

# Public Document Pack



**Cherwell**

DISTRICT COUNCIL  
NORTH OXFORDSHIRE

**Committee:** Planning Committee  
**Date:** Thursday 16 July 2020  
**Time:** 4.00 pm  
**Venue:** Virtual meeting

## Membership

### **Councillor James Macnamara (Chairman)**

Councillor Andrew Beere  
Councillor Phil Chapman  
Councillor Conrad Copeland  
Councillor Chris Heath  
Councillor David Hughes  
Councillor Cassi Perry  
Councillor George Reynolds  
Councillor Les Sibley

### **Councillor Maurice Billington (Vice- Chairman)**

Councillor Hugo Brown  
Councillor Colin Clarke  
Councillor Ian Corkin  
Councillor Simon Holland  
Councillor Mike Kerford-Byrnes  
Councillor Lynn Pratt  
Councillor Barry Richards  
Councillor Katherine Tyson

## Substitutes

Councillor Mike Bishop  
Councillor Nick Cotter  
Councillor Timothy Hallchurch MBE  
Councillor Tony Mephram  
Councillor Richard Mould  
Councillor Bryn Williams  
Councillor Sean Woodcock

Councillor John Broad  
Councillor Surinder Dhesi  
Councillor Tony Ilott  
Councillor Ian Middleton  
Councillor Douglas Webb  
Councillor Barry Wood

## 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 - 20)

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

## **Planning Applications**

7. **Bicester Gateway Business Park, Wendlebury Road, Chesterton** (Pages 24 - 75) **20/00293/OUT**

8. **Bicester Heritage Buckingham Road Bicester** (Pages 76 - 121) **19/02708/OUT**

9. **Land South East Of Town And Country Scaffolding Ltd, Tramway Road, Banbury** (Pages 122 - 143) **20/00247/F**

10. **Land To Rear of 1 and 2 Langford Park Cottages, London Road, Bicester** (Pages 144 - 154) **20/01195/F**

11. **112 Mold Crescent, Banbury, OX16 0EU** (Pages 155 - 165) **20/01427/F**

12. **Jamar, 5 Hightown Leyes, Banbury, OX16 9NP** (Pages 166 - 180) **20/01444/F**

13. **Land Adjacent to the Oxford Canal Spiceball Park Road Banbury (1204)** (Pages 181 - 184) **20/01204/DISC**

14. **Land Adjacent to the Oxford Canal, Spiceball Park Road, Banbury (1203)** (Pages 185 - 189) **20/01203/DISC**

15. **General Foods Sports and Social Club, Spiceball Park Road, Banbury, OX16 2PA** (Pages 190 - 193) **20/01104/DISC**

16. **Land Adjacent to the Oxford Canal, Spiceball Park Road, Banbury (1105)** (Pages 194 - 197) **20/01105/DISC**

## **Review and Monitoring Reports**

17. **Appeals Progress Report** (Pages 198 - 202)

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.

## **18. Planning Enforcement Report (Pages 203 - 208)**

Report of Assistant Director Planning and Development

### **Purpose of Report**

To inform Members about planning enforcement cases at CDC and update on the current position following the update in January regarding case numbers and how the team has operated during the COVID19.

### **Recommendation**

The meeting is recommended:

- 1.1 To note the contents of the report.

## **Information about this Agenda**

### **Apologies for Absence**

Apologies for absence should be notified to

[democracy@cherwellandsouthnorthants.gov.uk](mailto: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.

## **Access to Meetings**

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

## **Mobile Phones**

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

## **Queries Regarding this Agenda**

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

**Yvonne Rees**  
**Chief Executive**

Published on Wednesday 8 July 2020



## Cherwell District Council

### Planning Committee

Minutes of a meeting of the Planning Committee held at Virtual meeting, on 18 June 2020 at 2.00 pm

Present: Councillor James Macnamara (Chairman)

Councillor Hugo Brown  
Councillor Phil Chapman  
Councillor Colin Clarke  
Councillor Conrad Copeland  
Councillor Ian Corkin  
Councillor Chris Heath  
Councillor Simon Holland  
Councillor David Hughes  
Councillor Mike Kerford-Byrnes  
Councillor Cassi Perry  
Councillor Lynn Pratt  
Councillor George Reynolds  
Councillor Les Sibley  
Councillor Katherine Tyson

Substitute Members: Councillor Richard Mould (In place of Councillor Maurice Billington)  
Councillor Sean Woodcock (In place of Councillor Andrew Beere)

Apologies for absence: Councillor Maurice Billington  
Councillor Andrew Beere  
Councillor Barry Richards

Officers: Sarah Stevens, Interim Senior Manager – Development Management  
James Kirkham, Principal Planning Officer  
Lewis Knox, Planning Officer  
Bob Neville, Senior Planning Officer  
Samantha Taylor, Principal Planning Officer  
Jennifer Crouch, Solicitor  
Karen Jordan, Deputy Principal Solicitor  
Lesley Farrell, Democratic and Elections Officer

## 25 **Declarations of Interest**

### **8. Land Adjacent to The M40 South of Overthorpe Road Banbury.**

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

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

**9. Bicester Sports Association, The Tudor Jones Building, Akeman Street, Chesterton, Bicester OX26 1TH.**

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

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

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

**10. Land Adj to Bullmarsh Close, Off Middleton Park, Middleton Stoney.**

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

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

Councillor Ian Corkin, Declaration, as a member of the Executive and would leave the chamber for the duration of the item.

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

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

**11. 4 Drapers House, St Johns Road, Banbury, OX16 5BE.**

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

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

26 **Requests to Address the Meeting**

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

27 **Minutes**

The Minutes of the meeting held on 4 June 2020 were agreed as a correct record and would be signed by the Chairman in due course.

28 **Chairman's Announcements**

The Chairman made the following announcement:

1. That the next meeting of the Committee on 16 July 2020 would revert to the starting time of 4pm.

29 **Urgent Business**

There were no items of urgent business.

30 **OS Parcel 3300 North of Railway Line, Adjoining Palmer Avenue, Lower Arccott**

The Committee considered application 20/00871/F for the erection of a free-range egg production unit, gatehouse and agricultural workers dwelling including all associated works at OS Parcel 3300 North of the Railway Line Adjoining Palmer Avenue, Lower Arccott for W Potters & Sons Limited. This was a re-submission of application 19/00644/F.

Richard Corbett, agent for the applicant, addressed the Committee in support of the application.

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

**Resolved**

- (1) That application 20/00871/F be refused for the following reasons:
  1. The proposed permanent dwelling constitutes sporadic residential development in the open countryside, beyond the built-up limits of the nearest settlement, for which it has not been demonstrated that there is an essential need. In its proposed location the dwelling would therefore be an unjustified and unsustainable form of development. As such the proposal is contrary to saved Policies C8 and H18 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.
  2. By virtue of its scale and siting, the proposed development would result in significant and demonstrable harm to the character and appearance of the area, and harm to the landscape character of the area, the enjoyment of users of the nearby Public Right of Way, and this harm significantly and demonstrably outweighs the need for the proposal and the benefits arising from the proposal, including the production of food. The proposal is therefore contrary to Policies ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and saved Policies AG2, C8 and C28 of the Cherwell Local Plan 1996 and government guidance in the National Planning Policy Framework.

3. The applicants have failed to adequately demonstrate that the proposed development would not result in detrimental impacts on the ecological and biodiversity at the site and nearby designated Local Wildlife Sites, and further would not provide a nett gain in biodiversity opportunities at the site. The proposals would also prevent the aims of the Ray Conservation Target Area being achieved. The proposal is therefore contrary to Policies ESD10 and ESD11 of the Cherwell Local Plan 2011-2031 Part 1 and government guidance in the National Planning Policy Framework with regards to 'Conserving and enhancing the natural environment'.
4. The applicants have failed to demonstrate that the proposed development could be undertaken without it causing materially detrimental levels of pollution to the River Ray and ponds within the vicinity of the site. The proposal is therefore contrary to Policy ESD8 of the Cherwell Local Plan 2011-2031 Part 1 and saved Policies AG3, AG4 and ENV1 of the Cherwell Local Plan 1996 and government guidance in the National Planning Policy Framework.
5. By virtue of an inadequate Flood Risk Assessment the applicants have failed to demonstrate that the proposed development would not increase the flooding risk on the site or elsewhere and would remain operational in the event of flooding and therefore does not accord with Policies ESD6 and ESD7 of the Cherwell Local Plan (2011-2031) Part 1.

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### **Land Adjacent To The M40 South Of Overthorpe Road Banbury**

The Committee considered application 20/00608/F for full planning permission for 21,839 sq.m / 235,073 sq.ft. of logistics floorspace within Class B2 or B8 of the Town and Country Planning (Use Classes) Order 1987, with ancillary Class B1(a) offices together with the extension of Chalker Way, access from Chalker Way, associated site infrastructure including lorry parking, fuelling bay and vehicle wash facility (Unit 9 only), landscaping, amenity open space and surface water attenuation works at Land Adjacent to the M40 South of Overthorpe Road, Banbury for Tritax Symmetry Limited.

Peter Frampton, agent for the applicant and Craig Morris from Warburtons, addressed the Committee in support of the application.

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

### **Resolved**

- (1) That authority be delegated to the Assistant Director Planning and Development to grant permission for application 20/00608/F subject to:
  - a) The completion of a planning obligation under section 106 of the Town and Country Planning Act 1990, as substituted by the Planning and Compensation Act 1991, to secure the following (and any amendments as deemed necessary):

- £187,500 (index linked) towards the provision of a local bus service to make necessary improvements to public transport services
- £2,346 (index lined) towards the Travel Plan monitoring
- Land reservation for the South East Relief Road as marked on the submitted plans
- Land reservation for the Western Relief Road as marked on the submitted plans.

b) The following conditions (and any amendments to those conditions deemed necessary):

Conditions:

#### TIME LIMITS AND GENERAL IMPLEMENTATION CONDITIONS

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

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

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

#### DRAWINGS:

Site Location Plan (dwg. no. 6422-180 Rev. A) dated 03 April 2020;

Proposed Site Layout Plan (dwg. no. 6422-181 Rev. A) dated 03 April 2020;

Proposed Site Plan – External Finishes & Fencing (dwg. no. 6422-182 Rev. A) dated 03 April 2020;

Proposed Site Plan Illustrating Constraints (dwg. no. 6422-183 Rev A) dated 03 April 2020;

Unit 9 Proposed Building Plan (dwg. no. 6624-10 Rev. E) dated 03 April 2020;

Unit 9 Proposed Office Floor Plans (dwg. no. 6624-007 Rev. D) dated 03 April 2020;

Unit 9 Proposed Elevations (dwg. no. 6624-11 Rev. E) dated 03 April 2020;

Unit 9 Proposed Roof Plan (dwg. no. 6624-28 Rev. B) dated 03 April 2020;

Unit 10 Proposed Building Plan (dwg. no. 6422-184) dated 02 April 2020;

Unit 10 Proposed Ground, First and Second Floor Office Plan (dwg. no. 6422-185) dated 03 April 2020;

Unit 10 Proposed Elevations (dwg. no. 6422-186) dated 02 April 2020;

Unit 10 Proposed Roof Plan (dwg. no. 6422-187) dated 03 April 2020;  
Planting Plan Overview (dwg. no. 6849/ASP.PP.DBS9.1.0 Rev J) dated 08 April 2020;  
Planting Plan 1 of 3 (dwg. no. 6489/ASP. PP.DBS9.1.1 Rev J) dated 08 April 2020;  
Planting Plan 2 of 3 (dwg. no. 6849/ASP. PP.DBS9.1.2 Rev J) dated 08 April 2020;  
Planting Plan 3 of 3 (dwg. no. 6849/ASP. PP.DBS9.1.3 Rev J) dated 08 April 2020;  
Site Wide Drainage Strategy (dwg. no. C14935-C-002 Rev P6) dated 12 December 2014;  
Drainage Layout Sheet 1 (dwg. no. C08749-HYD-XX-XX-DR-C-3001 Rev. P2) dated 14 May 2020;  
Drainage Layout Sheet 2 (dwg. no. C08749-HYD-XX-XX-DR-C-3002 Rev. P2) dated 14 May 2020;  
Drainage Layout Sheet 3 (dwg. no. C08749-HYD-XX-XX-DR-C-3003 Rev. P2) dated 14 May 2020;  
Drainage Layout Sheet 4 (dwg. no. C08749-HYD-XX-XX-DR-C-3004 Rev. P2) dated 14 May 2020;  
Catchment Plan (dwg. no. C08749-HYD-XX-XX-DR-C-3005 Rev. P2) dated 14 May 2020;  
External Levels Sheet 1 (dwg. no. C08749-HYD-XX-XX-DR-C-3101 Rev. P1) dated 03 April 2020;  
External Levels Sheet 2 (dwg. no. C08749-HYD-XX-XX-DR-C-3102 Rev. P1) dated 03 April 2020;  
External Levels Sheet 3 (dwg. no. C08749-HYD-XX-XX-DR-C-3103 Rev. P1) dated 03 April 2020;  
External Levels Sheet 4 (dwg. no. C08749-HYD-XX-XX-DR-C-3104 Rev. P1) dated 03 April 2020;  
Standard Details sheet 1 (dwg. no. C08749-HYD-XX-XX-DR-C-3010 Rev. P1) dated 03 April 2020;  
Standard Details sheet 2 (dwg. no. C08749-HYD-XX-XX-DR-C-3011 Rev. P1) dated 03 April 2020;  
Standard Details sheet 3 (dwg. no. C08749-HYD-XX-XX-DR-C-3012 Rev. P1) dated 03 April 2020;  
Standard Details sheet 4 (dwg. no. C08749-HYD-XX-XX-DR-C-3013 Rev. P1) dated 03 April 2020;  
Basin Sections (dwg. no. C08749-HYD-XX-XX-DR-C-3105 Rev. P1) dated 03 April 2020;  
External Works Sheet 1 (dwg. no. C08749-HYD-XX-XX-DR-C-3301 Rev. P1) dated 03 April 2020;  
External Works Sheet 2 (dwg. no. C08749-HYD-XX-XX-DR-C-3302 Rev. P1) dated 03 April 2020;  
Dbs9 External Indicative Electrical Services Layout (dwg. no. 190029-RGL-09-GFDR-E-70-0101 D2 Rev. P02) dated 03 April 2020;  
Dbs10 External Indicative Electrical Services Layout (dwg. no. 190029-RGL-10-GFDR-E-70-0001 D2 Rev. P02) dated 03 April 2020;  
Proposed Cycle Shelter (dwg. no. 6422-035) dated 15 August 2019;  
Area for Ecological Mitigation (dwg. no. 6422-115) dated 02 May 2019.

REPORTS:

Design and Access Statement by AJA Architects dated April 2020;  
Planning Statement by Framptons ref: PF/10353 dated April 2020;

Flood Risk Assessment by Hydrock ref: C08749-HYD-XX-XX-RP-D-5001 Rev P02 dated 08 April 2020;  
Technical Note - Drainage Strategy by Hydrock ref: C08749-HYD-XX-XX-RP-C-301 Rev P1 dated 03 April 2020;  
Transport Assessment Addendum by Hydrock ref: C08749-HYD-XX-XX-RP-TP1002-P07 dated 08 April 2020;  
Framework Travel Plan by Hydrock ref: C08749-HYD-XX-XX-RP-TP-6002 Rev P02 dated 08 April 2020;  
Landscape and Ecology Management Plan by Aspect Landscape Planning ref: 6489.LEMP.003.VF dated May 2020;  
Biodiversity Impact Assessment by The Environmental Dimension Partnership ref: edp1419\_r019e received 09 April 2020;  
Reptile Mitigation Strategy Addendum by The Environmental Dimension Partnership ref: edp1419\_r014e dated April 2020;  
Landscape and Visual Impact Assessment Addendum by Aspect Planning ref: 6489.LVIA Addendum.003\_Phase 4 (9+10) dated April 2020;  
Arboricultural Impact Assessment by Aspect Arboriculture ref: 10057\_AIA.001 Rev F dated 08 April 2020;  
Arboricultural Method Statement by Aspect Arboriculture ref: 10057\_AMS.001 dated May 2020;  
External Lighting Report by Rolton Group ref: 19-0029 Rev P09 dated 07 April 2020;  
Noise Assessment Technical Note by RSK Environment Ltd ref: 297918-RSK-TN 002(02) dated 08 April 2020;  
Construction Environmental Management Plan by The Environmental Dimension Partnership ref: edp1419\_r0020a dated May 2020;  
Construction Method Statement by A&H Construction and Developments PLC Ver 1 dated 12 May 2020;  
Heritage Assessment by Archaeology Collective Ref: AC947A, Issue 2, dated April 2019;  
Archaeological Evaluation by Thames Valley Archaeological Services Ref: ORB 15/150 dated September 2019;  
Archaeological Written Scheme of Investigation (trial trenching) by Thames Valley Archaeological Services Ref: ORB 15/150evph4 dated 13 February 2018;  
Archaeological Written Scheme of Investigation (geophysical survey) by Thames Valley Archaeological Services Ref: ORB 15/150geo dated 13 February 2018;  
Archaeological Written Scheme of Investigation (archaeological excavation) by Thames Valley Archaeological Services Ref: ORB 15/150exc dated 28 October 2019;  
Ecological Appraisal by The Environmental Dimension Partnership ref: edp1419\_r015d dated April 2019;  
Phase 1 Desk Study by Hydrock ref C08779-HYD-XX-XX-RP-GE-1000-P02-S2 dated 29 April 2019;  
Odour Assessment by RSK Environment Ltd Ref: 443276-01(02) dated 08 April 2019;  
Vibro Method Statement by Trittech received 28 May 2020

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

3. The development shall be implemented in accordance with the approved Construction Method Statement by A&H Construction and Developments PLC Ver 1 dated 12 May 2020 unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the environment is protected during construction in accordance with Policy G3 of the South Northamptonshire Local Plan, Policy ENV1 of the Cherwell Local Plan 1996, and Government guidance contained within the National Planning Policy Framework.

4. The development shall be implemented in accordance with the approved Construction Environmental Management Plan by The Environmental Dimension Partnership ref: edp1419\_r0020a dated May 2020 unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy BN2 of the West Northamptonshire Joint Core Strategy, Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1, and Government guidance contained within Section 15 of the National Planning Policy Framework.

5. The development shall be carried out in accordance with the approved Landscape and Ecology Management Plan by Aspect Landscape Planning ref: 6489.LEMP.003.VF dated May 2020 unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy BN2 of the West Northamptonshire Joint Core Strategy, Policy ESD10 of Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within Section 15 of the National Planning Policy Framework.

6. All site clearance (including the removal of any vegetation or works to hedgerows) should be timed so as to avoid the bird nesting season, this being during the months of March until August inclusive unless alternative provisions have been previously agreed in writing by the Local Planning Authority.

Reason: To ensure that the development will conserve and enhance the natural environment and will not cause significant harm to any protected species or its habitat in accordance with the Government's aim to achieve sustainable development as set out in Section 15 of the National Planning Policy Framework.

7. The development hereby permitted shall be carried out in accordance with the recommendations set out in the Ecological Appraisal dated April 2019, ref. edp1419\_r015d; the Reptile Mitigation Strategy Addendum by The Environmental Dimension Partnership ref: edp1419\_r014e dated April 2020; and the Area for Ecological Mitigation dwg. no. 6422-115 dated 02 May 2019 unless otherwise agreed in writing by the Local Planning Authority.



Reason: To protect habitats and/or species of importance to nature conservation from significant harm in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and the Government's aim to achieve sustainable development as set out in Section 15 of the National Planning Policy Framework.

#### PRE-COMMENCEMENT CONDITIONS

8. If the development hereby approved does not commence by April 2021, no development shall take place until a revised ecological appraisal has been undertaken to establish changes in the presence, abundance and impact of protected species. The survey results, together with any necessary changes to the mitigation plan or method statement shall be submitted to and approved in writing the Local Planning Authority prior to any development taking place. Thereafter, the development shall be carried out in accordance with the approved details.

Reason: To ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy BN2 of the West Northamptonshire Joint Core Strategy, Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

9. No development shall take place until the existing tree(s) to be retained in accordance with Planting Plan Overview (dwg. no. 6849/ASP.PP.DBS9.1.0 Rev J) dated 08 April 2020 have been protected in accordance with the Arboricultural Impact Assessment by Aspect Arboriculture ref: 10057\_AIA.001 Rev F dated 08 April 2020 and the Arboricultural Method Statement by Aspect Arboriculture ref: 10057\_AMS.001 dated May 2020 unless otherwise agreed in writing by the Local Planning Authority. The barriers shall be erected before any equipment, machinery or materials are brought onto the site for the purposes of development and shall be maintained until all equipment machinery and surplus material has been removed from the site. Nothing shall be stored or placed within the areas protected by the barriers erected in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavations be made, without the written consent of the Local Planning Authority.

Reason: To ensure the continued health of retained trees/hedges and to ensure that they are not adversely affected by the construction works, in the interests of the visual amenity of the area, to ensure the integration of the development into the existing landscape and to comply with Policies G3(A) and EV21 of the South Northamptonshire Local Plan, 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. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

10. No development shall take place within the area of archaeological interest (as outlined in orange on the County Archaeologist's plan provided with the consultation response dated 15th October 2019) until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority. This written scheme will include the following components, completion of each of which will trigger the phased discharging of the condition:

- (i) Approval of a Written Scheme of Investigation;
- (ii) Fieldwork in accordance with the agreed Written Scheme of Investigation;
- (iii) Completion of a Post-Excavation Assessment report and approval of an approved Updated Project Design: to be submitted within six months of the completion of fieldwork, unless otherwise agreed in advance with the Local Planning Authority;
- (iv) Completion of analysis, preparation of site archive ready for deposition at a store (Northamptonshire ARC) approved by the Local Planning Authority, production of an archive report, and submission of a publication report: to be completed within two years of the completion of fieldwork, unless otherwise agreed in advance with the Local Planning Authority.

Reason: To ensure that features of archaeological interest are properly examined and recorded, and the results made available, in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and the NPPF Paragraph 199. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

11. No development shall take place until details of the surface water attenuation have been submitted to and agreed in writing by the Local Planning Authority. The surface water attenuation shall be implemented in accordance with the agreed scheme unless otherwise agreed in writing by the Local Planning Authority prior to its implementation.

Reason: To protect the adjacent railway from the risk of flooding, pollution and soil instability in accordance with Policies ESD6 and ESD7 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in the NPPF. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

12. No development shall take place until full details of ground levels, earthworks and excavations to be carried out near to the railway boundary have been submitted to and approved in writing by the Local Planning Authority. All changes to ground levels, earthworks and excavations close to the railway boundary shall be carried out in accordance with the approved scheme unless otherwise agreed in writing by the Local Planning Authority prior to the commencement of those works.

Reason: To protect the adjacent railway from soil instability, in accordance with Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

**CONDITIONS REQUIRING APPROVAL OR COMPLIANCE BEFORE SPECIFIC CONSTRUCTION WORKS TAKE PLACE**

13. No development shall take place above slab level until full details of the surface water drainage scheme for the site, based on the approved Technical Note - Drainage Strategy by Hydrock ref: C08749-HYD-XX-XX-RP-C-301 Rev P02 dated 14 May 2020 have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:
- a) Details (i.e. designs, diameters, invert and cover levels, gradients, dimensions and so on) of all elements of the proposed drainage system, to include pipes, inspection chambers, outfalls/inlets and attenuation basins;
  - b) Cross sections of all control chambers (including site specific levels mAOD) and manufacturers' hydraulic curves for all hydrobrakes and any other flow control devices; and
  - c) A detailed scheme for the maintenance and upkeep of every element of the surface water drainage system proposed on the site.

