be conditioned.
- 9.37. The LHA has requested full details of the access to be controlled by condition. However, such matters would be considered under the reserved matters application detailing the access. Likewise, the request for a swept path analysis for a modern family vehicle to enter and leave the site would be considered under the reserved matters application relating to layout. Therefore, these conditions are not necessary.
- 9.38. The LHA notes that there is an existing cycle lane adjacent to Queens Avenue which runs to the east of the site. This is due to be upgraded in the future and in order to promote cycling and walking the LHA requests a contribution of £30,000 to create a side road entry treatment on Kingsclere Road which would give pedestrians and cyclists priority crossing Kingsclere Road which would help encourage use of walking and cycling. The desire line for pedestrians/cyclists is in line with the existing cycle track across the road; this also allows a vehicle to turn into Kingsclere Road before having to give way which should mean traffic flow along Queens Avenue is not negatively impacted. The applicant has agreed to this contribution.
- 9.39. Overall the proposals are considered acceptable in highway safety terms in light of current policy subject to conditions and planning obligations as set out above.

Infrastructure

- 9.40. Policy INF1 of the CLP 2015 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.”*
- 9.41. Policy BSC11 of the CLP 2015 states that: *“Development proposals will be required to contribute to the provision of open space, sport and recreation, together with secure arrangements for its management and maintenance. The amount, type and form of open space will be determined having regard to the nature and size of development proposed and the community needs generated by it. Provision should usually be made on site in accordance with the minimum standards of provision set out in ‘Local Standards of Provision – Outdoor Recreation’. Where this is not possible or appropriate, a financial contribution towards suitable new provision or enhancement of existing facilities off site will be sought, secured through a legal agreement.”* Policy BSD12 requires new development to contribute to indoor sport, recreation and community facilities.
- 9.42. The Developer Contributions Supplementary Planning Document (SPD) sets out the position in respect of requiring financial and onsite 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.

Assessment

- 9.43. Where on and off-site infrastructure/measures need to be secured through a planning obligation (i.e. legal agreement) they must meet statutory tests set out in regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended). These tests are that each obligation must be:
- a) Necessary to make the development acceptable in planning terms;
 - b) Directly related to the development;
 - c) Fairly and reasonably related in scale and kind to the development.
- 9.44. Where planning obligations do not meet the above statutory tests, they cannot be taken into account in reaching a decision. In short, these tests exist to ensure that local planning authorities do not seek disproportionate and/or unjustified infrastructure or financial contributions as part of deciding to grant planning permission. Officers have had regard to the statutory tests of planning obligations in considering the application and Members must also have regard to them to ensure that any decision reached is lawful.
- 9.45. Having regard to the above, in the event that Members were to resolve to grant planning permission, the following items would in officers’ view need to be secured via a legal agreement with both Cherwell District Council and Oxfordshire County Council in order to secure an appropriate quality of development as well as adequately mitigate its adverse impacts:

Cherwell District Council

- The site is located in an urban area where Policy BSC11 of the CLP 2015 requires the provision of a general green space and a local area of play (LAP) for developments of 10 or more dwellings. Given the constrained nature of the site there is limited space to provide this on site. Therefore, an off-site contribution of £2306.86 per 2 bed flat is sought to upgrade play

areas in the locality of the site in accordance with the Developer Contributions SPD.

- Outdoor sports provision – A contribution towards the development of outdoor tennis courts at Whitelands Farm Sports Ground in Bicester for which Cherwell District Council currently have planning permission approved. The need for the provision of further tennis courts in Bicester was identified in the November 2018 Sports Studies. Figure based on 10 dwellings, the figure of £2017.03 per dwelling accounts for 2.49 persons per dwelling. This figure has been adjusted to an average of 1.85 persons per dwelling given the smaller size of units proposed - £1498.60 x 10 dwellings = £14,985.97
- Indoor Sport & Recreation Seeking a contribution towards the expansion and improvements at Bicester Leisure Centre. The 2018 Sports Studies identified the need for increased pool and fitness provision at Bicester Leisure Centre by the end of 2031. (£335.32 x 1.85) x 10 dwellings = £6203.42
- Community Halls Provision - A contribution towards the refurbishment of the main hall at Kingsmere Community Centre =£8494.65

9.46. OCC Education has stated that whilst the proposal will increase demands placed on local services given the scale of the development and the low number of pupils expected to be generated the impact is expected to be minimal and no contribution is requested in this respect

Other matters

9.47. The Lead Local Flood Authority has objected to the application on the basis that insufficient information has been provided in respect of surface water drainage, flood risk and use of Sustainable Urban Drainage Systems (SUDS). Policy ESD7 of the CLP 2015 requires the use of SUDS in new development to manage surface water runoff. In this case the application is made in outline with all matters reserved for future applications. Therefore, the provision of SUDS could be designed into the scheme at a detailed layout stage and the layout of the site could be altered at a later stage if deemed justified. Furthermore, the site is situated in the lowest flood risk area, is not identified on the Environment Agency maps as being at risk of surface water and is already largely laid to hard standing. Given these factors it is considered that this matter could be dealt with by condition to require the submission of a drainage strategy alongside the reserved matters. This would ensure adequate regard would be had for surface water drainage and the provision of SUDS in determining the application.

