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Cherwell

DISTRICT COUNCIL
NORTH OXFORDSHIRE

Committee: Planning Committee
Date: Thursday 13 February 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 - 12)

To confirm as a correct record the Minutes of the meeting of the Committee held on 16 January 2020.

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. **Land West of Oxford Road and South of Newton Close, Bicester** (Pages 15 - 43) **18/01721/OUT**
9. **Motor Fuel Ltd, Bloxham Service Station, South Newington Road, Bloxham, Banbury, OX15 4QF** (Pages 44 - 53) **19/00465/F**
10. **Land South of Home Farm House, Clifton Road, Deddington, OX15 0TP** (Pages 54 - 84) **19/02444/OUT**
11. **Part of OS Parcel 0083 North of 89 Cassington Road, Yarnton** (Pages 85 - 106) **18/02160/F**
12. **Portway Cottage, Ardley Road, Somerton, OX25 6NN** (Pages 107 - 120) **19/02279/F**
13. **Holly Tree Cottages, Earls Lane, Deddington, OX15 0TQ** (Pages 121 - 134) **19/02668/F**
14. **Windmill Nurseries, London Road, Bicester, OX26 6RA** (Pages 135 - 144) **19/01289/F**
15. **Kirtlington Park House, East Wing Kirtlington Park, Kirtlington, OX5 3JN** (Pages 145 - 156) **19/02772/F**
16. **Kirtlington Park House, East Wing, Kirtlington Park, Kirtlington, OX5 3JN** (Pages 157 - 163) **19/02774/LB**

17. **Land Adjacent to the Oxford Canal, Spiceball Park Road, Banbury** (Pages 164 - 169) **19/02936/NMA**
18. **Land Adjacent to the Oxford Canal, Spiceball Park Road, Banbury** (Pages 170 - 176) **19/02937/CDC**

Review and Monitoring Reports

19. **Appeals Progress Report** (Pages 177 - 182)

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.

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 5 February 2020

Cherwell District Council

Planning Committee

Minutes of a meeting of the Planning Committee held at Bodicote House, Bodicote, Banbury, OX15 4AA, on 16 January 2020 at 4.00 pm

Present: Councillor James Macnamara (Chairman)
Councillor Maurice Billington (Vice-Chairman)

Councillor Andrew Beere
Councillor John Broad
Councillor Hugo Brown
Councillor Phil Chapman
Councillor Colin Clarke
Councillor Ian Corkin
Councillor David Hughes
Councillor Mike Kerford-Byrnes
Councillor Cassi Perry
Councillor George Reynolds
Councillor Les Sibley
Councillor Katherine Tyson

Substitute Members: Councillor Richard Mould (In place of Councillor Lynn Pratt)
Councillor Douglas Webb (In place of Councillor Chris Heath)

Apologies for absence: Councillor Chris Heath
Councillor Simon Holland
Councillor Lynn Pratt
Councillor Barry Richards

Officers: Sarah Stevens, Interim Senior Manager – Development Management
Matt Chadwick, Senior Planning Officer
Caroline Ford, Principal Planning Officer
James Kirkham, Principal Planning Officer
Amy Sedman, Enforcement Team Leader
Jennifer Crouch, Solicitor
Lesley Farrell, Democratic and Elections Officer

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Declarations of Interest

9. 60-62 Broad Street, Banbury, OX16 5BL.

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

Councillor Colin Clarke, Declaration, as a member of Banbury Town Council which had been consulted on the application.

10. Kings End Antiques, Kings End, Bicester OX26 2AA.

Councillor Les Sibley, Declaration, as a member of Bicester Town Council which had been consulted on the application.

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

123 **Requests to Address the Meeting**

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

124 **Minutes**

The Minutes of the meeting held on 18 December 2019 were agreed as a correct record and signed by the Chairman.

125 **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.

126 **Urgent Business**

There were no items of urgent business.

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

There were no proposed Committee Site Visits.

It was proposed by Councillor Sibley and seconded by Councillor Broad that application 19/02311/OUT be deferred for a site visit to understand the traffic and air quality problems. On being put to the vote, the motion fell.

Resolved

- (1) That application 19/02311/OUT would not be deferred.

128 **OS Parcel 9100 Adjoining and East of Last House Adjoining and North of Berry Hill Road, Adderbury**

The Committee considered application 19/00963/OUT which was the resubmission of application 17/02394/OUT, an 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) at OS Parcel 9100 Adjoining and East of Last House Adjoining and North of Berry Hill Road Adderbury for Hollins Strategic Land LLP.

Matthew Symons, Agent 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 address of the public speaker.

Resolved

(1) That application 19/00963/OUT be refused for the following reasons:

- 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. 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.

129 **60-62 Broad Street, Banbury, OX16 5BL**

The Committee considered application 19/01675/F for alterations to a 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 at 60-62 Broad Street Banbury, OX16 5BL for Novika Limited.

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 Planning and Development to grant permission for application 19/01675/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: 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. The rainwater goods of the development shall be carried out in accordance with the black uPVC rainwater goods submitted on 13 January 2020.

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.

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Kings End Antiques, Kings End, Bicester OX26 2AA

The Committee considered application 19/02311/OUT for 10 apartments within a scheme of 2 to 2.5 storeys at Kings End Antiques Kings End Bicester OX26 2AA for Mr Dean Jones.

It was proposed by Councillor Sibley and seconded by Councillor Broad that application 19/02311/OUT be refused due to the impact of listed buildings in close vicinity, overdevelopment of the site and the application not being suitable of that area.

On being put to the vote the motion fell.

It was proposed by Councillor Clarke and seconded by Councillor Corkin that permission be granted for application 19/02311/OUT with a request made for reserved matters to be brought to Committee at the appropriate time.

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

Resolved

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

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.

- (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, 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
- (3) That as the statutory determination period for this application expires on 20 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, that authority be delegated to the Assistant Director for Planning and Development to refuse application 19/02311/OUT.

131 **Appeals Progress Report**

The Assistant Director for Planning 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.

132 **Planning Enforcement Report**

The Assistant Director Planning and Development submitted a report to inform Members about planning enforcement cases at Cherwell District Council and update Members on the current position following the update in October regarding case numbers, formal notices served, enforcement action taken, and prosecutions achieved.

Resolved

- (1) That the contents of the report be noted.

The meeting ended at 5.40 pm

Chairman:

Date:

CHERWELL DISTRICT COUNCIL

PLANNING COMMITTEE

13 February 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

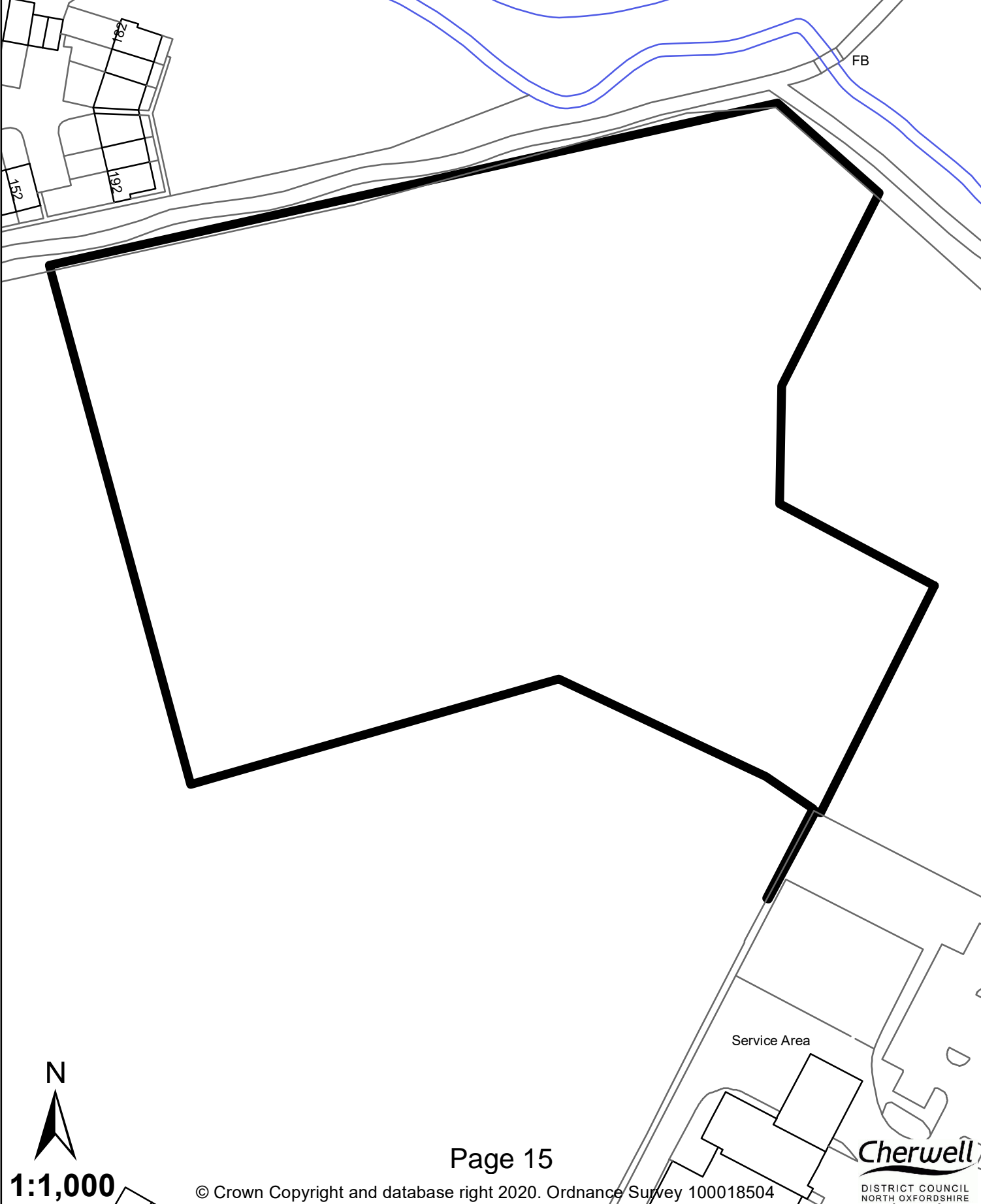
For each of the applications listed are: the application form; the accompanying certificates and plans and any other information provided by the applicant/agent; representations made by bodies or persons consulted on the application; any submissions supporting or objecting to the application; any decision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

	Site	Application No.	Ward	Recommendation	Contact Officer
8	Land West of Oxford Road and South of Newton Close, Bicester	18/01721/OUT	Bicester South and Ambrosden	Approval	Linda Griffiths
9	Motor Fuel Ltd, Bloxham Service Station, South Newington Road, Bloxham, Banbury, OX15 4QF	19/00465/F	Adderbury, Bloxham and Bodicote	Approval	Matthew Chadwick
10	Land South of Home Farm House, Clifton Road, Deddington, OX15 0TP	19/02444/OUT	Deddington	Refusal	James Kirkham
11	Part of OS Parcel 0083 North of 89 Cassington Road, Yarnton	18/02160/F	Kidlington West	Approval	Shona King
12	Portway Cottage, Ardley Road, Somerton, OX25 6NN	19/02279/F	Deddington	Refusal	George Smith
13	Holly Tree Cottages, Earls Lane, Deddington, OX15 0TQ	19/02668/F	Deddington	Refusal	George Smith
14	Windmill Nurseries, London Road, Bicester, OX26 6RA	19/01289/F	Launton and Otmoor	Approval	George Smith
15	Kirtlington Park House, East Wing Kirtlington Park, Kirtlington, OX5 3JN	19/02772/F	Fringford and Heyfords	Approval	Shona King
16	Kirtlington Park House, East Wing Kirtlington Park, Kirtlington, OX5 3JN	19/02774/LB	Fringford and Heyfords	Approval	Shona King
17	Land Adjacent to the Oxford Canal, Spiceball Park Road, Banbury	19/02936/NMA	Banbury Cross and Neithrop	Approval	Samantha Taylor
18	Land Adjacent to the Oxford Canal, Spiceball Park Road, Banbury	19/02937/CDC	Banbury Cross and Neithrop	Approval	Samantha Taylor

18/01721/OUT

Balancing Pond

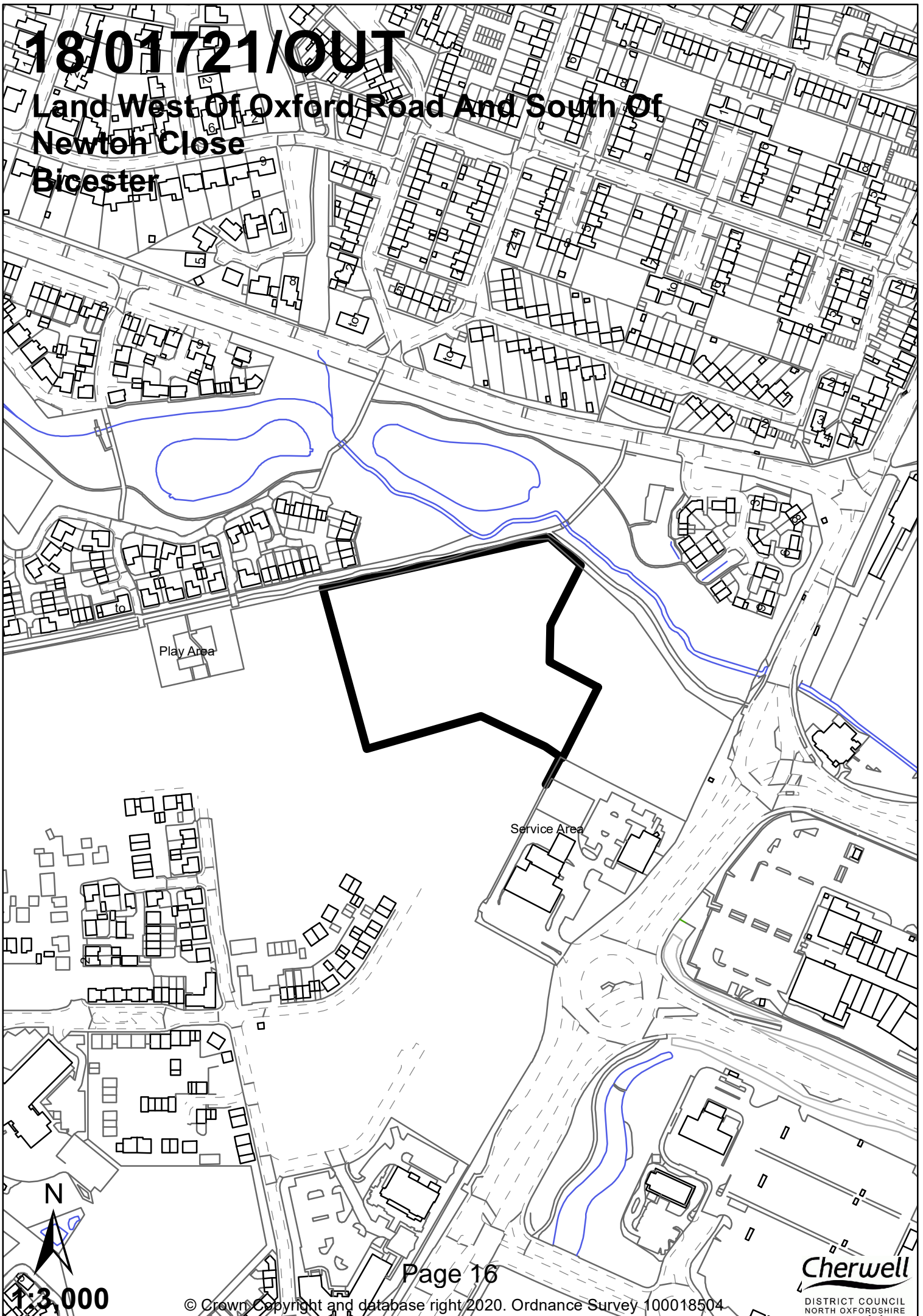
Land West Of Oxford Road And South Of Newton Close Bicester



1:1,000

18/01721/OUT

Land West Of Oxford Road And South Of Newton Close Bicester



Play Area

Service Area

N

Case Officer: Linda Griffiths

Applicant: Countryside Properties (Bicester) Limited

Proposal: Outline permission for development of up to 57 residential dwellings (C3 use class), other related infrastructure and associated works

Ward: Bicester South And Ambrosden

Councillors: Cllr Nick Cotter; Cllr Dan Sames; Cllr Lucinda Wing

Reason for Referral: Major development

Expiry Date: 31 January 2020

Committee Date: 13th February 2020

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

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

Proposal

The site extends to 2.69 hectares. It is part of the Phase 1 South West Bicester development and seeks outline planning permission with all matters reserved for 57 dwellings with 2.5 acres reserved through a section 106 agreement for GP surgery/health hub. The site will be accessed via the new signalised junction onto the A41 by the Premier Inn and through the Kingsmere development along the secondary street which runs between the Linden Homes development and the Bicester Gateway retail development.

Consultations

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

- Bicester Town Council,

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

- CDC Arboriculture, CDC Landscape, CDC Strategic Housing and CDC Waste and Recycling, OCC highways, OCC drainage

OCCG and Bicester Delivery Team have raised some concerns about the ability to secure the health hub land appropriately

1 letter of objection have been received and 1 letter of support have been received.

Planning Policy and Constraints

The application site is situated to the south west of Bicester Town Centre. The site was identified for development under Policy H13 of the Non-Statutory Cherwell Local Plan 2011. Outline planning consent was granted in June 2008 and construction began on site in July 2010. The permission provided for up to 1585 dwellings, a health village, employment, local centre, primary and secondary schools, hotel, sports provision and strategic infrastructure including new perimeter road, landscaping, open space and sports village (06/00967/OUT refers). The application site relates to the land identified for 'health village, including GP surgery'. Outline planning consent for a further 100 units across the

Kingsmere site was granted in 2016, bringing the total number of dwellings to 1685.

Following the above, Policy Bicester 3 of the adopted Cherwell Local Plan 2011-2031 allocated Phase 2 SW Bicester for up to 726 new homes with associated services, facilities and infrastructure (13/00847/OUT refers). Commencement of development on site has begun and first occupation occurred in December 2019.

The application has 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
- Transport Assessment and Highways
- Flood Risk and Drainage
- Sustainability
- Design and Layout
- Residential Amenity and Noise Assessment
- Ecology
- Air Quality
- Mitigating Infrastructure Impacts

The report looks into the key planning issues in detail, and Officers conclude that the proposal is acceptable subject to conditions. The scheme meets the requirements of relevant CDC policies.

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 extends to 2.69 hectares and is part of the development at South West Bicester which is situated between the Middleton Stoney and Oxford Roads. The whole site was granted outline planning permission subject to conditions and a Section 106 Agreement for the erection of up to 1585 dwellings, employment, education, health village, local centre and community facilities and supporting infrastructure in June 2008 (06/00967/OUT) refers. The site is now known locally as Kingsmere Phase 1. Construction began on site in July 2010 and there are now well in excess of 1000 occupations. A land use proposals plan approved as part of the original outline conditions identified this application site as the health village site which was to include land for GP surgery, Community Hospital and other related uses such as elderly care. A further consent for an additional 100 dwellings across the wider Kingsmere site was granted in 2016 (13/00433/OUT) refers. This is the last parcel of land on Phase 1 to come forward for development.
- 1.2. Adjoining the site to the north is Pingle Brook open space and the Esso petrol filling station together with Burger King and Little Chef food outlets which lie to the south. The A41 is situated directly to the east and new residential development which is currently under construction by Linden Homes sits as part of Kingsmere Phase 1 to the west. Access to the site will be via the existing signalised junction from the A41

adjacent to Premier Inn and the new secondary street which runs alongside the new Bicester Gateway development.

2. CONSTRAINTS

- 2.1. The application site is within 250m of a buffer for Protected and Notable Species, notably Swifts and a public right of way passes within close proximity through the Pingle Brook open space just to the north of the site. The site which was previously agricultural land (grades 3 and 4) rises up from Pingle Brook open space to a plateau and has no features of note.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The original planning application included the whole of the health village land within the red line area, seeking consent for up to 100 dwellings should the GP surgery not come forward. The amended application now seeks outline planning permission, with all matters reserved, for up to 57 dwellings on 1.68 ha within the red line area of the application site boundary, with the reservation of 1ha (remaining blue edged land) for a new doctor's surgery/health hub. The whole application relates to the land that has been set aside under the original outline consent as a health village. The application proposal does not seek to specifically obtain consent for a GP surgery (D1 use) on the reserved land, this would need to be the subject of a further application. Attenuation ponds are proposed on the site to deal with surface water from this development.
- 3.2. The site will be accessed via the new signalised junction onto the A41 serving the development and the new secondary street which runs between the Bicester Gateway retail scheme and the Linden Homes development. The site for the GP surgery fronts the Oxford Road. The application proposes dwellings of up to 2.5 storey (9.5m) across the western part of the site, but with some suggested 3 storey elements (up to 13m) in key locations.
- 3.3. *Timescales for Delivery:* The applicant/agent has advised that, in the event that planning permission is granted, they anticipate the site would be marketed soon after.

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>
06/00967/OUT	Outline for up to 1585 dwellings with associated infrastructure	Application permitted
13/00433/OUT	Outline consent for an additional 100 residential units across the development	Application permitted
18/00079/SO	Screening opinion to 18/01721/OUT – outline permission for up to 100 units and land reserved for doctor's surgery	Screening opinion not requesting EIA

5. PRE-APPLICATION DISCUSSIONS

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

17/00118/PREAPP – C2 Residential Institution Care-Community comprising 250 units of accommodation with communal facilities, landscaping, access and parking

18/00167/PREAPP – Outline planning permission with all matters reserved for up to 100 residential dwellings (C3 use class), land reserved for doctor's surgery (D1 use class), other related infrastructure and associated works

- 5.2. It was concluded that the reservation of part of the site as proposed for a GP surgery was welcomed but that any subsequent application must successfully demonstrate that the site had been marketed for health purposes in accordance with the requirements of the section 106 entered into as part of the original outline consent. If this can be demonstrated and that no interest had been expressed, residential as an alternative use was acceptable in principle. OCC advised that a full transport and travel plan together with a full surface water drainage strategy would be required to be submitted with any subsequent application.

6. RESPONSE TO PUBLICITY

- 6.1. This application has been publicised by way of site notices 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 public comments was **08.11.2018**, although comments received after this date and before finalising this report have also been taken into account.

- 6.2. The comments raised by third parties are summarised as follows:

- 6.3. Stagecoach support this proposal because it seeks to deliver high quality housing in a sustainable location in close proximity to employment opportunities, existing new development, proximity to existing bus stops and bus services and Bicester Village station thereby reducing the demand for personal car use. The national presumption in favour of sustainable development and the need to maintain a supply of suitable land to meet the District's housing needs warrants that the Council approve the proposal without delay.

- 6.4. 1 letter of objection from a nearby resident whose concerns are summarised as:

- Inadequate medical facilities for current residents
- Overcrowding of the area leading to more cars will worsen the problems already seen across the estate. Block of flats is too large
- Perceived loss of open space
- Asks that the application is refused, and that Countryside Properties are encouraged to resubmit a plan that guarantees the building of additional healthcare facilities and reduces the number of dwellings more appropriate to the size of the site in question.

- 6.5. 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. BICESTER TOWN COUNCIL: (first response) **object** on the issues of the effect on the road network and cumulative effect of the development in the same area on traffic and travel, access to the site and placement of the bus stop. Regret that the health village was not achieved and would request that the marketing be properly assessed.

Update 11.03.2019: “Bicester Town Council strongly object. Whilst welcoming the reduction in proposed housing unit numbers, it limits the opportunity for adequate and appropriate health provision to meet the known needs of the CCG. Concerns regarding impact of additional traffic from residential development and the cumulative effect on a small area from this and other approved development. This is the wrong use of the site and if residential is to be approved, it should be specialist requirements such as care home or other similar supported housing. Should CDC be minded to approve, sufficient land should be retained to allow for a future health provision including space for car parking and public transport with turning room”.

CONSULTEES

- 7.3. OCC HIGHWAYS: (first response) **objection** - the transport statement supplied is insufficient to determine the impact on the highway network and the drainage information supplied is insufficient to demonstrate that there is sufficient capacity to mitigate the risk of flooding from the development.

Transport – key points

- The transport assessment does not provide a full analysis of the transport impact because it argues the trip generation of the current proposal is less than was forecast in the 2006 wider Kingsmere planning application for the consented use (health village) on the site – an argument which the highway authority does not accept
- The transport statement does not consider the full quantum of development that could arise from the site if planning permission is granted as per the description. It should assess 100 residential units PLUS the doctor's surgery/health hub
- Concerns over drainage strategy
- Further details required of pedestrian and vehicular access

Update March 2019: Objection maintained as above

Update June 2019: The latest amendment excludes the health facility from the application boundary and instead proposes a commitment to safeguard the land for future health provision. OCC's previous objections were due to the application not fully assessing the traffic impact of the proposal. A revised traffic assessment has been submitted and subject to conditions, OCC's technical transport objection has been removed.

However, OCC has serious concerns that the application directly conflicts with the original agreed use for the site, and that there is no guarantee the remaining land would be sufficient for health use, or that the highway impact of a health facility in

addition to the dwellings would be acceptable. It is noted that the CCG would expect a suitable site to allow for the potential to expand further.

In transport terms, the site is a good location for health provision because it is relatively central and provides good opportunities for sustainable travel. **Therefore, OCC would not support an application which could jeopardise the future provision of health services in this location.**

Update 24th January 2020: (following consideration of a Site Impact Technical Note (SITN) supplied by the applicant) **No objection** subject to S106 obligations as summarised, an obligation to enter into a S278 and a number of planning conditions to be attached to any permission.

- 7.4. OCC DRAINAGE: (first response) **Objection** insufficient drainage strategy information

Update 16.01.2020: An updated FRA reference TF/CS/P15-874/13/Revision D and updated drawing 874/02/703C Foul and Surface Water Drainage Strategy has been submitted and accepted. **No objection** subject to the imposition of a condition requiring details to be submitted and agreed.

- 7.5. OCC EDUCATION – **no objection** subject to Section 106 contributions towards nursery and primary education and secondary education (including sixth form)

- 7.6. CDC LOCAL MEMBER – **comments** as follows:

- Description of development suggests small scale but planning statement is more akin to a large scale 'hub' of surgeries
- Heights of proposed buildings could impact on protected views from St Edburg's Church in Bicester and St Mary's in Chesterton
- Location is inappropriate for a GP hub. Community hospital and medical centre are nearby. If the 'hub' model is appropriate they should not be located right next to each other as this will create a significant number of additional trips on the traffic network
- Have the impacts of the GP hub model been fully assessed
- There will be severe cumulative traffic impact given other growth in this area, none of which were planned or committed developments at the time of the original Kingsmere application. A new comprehensive traffic assessment must be undertaken to assess the cumulative impact
- Contrary to the local plan and Kingsmere master plan. There was insufficient marketing for health village
- Filter by the Premier Inn will not be able to cope with the additional traffic. A Road Safety Audit should be undertaken
- Insufficient access by public transport – a GP hub of this size will involve many trips across town. A bus stop will be required outside the GP hub
- Insufficient pedestrian/cycle access
- Car parking management for the GP hub will be required as there are already parking problems across Kingsmere

- A nursing/care home on the site would be more appropriate and in accordance with the approved masterplan than the additional 100 houses. The existing outline planning permission included an elderly persons nursing home on the site and there is an increasing demand for such facilities in Bicester

Update 18.03 2019: in addition to the above, Local Member comments further as follows:

- There have been recent accidents and near misses at Pioneer way/A41 access by Premier Inn
- Combined with the approved drive-thru coffee shop and redevelopment of the service station (18/01822/F), this development will impact on the Whitelands Way/Middleton Stoney Road roundabout access to the north west
- In 2006 when Kingsmere was consented, none of the additional local plan growth was envisaged. The cumulative transport impact of all existing and planned growth must be assessed
- Consideration should be given to locating a GP hub at NW Bicester rather than Kingsmere
- Nursing/care home would be more appropriate and in accordance with the approved masterplan than the 57 dwellings.

7.7. ENVIRONMENT AGENCY: **no comments** received

7.8. THAMES WATER: **no objection** – the application indicates that surface waters will not be discharged to the public network, however, approval should be sought from the Lead Flood Authority. In terms of foul water, there are some constraints in the vicinity of the proposed development, however, it is understood that required upgrades can be delivered in time to serve the development.

7.9. NHS OXFORDSHIRE CLINICAL COMMISSIONING GROUP (OCCG): (first response) while welcoming the principle for the continued health designated land, **object** to the original submission as follows

- Currently Bicester GP practices have limited capacity for absorbing new population growth and for expansion. The site would allow Alchester Medical Group and Montgomery House Surgery to provide services from the site
- Access for emergency vehicles and ambulances will require consideration and an alternative access solution rather than through the residential estate may be beneficial
- On-site parking is required and estimated at c300 spaces for patients and staff. External space requirements may need to facilitate large mobile screening vehicles. 1.5 acres is therefore insufficient. 1.4ha as previously allocated for doctors/community hospital should therefore be reserved. This land should be designated as D1 land and therefore at below commercial land values.
- Wish to see land reserved for 5 years rather than 3

- Request financial contribution for health facilities for the additional dwellings in line with the Council's SPD
- OCCG and GP's involved would like to be involved in the design code for the health centre

Update 3rd July 2019: if the site is split there may be planning issues such as transport and drainage that can only be assessed as a whole. These need to be looked at sooner rather than later to make a judgement about the suitability of the site. Interest needs careful definition to ensure that the site is available until all planning issues and other potential sites are resolved.

- 7.10. THAMES VALLEY POLICE: **do not object** but consider some aspects of the design and layout to be problematic in crime prevention terms and therefore may not meet all the requirements of the NPPF or HMCLG's Planning Practice Guidance on design. In addition, the Design and Access statement does not adequately address crime and disorder as required by CABE's advice on how to write Design and Access Statements. A number of further general points are raised and can be read in full on the application file.
- 7.11. KINGSMERE RESIDENTS ASSOCIATION: No comments received.
- 7.12. CDC ARBORICULTURAL OFFICER: **comments** the tree report has been made by requirement as a preliminary site survey, as such it does not include an Arboricultural Impact Assessment, or method statement to the development. I agree with the categorisation of trees on the site, however, as these trees form essentially a buffer between Newton Close and the B4030, their retention I believe is of high priority. I echo CDC Landscape Services' comments that the submission of a detailed planting plan be required to ensure appropriate tree stock is planted throughout the development, as planting is suggested in the illustrative master plan. An arboricultural impact assessment and method statement to BS5837 to be submitted once a design plan has been confirmed.
- 7.13. BICESTER DELIVERY TEAM: **comments** that they are working with OCCG to ensure adequate health provision in Bicester to serve the population both now and in the future. This requires re-organisation of the health estate to meet the requirements and provision of health hubs that can offer a range of services. A current exercise is reviewing options, including this site. The following additional comments are made in summary:
- Is reservation of the site for 3 years sufficient
 - Is the amount of land reserved sufficient
 - Site should not be compromised by the attenuation basin
 - Section 106 contribution should be sought for this new population in addition to reserving the site for GP use
 - Active travel must be encouraged
 - Provision of open space must be compliant with CDC's adopted Cherwell Local Plan
 - Development must respond positively to the adjacent open space and also provide a high quality development in line with CDC's recently adopted Residential Design Guide 2018 and Bicester's Garden Town status.

Update: in respect of the amended submission;

- Welcomes the increase in the amount of land and the timescale for it to be safeguarded, although unclear at this stage what the term 'safeguarded' actually means. The sec 106 will need to define the Doctors Surgery/D1 use as ' the GP Surgery Site for the development of an NHS GP Health Centre (which may include complementary facilities and services) by the Oxfordshire Clinical Commissioning Group or other medical operator or medical company' for the avoidance of doubt.
- Connectivity is important and some firm commitment is necessary to ensure the provision of footpath/cycle links/wayfinding signage
- Travel plan must be complied with
- Proposal does not allow CDC (or OCC) to make a comprehensive assessment of the residential and health parts of the scheme. It is difficult to assess how the 2 uses will relate to each other physically and in design terms, as well as the nature of connectivity between the 2 parts of the site
- No additional open space is provided to support the new housing

7.14. CDC ECOLOGY OFFICER: no comments received

7.15. CDC ENVIRONMENTAL HEALTH: In terms of **air quality**, the submitted report has been reviewed, and if taking the worst case scenario, the air quality assessment should also consider the development with all residential and no health facility which is the approach taken with the noise assessment. The assessment has looked at the impact on air quality at receptor locations within the proposed development but has not considered the impact of additional traffic movements associated with the development on levels in the Air Quality Management Area. The damage cost calculation has been based on additional traffic movements as a result of the residential but does not consider the health facility. The money identified as a result of the damage cost calculation should not be used for offsetting measures that would normally be required through the planning process such as Travel Plans as suggested in the report. It is recommended the money be used for offsetting measures such as the provision of infrastructure to allow for the future installation of vehicle charging points to each dwelling, and charging points to the proposed health facility.

In terms of **noise**, the submitted Noise Assessment report has been reviewed which has been made on the basis that the site is all residential and no health facility. For external areas, any mitigation will need to be designed to achieve the desirable level not exceeding 50dB and not the upper level of 55dB. Further clarification is requested regarding how the readings and levels have been calculated based on the data at Appendix B. The method of assessing items of plant is queried and engine noise at the Esso services was identified as a noise source but has not been considered in the BS4142 assessment. The services are 24 hour, including HGVs.

In terms of **contaminated land**, no assessment has been made.

A Construction Environmental Management Plan will be required with regard to dust and noise control.

7.16. CDC FINANCE: it is estimated that the development has the potential to attract New Homes Bonus of £429,400 over 4 years under current arrangements for the council. This includes a sum payable per affordable home.

7.17. CDC LANDSCAPE SERVICES: advises that the illustrative masterplan shows narrow garden frontages which is insufficient space to allow for unifying landscape structure of ornamental hedges which will improve the amenity of the street and visually mitigate the hard edges of building frontages. General comments are also given in terms of landscaping proposals and can be read in full on the application file.

7.18. CDC PLANNING POLICY: no comments received

7.19. CDC STRATEGIC HOUSING: (first response) the application for 100 units will provide 30% affordable housing, this equates to 30 units. There is no indication of tenure split but the following is suggested – 6x1b2p flats; 10x2b4p houses; 4x3b5p houses and 1x4b6p house for social rent and 6x2b houses and 3x3b houses for shared ownership. Housing should be well distributed around the site in clusters of no more than 15 units with no more than 10 of any tenure in cluster. 50% of the affordable units should meet part M4 of the building regs. 1 bedroom properties should have a minimum of 1 parking space per unit and 2/3 bed properties a minimum of 2 parking spaces per unit. The Registered Provider will need to be agreed with the Council.

Update: the number of residential units has now been reduced from 100 to a maximum of 57, of which 30% are required to be affordable housing, this equates to 17 units. There is no indication of tenure split so the following is suggested: 2x1b2p flats, 6x2b4p houses, 3x3b5p houses and 1x4b6p house for social rent and 3x2b houses and 2x3b houses for shared ownership.

7.20. CDC WASTE AND RECYCLING: the developer will have to satisfy the LPA that they have adequate provision for waste and recycling storage. Guidance for households is 1.8sqm per dwelling and bin stores for flats need to be a minimum of 1.4sqm per flat. Commercial waste/recycling needs to be separate.

7.21. *Officer comment:- Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Section 70(4) of the 1990 Act (as amended) defines a local finance consideration as a grant or other financial assistance that has been, that will or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy.*

7.22. *In this particular instance, the above financial payments are not considered to be material to the decision as they would not make the development acceptable in planning terms. It would not be appropriate to make a decision based on the potential for the development to raise money for a local authority and hence the above response from the Council's Finance department is therefore provided on an information basis only.*

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)

- ESD1 – Mitigating and Adapting to Climate Change
- ESD3 – Sustainable Construction
- ESD5 – Renewable Energy
- ESD7 – SUDS
- ESD10 – Protection and enhancement of biodiversity and the natural environment
- ESD15 - The Character of the Built and Historic Environment
- ESD17 – Green Infrastructure
- BSC3 – Affordable housing
- BSC4 – Housing mix
- BSC8 – Securing health and well-being
- BSC10 – Open space, outdoor sport and recreation provision
- BSC11 – local standards of provision – outdoor recreation
- BSC12 – Indoor sport, recreation and community facilities
- SLE4 – Improved transport and connections
- INF1 - Infrastructure

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C28 – Layout, design and external appearance of new development
- C30 – Design control over new development
- ENV12 – Contaminated land
- TR1 – Transportation funding

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- The Non-Statutory Cherwell Local Plan 2011
- The Kingsmere Design Code Phase 1 2008
- CDC Residential Design Guide July 2018
- CDC Planning Obligations SPD 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:

- Principle of development
- Transport Assessment and Highways
- Flood Risk and Drainage
- Sustainability
- Design and impact on the character of the area
- Residential amenity and Noise Assessment

- Ecology Impact
- Air Quality
- Mitigation of Infrastructure Impacts

Principle of Development

Policy Context

- 9.2. The Development Plan for Cherwell District comprises the saved policies in the adopted Cherwell Local Plan 1996 and adopted Cherwell Local Plan 2011-2031. Section 70(2) of the Town and Country Planning Act 1990 provides that in dealing with applications for planning permission, the local planning authority shall have regards to the provisions of the development plan, so far as is material to the application, and to any material considerations. Section 38 of the Planning and Compulsory Purchase Act 2004 requires that if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the development plan unless material considerations indicate otherwise. This is also reflected in the National Planning Policy Framework (NPPF) at paragraph 12 which makes it clear that the starting point for decision making is the development plan.
- 9.3. Policy PSD1 'Presumption in favour of sustainable development' of the adopted Cherwell Local Plan 2011-2031 states that the council will take a proactive approach in seeking to deliver sustainable development across the district without delay. New development across the district is focussed primarily upon the towns of Bicester and Banbury whilst limiting development elsewhere in order to provide for the most sustainable forms of sustainable growth over the plan period. The NPPF sets out the economic, social and environmental roles of planning in seeking to achieve sustainable development; contributing to building a strong, responsive and competitive economy; supporting strong, vibrant and healthy communities; and contributing to protecting and enhancing our natural built and historic environment.

Assessment – Impact on the Heath Village Land

- 9.4. The application site is identified as 'health village' land as part of the overall mixed use development at South West Bicester which was allocated as a strategic urban extension under Policy H13 of the non-statutory Cherwell Local Plan 2011. One of the requirements of that policy was to 'provide the opportunity for appropriate medical facilities to be provided in accordance with NHS requirements on a commercial basis'. The explanatory text advised that the components listed in the policy were essential to the proper planning of the locality in that they will provide services, employment and facilities for residents living in the new neighbourhood, to ensure the new development is integrated into the town and enable the provision of facilities to serve the whole town in a planned manner. The section 106 agreement accompanying the original outline planning permission (06/00967/OUT) requires that for a period of five years from implementation of the development or until first occupation of 1000 dwellings, whichever is the later, that best endeavours are used to market the site identified as the 'healthcare site' for a community hospital, GP surgery and Medical facility uses, which may include extra care elderly nursing home within Use Class C2.
- 9.5. Whilst it is accepted that the timescale for submitting reserved matters under 06/00967/OUT has now lapsed, the permission has been implemented and therefore the obligations within the Section 106 are still relevant. It should be noted that an expression of interest in purchasing the health village site was made at the end of 2018 by a group of Bicester GPs, prior to the 1000 occupation. The need for another site has been driven by the unsuitability of the current practice premises to

cater for current and planned growth in service demand resulting from an ageing and increasing population. As a consequence of the expression of interest in the site by this group of GPs, there remains an obligation by Countryside and the consortium to use all reasonable endeavours to agree a sale of the land accordingly. It should be noted that there is no time limit in the Section 106 for seeking to achieve a sale before the land can be disposed of for alternative uses. Countryside are therefore, bound by the obligation to secure a sale to the interested party for as long as that interested party (in this case the GPs) continue to hold that interest.