Reason: To ensure that the development/site is served by sustainable arrangements for the disposal of surface water, to comply with Policy G3(M) of the South Northamptonshire Local Plan, Policy BN7 of the West Northamptonshire Joint Core Strategy, Policies ESD5 and ES7 of the Cherwell Local Plan 2011-2031 Part 1 and Government advice in the National Planning Policy Framework.

14. No development shall take place above slab level until a detailed scheme for the ownership and maintenance of every element of the surface water drainage system proposed on the site has been submitted to and approved in writing by the Local Planning Authority and the maintenance plan shall be carried out in full thereafter. The scheme shall include:
- a) a maintenance schedule setting out which assets need to be maintained, at what intervals and what method is to be used;
  - b) a site plan including access points, maintenance access easements and outfalls;
  - c) maintenance operational areas to be identified and shown on the plans, to ensure there is room to gain access to the asset, maintain it with appropriate plant and then handle any arisings generated from the site;
  - d) details of expected design life of all assets with a schedule of when replacement assets may be required; and
  - e) details of which organisation or body will be the main maintaining body where the area is multifunctional (e.g. open space play areas)

containing SuDS), with evidence that the organisation/body has agreed to such adoption.

Reason: To ensure that the development/site is served by sustainable arrangements for the disposal of surface water, to comply with Policy G3(M) of the South Northamptonshire Local Plan, Policy BN7 of the West Northamptonshire Joint Core Strategy, Policies ESD6 and ESD7 of the Cherwell Local Plan 2011-2031 Part 1 and Government advice in the National Planning Policy Framework.

15. No development shall take place above slab level until full details of the fire hydrants and/or sprinklers to be provided on the site have been submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the first occupation of the development, the fire hydrants and sprinklers shall be provided in accordance with the approved details and retained as such thereafter.

Reason: To ensure adequate water infrastructure provision is made on site for the local fire service to tackle any property fire in accordance with Government Guidance contained within the National Planning Policy Framework.

16. Details of the proposed construction, materials and surfacing of the access road and its junction with the public highway shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of those works. The development shall be carried out in accordance with the approved details before first occupation of the building(s) and thereafter permanently maintained as such.

Reason: In the interests of highway safety, to comply with Policy G3(B) of the South Northamptonshire Local Plan, Policy SLE4 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in Section 12 of the National Planning Policy Framework

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

Reason: To ensure that any ground and water contamination is identified and adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Policy G3(E) of the South Northamptonshire Local Plan, Policy BN9 of the West Northamptonshire Joint Core, Policy PSD1 of the Cherwell Local Plan 2011-2031 Part 1, Policy ENV1 of the Cherwell Local Plan 1996, and Section 15 of the National Planning Policy Framework.

18. The existing trees and hedge along the northern boundary of the site shall be retained in accordance with the approved landscaping plans:

(Planting Plan overview dwg. no. 6849/ASP.PPDBS9.1.0 Rev G dated 23 September 2019; Planting Plan 1 dwg. no. 6849/ASP.PPDBS9.1.1 Rev G dated 23 September 2019; Planting Plan 1 dwg. no. 6849/ASP.PPDBS9.1.3 Rev G dated 23 September 2019; and the approved Landscape Management Plan Ref: 6489.Land.Man.002 dated April 2019 unless otherwise agreed in writing by the Local Planning Authority.

Reason: To provide an effective and attractive screen for the development in the interests of visual amenity and to accord with Policies G3(L) and EV29 of the South Northamptonshire Local Plan and policies ESD10 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1.

19. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building(s) or on the completion of the development, whichever is the sooner, and shall be maintained in accordance with the approved Landscape and Ecology Management Plan by Aspect Landscape Planning ref: 6489.LEMP.003.VF dated May 2020. Any trees and/or shrubs which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent for any variation.

Reason: To ensure that the agreed landscaping scheme is maintained over a reasonable period that will permit its establishment in the interests of visual amenity and to accord with Policies G3(L) and EV29 of the South Northamptonshire Local Plan, Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

20. All species used in the planting proposals associated with the ecological mitigation area as identified in the Area for Ecological Mitigation dwg. no. 6422-115 dated 02 May 2019 shall be native species of UK provenance.

Reason: To conserve and enhance biodiversity and prevent the spread of non-native species in accordance with Policy BN2 of the West Northamptonshire Joint Core Strategy, Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within Section 15 of the National Planning Policy Framework.

21. The development hereby permitted shall be constructed to at least a BREEAM Very Good standard.

Reason: To ensure energy and resource efficiency practices are incorporated into the development in accordance with the Government's aim to achieve sustainable development as set out in the National Planning Policy Framework and Policy ESD3 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained in the NPPF.

CONDITIONS REQUIRING APPROVAL OR COMPLIANCE BEFORE OCCUPATION

22. Prior to the first use or occupation of the development hereby approved, the proposed access, parking, turning, loading and unloading facilities shall be provided in accordance with the approved plans. The access, parking, turning, loading and unloading facilities shall thereafter be retained for use in connection with the development for those purposes only.

Reason: In the interests of highway safety, to ensure the provision of adequate offstreet car parking and turning/loading/unloading to comply with Policy G3(B) of the South Northamptonshire Local Plan, Policy SLE4 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in Section 12 of the National Planning Policy Framework.

23. Prior to the first use or occupation of the development hereby approved, details of a turning area to be provided within the application site so that buses may turn around with the site, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first occupation of the development, the turning area shall be provided in accordance with the approved details and shall be retained for the manoeuvring of buses at all times thereafter.

Reason: In the interests of sustainability, to ensure a satisfactory form of development and to comply with Policy SLE4 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in Section 12 of the National Planning Policy Framework.

24. Prior to the first use or occupation of the development hereby approved, the walls and roofs of the buildings hereby approved shall be finished and thereafter maintained in accordance with the colour scheme approved as set out in drawings ref: Unit 9 Proposed Elevations (dwg. no. 6624-11 Rev. E) dated 03 April 2020 and Unit 10 Proposed Elevations (dwg. no. 6422-186) dated 02 April 2020 unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to safeguard the visual amenities of the area in accordance with Policy G3(A) of the South Northamptonshire Local Plan and ESD15 of the Cherwell Local Plan 2011-2031 Part 1.

25. Prior to the first use or occupation of the development hereby approved, the external lighting/security lighting/floodlighting (including the design, position, orientation and any screening of the lighting) shall be implemented in accordance with the approved External Lighting Report by Rolton Group ref: 19-0029 Rev P09 dated 07 April 2020. The lighting shall be installed and operated in accordance with the approved scheme at all times thereafter unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of visual amenity and highway safety and to comply with Polcy EV35, Appendix A of the South Northamptonshire Local Plan, Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government advice in The National Planning Policy Framework.

26. Prior to the first use or occupation of the development hereby approved, a Verification Report for the installed surface water drainage system for the site shall have been submitted in writing by a suitably qualified independent drainage engineer and approved by the Local Planning Authority based on the approved Technical Note Drainage Statement ref Drainage Strategy by Hydrock ref: C08749-HYD-XX-XX-RP-C-301, Issue No. P02 dated 14th May 2020. The report shall include:

- a) Any departure from the agreed design is keeping with the approved principles
- b) Any As-Built Drawings and accompanying photos
- c) Results of any Performance Testing undertaken as a part of the application process (if required / necessary)
- d) Copies of any Statutory Approvals, such as Land Drainage Consent for Discharges etc.
- e) Confirmation that the system is free from defects, damage and foreign objects

Reason: To ensure the installed Surface Water Drainage System is satisfactory and in accordance with the approved reports for the development site, to comply with Policy ESD7 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained in the NPPF.

27. Prior to the first use or occupation of the development hereby approved, either:

- a) all water network upgrades required to accommodate the additional flows from the development shall have been completed; or
- b) an infrastructure phasing plan shall have been agreed with Thames Water to allow additional properties to be occupied. Where an infrastructure phasing plan is agreed no occupation shall take place other than in accordance with the agreed 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, in accordance with Policy ESD8 and INF1 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in the NPPF.

28. Prior to the first use or occupation of the development hereby approved, the development shall be fully implemented and carried out in accordance with the submitted flood risk assessment (FRA) (by Hydrock ref: C08749-HYD-XX-XX-RP-D-5001 Rev P02 dated 08 April 2020), including its timing/phasing arrangements dated 15 April 2019 and the following mitigation measures it details:

- Finished floor levels shall be set no lower than 90.00 metres above Ordnance Datum (AOD)
- Compensatory storage shall be provided to demonstrate no loss of flood plain storage or detrimental impact to third party land as per section 4.2.3 of the FRA.

The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development and future occupants and to prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided in accordance with Policy ESD6 of the Cherwell Local Plan 2011-2031 Part 1 and Section 14 of the NPPF.

**ONGOING REGULATORY CONDITIONS TO BE COMPLIED WITH AT ALL TIMES**

29. No external lighting shall be installed at any time within the ecological mitigation area as identified on plan no. 6422-115 dated 02/05/2019 without the express planning permission of the Local Planning Authority.

Reason: To ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy BN2 of the West Northamptonshire Joint Core Strategy, Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

30. The buildings hereby approved shall be used only for purposes falling within Classes B2 and/or B8 with ancillary office space as specified in the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) or in any provision equivalent to that class in any statutory instrument revoking, amending or re-enacting that order and for no other purpose(s) whatsoever.

Reason: To ensure that there is adequate on-site parking provision in the interests of highway safety and to protect the vitality and viability of the town centre in accordance with Policies G3(B) and R6 of the South Northamptonshire Local Plan and Policies SLE1, SLE4 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1.

31. Notwithstanding the provisions of section 55 (2A) of the Town and Country Planning Act 1990 (as amended by Section 49 of the 2004 Act), Part 10 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) and Part 7, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), no internal operations increasing the floor space available within the buildings hereby permitted shall be carried out without the prior planning permission of the Local Planning Authority.

Reason: To enable the Local Planning Authority to retain planning control over the provision of additional floorspace in order to maintain a satisfactory layout and sustain an adequate overall level of parking provision and servicing on the site in accordance with Policy G3 of the South Northamptonshire Local Plan, Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.



32. Notwithstanding the provisions of Part 7, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting or amending that order) the approved buildings shall not be extended without the prior planning permission of the Local Planning Authority.

Reason: To enable the Local Planning Authority to retain planning control over the development of this site in order to safeguard the amenities of the area and to sustain a satisfactory overall level of parking provision and servicing on the site in accordance with Policy G3 of the South Northamptonshire Local Plan and Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1.

33. No goods, materials, plant or machinery shall be stored, repaired, operated or displayed outside the buildings unless otherwise approved in writing by the Local Planning Authority.

Reason: In order to safeguard the visual amenities of the area in accordance with Policy G3(A) of the South Northamptonshire Local Plan and ESD15 of the Cherwell Local Plan 2011-2031 Part 1.

32 **Bicester Sports Association, The Tudor Jones Building, Akeman Street, Chesterton, Bicester OX26 1TH**

The Committee considered application 19/00934/F for the change of use of agricultural land and extension of the existing Bicester Sports Association facilities for enhanced sports facilities including relocation and reorientation of existing pitches and archery zone, 2no training pitches with floodlighting, 2no match pitches, new flexible sports pitch, new rugby training grids, new clubhouse with events space, new rifle and shooting range, cricket scorers building, storage and maintenance buildings and provision of associated car parking, amended access, landscaping and other associated works at Bicester Sports Association, The Tudor Jones Building, Akeman Street, Chesterton, Bicester OX26 1TH for Bicester Sports Association.

Councillor Barry Wood, Local Ward Member addressed the Committee.

Roger Wise, Bicester Town Football Club supporter addressed the Committee in objection to the application.

John Malins, representing Bicester Sports Association (the applicant), addressed the Committee in support of the application.

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

**Resolved**

- (1) That application 19/00934/F be refused for the following reasons:
1. The proposed development would result in the creation of a

significant replacement recreation facility to serve Bicester and the surrounding area in a geographically unsustainable location. It has no access via public transport and poor walking and cycling routes and would not reduce the need to travel or be accessible or offer a genuine choice of alternative travel modes over the private motor vehicle. The site would therefore not be an appropriate location for this scale of development whether considered as a replacement facility or a new facility. The proposal therefore conflicts with Policies SLE4, ESD1 and BSC10 of the Cherwell Local Plan Part 1 (2015) and Government guidance in the National Planning Policy Framework.

2. The proposed development would detrimentally impact on the rural character and appear of the area by virtue of being a prominent and visually intrusive form of development in an open countryside location. The proposal is therefore contrary to Policy ESD13 and ESD15 of the Cherwell Local Plan Part 1 (2015) and Saved Policy C8 and C28 of the Cherwell Local Plan 1996 and Government guidance in the National Planning Policy Framework.

33 **Land Adj to Bullmarsh Close, Off Middleton Park, Middleton Stoney**

The Committee considered application 20/01223/NMA for changes to eaves and windows to the rear elevation and a simplification of the ridge (proposed as non-material amendments to application 19/01709/CDC) at land adjacent to Bullmarsh Close, off Middleton Park, Middleton Stoney for Cherwell District Council.

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 for application 20/01223/NMA for the proposed change as a non-material amendment in accordance with drawings numbered 2002 P1, 3001 P1, 5001 P1 and 5002 P1.

34 **4 Drapers House, St Johns Road, Banbury, OX16 5BE**

The Committee considered application 20/00693/LB to replace 2 No. timber windows at 4 Drapers House, St Johns Road, Banbury, OX16 5BE for Mr Stephen Reynolds.

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

**Resolved**

- (1) That authority be delegated to the Assistant Director Planning and Development to grant permission for application 20/00693/LB subject

to the following conditions (and any amendments to those conditions 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: Indicative Existing Window Refurbishment, Elevation Drawings, Block Plan, Site Location Plan and Application Form

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.

#### **Window Details**

3. Prior to the commencement of the development, full details of the 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. Thereafter the windows shall be installed within the building in accordance with the approved details.

Reason - To ensure that the completed development is in keeping with and conserves the special character of the existing historic building and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C18 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

## 35 **Appeals Progress Report**

The Assistant Director 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.

Planning Committee - 18 June 2020

The meeting ended at 4.15 pm

Chairman:

Date:

## CHERWELL DISTRICT COUNCIL

### PLANNING COMMITTEE

16 July 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**

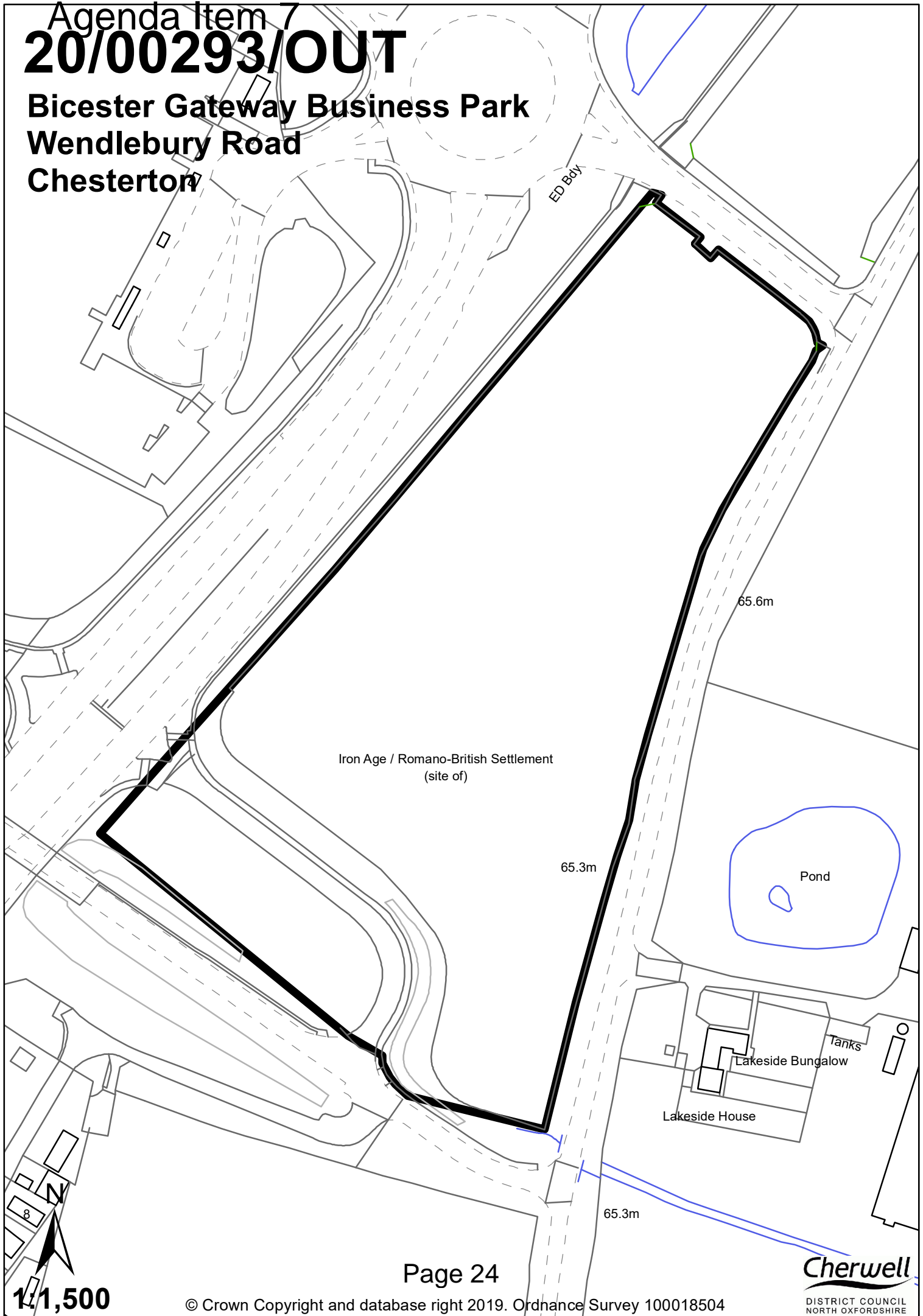
For each of the applications listed are: the application form; the accompanying certificates and plans and any other information provided by the applicant/agent; representations made by bodies or persons consulted on the application; any submissions supporting or objecting to the application; any decision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

	<b>Site</b>	<b>Application No.</b>	<b>Ward</b>	<b>Recommendation</b>	<b>Contact Officer</b>
7	Bicester Gateway Business Park Wendlebury Road Chesterton	20/00293/OUT	Fringford and Heyfords	*Grant Permission	Caroline Ford
8	Bicester Heritage, Buckingham Road, Bicester	19/02708/OUT	Launton and Otmoor	*Grant Permission	Rebekah Morgan
9	Land South East of Town and Country Scaffolding Ltd, Tramway Road, Banbury	20/00247/F	Banbury Grimsbury and Hightown	*Grant Permission	James Kirkham
10	Land to rear of 1 and 2 Langford Park Cottages, London Road, Bicester	20/01195/F	Bicester South and Ambrosden	Refusal	George Smith
11	112 Mold Crescent, Banbury, OX16 0EU	20/01427/F	Banbury Ruscote	*Grant Permission	Bob Neville
12	Jamar, 5 Hightown Leyes, Banbury OX16 9NP	20/01444/F	Banbury Grimsbury and Hightown	*Grant Permission	Bob Nebille
13	Land Adjacent to the Oxford Canal, Spiceball Park Road Banbury	20/01204/DISC	Banbury Cross and Neithrop	*Grant Permission	Samantha Taylor
14	Land Adjacent to the Oxford Canal, Spiceball Park Road Banbury	20/01203/DISC	Banbury Cross and Neithrop	*Grant Permission	Samantha Taylor
15	General Foods Sports and Social Club, Spiceball Park Road, Banbury, OX16 2PA	20/01104/DISC	Banbury Cross and Neithrop	*Grant Permission	Samantha Taylor

16	Land Adjacent to the Oxford Canal, Spiceball Park Road, Banbury	20/01105/DISC	Banbury Cross and Neithrop	*Grant Permission	Samantha Taylor
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Agenda Item 7  
**20/00293/OUT**

**Bicester Gateway Business Park  
Wendlebury Road  
Chesterton**



Iron Age / Romano-British Settlement  
(site of)

65.6m

Pond

65.3m

Tanks

Lakeside Bungalow

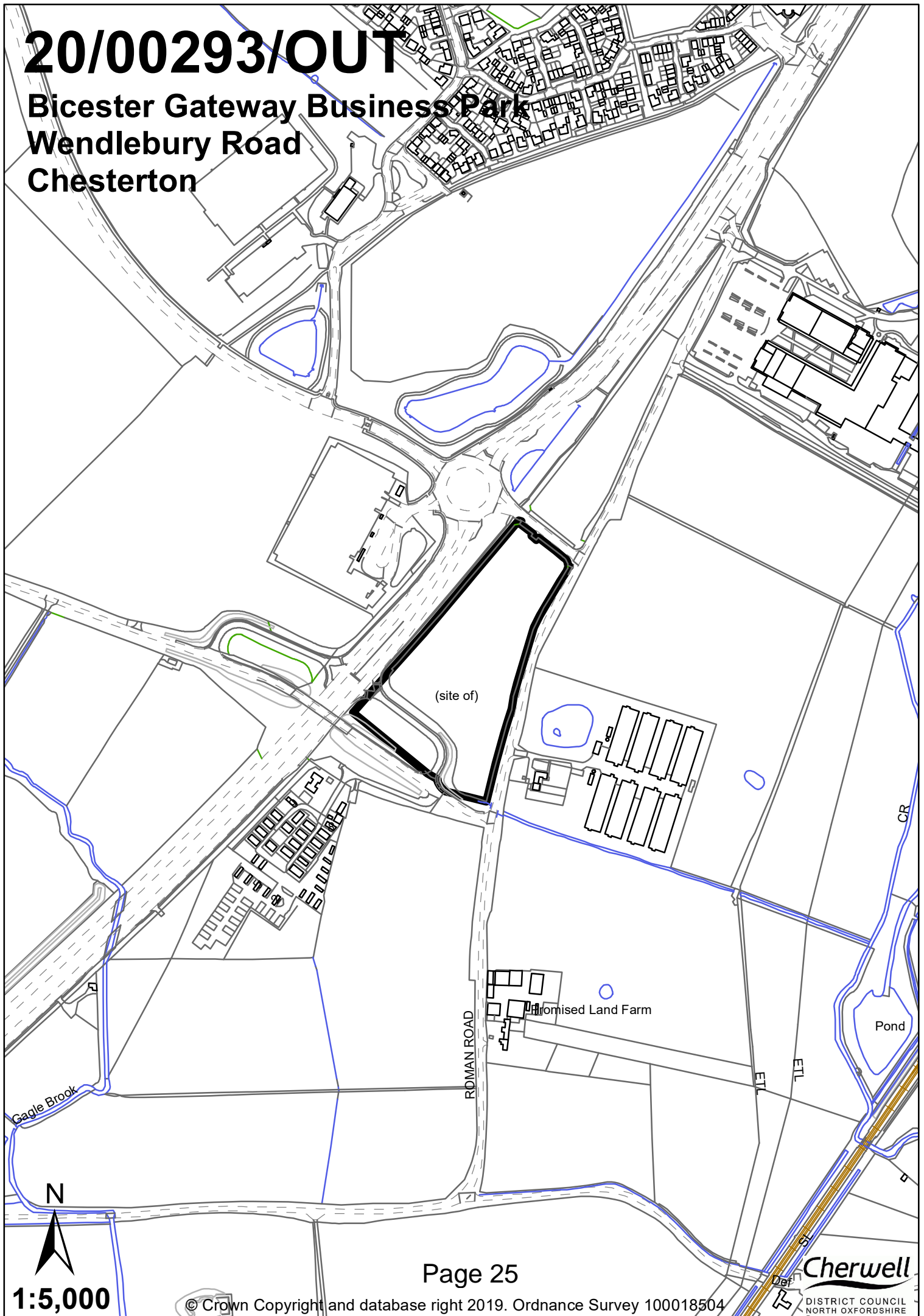
Lakeside House

65.3m



# 20/00293/OUT

## Bicester Gateway Business Park Wendlebury Road Chesterton



**Case Officer:** Caroline Ford

**Applicant:** Mr Cutler

**Proposal:** Outline application (Phase 1B) including access (all other matters reserved) for approximately 4,413 sqm B1 office space (47,502 sqft) GIA, up to 273 residential units (Use Class C3) including ancillary gym, up to 177 sqm GIA of café space (Use Class A3), with an ancillary, mixed use co-working hub (794 sqm/ 8,550 sqft GIA), multi-storey car park, multi-use games area (MUGA), amenity space, associated infrastructure, parking and marketing boards

**Ward:** Fringford and Heyfords

**Councillors:** Councillors Corkin, Councillor Macnamara and Councillor Wood

**Reason for Referral:** Major development and departure from adopted development plan

**Expiry Date:** 1 August 2020

**Committee Date:** 16 July 2020

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### **EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION**

**RECOMMENDATION: TO GRANT PLANNING PERMISSION SUBJECT TO CONDITIONS AND THE COMPLETION OF A S106 LEGAL AGREEMENT, THE PRECISE FORM AND WORDING OF THE CONDITIONS AND HEADS OF TERMS OF THE LEGAL AGREEMENT TO BE AGREED BY PLANNING COMMITTEE NO LATER THAN END OF OCTOBER 2020 AND PRIOR TO THE LEGAL AGREEMENT BEING COMPLETED AND THE PLANNING PERMISSION ISSUED.**

#### **Proposal**

The application seeks outline permission with all matters reserved except access for a development of up to 4,413sqm B1 office space (Gross Internal Area – GIA), up to 273 residential units (class C3), an ancillary gym and a mixed use co-working hub, approximately 177sqm of café space, multi storey car park, multi-use games area (MUGA), amenity space, associated infrastructure, parking and marketing boards.