9.48. The site is located immediately adjacent to the Bicester Air Quality Management Area (AQMA). The proposed development has the potential to attract more traffic to the area so therefore may impact on air quality. However, the development is modest in size and the traffic generation is likely to be limited in the existing context. The Environmental Protection Officer has requested an Air Quality Impact Assessment be conditioned to fully understand the impact of the development on air quality and seek to mitigate it where appropriate. A condition is therefore recommended in this respect to fully understand this.

9.49. A condition in regard to the installation of Electric Vehicle charging infrastructure in order to make resident parking places EV ready for future demand is also proposed. The NPPF and Policies SLE4 and ESD1 of the CLP 2015 encourage and support the incorporation of measures into new development that promote more sustainable

forms of transport and to reduce carbon emissions. It is considered reasonable and necessary for this to be secured through a condition of any permission given.

- 9.50. Policy ESD1 of the CLP 2031 states that measures should be taken to mitigate the impact of development within the District on climate change, and Policy ESD2 of the CLP 2031 seeks to achieve carbon emission reductions. Policy ESD3 of the CLP 2031 encourages sustainable construction methods. The reference to allowable solutions in Policy ESD2 and 'zero carbon' are no longer being pursued by the government so are no longer relevant. However, the water usage requirements of ESD3 are still required to be met and can be conditioned. In regard to energy efficiency the Council now seeks to secure in excess of that required under the 2013 Building Regulations. Full details of these can be controlled through a condition.
- 9.51. The site is currently laid to hardstanding and has limited ecological value. The NPPF and Policy ESD10 of the CLP 2015 both seek to secure net gains in biodiversity. In this case landscaping and built in features could be used to help achieve this. A condition is proposed in this respect.
- 9.52. Thames Water has confirmed that existing infrastructure has capacity to accommodate the development.
- 9.53. The neighbouring property has requested that the applicant makes good the boundary treatment between the application site and their property prior to selling the property. This is a private matter between the parties and not a matter the local planning authority can require.

10. PLANNING BALANCE AND CONCLUSION

- 10.1. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. This requires that the three dimensions to sustainable development (economic, social and environmental) are not undertaken in isolation, but are sought jointly and simultaneously. The proposed development would lead to the creation of several new dwellings in a geographically sustainable location and would also reuse previously developed land. The proposal would preserve the significance of the impacted heritage assets and would also bring some modest social and economic benefits associated with the provision and construction of new dwellings. Careful consideration will be required of a number of matters including residential amenity, heritage and design at reserved matters stage. Overall when viewed as a whole the proposal is considered to comply with the Development Plan and is considered to constitute sustainable development.

11. RECOMMENDATION

RECOMMENDATION – DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT TO **GRANT PERMISSION, SUBJECT TO THE CONDITIONS SET OUT BELOW** (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY) **AND THE COMPLETION OF A PLANNING OBLIGATION UNDER SECTION 106** OF THE TOWN AND COUNTRY PLANNING ACT 1990, AS SUBSTITUTED BY THE PLANNING AND COMPENSATION ACT 1991, TO SECURE THE FOLLOWING (AND ANY AMENDMENTS AS DEEMED NECESSARY):

- a) Payment of £30,000 towards provision of cycle route improvements along Queens Avenue
- b) Payment of £2,306.86 per 2 bedroom flat to upgrade play area(s) in the vicinity of the site
- c) Payment of £14,985.97 for provision of outdoor sports provision

- d) Payment of £6,203.42 for indoor sports provision
- e) Payment of £8,494.65 for community halls

FURTHER RECOMMENDATION: THE STATUTORY DETERMINATION PERIOD FOR THIS APPLICATION EXPIRES ON 20th JANUARY 2020 IF THE SECTION 106 AGREEMENT/UNDERTAKING IS NOT COMPLETED AND THE PERMISSION IS NOT ABLE TO BE ISSUED BY THIS DATE AND NO EXTENSION OF TIME HAS BEEN AGREED BETWEEN THE PARTIES, IT IS FURTHER RECOMMENDED THAT THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT IS GIVEN DELEGATED AUTHORITY TO REFUSE THE APPLICATION

CONDITIONS

Time Limits

1. No development shall commence until full details of the access, layout (including the layout of the internal access roads and footpaths), scale, appearance, and landscaping (hereafter referred to as reserved matters) have been submitted to and approved in writing by the Local Planning Authority.