- 9.6. It should also be noted that the whole of the health village site identified in the Phase 1 Kingsmere development extends to 2.69ha. The original submission relating to this development however offered only 0.6 ha of land to the GPs. The consultation response received from the GPs advised that this was not sufficient to accommodate their future needs and therefore as requested, the GPs submitted further information to justify the amount of land now considered necessary to deliver the new health hub (2.5 acres). Following the receipt of this additional information the application has been amended and the amount of land reserved for the future health hub has now been increased by Countryside to 1ha. This is now acceptable to the GPs and OCCG in terms of reserving sufficient land area to accommodate the new facility. The specific terms and timescales for reserving the land (and further potential marketing of the land should the current interest from the GPs fall away) will be included in the Section 106 agreement.
- 9.7. Policy BSC8 of the adopted Cherwell Local Plan 2011-2031 identifies that there is a need for more GP provision in Bicester and this site in question is one of the preferred options for meeting that need due to its highly sustainable location in terms of serving the new population at Kingsmere as well as the existing patients in Bicester itself. In terms of other potential sites within Bicester, the GPs have also expressed an interest in a site at Graven Hill, but to date no planning application has been received. Whilst North West Bicester includes a site for a GP surgery, this only extends to 0.2ha and this is also unlikely to come forward for development until after 2025. This site is capable of delivering the need of the GPs and OCCG in full, with potential for future expansion, in the shorter term. Paragraph 92b of the NPPF is also relevant in seeking to ensure the delivery of such infrastructure to improve health and social well-being.
- 9.8. It is therefore considered that it is necessary to ensure that a sufficient amount of land is reserved for GP surgery use and for a reasonable amount of time to allow the necessary negotiations to conclude in terms of the sale of the land and obtain the necessary planning permissions. It is also considered that, should the interest from the GPs fall away, the land should continue to be safeguarded and marketed for alternative health care use, recognising the highly sustainable and accessible location of the site, the planned growth around Bicester, and that the rationale for safeguarding the land as part of the original S106 has not changed. It should be noted that the proposed 57 dwellings are in addition to the 1740 already permitted on Phase 1 (155 in addition to the 1585 originally permitted) and up to 709 dwellings on Kingsmere Phase 2. Whilst this application seeks to reserve 1ha of land for the future GP surgery, it does not seek consent for it as part of this application and therefore a subsequent application will need to be submitted by the GPs or OCCG at a future time.
- 9.9. Concerns that the delivery of the GP hub may be prejudiced by considering the site piecemeal rather than comprehensively were raised with the applicant and agent in that initially Officers could not be clear that all the necessary infrastructure, including acceptable access and SUDS drainage (including attenuation) could be adequately accommodated. As a consequence, the applicants have submitted a more comprehensive transport assessment which in Officers' opinion has adequately

addressed this issue. This is discussed in more detail below. The amended submission is now therefore considered to be acceptable in this respect.

- 9.10. Whilst Countryside have stated in the application that they are willing to reserve 1ha of the health village land for GP use for a period of up to 5 years through a new section 106 agreement attached to this application, they are of the view that there is currently no policy requirement or commitment for a GP surgery on this site. Your Officers would respond that whilst the application site is not specifically allocated for health associated uses within the Development Plan, it is however specified in the allocation of SW Bicester (Kingsmere) in the Non-Statutory Cherwell Local Plan 2011 which specifically required that an opportunity be made for appropriate medical facilities on the site. Indeed, the outline planning permission granted, included health, employment and an elderly persons nursing home within the description of development. The Health Village land was identified on the subsequent land-use plan that was approved under condition 5 (06/00967/OUT refers). Along with the provisions contained in the existing S106, your Officers are therefore of the opinion that the health village use, which includes a GP surgery is a commitment of that permission.

Assessment – Principle of Housing

- 9.11. In terms of the proposal for 57 dwellings on the site, the NPPF supports the need to boost significantly the supply of housing to meet the full, objectively assessed need for housing and consequently 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 a buffer of 5% to ensure choice and competition in the market for land. The Council's current position on housing land supply is published in the 2019 Annual Monitoring Report (AMR) which involved a comprehensive review of land supply within the District. This was approved by Members at the Council's executive meeting on 6th January 2020 and confirms that the council can demonstrate a 4.6 housing land supply (for the current period 2019-2024) with a 5% buffer and 4.4 year housing land supply for the next 5 year period (2020-2025).
- 9.12. In the circumstances that an LPA cannot demonstrate a five year supply of deliverable housing sites 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 the development should be approved unless there are clear reasons 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.
- 9.13. However, in respect of the Oxfordshire Authorities, a 'Written Ministerial Statement' made in September 2018 relating to the Housing and Growth deal which grants the Oxfordshire Authorities flexibility on maintaining a five year housing land supply is a significant material consideration. This 'Statement' sets out the requirement for a three year supply of deliverable housing sites from the date that it was made (12th September 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.

Conclusion

- 9.14. Having regard to the above, it is clear that in this case, the three year housing land supply position should be adopted and so the Council's policies relevant to the supply of housing remain up-to-date. However, in any case it is considered that this site which seeks consent for up to 57 dwellings with the remainder of the land

reserved for GP surgery use accords with the requirements of the NPPF and the Development Plan being in a wholly sustainable location within the built up limits of Bicester. The principle of the development proposed is therefore accepted.

Transport Assessment and Traffic Impact

- 9.15. Strategic objective 13 of the adopted Cherwell Local Plan 2011-2031 aims to reduce the dependency on the private car as a mode of travel and to increase opportunities for travelling by other modes. Policy ESD1 also aims to mitigate the impact of development on climate change by delivering development that seeks to reduce the need to travel and which encourages sustainable travel options including walking, cycling and public transport to reduce the dependence on private cars. Policy SLE4 also has similar objectives. The transport impacts of the development must be considered against these policies and the requirements of Section 9 of the NPPF.
- 9.16. The original submission was accompanied by a Transport Statement and Travel Plan which were assessed by OCC as highway authority who objected on the grounds that it was insufficient to determine the impact of the whole development on the highway network. The Transport Statement did not provide a full analysis of the transport impact because it argued that the trip generation of the current proposal was less than was forecast in the 2006 wider Kingsmere planning application for the consented health village use on this part of the development. OCC considered that relying on a 12 year old transport assessment was inadequate to predict the transport impact of the site, given the changed conditions and increased level of growth in the area that was not forecast at that time; not due at least to the adoption of the Cherwell Local Plan in 2015.
- 9.17. The approach above, of accepting that the trips generated by an alternative land use were within the number of trips originally forecast for the land in the original transport assessment for the Kingsmere outline planning application, and that therefore, a further transport assessment was not required, was **not** accepted by the Inspector in the appeal against the Bicester Gateway retail proposal at Kingsmere.
- 9.18. In terms of the originally submitted Transport Statement and trip generation, the peak hour rates for residential per dwelling was accepted, however, the Transport Statement was not clear about the TRICS rates used for the GP surgery. In terms of actual forecast trip generation, the Transport Statement did not consider the full quantum of development that could arise if planning permission is granted, that is the residential PLUS the GP health hub proposal. OCC also advised that justification of the parking provision for the GP surgery needed to be demonstrated through a first-principles assessment as the risk of overspill parking on the adjacent residential streets also needs to be considered and appropriate road markings installed on the internal roads. A parking management plan for the surgery would be required but this could be dealt with by condition should planning permission be granted for the surgery.
- 9.19. It is proposed that vehicular access to the site will be taken via the new signalised junction on the A41 serving the Kingsmere development leading to Pioneer Way and then via the new secondary street permitted under application number 17/01461/F which extends into the application site. OCC have advised that the proposed secondary street must comply with the Section 38 plans, which allow for 2m footways on both sides and a turning head. The indicative masterplan for the application did not appear to show this layout. The final layout must incorporate exactly what has been agreed in respect of that application. It will also need to be offered up for adoption and therefore should be safeguarded within this application.

- 9.20. The objections and issues raised in respect of the original submission highlighted above were forwarded to the applicant's agent to address accordingly. The revised submission is now accompanied by a Site Impact Technical Note (SITN) which evaluates the impact of the proposals PLUS the impact of the GP hub, this has been assessed by OCC as highway authority and their objection has now been removed.
- 9.21. The amended scheme now offers to provide a footway south from the bus stop on Oxford Road to the petrol filling station access, although this should be built to 3.5m wide to facilitate cycling. These highway works will need to be secured via a planning obligation. OCC further requested that provision be made for the crossing of Middleton Stoney road at Villiers Close to ensure appropriate connectivity to the health hub from the surrounding area.
- 9.22. In terms of bus service provision, the bus service between Bicester and Kingsmere is a direct arrangement between Countryside Properties and Stagecoach with no involvement from the County Council. Therefore, there is no financial contribution to be made and a six month extension to the service is considered more appropriate on this basis. The County therefore seeks to secure a six month extension to the current contract arrangements between the developer and bus operator which is in lieu of a contribution. This extension is sought as a section 106 contribution.

Flood Risk and Drainage

- 9.23. The original outline consent advises that the surface water drainage system must be independent of the main network and provide surface water alluviation and storage within the plot, suitable for 100 year plus climate change events. The submission proposes an attenuation pond within the health hub site and which is located in an area currently highlighted to be at risk of surface water flooding.
- 9.24. A Flood Risk Assessment (FRA) was submitted with the application and has been assessed by OCC drainage engineers. It states that there is little potential for infiltration on the site. However, infiltration testing has been carried out on the site and these tests demonstrate some good rates in the Cornbrash formation at shallow depth above one metre. There may be potential to utilise unlined permeable paving in these areas, and the geotechnical report does not rule out the use of soakaways. OCC (drainage) therefore requested that the potential for infiltration be clarified further.
- 9.25. The proposed allowable discharge rates suggested for the site would provide adequate mitigation for the increase in surface water volume generated by the development and will ensure flood risk will not be increased by the development.
- 9.26. However, OCC (drainage) have raised a concern because the outfall for the site appears to be outside the red line application boundary of the site, with no clarification over access for maintenance to the outfall provided by the applicant. Additionally the outfall invert levels from the attenuation appears to be submerged below the channel surface water flood levels with channel flood occurring out of the bank. This raises a concern over the operation of the proposed attenuation pond during flood events and whether sufficient capacity has been provided for.
- 9.27. The submitted FRA has outlined some basic principles for management and maintenance of the SUDS, but a comprehensive SUDS Management Plan will be required at detailed design stage. Flood Flow routing in exceedance conditions can also be dealt with by future submissions.
- 9.28. Thames Water have also assessed the submission and advise that as surface water will not be discharged to the public network, no objections are raised. However,

should connection be subsequently sought to discharge surface water to the public network in the future, this would be a material change which would require an amended application. In terms of foul water, Thames Water are aware of some network constraints within the vicinity of the proposed development but are confident that any required upgrades can be delivered in time to serve the development.

- 9.29. The objection and concerns raised above in respect of the original submission were forwarded to the applicant's agent to address accordingly. A revised FRA and surface water drainage strategy drawing has been subsequently submitted and is now acceptable to OCC as Lead Flood Authority.

Sustainability

- 9.30. Sustainability is one of the key issues at the heart of the NPPF and is also sought by Policies ESD1 to ESD5 of the Cherwell Local Plan 2011-2031. The proposal must therefore demonstrate how it achieves sustainable objectives, including the need to show how it promotes sustainable modes of transport, including walking and cycling, along with utilising sustainable construction methods and measures to reduce energy consumption.
- 9.31. A Travel Plan was submitted with the application and has been assessed by OCC as highway authority who consider that the submitted Travel Plan requires further development to render it acceptable. This requirement however, can be dealt with by condition.
- 9.32. In terms of footpath and cycle links, the Design and Access Statement advises that the proposals will place an emphasis on cycle and pedestrian movement and that block structure together with appropriate links to the adjacent residential parcels and existing public right of way within Pingle Brook open space creates permeability and therefore will encourage walking and cycling.
- 9.33. It is accepted that the site offers good potential to make connections to the network of footpaths through the remainder of the Kingsmere development and leading to Middleton Stoney Road, but it is also considered that an additional access point should be provided at the apex of the site, on the desire line to Oxford Road. As a consequence it is important that any subsequent reserved matters submissions should include appropriate connections to the adjacent residential parcels and open space.
- 9.34. Good pedestrian access onto the frontage of the Oxford Road is also vitally important, to encourage sustainable travel, including walking and cycling trips. The Transport Statement offers to construct a path northwards from the north-eastern access point of the site to Middleton Stoney Road. However, a path has already been constructed here, linking the northbound bus stop at the junction of Oxford road and Pingle Drive, with Middleton Stoney Road. It is considered that a footpath should be provided from the bus stop southwards along Oxford Road, to the petrol filling station adjacent. Details of the new footpath connection will need to be provided as this verge is currently cluttered with street furniture, including signage and cabinets.
- 9.35. Additionally, walking trips to the site from the northwest on Middleton Stoney Road are likely to be made through choice, via the path through the open space towards Villiers Place. For this reason, OCC is requesting the provision of a formal crossing facility on Middleton Road at this point as off-site mitigation. It is agreed that, in terms of pedestrian/cycle safety that this should be required.

- 9.36. In terms of public transport, there is a good quality bus service which runs along the A41 and the bus stop is nearby. The site is also served by the Kingsmere bus service which is procured by the applicant in connection with Phase 1 under the terms of the Section 106 Agreement. A proportionate extension of this contract will be required as part of this development to ensure the future viability of the service for the increasing Kingsmere population.
- 9.37. Guided by the NPPF, the principles of sustainable development are in three dimensions. The economic role can be demonstrated by ensuring that the development is of the right type and in the right place, in this case the development will provide jobs during the construction and subsequently contribute to the local economy and the viability of the Kingsmere Local centre facilities through the new population. Socially, the development should be of high quality design and be accessible, reflecting the community's needs. This proposal provides new housing, including affordable housing and will help deliver the much needed additional health facility for Bicester's growing population. In terms of the environment, the development should contribute to protecting and enhancing the environment, through matters such as a net biodiversity gain, reducing energy and water consumption, and utilising sustainable construction methods.
- 9.38. An Energy Statement will be required by condition, to demonstrate compliance with the requirements of Policy ESD3 in terms of construction and environmental standards and sustainable construction methods. A further condition will be imposed to secure the higher level of water efficiency specified in Policy ESD3.

Design and Impact on the Character of the Area

- 9.39. Section 12 of the NPPF 'Achieving well designed places' attaches great importance to the design of the built environment and advises at paragraph 124 that 'good design is a key aspect of sustainable development, creates better places in which to live and work and help makes development acceptable to communities'.
- 9.40. Policy ESD15 of the adopted Cherwell Local Plan Part 1 2011-2031 advises that design standards for new development, whether housing or commercial development are equally important, and seeks to ensure that we achieve locally distinctive design which reflects and respects the urban or rural landscape and built context within which it sits. The adopted Cherwell Local Plan 1996 contains saved Policy C28 which states that control will be exercised over all new development, including conversions and extensions to ensure that the standards of layout, design and external appearance, including choice of materials are sympathetic to the character of the urban or rural context of the development.
- 9.41. The application is accompanied by a Design and Access Statement and Design Code. Policy ESD15 advises that the design of all new development will need to be informed by an analysis of the context, together with an explanation and justification of the principles that have informed the design rationale which should be demonstrated in the design and access statement that accompanies the application.
- 9.42. The appearance of new development and its relationship with its surroundings and built and natural environment has a significant effect on the character and appearance of the area. Securing new development that can positively contribute to the character of its local environment is therefore of key importance. The built residential development proposed within the submitted design and access statement is not dissimilar to the existing residential development on Kingsmere Phase 1 and is therefore acceptable in this respect, although it lacks detail in terms of the provision of any public open space/play space to serve the new development.

- 9.43. A Design Code has been approved for the Kingsmere Phase 1 development, of which this site is part. The principles established through that code remain relevant to the consideration of this application. The approved Design Code considers the type and scale of development that would be appropriate for this application site having regard to its designation as a 'health village' and this is detailed on pages 144-147 of that document. In terms of heights of buildings, it envisages the tallest buildings on this site would be closest to the Oxford Road frontage and in the site core area, the maximum height being 14.4m.
- 9.44. A new design code has been submitted with this application to specifically deal with this new proposal. It only considers the residential development however, and, makes no reference to the GP/health hub part of the site.
- 9.45. In terms of the residential, the submitted design code concentrates on the adjacent Pingle Brook character area for the character and appearance of the new development. Whilst this is accepted in principle, the application site does more closely relate to the Urban character area in terms of its direct boundaries and the proposed densities which are higher than the Pingle Brook character area. However, the parameter plans indicate a density of 30-40dph, the lower density being adjacent to the Pingle Brook open space which is considered appropriate. The building height parameter plan also indicates a maximum height of 13m. Whilst this might be appropriate for a marker building close to the health hub site, this is not considered to be an appropriate height across the whole site having regard to the adjacent residential development. It is also considered that it might be more appropriate to define the Oxford Road frontage with a stronger built form and landmark or marker building. Furthermore, the code as submitted does not appear to address the noise issues and the requirement for noise attenuation fencing along the southern boundary and how the development proposals might respond to this appropriately.
- 9.46. These concerns were raised with the applicant's agent and a revised Code was submitted in April 2019, but only sought to make very minor changes overall. This is somewhat disappointing, and Officers consider further work is required to define appropriate parameters for the development to ensure a high quality development that integrates well in its context. It is therefore considered that a condition be included which seeks further amendments to the design code (and potentially parameters plans) accordingly.

Residential Amenity and Noise Assessment

- 9.47. The amenities of the proposed residents could be affected by noise from the adjacent petrol filling station site and the A41. Consequently, the application is accompanied by a Noise Impact Assessment produced by Create Consulting Engineers Ltd on behalf of the applicant. The report has been biased towards the eastern end of the site, approximately 60m from the closest façade of Bicester Village shopping area. Subjectively it considers that the most prominent noise sources around the site were noted to be vehicular traffic along Oxford Road and plant associated with the petrol station, services and food outlet to the south of the site and whilst engine noise at the Esso services, which are 24 hour, were identified as a noise source, it has not been considered in the BS4142 assessment. The road traffic appeared to be a mix of HGV and regular traffic.
- 9.48. The report advises that a section of close boarded fence of 2.5m height, with a return of 1.8m height should be erected to the south-east corner of the site to ensure suitable residential amenity is achieved with respect to noise. In terms of internal sound levels, standard double glazing would be suitable. It is considered that close boarded fencing is not the most attractive feature to exposed boundaries which are visible to the public domain and therefore, as part of the further negotiations to the

design code identified above, Officers will seek to ensure that the impact of this can be more appropriately mitigated, by either landscaping or alternative means of enclosure.

- 9.49. Having regard to the above, and careful positioning of dwellings at reserved matters stage, it is considered that with appropriate mitigation which will need to be designed, so far as practicable, to achieve the desirable level not exceeding 50dB and not the upper level of 55dB, noise affecting the development should not give rise to significant adverse impacts upon residential amenities and therefore health and well-being of future residents. The proposal is therefore in accordance with the NPPF, relevant legislation and the development plan in this respect.

Ecology Impact

Legislative context

- 9.50. 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.
- 9.51. 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.
- 9.52. 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.
- 9.53. 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.

9.54. 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

9.55. 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.

9.56. 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.

9.57. 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.

9.58. 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.

9.59. 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.

9.60. 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.

9.61. 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

9.62. Natural England's Standing Advice states that an LPA only needs to ask an applicant to carry out a survey if it's likely that protected species are:

- present on or near the proposed site, such as protected bats at a proposed barn conversion affected by the development

It also states that LPA's can also ask for:

- a scoping survey to be carried out (often called an 'extended phase 1 survey'), which is useful for assessing whether a species-specific survey is needed, in cases where it's not clear which species is present, if at all
- an extra survey to be done, as a condition of the planning permission for outline plans or multi-phased developments, to make sure protected species aren't affected at each stage (this is known as a 'condition survey')

9.63. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site is close to a stream and there are a number of mature trees and hedgerows within and adjacent the site, and therefore the site has the potential to be suitable habitat for bats, breeding birds, badgers, reptiles, great crested newts, water voles and invertebrates. In respect of this application site, the constraints have highlighted that swifts are within proximity of the site, and nesting Skylark (a declining farmland species) have been present on this site in the recent past.

9.64. In order for the local planning authority to discharge its legal duty under the Conservation of Habitats and Species Regulations 2017 when considering a planning application where EPS are likely or found to be present at the site or surrounding area, local planning authorities must firstly assess whether an offence under the Regulations is likely to be committed. If so, the local planning authority should then consider whether Natural England would be likely to grant a licence for the development. In so doing the authority has to consider itself whether the development meets the 3 derogation tests listed above.

9.65. In respect of planning applications and the Council discharging of its legal duties, case law has shown that if it is clear/ very likely that Natural England will not grant a licence then the Council should refuse planning permission; if it is likely or unclear whether Natural England will grant the licence then the Council may grant planning permission.

9.66. The application is accompanied by an updated ecological survey. A site visit and Phase 1 habitat survey was undertaken in May 2018 along with the assessment potential for the habitats on site to support protected species. A search for evidence of badger activity was also undertaken at the same time as the Phase 1 habitat survey. The conclusions made in the subsequent report, following the survey and site visit are that the existing grassland has limited ecological interest and the limited hedgerows offer only limited breeding opportunities for common bird species. No badger activity was noted and the site does not contain any badger setts. There are no trees on the site suitable for roosting bats. The report therefore concludes that habitats affected by the application are of limited ecological value and the proposed works will not impact on any protected species.

9.67. Notwithstanding the above, both the NPPF and policies within the development plan require developments to provide ecological enhancements and where possible a net gain in biodiversity. The Council has also recently resolved to seek a 10% net gain

in biodiversity where possible. It is therefore considered that conditions should be included within any grant of planning permission which require ecological enhancement within the development, through landscaping proposals and habitat boxes etc which should be included within any reserved matters submissions.

- 9.68. Officers are satisfied, having regard to the above, and subject to conditions 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.

Air Quality

- 9.69. Kings End which is in close proximity to the development site is an Air Quality Management Area which was designated in 2015. Consequently, the application is accompanied by an Air Quality Assessment Report produced by Create Consulting Engineers on behalf of the applicant. This report has been assessed by the Environmental Protection Manager who advises that the assessment has looked at the impact on air quality at receptor locations within the proposed development but has not considered the impact of additional movements associated with the development on levels in the Air Quality Management Area. It is also advised that the calculation should include the impact of the health facility. In respect of the health facility however, this application does not seek consent for that use, but merely proposes through the section 106 agreement to reserve that land for that use for a limited period. Should the GPs go ahead with this site, a new planning submission specifically relating to the health facility will be required. The air quality impact of the proposal and any necessary mitigation measures will need to be assessed at that time.
- 9.70. The submitted report concludes that all the traffic emissions generated by the proposed development will have an overall negligible impact on local air quality and a negligible impact at defined sensitive receptors will be below the UK AQO's NO₂. It should be noted that the results may change as a result of the updated transport assessment as requested by OCC which has now been submitted, however, the air quality assessment has not been amended to date. Consequently it is recommended that appropriate mitigation measures are included within the section 106 agreement.
- 9.71. The comments of the Environmental Protection Officer are relevant to the submission, however, it is considered that in respect of the 57 dwellings only, that appropriate conditions can be imposed with regard to electric charging points to serve the dwellings and in terms of the health facility, this can be assessed accordingly at that time.

Mitigation of Infrastructure Impacts

- 9.72. Due to the scale and residential nature of the proposed development, it is considered that the proposal is likely to place additional demand on existing facilities and services and local infrastructure, including schools, community halls, public transport, play provision and open space. Affordable housing will also need to be secured as part of the development. The proposal generates a need for infrastructure contributions to be secured through a planning obligation, to mitigate these impacts and enable the development to proceed. In respect of planning obligations, the NPPF advises at paragraph 56 that they should only be sought where they meet the following tests:

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

9.73. The Council's legal team have been instructed and an agreement relating to CDC contributions has been drafted. Policy INF1 of the adopted Cherwell Local Plan 2011-2031 states that 'development proposals will be required to demonstrate that infrastructure requirements can be met including the provision of transport, health, education, social and community facilities. Contributions can be secured via a section 106 Agreement provided they meet the tests of Regulation 122 of the Community Infrastructure Regulations 2010.

9.74. Officers are seeking the agreement of Planning Committee to secure the following Heads of Terms in the S106:

District Requirements

- 30% affordable housing provision on site
- Attenuation - £51.39 per square metre maintenance
- LAP provision on site plus £30, 702.02 future maintenance
- Public open space maintenance provision
- Safeguarding of 1ha of land as edged blue on the location plan for healthcare purposes for at least 10 years
- Sale/marketing value of healthcare land to be at a cost to reflect its safeguarded health use – not open market value
- Outdoor off-site sports facilities contribution of £2017.03 per dwelling towards improving the quality of outdoor hard courts at The Cooper School, Bicester
- Community safety and policing contribution (to be negotiated)
- Community hall contribution of £18,980
- Public art contribution (to be negotiated)
- Allotments contribution (to be negotiated)
- Burial ground contribution (to be negotiated)
- Indoor sports contribution of £335.32 per dwelling
- £111 per dwelling for bins and recycling
- Apprenticeships x 3 and EST Plan
- AQMA mitigation (to be negotiated)
- Secure access into reserved land along secondary street

- Monitoring cost - 5% of the total value of the S106 contributions (financial and in kind)

OCC Requirements

- Traffic Regulation Order - £3,120
- Off site highway works: provision of a crossing of Middleton Stoney Road and pedestrian/cycle facilities on Oxford road and Middleton Stoney road
- Extension of contract of existing Kingsmere bus service
- Monitoring fee (to be negotiated)
- Travel plan
- Education contribution of £482,434 primary education and £397,854 Secondary education

9.75. It is considered that the above requirements meet the relevant tests and are necessary to ensure that the development proposed would not have a detrimental effect on local amenity and the quality of the environment and the need to ensure that all new development is sustainable as required by the Development Plan and Government advice within the NPPF.

Human Rights and Equalities

9.76. 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.

9.77. 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

9.78. 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 were invited to the public meeting of the Planning Committee and had 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

- 9.79. 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.
- 9.80. Officers have considered that, in the event that the application is granted planning permission, there will not be any discrimination (or potential discrimination) on neighbours.

Duty under The Equalities Act 2010

- 9.81. 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.
- 9.82. 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 in the Framework. The three dimensions of sustainable development must be considered in order to balance the benefits against any harm.
- 10.2. The proposed development is located within the built up limits of Bicester, close to existing services and is also part of a sustainable urban extension granted consent in 2008 under the Non-statutory Cherwell Local Plan. Whilst the District Council can currently demonstrate a 3 year housing land supply, the proposal will boost the delivery of housing within the district, including the delivery of affordable housing. In terms of securing the land for the GP health hub, it is considered that the revised transport assessment and submitted documentation appropriately indicates that the residential development together with the GP surgery can be successfully accommodated on the site, taking into account all the planning constraints and to meet the necessary standards. S106 obligations will be negotiated to secure the remaining land for healthcare purposes.
- 10.3. Accordingly, having regard to the above, it is considered that the proposal complies with the Development Plan and NPPF and is considered to be sustainable development.

11. 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 HEADS OF TERMS AS LISTED AT PARAGRAPH 9.74 OF THIS REPORT (AND ANY AMENDMENTS AS DEEMED NECESSARY).

CONDITIONS

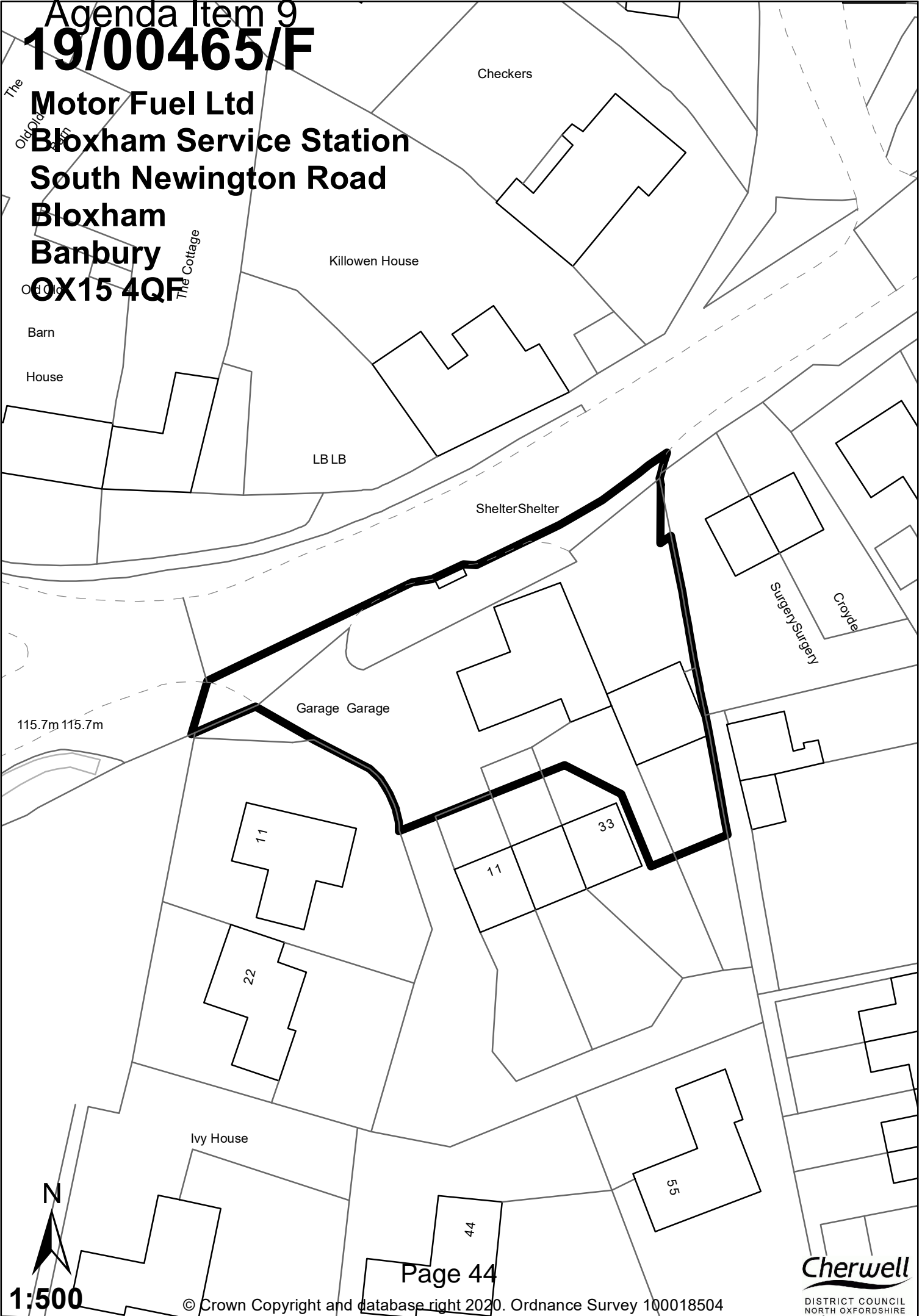
1. Time limits
2. Compliance with plans
3. Design code revised submission
4. Thames water and upgrade of existing foul water network
5. Access details for approval
6. Estate accesses, driveways and turning areas
7. Construction traffic management plan
8. Travel plan
9. Cycle parking
10. Surface water drainage strategy and details to be provided as part of reserved matters submission
11. Provision of refuse and recycling bins
12. Landscape management plan
13. Play provision location and details
14. Footpath/cycle links to adjacent land and developments
15. Contamination
16. SUDS maintenance plan
17. Biodiversity enhancement details to be included in reserved matters submission
18. Noise assessment and boundary details with adjacent petrol filling station to be included as part of reserved matters
19. Finished floor levels and ground levels to be included as part of reserved matters submissions
20. Energy Statement and sustainable construction in accordance with Policy ESD3
21. Broadband ducting
22. AMS to be submitted with reserved matters

CASE OFFICER: Linda Griffiths

TEL: 01295 227998

Agenda Item 9 19/00465/F

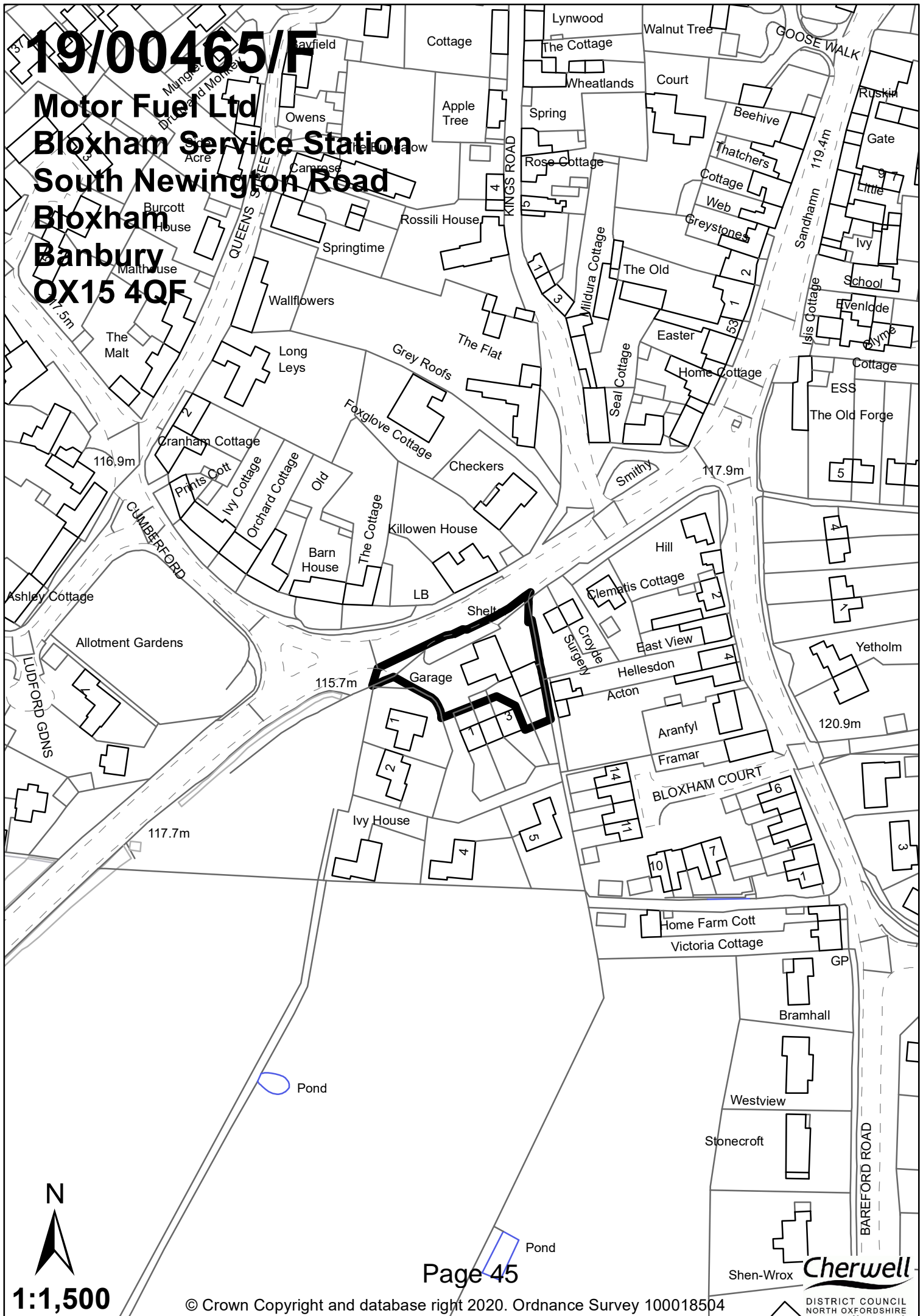
Motor Fuel Ltd
Bloxham Service Station
South Newington Road
Bloxham
Banbury
OX15 4QF



1:500

19/00465/F

**Motor Fuel Ltd
Bloxham Service Station
South Newington Road
Bloxham
Banbury
OX15 4QF**



1:1,500

Case Officer: Matthew Chadwick

Applicant: Motor Fuel Group

Proposal: Retrospective application for 10 Recessed LED lights within soffit of forecourt canopy

Ward: Adderbury, Bloxham And Bodicote

Councillors: Councillor Chris Heath, Councillor Andrew McHugh, Councillor Mike Bishop

Reason for Referral: Called in by Councillor Heath due to public interest

Expiry Date: 17 February 2020

Committee Date: 13 February 2020

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS

Proposal

Retrospective planning permission is sought for 10 recessed lights within the forecourt canopy for the petrol station

Consultations

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

- Bloxham Parish Council

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

- CDC Environmental Health, OCC Highways

Three letters of objection have been received.

Planning Policy and Constraints

The application site is outside but abuts the Bloxham Conservation Area and is located opposite Killowen House, a grade II listed building.

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
- Impact on the character of the area and heritage assets
- Impact on neighbour amenity

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 the south of the village of Bloxham on the east side of South Newington Road (A361). The site is used as a petrol station, currently run by Motor Fuel Ltd. The site is located in close proximity to the edge of the village, with only the dwellings at Hartshill Close to the south separating it from the open countryside. The petrol station is open 24 hours a day.

2. CONSTRAINTS

2.1. The application site is outside but abuts the Bloxham Conservation Area and is located opposite Killowen House, a grade II listed building. The site also lies in an area of potentially contaminated land, an area of naturally elevated arsenic and swifts have been located in proximity to the site, which are a protected species.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

3.1. Planning permission is sought for the installation of ten lights in the canopy over the petrol station forecourt. The lights have been altered throughout the course of the application and anti-glare rings have been attached.

3.2. The Council commissioned a lighting report from an external lighting consultant 'Designs for Lighting' which was completed in August 2019. The applicant then altered the lights and the Council's Environmental Protection Officer measured the lights again in January 2020.

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>
18/00814/ADV	1 x PID internally illuminated, 2 x Banners and 5 x free standing display - Retrospective	Application Refused
18/01112/ADV	1 x 5.0m PID - Price Identification Sign limited illumination between 9pm and 6am to price display digits, 2 x Free standing posters - Retrospective	Application Permitted
18/01113/F	New recessed forecourt canopy lights - Retrospective	Application Refused
19/00245/ADV	Retrospective - 2no externally illuminated fascia signs (Londis)	Application Permitted

4.2. Application 18/01113/F was dismissed at appeal (APP/C3105/W/19/3223256) as it was considered to cause harm to the character of the area and neighbour amenity.

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 17 April 2019, although comments received after this date and before finalising this report have also been taken into account.

6.2. The comments raised by third parties are summarised as follows:

- The lighting levels cause harm to neighbour amenity.
- The lighting levels cause harm to the conservation area and listed building.

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. BLOXHAM PARISH COUNCIL: **Objects.** The development causes harm to the amenity of neighbours and the conservation area. It is applied to be used 24 hours a day and it should only be allowed between 6.30am and 11pm.

CONSULTEES

7.3. CDC ENVIRONMENTAL HEALTH: **No objections.** The lighting levels at 2 The Houses at the ground floor window was 1.04 lux, and at the first floor window was 0.94 lux. This does slightly exceed the post curfew level of 1 lux but the exceedance of 0.04 lux is not significant. The purpose of the post curfew level would be to protect bedrooms (pre-curfew up to 23.00 hours the level is 5 lux) and therefore it would not be unreasonable to expect someone to close the curtains of a ground floor window after 11pm if the light levels were a problem.