#### **Consultations**

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

- Wendlebury Parish Council, OCC Transport (The OCC Transport objection is expected to be resolved)

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

- Chesterton Parish Council, Bicester Town Council, CDC Ecology, CDC Licensing, OCC Drainage, OCC Archaeology, OCC Education, Thames Valley Police Crime Prevention Design Advisor, Thames Water

The following consultees **have raised comments, made a S106 request or have raised concerns** in relation to the application:

- Bicester Bike Users Group, CDC Planning Policy, CDC Economic Development,

CDC Strategic Housing, CDC Landscape, CDC Arboriculture, CDC Building Control, CDC Public Rights of Way, CDC Recreation and Leisure, CDC Environmental Protection, Oxfordshire Clinical Commissioning Group, Historic England, Natural England.

4 letters from interested parties have been received.

### **Planning Policy and Constraints**

The application site comprises land partly within and partly adjacent to the allocated site Bicester 10: Bicester Gateway. The land has a public right of way running through it and recorded site constraints include that the land has the potential for archaeology and ecology and to be contaminated. A Scheduled Ancient Monument (Alchester Roman Town) is to the south east of the site.

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:

- Environmental Impact Assessment
- Principle of development
- Transport
- Landscape and Arboricultural matters
- Design and impact on the character of the area
- Heritage impact
- Residential amenity
- Ecology impact
- Flood Risk and Drainage
- Environmental Matters
- Energy Efficiency and Sustainability
- Planning Obligations

The report looks into the key planning issues in detail, and Officers conclude that the proposal is acceptable in principle subject to conditions and the completion of a satisfactory S106 legal agreement to ensure that the impacts of the development are adequately mitigated and provided for.

**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 situated to the south of Bicester and forms a contained parcel of land 3.18ha in area positioned to the east of the A41, west of Wendlebury Road, north of an unnamed road leading to Chesterton and south of Shouler Way which links Wendlebury Road to the A41/ Vendee Drive roundabout.
- 1.2. The site is an open grassland field and contains the unused slip way to the A41. The land is surrounded by mature hedgerows, except for the northern boundary and has greater levels of vegetation to the south of the site. The land is relatively flat with some variation across the site with levels increasing on the parcel to the south of the

unused slip way to adjoin the unnamed road to Chesterton which itself rises to cross the A41 on a bridge.

- 1.3. To the north east of the site is the Bicester Avenue Garden Centre and to the south is open countryside also including Bicester Trailer Park and the site of the Alchester Roman Town Scheduled Ancient Monument is to the south east. To the west, beyond the A41 is the Bicester Park and Ride site and to the north west is the residential led development at Kingsmere.
- 1.4. The land is included within and adjacent to the allocated site Bicester 10: Bicester Gateway. The allocation is for a knowledge economy employment development for B1 Business Uses (high tech knowledge industries which may include offices, light industrial, and research and development facilities). It anticipates the creation of approximately 3,500 jobs although it acknowledges that site constraints may reduce numbers slightly.
- 1.5. The Policy Bicester 10 allocation has been brought forward in parts. The land to the west of Wendlebury Road (which includes the application site) comprises two parcels of land with outline permission having been granted; the northern parcel (Phase 1a) for a hotel (with reserved matters permission having been granted for it) and the southern parcel (Phase 1b) for B1 employment development including a small parcel of unallocated land to the south outside the land allocated.
- 1.6. The land to the east of Wendlebury Road has been the subject of two planning applications, which were resolved to be approved by the Planning Committee on the 21 May 2020. The first for B1 development and a David Lloyd Health Club on land allocated by Policy Bicester 10 and the second for further B1 development on the adjacent chicken farm which sits outside of the Bicester 10 allocation. Together these applications are referred to as Phase 2.
- 1.7. This application seeks an alternative proposal for Phase 1b. The outline permission for Phase 1b remains extant, with the ability to submit an application for reserved matters permission until 26 July 2022. The current application includes an additional parcel of land to the south of the previous site area for Phase 1b, which comprises the unused slipway to the A41 and a small parcel of land between that and the unnamed road to Chesterton.

## **2. CONSTRAINTS**

- 2.1. The application site includes a public right of way which runs across the site in the south eastern corner between the unused slip way and the Wendlebury Road, the land is potentially contaminated, it has archaeological potential particularly in the southern part of the site and it also has some potential for ecology. There are also drainage ditches close to the site. A Scheduled Ancient Monument (Alchester Roman Town) is to the south east of the site nearby.

## **3. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 3.1. The application seeks outline permission with all matters reserved except access for a development of up to 4,413sqm B1 office space GIA (Gross Internal Area), up to 273 residential units (class C3), an ancillary gym and a mixed use co-working hub, approximately 177sqm of café space, multi storey car park, multi-use games area (MUGA), amenity space, associated infrastructure, parking and marketing boards.
- 3.2. The submitted information demonstrates the provision of the B1 office space, café and multi storey car park and 33 residential units provided on the most northern part

of the site, with the rest of the residential development to the southern part of the site.

- 3.3. The submitted regulating plan shows the broad location for the uses proposed, the height parameters for approval, the main pedestrian and cycle linkages in and around the site, the key elevations in terms of design and identifying the archaeological constraints.
- 3.4. In terms of heights, the proposals generally follow the heights indicated in the supporting information for the original outline for the site (16/02586/OUT) (14m), although a greater height is now proposed set back from the edges of the buildings up to 17.5m. In addition, a greater height at the north western corner of the site to reflect the hotel opposite (17.2m) with a set back allowing for a height up to 19.6m is now proposed. The area adjacent to the Wendlebury Road identified for development is proposed to a maximum height of 8m.
- 3.5. The housing units are indicatively proposed as 40 studio flats, 138 1 bedroom units and 95 2 bedroom units.
- 3.6. The access arrangements for the site include two 'T' junctions taking access from the Wendlebury Road as well as the provision of an offsite footway/ cycleway to run south along the western side of the site (alongside the A41) with this extended along the disused slip road to the Wendlebury Road. The proposal also indicates footway and cycle linkages achievable onto the Wendlebury Road side.
- 3.7. The applicant is presenting the development to be an 'innovation community' supporting the knowledge-based economy employment sought by Policy Bicester 10 and seeks to accommodate entrepreneurs and young professionals on a live/ work basis.

#### **4. RELEVANT PLANNING HISTORY**

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

##### Phase 1 (a and b)

16/02586/OUT – Permitted – Phase 1 of the proposed new business park ("Bicester Gateway") comprising up to 14,972 sq m (Gross External Area) of B1 employment-based buildings, plus a hotel (up to 149 bedrooms), with associated infrastructure, car parking and marketing boards.

17/02557/REM – Permitted – Reserved matters to 16/02585/OUT – Erection of hotel and associated works.

##### Phase 2

19/01740/HYBRID – Resolved to be Approved – 'Hybrid' planning application comprising: - Outline planning permission (all matters reserved except for access) for B1 development (Use Classes B1a and/or B1b and/or B1c); highway works (including provision of a new roundabout at the junction between Vendee Drive and Wendlebury Road); creation of a wetland and landscaped areas and associated infrastructure works. - Full planning permission for a health and racquets club, associated access and car parking, outdoor tennis courts, air dome, outdoor swimming pool, spa garden and terrace, and associated landscaping.

19/01746/OUT – Resolved to be Approved – Outline planning application (with all matters reserved excluding access) for B1 development (B1a and/or B1b and/or B1c); access and associated landscaping and infrastructure works

## 5. PRE-APPLICATION DISCUSSIONS

5.1. No pre-application discussions have taken place with regard to this proposal by Officers in Development Management.

## 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 **19 March 2020**, although comments received after this date and before finalising this report have also been taken into account.

6.2. Two comments have been received from the general public and are summarised as follows:

- Support the application in principle but have a number of comments.
- The number of residential units is a lot.
- 273 units on an area previously categorised in the local plan as commercial will generate a lot more traffic movements onto the Wendlebury Road than purely commercial units.
- The applicant suggests the units will be to meet the housing need of Oxford city and be used by an educated demographic who will commute. What about affordable housing? Why place so many units into a small area with roads on 4 sides. Why is there no parking for some of them?
- The drainage ditches on either side of the Wendlebury Road are essential to avoid flooding across the single carriageway. How will the increased traffic movements be accommodated without frequent jams?
- The Vendee Drive roundabout is already a problem. There have been more accidents including fatalities at the roundabout than the data suggests.
- The flood risk and drainage statement does not include reference to the residential units. Would the arrangements be different for residential units compared to commercial? The information suggests land levels need to be raised and a package pumping station to control the rate of discharge. This appears to be because of the archaeological features on site.
- Thames Water have identified that there is the possibility of no/ low water pressure and request that there should be further consultation with Thames Water if CDC are minded to approve the application. Fresh water supply and foul water treatment considerations for the proposed development merit serious consideration.
- A light controlled pedestrian crossing should be provided on the dual carriageway between the development and the park and ride to enable safe pedestrian crossing and avoid accidents.

- The proposed café is positive, but this should also include a convenience store which would have benefits for the residents of the development and other nearby residents.
- The access paths to the south of the development will be improved and it is hoped this will include lighting on the south side.
- It would be good if a bus route could be diverted to serve the development.

#### 6.3. Banbury Ornithological Society:

- BOS has been working with the applicant and Cherwell District Council to design a biodiversity scheme at the Bicester Wetland Reserve to offset the loss of habitat associated with the original plans for Phase 1 and 2. This scheme would be delivered by BOS in collaboration with Thames Water. The estimated cost of delivering the project is £36,000 and therefore the applicant's proposal to provide an additional £6,000 to enable full funding is welcomed.
- Supportive of the applicant's proposal to install at least 20 integral Swift bricks in clusters at suitable elevations. In combination with Swift brick installation in the Phase 1 hotel, there will be a significant contribution to Swift conservation in Bicester. Swift brick provision is advised to be prioritised over boxes for other species as the construction of new buildings is a unique opportunity to provide swift nest boxes for decades to come.
- The provision of small areas of wildflower meadow and native tree planting is supported. In more formal areas where non-native trees and shrubs are planned, it is requested that berry bearing Rowan species are planted as these are an attractive sustainable supply of food to some bird species.

#### 6.4. Quod on behalf of the applicant for Phase 2 Albion Land: **Strongly Objects:**

- The proposals will fundamentally undermine the delivery of the Development Plan allocation which the site is part of and, therefore, the Development Plan's strategic approach to employment delivery and sustainable growth.
- The interaction between Phase 1b and Phase 2 needs to be fully considered. The proposals are inconsistent with the Phase 2 development and will undermine its delivery and operation.
- There is no provision for residential development at the site through Policy Bicester 10, of which most of the site falls within. The key concern though is that the proposed residential use is not compatible with the delivery or operation of a strategic employment area due to the potential for complaints from future occupiers and a desire to restrict the operation of premises/ occupiers at the business park.
- The location, design, scale and massing of the buildings will be of critical importance to the business park as a whole. This should be carefully considered. The concerns of the Council's Landscape Officer are noted. The LPA should seek a Development Framework Plan to ensure a cohesive and complimentary approach to the development of the allocation and integration with the surrounding development.
- Albion Land would support the LPA in securing an attractive Boulevard along Charles Shouler Way.

- Highway concerns including the highway arrangement proposed, parking provision, concerns over linkages including for pedestrians and cyclists, the potential for local bus services to be compromised and the need for the development to contribute towards strategic highway improvements.
- No noise assessment has been provided and the operation/ occupation of the proposals have the potential to impact the proposed employment space across Phase 2 including noise sensitive office spaces and have a cumulative noise impact on the surrounding existing sensitive receptors.
- The drainage proposals are objected to based on the potential increased flows without proper consideration of their interaction with flows from the Phase 2 scheme.
- Concerns regarding the approach to EIA Screening carried out and the LPA should be satisfied that its Screening Opinion conclusion is robust and compliant with the EIA Regulations 2017.
- This is not a suitable location for residential uses because it is divorced from existing and proposed residential development in Bicester and is distant from key local facilities and amenities. There would be reliance on the private car.
- If a residential development is to be allowed at the site, there should be a legal obligation to link the delivery and occupation of any new homes to the comprehensive delivery and operation of the employment proposals. Otherwise there will be no control. The plan also does not restrict the location of the B1 and C3 uses so the proposed homes could be within the boundary of the Bicester 10 allocation.
- The provision of new homes reduces the amount of suitable land for B1 uses and job creation. There will also be an impact on out-commuting of people from Bicester to other locations to work.
- There is a lack of clarity around net biodiversity gain. There is reference to an offset scheme but it is not clear how on site habitat compensation was considered first.

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. Where a second response has been received, this will be following re-consultation on receipt of additional/amended information.

### PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

7.2. CHESTERTON PARISH COUNCIL: **No objection** to this proposal, the major traffic and road issues this presents are reliant upon the critical responses from OCC Highways. The Parish Council has consulted with Bicester Gateway already.

7.3. WENDLEBURY PARISH COUNCIL (first response): Supports the concept of a development designed to deliver high quality employment in research and development of products and processes that encourages the knowledge economy. However, the Council **objects** to the current proposals on the following grounds:



- Concerned with the traffic congestion from the developments on the Policy Bicester 10 site on the A41, surrounding roads and the Wendlebury Road through the village. These concerns include:
  - The A41 has seen a number of serious collisions and fatalities at the A41/ Vendee Drive junction and on the A41 in recent years.
  - Junctions 9 and 10 of the M40 operate at capacity and when accidents occur, queuing and rat running occurs on surrounding roads.
  - Problems and hold ups will inevitably lead to more rat running through Wendlebury.
  - Despite the Transport Statement, the Parish Council believes the development will generate a significant amount of travel as users may not be from Oxford or local and its location will mean that it will not reduce the need to travel or reduce dependence on private cars.
  - The application represents an over-intensification of the site.
- The concerns the Parish have are supported by the NPPF and Policies SLE4 and ESD1 of the Cherwell Local Plan.
- Each of the applications on the Bicester 10 site will generate their own traffic and transport issues and it is the cumulative impact of these developments adjacent to each other that will lead to impact on the local road network. Other nearby developments will also generate traffic.
- Where developments accumulate, the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 state that cumulative effects should be considered. This is despite each application needing to be considered on its own merits.
- The scheme represents a change of use and a departure from the Local Plan.
- The application is predominantly residential which is not what the site was allocated for and not what Bicester 10 was aiming to achieve on an important gateway site to the town.
- If the Council is minded to approve the application, a planning condition to secure a Framework Travel Plan should be imposed to include discussions with the Parish Councils affected by the cumulative developments at Bicester 10 before any development is permitted.

#### 7.4. WENDLEBURY PARISH COUNCIL (second response):

- Disappointed that Officers have consistently failed to take into account cumulative traffic and infrastructure impact on the village of Wendlebury and other surrounding rural communities. For example at the Vendee Drive roundabout and how to resolve the mismatch of differing proposals to improve cycling provision.
- The current pandemic has resulted in an absence of traffic and an improved quality of life. Concerns remain that the Bicester 10 developments will result in rat running.

- A Travel Plan should be included to ensure tenants and employees at all sites do not route via Wendlebury.
- Recent decisions have set aside the principles of Policy Bicester 10.
- There are issues about impact of additional housing, medical support, water pressure and sewerage treatment.

7.5. BICESTER TOWN COUNCIL: **Welcomes** this application but has concerns about the road network at Vendee Drive and pedestrian crossings. Request that this is looked at carefully. The Council like the concept but have concerns over access.

7.6. BICESTER BIKE USER GROUP: **Concerns** from the perspective of cycle users:

- Recognise that there are aspects of the design which are good but there are a number of outstanding concerns about the design as follows:
- The lack of pedestrian and cycle use of the southern side of Charles Shouler Way which means the fullest possible use of walking and cycling is not being made or enabling connections between Phase 1b and Phase 2.
- The lack of a route across Charles Shouler Way near the Wendlebury Road for cyclists.
- Concerns regarding the crossing of the Charles Shouler Way arm of the Vendee Drive roundabout due to vehicle speeds and the width of the road. The uncontrolled crossing and refuge would not comply with standards. A solution for pedestrians and cyclists could be considered.
- Unconvinced by the developer's preference to route cyclists from the National Cycle Route along the A41. The Wendlebury Road has slower traffic speeds and improvements are recommended.
- Could the Wendlebury Road North be made one-way for vehicle traffic (Northbound only) to enable the carriageway to be redistributed to allow for a shared path that could continue north on the west side of Wendlebury Road?

7.7. BICESTER BIKE USER GROUP (second response):

- There are positive aspects to the amended design for the crossing at the Vendee Drive roundabout, in particular the reduction from 3 to 2 lanes on the south side will reduce the distance needed to cross making it safer. The wider splitter island is also now sufficiently wide.
- Continue to query the lack of a shared pedestrian/ cycle path on the south side of Charles Shouler Way.
- Commend the upgrading of the obsolete A41 route for pedestrians and cyclists. Users will likely prefer the Wendlebury Road given the topography.
- Remain concerned about the lack of pedestrian or cycling provision along the NCR route on the Wendlebury Road.
- A 30mph limit would be more suitable than the 40mph limit proposed.

## CONSULTEES

### 7.8. CDC PLANNING POLICY (first response): **Objection:**

- The Cherwell Local Plan 2011 to 2031 Part 1 allocates strategic sites for employment and housing development at Bicester. Policy SLE1 helps to deliver the Plan's strategy to locate employment proposals at Banbury, Bicester and Kidlington and aims to address Bicester's imbalance between homes and jobs and the Plan's aim to reduce out commuting.
- Policy Bicester 10 allocates 18ha of land for B1 business uses to provide the opportunity to encourage the knowledge economy in Cherwell by enabling businesses which have or want links to the Oxford cluster as well as direct spin out companies to locate to Bicester. Its development would also provide employment in Bicester helping to reduce out commuting to Oxford and London which is an objective of the Local Plan. No residential development is allocated on this site.
- The application includes proposals that are inconsistent with the strategy in the Development Plan in terms of the Plan's allocations.
- It is outside the built-up limits of Bicester. Whilst it is noted that the indicative masterplan in the application currently shows residential development outside the Bicester 10 allocation, employment development outside the allocation would be inconsistent with Local Plan Policy SLE1. However, having regard to the extant permission 16/02586/OUT, no Policy objection would be raised to B1 development on the land within the application beyond the Bicester 10 allocation.
- If this development were to be granted there would be a reduction of approximately 10,500sqm of B1 floorspace when compared to the extant permission.
- Proposed B1(a) office within the Bicester 10 allocation is in accordance with the local plan and is supported in principle.
- Policy SLE1 sets out criteria for assessing applications on employment sites. The application is on land which has a previous permission for employment uses. The applicant will therefore need to demonstrate that the requirements of SLE1 have been met by providing evidence of why employment use should not be retained. It is noted that the applicant has provided information of the very limited demand for office accommodation in Bicester, however an assessment of other employment (B uses) is also required.
- Policy BSC1 states that 10,129 houses will be delivered at Bicester between 2014 and 2031. There were 2119 housing completions in Bicester between 2011-2019 and 3,348 with planning permission (at 31/03/2019) according to the Council's December 2019 AMR.
- The AMR also demonstrates that the District presently has a 4.4 year housing supply for the period 2020-2025. This is against a 3 year housing land supply requirement as set out in the Secretary of State for MHCLG's written statement (12 September 2018) granting a temporary change to housing land supply policies as they apply in Oxfordshire.
- The merits of providing additional homes (including affordable homes) on this site is noted.

- Whilst the concept of live-work communities, particularly for young innovators is interesting, concerns are raised about the practicalities of controlling the future occupiers of the proposed dwellings to the target sectors.
- The amenities of the future occupiers of the dwellings will also need to be considered as the development would be located in a predominately employment area on the edge of town. This particular location is a greenfield site isolated from other residential communities and some distance from other local services and facilities.
- The proposed retail and café elements are town centre uses and will need to be considered against the requirements of Policy SLE2.

#### 7.9. CDC PLANNING POLICY (second response):

- A key objective of the Local Plan's spatial strategy is to achieve a greater balance between homes and jobs at Bicester to significantly reduce out commuting from the town. One of the key economic challenges was to make Bicester more attractive to new businesses, particularly knowledge-based and high- technology companies.
- Further information is required to assess whether the proposals are in accordance with the development plan in terms of a consideration of whether there is demand for other B uses, including those within B1. Other applications in the immediate locality would seem to indicate there is some market demand.
- Any residential development within the Bicester 10 allocation would be a departure from the development plan.
- There is provision in the Plan to consider other uses on employment sites, but this is only when they have remained undeveloped in the long term and there is no reasonable prospect of the site being used for that purpose. The application as currently submitted lacks substantive evidence that employment uses (other than offices) would be unviable and inappropriate.
- The benefits of the innovation community should be considered. If the merits of creating this, in this location outweighs other policy considerations, then a limited element of residential development may be acceptable, but concerns are raised regarding the practicalities of controlling the future occupiers of the proposed dwellings to the target sectors. Safeguards will also be needed to avoid a situation where the residential element of the scheme is delivered without the associated employment.

7.10. Following the receipt of further information to address the above, CDC Policy confirmed they had no further comments to add.