Reason: This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004

2. In the case of the reserved matters, the final application for approval shall be made not later than the expiration of three years beginning with the date of this permission.

Reason: This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004

3. Application for approval of all the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission and the development hereby permitted shall be begun either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved whichever is the later.

Reason: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 5(1) of the Town and Country Planning (General Development Procedure) Order 2015 (as amended).

Compliance with Plans

4. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: Application form and Site Location Plan (shown on drawing number 1925 001)

Reason: For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and comply with Government guidance contained within the National Planning Policy Framework.

Finished floor levels

5. No development shall take place until details of all finished floor levels in relation to existing and proposed site levels and to the adjacent buildings have been submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall be constructed strictly in accordance with the approved levels.

Reason: To secure an acceptable standard of development that safeguards the visual amenities of the area and the living conditions of existing and future occupiers and to ensure compliance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and government guidance within Section 12 of the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

Detailed Drainage Scheme

6. As part of any reserved matters for layout and prior to the development commencing, detailed designs of the proposed surface water drainage scheme including details of implementation, maintenance and management shall be submitted to and approved in writing by the local planning authority. Those details shall include:

- a) Information about the design storm period and intensity, critical storm duration (1 in 30 & 1 in 100 (+40% allowance for climate change), discharge rates and volumes (both pre and post development), temporary storage facilities, means of access for maintenance, the methods employed to delay and control surface water discharged from the site, and the measures taken to prevent flooding and pollution of the receiving groundwater and/or surface waters;
- b) Any works required off-site to ensure adequate discharge of surface water without causing flooding or pollution (which should include refurbishment of existing culverts and headwalls or removal of unused culverts where relevant);
- c) Flood water exceedance routes, both on and off site;
- d) A timetable for implementation;
- e) Site investigation and test results to confirm infiltrations rates; and
- f) A management and maintenance plan, in perpetuity, for the lifetime of the development which shall include the arrangements for adoption by an appropriate public body or statutory undertaker, management and maintenance by a Residents' Management Company or any other arrangements to secure the operation of the surface water drainage scheme throughout its lifetime.

No building hereby permitted shall be occupied until the sustainable drainage scheme for this site has been completed in accordance with the approved details. The sustainable drainage scheme shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan.

Reasons: To ensure that the proposed development can be adequately drained and to manage the flood risk on or off the site resulting from the proposed development in accordance with Policy ESD6 and ESD7 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance within the National Planning Policy Framework.

Noise Report

7. Prior to any works commencing above slab level a report should be provided and approved in writing by the local planning authority that shows that all habitable rooms within the proposed residential flats above the commercial units

will achieve the noise levels specified in BS8233:2014 (Guidance on sound insulation and noise reduction for buildings) for indoor ambient noise levels. Any noise sources from the nearby garage and commercial premises that might impact on the proposed development will need to be identified and assessed with the requirements of British Standards BS4142:2014 – Method for Rating and Assessing Industrial and Commercial Sound. Thereafter, and prior to the first occupation of the dwellings affected by this condition, the development shall be carried out in strict accordance with the approved details and recommendations.

Reason: To ensure the creation of a satisfactory environment free from intrusive levels of noise and to comply with Policy ESD15 of the Cherwell Local Plan Part 1 (2015), Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Air Quality

8. As part of the reserved matters for layout or scale, an Air Quality Impact Assessment which considers the potential impact of extra traffic from the development on the local air quality, including the nearby Bicester Air Quality Management Area, and has regard to the Cherwell District Councils Air Quality Action Plan shall be submitted and approved in writing by the local planning authority. This should include a damage cost calculation and any proposed mitigation. Prior to the first occupation of the development the agreed mitigation shall be provided in accordance with the approved details.

Reason: To mitigate any significant impacts on air quality and to comply with Policy ESD15 of the Cherwell Local Plan Part 1 (2015), Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Energy Statement

9. Prior to the commencement of development, details of the means by which all dwellings will be designed and constructed to achieve an energy performance standard equivalent to a 19% improvement in carbon reductions on 2013 Part L of the Building Regulations (unless a different standard is agreed with the local planning authority) shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details and no dwelling shall be occupied until it has been constructed in accordance with the approved energy performance measures.

Reason: In the interests of environmental sustainability in construction in accordance with the requirements of Policy ESD3 of the Cherwell Local Plan 2011-2031 Part 1 and government guidance in the National Planning Policy Framework.

Biodiversity enhancement

10. Prior to the commencement of the development hereby approved including any demolition, and any works of site clearance, and as part of any reserved matters for layout and landscaping, a method statement and scheme for enhancing biodiversity on site such that an overall net gain for biodiversity is achieved, to include details of enhancement features and habitats both within green spaces and integrated within the built environment, shall be submitted to and approved in writing by the Local Planning Authority. This shall also include a timetable for

provision. Thereafter, the biodiversity enhancement measures shall be carried out and retained in accordance with the approved details.