7.4. OCC HIGHWAYS: **No objections.**

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)

- ESD13 – Local Landscape Protection and Enhancement
- ESD15 - The Character of the Built and Historic Environment

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C28 – Layout, design and external appearance of new development
- C31 – Compatibility of proposals in residential areas
- ENV1 – Development likely to cause detrimental levels of pollution

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 Bloxham Neighbourhood Plan and the following Policies of the Neighbourhood Plan are considered relevant:

- BL9 – Residential amenity
- BL10 – Bloxham Conservation Area
- BL11 – Residential design

8.4. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- Human Rights Act 1998 (“HRA”)
- Equalities Act 2010 (“EA”)

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

Principle of Development

9.2. Planning law requires that planning decisions are made in accordance with the Development Plan unless material considerations indicate otherwise. Paragraph 2 of the NPPF (2018) makes clear that it does not change the statutory status of the development plan as the starting point for decision making. However, the NPPF is a significant material consideration.

9.3. Retrospective planning consent is sought for lighting at the petrol station. There is no specific local or national planning policy which relates to the provision of lighting of petrol stations.

- 9.4. The acceptability of the development depends on its impacts, discussed in the following sections of this report.

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

Policy context

- 9.5. The site affects the setting of a Conservation Area and a Grade II listed building. 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.* 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.
- 9.6. 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.* Policies ESD15 of the CLP 2031 Part 1 and BL10 of the BNP 2031 echoes this guidance.
- 9.7. Policy ESD15 of CLP 2031 Part 1 states that new development should be designed to improve the quality and appearance of an area and should integrate with existing streets and public spaces. New development should also seek to limit the impact of light pollution from artificial light on local amenity and intrinsically dark landscapes. Saved Policy C28 of the CLP 1996 echoes this guidance.
- 9.8. Policy BL10 of the BNP 2031 states that development shall be permitted within the conservation area where it can demonstrate that it preserves or enhances the character of appearance of the area.
- 9.9. Policy ESD13 of CLP 2031 Part 1 states that proposals will not be permitted if they would impact on areas judged to have a high level of tranquillity or be inconsistent with local character.

Assessment

- 9.10. The application site is located in a sensitive location, in close proximity to listed buildings, the Bloxham Conservation Area and on the edge of the village near to the open countryside. The previous application on the site for lighting (18/01113/F) was refused due to its impact on the rural character of the area and on the setting of the grade II listed building Killowen House and the Bloxham Conservation Area.
- 9.11. The recommended average levels for a petrol station forecourt taken from the British Standard document for lighting is 150 lux. Under the lights in the previous application, these had an average of 324 lux when measured from within the forecourt. The lighting report for this application also found that the lighting at the windows of Killowen House was also in excess of recommended levels, both when all the lights were functioning and when the flood lighting was turned off.

- 9.12. The Council's lighting report prepared by Design for Lighting for this application shows that the lighting levels of the forecourt have been significantly reduced and this lighting report was undertaken before the anti-glare rings were attached to the lights. Whilst in the centre of the forecourt the lux level is 253, this reduces significantly to the edge of the forecourt where the lux levels are all between 20.5 and 121.1. The Environmental Protection Officer has offered no objections to these levels.
- 9.13. The lighting levels on the front windows of Killowen House are all below the recommended levels, both when all the lightings were functioning and when the two lights closest to the road were turned off, which happens after 11pm.

Conclusion

- 9.14. The luminance levels and spill of the lighting have been significantly reduced from the previous application. Whilst the luminance levels in the centre of the forecourt do exceed the recommended levels, the levels on the edge of the forecourt fall well below the highest recommended level and the Environmental Protection Officer has offered no objections to this. As a result, it is considered that the development as amended does not cause harm to character and appearance of the area, the setting of the listed building or the conservation area and that the development complies with Policies ESD13 and ESD15 of the Cherwell Local Plan 2011 Part 1 and Policy BL10 of the Bloxham Neighbourhood Plan.

Residential amenity

Policy context

- 9.15. Policy ESD15 of the CLP 2031 states that new development should consider the amenity of both existing and future development and should limit the impact of light pollution on local amenity. Saved Policy C28 of the CLP 1996 echoes this guidance.
- 9.16. Saved Policy C31 of the CLP 1996 states that in existing residential areas, any development which is not compatible with the residential character of the area or would cause an unacceptable level of nuisance will not normally be permitted.
- 9.17. Policy BL9 of the BNP 2031 states that all development shall ensure that the living conditions of neighbouring residents are not materially harmed.
- 9.18. Paragraph 170 of the NPPF states that planning decisions should prevent new and existing development from contributing to unacceptable levels of pollution.

Assessment

- 9.19. There are several residential properties within close proximity of the application site. These include 1, 2 and 3 The Houses, 1 and 2 Hartshill Close and Killowen House. It is considered that Killowen House and 2 The Houses are the properties most affected by the lighting given the lack of landscaping, screening and the proximity to the lighting. The impact on 2 The Houses has increased since the previous application, as the trees that previously screened the house from the site have been removed.
- 9.20. The lighting assessment prepared by Designs for Lighting on behalf of the Council looked at the impact of the lights on both Killowen House and 2 The Houses. The 'Guidance On Undertaking Environmental Lighting Impact Assessments' produced by the Institute of Lighting Professionals states that in areas of low district brightness, light intrusion into windows should not exceed 1 lux. The light levels

recorded at Killowen House were all below this, with the highest level being at a ground floor window being 0.9 lux. As the levels are now all below the recommended levels, the impact on Killowen House is therefore considered to be acceptable.

- 9.21. The levels in the Designs for Lighting assessment for 2 The Houses slightly exceeded the recommended levels. At a first-floor bedroom window the lux level was 1.0 and at a ground floor living room window it was 1.13. As stated earlier in the report, the lights were subsequently altered with anti-glare rings fitted and the Council's Environmental Protection Officer ("EPO") went out and measured the lux levels again in January 2020.
- 9.22. The measured level at the ground floor window was 1.04 lux, and at the first-floor window was 0.94 lux. Although the light spill level at the ground floor window of 2 The Houses still slightly exceeds the post curfew level of 1 lux, the exceedance of 0.04 lux is not considered to be significant. The EPO advises that the purpose of the post curfew level would be to protect bedrooms (pre-curfew up to 23.00 hours the level is 5 lux) and therefore it would not be unreasonable to expect the resident to close the curtains of a ground floor window after 11pm if they thought the light levels were a problem.

Conclusion

- 9.23. The lighting levels at Killowen House and 2 The Houses are now, on balance, considered to be acceptable. The levels at the ground floor window would slightly exceed the recommended levels set out in 'Guidance On Undertaking Environmental Lighting Impact Assessments'; however, the exceedance would not be significant and would not affect a bedroom window. It is therefore considered that the development complies with Policy ESD15 of the Cherwell Local Plan 2011 Part 1, Saved Policy C31 of the Cherwell Local Plan 1996, Policy BL9 of the Bloxham Neighbourhood Plan and Government guidance contained within the NPPF.

Highway safety

- 9.24. The Highways Officer has offered no objections to the scheme. Given that the lighting levels would not be harmful, the development would not affect the safety of the local highway network and as a result the proposals would be acceptable in this regard.

10. PLANNING BALANCE AND CONCLUSION

- 10.1. The lights as amended do not cause not cause harm to character and appearance of the area, the setting of the listed building or the conservation area and are considered to be acceptable in this regard. On balance, although the lights do exceed the recommended levels the lights set out in 'Guidance On Undertaking Environmental Lighting Impact Assessments', this exceedance is not significant and is therefore considered not to cause harm to the amenities of neighbours. It is therefore considered that the development is acceptable, subject to the conditions set out below.

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 and Block Plan (PA01).

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. Notwithstanding the annotation shown on drawing number PA01, the two lights on the northernmost part of the canopy shall be turned off at 11pm and not turned back on again until 7am.

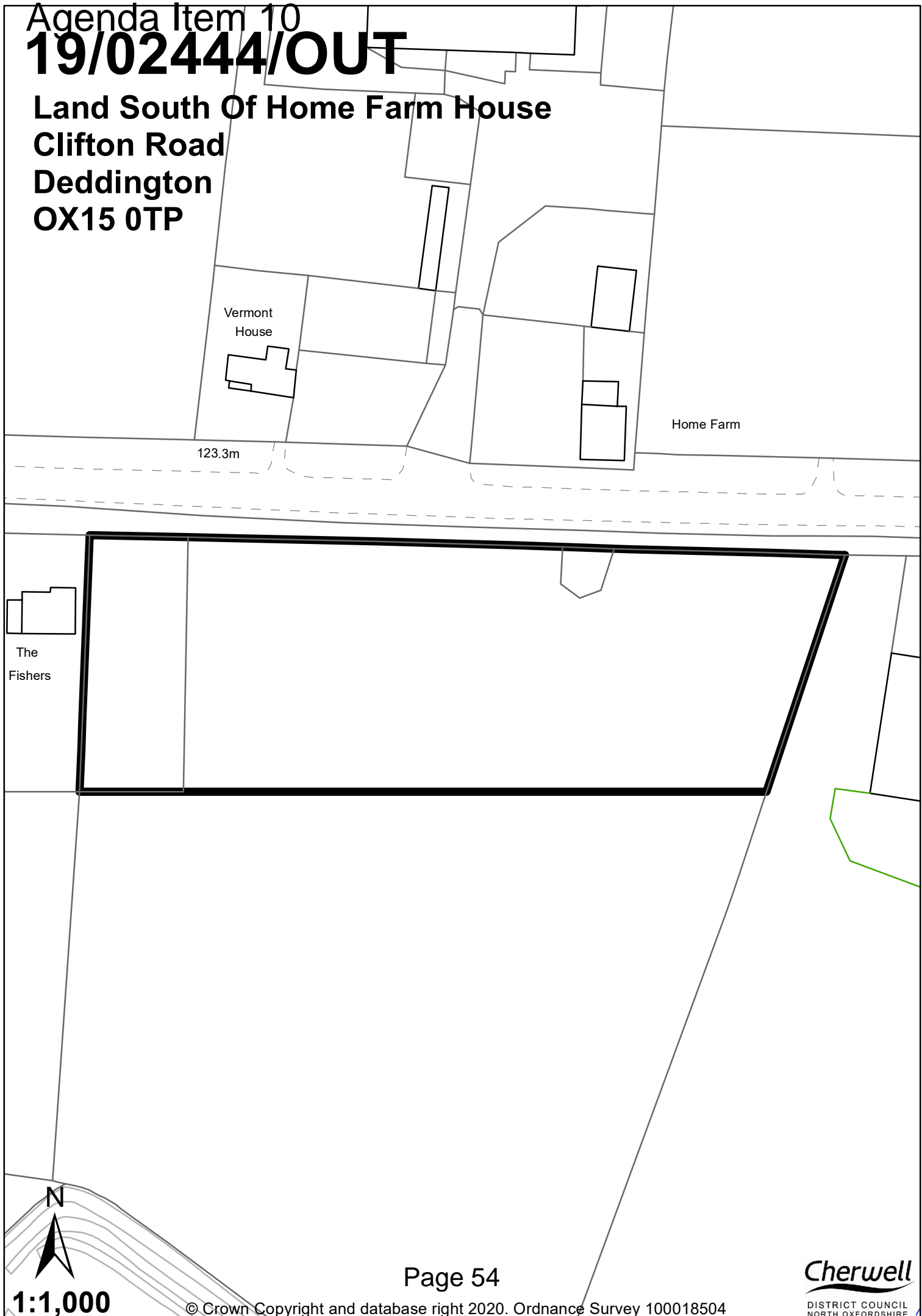
Reason - In order to safeguard the amenities of the area and the amenities of neighbouring occupiers and to comply with Policy ESD15 of the Cherwell Local Plan 2011 Part 1, Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

CASE OFFICER: Matthew Chadwick

TEL: 01295 753754

Agenda Item 10 19/02444/OUT

Land South Of Home Farm House
Clifton Road
Deddington
OX15 0TP



123.3m

Vermont House

Home Farm

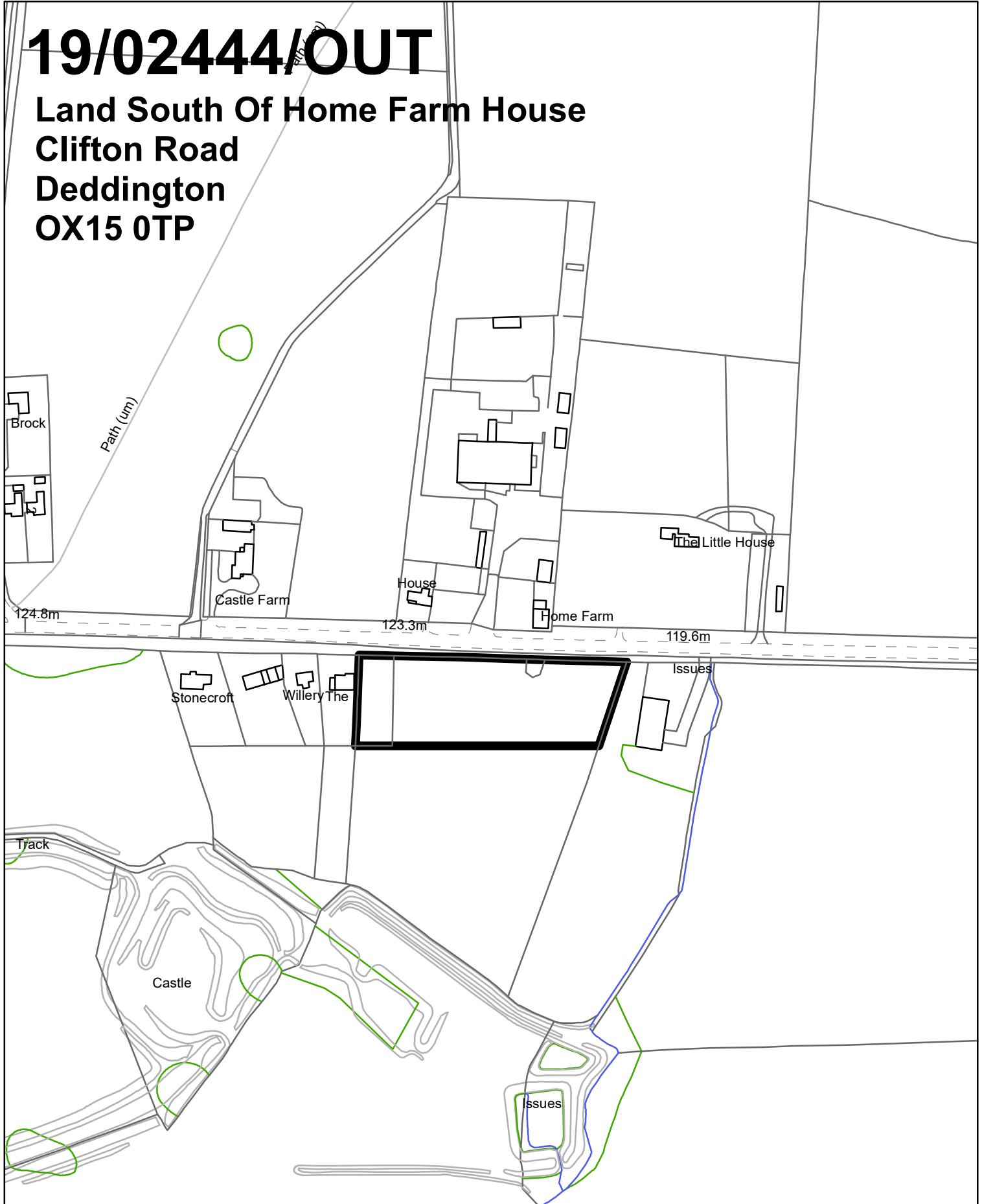
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19/02444/OUT

Land South Of Home Farm House
Clifton Road
Deddington
OX15 0TP



N

1:3,000

Case Officer: James Kirkham

Applicant: Harcourt Rugby Ltd

Proposal: Outline planning permission for the residential development of up to 14 dwellings - all matters save for the means of access are reserved for subsequent approval - re-submission of 19/00831/OUT

Ward: Deddington

Councillors: Councillor Hugo Brown, Councillor Mike Kerford-Byrnes and Councillor Bryn Williams

Reason for Referral: Major development of 10+ dwellings

Expiry Date: 14 February 2020

Committee Date: 13 February 2020

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: REFUSE PERMISSION

Proposal

The current application seeks permission for up to 14 dwellings on the site. All matters are reserved except access which is for consideration under this application.

Consultations

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

- CDC Planning Policy, OCC Highways, OCC Drainage.

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

- Deddington Parish Council, CDC Ecology, OCC Education, CDC Strategic Housing, CDC Environmental Protection, CDC Recreation and Leisure, Thames Water

The following consultees have **comments/concerns** regarding the application:

- Historic England, Crime Prevention Design Advisor

27 letters of objection have been received.

Planning Policy and Constraints

The application site is within the setting of Deddington Castle which is a Scheduled Ancient Monument (SAM) which located approximately 90 metres to the south of the site. Deddington Conservation Area also exists approximately 150 metres to the west of the site and the SAM to the south of the site is also within the Conservation Area. The site is identified as potentially best and most versatile agricultural land and there are records of protected species including badgers within 250m of the site. The site is also located in an area of elevated arsenic and radon gas.

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
- Impact on the character and appearance of the area
- Heritage impact
- Highway safety
- Residential amenity
- Affordable housing
- Flood Risk and drainage
- Ecology
- Infrastructure
- Other matters

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

1. Harmful extension of development beyond the built up limits to the detriment of the character and appearance of the area and harmful to the setting of the SAM and Conservation Area.
2. No legal agreement to secure on-site and offsite planning contributions.

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 agricultural field located to the south of Clifton Road to the east of Deddington. The land includes a hedgerow with trees to the frontage and an agricultural access. A former agricultural building, which obtained planning permission for use as a MOT testing and incidental car repairs, exists to the west of the site along with a group of trees. A small grouping of dwellings in a linear arrangement exists immediately to the west of the site which are detached from the main built limits of Deddington. There are a number of dwellings and a commercial area to the north of the site, arranged in loose and sporadic arrangement with undeveloped fields separating them. The site falls gently in south easterly direction. The southern boundary is currently open with the larger agricultural field.

2. CONSTRAINTS

- 2.1. The application site is within the setting of Deddington Castle, which is a Scheduled Ancient Monument (SAM) and located approximately 90 metres to the south of the site. Deddington Conservation Area also exists approximately 150 metres to the west of the site and the SAM to the south of the site is also within the Conservation Area. The site is identified as potentially best and most versatile agricultural land and there are records of protected species including badgers within 250m of the site. The site is also located in an area of elevated arsenic and radon gas.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The current application is made in outline, with all matters reserved except access, for up to 14 dwellings on the site. The plans show the provision of a new access with footways either side in approximately the same location as the existing agricultural access.
- 3.2. The plans also indicate it is proposed to upgrade to the existing footpath along Clifton from the proposed site access to the junction with Earls Lane to 2 metres wide. It is then proposed to include a new non-signalised crossing point to Earls Lane and include a new 2m footpath along the southern end of Earls Lane to the existing footway at Pound Court.
- 3.3. An indicative site layout plan has been submitted which shows the provision of 14 dwellings on the site, accessed from private drives off the main access. The dwellings would face Clifton Road, and consisting of 9 detached dwellings, 3 terrace dwellings and 2 flats.
- 3.4. *Timescales for Delivery:* No indication has been provided on the timescale for delivery of the site. However, the applicant says in their Planning Statement that it could be delivered in the next 5 years.

4. RELEVANT PLANNING HISTORY

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

19/00831/OUT – OUTLINE - Residential development of up to 15 dwellings – Refused for the following reasons:

1. By virtue of its poorly integrated relationship with existing built development, its extension beyond the built limits of the village and its scale and location, the proposed development would cause significant and demonstrable harm to the character and appearance of the area and the rural setting of the village and would fail to reinforce local distinctiveness. For the same reasons the proposal would also result in 'less than substantial' harm to the setting of the nearby Scheduled Ancient Monument and Conservation Area 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 C28 and C33 of the Cherwell Local Plan 1996, Cherwell Residential Design Guide SPD (2018) and Government guidance contained within the National Planning Policy Framework.

2. The development proposed, by reason of its relationship and poor pedestrian connections to the centre of the village and service and facilities (including bus stop) and taking into account Cherwell District Council's ability to demonstrate an up-to-date housing land supply, would not provide good access to services and facilities and public transport in the interests of reducing the need to travel and promoting sustainable transport options. Therefore the proposal is contrary to Policies ESD1, SLE4 and Villages 2 of the Cherwell Local Plan (2011-2031) Part 1, and Government guidance contained within the National Planning Policy Framework.

3. By reason of the site's location in an area of known archaeological interest with high potential for significant archaeological deposits to survive on site, and in the absence of a detailed and adequate archaeological field evaluation, the Local Planning Authority cannot be satisfied that the proposal would not result in unacceptable and unavoidable harm to archaeological assets. Thus, the proposal

conflicts with Policy ESD15 of the Cherwell Local Plan (2011-2031) Part 1 and Government guidance contained within the National Planning Policy Framework.

4. The application submission fails to demonstrate that suitable and safe access to the site can be provided in the interests of highway safety given the lack of information regarding the vehicle speeds near the site. The proposed development therefore conflicts with Policy SLE4 of the Cherwell Local Plan (2011-2031) Part 1 and advice in the National Planning Policy Framework.

5. The submitted Drainage Strategy is inadequate and does not provide sufficient information to demonstrate that a drainage strategy based on Sustainable Urban Drainage Systems has been explored for the site. The proposal is therefore contrary to Policy ESD7 of the Cherwell Local Plan and advice in the Written Ministerial Statement on Sustainable Drainage Systems (Dec 2014).

6. In the absence of the completion of a satisfactory Planning Obligation, the Local Planning Authority is not convinced that the necessary infrastructure (including education, open space, sports facilities, community facilities, highway infrastructure and affordable housing) directly required as a result of this development, in the interests of supporting the sustainability of the village and the development, mix and balanced communities, and in the interests of safeguarding public infrastructure and securing on site future maintenance arrangements, will be provided. This would be contrary to Policies INF1, PSD1, BSC3, BSC10 and BSC11 of the Cherwell Local Plan (2011-2031) Part 1, the Developer Contributions SPD (2018) and Government guidance contained within the National Planning Policy Framework.

An appeal has been lodged on the above refusal. However, no Start Date has yet been provided by the Planning Inspectorate.

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

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
13/01941/OUT	Outlined – Erection of 7 dwellings	Appeal dismissed

4.3. The above related to a site on St Thomas Street in Deddington. The key issue at the time was the impact on the setting of Deddington Castle and the Conservation Area. The appeal was dismissed because of the proposal's impact on the setting of heritage assets.

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 **27 December 2019**, although comments received after this date and before finalising this report have also been taken into account.

6.2. 27 letters of objection have been received to the application. They can be summarised as follows:

- Principle of development: Site does not form part of the Neighbourhood Plan; the site is too remote, poor accessibility and pedestrian connections to centre of village and services; no need for the development; lack of employment options in village; bus service is poor; residents would be reliant on private car.
- Impact on form, and character and appearance of the village: Impact on character and appearance and visual amenity of area including issues of pattern of development, layout, density and setting of the village. Harm to the identity of the village and rural approach. Harmful intrusion into the open countryside and harmful to the boundary of village. Layout, design, appearance and materials inappropriate for the site
- Impact on heritage assets: Impact on Conservation Area and setting of Deddington Castle including similar appeal in the village. Harmful impact of works to footpaths.
- Impact on highway safety: Access is unsuitable given proximity to other junctions and unsafe given vehicle speeds. Traffic generation and impact on highway capacity.
- Parking issue. Exacerbation of parking issues with footpath proposal only Earls Lane.
- Impact on neighbours from noise and disturbance, light pollution, loss of light, loss of privacy and overshadowing
- Impact on local amenities (including Doctors / School)
- Request for contributions to Holly Tree Club.
- Foul water disposal
- Surface water drainage
- Loss of trees
- Impact on ecology and wildlife
- Impact on archaeology
- Would create a precedent for similar developments in Deddington and the surrounding area. Development allows for future development further to the south.
- Does not overcome reasons for recent refusal on the site.

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. DEDDINGTON PARISH COUNCIL: **No objection** but asks for S106 funding for the S4 bus service, affordable housing is tenure blind and not clustered to the east, sufficient parking is provided, traffic calming and extension of 30mph limit, suitable crossing over Clifton Road to Earls Lane, footpath standard improved, LED streetlighting, buffer planting to mitigate visual impact and consideration given to Deddington Parish Council S106 funding list.

CONSULTEES

- 7.3. HISTORIC ENGLAND: **Comments the proposal would lead to 'less than substantial harm' to the setting of Deddington Castle and Conservation Area.** This needs to be balanced against any public benefits as required by the NPPF.
- 7.4. *Significance:* Significance of a heritage asset is normally considered as being the sum of its heritage values - evidential, historic (illustrative and associative), aesthetic and communal. Consideration of significance also includes any contribution made to significance by the setting of the asset.
- 7.5. The earthworks of Deddington Castle, and the results from excavations, indicate that it is an 11th-century Norman motte and bailey castle, and that a 12th-century enclosure castle was constructed within the earlier fortification. The western bailey survives as an extensive raised area surrounded by high outer banks and an external ditch. The high mound of the motte is in the north-east corner of the western bailey and survives partially, having been cut through for the creation of the enclosure castle. A second bailey to the east of the motte is mainly known from aerial photographs but some earthworks survive. The castle is one of the best preserved earthwork monuments relating to the period in Oxfordshire. Unlike other similar castles, it appears to have been located remotely from the original village of Deddington and this separation has been perpetuated over time. The isolation may be connected with its status as the location of the 'caput' (lead site) of an 'honour' or estate, possibly of Odo, Bishop of Bayeux and the brother of William I.
- 7.6. The scheduled castle has very high evidential value - archaeological remains relating to construction and use of the castle, including waterlogged remains within the ditches. The development will not impact on these.
- 7.7. The castle also has high historic (illustrative) value in demonstrating how the Normans deliberately dominated the surrounding landscape militarily and physically by choosing an elevated site, and how the castle stands separate from the village - the existing mainly open setting contributes to that significance. Although there is tree cover around the edges of the castle, there are still places where its dominant position can be appreciated, and the views are improved during the winter when the trees are not in leaf.
- 7.8. The communal value of the castle is clear, as a valued asset - the site is much used for walking and is well-visited. Views out from the castle across the open countryside are clearly part of what is valued and enjoyed by visitors. A strong local interest is demonstrated by the existence of the local group, Friends of Deddington Castle. The central motte area is in the care of the Secretary of State and is managed by English Heritage.
- 7.9. *Impact:* There would be no impact on the evidential value of the scheduled monument. There will be some negative impact on the historic (illustrative) value of the monument caused by the construction of the housing in what is currently an open field, causing a change to the setting. While it is true that there are already some buildings west of the application site and beyond Clifton Road, it is considered further infill as incremental negative change to the mainly open setting. In summer

with the trees in leaf there are only small glimpsed views of the application site from the top of the motte. The applicant's Archaeological Desk-based Assessment (RPS July 2019, is incorrect in saying that the site cannot be seen at all. These views are clearer in winter (the trees are mainly deciduous) and Historic England guidance on setting (referenced above) is that seasonality and impermanence of screening should be taken into account. The current management of the monument has led to quite dense tree growth, but future good management would require some shrub clearance and thinning of trees (tree roots, and possible windthrow, are damaging to archaeological deposits and earthworks) including some of the many trees currently being choked by ivy growth. It is therefore likely that more open views will be available in the future.

- 7.10. The DBA proposes tree screening for the new development as mitigation. While this may provide some screening, this is a long-term measure, and that existing buildings show it is not particularly effective as the upper parts of buildings are still visible, particularly when seen from the raised viewpoints on the motte and west bailey. The new development would still read as housing when viewed, and not as rural space.
- 7.11. As regards views towards the castle from Clifton Road and the development site, in winter the top line of the earthworks is faintly discernible but it is not possible to appreciate the castle from these locations.
- 7.12. Taking into account the impact discussed above, it is advised that the development would cause harm, but certainly less than substantial harm, to the significance of the scheduled monument (as contributed to by its setting). This agrees with the conclusions of the applicant, whose Heritage Statement states that the development will cause less than substantial harm. The concept of less than substantial harm is covered in the National Planning Policy Framework (NPPF) 2019, paragraphs 193, 196. There is no formal scale for less than substantial harm, but the harm caused will certainly be at the lower end of the range. Your local authority will need to balance this harm against any public benefit from the development, as required by the NPPF, paragraph 196. Paragraphs 193 and 194 of the NPPF require that great weight should be given to the conservation of a designated asset, irrespective of the level of harm, and that any harm should be fully justified.
- 7.13. The Desk-Based Assessment submitted by the applicant states that: *The historic setting of the monument as a defensive monument generally cannot be appreciated either from within the monument itself or from the surrounding area. Therefore, it is considered that the study site no longer provides a substantive contribution to the setting of the monument and, consequently, the study site is considered to make only a minor contribution to the significance of the Scheduled Monument and the way in which the monument can be appreciated.*
- 7.14. The first sentence is incorrect and there are a number of other open views where the defensive setting and separation from the village can be appreciate. The Deddington Conservation Area includes the entire Deddington Castle and the mainly open setting of the Castle is clearly also the setting of this part of the Conservation Area and contributes to its significance. The same level harm would be causes to the Conservation Area and this considered in the balancing exercise.
- 7.15. The trail trenching should be considered by OCC Archaeological Service.
- 7.16. OCC HIGHWAYS: **Objects** due to lack of sustainable travel to and from the site, lack of information of appropriate visibility splays based on recorded speed date and lack of continuous, safe walking route between the site and village centre facilities and bus stops, health centre and primary school.

- 7.1. The site has poor existing pedestrian infrastructure back to the village services and no safe crossing point. Along with the distance the village centre and nearby bus stop with that that opportunities for sustainable travel are limited. The existing bus service is very unlikely to divert from its existing route to serve the development and there are no services along the B4031. Given the distance of the development from the nearest bus stop (OCC guidance is that dwellings should be within a 400m walk distance of bus stops), coupled with the poor walking route, this would suggest it is unlikely many trips would be made on foot, and, although some may be made by bicycle, it is likely the majority would be by private car.
- 7.2. The access to the site is from a minor access road 5.5m wide with footpaths either side of the site which is acceptable for this type of development. A speed survey has now been undertaken however from the drawing submitted it is unclear whether appropriate visibility can be achieved in both directions either within the adopted highway or land controlled by the applicant. Further, the visibility as shown on the above drawing does not show the appropriate visibility splays based upon speed survey data. The speed survey data that has been submitted does show that the 85th percentile recorded speeds do exceed the posted speed limits. As a result, visibility splays onto existing roads must be calculated based on 85th percentile speeds. To date, this has not been demonstrated with this submission.
- 7.3. Due to the straight alignment of Clifton Road and recorded speeds traffic calming should be considered as part of the S278 scheme to reduce traffic speeds.
- 7.4. A footway exists on the southern stretch of the Clifton Road from Deddington to Clifton. However, this footway is narrow, substandard, unlit and there is no safe crossing point from the southern side of the footway where it terminates and then begins again on the northern side of the road.
- 7.5. There is poor visibility at the curvature of the road as it enters the main village past the Earls Lane junction and it is unlikely to be possible to introduce a safe crossing point to allow safe pedestrian connectivity into the main part of the village, both in terms of pedestrian visibility and the record 85th percentile speeds exceeding the posted speed limits. Further, should introducing a crossing further towards Clifton and on the eastern side of the Earls Lane junction be proposed, this would not be effective as no footway exists along Earls Lane in this location. This too would require forced enforcement of the speed via traffic calming features.
- 7.6. It is proposed with this submission to introduce a footway along the length of Earls Lane from the site and connect up to the existing footway located on the western side of Pound Court. However, the submission only shows this as indicative along Earls Lane as outlined above. The applicant hasn't demonstrated whether an adoptable footway could be delivered and that it could be delivered wholly within the adopted highway. A further complication to any footway link via Earls Lane is the substation located adjacent to the health centre. The substation significantly narrows what footway is available and it is unlikely that the substation could be relocated in order to free up the highway land that the substation is located on. As a result, the footway at this location is too narrow for a wheelchair or pushchair user to navigate. Thus, should it be used as proposed by the applicant, it is highly unlikely that users of the footway, able bodied or otherwise will be forced to walk within the highway.
- 7.7. The layout of the site will be considered in greater detail at a later reserved matters stage.
- 7.8. If planning permission is granted would require an S106 to secure a S278 to:
 - Form a bellmouth access to the site

- Provision of a continuous, safe, high quality footway link to the village centre
 - A traffic calming measure.
 - Increase the 30mph speed limit.
 - A Vehicle Activated Sign (VAS).
- 7.9. CDC PLANNING POLICY: **Objects** due to the proposed development being poorly related to existing built development and its scale and location beyond the built limits of the village. The development proposed is also poorly connected to the centre of the village and would not provide good access to services and facilities and public transport.
- 7.10. OCC EDUCATION: **No objection** subject to conditions in relation to Early Years, Primary and Secondary (including sixth form) education.
- 7.11. LEAD LOCAL FLOOD AUTHORITY: **Objection.** Further information is required. Submitted information needs to be worked up into full Outlined Design preparation for submission of a full Detailed Design aligned with National and Local Policy. Raise evidence of consent to discharge into ditch, query microdrainage inputs, post development flow paths to be shown on the plan. Justification that green space has been utilised to its maximum potential for SUDs and sacrificial areas in the event of exceedance should be considered.
- 7.12. CDC STRATEGIC HOUSING: **No objection.** Would expect to see 5 affordable units with 70% social rent and 30% shared ownership. Suggest mix of 2 x 1 bed (SR), 2 x 2bed (SR) and 1 x 2bed (SO). 50% of the social rent should be built to M4(2)(2) requirement and all should met Nationally Described Space Standard. The affordable housing should be indistinguishable in terms of external design from the market housing and be integrated throughout the site, where possible.
- 7.13. CDC ENVIRONMENTAL PROTECTION: **No objection subject to conditions** regarding noise report, Construction Environmental Management Plan, ground investigation, provision of electric vehicle charging infrastructure and an Air Quality Impact Assessment.
- 7.14. CDC RECREATION AND LEISURE: **No objections** subject to contributions to mitigate impact on outdoor and indoor sports provision and community facilities.
- 7.15. CRIME PREVENTION DESIGN ADVISOR: **No objection** but has some concerns regarding crime design prevention. Raises concerns over the parking areas to the rear of Plots 7, 8 and 9, and also rear gates should be as close to the building line as possible to reduce alleyways etc. Windows of active rooms should overlook the parking. Provide comments in relation to matters for consideration at reserved matters stage.
- 7.16. CDC BUILDING CONTROL: **No objection.** Access to fire engines and refuse vehicles will need to be considered.
- 7.17. THAMES WATER: **No objection.** Advises that with regards to water network and water treatment infrastructure capacity they do not have any objection to the above planning application. With regards to waste water network and sewage treatment works infrastructure capacity raise no objection. Any groundwater discharges to the public sewer will require a licence. The sequential approach should be followed for the disposal of surface water.

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 – Brownfield land and Housing Density
- BSC3 – Affordable Housing
- BSC4 – Housing Mix
- BSC10 – Open Space, Outdoor Sport and Recreation Provision
- BSC11 – Local Standards of Provision – Outdoor Recreation
- BSC12 – Indoor Sport, Recreation and Community Facilities
- ESD1 – Mitigating and Adapting to Climate Change
- ESD2 – Energy Hierarchy and Allowable Solutions
- ESD3 – Sustainable Construction
- ESD6 – Sustainable Flood Risk Management
- ESD7 – Sustainable Drainage Systems (SuDs)
- 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
- Villages 1 – Village Categorisation
- Villages 2 – Distribution 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
- C25 – Development affecting the site or setting of a scheduled ancient monument
- C28 – Layout, design and external appearance of new development
- C30 – Design of new residential development
- C33 – Local gaps
- ENV1 – Environmental pollution
- ENV12 – Potentially contaminated land

- 8.3. Other Material Planning Considerations:

- National Planning Policy Framework (“NPPF”)

- Planning Practice Guidance (“PPG”)
- Housing Land Supply in Oxfordshire: Written statement - HCWS955
- Annual Monitoring Report (“AMR”) 2019
- Developer Contributions SPD
- Cherwell Residential Design Guide SPD
- Deddington Conservation Area Appraisal
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- 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”)

8.4. The Deddington Neighbourhood Plan has now been formally withdrawn. This therefore holds no weight in the determination of planning applications.

9. APPRAISAL

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

- Principle of development
- Impact on the character and appearance of the area
- Heritage impact
- Highway safety
- Residential amenity
- Affordable housing
- Flood Risk and drainage
- Ecology
- Infrastructure
- Other matters

Principle of Development

9.2. 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.

9.3. 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 (none of which are relevant to this site as the Deddington Neighbourhood Plan has been formally withdrawn). 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 land. The site is considered to sit outside the established built limits of Deddington.

Policy Context

The Development Plan

9.4. 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.

- 9.5. The application site is outside the built up limits of Deddington 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 proposal therefore conflicts with Saved Policy H18.
- 9.6. 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' in addition to windfall development. 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 and provides a number of criteria for such applications to be assessed against. Policy Villages 2 is therefore the appropriate policy against which to assess this proposal.
- 9.7. 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.
- 9.8. Policy Villages 1 classifies Deddington as a category A village. 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 not representing minor development, being over 10 dwellings.
- 9.9. 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 in Policy Villages 2 and particular regard must be had to these criteria when considering sites, whether through plan making or the planning application process. 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.

National Policy

- 9.10. The NPPF 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 NPPF 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 5 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), 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).

- 9.11. In the circumstances that an 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 NPPF 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 NPPF as a whole.
- 9.12. However, in respect of the Oxfordshire Authorities including Cherwell 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 5 year housing land supply. This sets out the requirement for a 3 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.
- 9.13. In this case, the tilted balance set out by Paragraph 11d is not engaged because the Housing Supply requirement for the District should be taken to be 3 years in accordance with the WMS (appeal decisions in South Oxfordshire have reached this conclusion).

Monitoring and recent appeal decisions

- 9.14. 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).
- 9.15. 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.
- 9.16. 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 (i.e. those with planning permission but not implemented) reported in paragraph 9.15 to 300 dwellings. This would give the number of dwellings identified under Policy Villages 2 either completed, 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 be additional to the 920 dwellings.
- 9.17. 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. The key conclusions resulting from the Launton, Bodicote, Weston on the Green 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 a number of 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

- 9.18. The site is not allocated for development in any adopted or emerging policy document forming part of the Development Plan and the site sits outside the built up limits of the village given its physical and visual relationship to the existing built form. The applicant contests this assessment. However, officers consider that sites must have a clear urban grain and close relationship with the existing built up limits of villages to be considered as being within the built limits. In this case the application site clearly forms part of a wider agricultural field, which sits away and separate from the established built up limits of the village. Whilst there is sporadic development either side of the site along Clifton Road, which has occurred over a number of years, there are open fields between the buildings and separated from the main built form of the village, which means officers conclude the site is not within the built limits of the village.
- 9.19. Deddington is recognised as a 'Category A' village and is one of the larger villages in the District (6th out of 23) with a relatively wide range of services and facilities compared to other Category A settlements. It has a relatively regular bus service (S4 route – approximately hourly), which runs between Banbury and Oxford. Overall therefore it is considered to be one of the more sustainable Category A villages.
- 9.20. The acceptability of the proposal therefore needs to be tested against the criteria listed in Policy Villages 2 of the CLP 2015, as well as other material planning considerations. However, in the first instance it is important to consider whether the scale and quantity of development at Deddington, is in accordance with the overarching housing strategy of the CLP 2031.
- 9.21. The position with regards to the Council's Housing Land Supply and progress against Policy Villages 2 is outlined above. There is one other site in Deddington which has a resolution to approve under Policy Villages 2 for up to 21 dwellings (19/02147/OUT refers). Whilst Deddington has seen other growth in the plan period (such as 85 dwellings at Deddington Grange adjacent to the northern built up limits) these were permitted prior to the adoption of the CLP 2015 so do not count towards the Policy Villages 2 housing allocation.
- 9.22. The 750 dwellings to be delivered at Category A villages is not an upper limit, but the policy describes it as a 'total' and significant deviation from this may result in unconstrained growth in less sustainable locations, which would conflict with the

housing strategy of the Development Plan which has a strong urban focus. Therefore, it is considered that the position in which the Council finds itself in regard to the allocation under Policy Villages 2 means that there is no urgent need to grant permission for significant additional growth under this policy and must be a matter considered in the planning balance.