*Officer comment: Since the Policy comments were received, updated housing figures have been published with the position at 31/03/2020 being that there have been 2,403 housing completions at Bicester between 2011-2019 and 4,732 with planning permission.*

7.11. CDC ECONOMIC DEVELOPMENT: **Comments:**

- Support the proposed creation of office space and a co-working hub to support innovative working practices on part of this strategic employment site to create modern space to enable the 'knowledge economy' to develop.
- For the 'innovation community' concept to succeed, careful consideration will be needed on the design and management of the on-site residential elements and offsite linkages. As with all live/work units, the tenure and design of such accommodation will be an important consideration when assessing how successful this community could be.
- Questions regarding the truly innovative nature of the proposal – for example, only 4 electric vehicle spaces are proposed. Amongst innovative residents and businesses, it is expected this would be a much higher proportion.
- The detail of the proposed development would need to be carefully considered to ensure a successful concept is realised on site including, physical and virtual linkages with adjacent sites and facilities and elsewhere in Bicester, effective long-term management arrangements and demonstration of how the residential element of the proposal would support innovation to transform the Bicester Knowledge Economy.

#### 7.12. CDC STRATEGIC HOUSING: **Concerns:**

- In accordance with BSC3 in the Cherwell Local Plan Part 1, all developments proposed at Bicester that include 11 or more dwellings would be expected to provide at least 30% of new housing as affordable homes. This would require 82 homes on this site. Of these, and in line with Policy BSC3, it is expected that 70% should be provided as affordable/ social rented dwellings and 30% as shared ownership. Normal expectations are that affordable housing addresses housing needs and reflects a proportion of property types and sizes. There are also expectations around accessibility and the units should be designed to meet the DCLG Technical Housing Standards – Nationally Described Space Standard. This scheme raises the following concerns:
- The scheme is a fully flatted development and does not offer a mix of housing that is normally required.
- Most households with a 2 bed need are families with children and a lack of private outdoor space for children generally makes flats inappropriate. There is no formal play provision (LAP or LEAP) so it would be unsuitable for younger children.
- A Registered Provider needs to be agreed with the Council and greater assurance that an RP would be willing to take one type of dwelling as a single scheme would be required as this is unusual in the District and generally not attractive to RPs.
- Affordable units would normally be distributed evenly across a site with clusters of no more than 15 dwellings, of which no more than 10 of the dwellings are rented. This would not be possible on this scheme. Blocks are likely to be mixed tenure which can be challenging for RPs to manage.
- The development is aimed at younger entrepreneurs and knowledge economy workers yet qualifying affordable housing tenants are unlikely to fit this profile. Local facilities would need to be accessible.

- To accept flats on a scheme with so much ancillary space (lifts etc), would require an understanding of the predicted level of services charges as this could impact affordability especially for social rent tenants.

7.13. CDC LANDSCAPE (First response): **Number of questions** raised as follows:

- The assertion to create denser landscaping for the purpose of shielding the residential areas should be questioned.
- Concerned about the visual impact of the proposed green wall to the western and eastern boundaries. No indication of the height and width of the wall; cross sections would be required. The deposition of spoil from foundations may be used to construct the wall.
- A naturalistic looking earth mound could be used to gain height with trees planted; cross sections would be required. This will keep uncontaminated subsoil and topsoil on site to be used sustainably.
- Cross sections should include building heights with year 0 and year 15 growth projections.
- The BS5827 constraints for the protection of hedgerows is required (i.e. the root protection area).
- The land acquisition for the green wall would be better used to plant larger native trees on the western boundary.
- Suggestions for planting are made to give year round cover and for native planting for the western boundary.

7.14. CDC Landscape (Second response):

- Concerned that the cumulative landscape and visual impacts have not been adequately addressed. The development should be mitigated by larger native trees for users of the A41. There should be a wider boundary between the site boundary and the position of buildings to allow for the growth of native trees, for the fitness route and the inclusion of a verge to minimise disturbance to ground floor flats.
- Detailed points raised relating to matters of layout, detailed planting points raised, the need for protection to be incorporated to protect planting. Planning conditions should be imposed to seek details of the landscape proposals. A landscape management plan is required.
- On site play provision is essential. One of the courtyards could accommodate an equipped LAP and in the area to the west of the blocks, a combined NEAP/LEAP is required. A play area strategy is required.

7.15. CDC ARBORICULTURE: **Comments:** Whilst tree removals are mentioned within the tree survey report, there are currently no plans such as an Arboricultural Impact Assessment detailing which trees are to be removed in order to implement the proposal. There are also no plans detailing trees to be retained and how their root protection areas sit within the proposal. A method statement would be required once layout is for consideration to detail how retained trees will be protected. The trees on site should not pose a constraint to the proposal, however some further information is required.

7.16. CDC ECOLOGY (First Response): **Comments:** No issues with the scheme from an ecological point of view. The following is provided:

- The suggested enhancements on site are welcome and likely to be valuable in this location. Some areas of planting are relatively small but may be difficult to manage in the long term. The green walls and podiums could be valuable. Wildlife value should be taken into account when choosing species as well as local conditions.
- Conditions are required to seek a Landscape Ecology Management Plan, a Construction Environment Management Plan for biodiversity and to put in other safeguards to ensure best practice as well as to require walkover protected species checks prior to works beginning. A lighting scheme is also required.
- An offsetting scheme is appropriate here and will be valuable locally in the wider landscape. A recalculation of the biodiversity net gain should be provided to show what will be achieved using an approved metric so that the level achievable and aimed for is clear.

7.17. CDC ECOLOGY (Second Response): **No Objections to the proposals on ecological grounds**

- The comments are similar to those reported above, however following the receipt of a net biodiversity gain calculation demonstrating a net gain is not achievable on site, it is confirmed that the offsetting scheme has previously been extensively viewed and is acceptable such that an overall net gain is very likely to be achieved.
- Conditions as set out above continue to be sought but a further condition is also recommended related to the need for a biodiversity enhancement condition to include locations, types and numbers of all nesting, roosting and habitat box/ brick features.

7.18. CDC ENVIRONMENTAL PROTECTION: **Planning conditions are required** relating to matters including:

- Noise (to ensure all habitable rooms will achieve noise levels specified in British Standard Guidance for indoor and external noise levels),
- Contaminated land,
- Air quality (to seek an Air Quality Impact Assessment due to the proximity of the development to Bicester Queens End/ Kings Avenue AQMA, and the likelihood of increased traffic flow from the development into the AQMA, which should include a damage/ cost calculation and proposed mitigation measures where necessary),
- EV charging infrastructure (to encourage the uptake of low emission transport opportunities),
- Odour (an odour impact assessment if the chicken farm adjacent to the site is operational due to the potential to cause nuisance),
- Light (a full lighting scheme should be submitted for approval).

- 7.19. CDC RECREATION AND LEISURE: **Comments:** S106 contributions sought towards the improvement/ upgrading of Kingsmere Community Centre, towards the costs of employing a community development worker, towards outdoor sport provision to expand/ upgrade the Whitelands Farm Sports Ground and/ or improvements to the community use sports facilities at Alchester Academy and towards indoor sport provision towards the expansion/ enhancement of indoor facilities at Bicester Leisure Centre.
- 7.20. CDC BUILDING CONTROL: **Comments:** Development would require a Full Plans building regulations application. A robust fire strategy will be required with facilities and access for fire fighting vehicles to reflect approved guidance.
- 7.21. CDC LICENSING: **No comments**
- 7.22. CDC PUBLIC RIGHTS OF WAY: **Comments:** The proposed development will require a part diversion of the Chesterton Public Footpath 161/8 which runs directly across the site as the proposed location of Building 7 will obstruct the current legal alignment of this footpath route. The comments in the PRow statement are noted but the fact that the current footpath appears to be unused is irrelevant. The grant of planning permission that requires a Public Path Order does not guarantee that one will be made or confirmed. Advice regarding an application towards a Public Path Order is provided in respect to the consultation required and the quality of a diverted footpath given the District Council have a duty to safeguard existing rights of way wherever possible.
- 7.23. OCC TRANSPORT (first response): **Objection** on the following grounds:
- The application does not provide for a high degree of integration and connectivity between the site and existing developments contrary to Policy Bicester 10 of the Cherwell Local Plan 2011-2031. In particular, pedestrian/ cyclist facilities along Wendlebury Road should be proposed.
  - The assessment of traffic impact is not considered sufficiently robust.
  - The assessment of the access junctions is not sufficiently robust.
  - Vehicular accesses into the site have not been tracked for refuse and delivery service vehicles
  - There must be a relocation of the 40mph speed limit zone to allow for safety improvements.
  - The previously committed highway improvements must still be provided.
  - There are some concerns around parking arrangements, particularly the proposed provision of car free units.
  - Comments made with respect to the Travel Plan.
  - S106 requests are made for contributions towards highway improvements on the A41, towards strategic transport improvements towards the South East perimeter road, towards the cost of administering a TRO, towards monitoring the travel plans and to secure commitment to entering into a S278 agreement at the appropriate time.
  - Planning conditions are also recommended



#### 7.24. OCC TRANSPORT (second response): **Objection:**

- The application continues not to provide for a high degree of integration and connectivity between the site and existing developments. Connections should be provided onto the Wendlebury Road because residential developments generate movements at all times of the day and night from a wider range of individuals and for a wider range of journey purposes including shopping and leisure. Residents are likely to want to walk along the Wendlebury Road frontage to access facilities to the north as well as phase 2. This is a safer, quieter option than using the route alongside the A41.
- The objection relating to the robustness of the transport assessment is removed as the trip rates are as agreed at the scoping stage. The trip generation of the proposed 33 car free units should not be removed on the basis they will be car free as they are likely to attract some trips. However, it is agreed that even if the trips from the 33 units were added, then the trip generation of the proposal is less than that of the consented development.
- Car free development continues to be of concern given the location of the site at the extreme edge of town does not have the quick, convenient pedestrian access to a wide range of facilities that would justify car free development. This could also lead to overspill parking outside the site.
- Whilst the development would take the roundabout slightly over capacity, the additional queuing and delay would be very modest. The minor capacity improvements at the roundabout that are a requirement of the extant permission should not be required if the proposed development is implemented in its place.
- Vehicle tracking has been provided showing these vehicles can enter and exit the site. They do however illustrate that Wendlebury Road is too narrow for large vehicles to pass while turning and there may therefore be a need for minor localised widening at the accesses to prevent verges being overrun. This can be dealt with via the suggested planning condition seeking full details of the access junctions.
- The site access junctions have been modelled to test their capacity and the queuing and delay is shown to be minimal.
- Planning conditions and obligations originally requested are unchanged, with the exception that the requirement for the highway works to Vendee Drive Roundabout and the mini roundabout on Wendlebury Road are not required.

7.25. OCC COUNTRYSIDE ACCESS OFFICER: **Comments:** OCC welcome the improved access with the exercise trail and cycle way links. There is a concern regarding Chesterton Footpath 8 which crosses the site. The footpath is acknowledged in the application but contrary to the statements made, it is used and is passable and volunteers undertake work to maintain vegetation. The route also connects to the other section of Chesterton Footpath 8. Whilst OCC would not object to the route of the footpath being altered, it should be integrated with the development and improved to meet the pressures caused by the development whilst retaining the character where appropriate. In addition, upgrades could enable improved connectivity and accessibility for all. The proposed improvements should be discussed and agreed with OCC. Planning conditions are recommended as well as advice relating to the need for an application to be made for a temporary closure of the footpath during the construction phase if user safety cannot be ensured via mitigation measures.

7.26. OCC DRAINAGE (first response): **Objection** for the following main reasons:

- The proposed drainage, flood risk and SUDs proposals are not aligned with national or local standards
- The FRA is not accepted as of sufficient standard by the Lead Local Flood Authority.

7.27. OCC DRAINAGE (second response): **Objection** as a new surface drainage strategy is awaited following discussion.

7.28. OCC DRAINAGE (third response): **No objection** subject to the imposition of planning conditions.

7.29. OCC EDUCATION: **No objection** subject to contributions towards primary and nursery and secondary (including sixth form) education.

7.30. OCC ARCHAEOLOGY (first response): **Objection**: The results of an archaeological evaluation will need to be submitted along with any planning application for this site in line with paragraph 189 of the NPPF. The main points of concern are:

- Parts of the site have not been subject to investigation and the site is in an area of considerable archaeological interest immediately north of the scheduled Roman Town of Alchester.
- The new proposal has removed the previously agreed area of preservation as agreed for the previous application and proposes development within the area. This would disturb the significant archaeological deposits within the area.

7.31. OCC ARCHAEOLOGY (second response): **Objection** as the additional information does not alter previous comments made.

*Officer Comment: OCC Archaeology have informally advised their objection will be removed on the basis of additional information subject to the imposition of conditions. A formal response confirming this is expected to be received following a formal re-consultation.*

7.32. HISTORIC ENGLAND (First Response): **concerns regarding the application on heritage grounds**. The following issues and safeguards need to be addressed in order for the application to meet the requirements of paragraphs 189 and 190 of the NPPF and footnote 63. Should harm to the scheduled monument be identified, it must be justified as required by paragraph 194:

- There will be no direct impact on archaeological remains within the scheduled monument but archaeological work has shown that remains of equivalent importance lie within the site. Further evaluation of these matters is required before determination of the planning application, as the extent of the remains of potential national importance has not yet been fully defined. Remains of equivalent importance to designated remains should be treated as if they were designated.
- The 2016 heritage desk based assessment submitted with this application concludes that the development has the potential to cause some harm to the scheduled monument because the development will impact the significance as contributed to by its setting. The assessment of this impact should be reconsidered and revised taking the following into account:

- The application is for a revised scheme with revised indicative building footprints, massing and landscaping. The 2016 assessment is out of date and the submitted Archaeology Summary note does not mention setting.
- The 2016 assessment confuses the setting assessment by bringing the extra mural buried archaeological remains into the discussion.
- The same Heritage Consultant is currently undertaking a revised 5 stage setting assessment of the adjacent site to the east. It should therefore be comparatively straightforward to assess this site.
- Whether the two sites are assessed separately or together, it is important that the cumulative impact is considered.
- Views out from the scheduled monument should form part of the assessment and the extent to which the new development would change the experience of the monument should be made clear, particularly with regard to visibility.
- Cross-referencing to landscape and visual assessment will be helpful as this assessment has been updated for the new development.
- Policy Bicester 10 states: '*Conservation and enhancement of the setting of Alchester Roman Town Scheduled Ancient Monument and the setting out of opportunities to better reveal its significance*'. The revised assessment should make clear how the development will comply with this key principle.

7.33. HISTORIC ENGLAND (second response): No further comments over those reported above. The points raised have not been addressed.

7.34. THAMES VALLEY POLICE CRIME PREVENTION DESIGN ADVISOR: **No objections but there are some concerns** in relation to community safety and crime prevention design. In order to assist, it is recommended that the applicants provide a commitment to achieving accreditation under the Police's Secured by Design scheme and the British Association's Safer Parking Scheme. A condition should be imposed to require this to ensure that the opportunity to design out crime is not missed. Advice is provided to assist in order to create a safer and more sustainable development including concerns regarding the permeability of the layout, the type of lighting proposed, the need for natural surveillance not to be compromised by landscaping, concerns over the large parking area indicated at the southern end of the site and the need for careful consideration to be given to public communal areas and their treatment. Advice is also provided in relation to the buildings themselves.

7.35. OXFORDSHIRE CLINICAL COMMISSIONING GROUP: **A S106 request is made** to secure a contribution towards the expansion plans of the Bicester Primary Care Network to provide sufficient capacity to meet the healthcare needs of the residents of this proposed development.

7.36. NATURAL ENGLAND: **No comments** to make. CDC should use standing advice to assess the impacts of the proposal on the natural environment.

7.37. THAMES WATER: **No objection** with regard to foul water sewerage network infrastructure or to surface water drainage (on the basis that the application indicates surface water will not be discharged to the public network), however

approval is needed from the Lead Local Flood Authority. Following initial investigations, Thames Water has identified an inability of the existing water network infrastructure to accommodate the needs of the development. A planning condition is recommended.

## **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)

- SLE1 - Employment Development
- SLE2 - Securing Dynamic Town Centres
- SLE4 - Improved Transport and Connections
- BSC1 – District Wide Housing Distribution
- BSC3 – Affordable Housing
- BSC7 – Meeting Education Needs
- BSC8 – Securing Health and Wellbeing
- 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
- ESD3 - Sustainable Construction
- ESD4 - Decentralised Energy Systems
- ESD5 - Renewable Energy
- ESD6 - Sustainable Flood Risk Management
- ESD7 - Sustainable Drainage Systems (SuDS)
- ESD8 - Water Resources
- ESD10 - Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13 - Local Landscape Protection and Enhancement
- ESD15 - The Character of the Built Environment
- ESD17 - Green Infrastructure
- BICESTER 10 - Bicester Gateway
- INF1 – Infrastructure

### CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C8 - Sporadic development in the open countryside
- C28 - Layout, design and external appearance of new development
- ENV1 - Development likely to cause detrimental levels of pollution
- ENV12 - Development on contaminated land

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- National Design Guide
- SPD Developer Contributions
- EU Habitats Directive
- Natural Environment and Rural Communities Act 2006
- Conservation of Habitats and Species Regulations 2017
- Circular 06/2005 (Biodiversity and Geological Conservation)

## 9. APPRAISAL

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

- Environmental Impact Assessment
- Principle of development
- Transport
- Landscape and Arboricultural matters
- Design and impact on the character of the area
- Heritage impact
- Residential amenity
- Ecology impact
- Flood Risk and Drainage
- Environmental Matters
- Energy Efficiency and Sustainability
- Planning Obligations

### Environmental Impact Assessment

- 9.2. The application is not accompanied by an Environmental Impact Assessment and neither was the extant outline permission for Phase 1 (a and b). The application was nevertheless screened upon receipt as the application is of a type listed in Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 and it exceeds the relevant thresholds. The screening conclusion was that EIA was not required to support the application. This conclusion was reached taking account of the scale, nature and location of the proposed development, including impacts in cumulation with other adjoining development. In coming to this conclusion, regard was had to the difference between the impacts of the previously approved (and extant) development compared to that now proposed. The full screening opinion and detailed reasoning for the conclusion is available on the file.
- 9.3. An objection has been received querying the robustness of the screening opinion. Officers are satisfied that the screening opinion issued has reached the correct conclusion and has been properly reasoned such that this proposal is not required to be supported by EIA.

### Principle of Development

#### *Policy Context*

- 9.4. 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.

- 9.5. 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.
- 9.6. Policy Bicester 10 of the CLP 2031 Part 1 allocates an area of land to the southwest of Bicester, described as Bicester Gateway, for the provision of B1 Business Use (office, research and development, light industrial), with development focussed on high tech knowledge industries. The policy sets out that approximately 3,500 jobs could be delivered through development of the site in this way, albeit recognising that site constraints may reduce numbers slightly. It is envisaged that the Bicester Gateway development has the potential to be a major high-quality employment area at this critical gateway to the town and that there is an opportunity to encourage the knowledge economy associated with Oxford to locate to Bicester. The policy includes a number of key place shaping principles to create a high-quality development at this important gateway site as well as to provide for a well-connected development in transport terms and to enable site constraints to be appropriately responded to.
- 9.7. Policy SLE1 of the CLP 2031 Part 1 applies to B Use Class development. It supports the provision of employment development on new sites allocated in the plan for the type of employment development specified within each site policy. The pre-ambule to the policy confirms that it also applies to sites which have planning permission for employment uses. In this respect, the policy is clear that existing employment sites should be retained for employment uses unless certain criteria are met:
- The applicant can demonstrate that an employment use should not be retained, including showing the site has been marketed and has been vacant in the long term.
  - The applicant can demonstrate that there are valid reasons why the use of the site for the existing or another employment use is not economically viable.
  - The applicant can demonstrate that the proposal would not have the effect of limiting the amount of land available for employment.
- 9.8. Policy SLE1 also advises that 'regard will be had to whether the applicant can demonstrate that there are other planning objectives that would outweigh the value of retaining the site in an employment use'.
- 9.9. The application proposes development on both land allocated by Policy Bicester 10 and land outside of the Bicester 10 allocation. The application follows a previous approval for the wider Phase 1 land as described in paragraph 1.5 and 1.7. That outline permission approved development on land outside of the allocated site to the south of Phase 1b. The Officer report concluded on this matter that the extension was logical given that the land comprises one field (with there being no physical boundary between land allocated and unallocated) and given it's contained nature meaning that it's development would not have a materially adverse effect on the natural landscape. In addition, its development would help deliver further employment development on land that would, if left undeveloped, have little environmental, economic or social value. The principle of developing to the south of the land allocated by Bicester 10 adjacent to Phase 1b for a commercial use is therefore established by the extant outline permission albeit there is a further small extension proposed now which must be assessed.

- 9.10. This application proposes an alternative scheme for Phase 1b and seeks to introduce alternative, non-commercial uses on both the allocated and unallocated land. On the basis that the proposal seeks permission for development outside of an allocated site and for some uses that differ from the Class B1 development supported by Policy Bicester 10 on the allocated site, the application has been advertised as a departure from the Development Plan.
- 9.11. The application proposes up to 4,413sqm GIA of B1 office space on the land allocated by Policy Bicester 10. This land use complies with the type of employment development expected by Policy Bicester 10 and Officers consider this to be acceptable.
- 9.12. Also, on the land allocated by Policy Bicester 10, the application proposes up to 33 residential units, an ancillary mixed use co-working hub of around 794sqm GIA (to include a site management office, lounge area, desk space for hire, an active travel hub, a small food retail facility) and around 177sqm GIA of A3/ Café use.
- 9.13. The application also proposes 240 flats with an ancillary gym, amenity space, a Multi-Use Games Area and children's play area on land predominantly outside of the allocated site but due to the boundary line of the site on the policy map, some of this development is likely to sit in the allocated site.
- 9.14. Whilst the site is not allocated for residential uses, it should be noted that the strategy of the CLP 2031 Part 1 as set out at Policy BSC1 is to focus the majority of new residential development at Bicester and Banbury with limited development elsewhere. As regards the provision of an A3 café, Policy SLE2 applies a sequential approach to the location of Main Town Centre Uses as set out in the NPPF. An impact assessment is also required for proposals over 1500sqm at Bicester.

#### *The Applicant's Case*

- 9.15. Before assessing the proposal against the policy baseline, it is relevant to note the applicant's case. The applicant has submitted a marketing strategy which advises that since the commencement of marketing the site in 2014, only one company has expressed an interest in relocating to the site, which was unsuccessful because the company eventually decided to acquire a site within the location they were already based. The marketing report identifies limited demand for office space within Bicester. It does however note that the town is due to expand in size considerably which could increase demand but that in any event, the perception of the town and its ability to be an attractive location for office uses needs to be changed.
- 9.16. The applicant has therefore re-considered their proposals for the Bicester Gateway site and now propose an 'innovation community'. Their submission identifies that such a use could provide the step change to reverse the current perception of the Bicester commercial position so that it becomes a vibrant town attractive to innovation and regionally significant inward investment. The aim is to attract 'inward innovators' (young professionals and entrepreneurs) by creating residential accommodation close to workplaces that allows flexibility for new styles of working and living, which in turn will attract knowledge based inward investment from corporates/ employers. They argue that such a proposal will complement and expand the economic success of Oxford (including its national and international success in innovation) to elsewhere in the County, provide an opportunity to increase the innovative potential of Bicester and provide a well-connected link to the city in a sustainable location. Their view is that the proposal would contribute to the vision of the OxLEP Local Industrial Strategy.