Reason: To ensure the development provides a net gain in biodiversity in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Electric charging points infrastructure

11. No development shall commence above slab level until a scheme for a system of ducting to allow for the future installation of electrical vehicle charging infrastructure to serve each dwelling or a scheme showing the provision of electrical vehicle charging points for each dwelling has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details prior to the first occupation of the dwelling.

Reason: To comply with Policies SLE 4, ESD 1, ESD 3 and ESD 5 of the Cherwell Local Plan 2011-2031 Part 1 and to maximise opportunities for sustainable transport modes in accordance with paragraph 110(e) of the National Planning Policy Framework.

Cycle Parking

12. No dwelling of the development hereby permitted shall be occupied until cycle parking has been provided in accordance with a plan showing the number, location and design of cycle parking for the dwellings which shall have first been submitted to and approved in writing by the Local Planning Authority. The cycle parking shall thereafter be permanently retained and maintained for the parking of cycles in connection with the development.

Reason: To ensure appropriate levels of cycle parking are available at all times to serve the development, and to comply with Government guidance contained within the National Planning Policy Framework

Travel Information Packs

13. Prior to the first occupation of the development hereby approved a Residential Travel Information Pack for future residents shall be submitted and approved in writing by the Local Planning Authority. The approved Residential Travel Information Pack shall then be distributed to all new residents at the point of occupation.

Reason: To ensure all residents are aware of the travel choices available to them and to encourage sustainable forms of transport in accordance with Policy SLE4 and ESD1 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance within the National Planning Policy Framework.

Water usage

14. No dwelling shall be occupied until it has been constructed to ensure that it achieves a water efficiency limit of 110 litres person/day and shall continue to accord with such a limit thereafter.

Reason - In the interests of sustainability in accordance with the requirements of Policy ESD3 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Unexpected contamination

15. If, during development, contamination not previously identified is found to be present at the site, no further development shall be carried out until full details of a remediation strategy detailing how the unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. Thereafter the remediation strategy shall be carried out in accordance with the approved details.

Reason: To ensure that any ground and water contamination is adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance within the National Planning Policy Framework.

CASE OFFICER: James Kirkham

TEL: 01295 221896

Agenda Item 11

Cherwell District Council

Planning Committee

16 January 2020

Appeals Progress Report

Report of Assistant Director Planning and Development

This report is public

Purpose of Report

This report aims to keep members informed upon applications which have been determined by the Council, where new appeals have been lodged. Public Inquiries/hearings scheduled, or appeal results achieved.

1.0 Recommendations

The meeting is recommended:

- 1.1 To accept the position statement.

2.0 Report Details

2.1.1 New Appeals

19/00464/F - Land OS Parcel 8751 South West Of Moorlands Farm, Murcott - Change of use of land for the siting of a mobile home (log cabin)

19/02020/F – 2 Springfield Avenue, Banbury, OX16 9HT - Two storey extension to front of property

2.2 New Enforcement Appeals

None

2.3 Appeals in progress

18/01332/F - Land West Of M40 Adj To A4095, Kirtlington Road, Chesterton – Appeal by Mr C Smith and Mr R Butcher - Change of use of land to use as a residential caravan site for 3 gypsy families, each with two caravans and an amenity building; improvement of existing access, construction of driveway, laying of hardstanding, installation of package sewage treatment plant and acoustic bund

Method of determination: Public Inquiry

Key Dates:

Start Date: 29.01.2019 **Inquiry date:** 15.10.2019 **Decision:** Awaited

19/00301/OUT - Land And Buildings, The Junction Of Spring Lane, Chapel Lane, Little Bourton - OUTLINE - New dwellings, garaging, access and external works

Method of determination: Written Reps.

Key Dates:

Start Date: 26.11.2019 **Statement Due:** 31.12.2019 **Decision:** Awaited

19/00444/F – 2 Boxhedge Terrace, Boxhedge Road, Banbury, OX16 0BX - Erection of single storey porch (Retrospective)

Method of determination: Householder (Fast Track)

Key Dates:

Start Date: 30.08.2019 **Statement Due:** N/A **Decision:** Awaited

19/00621/F – Huckleberry Farm, Heathfield, Kidlington, OC5 3DU - Continued use of transportable building to be made permanent (Retrospective)

Method of determination: Hearing – 11th February 2020

Key Dates:

Start Date: 08.11.2019 **Statement Due:** 13.12.2019 **Decision:** Awaited

19/00848/F – 3 Denbigh Close, Banbury, OX16 0BQ - Change of Use from HMO within Class C4 to 7 bed HMO (sui generis) and new access from Broughton Road

Method of determination: Written Reps.