- 9.23. The proposal would lead to the number of permissions being granted at Category A villages exceeding the 750 dwellings in Policy Villages 2. However, officers do not consider in this particular instance, given the scale of the development, the position regarding delivery under Policy Villages 2 and the sustainability of Deddington, that the proposal could be regarded as a departure from the Council's housing strategy.
- 9.24. Therefore, whilst acknowledging there is no urgent need to release additional land in the rural area under Policy Villages 2, given the relative sustainability of Deddington, and the fact that this proposal is for up to 14 dwellings and no more, and the fact that the aggregate of completions and commencements at Category A villages has yet to reach 750, it is considered that in this particular instance this level of additional growth at Deddington would not be seen to undermine the wider rural housing strategy. However, Policy Villages 2 requires the consideration of a wider number of issues and for the reasons outlined below and elsewhere in this report it is not considered that the principle of developing this site for residential purposes would comply with Policy Villages 2.
- 9.25. The criteria in Policy Villages 2 include consideration of whether the site is well located to services and facilities and also whether satisfactory pedestrian access/egress can be provided. The application site is located to the eastern side of the village and is separated away from the main built form of the village by open land. It is located approximately 800 metres from the village centre which contains a variety of services and bus stops. It is also further away from the Windmill Centre which houses community uses and sports facilities at the western edge of the settlement.
- 9.26. The Local Highway Authority (LHA) notes that the footpath to the village is sub-standard, narrow, unlit and terminates along Clifton Road where there is not a safe crossing point for pedestrians to cross. Furthermore, it is noted that the footpath closer to the village is not ideal in terms of widths and connections given historic constraints. The LHA considers that, given a combination of the distance to the services and the poor quality of these routes, it is likely to deter future residents going on foot and encouraging sustainable forms of travel. Furthermore, the bus service is located over 800 metres from the site which is in excess of OCCs guidance and is not well connected to the site. In addition, given the location of the site outside the built limits footpaths leading back to the village do not have a strong sense of surveillance and have a detached feel from the facilities in the village, which is likely to further discourage walking by future residents.
- 9.27. Therefore, whilst the wider village includes a good range of services and facilities given the poor connections between the site and these services and facilities this is considered to be a matter that weighs against the development.
- 9.28. The applicant has now submitted plans that would include the upgrading of the footpath adjacent to Clifton Road, a new crossing point to Earls Lane and the provision of a new footpath along Earls Lane to provide better access to facilities including the school, health centre and bus stop. This does go some way to improve connections to the village. However, formal comments are awaited from the LHA on this matter and whether such works are likely to be achievable and will be reported in an update to Committee.

Conclusion

- 9.29. Overall, on balance, and having regard to the factors above it is considered that the principle of this scale of growth could be acceptable in Deddington in the context of the Council's housing strategy. However, the poor walking routes and distances to the services and facilities weighs against the development in considering the application under the criteria of Villages 2, and the impact on the character and appearance of the area and that of the Conservation Area of the works required to make the location more sustainable mean that the LPA would not support those works. Furthermore, regard also must be had to the proposal being assessed against the other relevant criteria of Policy Villages 2 and the other relevant policies and guidance, which is discussed below.

Impact on character and appearance of area

Policy context

- 9.5. 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.
- 9.6. 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, while not preventing or discouraging appropriate innovation or change;
 - Establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
 - Optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks;
 - Create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users, and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 9.30. Policy ESD15 of the Cherwell Local Plan Part 1 states that: *“New development proposals should:*
- *Contribute positively to an area's character and identity by creating or reinforcing local distinctiveness and respecting local topography, including skylines, valley floors, significant trees, historic boundaries, landmarks, features or views.*
 - *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.”

- 9.31. Policy ESD13 of the Cherwell Local Plan Part 1 states that: *“Development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided. Proposals will not be permitted if they would:*
- Cause undue visual intrusion into the open countryside;*
 - Cause undue harm to important natural landscape features and topography;*
 - Be inconsistent with local character;*
 - Harm the setting of settlements, buildings, structures or other landmark features;*
 - Harm the historic value of the landscape.”*
- 9.32. Policy Villages 2 also states regard will be had to whether a proposal would have significant adverse impacts on heritage, whether development could contribute to enhancing the built environment and whether significant adverse landscape and impacts can be avoided in determining applications under that policy.
- 9.33. Saved Policy C8 seeks to limit sporadic development beyond the built limits of settlements.
- 9.34. Saved Policy C33 states the Council will seeks to retain any undeveloped gap with is important in preserving the character of a loose knit settlement structure or maintaining the setting of heritage assets.
- 9.35. The Cherwell Residential Guide SPD (2018) builds on the above policies and provides a framework to deliver high quality locally distinctive development.

Assessment

- 9.36. The application site is located at a key entrance to the village, which has a strong rural approach which positively contributes to the rural setting and character and appearance of the village. The area includes a number of groups of buildings; however, they are set between parcels of open land, such as the application site, which imparts a very loose knit and spacious character and appearance to the area where views are available out into the wider landscape. This includes far ranging views across the application site to the south. This provides a soft and gentle transition between the wider countryside and main built up area of Deddington and the application site contributes positively to this.
- 9.37. The proposed development would harmfully impact on the loose knit settlement pattern in this area and result in a harmful urbanisation of the site and the wider locality to the detriment of the rural setting of the village. It would result in further ribbon development along the Clifton Road. The development would be clearly visible when approaching and leaving the village along Clifton Road and would be at odds with the surrounding character of the area. The creation of development of this size and density, detached from the main built form of the village by open land, would be out of character with the loose knit pattern of development in this area and would appear incongruous in this location resulting in the creation of a small modern housing estate isolated from the core of the existing development in the village.

- 9.38. Whilst the landscape and visual impacts would be relatively localised they would no doubt be harmful and incongruous given the context particularly along Clifton Road and views from the south. The application is not accompanied by a Landscape Visual Impact Assessment, but officers also consider that views of the site are likely to be available from some parts of Chapmans Lane, which is a public right of way to the south of the site, particularly in winter months when vegetation is more sparse. In these views the proposed development is likely to stand out given the intervening topography.
- 9.39. The indicative layout submitted with the application varies to the earlier refusal on the site which showed the provision of a cul-de-sac form of development with development backing onto Clifton Road. The indicative layout now shows the provision of a linear form of development facing Clifton Road which would be more in keeping with the adjacent dwellings. However, the indicative layout shows that dwellings would be located behind a private drive and there would be much less space between the dwellings than the existing dwellings immediately to the west of the site (which have a verdant and spacious layout). This would all exacerbate the poorly integrated nature of the development and the harmful impact on the character and appearance of the area as outlined above.
- 9.40. Whilst these plans are only indicative officers consider that, to accommodate the level of growth proposed on the site, development would need to be arranged in a similar manner and perceived density. Officers also have a number of other concerns in relation to the layout of the site. Firstly the layout of the proposal shows the provision of all the affordable housing to the east of the site in a rather cramped layout and these would clearly be distinguishable from the market housing given their layout, density and likely form. This would be contrary to the Council's guidance and policy objectives which seek to ensure that affordable housing is fully integrated into the scheme and is tenure blind. The indicative layout also does not appear to make any provision for public open space which would be required for the development in the form of general green space and a Local Area of Play. This would have a clear impact on the layout of the scheme and the perceived density given that these spaces would need to be integrated in to the design and benefit from good surveillance. The indicative layout also does not appear to make provision for the requirement of a pumping station in the south eastern extent of the site which the applicants Drainage Statement indicates will be required to provide a foul water connection to the mains. All of these issues are likely to further impact on the layout of the site and result in a tighter form of development at further odds with the surroundings.
- 9.41. Given the application is made in outline, details of the scale, layout and appearance of the dwellings would be reserved for future applications. However, the Design and Access Statement should provide a framework to demonstrate how a successful development could be achieved. The concerns regarding the indicative layout are outlined above. The Design and Access Statement submitted with the application provides some details on the appearance of the dwellings, but officers still have concerns regarding the intended design and detailing of the dwellings as they would appear to be based on inappropriate modern development rather than the more locally distinctive vernacular form and materials as required by the Cherwell Residential Development Design Guide SPD.
- 9.42. Overall, therefore, the development of the site is considered to be poorly related to the pattern of development in the locality, harmful to the character and appearance of the area and setting of the village and result in a harmful visual intrusion to the open countryside. The proposal is therefore contrary to Policies ESD13, ESD15 and Villages 2 of the Cherwell Local Plan Part 1, Saved Policies C28, C30 and C33

of the Cherwell Local Plan 1996, Cherwell Residential Design Guide SPD (2018) and advice in the NPPF.

Heritage Impact

Legislative and policy context

- 9.43. The site is within the setting of a Conservation Area and also within the setting of the Scheduled Ancient Monument of Deddington Castle.
- 9.44. Conservation Areas and Scheduled Monuments 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.* It goes on to state any harm to the significance of a designated heritage assets or its setting should require clear and convincing justification. Where development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
- 9.45. Paragraph 189 of the NPPF states that where a site has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.
- 9.46. Policy ESD15 of the CLP 2031 Part 1 echoes this guidance. Policy Villages 2 requires consideration to be given to whether significant adverse impact on heritage can be avoided.
- 9.47. Saved Policy C25 states that in considering proposals which affect the setting of a Scheduled Ancient Monument the Council will have regard to the desirability of maintaining it overall historic character.

Assessment

- 9.48. The proposed development is located within the setting of Deddington Castle which is a Scheduled Ancient Monument (SAM). This is a designated heritage asset in the context of the NPPF. This is an earthwork motte-and-bailey castle, with separate baileys either side of a central motte, which dates back to the eleventh or twelfth century. The Castle Grounds represent the west bailey with a central motte. The eastern bailey is roughly equal in area to the main bailey with evidence of late medieval fishponds or quarries. Historic England states it is nationally important and is one of the best-preserved earthworks relating to the period in Oxfordshire. Unlike other similar castles, it appears to have been located remotely from the original village of Deddington. The isolation from the village may be connected with its status as the location of the lead site of an estate. Whether deliberate or not, the setting of the asset remains largely open countryside to much of its boundaries. The castle has illustrative value in demonstrating how the Normans dominated the surrounding landscape and the existing open setting of the castle contributes to that significance. This assessment was agreed with by a Planning Inspector in dismissing an appeal to the west of the site (13/01941/OUT refers).
- 9.49. Whilst there are instances of more modern development which have encroached onto the open space around the castle, with the result that the natural buffer between the village and castle has been eroded, these are not considered to be

positive aspects and are not considered to justify further harm to the setting of the Castle. The proposal would impact on the open setting of the Castle to the north and diminish its sense of isolation from the village. Given the proximity and topography of the area views would be available from the Castle towards the site, which would lead to an urbanisation of the setting. Whilst many views would be filtered through vegetation, the presence of the development would still be visible. The inter-visibility would be higher and more prominent in winter months when the filtering effect of the deciduous vegetation would not be as effective as in summer months. This is also true of any additional planting the applicant proposes to the southern boundary in an attempt to screen the development. Historic England has also pointed to the fact that in the future the management of the SAM is also likely to result in the removal of some of the screening. In addition to the above the likely density of the site would result in the built form of the dwellings being more prominent than the existing housing to the west of the site, which would further exacerbate the harm from the development in respect of the open and detached setting of the SAM. Further harm to the setting of the SAM would also occur from Chapmans Lane to the south of the site where the prominence of the Castle and isolation can be appreciated by users of the public right of way.

- 9.50. However, it is accepted that the site forms only part of the setting of the castle and the significance of the castle includes factors other than the values associated with its setting. Therefore, the overall harm to the significance of the Castle would be *'less than substantial'* in the context of the NPPF. That is not to say that it would be unimportant. Substantial harm could only likely be caused to the SAM through alteration to/impact on the physical monument. The NPPF advises that *any* harm to heritage assets requires clear and convincing justification and great weight should be given to the asset's conservation. Paragraph 134 of the NPPF requires the harm to be balanced against the public benefits of the scheme.
- 9.51. The SAM also forms part of the Conservation Area and it is considered that for the same reasons the proposal would harm the significance of the Conservation Area through change to its setting. There is also considered to be further harm to the setting of the Conservation Area in respect of the impact of the development on the rural setting of the village. The site is located at the edge of the village and the existing approach has a strong rural character and appearance which positively contributes to the rural setting of the Conservation Area. The urbanisation of the site and the loss of openness, including some views out to the wider countryside, would erode this rural approach. Furthermore, given the proposed development's detached siting away from the main settlement form, alongside its density and likely layout, it is considered the development would appear incongruous within its immediate context and within the rural approach to the Conservation Area.
- 9.52. In the current application further harm to the Conservation Area would also be caused by the proposed works to the highway including the provision of the upgraded and new footpath and the provision of a crossing point on the grass island between Clifton Road and Earls Lane. These would all result in urbanising impacts through the loss of grass verges.
- 9.53. Overall, therefore, the proposal would result in harm to the setting of the Deddington Castle and the Conservation Area. This harm would be *'less than substantial'* in the context of the NPPF but carries great weight in determining the application. In accordance with paragraph 196 of the NPPF this harm needs to be weighed against the public benefits of the proposal which is undertaken in Section 10 of this report in considering the planning balance.
- 9.54. The earlier application was also refused as it was considered there was a possibility that the site contained archaeological assets given its historic constraints. In the

absence of any specific field evaluation to explore the archaeological potential of the site the proposal was considered to provide inadequate information to make an informed assessment on this matter.

- 9.55. The applicant has now undertaken archaeological evaluation of the site which has included a number of trial trenches being dug across the site and evaluated. This concludes that limited archaeological remains were found on site and they would not be a significant constraint to developing the site. The County Archaeologist comments are awaited on this matter but it is understood from informal discussions that this issue is likely to be overcome and as such, on the expectation that this is the case, the refusal reason on archaeology from the previous refusal is not included in the current recommendation.

Highway safety

- 9.56. 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

- 9.57. The development would include a new access from Clifton Road to serve the new housing. This would be located in approximately the same location as the existing agricultural access. The local highway authority (LHA) raises no objection to the details of the access proposed which is considered to be acceptable.
- 9.58. The application site lies within a 40mph limit. However, speed surveys have been carried out at the site over a week which show that vehicles travel in excess of the posted speed limit with the 85th percentile speeds being 53mph eastbound and 48.6mph westbound. The originally submitted plans did not show the full extent of the visibility splays and the LHA has requested further details on the visibility splays which have now been submitted by the applicant. These appear to show that adequate visibility can be achieved for the recorded speed surveys at the site; however, formal comments are awaited from the LHA on this matter.
- 9.59. The LHA had also requested that, due to the straight alignment of Clifton Road and the recorded speeds, consideration be given to traffic calming in order to force traffic to reduce speeds on the approach to the proposed site access. The applicant has queried the need for this as it considers appropriate visibility splays are available at the access for the recorded speeds. It has, however, indicated willingness to enter into an agreement to provide some form of physical traffic calming measure to help reduce vehicle speeds as a wider public benefit of the scheme. However, given that it appears that this is not required to make the development acceptable in planning terms and is looking to remedy a pre-existing situation it is considered that the weight that can be given to this matter is limited as it would not appear to meet the CIL tests (i.e. necessary to make the development acceptable in planning terms) .
- 9.60. The LHA has raised no objection to the application on the basis of traffic generation on the capacity of the local highway network and given the scale of the proposal it is

not considered that the proposal could be regarded to lead to severe highway impacts on the wider road network.

- 9.61. The LHA's concerns regarding access to the village services and facilities are outlined elsewhere in this report so are not covered here and will be updated to committee.

Impact on neighbouring amenity

- 9.62. Policy ESD 15 of the CLP 2031 (Part 1) requires new development to consider the amenity of both existing and future occupants, including matters of privacy, outlook, natural lighting, ventilation, and indoor and outdoor space. The New Residential Development Design Guide (SPD) also provides advice in this respect.

- 9.63. The proposed development would be located away from many of the surrounding residential properties. The property which would be most significantly impacted upon by the proposal is the dwelling immediately to the east of the site, The Fishers. This property contains a first floor bedroom window facing over the western boundary of the site which the occupier of this property has stated is the only window serving this bedroom. The indicative layout plan shows the side elevation of the proposed dwelling within 12 metres of this windows which is likely to result in an unacceptable loss of outlook to this property as the Council would normally require 14 metres. It would also not be ideal to have the private amenity space of the proposed dwelling being overlooked by this existing window. The layout is only indicative and could potentially be amended to address this issue and therefore does not form a reason for refusal. However, it does raise further concerns with officers regarding the layout of the site and the relationship with the village and how the development would accommodate the number of dwellings proposed.

- 9.64. Concerns have also been raised from the occupier of the property on the opposite side of Clifton Road at the entrance to the site. They raise concerns that the proposed development would lead to noise and disturbance, including headlights of vehicles using the access shining into their windows, given the position of the access. Whilst it is noted that there would be some impact on this property in this respect, this is not an uncommon occurrence in a semi-rural environment and is not considered to be a matter which would justify refusal of the application.

- 9.65. Concerns regarding the amenity of future residents in respect to access to amenity space and play space are outlined elsewhere in this report.

Affordable Housing and Housing Mix

- 9.66. Policy BSC3 of the Cherwell Local Plan (2011-2031) states that development on the site should make provision for 35% affordable housing with 70% of the affordable housing to be affordable rent and 30% as intermediate homes such as shared ownership. Policy BSC4 states that new development will be expected to provide a mix of home to meet current and expected future demand creating socially mixed and inclusive communities.

- 9.67. The applicant has committed to providing 35% affordable housing on the site in line with Policy BSC3 which equates to 5 dwellings on the site. The detailed housing mix would be determined at reserved matters stage and at the current time the plans are only indicative. The Council's housing officer has raised no objection to this and has provided a suggested mix but has noted these should be spread over the site and be tenure blind. Concerns regarding the indicative layout are already outlined elsewhere in this report. Full details of the mix of the market and affordable housing would be determined at reserved matters stage. The affordable housing would need

to be secured by a legal agreement, which has not be pursued at the current time given the other concerns. However, in the absence of such a legal agreement the proposal is contrary to Policy BSC3 of the Cherwell Local Plan 2011-2031 Part 1 and government guidance in the NPPF.

Flooding Risk and Drainage

- 9.68. Policy ESD6 of the CLP 2015 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 (such as residential) towards areas at lower risk of flooding. Policy ESD7 of the Local Plan requires the use of Sustainable Urban Drainage Systems (SUDS) to manage surface water drainage. This is all with the aim to manage and reduce flood risk in the District.
- 9.69. The current site is situated wholly within Flood Zone 1 which is land which has a less than 1 in 1,000 annual probability of river flooding.
- 9.70. The applicant has submitted a Drainage Strategy, which includes a concept drainage scheme including the use of permeable paved areas with storage areas beneath, water butts and rainwater gardens to manage surface water. Infiltration testing was undertaken at the site, which concludes that infiltration drainage techniques would not be suitable for the site given the impermeable nature of the underlying land. It is therefore proposed to connect the drainage to the ditch to the east of the site which is in the applicant ownership and discharge at greenfield runoff rate.
- 9.71. The Lead Local Flood Authority (LLFA) has objected to this as it considers there is insufficient information to undertake a technical assessment of the proposal. Further details have been submitted from the applicant and comments are awaited and will be provided in a written update. If the LLFA did continue to object then the drainage refusal reason for the previous application would need to be added to the recommendation on the current application.
- 9.72. In relation to foul drainage it is understood that the developments immediately adjacent to the site is not connected to the main sewer. The drainage strategy notes that there is a public foul sewer approximately 125m to the west of the site and states that the foul drainage from the proposal will be discharged to this. Based on the local topography a pumped solution would be required, which would require a pump in the south eastern extent of the site and require a 10m easement from dwellings. Thames Water has raised no objection to the development in regard to foul water sewage or water network provision and the development is therefore considered to be acceptable in that regard.

Ecology

Legislative context

- 9.73. 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.

- 9.74. 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.
- 9.75. 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.

Policy Context

- 9.76. 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.
- 9.77. Paragraph 175 states that when determining planning applications, local planning authorities (LPAs) 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.
- 9.78. 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.
- 9.79. These policies are both supported by national policy in the NPPF and, 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.
- 9.80. 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 LPAs 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

- 9.81. The current application has been accompanied by an Ecological Appraisal which has been considered by the Council's Ecologist (CE). The site is not subject to any statutory or non-statutory designations. The CE is satisfied that there are no significant protected species issue on this site and the suggested mitigation measures in the report are all appropriate including those to avoid disturbance to mammals, reptiles and birds. A separate lighting strategy would be required which can be secured through condition. The proposals do, however, result in the loss of some semi-improved grassland which, whilst not of high ecological value, would result in a loss to biodiversity. There do not appear to be any particular measures taken within the illustrative layout to create new habitat and achieve a net gain for biodiversity on site, which local policy and national policy support. Currently there is no clear demonstration that a net gain would be achieved. Given the size of the site it is considered that a planning condition could be used to ensure that any reserved matters that came forward demonstrated a net gain in biodiversity
- 9.82. The ecological appraisal makes a number of suggestions for features of enhancement within the built environment which could contribute to preventing a net loss in opportunities for wildlife and should be incorporated – such as bat boxes, integrated swift bricks, hedgehog highways and invertebrate friendly planting. The details of these could be secured through a Landscape and Ecological Management Plan.

Impact on Local Infrastructure

Policy Context

- 9.83. 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.”*
- 9.84. 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 BSC12 requires new development to contribute to indoor sport, recreation and community facilities.
- 9.85. The Developer Contributions Supplementary Planning Document (SPD) sets out the position in respect of requiring financial and on-site contributions towards ensuring the necessary infrastructure or service requirements are provided to meet the needs of development, and to ensure the additional pressure placed on existing services and infrastructure is mitigated. This is the starting point for negotiations in respect of completing S106 Agreements.

Assessment

- 9.86. 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 Ley (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.
- 9.87. 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.
- 9.88. The proposed development requires the provision of general amenity green space (approx. 0.1ha) and a local area of play (100 sq m activity zone – 400 sq m including buffer) in accordance with the minimum standards of provision outlined in Policies BSC10 and BSC11 of the Cherwell Local Plan to meet the needs of the new residents. The indicative layout makes no provision for either of these areas of open space and therefore the proposal would fail to make adequate provision for new residents in this respect. The applicant has stated that a financial contribution could be made to enhance facilities elsewhere but given the distances to other facilities and detached relationship of the site from the settlement this is not considered to be appropriate on this site and on-site provision should be made instead. Therefore, based on the current submission the proposal fails to comply with Policy BSC10 and BSC11 of the Cherwell Local Plan and advice in the NPPF in this respect.
- 9.89. 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 (all index linked)

- Provision of and commuted sum for maintenance of open space (existing mature trees -£198.82 per tree, hedgerow - £20.49m2, informal open space/landscape buffers - £9.74m2, balancing pond - £50.98m2)
- Provision of local play area of play and maintenance costs
- Off-site outdoor sports facilities capital provision – £28,238.42
- Off-site indoor sports facilities - £11,689.26
- Community hall facilities - £18,831.08
- £106 per dwelling for bins
- Affordable housing provision – 35%

Oxfordshire County Council (index linked and subject to final housing mix)

- £19,863 early years provision at Deddington Partnership Foundation Stage Unit
- £89,405 primary school provision at Christopher Rawlins CE School
- £73,979 secondary school provision at The Warriner School
- S278 Agreement will be required to secure mitigation/improvement works, including:

- Formation of a new site access
- Provision / improvements to footpath to village centre

9.90. CDC's Developer Contributions SPD states that new residential development will be expected to contribute towards the provision of additional health care infrastructure generated by its population growth where there is insufficient existing capacity, well located to serve the development. Whilst the Oxfordshire Clinical Commission Group has been consulted, it has not made comments other than to indicate it is only likely to comment on larger applications. Thus, officers do not consider that they can request contributions towards health care infrastructure.

Conclusion

9.91. A number of items would 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. Given the application is not acceptable for other reasons these matters have not be progressed. In the absence of a legal agreement to secure these matters the proposal is therefore contrary to Policies INF1, PSD1, BSC3, BSC10 and BSC11 of the Cherwell Local Plan (2011-2031) Part 1, the Developer Contributions SPD (2018) and Government guidance contained within the National Planning Policy Framework.

Other Matters

9.92. Saved Policy ENV12 of the CLP1996 sets out that development on land which is known or suspected to be contaminated will only be permitted if

- (i) Adequate measures can be taken to remove any threat of contamination to future occupiers of the site.
- (ii) The development is not likely to result in contamination of surface or underground water resources
- (iii) The proposed use does not conflict with other policies in the plan.

9.93. The site is on land which is potentially contaminated and the Council's Environmental Protection Officer (EPO) has therefore recommended that phased contaminated land conditions need to be attached should permission be granted. Officers agree with this assessment.

9.94. Regarding air quality, the Council's EPO requests that ducting is provided for the future installation of Electric Vehicle charging infrastructure in order to make residents parking places EV ready for future demand. 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. The provision of EV charging infrastructure is also reflected in the Council's Infrastructure Delivery Plan. It is considered reasonable and necessary for this to be secured through a condition of any permission given. The EPO has also requested the submission of an Air Quality Impact Assessment. However, given the relatively small scale of the scheme and the fact it would not impact directly on an Air Quality Management Area this is not considered to be proportionate or required. Furthermore, it is noted that such a request was not made on the earlier application on the site.

9.95. 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. In regard to energy efficiency the Council now seeks to secure in excess of that required under the 2013 Building Regulations. These matters could be controlled through a condition.

- 9.96. In relation to the best and most versatile agricultural land, which is one of the criteria in Policy Villages 2, the site lies within an area identified as potentially BMV. No information has been submitted from the applicant in respect of this. The development could therefore result in the loss of this land for agriculture and this harm weighs against the development in the planning balance.
- 9.97. The proposal would also be low density and not make efficient use of land which is a further factor weighing against the development.

10. PLANNING BALANCE AND CONCLUSION

- 10.1. The planning system seeks to achieve social, economic and environmental objectives in mutually supportive ways to achieve sustainable development. In this application the proposed development is considered to be contrary to the Development Plan and NPPF when read as a whole.
- 10.2. The main policy against which to consider the application is Policy Villages 2 (PV2) and the criteria within. While in the case of Deddington, at this time, it is considered that the proposal would not conflict with the principle of providing a total of 750 dwellings at Category A villages, in this instance when assessed against the subsequent criteria of PV2 the proposed development is not considered to comply with the Development Plan. The proposal would result in harm to the setting of the scheduled ancient monument and the setting of the Conservation Area. This harm is '*less than substantial*' in terms of the NPPF but any harm to heritage assets carries great weight against the proposal. It would also fail to contribute to enhancing the built and natural environment, be poorly related to the pattern of development in the locality, harmful to the character and appearance of the area and setting of the village and result in a harmful visual intrusion to the open countryside. It would use land potentially identified as best and most versatile agricultural land and is not previously developed land. Further weighing against the development is the poor quality of pedestrian links to the villages' services, facilities and public transport. The proposal would also fail to provide sufficient amenity space and play space for the future residents and in the absence of a legal agreement the impacts on local infrastructure and provision of affordable housing would not be secured.
- 10.3. In this case the public benefits of the scheme include the economic and social benefits associated with the provision of 14 new dwellings including 5 affordable units, which attracts significant weight. Were it not considered to have adverse visual effects, some positive weight could have been attributed towards the public footpath link proposed along Earls Lane which would benefit existing residents of the village as well as those of the proposed development. The applicant also argues that the offer of providing traffic calming is a further public benefit in favour of the development. However, whilst this may be desirable given that it does not appear that it is required to make the development acceptable in planning terms it is not considered this matter can be given weight in the planning balance
- 10.4. The Council can demonstrate an appropriate housing land supply and significant progress has been made on the rural housing allocations of 750 dwellings under Policy Villages 2, which moderates the benefits of the scheme in this respect. Overall the totality of the benefits are not considered to outweigh the harm arising from the scheme. The proposed development is therefore not considered to

represent a sustainable form of development or comply with the Development Plan when read as a whole and it is therefore recommended that planning permission be refused.

11. RECOMMENDATION

RECOMMENDATION - **REFUSAL** FOR THE REASONS SET OUT BELOW

By virtue of its poorly integrated relationship with existing built development, its extension beyond the built limits of the village and its scale and location, the proposed development would cause significant and demonstrable harm to the character and appearance of the area and the rural setting of the village and would fail to reinforce local distinctiveness. For the same reasons the proposal would also result in *'less than substantial'* harm to the setting of the nearby Scheduled Ancient Monument and Conservation Area and the harm stemming from the proposals is considered not 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 C28 and C33 of the Cherwell Local Plan 1996, Cherwell Residential Design Guide SPD (2018) and Government guidance contained within the National Planning Policy Framework.

The development proposed, by reason of its relationship and poor pedestrian connections to the centre of the village and service and facilities (including bus stop) and taking into account (i) Cherwell District Council's ability to demonstrate an up-to-date housing land supply and (ii) the harm to the character and appearance of the area and that of the Conservation Area of providing the infrastructure necessary to address these issues with regard to connectivity, would not provide good access to services and facilities and public transport in the interests of reducing the need to travel and promoting sustainable transport options. The proposal is therefore contrary to Policies ESD1, SLE4 and Villages 2 of the Cherwell Local Plan (2011-2031) Part 1, and Government guidance contained within the National Planning Policy Framework.

In the absence of the completion of a satisfactory Planning Obligation, the Local Planning Authority is not convinced that the necessary infrastructure (including education, open space, sports facilities, community facilities, highway infrastructure and affordable housing) directly required as a result of this development, in the interests of supporting the sustainability of the village and the development, mix and balanced communities, and in the interests of safeguarding public infrastructure and securing on site future maintenance arrangements, will be provided. This would be contrary to Policies INF1, PSD1, BSC3, BSC10 and BSC11 of the Cherwell Local Plan (2011-2031) Part 1, the Developer Contributions SPD (2018) and Government guidance contained within the National Planning Policy Framework.

NB. These are substantially the same Refusal Reasons as Nos. 1, 2 and 6 of 19/00831/OUT.

NB. Depending on consultee responses, Refusal Reasons 3, 4 and 5 of 19/00831/OUT may be added to this recommendation.

CASE OFFICER: James Kirkham

TEL: 01295 221896

18/02160/F

Part Of OS Parcel 0083 North Of 89

Cassington Road

Yarnton

Balancing

Pond

Exeter

Farm

13

1 to

21

2

91

FB

Depot

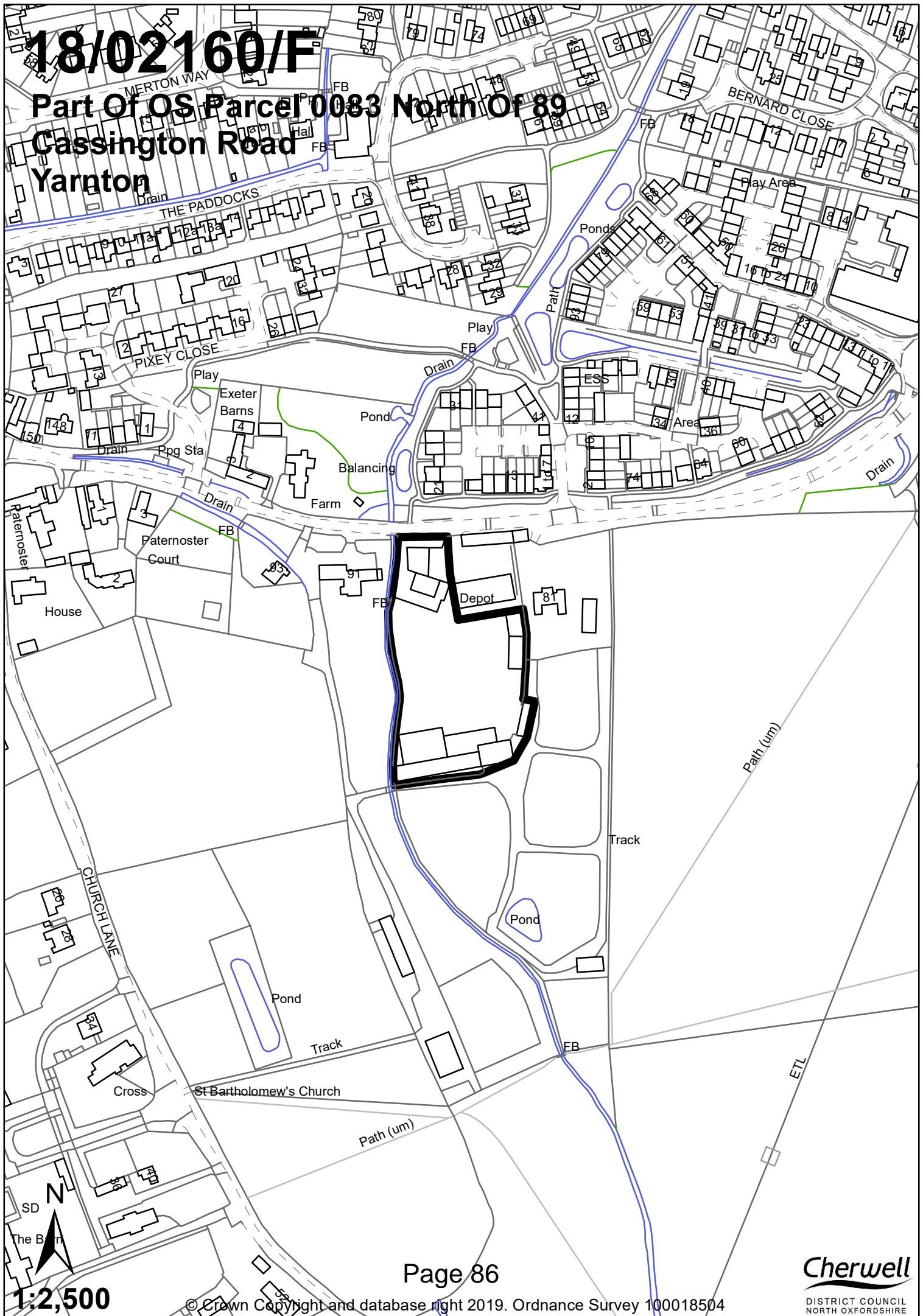
81



1:750

18/02160/F

Part Of OS Parcel 0083 North Of 89 Cassington Road Yarnton



Yarnton

Case Officer: Shona King

Applicant: Douglas Charlett Tyres Ltd

Proposal: Redevelopment of part of the site with new purpose-built buildings for B1 and B8 use including provision for access onto Cassington Road

Ward: Kidlington West

Councillors: Councillor Copeland and Councillor Tyson

Reason for Referral: Major development

Expiry Date: 19 February 2020

Committee Date: 13 February 2020

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS

Proposal

The proposal is to redevelop the site with 3 buildings for B1 and B8 use, comprising 5 units in total, including a new access onto Cassington Road.

Consultations

The following consultee has raised **objections** to the application:

- OCC Highways,

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

- CDC Arboriculture, CDC Environmental Protection and CDC Building Control, OCC Minerals and Waste, Environment Agency.

The following consultees have not commented on the application:

- CDC Planning Policy, CDC Ecologist and CDC Waste and Recycling.

No letters of objection have been received and no letters of support have been received.

Planning Policy and Constraints

The application site is an existing employment generating site within the built up limits of Yarnton. The site is outside but adjacent to the Oxford Green Belt. No listed buildings are within close proximity to the site and the site is not within a conservation area. The area has been identified as being potentially contaminated and is partially within Flood Zones 2 and 3. The Pixey and Yarnton Meads SSSI and Wytham Ditches and Flushes SSSI are located within 2KM of the site. The southern part of the site lies within a Minerals Safeguarding area.

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
- Ecology impact
- Flooding
- Planning Obligations

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 to the south side of Cassington Road in between a large dwelling on a spacious plot and two recently constructed light industrial units. The site has mostly been cleared of buildings apart from a large building at the southern end of the site.
- 1.2. The site is bounded to the east and west by residential use, paddock land to the east, and to the south by open countryside.
- 1.3. There is a housing estate to the north of the site on the opposite side of Cassington Road with an industrial park further to the east beyond a large agricultural field.

2. CONSTRAINTS

- 2.1. A public right of way crosses the frontage of the site, adjacent to the highway, to the north. It is located just outside of the Oxford Green Belt and is partly within Flood Zones 2 and 3. A watercourse runs along the western boundary of the site. There are records of numerous protected species in the area of the site.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. Consent is sought for the redevelopment of the site with 3 new buildings, comprising 5 units in total, to be used for B1 (business) and B8 (storage and distribution) uses. The buildings are to measure approximately 23800sqft in total separated into the following:

Building A – 2,500 ft²

Building B – 10,800 ft²

Building C – 10,500 ft²

3.2. Parking for 73 cars is to be provided within the site and a new access into the site is to be created.

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>
13/00329/F	Redevelopment of commercial premises	Approved
15/00537/F	Demolition of existing buildings and the erection of 2 new light industrial units	Approved

5. PRE-APPLICATION DISCUSSIONS

5.1. 17/00359/PREAPP – Redevelopment of the site with new purpose-built buildings for B1 and B8 use. The advice given was that the principle of an employment use development comprising a mix of B1 and B8 uses could be acceptable subject to the submission of a flooding sequential test; a Flood Risk Assessment demonstrating that the development and its future users will be safe from flood risk over the lifetime of the development; it being demonstrated that the proposed development would not stymie future mineral extraction, and that it would not prevent or prejudice the continued use of the northern part of the site for waste management; and sufficient parking provision being provided on site as well as space for a HGV to manoeuvre and turn. Also, the advice given stated that the proposed development should be of a scale and massing that is in keeping with the existing development in the surrounding locality whilst not causing any detriment to the amenities of neighbouring properties.

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 31 January 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.

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

7.2. YARNTON PARISH COUNCIL: **No objection** provided limitations are imposed relating to operating hours, vehicle movements, noise, lighting, atmospheric and physical pollution and there is an improvement to visibility on exiting the site.