9.17. Further information was also sought from the applicant in order to assess the proposal against the three points set out within Policy SLE1. Further information building on the marketing strategy has therefore been provided. This can be summarised as follows:

- The marketing campaign has been undertaken for B1a, b and c uses.
- There has been no interest for B2/ B8 uses.
- B1a has been the preference due to this providing greater employment generation and as it is considered that B1a commonly represents a high proportion of land use in knowledge economy parks.
- Companies looking for space for alternative uses have expressed some interest in the site such as a car show room, A3 restaurants/ coffee shops/ drive throughs, high end retail, museum/ tourism facility, a self-storage business. These have not been discounted but not pursued currently.
- It is considered that a high proportion of B1b and B1c would make it difficult to achieve the placemaking requirements of Policy Bicester 10 at this important gateway to Bicester.
- In terms of economic viability, it is argued that the current problem at Bicester is that office rental levels are low compared to other locations, which when combined with high building costs in constructing a high quality and high functioning office building means that viability can become a problem.
- An alternative use mix for commercial uses could be viable but that would have implications on employment numbers, quality of development and potential non-compliance with Policy in terms of use class.
- The site has been marketed for large units only, as whilst the latent demand is for smaller units, this was not pursued as this would be less viable given that small units as individual buildings would mean a reduced level of built development across the site and due to smaller units having the potential to reduce master planning flexibility.
- The applicant's strategy is to use an innovation community concept to attract meaningful B1a or B1b occupiers, looking for a high-quality building with a higher jobs yield and to build a sense of place that will be attractive to knowledge economy workers.
- There is plenty of B1 employment land in Bicester to meet market demand for many years to come, but there is probably an undersupply of land for B8 uses. The loss of land for residential uses would not limit the amount of land available for employment at Bicester.
- The site has remained undeveloped in the long term (over 5 years). It is considered unlikely a B1a employer would express interest between now and when the extant outline expires in 2022. The innovation community is proposed to provide the supporting steps to kick start the knowledge economy in Bicester. This is on the basis that the residential element is delivered ahead of and as an attractor for, the B1a element.
- It is considered that the Policy tests of SLE1 are passed, or areas of non-compliance are minor/ insignificant in the planning balance.



- The applicant advises that the main residential element of the innovation community is on the unallocated land. The proportion of employment development on the allocated site is similar to the approved scheme. 33 units are proposed on the allocated land but these would sit above B1a uses and would only be constructed if the B1a proposal is not of a scale that requires 3 or 4 storeys. This combined with the concept proposed outweighs the value of retaining the unallocated land in an employment use.

9.18. Having regard to the economic strategy expounded by the Local Plan, Officers acknowledge there is some merit in the applicant's case. Paragraph C.17 of the Local Plan sets out that to meet the key economic challenges facing Bicester, the Council needs to make it an attractive place for modern business and improve the town's self-sufficiency. Opportunities for knowledge and higher value companies and businesses that will help reduce the proportion of out-commuting are important. Policy Bicester 10 allocates a site to provide for a major high-quality employment area for the knowledge economy that would help to provide employment and to reduce the number of people out-commuting. The contribution this development makes to meeting the objectives of the Local Plan must therefore be considered. The proposal raises a number of issues for further consideration in this regard, the two principal ones being:

- The proposal would result in the loss of land previously committed for employment development. This would, in turn have an impact upon the job numbers likely to be provided on site.
- Whether the principle of residential development in this location can be considered to be acceptable, such that the merits of the proposal outweigh the loss of committed employment development.

*Employment uses and job numbers*

9.19. Turning first to the issue of the loss of land for employment development. Most of the land to be lost for employment purposes is the land outside of the Bicester 10 allocated area. The committed employment development has not been built but the outline permission remains extant. Policy SLE1, as summarised in paragraph 9.3 confirms that existing employment sites should be retained for employment use unless certain criteria are met and the supporting text to the policy confirms that the approach also applies to sites with planning permission for employment uses.

9.20. The applicant's case is summarised above. Officers do not wholly agree with the applicant's position in that whilst Policy Bicester 10 sets out a placemaking approach and sets out its expectation of a gateway approach to design which is most easily achieved by a B1a form of development, the Policy does not require only B1a uses allowing for flexibility in the uses to meet the requirements of the knowledge based sector within the wider B1 sector. However, Officers agree that on the basis that the majority of the land to be used for the residential uses is outside of the allocated site, the proposal would not have the effect of materially limiting the amount of land allocated for employment at Bicester.

9.21. The Bicester 10 site was allocated for B1 uses, with 3,500 jobs predicted to be provided for. The policy did however acknowledge that site constraints could reduce numbers. Site constraints have had an impact, as well as the alternative complementary 'catalyst' uses including the hotel, leisure facility and now the residential proposal. Additional land has however been included such as the poultry farm, which has assisted in providing additional employment numbers and, the catalyst proposals do themselves provide employment opportunities.

- 9.22. The original proposal for Phase 1 (a and b) demonstrated that 550 jobs could be achieved (500 on Phase 1b and 50 on Phase 1a). For the current proposal, the applicant has calculated that 375 jobs could be achieved on Phase 1b so, when taking the 50 jobs on Phase 1a, this would give 425 jobs across Phase 1 (a and b); a reduction of 125 jobs.
- 9.23. For Phase 2, 1500 employment opportunities have been accepted (including 110 jobs at the health and rackets club). This gives a combined total of 1,925 across Bicester 10. This combined total was concluded to be reasonable in meeting the Policy Bicester 10 requirements in respect of the reports for the Phase 2 sites (19/01740/HYBRID and 19/01746/OUT). The same conclusion is therefore reached for the current application.
- 9.24. Nevertheless, the proposal will result in the loss of land that has been permitted for employment use and which could contribute to meeting the shortfall in jobs to be provided at Bicester Gateway, contrary to SLE1. Paragraph 81 of the NPPF states that planning policies should “be flexible enough to accommodate needs not anticipated in the plan, allow for new and flexible working practices (such as live-work accommodation), and to enable a rapid response to changes in economic circumstances”. Furthermore Paragraph 120 of the NPPF states that “Planning policies and decisions need to reflect changes in the demand for land”.
- 9.25. The applicant’s position is that their proposed residential use is to create an innovation community which is inherently linked to making the wider Bicester 10 site attractive to future investors by attracting the people who could work at the site first to create a successful knowledge based economic development at the site. In this context, the proposal seeks to provide for other planning objectives to outweigh the value of retaining the land for purely commercial uses. In the light of the NPPF guidance referred to above and noting that the majority of the residential use is proposed outside the allocation, Officers consider that these other planning objectives do weigh in favour of the proposal.
- 9.26. It is however relevant to note that whilst an ‘innovation community’ concept is proposed, the applicant is unwilling to accept planning controls to secure this. The applicant has advised that should a condition or planning obligation be imposed to restrict the use, that the development would be un-fundable and therefore such a restriction could not be accepted. Their view is that the market would control occupancy in that the proposal seeks a particular form of development being small flats in a live/ work environment that would therefore appeal mainly to the young professional market.
- 9.27. Officers therefore consider that the weight to be given to the ‘innovation community’ concept is limited, and it is necessary to also consider the suitability of the site being developed for residential use in more general terms. This is on the basis that the units could well be affordable and attractive to a wider market than just ‘young professionals’ and there is no guarantee that the introduction of residential uses will create the innovation community vision albeit it could be an opportunity to do so.

#### *Residential uses*

- 9.28. The strategy of the CLP 2031 Part 1 as set out at Policy BSC1 is to focus the majority of new residential development at Bicester and Banbury with limited development elsewhere. Bicester has the highest number of dwellings to be provided through the plan period on the sites allocated for residential development. The current site is not allocated for residential development and so if the proposal were to be supported, this would be counted as a windfall site.

- 9.29. Bicester is a sustainable location for additional residential growth. In this case, the land is to the south of Bicester and adjacent to proposed employment sites and complementary uses to be provided. The provision of walking, cycling and public transport links by this and nearby development means that the site will be well connected to local services and facilities both at Kingsmere to the west of the A41 and to the north including the town centre, supermarkets, garden centre and the train stations. The site is also well located to the park and ride site.
- 9.30. In the view of Officers, it would be hard to argue that this location is unsustainable. In addition, the units would count towards the Council's Housing Land Supply position, which is currently at 4.4 years supply for the period 2020-2025. Whilst this is currently against a 3 year housing land supply requirement (as confirmed by a Written Ministerial Statement from September 2018 which applied a temporary change to housing land supply policies in Oxfordshire), meaning that the tilted balance at paragraph 11d of the NPPF is not engaged, additional residential development in a sustainable location would contribute to maintaining a robust supply of housing for the District.
- 9.31. The proposal is for 240 residential units, indicatively shown within three blocks predominantly on the land adjacent to the allocated Bicester 10 site (albeit some of the units would sit on the allocated site due to the position of the boundary line on the Policy map), and 33 units within the land allocated by Bicester 10. The 33 units would be provided within mixed blocks also housing the B1a space proposed, but, their presence on the allocated site would not comply with Policy Bicester 10. The provision of a large number of flats in a single location is unusual in Cherwell District and it would provide a relatively large development of one type of unit mainly small in size. However, should it be demonstrated that such a proposal can be appropriately accommodated, this is not a factor that should weigh against the scheme as it would provide for a type of accommodation for the market that is not commonly available in Bicester.
- 9.32. Notwithstanding the above, an important factor in the site's suitability for development is its relationship to the Bicester 10 allocation; stand-alone residential development on the site would appear isolated and poorly connected and would not be acceptable without development coming forward on the allocation. Whilst the occupancy of the residential units cannot be controlled so as to guarantee an "innovation community", the application is nevertheless for a combined employment and residential development on a greenfield site, which is partly on unallocated land. Whilst it is concluded that the development of land outside the allocated site can be considered acceptable as a logical extension of the allocated site (as was the case under the extant permission), this is on the basis that it is delivered alongside development on the allocated land. As such, the commercial development is required to be delivered in a timely fashion alongside the residential development to make the development as a whole acceptable. The applicant has advised that the 240 residential units would be proposed to be constructed first to provide the accommodation to attract businesses. Officers consider that it is necessary to seek a phasing plan to require the commercial space to be delivered alongside the residential uses, with a restriction on the occupation of the residential space until development of the commercial floorspace has commenced.
- 9.33. As the application proposes over 11 dwellings at Bicester, the proposal is required to provide for 30% affordable housing on site in accordance with Policy BSC3. The policy sets out the expectation that this is split between 70% affordable/ social rented dwellings and 30% as other forms of intermediate affordable homes, usually shared ownership but the NPPF does identify other forms. The applicant is committed to meeting the Policy requirement in respect of affordable housing and

discussions are required further as to the specific arrangements which are covered later in this appraisal.

#### *Other uses*

- 9.34. Paragraphs 9.12 and 9.13 set out the other uses proposed. In terms of the proposed ancillary gym, this sits on the land proposed for the residential development and is not identified as being situated within a standalone building. Apartment blocks are often provided with an ancillary gym for use by residents only and on this basis, this is considered acceptable.
- 9.35. The proposed hub is also considered to be an acceptable proposal on the allocated site being a flexible space for business as well as other uses and again its provision with an ancillary retail space is considered acceptable.
- 9.36. The proposal indicates a café space. On the basis that this is a main town centre use and is standalone and provided with its own car park, a sequential assessment has been sought. This concludes that the use is directly linked to the concept of the knowledge hub being promoted as part of the application and is therefore intended to support the function of the knowledge economy. The assessment finds that although there are likely to be other, more central sites available, that these would not support the knowledge economy proposals sought at Bicester Gateway. If the proposal is located on land associated with the policy designation, then it offers advantages from an accessibility and community point of view. As such there are important market and locational requirements which mean that the use is best placed in the specific location proposed as part of the current application. Officers accept the arguments made in this regard given the size of the proposed café is relatively contained, and consider it would support the proposals for the innovation community and this element of the proposal is unlikely to impact the vitality and viability of the town centre.

#### *Principle of including further unallocated land in the application site*

- 9.37. The application site includes an additional area of land to the south of the previous outline site area. This land is the unused slipway to the A41 and a small parcel of land between that and the unnamed road to Chesterton. No development is proposed on this land, other than the tidying up of the condition of the unused slip road and the vegetation such that it can provide an attractive and safe route for pedestrians and cyclists to access new infrastructure to be provided alongside the A41 and the public right of way and a better maintained setting for the site overall. Officers consider the inclusion of this land is justified in the same way as the wider land that sits to the south of the Bicester 10 allocation line as was previously considered in the extant outline permission for the site. Whilst this land is physically separated from the wider site, it is contained and well related to the site. No development is proposed on the land and it being related to the site in terms of long-term management and maintenance would be beneficial with there being no material adverse effect on the natural landscape.

#### *Conclusion*

- 9.38. As set out, the proposed development would result in the loss of land previously committed for employment development (albeit predominantly on land that is not allocated for development). The proposal does not fully satisfy the tests of Policy SLE1 in terms of considering whether the land should be retained for employment purposes, however the applicant has made a case that there are other planning objectives that would outweigh the value of retaining the site in an employment use.

- 9.39. The proposed innovation community has the potential to contribute to meeting the economic and social aims of the Local Plan for Bicester, however some reservations are held as to the weight that can be given to this concept given the units will be open market units available more widely than just the target market. However, Officers are persuaded that given the proposal would not materially have the effect of limiting the amount of land allocated for employment and would not compromise the number of jobs that, realistically, can be delivered on the Bicester 10 allocation, alternative uses on the non-allocated part of the site can be considered. The site does represent an opportunity to provide for residential development which, if it were to successfully achieve an innovation community, has the potential to support the high-tech knowledge industry and attract employers to the town, which itself would comply with the ambitions of Policy Bicester 10 and be in accordance with the guidance in the NPPF. Even if the innovation community did not come to fruition, there would remain a strong physical relationship between the residential and the employment development and as such this is considered to be a sustainable site that will be well connected to the town. Whilst the Council's Housing Land Supply remains above the 3 year requirement, the development would contribute to the Council maintaining a robust supply of housing. The provision of affordable housing is also a positive aspect to the scheme.
- 9.40. The other uses have been considered to be acceptable in principle as discussed above and conditions can be used to ensure these uses operate in a manner which is complimentary to the innovation community concept.
- 9.41. On the basis of the above, it is considered that the proposal could be concluded to be acceptable in principle subject to a consideration of the merits of the scheme in other respects.

#### Transport

##### *Policy Context*

- 9.42. The National Planning Policy Framework is clear that transport policies have an important role to play in facilitating sustainable development with encouragement provided to sustainable modes of transport to reduce reliance on the private car and to achieve safe and suitable access to the site.
- 9.43. Policy Bicester 10 of the CLP 2031 Part 1 requires the provision of a detailed transport assessment to assess the impact of the proposed development on the strategic road network. It also identifies the importance of the provision and encouragement of sustainable travel options, to provide safe pedestrian and cycle access and to secure a layout that enables a high degree of integration and connectivity to other existing and proposed development. Policy Bicester 10 also identifies the need for contributions from the development to be made to allow for improvements to the surrounding local and strategic road networks.
- 9.44. Policy SLE4 of the CLP 2031 Part 1 requires that all new development should facilitate the use of sustainable modes of transport and seeks improvements to the highway network to mitigate significant adverse impact of traffic generation resulting from new development.

##### *Assessment*

- 9.45. The application is accompanied by a Transport Assessment which considers the proposed Phase 1b development against the consented development. This is presented as representing a robust basis from which to assess the traffic impacts of the development as the ethos of the development may impact upon the trip rates.

- 9.46. The Transport Assessment finds that the development would result in a significantly lower predicted trip generation than that which would have resulted from the consented B1 office development on Phase 1b. On this basis, the proposed mixed-use development would have a lower impact on the local road network than is currently consented for the site. The TA anticipates that the development's impact would actually be lower than as predicted due to the concept proposed by the site and the emphasis on sustainability.
- 9.47. In their first response to the application, OCC objected to the assessment of trip generation and advised that this was not sufficiently robust. Following the receipt of a response from the applicant's Transport Consultant, OCC reviewed their position on this matter and confirmed that the trip generation rates were agreed. Whilst the assessment does not include trips from the originally proposed 33 car free units (now proposed to be provided with a space each), OCC do accept that even if these units were added, then the trip generation remains less than that of the consented development.
- 9.48. The reduced traffic impact reduces the impact upon the highway network and, therefore the need to provide offsite highway mitigation. In this regard, an improvement secured by the existing consent for Phase 1 at the Vendee Drive roundabout, to widen it to provide additional capacity, is not now required. As was reported at May Planning Committee in respect of the Phase 2 development, this widening is also not required for that development.
- 9.49. The application proposes two main vehicular access points from the Wendlebury Road and access is sought in full so details of these access points are provided. OCC required tracking drawings for these accesses, which was subsequently provided (albeit based upon a layout that is indicative). Following the receipt of this information, OCC confirmed that the tracking showed that large vehicles could enter and exit the site but that Wendlebury Road is too narrow for large vehicles to pass while turning which may require some localised widening at the accesses to prevent verges being overrun. It is requested that this information be sought via planning condition alongside full details of the access junctions for further assessment. The site access junctions have also been modelled to test capacity and this has also been accepted. As such, the access junctions for the site are considered acceptable on the basis that the speed limit is altered to reduce the speed of the Wendlebury Road to include the accesses and their required vision splays.
- 9.50. Discussions have been undertaken through the consideration of the application relating to accessibility for pedestrians and cyclists and this is identified as being important by Policy Bicester 10. The extant outline permission for Phase 1 identified a 3m footway/ cycle link to be provided alongside the A41, all the way along the western edge of both Phase 1a and Phase 1b. This would extend and then link into the existing infrastructure north of Bicester Avenue Garden Centre and to the disused slip road to the south providing links to the rest of Bicester including Kingsmere. The 3m route from Charles Shouler Way northwards will be delivered given the implementation of development on Phase 1a (the hotel). The current proposal reflects the arrangements already secured to the south of Charles Shouler Way to provide the 3m route south to the disused slip road, with this upgraded to provide a link along to the Wendlebury Road. This would also involve a crossing on the Charles Shouler Way arm of the Vendee Drive roundabout, the design of which has been re-considered through the processing of the application. OCC are still to comment on this amendment at the time of writing this report.
- 9.51. Accessibility for pedestrians and cyclists has also been discussed to enable access onto the Wendlebury Road. This would enable those users to access Phase 2 but also travel north along this quieter route (rather than the busier, less attractive A41

route), to access services and facilities to the north, which is likely to be more attractive for those living on site at all times on each day (i.e. into the evenings and at weekends).

- 9.52. The access arrangements resolved to be approved for Phase 2 would provide for a section of pedestrian and cycle route on the western side of the Wendlebury Road south of the proposed roundabout. Connections from the site to this section of infrastructure have now been shown indicatively. This is acceptable and should residential occupations occur following the new roundabout infrastructure being installed, then there would be a clear, safe and accessible route north for residents/ employees of Phase 1b.
- 9.53. If Phase 1b were to result in occupations prior to the installation of the new roundabout infrastructure, then discussions are being undertaken for a crossing of Charles Shouler Way to the eastern end and a northbound route enabled. This work has not progressed to a designed solution yet, but discussions are ongoing with the Highway Authority and an appropriate arrangement proposed to be secured via the S106.
- 9.54. All of the above would enable good connections to various public transport links including bus stop provision on the A41, on the Wendlebury Road and to the park and ride site.
- 9.55. Bicester Bike Users Group (BBUG) have raised the point regarding the lack of a pedestrian/ cycle route on the south side of Charles Shouler Way. Whilst such a route is desirable, it has been considered that it is not necessary for this to be provided on accessibility grounds. This is because routes are available between the east and west to the north of Phase 1a, and through the developments on Phases 1a and 1b towards Phase 2 and vice versa. On this basis, the requirement of Policy Bicester 10 to maximise walking and cycling links has been met.
- 9.56. In addition, BBUG also request that a northbound route on the western side of the Wendlebury Road be provided for pedestrians and cyclists to enable access to the hotel on Phase 1a. BBUG suggest that the Wendlebury Road north of Charles Shouler Way could be made one way to allow for the provision of room to enable such provision and beyond to the north, however this would compromise the bus route agreed for Phase 2 (and the bus stop provided on the southbound side) which is agreed and where there is already a northbound route to be provided to the eastern side which is acceptable. Again, it has been concluded that the lack of this provision is not unacceptable as routes will be available northbound. The access arrangements via the proposed roundabout have a resolution for approval by the applications on Phase 2 and those reports explained the design rationale in detail relating to its design which has also been through a safety audit and accepted by Oxfordshire County Council as the Highway Authority.
- 9.57. On the basis of the proposals for consideration here, it is considered that an acceptable pedestrian and cycle arrangement can be achieved. This is because pedestrians and cyclists will be able to access offsite infrastructure both on the A41 (to be provided by this application and that adjoining) and on the Wendlebury Road (to be provided by Phase 2 or through an arrangement to be agreed relating to this site) and links will be available through the site east/ west.
- 9.58. Car parking is provided for on site via a multi storey car park, undercroft parking and some open parking. The parking numbers proposed are for 1 space per residential unit. This is increased from the original proposal because 33 residential units were proposed as car free, however Officers agreed with the Highway Authority that this location does not lend itself to car free development. These spaces would be

undercroft under the residential development. The multi storey car park would accommodate 147 spaces for the office space, 2 spaces for café staff and 2 spaces for site management staff. The proposed Masterplan demonstrates some open parking along the south of the site, and it is anticipated these would be linked to the residential use but as the site layout is indicative, the arrangement of the parking provision will require later consideration. Nevertheless, the development is within a well-connected location given the pedestrian and cycle links allowing access north to the town centre and train stations and to bus connections, with bus stop infrastructure provided within proximity. In addition, if the sustainable ethos of the site were to be successful, then car ownership could be lower than would normally be expected. In any event, a car park management plan is considered to be required to be requested by condition to ensure it is clear how this arrangement would be managed. The opportunity for and provision of EV charging infrastructure for the parking spaces is also proposed to be secured via condition.

- 9.59. Linked to this, is the requirement for a Travel Plan which would be expected to set out how sustainable modes of transport will be promoted. This development has a sustainable aspiration in terms of its nature. A Framework Travel Plan was submitted with the application and a number of comments were made by the OCC Travel Plans Team. An updated document was submitted, however additional comments have not yet been received from OCC. In light of this, a condition is recommended to require the provision of phased Travel Plans.
- 9.60. The application will also require the accommodation of a public right of way within the design of the site which will require its diversion (Chesterton Footpath 8 161/8). The current alignment runs across the south western corner of the site linking the disused road and the Wendlebury Road. The route is identified as a constraint in the application and whilst proposals have not been made as to the exact alignment, the Regulating Plan identifies the provision of a route in a similar position to its existing alignment. The final route would therefore require final agreement once the site layout is considered further. The principle of a realignment is considered to be acceptable in planning terms, particularly as the existing route is not fully accessible for all and exits onto to Wendlebury Road with no pedestrian infrastructure. However there is a formal process with a Public Path Order being required. The response from OCC identifies that the site offers the opportunity to improve the connectivity and accessibility so it is considered likely that providing a diverted route meets the requirements for a diverted public right of way, it is likely this could be considered acceptable. There would also be safeguards needed in place during the construction process in respect of temporary obstructions/ arrangements. In addition, the extant outline permission for the site concluded on a similar basis to the above.

### *Conclusion*

- 9.61. The proposed development has been concluded by your Officers to be acceptable in highway safety terms as set out above both in terms of the impact of the development on the highway network and its likely contribution to the provision of walking and cycling links. Whilst the Highway Authority are yet to confirm their final position to the application, this is likely to be received by the Committee date and outstanding issues around connectivity are expected to be resolved. On the basis of the above, the application is considered to meet the requirements of Policy Bicester 10 and SLE4 of the CLP 2031 Part 1.