Key Dates:

Start Date: 22.10.2019 **Statement Due:** 26.11.2019 **Decision:** Awaited

19/00910/F - OS Parcel 6091 East Of Duiker House, Fencott, OX5 2RD - Erection of 1no single storey dwelling and ancillary carport/garden workshop

Method of determination: Written Reps.

Key Dates:

Start Date: 03.09.2019 **Statement Due:** 08.10.2019 **Decision:** Awaited

Enforcement appeals

None

- 2.4 Forthcoming Public Inquires and Hearings between 17 January and 13 February 2020

19/00621/F – Huckleberry Farm, Heathfield, Kidlington, OC5 3DU - Continued use of transportable building to be made permanent (Retrospective) – Tuesday 11th February 2020. Council Chamber, Bodicote House. 10.00 start.

2.5 **Results**

Inspectors appointed by the Secretary of State have:

**1. Dismissed the appeal by Mr and Mrs Durnin for Change of use of an agricultural building to dwellinghouse. Godwins Farm, Somerton Road, North Aston, OX25 6AA – 19/00667/Q56.
Officer recommendation – Refusal (Delegated)**

The Inspector considered the main issue to be whether the proposed building operations would fall within the scope of Class Q and whether the proposal would otherwise comply with the limitations and restrictions for being permitted development.

The Inspector noted that the appeal building comprises a series of vertical timber posts which he likened to telegraph poles, strapped to similar posts, which perform the function of rafters, and that there are five of these independent frames, which are linked by timber purlins supporting a sheet metal roof. The southern half of the building is open to the sides and at the end, while the northern part of the barn is enclosed. The Inspector noted that the majority of the existing blockwork separating the enclosed part of the remainder would be removed and that it was proposed to erect new external walls on three sides of an open bay.

The Inspector remarked that a development proposal “must maintain the character and substance of a conversion in order to benefit from Class Q permitted development rights” and concluded that the appeal building would not be capable of functioning as a dwelling without the construction of external walls on three sides and went “well beyond what could reasonably be described as a conversion” and “would not fall within the parameters of Class Q”. He also found that “the addition of timber cladding would...bring the scheme into conflict with paragraph Q.1(h), which stipulates that development under Class Q must not exceed the external dimensions of the building at any given point.

Accordingly the Inspector upheld the Council’s decision and dismissed the appeal.

**2. Dismissed the appeal by Riverhall Ltd for Erection of building to form 1-bed dwelling, on the siting of the previously demolished barn, with courtyard garden and dedicated parking space - re-submission of 18/01644/F. Sycamore House, Shepherds Close, Weston On The Green, OX25 3RF – 19/00962/F
Officer recommendation – Refusal (Delegated)**

The Inspector considered that the main issue was whether the proposed development would afford its occupiers with an acceptable living environment, with particular regard to the standard of external amenity space.

The appeal site is essentially an open area, with two new dwellings in the process of being constructed to the south. Other residential properties lie close by to both the east and west. This appeal followed a previously dismissed appeal on the site, however sought to address concerns by relocating the dwellings amenity space from the southern end to a position immediately east of the dwelling.

Whilst the appellant asserted that the proposal complied with the Cherwell Residential Design Guide SPD 2018 in relation to separation distances, the Inspector considered that the guidance was not devised for this particular scenario, whereby a two and a half storey dwelling faces directly towards a modest courtyard garden. Furthermore, he found that at this distance, the building would be overbearing for future occupiers of the appeal scheme, also providing the opportunity for overlooking from upper floor windows and the dormers in the roof – with almost every part of the amenity area being overlooked, providing users with limited privacy. The Inspector considered that in most cases where the SPD separation distance guidance is complied with, there is the opportunity for mutual overlooking. However, the appeal proposal does not allow for this. He held that there would essentially be no outside space with any real privacy during winter months when the proposed trees were not in leaf, whilst a tree would likely cause shading to the detriment of the recreational value of the space for the rest of the year.

The Inspector therefore found the amenity space to be of poor quality, and concluded that the proposal did not provide an acceptable living environment for future occupiers. Weighing the planning balance, the Inspector concluded that the proposal's contribution to housing supply did not outweigh the harm identified in respect of residential amenity, and accordingly dismissed the appeal.

**3. Dismissed the appeal by Mrs N Benjamin for RETROSPECTIVE - Change of Use of attached garage to independent dwelling unit. Purbeck End, 5 Vicarage Road, Kidlington, OX5 2EL – 19/00661/F
Officer recommendation – Refusal (Delegated)**

The Inspector considered the main issues to be the impact on the character and appearance of the area and the living conditions of the occupiers of the appeal dwelling and No 5 Vicarage Road, with particular regard to privacy and amenity space.