OTHER CONSULTEES

- 7.3. OCC HIGHWAYS: **Objects**. The application has not demonstrated safe and suitable access for all users or that appropriate opportunities to promote sustainable transport modes have been taken up, as required under the NPPF. They have commented that there are no footways along Cassington Road in this location to provide safe and suitable access to the development for pedestrians and public transport users. Other objections regarding access and visibility have been withdrawn.
- 7.4. OCC MINERALS AND WASTE: **No objections**
- 7.5. ENVIRONMENT AGENCY: **No objection** subject to conditions relating to drainage, contaminated land and ecology/biodiversity following receipt of additional information seeking to overcome objections regarding acceptability of the Flood Risk Assessment submitted with the application.
- 7.6. THAMES WATER: **No objection** subject to conditions relating to water and foul water networks and informative notes relating to proximity to underground waters and water mains.
- 7.7. NATURAL ENGLAND: **No objection**. Objection regarding impact on Pixey and Yarnton Meads SSSI withdrawn following receipt of further information dated 29/03/2019
- 7.8. PLANNING POLICY: **No comment to date**
- 7.9. CDC ARBORICULTURALIST: **No objections** subject to the submission of a brief method statement detailing how trees on the site will be protected during development.
- 7.10. CDC BUILDING CONTROL: **Comments** that full Building Regulations application required.
- 7.11. CDC ENVIRONMENTAL PROTECTION: **Comments** that conditions are required relating to production of a noise report, contaminated land, ducting for EV charging and lighting. No comments are made regarding odour.
- 7.12. CDC WASTE AND RECYCLING: **No comment to date**
- 7.13. CDC ECOLOGIST: **No comment to date**

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
- SLE1: Employment Development
- ESD1: Mitigation and Adapting to Climate Change
- 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

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C28: Layout, design and external appearance of new development
- ENV1: Environmental pollution

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)

9. APPRAISAL

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

- Principle of development
- Design, and impact on the character of the area
- Residential amenity
- Highway safety
- Ecology impact
- Flooding
- Other Matters
- Planning Obligations

Principle of Development

- 9.1. Policy PSD 1 of the Cherwell Local Plan 2011 - 2031 Part 1 echoes these aspirations and states that wherever possible, development should improve the economic, social and environmental conditions in the area.
- 9.2. With regards to the rural context of this site, Paragraph 83 of the Framework states that amongst other matters planning policies and decisions should enable the sustainable growth and expansion of all types of business in rural areas both through conversion of existing buildings and we-designed new buildings;
- 9.3. Policy SLE 1 of the Cherwell Local Plan 2011 - 2031 Part 1 states that: "Employment development will be focused on existing employment sites. On existing operational or vacant employment sites at Banbury, Bicester, Kidlington and in the rural areas employment development, including intensification, will be permitted subject to compliance with other policies in the Plan and other material considerations." It continues that employment development in the rural areas should be located within or on the edge of Category A villages.
- 9.4. The proposal is within the built-up limits of Yarnton and comprises an existing employment site; is outside of the Green Belt; makes efficient use of the site; has

good access and can be easily accessed by public transport; does not affect the design or character of the area; and does not have an adverse effect on surrounding uses.

- 9.5. The principle of development therefore accords with Policy SLE 1 of the Cherwell Local Plan 2011 - 2031 Part 1.

Design, and impact on the character of the area

- 9.6. The Government attaches great importance to the design of the built environment within the Framework. Good design is a key aspect of sustainable development creating better places in which to live and work and helps make development acceptable to communities.
- 9.7. Policy ESD15 of the Cherwell Local Plan 2011 - 2031 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."
- 9.8. 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.
- 9.9. The proposal involves the demolition of existing buildings on the site and the erection of 5 purpose built B1/B8 units. The units are separated into three blocks with Block A to the front of the site, Block B and C in the middle of the site and Block D and E to the rear of the site. A new access into the site is proposed along with access roads and parking to serve each unit.
- 9.10. The buildings are designed to match the recently constructed building on the adjacent site immediately to the east. They would be clad with metal cladding panels and with a metal profiled sheet roof. Whilst the application does not state the colouring of the metal cladding the elevations indicate a dark, mid and light grey colour scheme, which would not be unsympathetic to the character of the area.
- 9.11. The buildings are considered to be of an acceptable design and scale compatible with the adjacent built development and the development would not cause significant or demonstrable harm to the character and appearance of the area. The proposals therefore accord with Policy ESD15 of the CLP 2031, saved Policy C28 of the Cherwell Local Plan 1996 and relevant paragraphs of the NPPF in this regard.

Residential amenity

- 9.12. Both the NPPF and Policy ESD15 of the Local Plan seek to ensure development proposals provide a good standard of amenity for both existing and proposed occupants of land and buildings relating to privacy, outlook, natural light and indoor and outdoor space.
- 9.13. Whilst the site is an existing industrial site it is adjacent to two dwellings and a recent housing development lies to the north on the opposite side of Cassington Road. The buildings are sited and are of a scale so as to prevent undue harm to the residential properties in terms of loss of light or the creation of an overbearing effect.
- 9.14. The proposal would result in intensification of the industrial use on the site and an increase in the level of activity which may have an adverse impact on the living amenities of the neighbouring properties. The Council's Environmental Protection team has been consulted on the application and raises no objections to the proposal

subject to conditions relating to the production and approval of a noise report, with any mitigation required to be implemented prior to first occupation of the units, and the submission and approval of a detailed lighting scheme for the development. Officers consider these conditions to be reasonable and necessary to make the development acceptable.

Highway safety

- 9.15. The Local Highway Authority (LHA) raises objections to the scheme, but which have largely been overcome, or can be overcome through the use of conditions relating to access visibility and HGV turning movements. The only outstanding objection relates to the lack of footways along Cassington Road providing safe and suitable access to the development for pedestrians and public transport users. They are also requesting financial contributions towards the provision of 2 bus stops on Cassington Road adjacent to the site access to promote the use of sustainable transport to the site by way of a legal agreement and the requirement to enter into a s278 agreement to secure the mitigation/improvement works within the highway.
- 9.16. The applicant's agent, in response to these comments, has submitted an argument against providing the footways and bus stops. The agent states that it would be unreasonable to provide the footways for a distance of 300m eastwards and 200m westwards from the site due to constraints within the highway, the width of the verge, cost of provision and inspection and likely need to move statutory undertakers' apparatus in the verge. The agent has advised that this would result in a significant barrier to the delivery of the scheme and the employment benefits that the development would bring. The agent also contends that the site is sustainably located given its location and proximity to existing linking footways in the area.
- 9.17. The applicant's agent has advised that the applicant is willing to re-instate a missing section of PROW 420/8 which runs along the southern side of Cassington Road from the western boundary of the site to where it turns southwards across the fields to the east of the site. The missing section of the PROW runs along the site frontage and was apparently lost when a line of demarking kerbs and verge were dug up or covered over.
- 9.18. With regards to the contributions towards the bus stops the applicant's agent has argued that OCC has not adequately demonstrated that the bus stops would be used by the bus company when there are existing and readily accessible bus stops 400m to the east and 350m to the west, both within walking distance of the site. They do not consider that the requirement for the contribution is necessary to make the development acceptable in planning terms.
- 9.19. In light of a previous application for 16 dwellings on the site (13/00330/OUT), where a footpath link to the village was *not sought by OCC*, your officers consider that it would be unreasonable to seek this now. This application was withdrawn prior to the decision being issued; however, Members resolved to approve the scheme in March 2014. In addition, whilst the footpath through the housing development on the north side of Cassington Road has not been adopted this does provide a link to the existing footway network to the east and west of the site. The construction of a new footway along Cassington Road would not therefore, in your officer's opinion, comply with the tests for planning obligations set out in the NPPF. The creation of the footway, whilst clearly desirable, would not be necessary to make the development acceptable in planning terms.
- 9.20. The reinstatement of PROW 420/8 across the site frontage to link to the remainder of the PROW across the field to the east suggested by the applicant is considered not to be essential to make the development acceptable. However, it is offered by

the applicant, is deliverable, and would improve the sustainability of the development as the footpath network to the east is very well used by employees at Oxford Business Park and dog walkers in the village.

- 9.21. Officers are not convinced of the need to contribute towards the additional bus stops sought by the LHA. This is an existing employment site and whilst the proposal is to significantly increase the floorspace on the site, and therefore the number of potential employees, the LHA has not demonstrated that the additional bus stops would be used by the bus company given the proximity of the existing bus stops to the site, 350m to the west and 400m to the east. In addition the LHA comments that, "if it can be demonstrated that a suitable footway connection between the site access and existing onward footway connections, and a new pair of bus stops on Cassington Road adjacent to the site access, can be accommodated within the highway boundary, the County Council will require legal agreements securing financial contributions towards public transport and the provision of footway links in order to remove objections". The LHA has not demonstrated that such bus stops or footways could be accommodated within the highway along this stretch of Cassington Road. The verge to the southern side of Cassington Road is between 1 and 2m wide which is insufficient to provide a bus stop and a footway.
- 9.22. Further, in your officer's opinion it is considered that the improvements to the accessibility of the site are outweighed by the additional employment benefits that the development would provide to the local economy.
- 9.23. Given that the land required for the vision splays and the footpath provision is in the County Council's ownership and both the applicant and the landowner are willing participants, it is considered that Grampian conditions may reasonably be imposed to any permission given rather than a Section 106 agreement required.

Ecology Impact

Legislative context

- 9.24. 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.
- 9.25. 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.
- 9.26. 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.

- 9.27. 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.
- 9.28. 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

- 9.29. 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.
- 9.30. 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.
- 9.31. 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.
- 9.32. 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.

- 9.33. 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.
- 9.34. 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.
- 9.35. 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

- 9.36. Natural England's Standing Advice states that a local planning authority (LPA) only needs to ask an applicant to carry out a survey if it's likely that protected species are:
- present on or near the proposed site, such as protected bats at a proposed barn conversion affected by the development
- 9.37. It also states that LPAs can also ask for:
- a scoping survey to be carried out (often called an 'extended phase 1 survey'), which is useful for assessing whether a species-specific survey is needed, in cases where it's not clear which species is present, if at all
 - an extra survey to be done, as a condition of the planning permission for outline plans or multi-phased developments, to make sure protected species aren't affected at each stage (this is known as a 'condition survey')
- 9.38. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site is dominated by existing buildings of varied construction, is close to a stream with a number of mature trees and hedgerows along the boundaries of the site. It therefore has the potential to be suitable habitat for bats, breeding birds, reptiles, great crested newts, water voles, hedgehogs and various flora.
- 9.39. In order for the LPA to discharge its legal duty under the Conservation of Habitats and Species Regulations 2017 when considering a planning application where EPS are likely or found to be present at the site or surrounding area, LPAs must firstly assess whether an offence under the Regulations is likely to be committed. If so, the LPA should then consider whether Natural England (NE) would be likely to grant a licence for the development. In so doing the authority has to consider itself whether the development meets the 3 derogation tests listed above.
- 9.40. In respect of planning applications and the Council discharging of its legal duties, case law has shown that if it is clear/ very likely that NE will not grant a licence then the Council should refuse planning permission; if it is likely or unclear whether NE will grant the licence then the Council may grant planning permission.

9.41. The application is supported by a Preliminary Ecological Appraisal and Preliminary Bat Roost Assessment produced by Lizard Landscape Design and Ecology (dated 27th April 2018) which conclude that:

- One of the existing buildings on the site is utilised as an occasional feeding perch of a common species of bat and that a precautionary approach should be taken to the demolition of the building and if any bats found the work should cease and advice sought from Natural England.
- Pond P1 has been assessed as providing average habitat suitability for Great Crested Newts and no further survey work is required due to the very small amount of suitable terrestrial habitat on site.
- No suitable habitat for any other protected species was noted on site. The existing site provides little in the way of floral diversity and is considered to be of very low ecological value.
- Recommendations are also made to provide ecological enhancements for the benefit of wildlife.

9.42. Officers are satisfied, on the basis of no objection from either the Council's Ecologist or NE, and subject to conditions, 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.

Flooding

9.43. The southern part of the site lies within Flood Zones 2 and 3. These have a medium and high probability of flooding as defined by the NNPF and associated flood risk and coastal change National Planning Guidance.

9.44. The Environment Agency (EA) originally objected to the application on the grounds that the Flood Risk Assessment submitted with the application did not comply with the requirements for site-specific flood risk assessments and it did not adequately assess the flood risks posed by the development or of the development by the River Thames. Additional information has been received from the applicant's agent and the EA has since withdrawn its previous objections subject to a number of conditions relating to drainage, contaminated land and ecology/biodiversity set out below.

9.45. It is this matter which has led to the considerable delay in the determination of the application. The applicant, the LPA and the EA are all pleased that the matter has now been resolved.

Other Matters

9.46. The site is potentially contaminated and the Council's Environmental Protection Team (EPT) has recommended conditions relating to contaminated land to ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptor.

9.47. The EPT has also recommended a condition requiring that each unit is provided with ducting to allow for the future installation of electrical vehicle charging infrastructure

in relation to comments on air quality. In this instance officers agree that this condition is reasonable and necessary to make the development acceptable.

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. Paragraph 8 requires that the three interdependent dimensions to sustainable development (economic, social and environmental) are perused in mutually supportive ways.
- 10.2. Economic role – The NPPF states that the planning system should help build a strong, responsive and competitive economy. It is considered that providing the proposed units would enhance the employment accommodation on this site and will provide additional units for other businesses in the area.
- 10.3. Social role – The social role to planning relating to sustainable development is to support strong, vibrant and healthy communities by, amongst other criteria, fostering a well-designed and safe built environment with accessible services that reflect current and future needs. The proposed development is considered to be designed to reflect the scale of adjoining development and enhance local employment opportunities.
- 10.4. Environmental role – for development to be acceptable it must contribute to the protection and enhancement of the natural and built and historic environment including helping to improve biodiversity. These issues have been covered in the sections above.
- 10.5. For the reasons set out in this report the proposal is considered to accord with Policies SLE1 and Government guidance contained within the NPPF. Furthermore, subject to conditions, there would not be a detrimental impact on visual amenity, residential amenity, flooding/drainage or highway safety, and the proposal therefore constitutes sustainable development that accords with the relevant policies of the Development Plan, and in accordance with Paragraph 11 of the NPPF permission should be granted.

11. RECOMMENDATION

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

CONDITIONS/REASONS FOR REFUSAL

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: Planning and Design and Access Statement, Preliminary Ecological Appraisal Report and Bat Roost Assessment dated 27/04/2019, Sustainable drainage and Flood Risk Assessment version 3.1 dated 20/12/2019, and drawings: Site Plan, 3914/p001a, 3914/p100, 3914/p101, 3014/p102, 3914/sk04 March 18, and 15375-HOP-ZZ-GF-DR-C-DR01 rev P6

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.

Materials

3. Prior to the construction 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.

Access and highway

4. No part of the development hereby permitted shall be occupied until the following works have been constructed and completed, to the satisfaction of the local planning authority:
 - i) Reinstatement of PROW 420/8 on the south side of Cassington Road from a point adjacent to the existing bridge to the west of the site eastwards to the point where PROW 420/8 turns in a southerly direction away from Cassington Road.
 - ii) The site access and its junction with Cassington Road as approved pursuant to condition 5.

Reason: In the interests of highway and pedestrian safety and to accord with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

5. Prior to the commencement of the development hereby approved, full details of the means of access between the land and the highway, including, position, layout, construction, drainage, vision splays, footway connections and inter-visibility between the adjacent site access shall be submitted to and approved in writing by the Local Planning Authority. The means of access shall not be constructed other than in accordance with the approved details and shall be retained and maintained as such thereafter.

Reason - In the interests of highway safety and to accord with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Cycle Parking Provision

6. 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 and to ensure a satisfactory form of development, in accordance with Government guidance contained within the National Planning Policy Framework and the Local Transport Plan.

Construction Traffic Management Plan

7. Prior to commencement of the development hereby approved, a Construction Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority. This shall include details of times for construction traffic and delivery vehicles, which must be outside of peak network hours. 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 and to accord with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Travel Plan Statement

8. Prior to the first occupation of the development hereby permitted the Travel Plan Statement shall be updated with details of the final occupier and the final occupier's measures to encourage sustainable travel and shall be submitted to and approved in writing by the Local Planning Authority. The approved Travel Plan Statement shall thereafter be implemented and operated in accordance with the approved details.

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

Drainage

9. The surface water drainage system to serve the development hereby permitted shall be constructed entirely in accordance with the detailed Flood Risk Assessment prepared by HOP (Ref: 15375/01/HOP/FRA v3.1 - 20/12/2019) and the details shown on drawing no. 15375-HOP-ZZ-GF-DR-C-DR01revP6 dated 20/12/2019 and hereby approved, unless otherwise agreed in writing by the Local Planning Authority. The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing and phasing arrangements. The measures detailed shall be retained and maintained throughout the lifetime of the development.

Reason: To ensure the site is appropriately drained and to reduce off-site flood risk in accordance 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.

Waste water network

10. No premises shall be occupied until confirmation has been provided that either:-
- all wastewater network upgrades required to accommodate the additional flows from the development have been completed; or
 - a housing and infrastructure phasing plan has been agreed with Thames Water to allow additional premises to be occupied. Where a housing and infrastructure phasing plan is agreed no occupation shall take place other than in accordance with the agreed housing and infrastructure phasing plan.

Reason - The development may lead to sewage flooding and network reinforcement works are anticipated to be necessary to ensure that sufficient capacity is made available to accommodate additional flows anticipated from the new development. Any necessary reinforcement works will be necessary in order to avoid sewer flooding and/or potential pollution incidents. And to accord 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.

Water network

11. No premises shall be occupied until confirmation has been provided that either:
- all water network upgrades required to accommodate the additional flows from the development have been completed; or
 - a housing and infrastructure phasing plan has been agreed with Thames Water to allow additional properties to be occupied. Where a housing and infrastructure phasing plan is agreed no occupation shall take place other than in accordance with the agreed housing and infrastructure phasing plan.

Reason - The development may lead to no / low water pressure and network reinforcement works are anticipated to be necessary to ensure that sufficient capacity is made available to accommodate additional demand anticipated from the new development. And to accord 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.

Arboricultural Method Statement

12. Prior to the commencement of the development hereby approved, an Arboricultural Method Statement (AMS), undertaken in accordance with BS:5837:2012 and all subsequent amendments and revisions shall be submitted to and approved in writing by the Local Planning Authority detailing how the existing trees on the site are to be protected during the development. 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 built environment 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.

Landscaping scheme and implementation

13. Prior to the commencement 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,
- (c) details of the hard surface areas, including pavements, pedestrian areas, reduced-dig areas, crossing points and steps.

The development shall not be carried out other than in accordance with the approved landscaping scheme and the hard landscape elements of the approved scheme shall be carried out prior to the first use or 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 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.

14. 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, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Ecology/Biodiversity

15. The development hereby approved shall be carried out in accordance with the recommendations set out in section 6 of the Preliminary Ecological Appraisal Report and Bat Roost Assessment carried out by Lizard Landscape Design and Ecology on 27 April 2019.

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.

16. No construction beyond damp proof course level shall take place until details of a scheme for the location of bat, bird and owl and invertebrate boxes and hedgehog holes in the bases of fencing have been submitted to and approved in

writing by the Local Planning Authority. Thereafter and prior to the occupation of any building the bat, bird, owl and invertebrate boxes and hedgehog holes shall be installed on the site in accordance with the approved details and shall be retained as such thereafter.

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.

17. No development shall take place until a landscape and ecological management plan, including long-term design objectives, management responsibilities and maintenance schedules for all landscaped areas (except privately owned domestic gardens) has been submitted to and approved in writing by the local planning authority. The landscape and ecological management plan shall be carried out as approved and any subsequent variations shall be first submitted to and agreed in writing by the local Planning authority. The scheme shall include the following elements:

- Details of maintenance regimes
- Details of any new habitat created on-site and details of how habitat connectivity will be maintained and enhanced
- Details of treatment of site boundaries and/or buffers around water bodies, with native species planting of UK provenance
- Details of management responsibilities

Reason – To ensure the protection of wildlife and supporting habitat and to secure opportunities for enhancing the site’s nature conservation value in order to comply with government guidance set out in the National Planning Policy Framework. and Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

18. No development shall take place until a plan detailing the protection of water voles and otters and mitigation for any damaged caused to their associated habitats has been submitted to the local Planning authority. The plan must consider the whole duration of the development from the construction phase through to development completion. Any change to operation responsibilities, including management, shall be first submitted to and approved in writing by the local planning authority. The water voles and otters protection plan shall be carried out in accordance with a timetable for the implementation as approved. The scheme shall include the following elements:

- Appropriate design changes incorporated into the methodology of the development
- Details of how protected species present are to be protected during construction works
- A scheme for the long-term management and protection of any protected species population and its habitat
- Details of mitigation for the disturbances caused by the development including loss of habitat used by protected species
- Details of how the existing habitat will be enhanced so as to protect and promote protected species populations.

Reason – To ensure the protection of wildlife and supporting habitat and to secure opportunities for enhancing the site’s nature conservation value in order to comply with government guidance set out in the National Planning Policy

Framework. and Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Contamination

19. Prior to the commencement of the development hereby permitted a desk study and site walk over to identify all potential contaminative uses on site, and to inform the conceptual site model shall be 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 shall be 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 risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with saved Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

20. If a potential risk from contamination is identified as a result of the work carried out under condition 19, 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 risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with saved Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

21. If contamination is found by undertaking the work carried out under condition 20, 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 risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with saved Policy ENV12 of the Cherwell

Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

22. If remedial works have been identified in condition 21, the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 21. 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 risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with saved Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

23. 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 risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with saved Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Noise

24. Prior to the first occupation of the development a noise report produced to BS4142:2014 shall be submitted to and approved in writing by the Local Planning Authority. Any mitigation required by the report shall be in place prior to the first occupation of the units and shall be retained as such thereafter.

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

Lighting

25. Prior to the first occupation of the development details of the lighting scheme shall be submitted to and approved by the Local Planning Authority. The lighting scheme shall be implemented in accordance with the approved details and shall be retained as such thereafter.

Reason - To ensure the creation of a satisfactory environment free from intrusive levels of light and to comply with saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Electric vehicle charging ducting

26. Prior to the first occupation of the development details of ducting to allow for the future installation of electrical vehicle charging infrastructure to serve the development shall be submitted to and approved in writing by the Local Planning Authority. The ducting shall be installed in accordance with the approved scheme prior to the occupation of the development and shall be retained as such thereafter.

Reason - To maximise opportunities for sustainable transport in accordance with Government guidance contained within the National Planning Policy Framework.

PLANNING NOTES

1. In order to implement the permission you will need to enter into a s278 Agreement with Oxfordshire County Council.
2. The Environmental Permitting (England and Wales) Regulations 2016 require a permit or exemption to be obtained for any activities which will take place:
 - on or within 8 metres of a main river
 - on or within 8 metres of a flood defence structure or culverted main river
 - in a floodplain more than 8 metres from the river bank, culvert or flood defence structure and you don't already have planning permission

For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits> or contact our National Customer Contact Centre on 03702 422 549. The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity.

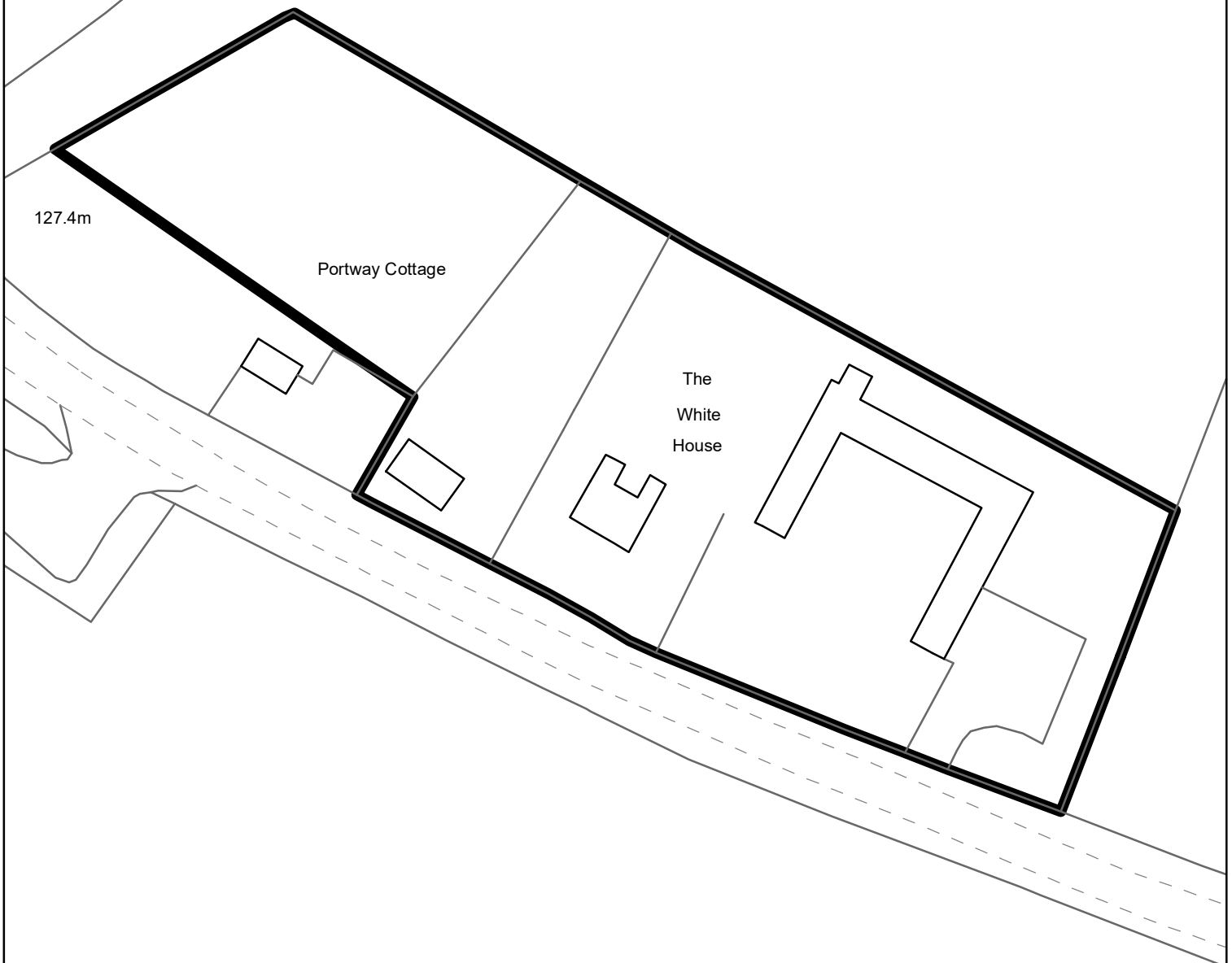
3. There are water mains crossing or close to your development. Thames Water do NOT permit the building over or construction within 3m of water mains. If you're planning significant works near the mains (within 3m) they will need to check that your development doesn't reduce capacity, limit repair or maintenance activities during and after construction, or inhibit the services they provide in any other way. The applicant is advised to read the guide working near or diverting Thames Water pipes. <https://developers.thameswater.co.uk/Developing-a-large-site/Planning-your-development/Working-near-or-diverting-our-pipes>
4. The proposed development is located within 15m of Thames Waters underground assets, as such the development could cause the assets to fail if appropriate measures are not taken. Please read the guide 'working near our assets' to ensure your workings are in line with the necessary processes you need to follow if you're considering working above or near Thames Water's pipes or other structures. <https://developers.thameswater.co.uk/Developing-a-large-site/Planning-your-development/Working-near-or-diverting-our-pipes> . Should you require further information please contact Thames Water. Email: developer.services@thameswater.co.uk

CASE OFFICER: Shona King

TEL: 01295 221643

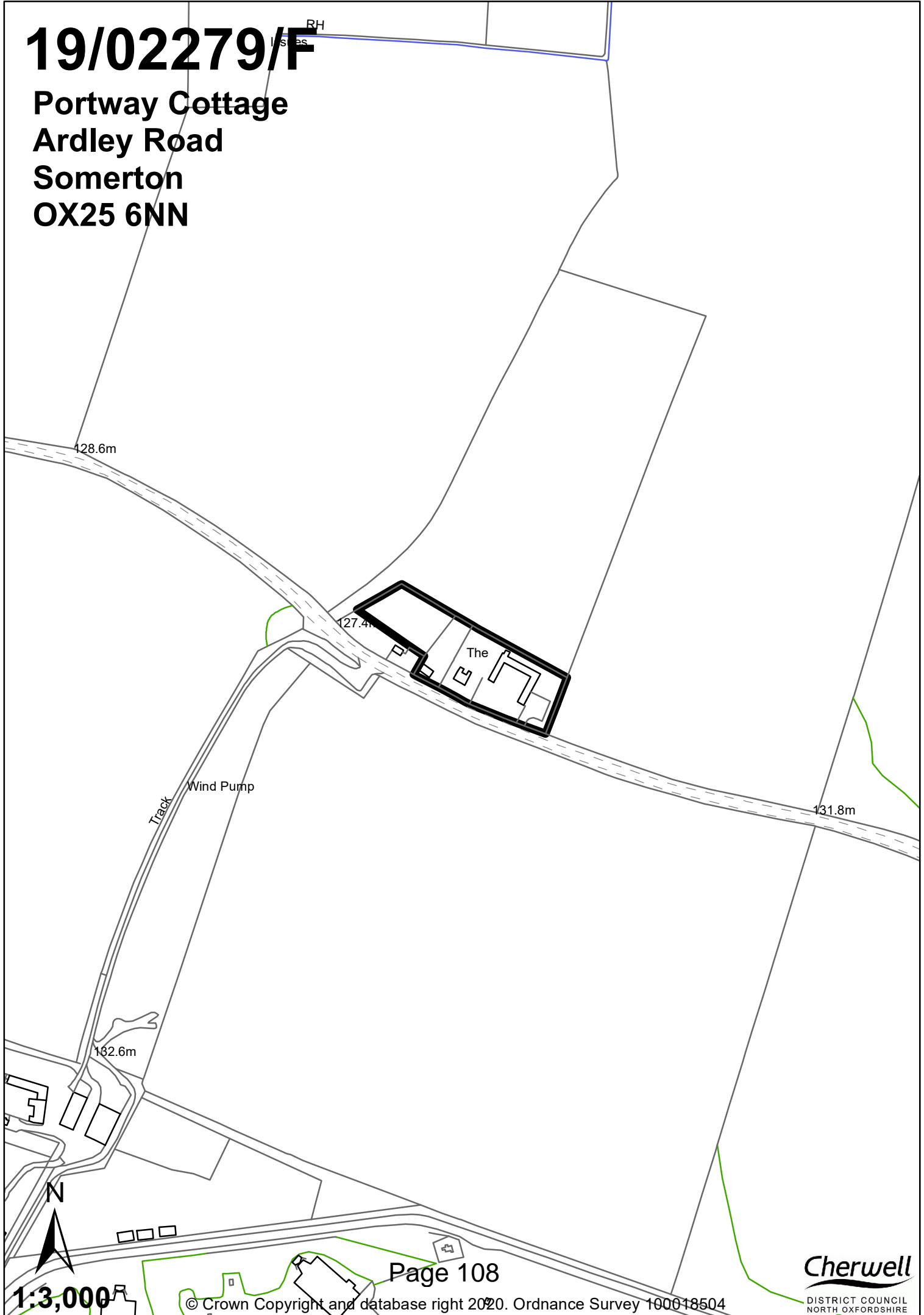
19/02279/F

**Portway Cottage
Ardley Road
Somerton
OX25 6NN**



19/02279/F

Portway Cottage
Ardley Road
Somerton
OX25 6NN



1:3,000

Case Officer: George Smith

Applicant: Mrs Carol Black

Proposal: Change of Use from garage/workshop to two bedroom cottage - re-submission of 19/01670/F

Ward: Deddington

Councillors: Councillor Hugo Brown
Councillor Mike Kerford-Byrnes
Councillor Bryn Williams

Reason for Referral: Called in by Councillor Kerford-Byrnes on the grounds that a refusal of the permission would result in the removal of the animal welfare licence.

Expiry Date: 17 February 2020

Committee Date: 13 February 2020

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: REFUSE PERMISSION

Proposal

The applicant seeks planning consent for the change of use of a garage/workshop to two-bedroom cottage, which would be occupied in association with Portway Cattery.

Consultations

No consultee has raised **objections** to the application

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

- Somerton Parish Council, CDC Environmental Protection, OCC Highways, OCC Minerals and Waste

No letters of objection have been received and 1 letter of support have been received.

Planning Policy and Constraints

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

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

1. Unjustified housing development outside the built-up limits of any settlement, contrary to the development plan

2. Adverse visual harm to the open countryside

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 a commercial cattery, served by a two-storey detached dwelling with its detached garage/workshop. The dwelling is externally faced in cream painted render with a tiled roof facing south on to Ardley Road. Planning permission has been given for an existing garage to be converted into ancillary accommodation.
- 1.2. The cattery, occupied by Portway Cattery, has 41 total licensed chalets, with a maximum occupancy of up to 80 cats. The chalets and associated cattery buildings cover the majority of the eastern portion of the site.
- 1.3. There are two separate accesses into the site, one to serve the domestic dwelling (west) and one for customers to serve the cattery business (east). There are no changes in levels across the site that would significantly affect the application assessment. The site does not lie within the built form of any settlement, is not bounded by any residential properties and is surrounded by open countryside.

2. CONSTRAINTS

- 2.1. The application building is not listed, and the site is not within a designated Conservation Area.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The applicant seeks planning consent for a single residential dwelling in the ownership boundary of Portway Cottage. The new dwelling would be of the same size and scale of the approved garage/workshop building, whereby an extension was approved under reference: 16/01510/F; however, these works have not yet been completed.
- 3.2. The applicant states that the additional dwelling on site would be essential for the operation of the cattery business, as a full-time worker would therefore not be required to make daily trips to the site.

4. RELEVANT PLANNING HISTORY

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

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
CHS.280/92	Timber boarding cattery in paddock adjoining house	Application Permitted
01/00529/F	Remove old garage and replace with new on same base. Conservatory to rear of	Application Permitted

house

99/00626/F	Re-siting of existing isolation unit and construction of 15 chalets	Application Permitted
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This consent included a planning condition which restricted the occupation of the dwelling on the site solely to someone employed at the cattery.

06/00309/F	Erection of timber shop building	Application Refused
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06/01257/F	Erection of wooden storage building for pet supplies and pet supplies delivery business.	Application Permitted
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08/00144/F	Two storey rear and single storey side extensions	Application Permitted
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11/00075/F	Extension of time limit of 08/00144/F - Two storey rear and single storey side extensions	Application Permitted
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14/01069/F	Change of use from cattery to kennels with paddock for the exercise of dogs	Application Refused due to noise concerns
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16/01510/F	Workshop extension to existing garage	Application Permitted
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17/00492/F	Change of use from garage/workshop to two bedroom cottage	Application Withdrawn
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17/02336/F	Change of use from garage/workshop to two bed cottage - Re-submission of 17/00492/F	Application Refused and dismissed at appeal*
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*Appeal ref: APP/C3105/W/18/3200260 (application ref: 17/02336/F)

- 4.2. The Inspector considered that the main issues were the suitability of the location for new residential unit given its location in the countryside, and the effect on the character and appearance of the area.
- 4.3. The appellant suggested that the conversion of the building was required in order to meet an essential need for a rural worker to reside at the site. The appellant reasoned that an additional on-site presence was needed overnight in order to deal with occurrences that may arise. The Inspector considered that there had been no information submitted as to the frequency of such visits, or the impact on the

operation of the cattery business. Furthermore, the appellant referenced the benefits of having two trained persons when hand rearing kittens, with reference to the “kitten season”, but the Inspector noted that there was no reference to the frequency of such activities or whether two members of staff were required at all times of day for this activity, whilst adding that the mention of season suggests that this is a defined period of time within the year and not an all year round requirement.

- 4.4. Additionally, the inspector noted that the existing dwelling on site currently provides permanent residence, with no detailed evidence of the breakdown of activities on the site that would always require more than one person on site. It was also not demonstrated that other options had not been explored, such as additional overnight accommodation within the existing dwelling, having a night shift worker, or having a person on call when certain times arise. The Inspector therefore concluded that it was not demonstrated that there was an essential need for an additional dwelling at the site. The Inspector added that neither safety of boarding cats or continued viability of the business would be jeopardised by the lack of a further dwelling on the site.
- 4.5. By virtue of the introduction of a further residential unit into the countryside, resulting in the subdivision of the site, laying out of a garden and parking area and subsequent additional domestic paraphernalia, would result in a further intrusion into the countryside at this location. The Inspector therefore concluded that the location would not be a suitable location for a new residential unit, not according with Policies ESD1, ESD13, ESD15 and Villages 1 of the CLP (2031) and saved Policies H18, H19, C8, C28 and C30 of the CLP (1996).

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 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 **12 December 2019**, although comments received after this date and before finalising this report have also been taken into account.
- 6.2. The comments raised by third parties are summarised as follows:
- The business offers a much-needed service for the area and needs extra housing for staff accommodation to give the owner some relief. Current arrangement is not sustainable.
- 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. SOMERTON PARISH COUNCIL: **No objections**

WARD MEMBERS

- 7.3. COUNCILLOR MIKE KERFORD-BYRNES: **Comments** – that the cattery has been granted a “5-star accreditation” by DEFRA, which indicates that the highest standard of care is provided to all pets in their charge, with one condition being that “*a competent person must be on site at all times*”. The Councillor notes that the accreditation was awarded on 19th December 2018, one month after the Planning Inspector’s decision.
- 7.4. The Councillor states that should an application be refused, the applicant must take a cat to the vet, leaving no “competent person” on site and as such would be in breach of the license. The Councillor notes the provision of NPPF Para 83, which has regard for the growth of rural businesses. The Councillor believes that a refusal to grant permission could result in the withdrawal of the licence, contrary to the aims of Para 83.

CONSULTEES

- 7.5. OCC HIGHWAYS: **No objections** subject to conditions for parking and manoeuvring areas to be retained and for cycle parking details to be submitted.
- 7.6. CDC ENVIRONMENTAL PROTECTION: **No objections** – subject to a condition for EV charging infrastructure.
- 7.7. CDC HEALTH PROTECTION: **comments** – see below:

*“Having reviewed the planning statement provided and compared this against the requirements detailed in the Guidance notes for Conditions for Providing Boarding for Cats (November 2018) (Department for Environment Food and Rural Affairs), it is the officer’s opinion that the business would be able to meet the **required*** higher standard in terms of the provision of visiting the cats within the cattery at least once between the hours of 6pm and 8am. It is the officer’s understanding that this business operates to a standard which currently allows this.*

*The **required*** higher standards also state that a competent person must be on site at all times. However, the document does not specify what a ‘competent’ person is. This team would establish whether a person was ‘competent’ by discussing and questioning the individual on their understanding of how the business operates and how they ensure the welfare of the cats in their care. It is understood that the business is currently able to achieve this, although **allowances may be accepted in an emergency situation such as the competent person taking a cat to the vet during the ‘out of hours’ period and no other ‘competent’ person being available on site.***

[Whether a person trained at International Cat Care Standards is not a determinant of whether someone is ‘competent’ in its own right], but if the training covers health and welfare and means the person can identify normal behaviours and recognise signs of, and take measures to, mitigate or prevent pain, suffering, injury or disease and they apply that knowledge and they also understand how the business operates (e.g. their policies and procedures) then it is likely we would consider the individual to be ‘competent’. The cattery would need to ensure staff are competent and we would then discuss this during the inspection.

With regard to the business being able to respond to a fire it is the officer’s understanding that the designated key holder is within the specified 30 minutes

travelling time which is detailed in the Guidance Notes for Conditions document. However, for the welfare of the cats within the cattery it would of course be beneficial for more than one person to be on site to expediate the response time in an emergency situation.