## Landscape and Arboricultural matters

### *Policy Context*

- 9.62. Policy ESD13 of the CLP 2031 Part 1 relates to Local Landscape Protection and Enhancement. It requires development to respect and enhance local landscape character and not to cause visual intrusion into the open countryside or to cause harm to important landscape features and topography.
- 9.63. Policy Bicester 10 of the CLP 2031 Part 1 sets out the requirement for development proposals to be accompanied and influenced by landscape/ visual and heritage impact assessments and it requires structural planting and landscape proposals within the site to include retention of existing trees and hedgerows and to limit the visual impact of new buildings and car parking on the existing character of the site and its surroundings.
- 9.64. The National Planning Policy Framework, as part of encouraging good design, identifies that development should be sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change.

### *Assessment*

- 9.65. The application is accompanied by a Landscape and Visual Impact Assessment which finds that the likely visual and landscape character impacts are likely to be slightly adverse and that the current proposals are broadly consistent with the previously consented scheme in terms of massing, height and associated visibility within the surrounding landscape albeit, it refers to the buildings being significantly lower in height than the hotel, which is not the case as will be explained below. The LVIA finds that there are likely to be positive landscape effects associated with the landscape design and management proposals arising from this scheme. The newly proposed landscape design is considered to be an improvement over the dense car parking arrangement that dominated the consented scheme.
- 9.66. The Landscape Officer has raised concerns with the LVIA in terms of the cumulative assessment of landscape and visual harms. Officers are content that it is appropriate to consider the proposal against the baseline of the extant outline permission in terms of landscape and visual impacts at this outline stage.
- 9.67. The extant outline permission that exists for the site demonstrated four buildings located along the western edge of the site, served predominantly by car parking and landscaping to the east. The buildings were designed to be seen and to create a 'statement'. The current proposal seeks to also concentrate the proposed buildings predominantly to the western edge of the site with the buildings almost continuous along the A41 frontage albeit, the LVIA acknowledges that a residential use tends to benefit from a greater level of vegetation provision to protect the residential areas from the adjacent road. The proposal also proposes buildings to the northern edge of the site and a multi storey car park to the north eastern edge of the site.
- 9.68. The buildings themselves are proposed at varying heights and whilst scale is a matter reserved for later approval, it is important to assess at this outline stage maximum parameters to control future development and to be satisfied that the amount of development applied for can be appropriately accommodated. The southern part of the site where the majority of the residential use is proposed (and no commercial use), is proposed to extend to 14m in height to the parapet but with the height extended to 17.5m set back 3m from each edge of the building. The approved office development indicated heights of 14m for those buildings and

therefore the southern part of the site is comparable with the extant development, with the greater height likely to be only perceptible from longer distances given the setback.

- 9.69. To the northern part of the site, the majority of the buildings are proposed at the same height as described above (14m to the parapet but with the height extended to 17.5m set back 3m from each edge of the building). However, a 'L' shape block on the corner (fronting the A41 and Charles Shouler Way) is proposed to be increased to 17.2m in height to the parapet but with the height extended to 19.6m set back 3m from each edge of the building. This height is higher than the extant permission indicated for the office buildings (14m), however, in the context of the adjacent hotel, which is 17.5m in height, this height, on a restricted area at the north west corner of the site is considered acceptable. Views of the hotel, particularly when approaching from the west are prominent due to its scale and mass currently and Officers consider that another building on the opposite side of Charles Shouler Way of a similar height and scale would be acceptable in this context and would create a gateway to the business park, before the buildings drop in height to the south. The greater height in terms of the set back is also likely to be perceptible only from longer distances. The corner of this block is shown relatively close to the current alignment of the Wendlebury Road, however once the roundabout to be provided by Phase 2 is in place which realigns the road and provides a wide open area, the building will appear set back and the presence of a greater height at the roundabout is acceptable in terms of creating a feature.
- 9.70. To the east of the site, a building is proposed up to 8m in height (with its core/ solar panels extending to 12m in height). This is indicated to be for a multi storey car park. Again, once the Wendlebury Road is realigned and the roundabout provided, this building would be set back from the road and its height is comparable with the heights to be approved on Phase 2 to the east of the site. There is an indication that a green wall could be used on certain buildings, and this could soften the appearance of the building if used on the multi storey car park.
- 9.71. Officers consider that the height parameters proposed, including the increased height of 17.2m with a setback height of 19.6m, to be acceptable. Whilst the height is greater than anything else within proximity (apart from the hotel), the site is a strategic allocation for a knowledge-based economy where business parks commonly include tall buildings and creating a sense of arrival in the town with buildings of scale, presence and architectural merit would be advantageous. In this case, other uses are proposed, but it is considered on balance that the proposal remains acceptable in landscape and visual terms, particularly in the context of what could result should a reserved matters application be made against the extant outline permission.
- 9.72. It is noted that the previous Case Officer concluded in respect of the extant outline permission that whilst the combined proposals for Phase 1 were not necessarily sympathetic to the traditional rural landscape character of the area, the site's allocation means that some harm is inevitable. Any harm, when balanced against the benefits of that development would likely be outweighed, particularly providing a high-quality design could be achieved.
- 9.73. The application is accompanied by Landscape Strategy Plans. It is not proposed to approve these given that landscaping is reserved for later approval, however these plans do indicate how landscaping could be provided for, to enable structural landscaping and to provide opportunities for green infrastructure links including space for landscaping between the area of built development and the A41 corridor. They also identify the creation of a pleasant landscaped environment internally within the site which is achievable by way of alternative approaches to car parking

provision. This approach is considered to be beneficial and would enable the site to achieve the high-quality form of development sought whilst creating areas of structural landscaping to assist in softening (not hiding) the proposed buildings and other associated development.

- 9.74. With regard to existing vegetation, the plan demonstrates that just three Ash trees and a section of hedgerow will need to be removed from the north-west corner of the site to enable connectivity for pedestrians and cyclists. The proposal will also require the removal of hedgerows to enable the provision of the two vehicular accesses alongside required vision splays, and other vegetation will also need to be removed to allow for the provision of cycle and pedestrian accesses as identified on the submitted Regulating Plan. It is considered that this can be assessed at reserved matters stage once the exact position of the cycle and pedestrian access arrangements are identified. The tree report finds that generally the existing condition, quality and landscape value of the trees is mostly poor (other than a few trees identified for retention). Otherwise, the majority of existing vegetation will be retained with landscaping proposals to enhance the site to be identified through the reserved matters. Existing trees and vegetation would need appropriate protection.
- 9.75. The removal of vegetation and the provision of accesses along the Wendlebury Road will change its current rural character (as will the proposals resolved to be approved on Phase 2), however this is an inevitable consequence of development and given this is an allocated site is unavoidable.

#### *Conclusion*

- 9.76. On the basis of the above assessment, Officers consider that the landscape and visual impacts of this proposal are acceptable having regard to the extant consent. The proposal would involve some visually prominent development, but, if this were to be delivered to a high quality, any potential impact could be mitigated. In addition, the delivery of commercial development and residential in a sustainable location on and adjacent to an allocated site where development has been anticipated, particularly if the residential use supports the delivery of economic opportunities at Bicester is considered to be acceptable. On this basis, the proposal is considered to comply with Policies ESD13 and Bicester 10 of the CLP 2031 Part 1 and the NPPF.

#### Design and impact on the character of the area

##### *Policy Context*

- 9.77. Policy Bicester 10 of the CLP 2031 Part 1 requires compliance with Policy ESD15 and confirms that a well-designed modern area with the provision of high-quality property is required in order to attract and retain 'best in class' technology companies. It also refers to the need to achieve a high-quality design and finish, with careful consideration given to layout, architecture, materials and colourings and careful consideration given to building heights to reduce overall visual impact.
- 9.78. Policy ESD15 of the CLP 2031 Part 1, relates to the character of the built and historic environment and it seeks to ensure that development complements and enhances the character of its context as well as being designed to meet high design standards.
- 9.79. The National Planning Policy Framework also sets out the importance of good design, advising that this is a key aspect of sustainable development and enables better places to live and work to be achieved.

## *Assessment*

- 9.80. As the application is currently at outline stage, the application is accompanied by a regulating plan (for approval) that has been amended through the application process, plans showing an indicative masterplan and landscape masterplan and a Design and Access Statement. The previous section dealt with the parameters proposed for the scale and landscaping of the development and these also apply in terms of design and therefore the impact on the character of the area.
- 9.81. The result of the Masterplan indicating the buildings along the western side of the site, which is inevitable given the intention to create a high-quality development when viewed from the A41 and given constraints on site such as archaeology, is that the eastern side of the site is left open. In the extant permission, this was identified as large areas of car parking which would have been stark, especially with these areas having relatively little opportunities for landscaping. The current proposal indicates undercroft car parking and a multi storey car park, which would limit the external space needed for parking (albeit some is shown) and therefore give far more opportunities for landscaping (within the constraints of the site, including archaeology). The proposals also indicate features such as green walls, and solar PV, which will embed sustainability into the design and (in the case of green walls) could aid in softening certain buildings (such as the multi storey car park).
- 9.82. The indicative information demonstrates a high quality albeit high density environment with modern buildings and external, landscaped amenity space. This also stems from the proposed concept of the site to create an attractive 'work/ life/ play' co-working, co-living environment that will attract 'inward innovators' to, in turn, attract high quality knowledge-based industries to the site. The amended regulating plan demonstrates where key frontages would be provided as well as where development is focussed enabling the gateway location to be the focus and provide an appropriate entrance to the town.
- 9.83. The Thames Valley Police Crime Prevention Design Advisor has raised a number of comments regarding potential issues that could result from the information provided to date. As the application is at the outline stage and the material submitted is indicative only, it is appropriate for these comments to be considered in detail as part of the consideration of a reserved matters scheme.
- 9.84. The proposal also indicates the potential for a MUGA to be provided on site as well as a children's play area which although are not shown on the Regulating Plan to be approved, can be secured through the S106 in an appropriate location (which also takes account of matters such as the archaeological constraints – explained below). The site does not provide large areas of open space; however it is close to both the proposed Community Woodland and the facilities at Kingsmere which can be accessed on foot or by cycle. In addition, the Regulating Plan does indicate a network of paths within and around the site which is positive from a health and wellbeing point of view.

## *Conclusion*

- 9.85. On the basis of the above assessment, Officers consider that the information submitted to date provides for a sound basis against which future detailed design proposals can be assessed against at reserved matters stage. This will ensure that the proposed development complies with the high-quality design aspirations for the site as set out within Policy Bicester 10 and more generally for the District as set out within Policy ESD15 of the CLP 2031 Part 1.

## Heritage Impact

### *Policy context*

- 9.86. There are no designated Listed Buildings in proximity of the site that would warrant full assessment. In terms of Conservation Areas, the closest is at Chesterton, over 550m to the west of the site. In addition, the Alchester Roman Town Scheduled Ancient Monument (SAM), which comprises an approximate 10ha area, is to the south and south east of the site. Furthermore, archaeology is a known constraint which also requires consideration.
- 9.87. 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*'. The NPPF also states that where a development proposal leads to harm to the significance of a designated heritage asset the harm should be weighed against the public benefits of the proposal.
- 9.88. Policy Bicester 10 of the CLP 2031 Part 1 requires the conservation and enhancement of the setting of the Alchester Roman Town Scheduled Ancient Monument and the setting out of opportunities to better reveal its significance. The Policy also requires the staged programme of archaeological work in liaison with statutory consultees, given the archaeological potential close to the site.
- 9.89. Policy ESD15 of the CLP 2031 Part 1 sets out that new development proposals should conserve, sustain and enhance designated heritage assets and ensure that new development is sensitively sited and integrated in accordance with the advice contained in the NPPF and NPPG.

### *Assessment*

- 9.90. With regard to the setting of designated Heritage Assets, the Chesterton Conservation Area is some distance from the site and therefore this separation distance, as well as the extensive intervening tree belts, means that there would be very limited impact upon the setting of this heritage asset. Any limited impact would be outweighed by the public benefit of providing employment and residential development in a sustainable location.
- 9.91. In terms of the setting of Alchester Roman Town Scheduled Ancient Monument, it is noted that under the previous application (16/02586/OUT), Historic England concluded that the proposed development would have a negligible impact on its setting. However in respect of the current application, Historic England have raised the issue of cumulative impacts of the wider development at the Bicester 10 site (including Phase 2, which has recently been considered), including how the setting of the SAM is changed more widely, the changes between this and the earlier application, and the lack of specific assessment within the archaeological survey work with regard to the setting of the SAM.
- 9.92. The Bicester 10 allocation has been submitted in distinct phases and previous applications have all considered the impact of that development upon the SAM. This includes the proposals on Phase 2, which are more closely related to the site of the SAM and which were concluded by Officers to be acceptable in terms of setting.
- 9.93. Turning to the current application site, the heritage desk-based assessment from July 2016 considered the impact of development on the Bicester 10 site on the

setting of the SAM. The document explains how the SAM is currently experienced (i.e. in a predominantly agricultural surrounding albeit with changes having occurred through the introduction of transport infrastructure) and that there would be no direct affect to the SAM. Setting results predominantly from its association with archaeological remains in the immediate and wider landscape and so the treatment of this will be important in the assessment of setting. In terms of physical relationship, it is necessary in the view of Officers to consider this proposal against the baseline of the previously approved scheme particularly given the proposal is for outline permission only, which, as referred to above, is comparable in terms of the parameters for built development and scale despite the land use change. In terms of cumulative impact, the difference would therefore be minimal between that now proposed compared to the committed and extant scheme.

- 9.94. Archaeological records, including the submitted archaeological assessments, find that the area is of considerable archaeological interest with features dating to the Roman period identified. The application is accompanied by archaeological information, which was also provided to support the original 2016 outline application for the site.
- 9.95. Historic England also raise concerns with regard to archaeology as did initially the OCC Archaeologist. The initial objection from OCC was in relation to two main points – firstly, the previously agreed scheme included a method statement related to that scheme to show how the area of dense Roman settlement on site would be preserved in situ (with no buildings, no ground penetrating foundations and no tree planting) and the current application removed this area of preservation and secondly, the inclusion of an additional area of land that was not previously investigated and which was concluded to be likely to contain further archaeological deposits. It was recommended that additional archaeological field evaluation be carried out prior to the determination of the application. Following the receipt of additional information including an Archaeological Mitigation Strategy, OCC have now removed their objection.
- 9.96. With respect to the two specific objections, the second objection described above (the inclusion of additional land not previously assessed), has been overcome by the receipt of confirmation that no development is proposed on that land other than the tidying up of the land and the vegetation and the repair of the footpath/ road to provide a new foot/ cycle path which would not be of a depth that could disturb buried archaeological remains.
- 9.97. With regard to the first objection and the area of archaeological interest on site, previously proposed to be retained in situ, the plans indicatively show the potential for the southern most building to extend eastwards into this area, as well as the area previously shown as car parking, now an area for landscaping including tree planting. It is relevant that this is indicative only given the application is made in outline with all matters other than access, reserved for later consideration.
- 9.98. The proposed approach as set out in the Archaeological Mitigation Strategy is for further investigation to be undertaken in a single discrete location in the central/ southern area of the site (the area shown where the southernmost building could extend to) to establish the likely potential for archaeological remains to survive in this area and for this to then dictate the nature of any further mitigation (i.e. whether the area should be preserved in situ or whether an alternative would be more appropriate). This should be undertaken prior to the submission of a reserved matters application to ensure that this informs the layout and the potential construction methodology needing to be adopted. The already known area of the site which contains significant buried archaeological remains would remain to be preserved in situ as per the agreed mitigation via the previous outline scheme as

described in the report submitted pursuant to that application. It is proposed that the Construction Environment Management Plan would describe how these remains would be protected during construction. Lastly, a written scheme of investigation will be required for further investigation, with the requirement for reporting to be provided to disseminate the findings.

9.99. The drainage proposals identify some features within the archaeological preservation in situ area. This has been raised within the OCC Archaeologist who has confirmed that the detail of this would need to be assessed in order to ensure no significant impact on the significant archaeological deposits on this part of the site. As a series of conditions are recommended in relation to both archaeology and drainage, it is considered that this matter can be dealt with later to ensure an acceptable arrangement taking into account both constraints.

9.100. On the basis of this approach, the OCC Archaeologist has removed the objection subject to the imposition of conditions.

#### *Conclusion*

9.101. On the basis of the above assessment, it is considered that sufficient safeguards are in place to ensure that archaeological interests on the site itself can be sufficiently safeguarded. This is by further investigation work following post decision and for a mitigation strategy to enable those important areas of archaeology to remain in situ. On this basis, it is considered that the development would not cause harm to archaeological remains as preservation would be ensured.

9.102. With regard to setting, Officers consider that on the basis that the scheme is comparable to that previously considered (in terms of built form) and that archaeology would be preserved, that there would be very limited, if any harm and that the proposal is therefore acceptable. Officers would agree that any minor harm would be outweighed by the significant economic public benefits associated with the proposed development.

9.103. On this basis, the application is considered to be in accordance with policies Bicester 10 and ESD15 of the CLP 2031 Part 1 and the NPPF.

#### Residential amenity

##### *Policy Context*

9.104. Policy ESD15 of the CLP 2031 Part 1 refers to the need for the amenity of both existing and future development to be considered including matters of privacy, outlook, natural lighting, ventilation, and indoor and outdoor space. The National Planning Policy Framework also refers to the creation of places with a high standard of amenity for existing and future users that are safe, inclusive, accessible and which promote health and wellbeing.

##### *Assessment*

9.105. The proposed residential development is some distance from any other residential property, with the exception of Lakeside House and Lakeside Bungalow to the east of the site (albeit these are proposed for demolition as part of outline application 19/01746/OUT) and Bicester Trailer Park to the south. Lakeside House and Lakeside Bungalow are around 40m from the eastern edge of the site and given that the residential development would be focussed to the western side of the site (due to the archaeological preservation area), there is a sufficient distance and retained vegetation, such that the residential amenity of those properties would not be

harmed. Similarly, when considering the relationship with Bicester Trailer Park, there is sufficient distance and, there are land level changes (due to the presence of the bridge leading to Chesterton) as well as vegetation, such that amenity would not be harmed.

9.106. The development itself will require care to be taken in its design to ensure that the amenity of residential units on site can be accommodated without causing harmful amenity impacts. This would be a matter for reserved matters and is likely to need careful consideration of detailed matters such as window positioning and detailing given the proximity of the buildings to each other as indicatively shown. Officers are content that a future design can be achieved to protect residential amenity as, whilst it is not common in the Cherwell District for large flatted developments to be proposed, it is achievable in other settings, particularly city centre schemes. In addition, whilst a greater height is proposed to the north of the site, there is a sufficient distance between this and the southern part of the site where the majority of the residential uses are proposed for this not to be harmful. With regard to the relationship with Phase 2, the parameter plans for that application allow for a 30m set back which could allow for landscaping and buffer planting. This would allow for a satisfactory relationship to be created with adjoining development.

9.107. The application proposes some areas of open space on site created by allowing for parking under the residential buildings and within a multi storey car park as well as MUGA and a play area for children. The application also shows that a running route could be created and it also provides indicative landscape ideas including the creation of enclosed courtyard gardens, tree lined routes and the potential for a 'piazza' style arrangement outside of the café space. Whilst the detailed landscape elements are indicative, it does indicate that the proposal would include a landscape setting that could assist in creating an attractive, high quality, healthy environment for the residential properties.

9.108. Issues of impact upon residential amenity by way of environmental nuisance matters are addressed later in this appraisal. Nevertheless, with regard to compatibility with adjoining land uses, B1 uses are proposed on the adjoining sites to the east of Wendlebury Road (Phase 2) and B1a uses are proposed on the site itself, which are uses usually compatible within a residential area. In any event, the proposed conditions as discussed later are considered sufficient to ensure limited impact upon residential amenity.

### *Conclusion*

9.109. Based upon the above assessment, it is considered that a satisfactory arrangement can be achieved at reserved matters stage to ensure the amenity of existing and proposed residential occupiers is protected. This includes ensuring that they are not impacted by environmental nuisance matters; are compatible with surrounding land uses; can achieve acceptable levels of privacy, outlook and light; and that future residential occupiers are provided with outdoor space to enable a healthy development to be provided. On this basis, the proposal is considered to comply with Policy ESD15 of the CLP 2031 Part 1 and Government guidance in the NPPF.

### Ecology Impact

#### *Legislative context*

9.110. 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.

9.111. 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.

#### *Policy Context*

9.112. 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.

9.113. 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.

9.114. 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.

9.115. Policy ESD10 of the CLP 2031 Part 1 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.

9.116. Policy Bicester 10 of the CLP 2031 Part 1 requires that applications be supported by an ecological survey and that there is adequate investigation of, protection of and management of priority and protected habitats and species on site given the ecological value of the site. The policy requires that biodiversity be preserved and enhanced.

#### *Assessment*

9.117. The application has been submitted with an ecology briefing note, which has appended to it, surveys undertaken in 2016 and 2017 (an Ecological Assessment and then surveys relating specifically to Reptiles and Bats). The briefing note has reviewed the position with regard to the potential for priority habitats and species on site to consider likely direct impacts and has made suggestions for ecological

enhancements on site. During the processing of the application, a calculation has been submitted related to the requirements around net biodiversity gain.

9.118. In terms of direct impacts on habitats/ species, the habitat walkover of the site found that the habitats within the application site remain broadly comparable with those found through the earlier surveys with some minor changes leading to a modest degradation of the ecology. In terms of habitats, these remained broadly in line with those originally found, with the land predominantly semi-improved grassland surrounded by hedgerows, trees and ditches with areas of scrub mainly to the south of the site. The opportunities for faunal species remain as potential foraging and commuting habitat of low importance to common bats and suitable nesting and foraging opportunities of low importance for birds. On the basis that the site is relatively small, its isolation as a result of the existing road network and the limited range of habitats present, the application site is not expected to be of any significant value for any other protected or notable faunal species.

9.119. Development at the site would need to be undertaken in a sensitive way to ensure that any protected species that might be encountered are protected and in addition, long term measures are likely to be required to ensure that species are not harmed. In this respect conditions are suggested to require a Construction Management Plan for Biodiversity, to ensure any vegetation clearance is undertaken outside of the bird nesting season unless thorough checks have been first undertaken and to secure details of an appropriate lighting strategy.

9.120. The application also identifies enhancement measures on site including an appropriate landscaping strategy and its long-term management and maintenance (the landscape scheme itself would be a matter to be considered through reserved matters) including the opportunity to increase the quantum of semi-natural habitat on site due to proposals for car parking meaning that additional areas can be provided as open space, the provision of bird, bat and bee boxes on site and the retention and protection of vegetation on the site.

9.121. In respect to a biodiversity net gain, the original wider Phase 1 proposal could not deliver a biodiversity net gain on the site and to mitigate for this, a financial contribution was secured through the associated legal agreement for the applicant to make a contribution to enable a Biodiversity Offset Scheme to be produced, and then to contribute to the delivery of the Biodiversity Offset Scheme. The receipt of this contribution has been triggered by the commencement of the hotel development on Phase 1a. The contribution is to be used to provide an offset scheme at Bicester Wetland Reserve, to the east of the current application site which is run by Banbury Ornithological Society. The cost of the scheme slightly exceeded the contribution originally secured and the applicant has offered to pay a further contribution to make up the shortfall which will enable the offset scheme to be fully funded.

9.122. The net gain calculation submitted for this application shows that net biodiversity gain continues not to be achievable on Phase 1b and therefore it is considered that the further contribution, alongside that originally secured (which was costed to cover the impacts of the schemes previously proposed on Phases 1a and 1b) is reasonable to offset the impacts of the development on biodiversity grounds and will ensure that a net gain can be achieved on a local site. The contribution is therefore considered to meet the legislative tests at Regulation 122 of the CIL Regulations.