The Inspector agreed with the Council that the small size of the dwelling and its siting attached to the front elevation of No 5 fails to respect the form, scale and siting of neighbouring properties in Vicarage Road and that the dwelling not having its own frontage facing Vicarage Road appears out of character with the linear arrangement of dwellings in the street. Furthermore, the red line plan only went around the building itself and the dwelling therefore had no garden, which the Inspector agreed with the Council was out of character with the prevailing form of development in the area, which consists of sizeable gardens set behind houses.

The Inspector recognised that the front door of the appeal dwelling is positioned close to the front door of No 5 Vicarage Road, but considered that with the small amount of movements to each dwelling this would not be harmful to the privacy of the occupiers of either dwelling. However, the Inspector agreed with the Council that the relationship between the first floor front bedroom window of the appeal dwelling and the first floor front bedroom window of No 5 would enable close-range views which would have an

adverse effect on the privacy of the occupiers of the appeal dwelling and No 5 Vicarage Road.

Accordingly the Inspector upheld the Council's decision and dismissed the appeal. Since the appeal development has already been carried out, i.e. retrospective consent had been sought, the matter will be passed to the Council's enforcement team to take appropriate action.

**4. Dismissed the appeal by Greystoke Land Residential development of up to 18 dwellings with associated access, internal roads, car parking, public open space, landscaping, drainage and other associated infrastructure. Land North Of Southfield Farm, North Lane, Weston On The Green – 19/00596/OUT
Officer recommendation – Approval (Committee)**

The Inspector considered the main issues to be:

- Whether the proposal would constitute an appropriate form of development with particular regard to the provisions of local and national policy in respect of the location of the development and the effect of the proposal on the character and appearance of the surrounding area;
- Whether the proposed development is in a suitable location for housing with particular reference to the accessibility of services and facilities; and,
- Whether the proposed development makes adequate provision for any additional need for infrastructure, services and facilities arising from the development.

With regard to Policy Villages 2 ("PV2") and the principle of development, the Inspector disagreed with the Tappers Farm Inspector and instead concurred with the Ambrosden Inspector's conclusion that (i) such proposals do not harm the strategy of concentrating development in Bicester and Banbury and (ii) that development at Category A Villages which exceeds the 750 homes figure need not place any undue constraint on other villages to meet any specific or identified housing needs, as other policies contained within the development plan, for example Policy Villages 1 and Policy Villages 3 of the CLPP1, would be relevant considerations to cater for any such needs. [NB. The Council is not challenging the Tappers Farm decision, but is challenging the Ambrosden and Sibford Ferris decisions. The WOTG Inspector did not wish to be informed of the Tappers Farm or Sibford decisions and did not take them into account in reaching his decision, but as (i) he dismissed the appeal and (ii) his remarks do not agree with those of the Tappers Farm Inspector, it might be argued his conclusions re housing strategy are not injurious to the Council.]

Furthermore, the Inspector held that, given the advanced stage of the Weston on the Green Neighbourhood Plan ("eNP"), additional housing - and specifically affordable housing - is needed in the village. The Council and the appellant disagreed on the level of growth identified in the eNP. The Inspector did not express a view, but noted it was clear that any future growth in the village would necessitate exceeding the 'total of 750 homes' at Category A Villages within the District permitted by PV2. The Inspector held that the appeal proposal would not necessarily undermine the District's housing strategy and that the scheme would provide some affordable housing units which would assist in meeting the objectives of the eNP.

With regard to the impact on the character and appearance of the area, the Inspector recognised that existing hedgerows and vegetation would partially screen the site from views from the surrounding locality and, consistent with the findings of the Inspector in the previous appeal decision, also acknowledged the conclusions of the Landscape and Visual Impact Appraisal that the effect on the wider landscape would be limited. However, the Inspector found that the proposal would still alter the agricultural appearance of the site to that of a domestic residential one and, consequently, would have an urbanising effect on the countryside. The Inspector found that the proposal would represent an undue visual intrusion into the open countryside and would thereby detract from the rural character of the surrounding area. Furthermore, the Inspector held that the proposal would appear as a modern estate which would not reflect the mixture of older and newer housing that can be found throughout Weston-on-the-Green and, consequently, would be harmful to the character and setting of this village.

With regard to access to services and facilities, the Inspector agreed with the Council that the services available in Weston on the Green are limited and residents would be reliant on private car use to access these services. The appellant had stated that children would have access to free transport to the nearest available schools and that there are alternative community services, such as the Oxfordshire Comet bookable transport service, which would provide choice for future residents, but the Inspector disagreed, finding that residents would have no real choice of transport other than by private vehicle or community transport and this would bring into question the sustainability of the village and the proposed development itself. The Inspector recognised that there is expected to be some dependence on private vehicles in rural locations but that this proposal would only exacerbate this and would be likely to cause environmental harm as a result of increased car journeys and hence carbon emissions.