Please be aware that to achieve a rating of 4 or 5 the cattery must achieve **ALL of the **required** higher standards detailed in the Guidance Notes for Conditions document and at least **50%** of the **optional** higher standards”.*

7.8. OCC MINERALS AND WASTE: **No objections**

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
- BSC2 – Effective Use of Land and Housing Density
- ESD1 – Mitigating and Adapting to Climate Change
- ESD3 – Sustainable Construction
- 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
- Villages 1 – Village Categorisation

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- H18 – New dwellings in the countryside
- H19 – Conversion of buildings in the countryside
- C8 – Sporadic development in the open countryside
- C28 – Layout and design of new development
- C30 – Design control

MID-CHERWELL NEIGHBOURHOOD PLAN

- PD4: Protection of important views and vistas
- PD5: Building and Site Design
- PH6: Parking facilities for Existing Dwellings

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)

- The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018
- The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018: Guidance notes for conditions for providing boarding for cats (November 2018)

9. APPRAISAL

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

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

Principle of development

Policy context

- 9.2. The application site is not located within any settlement and falls some distance from the built-up limits of any settlement.
- 9.3. Policy ESD 1 of the Cherwell Local Plan Part 1 outlines the measures to mitigate the impact of development within the district on climate changes and states this will include distributing growth to the most sustainable locations as defined in the local plan and delivering development which seeks to reduce the need to travel and help to reduce dependence on private cars. Saved Policy H18 of the Local Plan states planning permission will only be granted for the construction of new dwellings beyond the built up limits of settlements when they are essential for agriculture or are rural exception sites and would not conflict with other policies of the local plan, whereas Saved Policy H19 states conversions of rural buildings, intended to encourage the conversion of buildings not of modern construction but of traditional farm buildings. Policy C8 also seeks to prevent sporadic development in the countryside. These policies have been found to be broadly consistent with NPPF at appeal (planning ref: 12/01271/F).
- 9.4. Of relevance in this application are paragraph 170 of the NPPF which seeks to recognise the intrinsic character and beauty of the countryside, paragraph 79 which seeks to avoid new isolated homes in the countryside and the broad objectives of the NPPF which seek to direct development to the most sustainable and accessible locations.
- 9.5. Furthermore, Paragraph 83 of the NPPF encourages the sustainable growth and expansion of rural businesses in support of a prosperous rural economy. This policy supports well-designed new buildings where appropriate to support rural enterprises but does not have regard for new homes in the countryside. Paragraph 79 of the NPPF is most relevant in this case, which states that planning policies and decisions should avoid new isolated homes in the countryside, unless certain circumstances apply, including where there is an essential need for a rural worker, including those taking majority control over a farming business, to live permanently at or near their place of work in the countryside. The PPG includes guidance on what can be considered a material planning consideration, i.e. that planning is concerned with land use in the public interest, so that the protection of purely private interests are not material considerations (PPG Paragraph: 008 Reference ID: 21b-008-20140306). Further it is important to emphasise that it is the requirements of the business which are relevant to the consideration of such proposals, and not the aspiration or preference of the applicant.

- 9.6. The applicant suggests that a new dwelling in this location would be in accordance with Saved Policy H19, being a conversion of a rural building. Application ref: 16/01510/F allowed the extension of the garage building to also include a workshop area. It is noted that development has commenced i.e. foundations have been laid, but that this work has not been continued with at this time. The Inspector in his determination of the appeal clarifies that this policy relates to buildings not of modern construction, but to traditional farm buildings. So, whilst the LPA had considered saved Policy H19 was not relevant, the Inspector determined that it did not provide support for the proposal.
- 9.7. The applicant has therefore submitted a case that the new dwelling is required to meet an 'essential need' to comply with saved Policy H18, seeking to address a lack of detail in relation to the nature of the business that the previous application did not submit. The application now seeks to address that lack of detail in the form of a planning statement (Roche Planning – dated August 2019).

Appraisal

- 9.8. Within the planning statement, the applicant raises the Animal Welfare Regulations 2018 as a material consideration, whereby licenses are granted by the relevant local authority. In the case of the Cherwell District, Health Protection Officers granted the relevant licence for catteries.
- 9.9. To qualify as meeting the higher standards (i.e. 4- or 5-star ratings), the business needs to achieve all the required higher standards as well as a minimum of 50% of the optional higher standards. During an inspection, the council inspector should assess whether the business meets the required number of higher standards. An animal welfare licence (reference: ANM0004) was granted on 19th December 2018 at Portway Cattery with a 5-star rating, which commenced on 1st January 2019 and will be in force until 31st December 2021, at which time a further inspection and assessment will take place.
- 9.10. The rationale behind the proposal is to create additional accommodation for the applicant's daughter and her family, who is a joint licence holder of the Portway Cattery and a full-time worker of said business, but currently commutes from Bicester (approx. 15-minute drive). To avoid the creation of new isolated dwellings in the countryside, this should either be accommodated as an extension to the existing dwelling or in annex accommodation, and there should remain a degree of physical and functional dependence between the main dwelling and the annex accommodation to mean the development would not result in the creation of an additional new dwelling. The proposed dwelling would contain a kitchen, lounge, utility room, WC, bathroom and 3 bedrooms (the 3rd bedroom indicated as a study on the plans). There would be no reliance from this new dwelling on any amenities within Portway Cottage and it could operate wholly independent from such.
- 9.11. This inspection and further assessment carried out by the Council's Health Protection department determined that the current arrangements at the site are suitable to meet this higher threshold i.e. that the existing dwelling on site, and the existing staffing living arrangements, can fulfil the needs and requirements of the business to be operational in the present and future.
- 9.12. The Health Protection Officers were aware of the circumstances involving the applicant's daughter being the joint license holder of the cattery and living off-site in Bicester (approx. 15-minute drive). They were aware that, in certain emergency situations, one license holder would be called out off-site at short notice and there may be no "competent person" on site at this time. This is emphasised by the Health Protection comments, which state "*allowances may be accepted in an emergency*"

situation such as the competent person taking a cat to the vet during the 'out of hours' period and no other 'competent' person being available on site". The animal welfare licence was granted on that basis and has been in force for 13 months.

- 9.13. Officers also note that, within the Animal Welfare Act 2018 regulations, there is no *requirement* for even 1 dwelling to be located on site. It is not considered that the applicant has justified that the existing dwelling (Portway Cottage) is no longer suitable to support the cattery business and it is noted that this dwelling is tied to the cattery business by virtue of earlier conditions. Even were the applicant to be able to demonstrate there was an essential need for somebody to be present at the site it is considered that this existing dwelling meets this essential need given the close and functional relationship of Portway Cottage, and in reality what is proposed here is a second dwelling to support the business.
- 9.14. The Inspector, in assessing the previous application on site (17/02366/F; appeal ref: APP/C3105/W/18/3200260), stated "*I consider that it has not been demonstrated that other options have been explored, such as creating additional overnight accommodation within the dwelling to cater for those occasions when the main occupant of the dwelling may need to be away from the site, or employing a person on a night shift basis and having a person on call to deal with issues that may arise*".
- 9.15. The applicant has submitted information that the current circumstances of the running of the business, i.e. applicant living on site, partner works elsewhere, and daughter lives off-site, do not allow for enough overnight cover. However, this is purely a personal circumstance and would not dictate the future running of the operation should the current owners cease to operate the premises. The applicant has submitted yearly accounts for 2017, 2018 and 2019 which demonstrate that the profitability of the business is growing, and Officers consider that the profits of the business would permit the appointment of an overnight member of staff if required.
- 9.16. Notwithstanding, in order for the principle of the proposed dwelling to be acceptable, there must be a clearly established functional need for a worker to be resident at the site, that need must relate to a full-time not a part-time requirement and it must be demonstrated that the functional need can only be met by the proposed dwelling.
- 9.17. In this instance, the applicant has not demonstrated that there is an essential need. The planning statement notes that there is a 'preference' for a second dwelling but stops short of making any argument that it is essential; nothing has been provided in the current submission to counter the Planning Inspector's finding that the need relates to a part-time requirement; and it has not been demonstrated that the functional need could not be met satisfactorily by another dwelling elsewhere.

Conclusion

- 9.18. Therefore, Officers conclude that the essential need for an additional dwelling has not been demonstrated. Rather, the 'need' is purely a personal desire of the applicant based on the personal circumstances put forward, would aid the running of the business but is by no means essential, and therefore does not meet the tests of saved Policy H18 of the Cherwell Local Plan 1996, is not supported by Paragraphs 79 or 83 of the NPPF or by relevant policies within the CLP 2031 which seek to direct new housing growth towards the most sustainable towns and settlements.

Design and impact on the character of the area

- 9.19. Saved Policy C8 of the Local Plan 1995 seeks to protect the open countryside from sporadic development to maintain its attractive, open and rural character. Policy ESD 13 of the Local Plan seeks to protect the local landscape and states that

proposals will not be permitted where they would cause undue visual intrusion into the open countryside.

- 9.20. Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 states new development will be expected to complement and enhance the character of its context through sensitive siting and layout and states all development will be required to meet high design standards. It goes on to state development should respect the traditional form, scale and massing of buildings. Saved Policy C28 of the Local Plan also states the design and external material should be sympathetic to the character of the rural context. The NPPF also seeks to ensure high quality development and paragraph 58 and 60 states development proposals should respond to the local character and surroundings and reinforce local distinctiveness. Paragraph 64 states development should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area.
- 9.21. In the current application the proposed development would replace the existing garage building to the front of the site, matching the footprint of the approved garage and extension, but it is noted that the extension works have commenced but not been completed. However, on this basis, there is not considered any objection to the size and scale of the proposed building.
- 9.22. The proposal would change the character and appearance of the building from a domestic outbuilding to a new dwelling. It would introduce a number of new domestic features such as, a number of windows, rooflights and a flue. It is considered that these features, alongside the introduction of further domestic paraphernalia, an increased parking area and activity associated with a further dwelling, would cause further visual harm to the countryside, which would be clearly visible from the public bridleway which runs to the north of the site, and the adjacent road.
- 9.23. This concern raised by Officers was confirmed by the Planning Inspector in his assessment of application 17/02336/F (appeal ref: APP/C3105/W/18/3200260). The Inspector stated that the proposal would result in a subdivision of the site, and consequently the layout of garden and parking areas, containing additional domestic paraphernalia, would result in further intrusion into the countryside in this location.
- 9.24. Overall, it is considered that the proposed development, by virtue of introducing a further dwelling in an otherwise countryside setting and the introduction of associated domestic paraphernalia and division of the site, would have an adverse effect on the character and appearance of the area. The proposed development is therefore contrary to saved policies H18, C8, C28 and C30 of the Cherwell Local Plan 1996, policies ESD13 and ESD15 of the Cherwell Local Plan Part 1 2031 Part 1 and relevant paragraphs of the National Planning Policy Framework.

Residential amenity

- 9.25. Both the NPPF and Policy ESD15 of the Local Plan seek to ensure new development proposals provide a good standard of amenity for both existing and proposed occupants of land and building.
- 9.26. The dwelling would be near Portway Cottage. Given their proposed relationship and proximity, however, I do not consider that there would be any material impact by way of loss of privacy. The LPA has previously approved a building of this scale in this location and the new dwelling is small in scale. Therefore, there would also be no harm caused by way of loss of light, outlook or over-domination.

Highway safety

- 9.27. Policy ESD15 of the CLP 2031 Part 1 states, amongst other matters, that new development proposals should: *be designed to deliver high quality safe...places to live and work in*. This is consistent with Paragraph 110 of the NPPF which states that: developments should create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles.
- 9.28. The Local Highways Authority has not raised any objections to the proposal, subject to conditions for cycle parking and the vehicular parking shown to be implemented and retained. Whilst Officers see no reason to disagree with this assessment in relation to highway safety and parking provision, the introduction of the parking area shown would cause harm in respect of the character of the countryside as outlined in the above section.
- 9.29. Overall, the proposal is considered acceptable with regard to highway safety matters, compliant with Policy ESD15 and the National Planning Policy Framework in respect of this consideration.

10. PLANNING BALANCE AND CONCLUSION

- 10.1. The existing dwelling on site already serves Portway Cattery and is tied to this business by way of planning condition. The proposed development would result in a new, second dwelling for which it has not been demonstrated is essential to the running of the cattery business. There has been no business need demonstrated, but rather it is personal circumstances of the applicant and family being the reason for a further permanent dwelling to be sought. The proposal would therefore result in a new dwelling in an unsustainable isolated location remote from facilities and services, where future residents would have no realistic choice of alternative means of transport other than the private car. The proposal therefore conflicts with the Council's rural housing strategy outlined in Policy ESD1 and Policy Villages 1 of the Cherwell Local Plan Part 1 (2015), Saved Policy H18 of the 1996 Local Plan and government advice in the NPPF which seeks to guide development in the most sustainable manner.
- 10.2. The proposed building and the introduction of domestic features and paraphernalia would also result in a visual intrusion into the open countryside and would detrimentally impact on the rural and appearance character of the site. The proposed development would therefore be contrary to saved policies C8, C28 and C30 of the Cherwell Local Plan (1996), policies ESD13 and ESD 15 of the Cherwell Local Plan Part 1 (2015) and advice in the NPPF.

11. RECOMMENDATION

RECOMMENDATION - REFUSAL FOR THE REASONS SET OUT BELOW

- 1. The proposed dwelling constitutes unsustainable residential development in the countryside beyond the built-up limits, remote from services and facilities, without adequate justification that the new dwelling would be essential to the operations of the cattery business. The proposal therefore conflicts with the Council's rural housing strategy outlined in Policy ESD1 and Policy Villages 1 of the Cherwell Local Plan Part 1 and Saved Policy H18 of the adopted Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework, in particular paragraph 79.
- 2. The proposed development, by virtue of its appearance and introduction of a further residential dwelling in the open countryside, would have a detrimental impact on the rural character and appearance of the area. The proposed development is therefore contrary to saved policies C8, C28 and C30 of the

Cherwell Local Plan (1996), policies ESD13 and ESD 15 of the Cherwell Local Plan Part 1 (2015) and Government guidance contained within in the National Planning Policy Framework, in particular chapter 12.

CASE OFFICER: George Smith

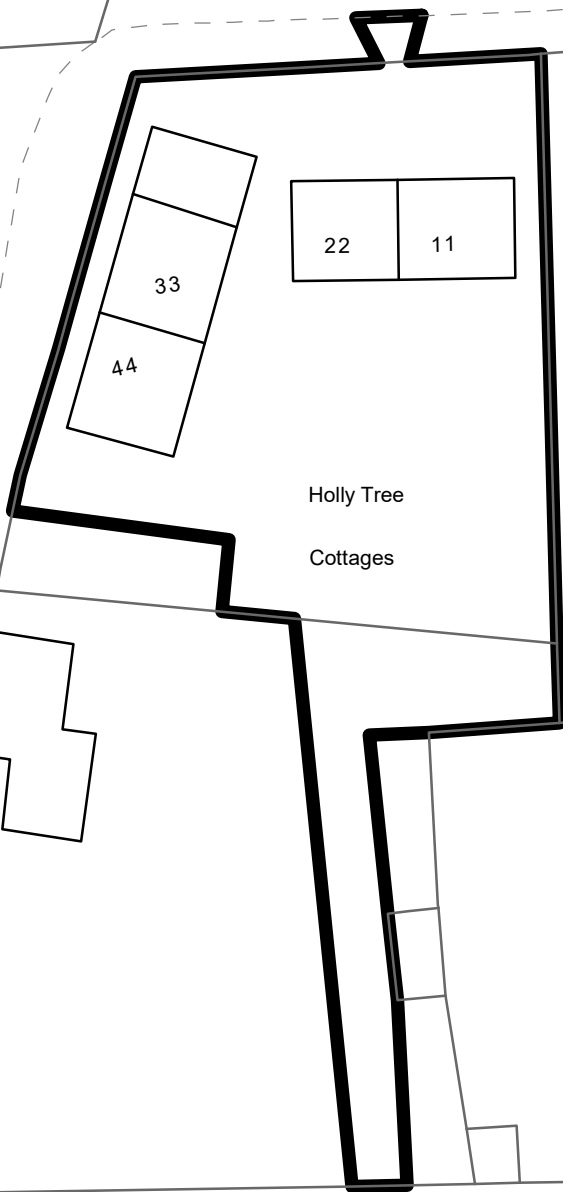
TEL: 01295 221899

19/02668/F
Holly Tree Cottages
Earls Lane
Deddington
OX15 0TQ

BAMFURY ROAD

Primary School

129.7m 129.7m



Holly
Trees

Beeches

Holly Tree
Cottages

Victoria
House

B 4031

129.3m 129.3m

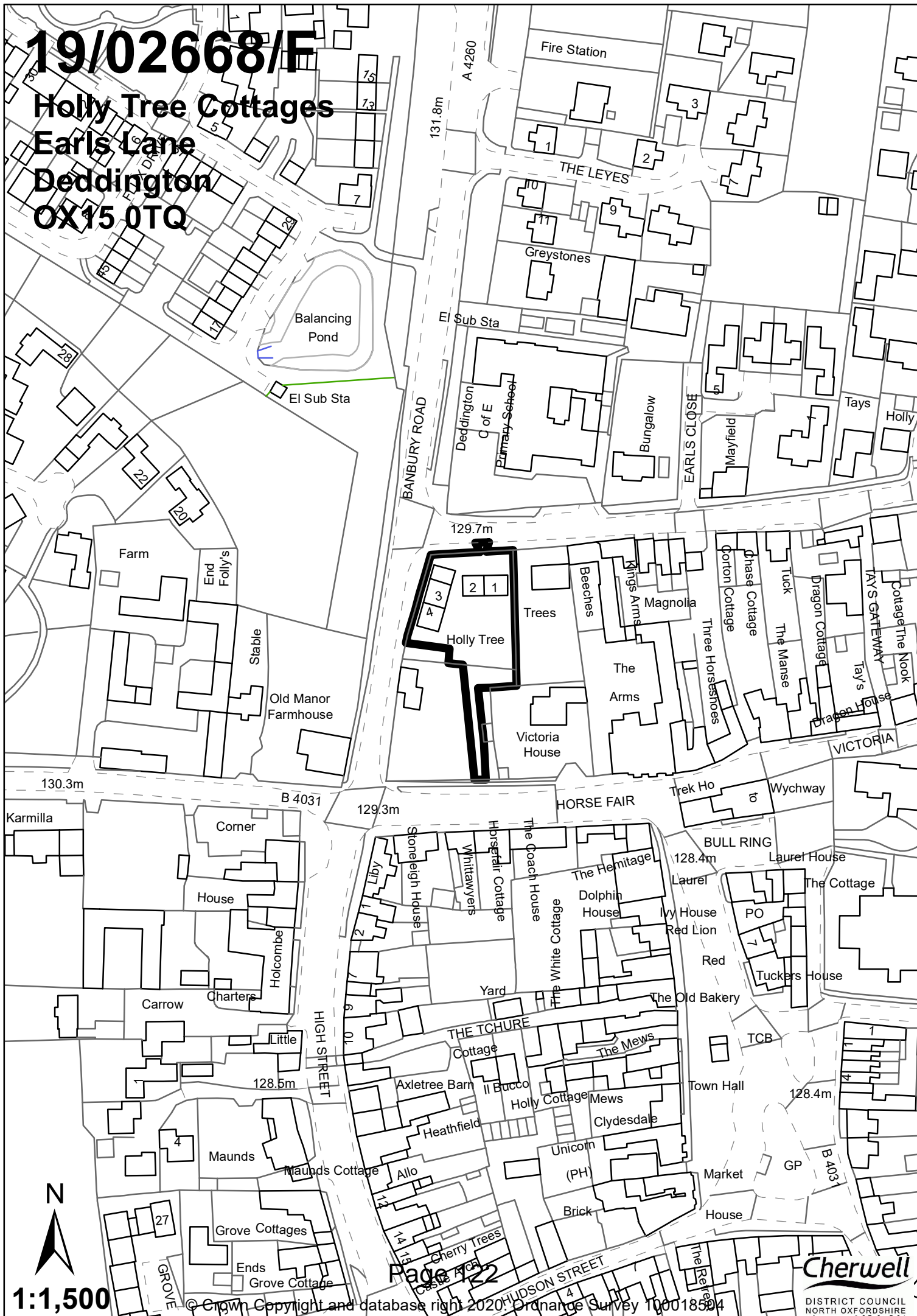
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19/02668/F

Holly Tree Cottages
Earls Lane
Deddington
OX15 0TQ



Case Officer: George Smith

Applicant: Deddington Housing Association

Proposal: Erection of two dwellings (Re-submission of 19/01308/F)

Ward: Deddington

Councillors: Councillor Hugo Brown
Councillor Mike Kerford-Byrnes
Councillor Bryn Williams

Reason for Referral: Called in by Councillor Williams on the grounds that the proposal's public benefits outweigh any possible harm to heritage assets

Expiry Date: 17 February 2020

Committee Date: 13 February 2020

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: REFUSE PERMISSION

Proposal

The applicant seeks planning consent for the erection of two semi-detached dwellings, located to the rear of 5 existing dwellings at Holly Tree Cottages.

Consultations

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

- Deddington Parish Council, OCC Highways, CDC Ecology, CDC Arboriculture

No third-party representations have been received, either in objection or support.

Planning Policy and Constraints

The application site is within the Deddington Conservation Area, near several listed buildings. The Swift has been identified as a notable species in the immediate area.

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
- Ecology impact

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

1. Siting in relation to adjacent dwellings, resulting in harm to Conservation Area and unacceptable minor development within Deddington.

2. Harm to amenity of existing and future occupiers of 1-5 Holly Tree Cottages and future occupiers of application dwellings.

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 the north of Deddington, forming a corner plot adjacent to Banbury Road and Earls Lane. The site is presently comprised of five bungalows (with accommodation in the roof space), known as Holly Tree Cottages. 1-2 Holly Tree Cottages are semi-detached, facing onto Earls Lane, whilst 3-5 Holly Tree Cottages are a row of dwellings fronting onto Banbury Road, set behind a stone boundary wall (approx. 2m in height). The boundary wall runs around most of the site, but for a vehicular access on Earls Lane which provides access the dwellings. The existing dwellings are externally faced in stone under a concrete tiled roof. The shared garden of the properties is well landscaped and features a number of smaller trees and vegetation.
- 1.2. The wider site is shared with the Holly Tree Club building, a community facility that appears as a converted barn. Access to this facility is from the south on Horsefair and also provides parking for users of the club. There are several large trees located in the wider Holly Tree site, particularly adjacent to Horsefair.
- 1.3. The application site is located opposite Deddington Primary School, which is on the northern side of Earls Lane. Most other buildings in the immediate vicinity are residential dwellings. However, the Deddington Arms Hotel and other village amenities and retailers are located further to the south-east on Horsefair and Market Place.

2. CONSTRAINTS

- 2.1. The application site is within the Deddington Conservation Area. There are several Listed Buildings located in this part of the village, with Whittawyers (Grade II – listed as Manchip House), Horsefair Cottage (Grade II) and Beeches (Grade II) located in closest proximity to the site. The Swift has been identified as a protected and notable specie located in proximity to the site.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The applicant seeks planning consent for the erection of a further pair of semi-detached dwellings, similar in style and appearance to the adjacent dwellings within the site. The externally facing materials would be natural stone under a plain concrete tile roof. The dwellings would have a combined width of 18m and a depth of 6.5m. The height to ridge would be 6.35m. There are 4 trees also proposed to be removed in order to accommodate the dwellings.
- 3.2. Deddington Housing Association (DHA), as the applicant, states that there is a need for the dwellings for people in the community. The DHA is a local charity which seeks to provide accommodation for the elderly, disabled, those in financial difficulty or those in necessitous circumstances.

- 3.3. Whilst the drawings suggest that the entrance into the site from Horsefair is to be widened, it is not clear to Officers what the extent of this would be, i.e. how much of the Conservation Area wall is intended to be removed. However, the description of development does not include any alteration to the wall or widening of the access, and therefore this element does not form part of the Council's assessment.

4. RELEVANT PLANNING HISTORY

- 4.1. The following planning history is considered relevant to the current proposal:
- 4.2. **19/01308/F** – Erection of two affordable dwellings – Application Withdrawn
- 4.3. The above application was withdrawn following Officers advising the applicant that it was likely to be refused.

5. PRE-APPLICATION DISCUSSIONS

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

6. RESPONSE TO PUBLICITY

- 6.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was **6 January 2020**, 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.

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

- 7.2. DEDDINGTON PARISH COUNCIL: **No objections**

WARD COUNCILLORS

- 7.3. COUNCILLOR BRYN WILLIAMS: **Comments** – *“The proposed development incorporates a design concept which is totally appropriate for its location, has provided more than adequate amenity space, will not result in a loss of privacy to existing occupiers and will preserve and enhance the character and appearance of this part of the Conservation Area”.*
- 7.4. Furthermore, the Councillor stated that, *“Importantly the 2 new dwellings will also make a small but nevertheless significant contribution to the District's affordable housing requirement and will provide affordable accommodation for local elderly people within easy walking distance of the village's facilities”.*
- 7.5. The Councillor adds, *“The above are public benefits which outweigh any possible “less than substantial harm” to the significance of a designated heritage asset, i.e. the Deddington Conservation Area and are valid planning reasons for calling in the application to be determined by Members of the Planning Committee”.*

CONSULTEES

- 7.6. OCC HIGHWAYS: **No objections** – as the site is located in a relatively sustainable location within acceptable walking and cycling distances and adjacent to bus stop. The Officer requests conditions attached relating to car and cycle parking provision, and for the site access to be kept free from obstruction.
- 7.7. CDC ECOLOGY: **No objections** – subject to conditions, including; a biodiversity enhancement plan and for works to be timed to avoid the bird nesting season.
- 7.8. CDC ARBORICULTURE: **No objections** – subject to conditions relating to the retainment of trees that are not otherwise being removed, and for mitigation measures to be carried out in accordance with the submitted AMS and Tree Protection Plan.
- 7.9. STRATEGIC HOUSING: **Comments** – neither objecting nor supporting the proposal, given that no ‘affordable’ dwellings are proposed. Comments are provided in full below:
- 7.10. *“Firstly, the use of the technical terminology 'affordable housing' and 'housing association' in the Planning Application caused some initial mix-up in the requirements of what the council would ask for from the applicant, as well as the standards of compliance which the units would be required to meet, since those terms carry significant and specific importance within the field in which we operate.*
- 7.11. *With regards to the applicant advising us of the status of Deddington Housing Association being a charitable Almshouse and the tenure of the proposed units being privately owned dwellings by said charitable Almshouse, we are no longer required to provide a statutory consultation response on this application, although I note that there were few comments raised in the most recent correspondence, so I will use this opportunity to address these here.*
- 7.12. *We welcome the increased availability of sub-market level rented units in the district, but as stated above, these housing units now would fallout outside of our remit and therefore the previously mentioned obligation to meet minimum size standards of the units would no longer be enforceable. The same is true of the obligation to provide two car parking bays per unit – these comments can now effectively be disregarded as they are no longer obligated to be met”.*

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)

- ESD10 – Protection and Enhancement of Biodiversity and the Natural Environment

- ESD15 - The Character of the Built and Historic Environment
- Villages 1 – Village Categorisation

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C28 – Layout, design and external appearance of new development

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Cherwell Residential Design Guide SPD (2018)
- Deddington Conservation Area Appraisal (2012)

9. APPRAISAL

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

- Principle of development
- Design, and impact on the character of the area (including Deddington Conservation Area)
- Residential amenity
- Highway safety
- Ecology impact

Principle of Development

9.2. *Policy Context*

9.3. Paragraph 10 of the National Planning Policy Framework states that at the heart of the Framework is a presumption in favour of sustainable development. There are three dimensions to sustainable development, as defined in the NPPF, which require the planning system to perform economic, social and environmental roles. These roles are interdependent and need to be pursued in mutually supportive ways.

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

9.5. The principle of residential development in Deddington is assessed against Policy Villages 1 in the Cherwell Local Plan Part 1. Deddington is recognised as a Category A village in the Cherwell Local Plan 2011 – 2031 Part 1. Category A villages are considered the most sustainable settlements in the District's rural areas and have physical characteristics and a range of services within them to enable them to accommodate some limited extra housing growth. Within Category A villages, residential development will be restricted to the conversion of non-residential buildings, infilling and minor development comprising small groups of dwellings on sites within the built-up area of the settlement.

9.6. The proposal constitutes minor development as defined in Paragraph C.264 of the Cherwell Local Plan 2011 – 2031 Part 1.

9.7. In assessing whether proposals constitute acceptable 'minor development', regard will be had for the following criteria:

- The size of the village and level of service provision
- The site's context within the existing built environment
- Whether it is in keeping with the character and form of the village
- Its local landscape setting
- Careful consideration as to the appropriate scale of development

Assessment

9.8. The applicant sets out that the two proposed dwellings would provide accommodation for the elderly, disabled and those in financial difficulty or those in necessitous circumstances. Your Officers do not contest that Deddington Housing Association (DHA) provides a service to the local community, with opportunities for local people with additional needs or requirements to continue living in the village.

9.9. However, the DHA is not currently a registered provider of social housing. The status of DHA is as a charitable Almshouse, with the tenure of the proposed units being privately owned dwellings by said charitable Almshouse. Therefore, there is no route for the Council to control occupation of the dwellings through planning conditions or obligations i.e. the Council cannot require them to be Affordable Dwellings and they cannot be assessed on this basis. In planning terms, they would be private, market-led dwellings. Permission would run with the land rather than the applicant. Therefore, there would be no control over these dwellings at Holly Tree Cottages being sold off privately. In this scenario, the public benefit justification put forward in this case (i.e. provision of a home to a local person in need) would cease to exist.

9.10. Furthermore, 30 affordable dwellings (both rented and shared housing) were approved at northern edge of Deddington as part of the 85-dwelling scheme (13/00301/OUT and 14/02111/REM). The applicant has not provided any justification to demonstrate there is a shortfall of affordable dwellings in Deddington. So that, even if the proposal had been put forward by a Registered Provider, the benefit of affordable housing provision in this location would be tempered by the recent provision of 30 affordable dwellings in the village.

Conclusion

9.11. The proposed dwellings could be acceptable in principle in terms of the Council's housing strategy. Overall acceptability is subject to the proposal not causing significant or demonstrable harm to the character and appearance of the area, neighbour amenity or highways safety or any harm to heritage assets. These issues are discussed below.

9.12. Design and impact on the character of the area (including the Deddington Conservation Area)

Policy context

9.13. Government guidance contained within the NPPF requiring good design states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps makes development acceptable to communities. Further, 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.

- 9.14. Saved Policy C28 of the CLP 1996 exercise control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context.
- 9.15. Policy ESD15 of the CLP 2031 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.”*
- 9.16. The site is within the Deddington Conservation Area. 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.*
- 9.17. Conservation Areas are designated heritage assets. 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”.*
- 9.18. Paragraph 194 adds: *“Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification”.* Policy ESD15 of the CLP 2031 Part 1 echoes this guidance.
- 9.19. The Deddington Conservation Area Appraisal (2012) has regard for the Holly Tree Club site. It reads: *“On the opposite side of the road is a continuous wall line, created by the merging of walls which surround Holly Tree Club House (two metres) and Victoria House (three metres); the trees within the former contribute to the character of this area and help to emphasis the important position here as gateway to the conservation area”.*

Appraisal

- 9.20. The scale, design and materials of the dwellings is proportionate with the surroundings, being similar in appearance to the Holly Tree Cottages.
- 9.21. The proposed new dwellings would sit behind the building line of the existing cottages and facing inwards into the courtyard area.
- 9.22. Officers consider that the siting of the dwelling in relation to the wider street scene results in a poor pattern of development that would not respect the existing built form in this area of Deddington, occupying a “backland” relationship with 1-5 Holly Tree Cottages, not readily visible from the public domain.
- 9.23. The dwellings would not be readily visible from the public domain or in key views within the Deddington Conservation Area and as such do not cause any harm to the appearance of the heritage asset. However, their siting would have a detrimental impact on the overriding linear character and pattern within the conservation area and thus cause harm to its character, whereby the “backland” development pattern is not a prevailing feature in the Deddington Conservation Area designation.
- 9.24. Furthermore, the siting of the dwellings on a portion of residential garden afforded to 1-5 Holly Tree Cottages, together with its proximity to these dwellings, leads your Officers to the conclusion that the proposal would also result in an overdevelopment

of the site and a cramped form of development in this context, not befitting of the more spacious plots in the vicinity of the site and consequently the character and appearance of Deddington.

Conclusion

- 9.25. Overall and for the reasons set out above, the proposed dwellings would be sited as to cause harm to the overall character of the area in the context of the designated Deddington Conservation Area heritage asset and not in keeping with the character and form of the village. The harm to the Conservation Area is considered less than substantial, significantly and demonstrably outweighing the limited public benefits of the proposal. The proposal would therefore fail to comply with Policies ESD15 and Villages 1 of the CLP 2031, saved Policy C28 of the CLP 1996 and relevant paragraphs of the NPPF.

Residential amenity

Policy context

- 9.26. Policy C30 of the CLP 1996 requires that a development must provide standards of amenity and privacy acceptable to the Local Planning Authority. These provisions are echoed in Policy ESD15 of the CLP 2031 which 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 Cherwell Residential Design Guide SPD (2018) sets out guidelines for decision-making with regard to amenity space. The SPD states that a minimum distance of 22m back to back between properties must be maintained, which is to protect against harmful overlooking and loss of privacy. Furthermore, a minimum distance of 14m is required from a rear elevation to a two-storey side gable (i.e. typically a windowless elevation), which is to guard against over-domination and shadowing.

Appraisal

- 9.28. The dwellings are proposed to be built on land which is currently used as the shared residential garden of 1-5 Holly Tree Cottages. The gardens are pleasant and provide a welcome, open green space for existing residents, whilst being afforded sunlight for most of the day due to its southern orientation.
- 9.29. The distance from the principal windows of the proposed dwellings to the principal windows of Nos 1-2 Holly Tree Cottages would be c.14.8m. This separation distance would be insufficient for future residents in terms of protecting the privacy of the existing and proposed properties. The acute angle of 3-5 Holly Tree Cottages in relation to the new dwellings means that mutual overlooking would also occur here. 4 Holly Tree Cottages is located only c.8m from Unit 2 and, with no boundaries proposed to divide the properties, residents of these properties would be able to clearly see into each other's living space. Similarly, Unit 2 and 3 Holly Tree Cottages are located c.12m from one another and therefore harm would also be caused to the prospective owners of each property in this case. Given the angle and proximity of the dwellings to 5 Holly Tree Cottages, Officers consider that, whilst some mutual overlooking may be possible, this particular impact would not be so harmful as to warrant a refusal of the application.
- 9.30. Overall, therefore, if this application was granted then harm would be caused to existing and future residents. The future occupiers would be the greatest occupants

affected, in that harmful overlooking would occur from at least 4 of the existing properties within the site.

- 9.31. Officers note that the applicant contests the 22m guideline, pointing towards examples in the Conservation Area where dwellings front onto each other across roads and this distance is less. However, the relationship in this case is not across the public realm, and therefore not similar or equivalent to the example mentioned.
- 9.32. It is especially important to observe the 22m guideline in cases where the relationship is between existing and proposed dwellings – which is the case here, as opposed to where the relationships in question are between two proposed dwellings.
- 9.33. In addition, the loss of a portion of shared garden space for the existing dwellings, would result in harm to the amenities of those neighbours. The garden, whilst being shared between 5 dwellings, currently provides a reasonable level of amenity for occupiers with views out to the tree line and open land to the south. The proposed dwelling would result in a reduction of the shared amenity space available, whilst also removing pleasant trees, restricting views to the south and blocking out sunlight to a large part of the remaining useable garden space.
- 9.34. In the context of the rural setting and in this part of the village, most plots have relatively generous amenity space for residents. To have 7 privately rented dwellings with a shared amenity space smaller than many other individual properties falls below the standards of what can be reasonably expected in this locale.
- 9.35. Furthermore, the applicant has stated that landscaping measures have already been put in place due to the Holly Tree Club allowing for many unknown people and visitors to enter and look directly into the property at any time of the day i.e. those setting up the market early in the morning and those using the Club later on at night. This point raised by the applicant demonstrates adding further dwellings to the same situation would increase the cumulative amenity impact, and therefore counts against the proposal.
- 9.36. Even if the dwellings were to be let as ‘affordable dwellings’, there is no reason for the LPA to accept amenity standards that are lower than what can be expected of standard market housing. The LPA has a responsibility to make sure it does not permit residential development the future occupiers of which would not benefit from adequate levels of amenity, which would be the case here.

Conclusion

- 9.37. Overall, for the reasons set out above, the proposal is considered to result in demonstrable harm to future and existing occupiers of the Holly Tree Cottages, and therefore is contrary to Policy ESD15 of the CLP 2031, saved Policy C30 of the CLP 1996 and relevant paragraphs of the NPPF.

Highway safety

Policy context

- 9.38. Policy ESD15 of the CLP 2031 Part 1 states, amongst other matters, that new development proposals should: be designed to deliver high quality safe...places to live and work in. This is consistent with Paragraph 110 of the NPPF which states that: *developments should create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles.*

Appraisal

- 9.39. The Local Highway Authority (LHA) raises no objections to the proposal, subject to conditions relating to the provision cycle and vehicular parking and for no obstruction to the access. Officers see no reason to disagree with this assessment and agree that conditions can be attached to any consent in line with the LHA recommendations.

Conclusion

- 9.40. The proposal therefore complies with Policy ESD15 of the CLP 2031 and relevant paragraphs of the NPPF on matters of highway safety and parking provision.

Ecological impact

Policy context

- 9.41. Section 40 of the Natural Environment and Rural Communities Act 2006 (as amended) places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. A key purpose of this duty is to embed consideration of biodiversity as an integral part of policy and decision making. Paragraph 99 of Circular 06/2005: Biodiversity and Geological Conservation states that: It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.
- 9.42. Paragraph 170 of the NPPF states that: “The planning system should contribute to and enhance the natural and local environment by...minimising impacts on biodiversity and providing net gains in biodiversity, including by establishing coherent networks that are more resilient to current or future pressures”. This requirement is echoed by Policy ESD10 of the CLP 2031 Part 1, which states that “a net gain in biodiversity will be sought by protecting, managing, enhancing and extending existing resources, and by creating new resources”.

Appraisal

- 9.43. The Swift is identified as a protected and notable specie in the vicinity of the site, whilst 4 trees are proposed to be removed. The Council’s Ecologist has commented on the application, raising no objection. The Ecologist requests conditions for a biodiversity enhancement scheme and for works to take place outside of the bird nesting season. Given the ecological constraints identified, these conditions are considered wholly reasonable and should be attached to any consent given. There are no other concerns in relation to ecology.

Conclusion

- 9.44. Overall, the proposal is considered acceptable with regard to ecological impact, compliant with Policy ESD15 of the CLP 2031 and relevant paragraphs of the NPPF.

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. Paragraph 8 requires that the three dimensions to sustainable development (economic, social and environmental) are not undertaken in isolation, but are sought jointly and simultaneously.

- 10.2. In terms of public benefits, the proposal would bring some social benefits including a positive but minor contribution to the District's housing supply. New development also commonly brings economic benefits including providing some construction opportunities, but the economic benefits would be temporary and relatively minor and should not be overemphasised.
- 10.3. Whilst the applicant intends to market these dwellings as 'affordable housing', DHA is not a registered provider and therefore the Council cannot give any weight to this, nor control the occupation of the dwellings by way of planning condition. The dwellings therefore must be assessed as private, market dwellings.
- 10.4. The general principle of minor development within the village of Deddington is acceptable in purely sustainability terms, whereby the proposal would contribute to the supply of housing in this rural settlement.
- 10.5. However, for the reasons set out in this report, the proposal is considered to result in significant and demonstrable harm to the living conditions of the existing and future occupiers of Holly Tree Cottages and the future occupiers of the application dwellings. The dwellings are also sited as to cause harm to the character of the Deddington Conservation Area, occupying a plot behind the traditional building line, whilst resulting in a cramped form and general overdevelopment of the Holly Tree Cottages site. The significant and demonstrable harm identified is not outweighed by the limited public benefits of the proposal. By virtue of their siting and relationship with surrounding dwellings, the dwellings would also not result in acceptable minor development within Deddington.
- 10.6. The proposal is therefore contrary to the provisions of Policies ESD15, Villages 1 of the CLP 2031, saved Policies C28 and C30 of the CLP 1996 and relevant paragraphs of the NPPF, and permission should be refused for the reasons set out below.