9.123. The Council's Ecologist has confirmed following the receipt of the biodiversity calculation that she has no objections to the proposals on ecological grounds. This is on the basis that the offsetting scheme has been previously agreed and that this will ensure an overall net gain is likely to be achieved. The additional enhancements

on the site itself are acknowledged as being beneficial overall. Ecological conditions are also recommended as have been discussed above.

### *Conclusion*

- 9.124. Officers are satisfied, on the basis of the advice from the Council's Ecologist, 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.

### Flood Risk and Drainage

#### *Policy Context*

- 9.125. The NPPF states at paragraph 163 that *when determining applications, Local Planning Authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood risk assessment.* Paragraph 165 also requires that *major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate.*
- 9.126. Policy Bicester 10 of the CLP 2031 Part 1 acknowledges the flood risk constraints of the allocated site requiring a flood risk assessment (FRA) and requires that the sequential approach to development is followed. It also requires the full mitigation of flood risk and the use of SUDs, including infiltration and attenuation techniques where appropriate.
- 9.127. Policy ESD6 refers to Sustainable Flood Risk Management and sets out that flood risk will be managed and reduced with vulnerable development to be located in areas with lower risk of flooding. Policy ESD7 sets out that all development will be required to use sustainable drainage systems for the management of surface water flooding.

#### *Assessment*

- 9.128. The site being located to the west of the Wendlebury Road is within Flood Zone 1 and therefore is less constrained than the eastern side of the allocated site. A Flood Risk and Drainage Assessment (which was amended through the application process) has been submitted with the application to assess the development's risk from flooding and the suitability of the site in terms of drainage.
- 9.129. The information submitted through the processing of the application has been considered by Oxfordshire County Council as the Lead Local Flood Authority who now raise no objections subject to the imposition of conditions. The information demonstrates that the site has some risk from surface water flooding but that the risk is low and that a suitable drainage scheme can be achieved. Soakaways and infiltration techniques cannot be achieved due to the underlying strata and high groundwater levels meaning that the drainage scheme is likely to be reliant upon controlled discharge to the surrounding ditches by the use of shallow SUDs such as permeable paving, swales and cellular crates with shallow, non-pumped connections to the adjacent watercourses. The report recommends that the finished floor level of the proposed buildings be set at 65.30mAOD (a maximum of 0.8m higher than the lowest existing ground level where buildings are proposed to be constructed) to provide mitigation from any remaining flood risk mainly from overland surface water flooding.

9.130. Foul water drainage is proposed to be discharged to the existing private pumping station to the north and a separate foul sewer network will need to be designed, with the site served by an additional foul water pumping package station. Thames Water have not raised an objection to the application on these grounds.

9.131. With respect to the existing water network, Thames Water have identified a potential inability of the existing network infrastructure to accommodate the needs of this development. They have not objected on this matter but recommend a planning condition to ensure that upgrades are in place to ensure that sufficient capacity is available to accommodate the additional demands.

#### *Conclusion*

9.132. On the basis that the information received to date demonstrates that a suitable drainage scheme for both foul and surface water drainage can be achieved to ensure the risk from flooding on and offsite is minimised, it is considered that planning conditions can be imposed to seek further detail of these schemes. A suitable water supply can also be achieved. This is also on the basis that Oxfordshire County Council raise no objections to the scheme subject to the imposition of conditions.

#### Environmental Matters

##### *Policy Context*

9.133. Policy ENV1 of the Cherwell Local Plan 1996 states that development which is likely to cause materially detrimental levels of noise, vibration, smell, smoke, fumes or other types of environmental pollution will not normally be permitted. The policy states that the Council will seek to ensure that the amenities of the environment and in particular the amenities of residential properties are not unduly affected by development proposals which may cause environmental pollution including that caused by traffic generation. Policy ENV12 of the Cherwell Local Plan 1996 relates to contaminated land and states that development on land which is known or suspected to be contaminated will only be permitted if adequate measures can be taken to remove any threat of contamination to future occupiers of the site.

##### *Assessment*

9.134. The Environmental Protection Team have recommended a series of planning conditions be imposed. With regard to noise, a condition is recommended to seek a noise report to ensure that habitable rooms meet British Standards for noise levels to ensure a satisfactory internal living environment that is not impacted by noise. This condition is considered to be reasonable on the basis that residential occupiers are proposed which could be impacted by noise from the adjoining road network, and adjoining land uses, albeit this should be limited, given B1 development is proposed, which is normally compatible with residential uses.

9.135. The Council's standard contaminated land conditions are recommended to be imposed on any permission. The site constraints show that the land is potentially contaminated and, whilst the earlier outline permission did not require further assessment of land contamination, it is considered that as sensitive residential uses are now proposed on site, it is reasonable and necessary to require this constraint to be further assessed.

9.136. With regard to air quality, an Air Quality Impact Assessment was recommended to be sought due to the proximity of the development to the Bicester Queens Avenue/

Kings End AQMA and the likelihood of increased traffic flow from the development into the AQMA. The earlier outline permission for the site did not include such a condition and given that traffic flows are accepted to be less than those generated by the extant outline permission, it is not considered that this would be a reasonable condition. It is also recommended that a condition be imposed to secure EV charging infrastructure to enable the encouragement of the uptake of low emission transport. A condition relating to this matter is recommended to maximise opportunities for sustainable transport.

9.137. A condition is recommended to secure an odour impact assessment if the poultry farm to the east of the site is still in use. This would have the potential to cause nuisance if operational to residents living on the site. This is considered a reasonable condition to ensure satisfactory living conditions for occupiers who may live on the site.

9.138. A condition to seek a detailed lighting scheme has also been recommended and this is considered a suitable condition to ensure the scheme does not cause harm in environmental terms but also for reasons of ecology as previously explained.

### *Conclusion*

9.139. Given the above assessment, it is considered that environmental risks can be adequately dealt with via the imposition of conditions. This will ensure compliance with Policies ENV1 and ENV12 and ensure that the amenities of the residential properties are not unduly affected by environmental pollution.

### Energy Efficiency and Sustainability

#### *Policy Context*

9.140. Policy Bicester 10 of the CLP 2031 Part 1 expects development on the allocation to demonstrate climate change mitigation and adaptation measures including exemplary demonstration of compliance with the requirements of Policies ESD 1-5. Policy ESD5 of the CLP 2031 Part 1 requires new commercial development of over 1000sqm floorspace and for new residential development for 100 dwellings or more to provide a feasibility assessment of the potential for significant on-site renewable energy provision. This is expected to then be provided if it is shown to be deliverable and viable. Policy ESD4 of the CLP 2031 Part 1 also requires a feasibility assessment to be carried out for such developments to consider whether District Heating/ Combined Heat and Power could be incorporated.

9.141. Policy ESD3 of the CLP 2031 Part 1 requires that all non-residential development will be expected to meet at least BREEAM 'Very Good' standard. It also requires development to reflect high quality design and environmental standards and for water, it is expected that a higher level of water efficiency than required by the Building Regulations be sought to achieve a limit of 110 litres/ person/ per day.

#### *Assessment*

9.142. The application is accompanied by an Energy Statement which highlights the potential sustainable design measures for the reduction of CO2 emissions and energy demand for the proposed development that could be considered further at the detailed design stage. The appraisal considers passive design measures that could be taken, how system efficiency measures could be incorporated, how water conservation could be undertaken and what renewable energy technology and low carbon heating/ cooling sources could be incorporated. The assessment then identifies the measures that could be feasible on the site and which will be further

evaluated during the design development. This includes a range of passive design options, options to ensure systems are efficient, that low carbon/ heating cooling sources could be incorporated (although most of these are identified as having potential design/ site/ cost constraints), that a range of zero carbon energy technologies could be used, with PV and battery storage options likely to be most feasible as well as water consumption options being possible. The statement also identifies that options for transport such as cycle facilities and EV charging points should be considered further as well as consideration being given to construction materials and waste to ensure responsible sourcing of construction materials and high recycling rates.

### *Conclusion*

9.143. Subject to the imposition of a condition to ensure that the identified measures are taken forward for further consideration during detailed design and incorporated where feasible at reserved matters stage, Officers are satisfied that the proposed development will be able to be designed to achieve the requirements of Policies ESD1-5 of the CLP 2031 Part 1. A planning condition is also recommended to ensure BREEAM 'Very Good' Standard is achieved for non-residential development.

### Planning Obligations

9.144. A S106 Legal agreement will be required to be entered into to secure mitigation resulting from the impact of the development both on and off site. This would ensure that the requirements of Policy INF1 of the CLP 2031 Part 1 can be met, which seeks to ensure that the impacts of development upon infrastructure including transport, education, health, social and community facilities can be mitigated. This includes the provision of affordable housing in accordance with Policy BSC3. The Authority is also required to ensure that any contributions sought meet the following legislative tests, set out at Regulation 122 of the Community Infrastructure Regulations 2011 (as amended):

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

9.145. Having regard to the consultation responses received and the Council's SPD for Developer Contributions (2018), the following matters have been put to the applicant for inclusion in a S106 agreement:

- The provision of 30% Affordable Housing on site with the mix made up of 70% affordable rent and 30% social rent.
- Contribution toward the improvement/ upgrade of Kingsmere Community Centre based upon a per unit contribution of £587.74 per 1 bed unit and £849.46 per 2 bed unit, all figures index linked from 2Q17.
- Contribution towards outdoor sport - the expansion/ upgrade of the Whitelands Farm Sports Ground and/ or improvements to the community use sports facilities at Alchester Academy based upon a per unit contribution of £922.81 per 1 bed unit and £1,333.75 per 2 bed unit, all figures index linked from 2Q17. These figures are discounted to account for the proposed MUGA on site.

- Contribution towards indoor sport – the expansion/ enhancement of indoor sport facilities at Bicester Leisure Centre based upon a per unit contribution of £429.21 per 1 bed unit and £620.34 per 2 bed unit, all figures index linked from 2Q17.
- Contribution towards a Community Development Worker of £32,970.60 to fund 0.4FTE for two years and a contribution of £2,500 towards a fund to carry out community development activities.
- The provision of a combined LEAP/LAP on site.
- Commuted sums for the management and maintenance of open spaces, mature trees/ hedgerows, SUDs features within open space, play facilities and the MUGA if these areas were to be transferred to the District Council or secure arrangements for a Management Company to carry out the long term management and maintenance in the event a transfer to the District Council does not take place.
- Contribution towards local primary health care – to contribute to existing expansion plans for additional primary care infrastructure at Bicester based upon a per unit contribution of £505 per 1 bed unit and £720 per 2 bed unit, all figures index linked from 2Q17.
- Biodiversity contribution of £6000 towards the offsite biodiversity mitigation works planned at Bicester Wetland Reserve.
- Contribution of £106 per dwelling towards the provision of waste and recycling bins and £5.00 per dwelling towards recycling banks to serve the residential dwellings.
- Contribution of £24,195.90 towards highway safety improvement measures on the A41, index linked from a date TBC.
- Contribution of £214,668 towards Strategic highways – the South East Perimeter Road, index linked from a date TBC.
- Contribution of £3,120 (index linked from January 2020) towards the cost of administering a Traffic Regulation Order to enable the relocation of the existing 40mph/ national speed limit signage to a point south of the development's southern access for road safety reasons.
- Contribution of £4,691.28 (index linked from December 2019) towards the monitoring of the Travel Plans.
- The requirement to agree to enter into a S278 agreement with the Local Highway Authority to deliver safe and suitable access to the development as approved by this application as well as the offsite measures identified:
  - Two bellmouth accesses off of Wendlebury Road with associated pedestrian and cycle facilities to link into existing infrastructure
  - A 3m shared use footway/ cycleway linking Vendee Drive link road and the Chesterton slip road to the site along the A41 including works to enable a crossing at the western end of Charles Shouler Way.
  - Relocation of the speed limit signage on Wendlebury Road.

- Arrangements for a northbound pedestrian/ cycle link along the Wendlebury Road west side north including a crossing to the eastern end of Charles Shouler Way IF Phase 1b were to progress in advance of development on Phase 2.
- Contribution of £557,233 (index linked from 3Q19) towards primary and nursery education – towards the new primary school at South West Bicester (with a matrix arrangement to be introduced to account for changes in the size of units that may result at the reserved matters stage should that final mix result in a change in pupil generation).
- Contribution of £423,943 (index linked from 3Q19) towards secondary education – towards the cost of new secondary schools in the locality (with a matrix arrangement to be introduced to account for changes in the size of units that may result at the reserved matters stage should that final mix result in a change in pupil generation).

9.146. The applicant has raised concerns regarding the compliance of a number of the requested contributions against the CIL Regulation Tests. The applicant has also provided information to demonstrate how various alternatives could be provided that meet the spirit of the contributions requested but in an alternative way (either by way of a physical provision instead of an offsite contribution or by a reduced contribution where they argue this is justified due to the circumstances of the proposal). This information has not been considered or discussed in detail or taken into account the position of consultees to date due to the timing of its provision alongside the finalisation of this report.

9.147. As such, Officers are not able to provide Members at this stage with an agreed finalised list of Heads of Terms. The applicant has however indicated their willingness to enter into discussions with Officers and internal and external consultees in relation to this matter post committee, if Members are agreeable to the principle of the development. On this basis, if Members resolve to approve the proposal as recommended, Officers intend that the application be brought back for further consideration by Planning Committee once agreement on the Heads of Terms has been reached. Officers consider that a period of no more than 3 months would be sufficient to enable a set of heads of terms to be agreed, with the application returned to Planning Committee by the 8<sup>th</sup> October 2020 Committee at the latest.

9.148. With respect to affordable housing, the applicant is committed to providing 30% affordable housing and has undertaken initial discussions with Registered Providers who have raised some queries regarding their likely interest in taking on units at the site. This relates to the nature of the development being apartments and concerns regarding the servicing and management costs and the achievement of a balance between re-shaping economic development in Bicester and meeting the affordable housing requirements on site. In this context, the applicant's proposal is for all of the affordable housing provision to be discount market sale units (intermediate).

9.149. Notwithstanding these queries, Officers consider that a Policy compliant mix 30% affordable housing (of the total 273 units) made up of 70% affordable rent (which is considered most appropriate here as the rent levels include service charges, which is not the case for social rented units) and 30% intermediate, which could represent discount market sales units providing their cost and long term retention as discounted units remains into the future as per the definition within the NPPF, be the baseline for negotiation. Any variation to this would be presented to Members when the application returns to committee for consideration.



9.150. In addition, the District Council and County Council will require monitoring contributions to be secured to cover the cost of monitoring and enforcing the obligations within the S106 agreement, the final amounts to be negotiated. The District Council and County Council will also require an undertaking to cover their reasonable legal fees incurred in the drafting of the S106 agreement. All contributions will be index linked from an appropriate baseline to protect the value of the contribution.

9.151. In addition to the above, the Council's Developer Contributions SPD seeks to secure construction apprenticeships, skills and training. It has been agreed with the applicant that this can be secured through condition attached to the planning consent. Similarly, the provision of public art within the site will also be secured by condition. Members will note that a final list of conditions has not been drafted (although a list setting out the headline matters is provided), however on the basis that the application will be brought back for consideration, a full list of conditions (also agreed with the applicant, which is a requirement for any pre-commencement conditions) will be made available then.

## **10. PLANNING BALANCE AND CONCLUSION**

10.1. 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.

10.2. The application site is partially allocated by Policy Bicester 10 and partially unallocated. The site benefits from an extant planning permission for B1 employment uses, up to 14,972 sqm GEA (Gross External Area) on land falling both inside and outside of the Policy Bicester 10 allocation area. The current application proposes an alternative development for the land, seeking permission for a mixed-use development including up to 273 residential units and up to 4,413sqm GIA (Gross Internal Area) of B1a floorspace and other associated development.

10.3. The proposal represents a departure from the Development Plan in respect of the principle of the development in two main ways. Firstly, the development of unallocated land for residential uses and secondly, alternative land uses proposed on an allocated site not in accordance with uses for which the site is allocated. The proposed alternative development would also result in the loss of employment floor space that has previously been approved.

10.4. However, the application seeks to propose an 'innovation community' which is intended to be a catalyst to attract 'inward innovators' (people) to Bicester who would work in the High-Tech Knowledge industries thereby increasing the profile of the town for such uses as well as providing some B1 commercial floorspace on the site itself. The vision presented is to achieve a high-quality modern development that would provide an attractive environment for co-living, co-working space. Linked to this are flexible and complimentary spaces such as a hub providing for co-work type space and a café. If achieved, this would contribute to the ambitions set out in the Local Plan which seek to develop a sustainable economy in Bicester.

10.5. As has been explained, whilst not without merit Officers consider the weight that can be given to the 'innovation community' concept is limited, particularly as there is no basis on which to control the development in this way and so secure the wider social and economic benefits. In this regard, Officers have considered the residential use on its own merits. Whilst there is loss of employment floor space across the whole of the application site benefiting from the extant permission, there would be limited overall loss of employment floorspace from the allocated land for employment at Bicester within the CLP 2031 Part 1. This is because the majority of employment

floorspace that would be lost through this proposal is outside of the land allocated by Bicester 10 (although not all of it).

- 10.6. With respect to the proposed residential development, Officers consider that the location is sustainable for the proposals being considered. This is on the basis that it will be well connected and physically related to development on the allocation, and is within walking and cycling distance of a number of services and facilities and the surrounding employment uses are proposed to fall within Use Class B1, which are uses normally compatible within a residential area in terms of nuisance issues. In addition, conditions will be imposed to deal with environmental protection matters. The provision of additional housing as an extension of an allocated site at Bicester which, alongside Banbury, is the focus of the Council's housing strategy because of their sustainability is considered acceptable. This would also make a valuable contribution to the Council's Housing Land Supply position and provide for affordable housing. For these reasons and noting the guidance in the NPPF on the need for planning policies and decisions to be flexible to respond to changes in business and employment needs and demand for land, Officers consider the proposal to be acceptable and to outweigh the Policy conflict caused by a departure to the Development Plan in principle.
- 10.7. The proposal provides for suitable means of access and contributes to improving access by sustainable modes (with the final details still being discussed), such that the application can allow for a high degree of connectivity enabling residents and employees to safely access the wider town.
- 10.8. The report considers all other material considerations and finds that the proposal can be suitably accommodated subject to the satisfaction of planning conditions to ensure that site constraints are suitably considered (such as archaeology). This will enable the relevant Policies listed at paragraph 8.2 to be complied with.
- 10.9. The applicant has also indicated their willingness to enter into a S106 legal agreement to secure mitigation required to offset the impacts of the development, however these matters are still under discussion and an agreed set of heads of terms is not yet available.
- 10.10. For the above reasons and as set out in the full appraisal, Officers consider that the planning balance lies in favour of approving the application. It is therefore recommended that Members resolve to support the principle of development subject to the application being brought back to Members within a reasonable timeframe to consider the S106 package, which Officers intend to negotiate against the baseline of the matters set out in this report. The application would also need to be subject to conditions, which would be finalised and included within a future planning committee report.

## **11. RECOMMENDATION**

**TO GRANT PLANNING PERMISSION SUBJECT TO CONDITIONS AND THE COMPLETION OF A S106 LEGAL AGREEMENT, THE PRECISE FORM AND WORDING OF THE CONDITIONS AND HEADS OF TERMS OF THE LEGAL AGREEMENT TO BE AGREED BY PLANNING COMMITTEE NO LATER THAN END OF OCTOBER 2020 AND PRIOR TO THE LEGAL AGREEMENT BEING COMPLETED AND THE PLANNING PERMISSION ISSUED.**

Planning conditions to be drafted to cover the following headline matters:

1. Restriction to the development/uses applied for
2. Requirement to submit a reserved matters application

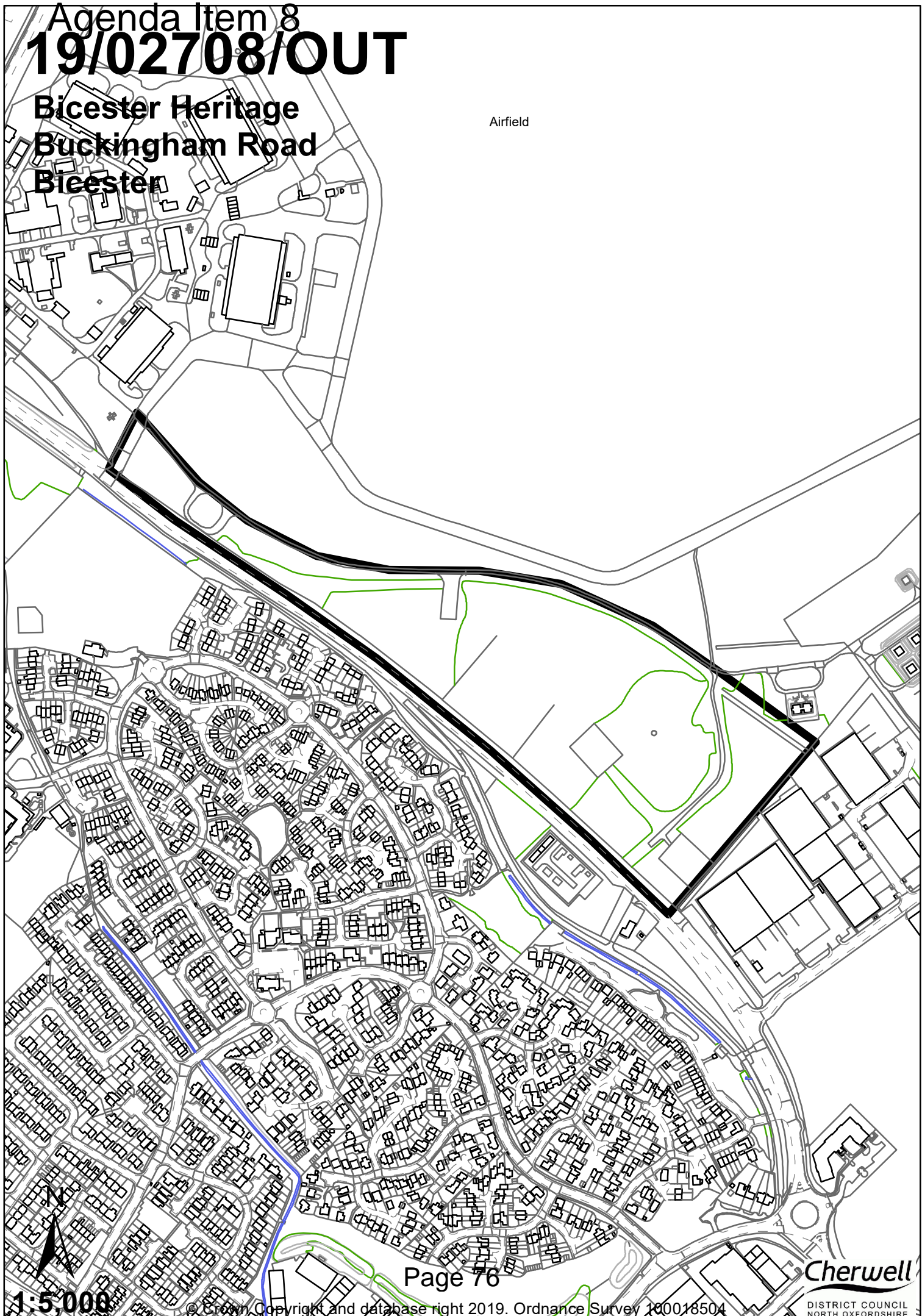
3. Timescale for submission of reserved matters
4. Plans for approval
5. Vegetation clearance undertaken outside the bird nesting season
6. Retention of vegetation except to allow for means of access
7. Agreement of finished floor levels (with levels no less than as set out in the FRA)
8. Requirement to provide details of ecological enhancement measures
9. Requirement for protected species checks (site walkovers)
10. Requirement to provide details of sustainable design measures including the provision of on-site renewable energy technologies.
11. The achievement of BREEAM very good standard
12. Restriction of permitted development rights to ensure all required service infrastructure be provided underground unless otherwise granted through a reserved matters application
13. Requirement for the provision of a phasing plan
14. Requirement to provide a Construction Method Statement
15. Requirement to provide a Construction Environmental Management Plan (CEMP) for Biodiversity
16. Requirement to provide an Arboricultural Method Statement including tree protection measures
17. Requirement to provide a Training and Employment Management Plan
18. Requirement to provide a surface water drainage scheme including long term management and maintenance arrangements
19. Requirement to provide a foul drainage scheme
20. Requirement to provide full details of accesses, footways, cycleways
21. Conditions as necessary relating to the public rights of way
22. Conditions relating to archaeology to require further work pre-reserved matters and then to require a watching brief and details of development within the area to be preserved in situ.
23. A series of conditions relating to contaminated land.
24. Requirement for an odour assessment
25. Requirement for details of any required piling
26. Requirement for a noise survey to ensure that residential dwellings can be appropriately mitigated to ensure they are not unduly impacted by noise
27. Requirement to agree details of tree works on land to the south of the site
28. Requirement for phased travel plans
29. Requirement for a Landscape and Ecology Management Plan
30. Requirement for the provision of electric vehicle charging infrastructure
31. Occupation restriction until all required water upgrades are completed or a phasing plan has been agreed to ensure all development is provided with sufficient water infrastructure
32. Requirement for a car park management plan
33. Requirement for details of external lighting to be approved
34. Requirement for a scheme of public art to be first agreed.