The Inspector considered that the suggested contributions were reasonable and necessary but that, as no legal agreement was submitted which secured these contributions, the proposal was unacceptable in this regard.

Accordingly the Inspector upheld the Council's decision and dismissed the appeal.

3.0 Consultation

None

4.0 Alternative Options and Reasons for Rejection

4.1 The following alternative options have been identified and rejected for the reasons as set out below.

Option 1: To accept the position statement.

Option 2: Not to accept the position statement. This is not recommended as the report is submitted for Members' information only.

5.0 Implications

Financial and Resource Implications

- 5.1 The cost of defending appeals can normally be met from within existing budgets. Where this is not possible a separate report is made to the Executive to consider the need for a supplementary estimate.

Comments checked by:

Kelly Wheeler, Business Partner, 01295 225170,
Kelly.wheeler@cherwell-dc.gov.uk

Legal Implications

- 5.2 There are no additional legal implications arising for the Council from accepting this recommendation as this is a monitoring report.

Comments checked by:

David Mytton, Solicitor, For and on behalf of Nick Graham, Director of Law and Governance and Monitoring Officer
David.Mytton@Oxfordshire.gov.uk

Risk Management

- 5.3 This is a monitoring report where no additional action is proposed. As such there are no risks arising from accepting the recommendation.

Comments checked by:

David Mytton, Solicitor, For and on behalf of Nick Graham, Director of Law and Governance and Monitoring Officer
David.Mytton@Oxfordshire.gov.uk

6.0 Decision Information

Wards Affected

All

Links to Corporate Plan and Policy Framework

A district of opportunity

Lead Councillor

Councillor Colin Clarke

Document Information

Appendix No	Title
None	
Background Papers	
None	
Report Author	Sarah Stevens, Interim Senior Manager, Development Management
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Agenda Item 12

Cherwell District Council Planning Committee

16 January 2020

Planning Enforcement Report

Report of Assistant Director Planning and Development

This report is public

Purpose of Report

To inform Members about planning enforcement cases at CDC and update on the current position following the update in October regarding case numbers, formal notices served, enforcement action taken, and prosecutions achieved.

1.0 Recommendation

The meeting is recommended:

- 1.1 To note the contents of the report.

2.0 Executive summary

- 2.1 This report provides an overview of the work of planning enforcement since the last update provided in October and details the number of cases received and closed in that time as well as those dealt with over the last 12 months and provides an update on the 'backlog' of cases.
- 2.2 There were, at the time of writing this report on 31 December 2019, 298 active enforcement cases. The Department received a total of 418 new enforcement cases in 2019.
- 2.3 The enforcement team continues to tackle the backlog of cases. The number of new cases received remained at an average of over 400 per year for 2019, however, as can be demonstrated by the figures contained in Appendix 1 the number of live cases has been reduced by over 100 in the last 12 months bringing the overall 'backlog' down. (418 new cases received versus 540 closed in the same period).
- 2.4 There are currently over 5 enforcement notices and Breach of Condition Notices with legal ready for issuing in the new year. The decision was taken to hold these until the New Year to allow for the holiday period and the implications for recipients to appeal any notice issued. These notices will be reported in detail at the next quarterly report. Relevant Members and Parish Councils are notified as standard practice when a notice is issued in their area.

2.5 Three successful prosecutions are reported with further prosecutions pending in the next few months which will be reported in the next quarterly update.

2.6 Statistical data is contained in the appendix to this report

3.0 Updates to significant cases

Brief history and actions to date on cases that are 'public' and of significant Member Interest.

Address	Update
14 Lanchester Drive, Banbury	S215 Notice served and not complied with. Direct Action taken September 2019 to secure compliance with notice. Successful Prosecution December 2019 – as reported below
Godwins Farm, North Aston, Bicester	Enforcement Notice issued March 2019 for use for one static caravan. Compliance date for removal January 2020. Notice complied with and case closed.
The Pheasant Pluckers Inn, Burdrop, Banbury	Latest planning appeal refused for change of use from pub to C3 residential use. Work underway to secure full compliance with extant enforcement notice. Pub has recently reopened – legal advice being sought establish if this constitutes compliance with the enforcement notice. Additional enforcement matters regarding the holiday lets remain under investigation.
The Kings Head, Fritwell Bicester.	Enforcement Notice issued for change of use of pub to residential accommodation. Appeal lodged with Planning Inspectorate. Awaiting appeal start date.
OS Parcel 3349 North East Of Highlands Adjoining Cropredy Lane Williamscot	Direct Action taken to remove caravan from the land to secure compliance with enforcement notice. Prosecution being prepared. Ongoing investigation into additional works at the site. Prosecution being considered.
4 Paines Hill, Steeple Aston.	S215 Notice served February 2019, not appealed. Compliance due May 2019. Successful prosecution December 2019 – as reported below.