11. RECOMMENDATION

RECOMMENDATION - **REFUSAL** FOR THE REASONS SET OUT BELOW

REASONS FOR REFUSAL

1. By reason of its siting, would fail to relate well to the existing built development and would result in unacceptable harm to the character of the Deddington Conservation Area. This harm, which would be 'less than substantial', would significantly and demonstrably outweigh the limited public benefits arising from this proposal. The proposal would therefore not represent acceptable minor development in a Category A village and would not result in sustainable development. The proposal is therefore in direct conflict with the provisions and aims of Saved Policy C30 of the Cherwell Local Plan 1996, policies Villages 1, ESD 15 of the Cherwell Local Plan 2011- 2031 Part 1 and government guidance contained within the National Planning Policy Framework and is unacceptable in principle.
2. By virtue of its siting and proximity to adjacent to dwellings 1-5 Holly Tree Cottages, the proposal would result in mutual overlooking between the existing dwellings and the proposed development and would therefore not protect the privacy or overall enjoyment of the future and existing occupiers of said dwellings. In addition, the proposed shared amenity area would not provide an acceptable level of residential amenity for future occupiers of the proposed or adjacent dwellings. The proposal would therefore result in a significantly and demonstrably harmful impact to the future occupiers of the proposed development and the

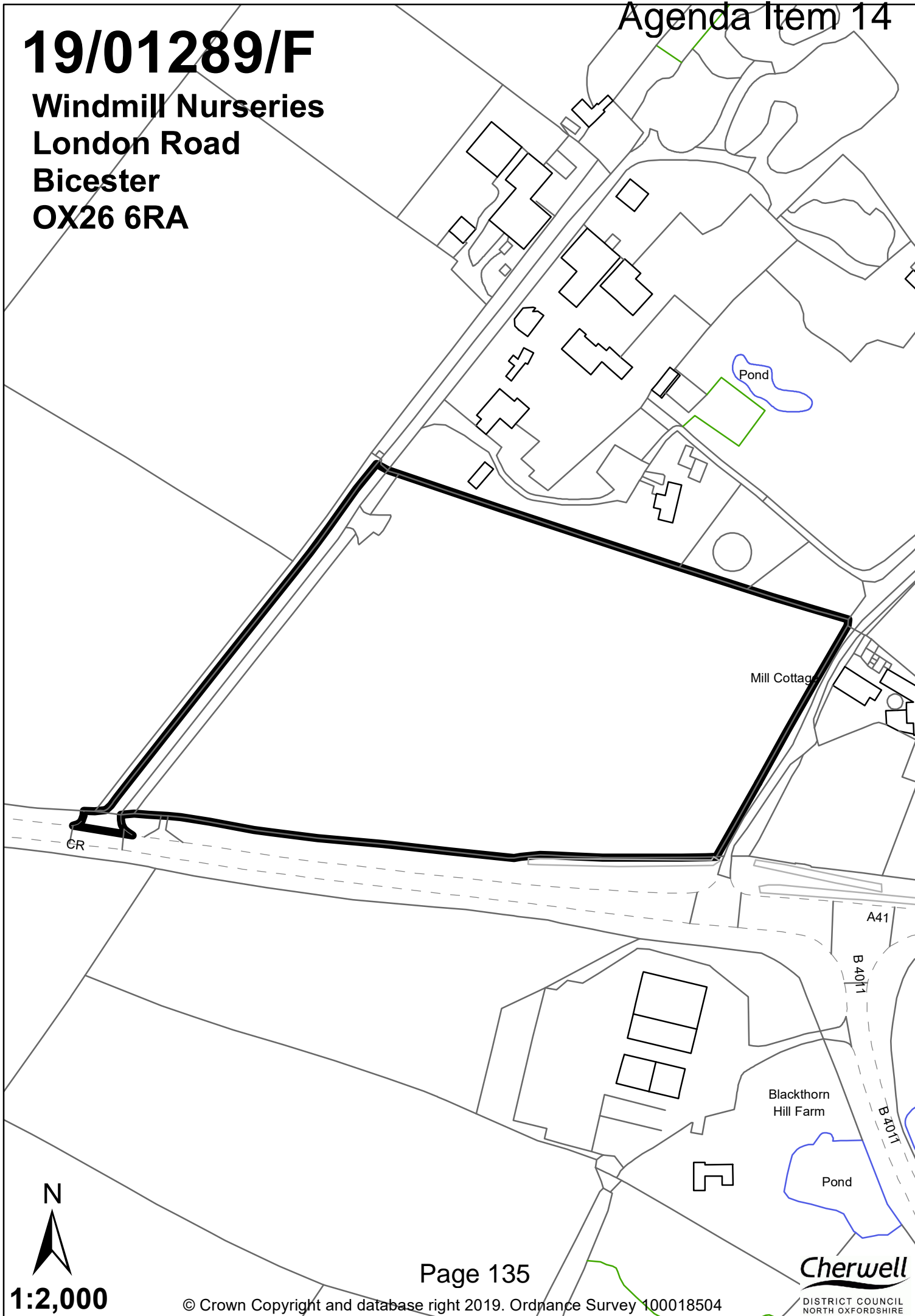
existing residents. The proposal is therefore in direct conflict with the provisions and aims of Saved Policy C30 of the Cherwell Local Plan 1996, Policy ESD 15 of the Cherwell Local Plan 2011- 2031 Part 1 and government guidance contained within the National Planning Policy Framework.

CASE OFFICER: George Smith

TEL: 01295 221899

19/01289/F

**Windmill Nurseries
London Road
Bicester
OX26 6RA**



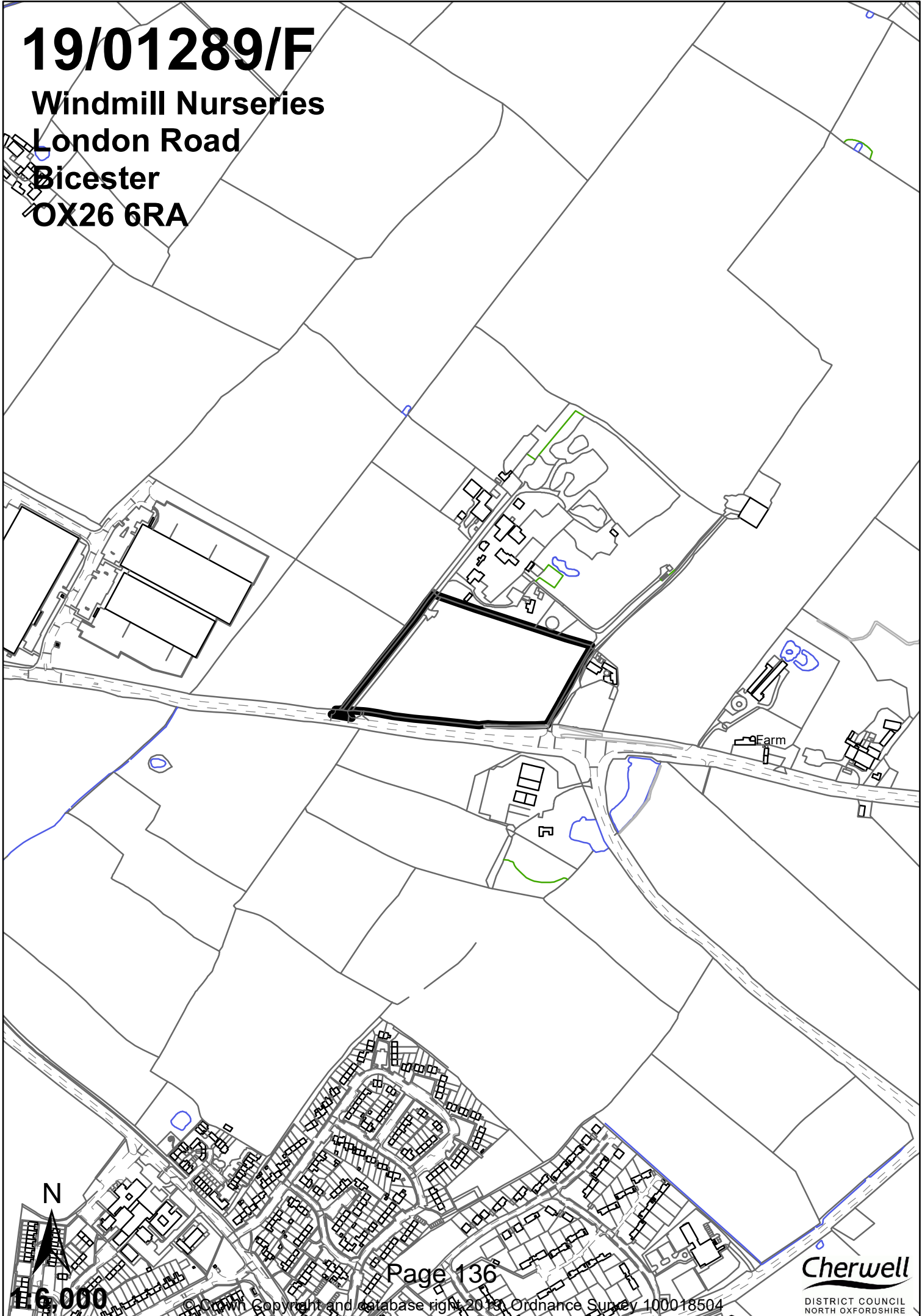
19/01289/F

Windmill Nurseries

London Road

Bicester

OX26 6RA



Case Officer: George Smith

Applicant: Mr D Hughes

Proposal: Change of Use of Land to Camping and Caravan Site together with access and amenity areas

Ward: Launton And Otmoor

Councillors: Councillor Timothy Hallchurch MBE
Councillor Simon Holland
Councillor David Hughes

Reason for Referral: Application submitted by a CDC Councillor

Expiry Date: 17 February 2020

Committee Date: 13 February 2020

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS

Proposal

The applicant seeks planning consent for the change of use of a paddock/field into a 57-pitch camping and caravan site, including amenity buildings and a new access.

Consultations

No consultees have raised **objections** to the application

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

- CDC Arboriculture
- CDC Environmental Protection
- CDC Health Protection
- OCC Highways
- OCC Rights of Way

No letters of objection have been received and no letters of support have been received.

Planning Policy and Constraints

There are no significant planning policy or constraints

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

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, located to the southeast of Bicester, consists of a paddock with trees/vegetation to the boundaries and is generally. The site is south of a caravan sales/storage business and a scrap business which are operated by the applicant's family, and a residential dwelling named Hill House which is owned by the applicant. The land level is relatively flat to the majority of the site; however, the levels begin to slope up gradually to towards the eastern portion, which is curtailed by a Public Bridleway and a dwelling named Mill Cottage. The A41 runs across the south of the site.
- 1.2. On the opposite side of the A41, two former farm buildings at Blackthorn Hill Farm have been converted into a bus depot, together with associated hardstanding.
- 1.3. The remainder of the land around the site is an agricultural use. However, the Bicester 12 CLP 2031 policy allocation runs near the site. A Class B8 Use development named Symmetry Park has been completed on land two fields away (approx. 180m).

2. CONSTRAINTS

- 2.1. The Public Bridleway (131/9/10) is located to the east of the site. The site is located on Potentially Contaminated Land. There are no other constraints relevant to planning.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The applicant seeks planning consent for a change of use of a paddock to provide camping and caravan facilities. The site plan shows that 57 pitches are proposed. Built development is proposed in the form of three buildings to the western part of the site; an amenity hub, a laundry/shop building and site reception/office. A new access out of the paddock is proposed onto the lane leading to Hill House. The eastern part of the site would not feature any pitches and is proposed for amenity space and a dog field.
- 3.2. During the application process, further information was sought in relation to highway safety, and the proposals impact on trees. The applicant provided a Tree Retention Plan and

4. RELEVANT PLANNING HISTORY

- 4.1. The following planning history is considered relevant to the current proposal:
- 4.2. 05/00336/F – New showroom ancillary to existing caravan centre – Application Permitted

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 (amend as appropriate). The final date for comments was **20 August 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.

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

- 7.2. BICESTER TOWN COUNCIL: **No comments received**

OTHER CONSULTEES

- 7.3. CDC ARBORICULTURE: **No objections** – as the proposal would result in minimal impact to trees within the site. The removal of 7 Cypress Trees can be balanced by replanting within the site. As there are no excavations or hard surfaces to be installed, and that protective fencing will be in place to protect retained trees, there are no objections.
- 7.4. CDC ENVIRONMENTAL PROTECTION: **No objections** – as there will be no permanent residency on the site.
- 7.5. CDC HEALTH PROTECTION: **No objections** – but the applicant should be made aware that a caravan site licence is required.
- 7.6. CDC LICENSING: **No objections** – but a caravan park licence would be required.
- 7.7. OCC HIGHWAYS: **no objections** – following the submission of a highways report, the Highways Liaison Officer is satisfied that the development will not cause a significant increase in traffic on the surrounding network during peak hours.
- 7.8. OCC RIGHTS OF WAY: **No objections** – as there is no diversion required to the adjacent Bridleway, there is no detrimental effect.

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
- SLE3 – Supporting Tourism Growth
- ESD15 - The Character of the Built and Historic Environment
- Bicester 12 – South East Bicester

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C28 – Layout, design and external appearance of new development
- C30 – Design control
- ENV1 – Environmental pollution

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)

9. APPRAISAL

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

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

Principle of Development

Policy Context

9.2. Policy SLE3 of the adopted Cherwell Local Plan 2031 supports proposals for new or improved tourist facilities in sustainable locations, where they accord with other policies in the plan, to increase overnight stays and visitor numbers within the district. This is partially about supporting the economy and the prosperity of the District. The NPPF encourages a prosperous rural economy and seeks to support the appropriate and sustainable growth of rural businesses.

9.3. Policy Bicester 12 of the Cherwell Local Plan 2031 is relevant in this case, as its development area runs from the edge of Bicester to a parcel of land which is one field from the application site (approx. 180m separation). This policy supports a mix of uses, in the form of residential and employment development.

Assessment

9.4. The proposal seeks to provide pitches for camping and caravanning. The applicant states that one of the reasons for providing such a facility is to support the adjacent caravan sales business. The intention would be to offer camping on site for customers as part of a comprehensive sales handover.

- 9.5. The site is not located within any settlement, but is adjacent to an existing business use related to the proposed use. Policy Bicester 12 supports housing and employment growth near to the site, and as such, the site will be adjacent a built-up area in the near future, whereby it would be considered more sustainably located than it currently is. In any case, a caravanning and camping use cannot be reasonably expected to be accommodated in a built-up environment, typically accommodated at the edge of settlements in open fields.

Conclusion

- 9.6. There is a general presumption in favour of supporting tourism development providing there is no identified harm arising therefrom. This will be considered in the sections below.

Design, and impact on the character of the area

Policy Context

- 9.7. Policy ESD15 of the adopted Cherwell Local Plan 2031 and saved Policy C28 of the Cherwell Local Plan 1996 seek to control the character of the built and historic environment and all new development including new buildings, extensions and conversions.
- 9.8. Policy ESD13 of the adopted Cherwell Local plan seeks to protect the character and appearance of the landscape. It sets out that development will not be permitted if it would cause undue visual intrusion into the open countryside. This reflects the general thrust of the NPPF which seeks the protection and enhancement of valued landscapes (paragraph 170). However, greatest weight is given to designated landscapes such as National Parks and AONBs.

Assessment

- 9.9. The proposal constitutes a permanent change of use of land for caravanning and camping. There would be only 3 'fixed' buildings, namely an amenity hub, a laundry/site store and a reception/office building. Whilst no pitches on the site are proposed to have fixed caravans or tents, in practice there could be up to 57 pitches occupied at any one time.
- 9.10. The site is in a rural location, but adjacent to the A41 (south) and the built-up caravan sales centre (north). The site, whilst pleasant in its openness, contributes only a limited amount to the wider landscape setting due to these adjacent uses. The site is also not readily visible from any adjacent rural fields due to the relatively flat nature of the land and the intervening buildings and roads.
- 9.11. Overall, officers do not consider that the proposal would have any significant impact on the wider landscape. The use of the site as a caravanning and caravan park is a transient use, with a large part of the site remaining open for amenity and only requiring 3 permanent structures, likely to be of a relatively light-weight construction. Their appearance and materials can be conditioned.
- 9.12. The proposal would require the removal of trees along the western boundary of the site, to create an 'in and out' access arrangement into the site. The trees are not considered to be of any particular significance, but they do provide a certain level of amenity. However, officers consider that their loss can be offset through replacement tree planting within the site; in addition the Council's trees officer has been consulted and is content with the proposals in this regard subject to conditions.

Conclusion

- 9.13. The proposal as submitted is considered acceptable regarding visual amenity and its impact on the wider landscape setting, thus according with Policies ESD13 and ESD15 of the CLP 2031, saved Policy C28 of the CLP 1996 and relevant paragraphs of the NPPF.

Residential amenity

Policy context

- 9.14. Both the NPPF and Policy ESD15 of CLP 2031 seek to ensure new development proposals provide a good standard of amenity for both existing and proposed occupants of land and buildings. Furthermore, saved Policy ENV1 seeks to protect residents against environmental pollution, including noise.

Assessment

- 9.15. The application site is adjacent to two properties, “Hill House” and “Windmill Cottage”. Given the nature of the proposal the change of use of the site would not cause any harm to neighbours by way of loss of light, outlook, overlooking or over-domination.
- 9.16. Increased activity on the site would result in increased levels of noise. However, the Council’s Environmental Health Officer does not raise any concern in this regard, given there would be no permanent residency on site. Hill House, the dwelling located to the north, is also owned by the applicant and family and as such is likely to serve a role in relation to the business and any noise issues that may arise.
- 9.17. A gap in the fence to the eastern boundary of the site would be retained for pedestrians to leave the site. This gives the opportunity for users of the site to walk along the bridleway travelling north without having to use the A41. The latter is considered to be dangerous for pedestrians given it does not have a footpath at this section and considering vehicle speeds and frequency.

Conclusion

- 9.18. Overall, the proposal is considered to result in acceptable standards of amenity for future users of the development and adjoining neighbours, in accordance with Policy ESD15 of the CLP 2031, saved Policy ENV1 of the CLP 1996 and relevant paragraphs of the NPPF.

Highway safety

- 9.19. Policy ESD15 of the CLP 2031 Part 1 states, amongst other matters, that new development proposals should: *be designed to deliver high quality safe...places to live and work in*. This is consistent with Paragraph 110 of the NPPF which states that: *developments should create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles*.
- 9.20. The camping and caravanning park would utilise an existing access from the A41, which currently also serves the caravan retailer to the north of the site, and Hill House. The Local Highways Authority is satisfied that the proposal would not increase traffic at peak times to the overall detriment of the local highways network. Officers see no reason to disagree with this assessment. The proposal also has sufficient space within the turning area to accommodate visitor and staff parking.

9.21. Overall, the proposal is considered acceptable on matters of highway safety and parking and is thus compliant with Policy ESD15 of the CLP 2031 and relevant paragraphs of the NPPF.

10. PLANNING BALANCE AND CONCLUSION

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

11. RECOMMENDATION

RECOMMENDATION – DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT TO GRANT PERMISSION, SUBJECT TO THE CONDITIONS SET OUT BELOW

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 – 6218CAMP-04
- Tree Retention and Loss Plan – LAS101-02

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.

Landscaping Scheme

3. Prior to the commencement 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 hard surface areas, including pavements, pedestrian areas, reduced-dig areas, crossing points and steps.

The hard landscape elements shall be carried out in accordance with the approved details and prior to the first use of the development.

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, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Details of amenity buildings

4. Prior to the commencement of development, and notwithstanding the details submitted, full details of the buildings proposed (amenity hub, site store and office), including floor plans and elevations, 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.

Reason - In the interests of the visual amenities of the area and to comply with Policies ESD13 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.

PLANNING NOTES

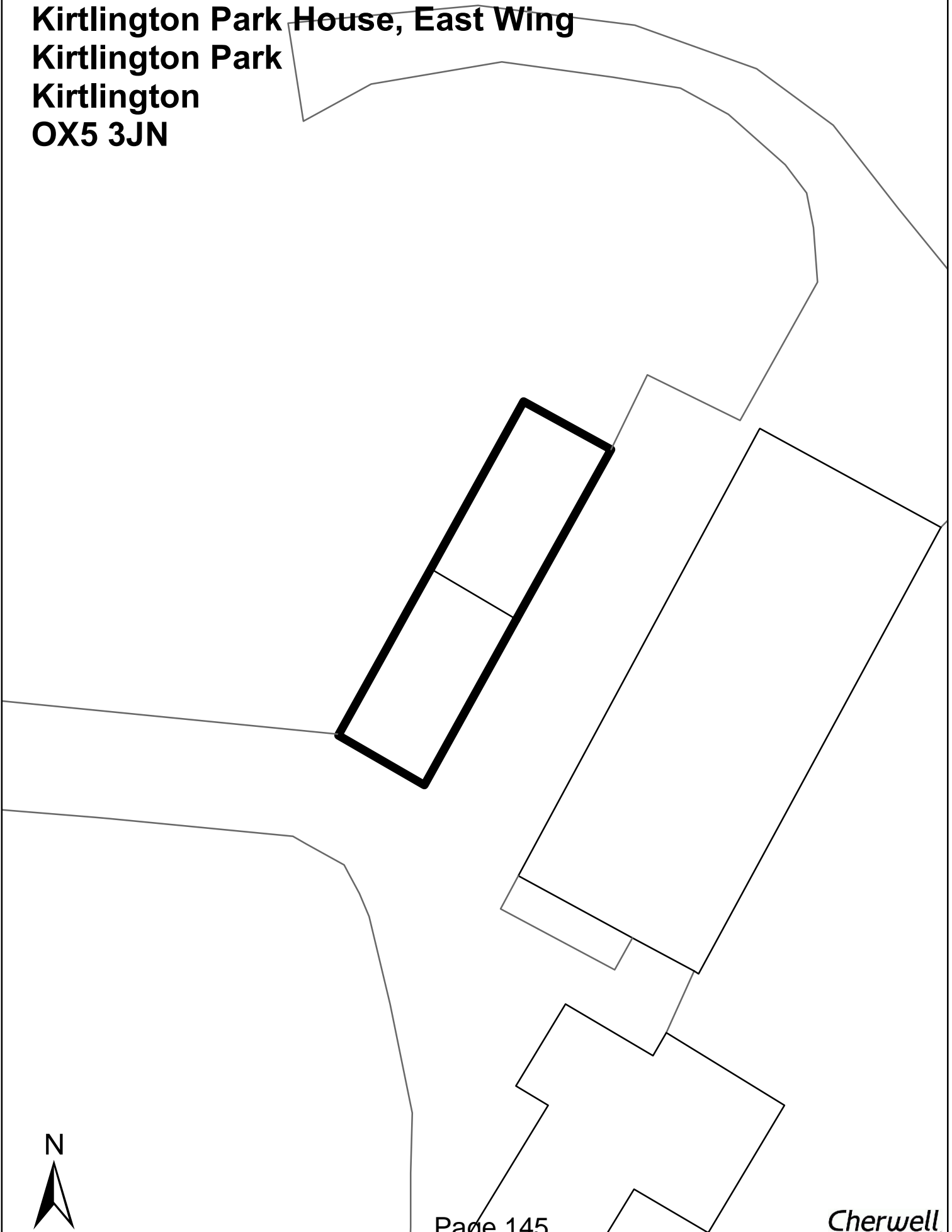
1. To operate a caravan site, a licence will need to be obtained. The application can be completed online at <https://www.cherwell.gov.uk/directory-record/1856/caravan-and-mobile-home-sites-licence>. In order for a licence to be granted the site must comply with the caravan site licence conditions. Whilst the conditions refer to fire safety, fire safety on the site is enforced by Fire service under the Regulatory Reform (Fire Safety) Order 2005 and therefore for any guidance on fire risk assessment or provision off firefighting equipment should be sought from the local fire service.

CASE OFFICER: George Smith

TEL: 01295 221899

19/02772/F

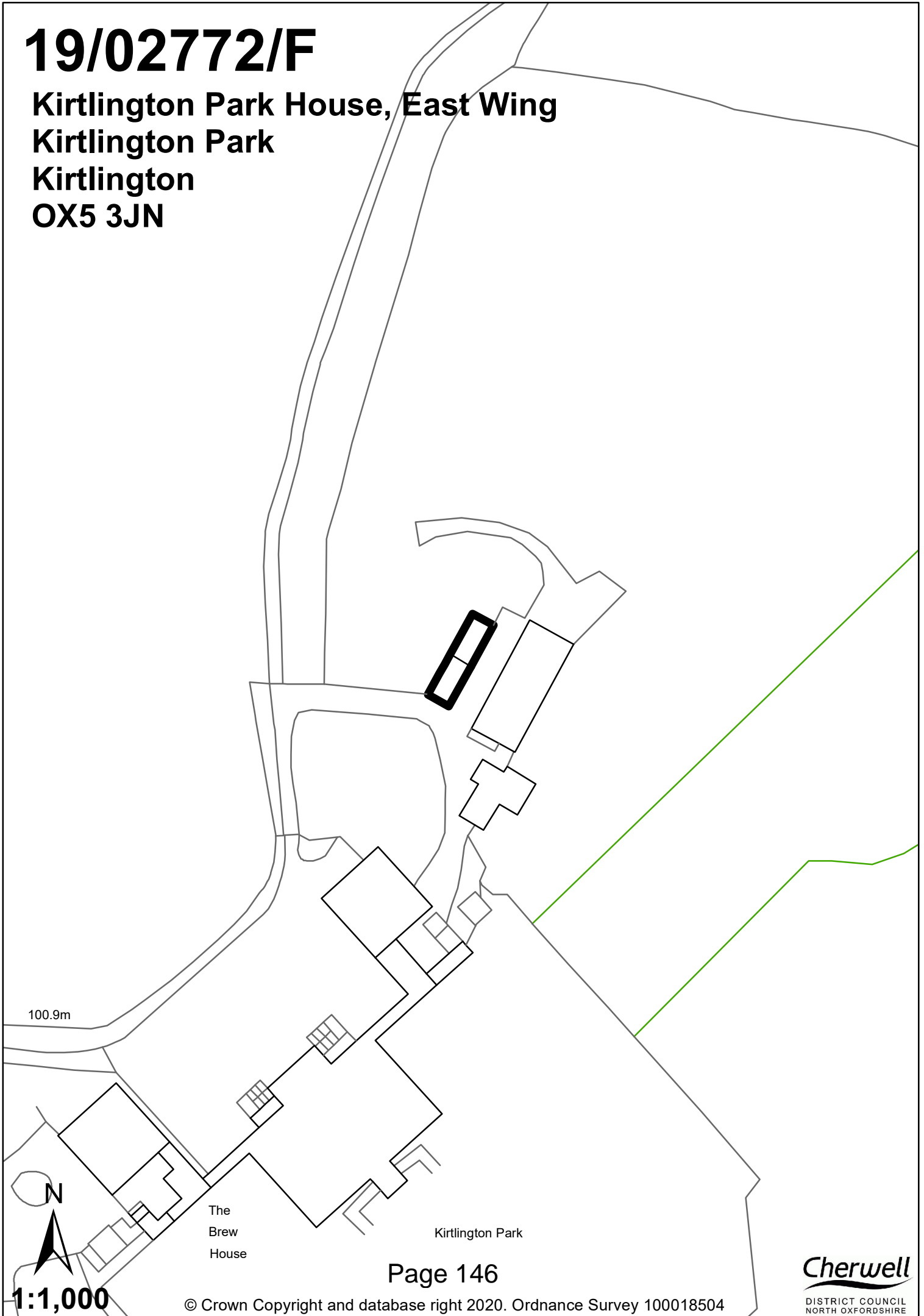
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Kirtlington Park
Kirtlington
OX5 3JN



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19/02772/F

**Kirtlington Park House, East Wing
Kirtlington Park
Kirtlington
OX5 3JN**



Case Officer: Shona King

Applicant: Mr Simon Holland

Proposal: Alterations to outbuilding to create living accommodation ancillary to East Wing, Kirtlington Park House

Ward: Fringford And Heyfords

Councillors: Councillor Corkin, Councillor Macnamara and Councillor Wood

Reason for Referral: Application submitted by a CDC Councillor

Expiry Date: 30 January 2020

Committee Date: 13 February 2020

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS

Proposal

The proposal is to convert part of a detached outbuilding to living accommodation ancillary to East Wing, Kirtlington Park House. The remainder of the outbuilding has already been converted.

Consultations

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

Kirtlington Parish Council, OCC Highway Authority, Historic England, CDC Building Control.

No letters of objection have been received and no letters of support have been received.

Planning Policy and Constraints

The site lies within the curtilage of Kirtlington Park House, a Grade 1 Listed building and within the Registered Park and Garden. It also lies within Kirtlington Conservation Area.

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 visual amenities of the area
- Impact on Heritage Assets
- Residential amenity
- Ecology
- Highway safety

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 comprises part of a single storey outbuilding, of natural stone construction, which lies to the north of Kirtlington Park House.

2. CONSTRAINTS

- 2.1. The application site is a curtilage listed building and lies within both the Registered Park and Garden and Kirtlington Conservation Area.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. Permission is sought for the conversion of part of the outbuilding to living accommodation ancillary to the use of the dwelling currently known as East Wing. The remainder of the outbuilding was converted in 1994 and does not form part of East Wing.
- 3.2. The proposed works involve infilling two large openings in the north elevation with timber boarding, doors and windows. The accommodation to be provided includes a living area with kitchen a bedroom and an en-suite.
- 3.3. Amended plans have been received which simplify the design of the infill panels, omitting a full length glazed screen and a window and the insertion of a row of windows.

4. RELEVANT PLANNING HISTORY

- 4.1. There is no planning history directly relevant to the proposal

5. PRE-APPLICATION DISCUSSIONS

- 5.1. The following pre-application discussions have taken place with regard to this proposal:
- 5.2. 19/00157/PREAPP – the principle of the conversion to ancillary living accommodation was considered to be acceptable however the details of the design needed revising to minimise the impact on the heritage assets. In addition, an assessment of the impact on ecology was required.

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 **7 January 2020**, 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.

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

7.2. KIRTLINGTON PARISH COUNCIL: **No objection**

CONSULTEES

7.3. OCC HIGHWAYS: **No objection** subject to use as an annexe only.

7.4. BUILDING CONTROL: **Comment** that an application under the Building Regulations is required

7.5. HISTORIC ENGLAND: **No objection**

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
- SLE 4: Improved Transport and Connections
- Villages 1: Village Categorisation
- ESD1: Mitigating and Adapting to Climate Change
- ESD 7: Sustainable Drainage Systems (SuDS)
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD 13: Local Landscape Protection and Enhancement
- ESD 15: The Character of the built and historic environment

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- H18: New dwellings in the countryside
- C28: Layout, design and external appearance of new development
- C30: Design control

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 Mid Cherwell Neighbourhood Plan and the following Policies of the Neighbourhood Plan are considered relevant:

- PD5: Building and Site Design

8.4. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- 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
- Design and impact on the character of the area
- Heritage impact
- Residential amenity
- Ecology impact
- Highway safety

Principle of Development

9.2. The building is located outside the built-up limits of a settlement and as such all new residential development stands to be assessed against Saved Policy H18 of the Cherwell Local Plan 1996. This policy sets out that a new dwelling in the open countryside will only be granted planning permission where it is considered to be essential for agriculture or another existing undertaking or where it meets the criteria for the provision of affordable housing and in either case where it does not conflict with any other policy in the development plan. .

9.3. In this instance, however, the proposal is simply to convert the outbuilding for use as additional living accommodation for East Wing only and not as a separate unit. Therefore, this Policy does not apply but, given the location of the building, it is considered necessary to impose a condition to restrict its occupancy to ancillary accommodation to East Wing and to ensure that it could not be let out or allowed to be occupied separately from East Wing.

Design and impact on the character of the area

9.5. The outbuilding is constructed from natural stone with a natural stone slate roof. The south elevation faces across the open parkland and is currently blank, as is the western elevation which faces towards East Wing. The north elevation has two wide openings, without doors, in the part to be converted and a pedestrian entrance door in the part that has already been converted, along with three rooflights. There is a set of glazed french doors in the western elevation.

9.6. The conversion works would retain the blank southern and western elevations and infill the two wide openings with glazing and entrance doors. Three additional rooflights are proposed in the north elevation. Amended plans have been received

which simplify the treatment of these infill panels and would ensure the agricultural character of the building is retained.

- 9.7. It is therefore considered that the proposal complies with saved Policy C28 of the Cherwell Local Plan 1996 which states that control will be exercised over all new development to ensure that standards of layout, design and external appearance are sympathetic to the character of the urban or rural context of that development.

Heritage Impact

Legislative and policy context

- 9.8. The site is within Kirtlington Conservation Area, is a curtilage listed building, being within the curtilage of Grade 1 listed Kirtlington Park, and is within the Kirtlington Park registered park and garden.
- 9.9. 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.*
- 9.10. 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.
- 9.11. 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

- 9.12. The building forms part of the setting of Kirtlington Park House, which has been divided into separate dwellings but retains the appearance of a single large country house. The conversion works are considered to preserve the character and appearance of the Conservation Area and would not result in any significant harm to the setting of the listed building or registered park and garden. The amendments to the design as set out above would ensure that the simple agricultural character is retained.

Ecology Impact

Legislative context

- 9.13. 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.

- 9.14. 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.
- 9.15. 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.
- 9.16. 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.
- 9.17. 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

- 9.18. 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.
- 9.19. 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.

- 9.20. 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.
- 9.21. 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.
- 9.22. 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.
- 9.23. 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.
- 9.24. 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 (LPAs) 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

- 9.25. Natural England's Standing Advice states that an LPA only needs to ask an applicant to carry out a survey if it's likely that protected species are present on or near the proposed site, such as protected bats at a proposed barn conversion affected by the development
- 9.26. It also states that LPAs can also ask for:
- a scoping survey to be carried out (often called an 'extended phase 1 survey'), which is useful for assessing whether a species-specific survey is needed, in cases where it's not clear which species is present, if at all
 - an extra survey to be done, as a condition of the planning permission for outline plans or multi-phased developments, to make sure protected species aren't affected at each stage (this is known as a 'condition survey')
- 9.27. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site contains buildings of traditional construction, and there are a number of mature trees adjacent the site, and therefore has the potential to be suitable habitat for bats and breeding birds.

- 9.28. In order for the LPA to discharge its legal duty under the Conservation of Habitats and Species Regulations 2017 when considering a planning application where EPS are likely or found to be present at the site or surrounding area, LPAs must firstly assess whether an offence under the Regulations is likely to be committed. If so, the LPA should then consider whether Natural England (NE) would be likely to grant a licence for the development. In so doing the authority has to consider itself whether the development meets the 3 derogation tests listed above.
- 9.29. In respect of planning applications and the Council discharging of its legal duties, case law has shown that if it is clear/ very likely that NE will not grant a licence then the Council should refuse planning permission; if it is likely or unclear whether NE will grant the licence then the Council may grant planning permission.
- 9.30. The application is supported by a detailed preliminary bat assessment which concluded that there was negligible roosting potential within the building so that bats are not considered to be a constraint on the site.
- 9.31. Officers are satisfied, on the basis of the advice from the Council's Ecologist and the absence of any objection from NE, and subject to conditions, 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.

10. PLANNING BALANCE AND CONCLUSION

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

11. RECOMMENDATION

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

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: Design and Access Statement, Structural Report, Preliminary Bat Assessment carried out by Astute Ecology Ltd dated November 2019 and

drawing Nos: 100/03 rev A, 200/01, 300/01 rev A, 300/02 rev C and 500/02,

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.

Materials

3. Any remedial stonework necessary for the repair or making good of the elevations shall be carried out in natural stone 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 materials used on the existing building and to safeguard the significance of the heritage asset 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. Prior to the insertion of the doors, rooflights and windows, full details of the doors, rooflights and windows hereby approved, 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 doors and windows 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 safeguard the significance of the heritage asset 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.

Ecology

5. The development hereby approved shall be carried out in accordance with the recommendations set out in sections 5.2, 5.3 and 5.4 of the Preliminary Bat Assessment carried out by Astute Ecology Ltd dated November 2019.

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.

Occupancy

6. The residential accommodation hereby permitted shall be used solely as ancillary accommodation to the existing dwellinghouse currently known as East Wing Kirtlington Park and as such shall not be sold leased, sub-let or used as an independent dwelling unit.

Reason - The site is in an area where permission for development unrelated to the essential needs of agriculture or forestry would not normally be granted, in addition, the site is unsuitable to accommodate a separate dwelling without it being cramped and would not provide a satisfactory level of living amenity for the occupants on a permanent basis and in order to comply with Policy ESD 15 of the Cherwell Local Plan 2011-2031 Part 1 and saved Policies H18, C28 and

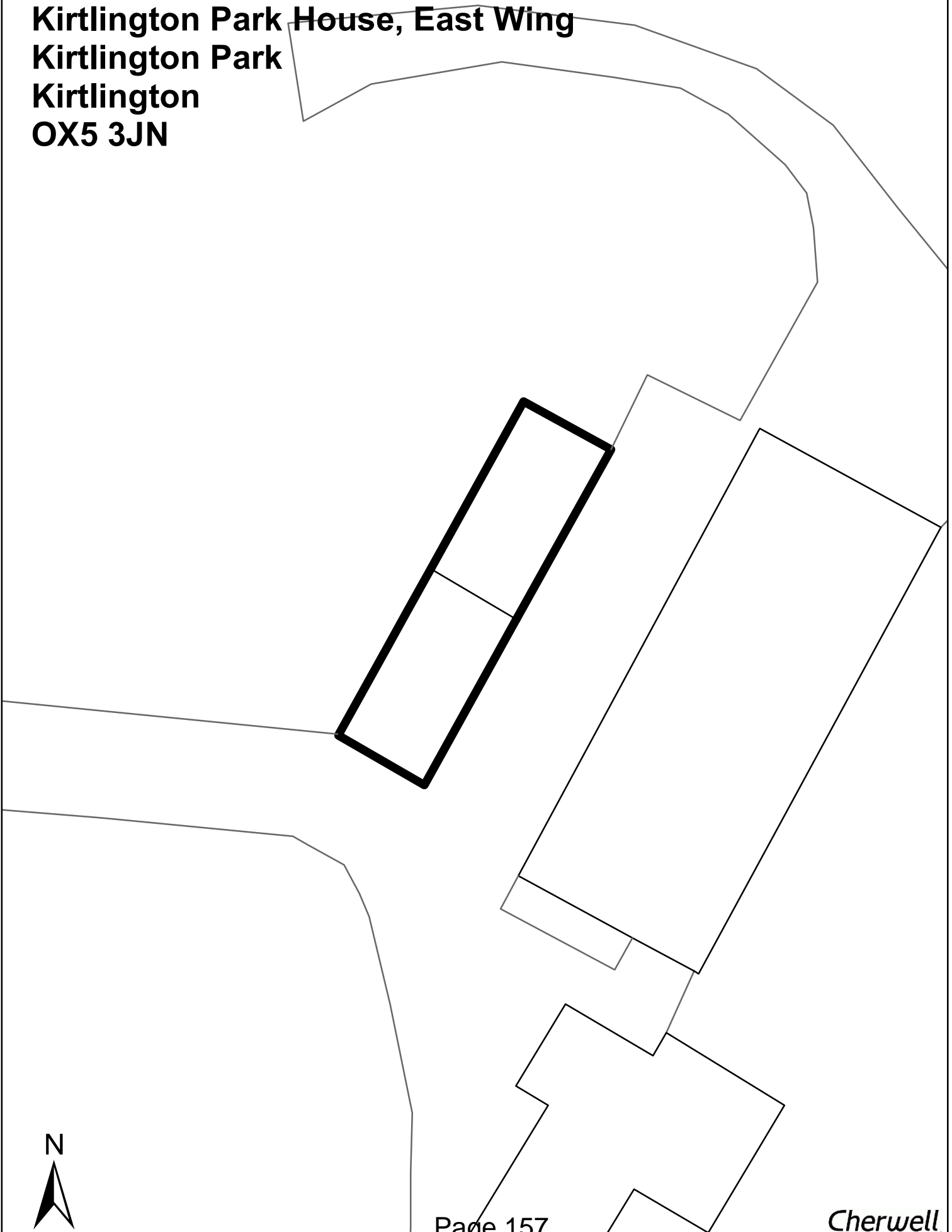
C30 of the Cherwell Local Plan 1996.

CASE OFFICER: Shona King

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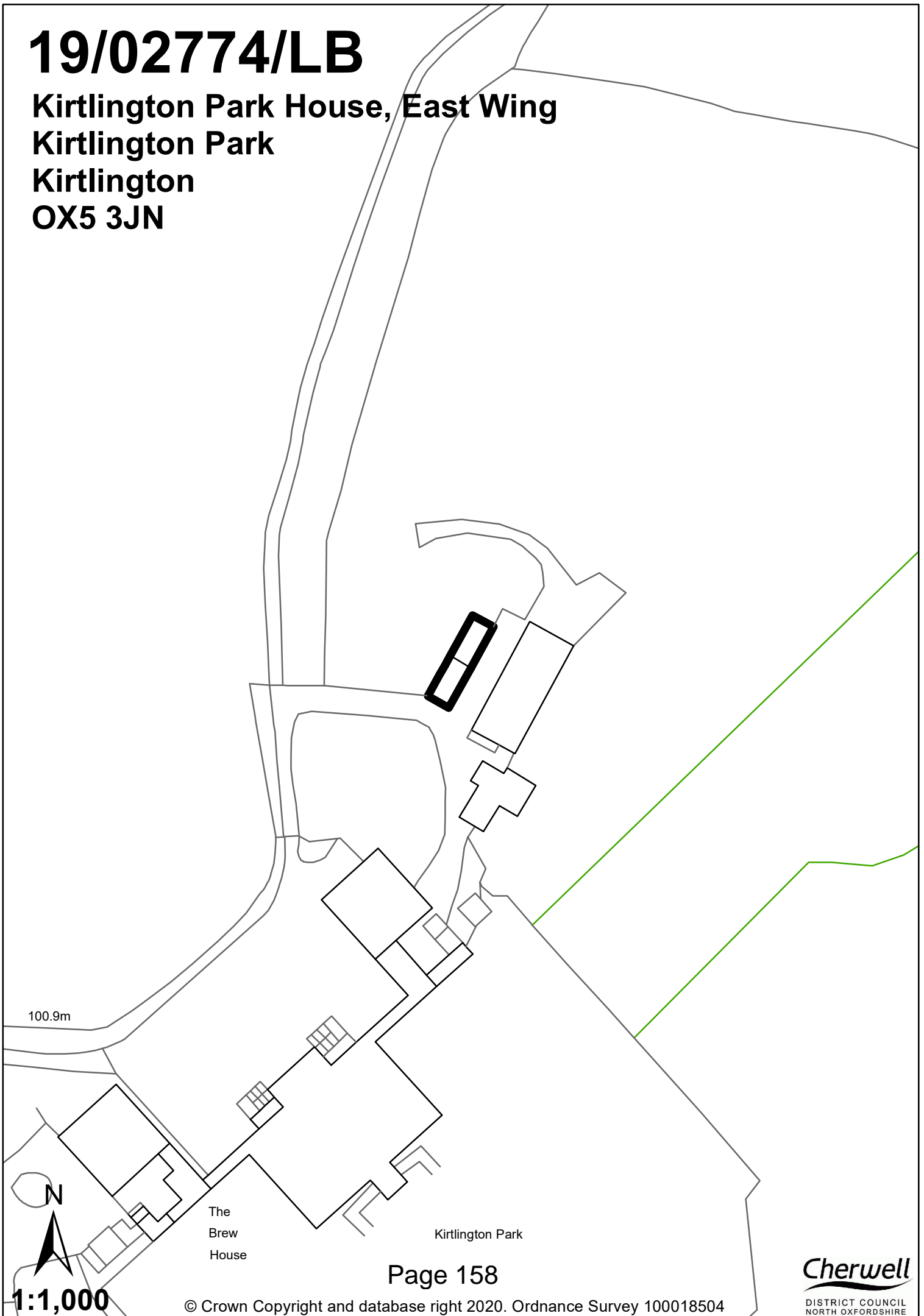
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100.9m



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The
Brew
House

Kirtlington Park

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Cherwell
DISTRICT COUNCIL
NORTH OXFORDSHIRE

Case Officer: Shona King

Applicant: Mr Simon Holland

Proposal: External and internal alterations to outbuilding to facilitate its conversion to living accommodation ancillary to East Wing, Kirtlington Park House

Ward: Fringford And Heyfords

Councillors: Councillor Corkin, Councillor Macnamara and Councillor Wood

Reason for Referral: Application submitted by a CDC Councillor

Expiry Date: 30 January 2020

Committee Date: 13 February 2020

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS

Proposal

The proposal is for external and internal alterations to outbuilding to facilitate its conversion to living accommodation ancillary to East Wing, Kirtlington Park House. The remainder of the outbuilding has already been converted.

Consultations

The following consultees have raised **no objections** to the application:
Kirtlington Parish Council, OCC Highway Authority, Historic England, CDC Building Control.

No letters of objection have been received and no letters of support have been received.

Planning Policy and Constraints

The site lies within the curtilage of Kirtlington Park House, a Grade 1 Listed building and within the Registered Park and Garden. It also lies within Kirtlington Conservation Area.

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 issue arising from the application details is the impact on the curtilage listed building.

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 comprises part of a single storey outbuilding, of natural stone construction, which lies to the north of Kirtlington Park House.

2. CONSTRAINTS

- 2.1. The application site is a curtilage listed building and lies within both the Registered Park and Garden and Kirtlington Conservation Area.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. Permission is sought for the conversion of part of the outbuilding to living accommodation ancillary to the use of the dwelling currently known as East Wing. The remainder of the outbuilding was converted in 1994 and does not form part of East Wing.
- 3.2. The proposed works involve infilling two large openings in the north elevation with timber boarding, doors and windows. The accommodation to be provided includes a living area with kitchen a bedroom and an en-suite.
- 3.3. Amended plans have been received which simplify the design of the infill panels, omitting a full length glazed screen and a window and the insertion of a row of windows.

4. RELEVANT PLANNING HISTORY

- 4.1. There is no planning history directly relevant to the proposal.

5. PRE-APPLICATION DISCUSSIONS

- 5.1. The following pre-application discussions have taken place with regard to this proposal:
- 5.2. 19/00157/PREAPP – the principle of the conversion to ancillary living accommodation was considered to be acceptable however the details of the design needed revising to minimise the impact on the heritage assets. In addition, an assessment of the impact on ecology was required.

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 **7 January 2020**, 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.

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

- 7.2. KIRTLINGTON PARISH COUNCIL: **No objection**

OTHER CONSULTEES

- 7.3. DESIGN AND CONSERVATION: **No objection**

- 7.4. HISTORIC ENGLAND: **No objection**

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)

- ESD 15: The Character of the built and historic environment

- 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 Mid Cherwell Neighbourhood Plan and the following Policies of the Neighbourhood Plan are considered relevant:

- PD5: Building and Site Design

- 8.4. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- The Planning (Listed Buildings and Conservation Areas) Act 1990

9. APPRAISAL

- 9.1. The key issue for consideration in this case is the impact on the curtilage listed building.

Legislative and policy context

- 9.2. The site is a curtilage listed building, being within the curtilage of Grade 1 listed Kirtlington Park.

- 9.3. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) 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.
- 9.4. 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.
- 9.5. The building forms part of the setting of Kirtlington Park House which has been divided into separate dwellings but retains the appearance of a single large country house. The outbuilding is constructed from natural stone with a natural stone slate roof. The south elevation faces across the open parkland and is currently blank, as is the western elevation which faces towards East Wing. The north elevation has two wide openings, without doors, in the part to be converted and a pedestrian entrance door in the part that has already been converted, along with three rooflights. There is a set of glazed french doors in the western elevation.
- 9.6. The conversion works would retain the blank southern and western elevations and infill the two wide openings with glazing and entrance doors. Three additional rooflights are proposed in the north elevation. Amended plans have been received which simplify the treatment of these infill panels and would ensure the agricultural character of the building is retained.
- 9.7. The conversion works are not considered to result in any significant harm to the curtilage listed building and the amendments to the design as set out above would ensure that the simple agricultural character is retained. It is therefore considered that the proposal complies with Policy ESD15 of the Cherwell Local Plan 2011-2031.

10. PLANNING BALANCE AND CONCLUSION

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

11. RECOMMENDATION

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

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: Design and Access Statement, Structural Report and drawing Nos: 100/03 rev A, 200/01, 300/01 rev A, 300/02 rev C and 500/02,

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.

Materials

3. Any remedial stonework necessary for the repair or making good of the elevations shall be carried out in natural stone 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 materials used on the existing building and to safeguard the significance of the heritage asset 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. Prior to the insertion of the doors, rooflights and windows, full details of the doors, rooflights and windows hereby approved, 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 doors and windows 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 safeguard the significance of the heritage asset 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.

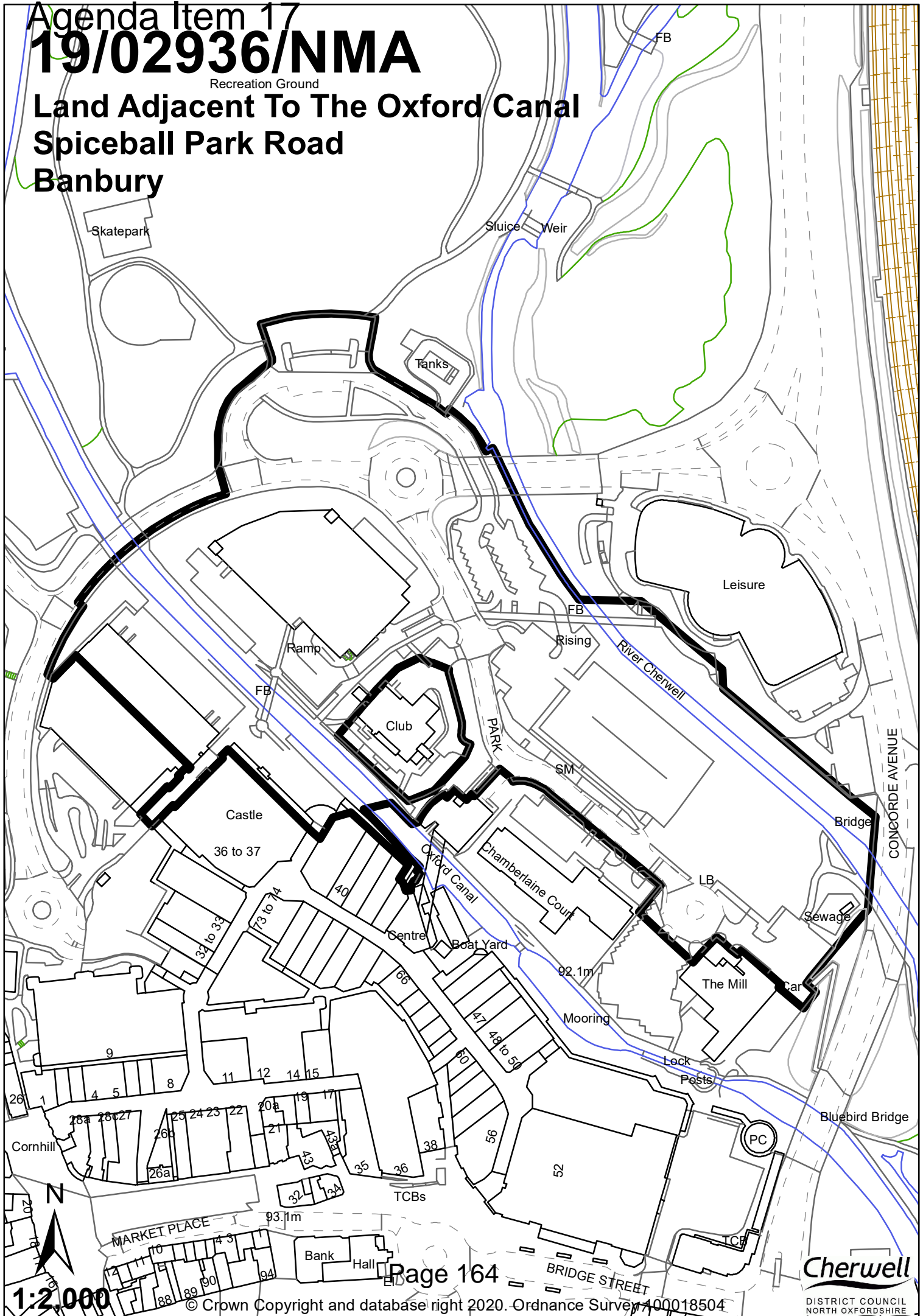
CASE OFFICER: Shona King

TEL: 01295 221643

Agenda Item 17
19/02936/NMA

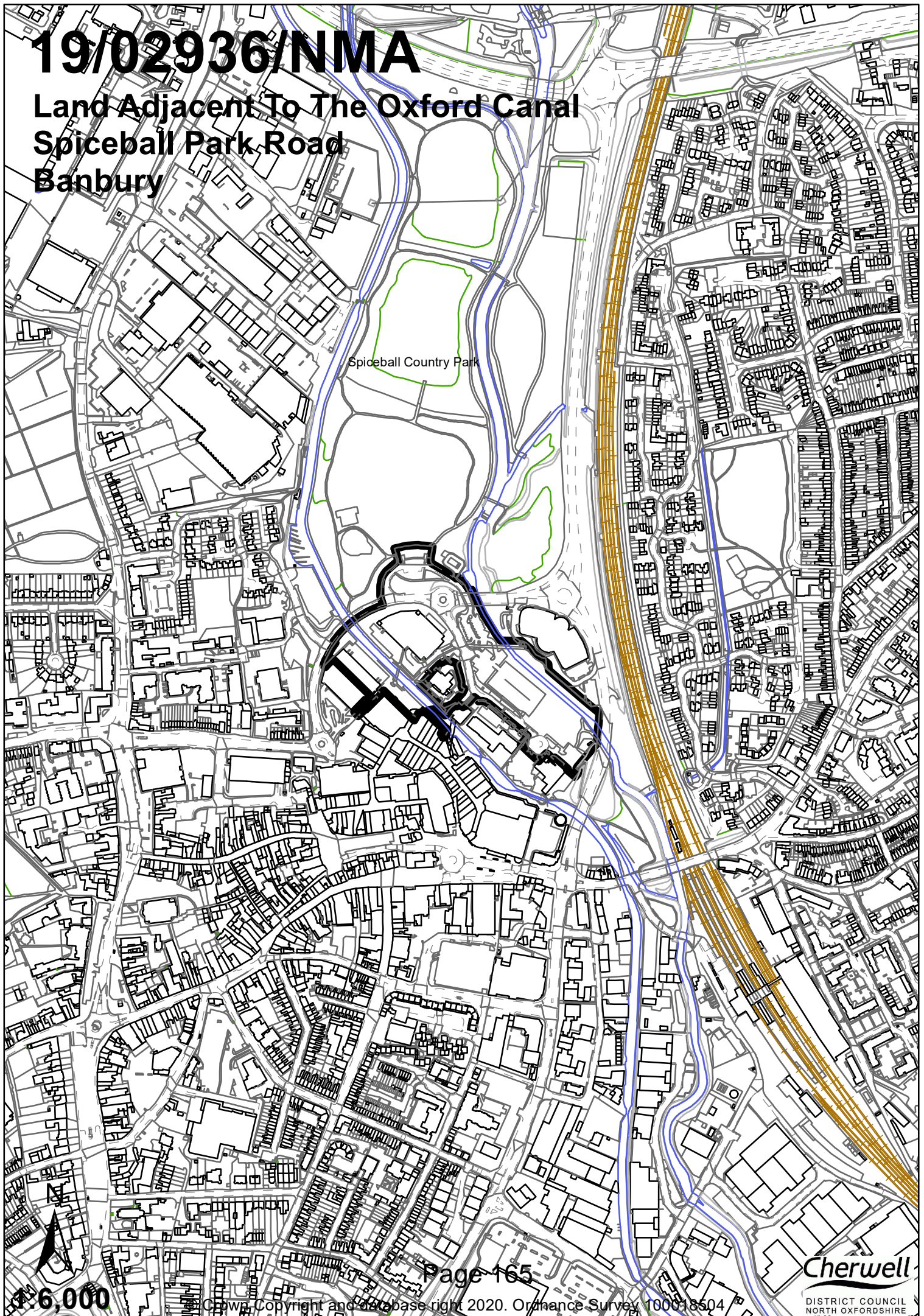
Recreation Ground

**Land Adjacent To The Oxford Canal
Spiceball Park Road
Banbury**



19/02936/NMA

Land Adjacent To The Oxford Canal Spiceball Park Road Banbury



Spiceball Country Park

Case Officer: Samantha Taylor

Applicant: Cherwell District Council

Proposal: Non-material amendment to 17/00284/REM

Ward: Banbury Cross and Neithrop

Councillors: Cllr Hannah Banfield; Cllr Surinder Dhesi; Cllr Cassi Perry

Reason for Referral: Application affects Council's own land and the Council is the applicant

Expiry Date: 18 February 2020

Committee Date: 13 February 2020

1. APPLICATION SITE AND LOCALITY

1.1. This application relates to the Castle Quay 2 development proposals on both sides of the Oxford Canal in Banbury. This specific amendment proposes various changes to the approved plans for Blocks B (cinema and retail) and C (foodstore) of the development. The proposed changes are listed below.

2. CONSTRAINTS

2.1. Key constraints are that the application site is within flood zone 3 and part of the wider site adjoins the Oxford Canal Conservation Area.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

3.1. The following outlines the proposed changes:

3.2. Block B

- Proposed revisions to the colonnade facing the Social Club, by removing every other column to provide easier access to the building and to assist with fire tender tracking;
- Proposed cinema alterations at cinema terrace level, by cutting back the cinema and plant area to allow for a larger external terrace. This change was requested by the cinema tenant to improve the public's experience of this area;
- The proposed cinema terrace entrance glazing at ground floor is to be extended out into the colonnade with revolving doors. This change was requested by the cinema tenant to improve visibility and circulation to the main entrance;
- The lift from the cinema is to go down to the car park level in the lower ground floor with some minor alterations internally to the cinema layout. This change was requested by the cinema tenant to improve visitor access to the basement car park;
- Alterations to the car park external walls by pulling two sides into the car park which in turn creates an overhang of the car park at the upper level. This

change was as a result of avoiding the existing gas easement on the site. The planned car parking numbers already approved are maintained;

- Concrete walls to the car park are to be replaced with metal cladding, to match the cinema box cladding.

3.3. Block C

- Cut back the proposed building line at the upper level to ensure that no structure or foundations are within the gas easement on site;
- External timber blinds are to be added to the front of the supermarket shopfront facing the car park. This change was requested by the supermarket tenant in line with their typical material selection;
- A grey render band 500mm high is proposed around the base of the supermarket and Zone C sub stations. This change was requested by the supermarket tenant in line with their typical material selection;
- A new slot window will be proposed to the façade facing Spiceball Park road in the supermarket level. This change was requested by the supermarket tenant to improve the experience of staff using the welfare room.

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>
13/01601/OUT	Outline planning permission for the redevelopment of land adjacent to the Oxford Canal comprising; the demolition of the Castle Quay Shopping Centre northern car park and the General Foods Sports and Social Club; change of use of part of the ground floor of the Castle Quay Shopping Centre southern car park and associated works; the erection of a retail foodstore (Use Class A1), hotel (Use Class C3), cinema (Use Class D2), restaurants and cafes (Use Class A3 and A4) and altered vehicular and pedestrian accesses, landscaping, construction of infrastructure, car parking and associated works, including glazed canopy over the Oxford Canal and the construction of pedestrian/cycle bridges over the Oxford Canal and River Cherwell. Details of new vehicular access off Cherwell Drive and alterations to Spiceball Park Road	Application Permitted
16/02366/OUT	Removal/ Variation of conditions 4 (list of approved drawings) and 9 (enhancement of River Cherwell) to 13/01601/OUT - Condition 4 to be varied to reflect alterations in the access and servicing strategy for	Application Permitted

Block C, with variations to maximum deviations in block and Condition 9 to be removed as no longer justified.

17/00284/REM	Reserved Matters Application to 16/02366/OUT across the whole development site is sought. Application for approval of reserved matters for scale, layout, appearance and landscaping.	Application Permitted
18/00142/NMA	Non-Material Amendment to 16/02366/OUT and 17/00284/REM - Block B canopy amendments	Approved at the December Committee meeting

5. PRE-APPLICATION DISCUSSIONS

- 5.1. Discussions regarding the proposed amendments have taken place and it was advised these would constitute a non-material amendment subject to the full planning permission being sought separately for the new stair case.

6. RESPONSE TO PUBLICITY

- 6.1. This application has been publicised by way of a site notice displayed near the site. No comments have been received.

7. RESPONSE TO CONSULTATION

- 7.1. Whilst there is no formal duty to consult in respect of a non-material amendment application, as the applicant is Cherwell District Council, in the interests of transparency a site notice was posted. No comments have been received.

8. RELEVANT PLANNING POLICY AND GUIDANCE

- 8.1. The key issue for consideration in this case is whether the proposed change(s) can be accepted as non-material; there is no consideration of the planning merits of the proposed changes.
- 8.2. Section 96A of the Town and Country Planning Act 1990 (as amended) states that: "A local planning authority in England may make a change to any planning permission relating to land in their area if they are satisfied that the change is not material". It is also stated that: "In deciding whether a change is material, a local planning authority must have regard to the effect of the change, together with any previous changes made under this section, on the planning permission as originally granted".
- 8.3. The National Planning Practice Guidance states that: "There is no statutory definition of non-material. This is because it will be dependent on the context of the overall scheme - an amendment that is non material in one context may be material in another. The Local Planning Authority must be satisfied that the amendment sought is non-material in order to grant an application". The judgement on materiality in any particular case is one of fact and degree, also taking into account the likely impacts of the amendment. Materiality is considered against the development as a whole, not just part of it. The benchmark for forming the judgement on materiality is always the original permission.

9. APPRAISAL

- 9.1. The key issues for consideration in this case are whether the changes individually or cumulatively can be considered a non-material amendment to the original permission.
- 9.2. It is noted there are a number of changes which are sought. However, these would not require any significant changes such as additional floor space, changes to parking or the overall quantum and scale of development.
- 9.3. The changes sought are largely minor design details and some movement of the building line to ensure that the gas easement is not breached. Having considered the proposed changes and the development originally granted permission, Officers recommend that the changes would constitute a non-material amendment.
- 9.4. It is noted, that as the changes are considered a non-material amendment, other than the changes approved, the planning conditions on the original permission and reserved matters consent would remain as consented.

10. PLANNING BALANCE AND CONCLUSION

- 10.1. Overall it is considered the proposed changes would not materially alter the earlier permission and would result in a non-material change. Therefore, it is recommended that this non-material amendment application is approved.

11. RECOMMENDATION

THAT THE PROPOSED NON-MATERIAL AMENDMENT BE GRANTED IN ACCORDANCE WITH THE FOLLOWING WORDING:

Cherwell District Council, as Local Planning Authority, hereby approves the non-material amendment described in application ref.no.19/02936/NMA in accordance with the application form and drawing numbers set out in the agents letter dated 20 November 2019. The non-material amendment application, hereby approved, does not nullify the conditions imposed in respect of reserved matters consent 17/00284/REM. These conditions must be adhered to so as to ensure that the development is lawful.

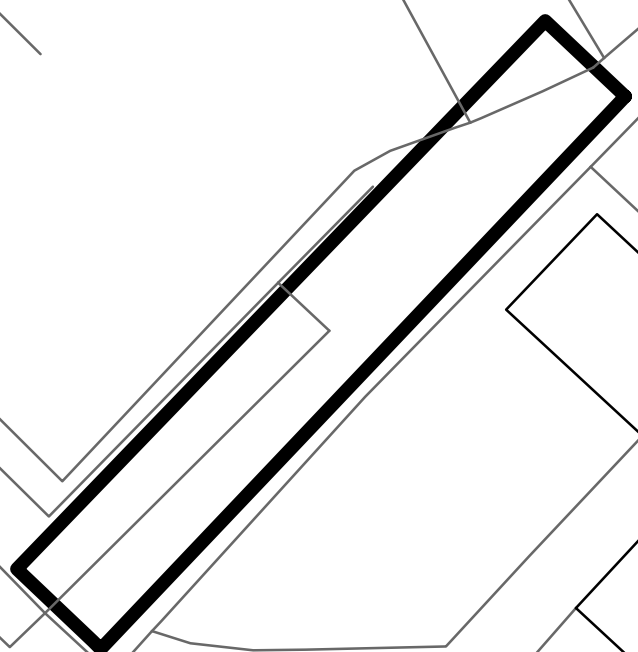
CASE OFFICER: Samantha Taylor

TEL: 01295 221689

19/02937/CDC

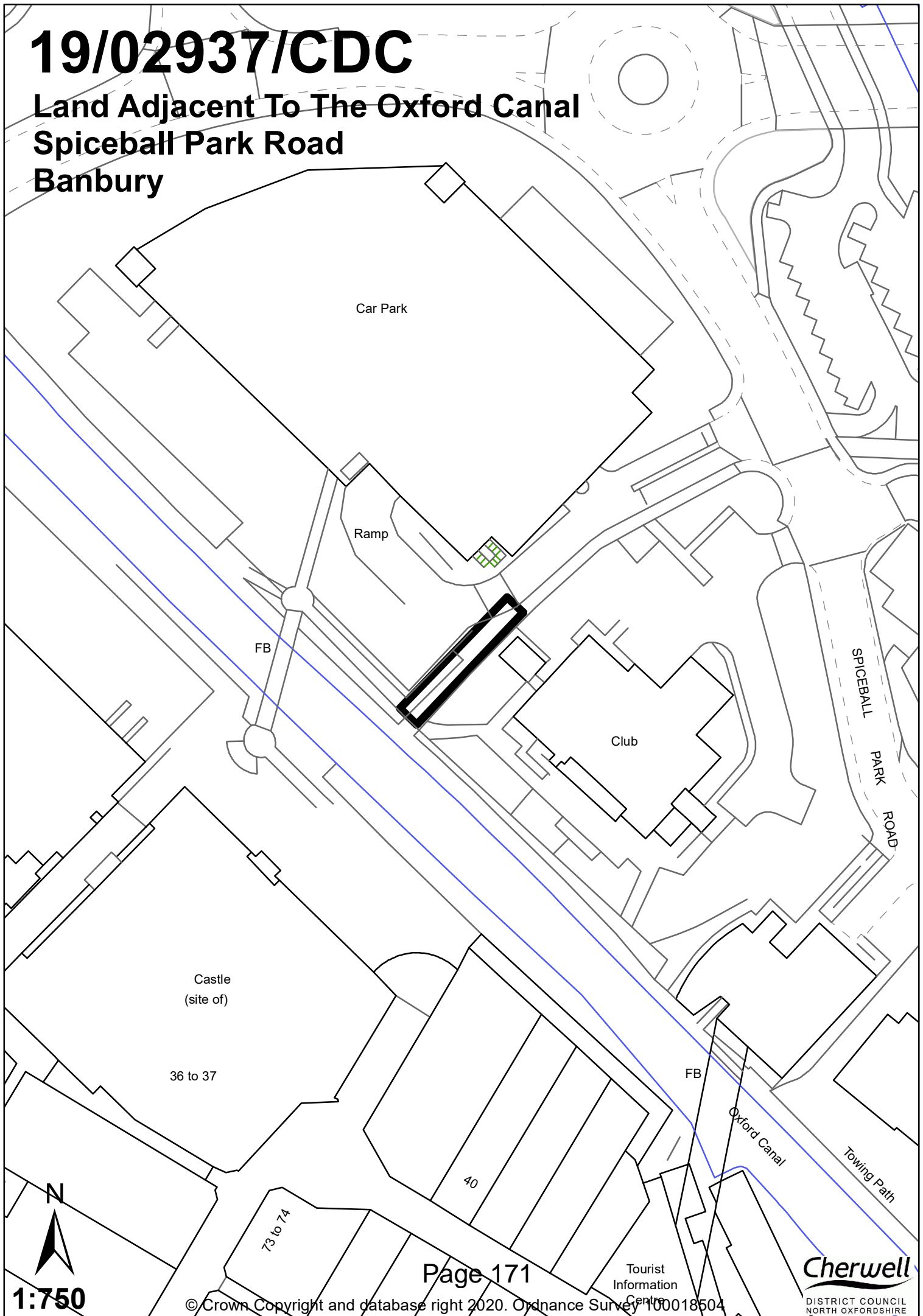
**Land Adjacent To The Oxford Canal
Spiceball Park Road
Banbury**

Ramp



19/02937/CDC

Land Adjacent To The Oxford Canal Spiceball Park Road Banbury



Case Officer: Samantha Taylor

Applicant: Cherwell District Council

Proposal: New access stair from cinema roof terrace

Ward: Banbury Cross and Neithrop

Councillors: Cllr Hannah Banfield; Cllr Surinder Dhesi; Cllr Cassi Perry

Reason for Referral: Application affects Council's own land and the Council is the applicant

Expiry Date: 17 February 2020

Committee Date: 13 February 2020

MAIN REPORT

1. APPLICATION SITE AND LOCALITY

1.1. The application site relates to the Castle Quay 2 development proposals on either side of the Oxford Canal in Banbury. This proposal relates specifically to Block B of the development containing the car park, retail and cinema.

2. CONSTRAINTS

2.1. Key constraints are that the application site is within flood zone 3 and part of the wider site adjoins the Oxford Canal Conservation Area.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

3.1. The application seeks full planning permission for the provision of an additional pedestrian staircase at the south west corner of Block B. The stair case would provide an additional route from the ground floor to the cinema terrace at first floor level.

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>
13/01601/OUT	Outline planning permission for the redevelopment of land adjacent to the Oxford Canal comprising; the demolition of the Castle Quay Shopping Centre northern car park and the General Foods Sports and Social Club; change of use of part of the ground floor of the Castle Quay Shopping Centre southern car park and associated works; the erection of a retail foodstore (Use	Application Permitted

Class A1), hotel (Use Class C3), cinema (Use Class D2), restaurants and cafes (Use Class A3 and A4) and altered vehicular and pedestrian accesses, landscaping, construction of infrastructure, car parking and associated works, including glazed canopy over the Oxford Canal and the construction of pedestrian/cycle bridges over the Oxford Canal and River Cherwell. Details of new vehicular access off Cherwell Drive and alterations to Spiceball Park Road

16/02366/OUT	Removal/ Variation of conditions 4 (list of approved drawings) and 9 (enhancement of River Cherwell) to 13/01601/OUT - Condition 4 to be varied to reflect alterations in the access and servicing strategy for Block C, with variations to maximum deviations in block and Condition 9 to be removed as no longer justified.	Application Permitted
17/00284/REM	Reserved Matters Application to 16/02366/OUT across the whole development site is sought. Application for approval of reserved matters for scale, layout, appearance and landscaping.	Application Permitted
18/00142/NMA	Non-Material Amendment to 16/02366/OUT and 17/00284/REM - Block B canopy amendments	Approved at the December Committee meeting
19/02936/NMA	Non-material amendment to 16/02366/OUT and 17/00824/REM – Blocks B and C, minor design detail amendments	Not yet determined

5. PRE-APPLICATION DISCUSSIONS

- 5.1. Some pre-application discussions have taken place with regard to this proposal, to advise of the process for making a planning application for the proposal and the information that would be required.

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 **28 January 2020**, 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.

BANBURY TOWN COUNCIL: No response received.

CONSULTEES

7.2. OCC HIGHWAYS: **additional information was requested.** OCC Highways requested information regarding the provision of alternate pedestrian access points. Clarification was given that the previously approved access arrangements would remain and that this was an additional access. A formal response from OCC will be presented to the Planning Committee once received.

7.3. CDC ENVIRONMENTAL PROTECTION: **no comments** in respect of noise, air quality, contaminated land, odour or light.

7.4. OCC ARCHAEOLOGY: **no objections**, no impact on any known archaeological sites or features.

7.5. ENVIRONMENT AGENCY: **no comments**

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)

- ESD15 – The Character of the Built and Historic Environment
- SLE 4 – Improved Transport and Connections

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C28 – Layout, design and external appearance of new development

9. APPRAISAL

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

- Principle of development
- Access and Movement
- Design, and impact on the character of the area

Principle of Development

- 9.2. The principle of the re-development of the Castle Quay 2 area has been established through the earlier grant of planning permissions for a mixed-use development under the applications as detailed above.
- 9.3. The proposed pedestrian staircase would serve the approved development and therefore would be acceptable in principle, subject to other material planning conditions.

Access and Movement

- 9.4. Policy SLE4 of the Local Plan is supportive of improved pedestrian connections within development proposals.
- 9.5. The proposed development would provide an improved pedestrian route to the first floor of Block B for users crossing at the canal bridge from the canal crossing to Castle Quay. The staircase is positioned at the south west corner of Block B, where the approved plans do not include an access to the first floor at this point. The staircase will reduce the walk for pedestrians to reach the first floor terrace at this point. The existing pedestrian access points, including a lift from the car parking area will remain as previously approved.
- 9.6. Whilst OCC have not provided full comments, Officers consider that the additional staircase will be of benefit to pedestrians. Therefore, the proposal is acceptable and would comply with Local Plan Policy SLE4.

Design and Impact on the Character of the Area

- 9.7. Policy ESD15 requires development proposals to be in keeping with the local character and context.
- 9.8. The staircase has a functional design which incorporates the high-quality materials that will be used in the wider Castle Quay 2 development.
- 9.9. The submitted plans indicate that the stairs will have been constructed from metal cladding, with glass balustrade. This will be in keeping with the metal and glass boundary to the first floor terrace and are materials that are seen within Block B and across the wider development. These materials have previously been considered acceptable in the local and wider context of the redevelopment proposals.
- 9.10. In light of the above, the proposed design is acceptable and would be sympathetic to the local character and context.

10. PLANNING BALANCE AND CONCLUSION

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

11. RECOMMENDATION

THAT **PLANNING PERMISSION IS GRANTED** SUBJECT TO THE CONDITIONS OUTLINED BELOW:

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 Plan CQ2/407 RM/D-SP-500
Proposed Cinema Terrace Floor Plan CQ2/407 RM/D-P-520
Proposed Elevations CQ2-407/RM/D-E-521

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

CASE OFFICER: Samantha Taylor

TEL: 01295 221689

Cherwell District Council

Planning Committee

13 February 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

19/01214/F – Old Forge, Wroxton Lane, Horley, OX15 6BB - Change of Use from an office to a one-bedroom bungalow

19/00634/F – Plot of Land South of 1 Greystones Court, Kidlington – New dwelling

19/01634/F – 30 Somerville Drive, Bicester, OX26 4TU - Erection of new two storey dwelling including new vehicle access

2.2 New Enforcement Appeals

18/00057/ENFB – The Kings Head, 92 East Street, Fritwell, OX27 7QF. Appeal against the enforcement notice served for change of use to residential.

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

19/00464/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)

Method of determination: Hearing – 26th February 2020

Key Dates:

Start Date: 11.12.2019 **Statement Due:** 15.01.2019 **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

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

Method of determination: Householder (Fast Track)

Key Dates:

Start Date: 24.12.2020 **Statement Due:** N/A **Decision:** Awaited

Enforcement appeals

None

- 2.4 Forthcoming Public Inquires and Hearings between 14 February 2020 and 12th March 2020

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)
Hearing – Wednesday 26th February 2020. Council Chamber, Bodicote. 10.00 start.

2.5 **Results**

Inspectors appointed by the Secretary of State have:

1. **Dismissed the appeal by Mr Ben Ancil for Erection of 1no single storey dwelling and ancillary carport/garden workshop. OS Parcel 6091 East Of Duiker House, Fencott – 19/00910/F**

Officer recommendation – Refusal (Delegated)

The Inspector considered the main issues to be: whether the proposal would be inappropriate development in the Green Belt, its effect on the openness of the Green Belt; whether the proposed development would be in a suitable location with particular regard to accessibility of services and facilities; its effect on the character and appearance of the area; and, if the proposal was inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it.

The Inspector agreed with the Council that the proposal would be inappropriate development in the Green Belt and would also lead to the significant loss of openness to the Green Belt.

The Inspector noted that there are very limited services in Fencott and few services and facilities in the nearby village of Murcott such that they are insufficient to meet the day to day needs of the residents, and that the highway adjacent to the site lacks footpaths or street lights, and therefore that future occupiers would be reliant on the private motor car to access key services and facilities. The Inspector therefore concluded that the site was not a suitable location for new housing, and would conflict with the Council's rural housing strategy contained in Local Plan Policies ESD1 and Villages 1. The Inspector held this conclusion would apply irrespective of whether the site was inside or outside the village boundary.

The Inspector found that the proposal would diminish the open rural nature of the site, would comprise encroachment of built development into the open countryside and would adversely affect the character and appearance of the area, conflicting with the Development Plan in that respect.

The Inspector noted that 'substantial weight' needed to be afforded to the harm to the Green Belt, and did not consider that the proposal's ecological benefits, or the need for 1 bedroom dwellings or the proposal's high standard of design, or any other matters, to amount to Very Special Circumstances to outweigh the harm arising from the proposal. Accordingly the Inspector upheld the Council's decision and dismissed the appeal.

2. Dismissed the appeal by Kerry Beckingsale for Change of Use from HMO within Class C4 to 7 bed HMO (sui generis) and new access from Broughton Road. 3 Denbigh Close, Banbury, OX16 0BQ – 19/00848/F Officer recommendation – Refusal (Delegated)

The Inspector considered the main issue to be the effect of the proposed development on highway safety and whether there would be adequate parking provision.

The Inspector noted that the two additional parking spaces proposed at the rear of the property would be accessed from Broughton Road. The Inspector observed that the site is located near the edge of the settlement and, although within the 30 miles per hour (mph) zone, Broughton Road is a relatively busy

road and that vehicles travel at some speed. The Inspector noted that whilst the proposed parking spaces would be of an adequate size, given the lack of manoeuvring space vehicles would either be required to reverse to enter or exit the site, and that this would lead to unacceptable highway safety risk.

In respect of parking provision the Inspector acknowledged the requirements of the Local Highways Authority for 7no spaces to be provided, to serve the proposed development, and that this could not be achieved off-street without the 2 additional spaces being proposed onto Broughton Road. He considered such spaces would be materially harmful to highway safety and further that there would be insufficient space within the cul-de-sac to accommodate displaced vehicles without having an adverse effect on the safety and convenience of existing residents and other highway users.

The Inspector concluded that the proposal would adversely affect highway safety and would not make adequate parking provision, and accordingly the Inspector upheld the Council's decision and dismissed the appeal.

The Inspector also refused the appellant's application for award of costs. The Inspector found that the Council had not failed to properly evaluate the application or consider the merits of the scheme, and therefore it was not the case that the appeal could have been avoided. He found that the Council's concerns about the impact of the proposed development were reasonable and justified its decision. The Inspector concluded that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, had not been demonstrated.

**3. Dismissed the appeal by Mr I Dinev for Erection of single storey porch (Retrospective). 2 Boxhedge Terrace, Boxhedge Road, Banbury, OX16 0BX – 19/00444/F
Officer recommendation – Refusal (Delegated)**

The retrospective proposal was for the erection of a front porch on a property which forms part of a Victorian terrace. The main issues that the Inspector considered were the visual impact on the terrace, the Banbury Conservation Area, and whether it would preserve the significance of other designated and non-designated heritage assets. The Inspector concluded that the uPVC porch is an incongruous feature that adversely affects the character and appearance of the Conservation Area and fails to preserve the significance of the settings of the nearby listed buildings. The Inspector did not consider that there were any public benefits to outweigh the harm identified. The appeal was therefore dismissed.

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,
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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	
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