3.0 Investigations Summary

4.1 From 1 January 2019 to 31 December 2019, the Council has received 418 new enforcement cases and in the same period closed 540 cases. This continued effort to close more cases per month than received is slowly bringing down the number of cases in the backlog. Cases are dealt with

according to the priorities set out in the Local Enforcement Plan. A significant number of cases are closed each month due to no breach having been found. Additionally a large number of cases are resolved through negotiation by Officers without the need for formal action. Appendix 1 provides data on the number of enforcement (and development monitoring) cases received and closed over the last 12 months and the number of and types of notices and actions taken. Further statistics will be reported next quarter for reasons for closure as this information is being updated in the new DEF computer system.

- 4.2 Direct action was taken twice in 2019 to secure compliance with an enforcement notice and a S215 Notice. The first removed an unauthorised caravan from land and the second involved entering land to tidy the site and make good a house that had fallen into disrepair that was adversely affecting the amenity of local residents. In both cases, negotiations with the land owners had failed and direct action was required to secure compliance with the notices
- 4.3 Three successful prosecutions for Planning Offences were secured by the Planning Enforcement Team on 16 December 2019, with further prosecutions currently being prepared. These are detailed below:

4 Paines Hill, Steeple Aston

A section 215 Notice (Untidy Land) was served upon the owner on 14 February 2019. The Notice was not appealed and became effective with the compliance due date being 15 May 2019.

The owner failed to comply with any part of the notice and pleaded guilty in Court. He was fined £300 and ordered to pay partial costs of £1,000 to the council.

Should the notice still not be complied with by end of February 2020 a further prosecution will be considered. The site is currently being monitored.

14 Lanchester drive, Banbury

A section 215 Notice (Untidy Land) was served upon the joint owners on 21 July 2017. The Notice was not appealed and became effective with the compliance due date being 6 December 2017. The notice was not complied with and on 26 September 2019, after many failed attempts to engage with the owners, the council exercised their powers under section 219 of the Town and Country Planning Act to carry out the works in default. A charge has been placed on the owners property for these works.

Both defendants failed to attend court and the case was proved in their absence. The courts have handed down a fine of £660 for each defendant and awarded costs to the council of £1791.16 per defendant.

5.0 Conclusions and Reasons for Recommendations

5.1 The Councillors are asked to note the report.

6.0 Consultation

6.1 None

7.0 Alternative Options and Reasons for Rejection

7.1 None

8.0 Implications

Financial and Resource Implications

8.1 Any costs incurred during enforcement action is recovered by applying a charge to the property. In some instances, this requires forward funding by the Council which is recovered upon the sale of the property.

Comments checked by:

Kelly Wheeler, Principal Accountant, 01295 221570

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Legal Implications

8.2 None

Comments checked by:

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9.0 Decision Information

Wards Affected

All

Links to Corporate Plan and Policy Framework

A district of opportunity

Lead Councillor

Councillor Colin Clarke, Lead Member for Planning

Document Information

Appendix No	Title
1	Enforcement Data
Background Papers	
None	
Report Author	Amy Sedman, Planning Enforcement Team Leader
Contact Information	Amy.sedman@cherwell-dc.gov.uk

Appendix 1

Table 1 Enforcement Cases Received and Closed

Month - 2019	New ENF Case Received	New MON case created	Closed ENF Case	Closed MON Case
1st Qtr. 2019	129	42	143	3
2nd Qtr. 2019	96	38	143	2
3rd Qtr. 2019	102	24	126	5
4th Qtr. 2019	91	15	128	11
TOTAL (YTD)	418	119	540	21

Table 2 Enforcement overall case numbers for 2019 by month

	Jan	Feb	Mar	Apr	May	Jun	July	Aug	Sept	Oct	Nov	Dec
Enf	391	391	403	365	367	358	370	344	336	328	326	298
Mon	102	105	124	143	152	161	176	178	178	183	180	182

Table 3 Notices Served/ and type of action taken

Type of Notice	Period					2019 Total
	2018	1 st Quarter 2019	2 nd Quarter 2019	3 rd Quarter 2019	4 th Quarter 2019	
Enforcement Notice	5	2	0	0	0	2
Stop Notice	0	0	0	0	0	0
Temporary Stop Notice	0	0	1	0	0	1
S215 – Amenity Notice	2	0	0	0	1	1
Planning Contravention Notice	8	8	9	5	3	25
High Hedge Remedial Notice	0	0	1	0	0	1
Injunction	1	1	0	0	0	1
Direct Action	0	0	0	2	0	2
Prosecution	0	0	0	0	3	3