IT IS FURTHER RECOMMENDED THAT IN THE EVENT AN EXTENSION OF TIME IS NOT AGREED TO ENABLE THE APPLICATION TO BE REPORTED BACK TO PLANNING COMMITTEE, THAT THE APPLICATION IS REFUSED DUE TO THE LACK OF A SATISFACTORY S106 AGREEMENT TO ENSURE THE IMPACTS OF THE DEVELOPMENT CAN BE MADE ACCEPTABLE, THE PRECISE WORDING OF THE REASON FOR REFUSAL TO BE DELEGATED TO THE ASSISTANT DIRECTOR PLANNING AND DEVELOPMENT.

# Agenda Item 8 19/02708/OUT

**Bicester Heritage  
Buckingham Road  
Bicester**

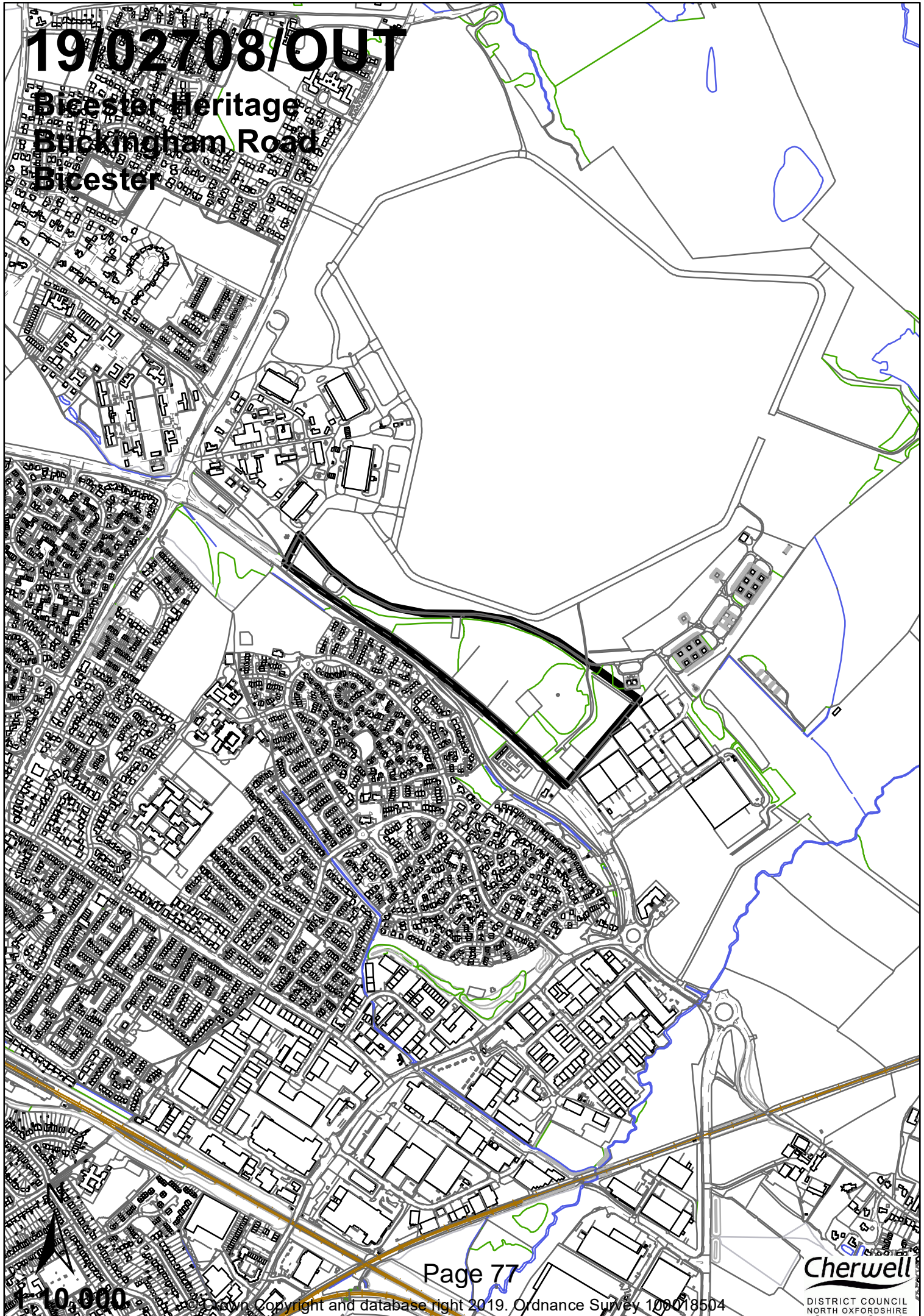
Airfield





**19/02708/OUT**

**Bicester Heritage  
Buckingham Road  
Bicester**



**Case Officer:** Rebekah Morgan

**Applicant:** Bicester Motion

**Proposal:** Outline:- Provide new employment units comprising B1 (Business), B2 (General Industrial), B8 (Storage) and D1 (Education) uses with ancillary offices, storage, display and sales, with all matters reserved except for access

**Ward:** Launton and Otmoor

**Councillors:** Cllr Timothy Hallchurch, Cllr Simon Holland and Cllr David Hughes

**Reason for Referral:** Major development

**Expiry Date:** 17 July 2020

**Committee Date:** 16 July 2020

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## **EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION**

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

#### **Proposal**

The application seeks to provide new employment units comprising B1 (Business), B2 (General Industrial), and B8 (Storage) uses, with the option to provide skilled apprenticeship opportunities falling within use class D1 (Education). The proposal includes ancillary offices, storage and display/sales areas. The application is submitted in outline with all matters reserved except for access.

#### **Consultations**

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

- British Gliding Association, General Aviation Awareness Council, CPRE Oxfordshire, Launton Parish Council, Caversfield Parish Council, Sport England, Bicester Gliding Club.

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

- Historic England, OCC Highways, OCC Archaeology, Local Lead Flood Authority, Thames Water, Thames Valley Police (Crime Prevention Design Advisor), CDC Conservation, CDC Planning Policy, CDC Landscape Services, CDC Environmental Protection, CDC Building Control.

97 letters of objection have been received, 8 letters of support have been received and 6 letters of comment have been received.

#### **Planning Policy and Constraints**

The following constraints apply to the site:

- RAF Bicester Conservation Area;
- Listed Buildings and Locally Listed Buildings are located within the Technical Site;
- Scheduled Monument;
- Site of Special Scientific Interest (SSSI) within 2km of the site;
- Local Wildlife Site which extends around the perimeter of the airfield;

- Electricity distribution site to the south;
- Area of archaeological interest;
- A4421 Skimmingdish Lane to the south and Buckingham Road to the west;
- Residential properties to the south, south-west and west of the site

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
- Impact on Gliding
- Parameters – heights, scale, massing and design
- Heritage Impact
- Landscape and visual impact
- Ecology Impact
- Highway Safety - Connectivity and Access
- Residential Amenity
- Flood Risk and Drainage
- Environmental Impacts
- Energy Efficiency
- Planning Obligations

The report looks into the key planning issues in detail, and Officers conclude that the proposal is acceptable subject to conditions and a s106 agreement.

**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. For the purposes of this application, the site area and redline relates to a parcel of land situated on the south-eastern edge of the existing flying field totalling 10.08 hectares. This site is bounded by the airfield to the north and west, a large industrial development to the east and Skimmingdish Lane to the south with residential areas beyond.
- 1.2. The site is part of the wider former RAF Bicester Airfield which is located to the north of Bicester on the outskirts of the town. The site is now occupied by Bicester Motion, a company specialising in historic motoring and aviation. The site occupied by Bicester Motion comprises the main 'technical site' area (where most of the buildings are located) and the flying field which extends to the north and east of the main technical site area, totalling around 141.5 hectares.
- 1.3. The whole of the site (including the flying field) is designated as a conservation area and most of the buildings within the main technical area are listed (Grade II). The remaining buildings are considered to 'make a positive contribution' to the area in the Conservation Area Appraisal and would therefore be considered as non-designated heritage assets. Existing vehicular and pedestrian access to the technical site is gained just north of the roundabout on Buckingham Road. A second access off Skimmingdish Lane serves as the gliding club access and provides

access to the application site. There are residential properties located to the west and southwest of the site. There are also several Scheduled Monuments located on the edges of the flying field and within the main technical area, including two within the application site.

## **2. CONSTRAINTS**

2.1. The following constraints apply to the site:

- The site is located within the Conservation Area of RAF Bicester;
- The wider Bicester Motion site contains 22 Grade II Listed Buildings with the remaining buildings making a positive contribution to the character and appearance of the conservation area and are therefore considered to be non-designated heritage assets;
- The site lies within the setting of Scheduled Monuments;
- There is a Site of Special Scientific Interest (SSSI) within 2km of the site (the quarry to the north);
- The site is within a designated Local Wildlife Site which extends around the perimeter of the airfield;
- There is an electricity distribution site to the south, beyond Skimmingdish Lane;
- The site lies within an area of archaeological interest;
- The Bicester Motion site is bordered to the south by the A4421 Skimmingdish Lane and to the west by the Buckingham Road;
- There are residential properties to the south, south-west and west of the Bicester Motion site (opposite sides of the road);
- The site is allocated in the Cherwell Local Plan for mixed use development including employment uses (Policy Bicester 8).

## **3. DESCRIPTION OF PROPOSED DEVELOPMENT**

3.1. The application seeks to provide new employment and training units comprising B1 (Business), B2 (General Industrial), and B8 (Storage) uses with the option for some D1 use (Education). The proposal includes ancillary offices, storage and display/sales areas. The development is referred to by Bicester Motion as the F.A.S.T. development, and the applicant's Planning Statement explains that "the vision for the Future Automotive Speed and Technology (F.A.S.T.) development is to create a world leading technology cluster in the heart of Bicester".

3.2. The application form states the development would create a maximum of 21,994 square metres of floor space. The precise mix of uses is not specified, although a parameter plan has been submitted showing a larger proportion of B1/B2 uses than B8 uses with only one potential building highlighted for B8 use.

3.3. The application is submitted in outline with all matters reserved except for access.

## **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>
18/01253/F	Erection of hotel and conference facility with associated access, parking and landscaping.	Application Permitted



18/01333/F Extension to existing Technical Site to Application provide new employment units comprising Permitted flexible B1(c) light industrial, B2 (general industrial), B8 (storage or distribution) uses with ancillary offices, storage, display and sales, together with associated access, parking and landscaping.

- 4.2. It should be noted that subsequent Section 73 applications (19/02275/F, 20/00475/F, 20/00832/F and 20/00842/F) relating to application 18/01333/F have been granted consent to allow change of use and external alterations to individual buildings within the New Technical Site area.
- 4.3. The above site history represents the two major developments that have been permitted on the wider Bicester Motion site; the hotel and extension to the technical site area. The original technical site has a detailed planning history with several planning applications and listed building consent applications associated with individual buildings including a site wider consent for commercial uses.
- 4.4. The general approach taken on the technical site has been to allow changes of use that fit with the commercial nature of the site and minor physical changes to the buildings to ensure their long-term use and viability with an aim of conserving the heritage assets on the site.

## 5. PRE-APPLICATION DISCUSSIONS

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

<u>Application Ref.</u>	<u>Proposal</u>
19/00186/PREAPP	New employment units comprising flexible B1 (business), B2 (general industrial), B8 (storage or distribution), D1 (education) uses with ancillary offices, storage, display and sales.

- 5.2. The pre-application response concluded that the principle of employment development in this location was considered to comply with the Cherwell Local Plan 2031 Part 1 and it recognised the economic benefits of the proposal.
- 5.3. Through pre-application discussions and the final report, detailed comments were provided. Specific areas were highlighted where additional information would be required, or concerns would need to be addressed at the application stage. The case officer concluded that if all the matters were satisfactorily addressed at the application stage, it was likely the application would be supported.

## 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 March 2020**, although comments received after this date and before finalising this report have also been taken into account.
- 6.2. The objections or concerns raised by third parties are summarised as follows:

- Not sustainable in transport terms – car dominant access
- Increase in traffic
- Impact on highway safety
- Unsafe vehicular access onto Skimmingdish Lane
- Impact on plans to convert Skimmingdish Lane to a dual carriageway
- Bicester lacks the highway infrastructure to support development
- Construction traffic will impact on general traffic movements
- Need to preserve the historic airfield
- Historic airfield is being surrounded by high buildings – impact on openness
- Building around the site will make the green space less visible
- Altering the rural nature of the site
- Impact on gliding activities and aviation in general
- Gliding is part of the town's history and the gliding club is an asset to the town
- Objection to the overall vision/masterplan
- Vision suggests they want to surround the airfield
- Negative impact on ecology and biodiversity
- Impact on wildlife site
- Impact on residential amenity – reduce quality of life for those living nearby
- Noise impacts
- Offers very little recreation for the people of Bicester
- No benefits for the people of Bicester
- Air quality – emissions from traffic and old cars contributing to poor air quality
- The employment provided (outside of construction) will be negligible
- The jobs created will be low paid jobs
- Negative impact on local house prices
- Poor design – large, ugly buildings/industrial sheds
- Impact on the angling club (relates to masterplan)
- Adding to Bicester's carbon footprint

6.3. The comments made in support by third parties are summarised as follows:

- Improvements to the entrance would reduce any build up of traffic trying to enter the site
- Enhancement to local biodiversity
- Positive for Bicester in terms of jobs and prestige
- It will create jobs for local people
- More visitors will equal more money being spent in the town – good for the local economy

6.4. GENERAL AVIATION AWARENESS COUNCIL: **Object.** The GAAC provided detail comments on the following issues:

- Need to retain this unique and historic flying site for General Aviation Uses.
- Raise concerns with the assumptions used in the applicant's aviation report and the conclusions it reaches.
- Inconsistency between the applicant's aviation report and aviation statement regarding the proposed heights of the buildings. The height of the buildings would impact on the useable runway length.
- Concerns regarding the impact of the proposal on ecology around the perimeter of the airfield.

- Drainage issues highlighted in the applicant's aviation report have been generally caused by the use of the perimeter track by unsuitably heavy vehicles.

*Officer comment: - The GAAC's response is listed under the publicity section of the report, as they were not formally consulted on the application.*

- 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. LAUNTON PARISH COUNCIL: **object** on the grounds of impact on the street scene and visual impact on the protected airfield, highway safety concerns and impact on aviation.
- 7.3. CAVERSFIELD PARISH COUNCIL: **object** on the grounds of loss of view over the airfield, the significant change to the street scene along Skimmingdish Lane, overdevelopment of the airfield within the context of the historic setting, impact on heritage and highway safety concerns.

### CONSULTEES

- 7.4. HISTORIC ENGLAND: Detailed **comments** have been provided in relation to the Scheduled Monuments within the application site and the potential impacts of the development.

*Historic England conclude by stating they have 'concerns regarding the application on heritage grounds. We consider that the issues and safeguards outlined in our advice need to be addressed in order for the application to meet the requirements of paragraph 196 of the NPPF. Your authority should take these representations into account and seek amendments, safeguards or further information as set out in our advice'.*

*Officer comment: - The detailed comments provided by Historic England are discussed at length in appraisal section of this report. The comments are considered along with comments from the Council's Conservation Officer and the applicant's Conservation consultant. Clear information is provided to explain how the development has been considered in relation to the tests set out in the National Planning Policy Framework (chapter 16: Conserving and enhancing the historic environment).*

- 7.5. OCC HIGHWAYS: **No objections** subject to Section 106 contributions, an obligation to enter into a Section 278 agreement to secure mitigation/improvement works and conditions in respect of a construction traffic management plan, travel plan, turning area details, car parking and cycle parking.

*Officer comment: - An initial objection was received from highways. Following a meeting with the applicant's highway consultants and the submission of additional information, the objection was removed.*

- 7.6. OCC ARCHAEOLOGY: Confirmed there are no below ground constraints and they support the advice of Historic England.
- 7.7. LOCAL LEAD FLOOD AUTHORITY (OCC): **No objection** subject to conditions. They set out three key issues:
- Infiltration test results required to be supplied for assessment
  - Groundwater monitoring results required to be supplied for assessment
  - Contamination investigation results required for assessment to inform infiltration proposals

Recommended conditions: SuDs, Completion and Maintenance of Sustainable Drainage and Outline Design Infiltration Condition.

There is a request for the applicant to complete an OCC Flows and Volumes Pro-Forma in order to facilitate full technical assessment of the infiltration, run-off and attenuation requirements of the proposal.

- 7.8. BRITISH GLIDING ASSOCIATION: **Object**. Three sets of comments have been received.

First submission – The BGA set out their position as a national governing body with Bicester Gliding Club being one of their member clubs. They highlighted the designation of the airfield as a Nationally Significant Area for Sport under the Sport England scheme. The comments state the ‘club says that they can live with these proposed buildings, with some reservations about their height; therefore, the BGA is not in a position to comment otherwise’. However, they do make it clear that without an independent aviation assessment it is not possible to fully understand any potential operational implications of the development. Other comments made relate to wider proposals for the airfield (that are not currently part of the planning application) and airfield management discussions between the site owners and the club.

Second submission (submitted after the publication of the independent aviation report commissioned by Cherwell District Council) – Raises concerns that the Council’s independent report was carried out without input from users of the airfield (namely Bicester Gliding Club). They request that further work is carried out in conjunction with the BGA Chief Executive Officer who has experience of the airfield at Bicester and is a current user of the airfield. The BGA also reiterate their support for the continuation of gliding at the airfield.

The comments specifically raise concerns about the impact on any development around the airfield on the omnidirectional nature of the airfield in terms of the impact on aviation use and impact on the character of the airfield.

Third submission (submitted following discussions between the LPA and Sport England regarding the independent nature of the report commissioned by the Council) – The BGA reiterate their offer for the Council’s independent expert to work with their Chief Executive Officer and disagree with the Council’s decision to decline.

The comments raise concerns with the proposal stating it ‘would impact negatively on the undershoot possibilities of an aircraft on that approach’ (this is referring to the northerly approach path). The comments go on to state ‘as available approach paths to airfields are reduced, the options available to operators are similarly reduced. That inevitably compromises the utility of the airfield. Furthermore, in this particular instance, the development proposals will inevitably restrict utilisation of the airfield

from certain directions and thereby compromise the very feature for which Bicester Aerodrome is renowned, that being its omnidirectional operations’.

- 7.9. SPORT ENGLAND: **Objection** – *‘It is clear that the development will have some impact on gliding to a lay person. However, a lay person cannot quantify that impact. Looking at the site after reviewing all the documentation submitted, I am of the opinion that some development, perhaps the quantum of development can take place, but the case has not been proven, to use the Scottish legal phrase, beyond reasonable doubt, that it can take place in the precise location it has been shown in without a small amount of further work’.*

Sport England defer to the comments made by the British Gliding Association as they believe they are best placed to provide advice regarding the impact on gliding. They support the BGA’s request to carry out further work with the Council’s consultant. Sport England’s officer states *‘As it stands I am persuaded by the BGA’s arguments and expertise that the impact of the proposed development will have a detrimental impact on the use of the airfield for gliding and as a result a negative impact on a National Significant Area for Sport (SASP)’.*

Sport England have also provided some comments in relation to the site wide masterplan, but do acknowledge this is not currently part of the proposal.

*Officer comment: - An initial response advised the proposal did not fall within Sport England’s statutory or non-statutory remit. The Council responded seeking further input as we had been informed of the site’s recent designation as a Significant Area for Sport (SASP); a further response was then received from Sport England.*

- 7.10. CPRE OXFORDSHIRE: **Object** on the grounds of the proposal not complying with the requirements of the Local Plan or national policy regarding ecology and biodiversity gain.
- 7.11. THAMES WATER: With regards to waste water infrastructure and water network infrastructure, Thames Water has been unable to confirm if there is sufficient capacity within the existing network to accommodate this development. They have recommended conditions requiring the applicant to submit information and agree a position on network capacity/any required upgrades prior to the commencement of development.
- 7.12. THAMES VALLEY POLICE (CRIME PREVENTION DESIGN ADVISOR): **No objection** to the proposal. Detailed comments have been provided regarding specific aspects of the proposal and how design can be used effectively to design out crime.

*Officer comment: - The application has been submitted in outline with all matters reserved except for access. The detailed design, layout and landscaping of the development, if approved will be the subject of a reserved matters application. At this stage it would be appropriate to address the detailed comments when the full design of the development is being considered. The comments are publicly available, and the applicant will be aware of these; they will have the opportunity to address them as part of future applications.*

- 7.13. CDC CONSERVATION: There are **concerns** regarding the impact on the character of the flying field character zone within the conservation area as a result of the proposals; any resulting harm needs to be weighed against the public benefit.

*Officer comment: The Council's Conservation Officer has provided lengthy, detailed comments on the proposal. These comments are carefully considered within the appraisal section of this report.*

- 7.14. CDC PLANNING POLICY: **No objection** in principle, subject to the specific requirement of Policy Bicester 8 being met.
- 7.15. CDC LANDSCAPE SERVICES: **No objection**. Having reviewed the LVIA, no objections have been raised. The applicant's intention to retain the existing vegetative screen along Skimmingdish Lane and reinforce with additional trees is considered to be appropriate.

*Officer comment: - Landscape is a reserved matter. If approved, the full details of the landscaping proposals will be the subject of a future application.*

- 7.16. CDC ENVIRONMENTAL PROTECTION: **No objection**. Comments have been provided in relation to noise, contaminated land, air quality, odour and light pollution. No objections have been raised and conditions have been recommended. Relevant detailed comments will be addressed in the appraisal section of this report.
- 7.17. CDC BUILDING CONTROL: Confirmed that a building regulations application will be required for the development.
- 7.18. BICESTER GLIDING CLUB: Two detailed submissions have been made.

First submission – The response raised concerns regarding the applicant's aviation report and set out 5 detailed comments relating to specific aspects of the report. The points detailed raise technical concerns with the report.

In conclusion, the submission states '*It is recognised that this application relates to an element of the airfield 'Masterplan'. It is clear from the comments above that Bicester Gliding Centre is a stakeholder and should be consulted to ensure accuracy in matters relating to aviation at Bicester airfield. The Bicester Gliding Centre recognises that when viewed in isolation, the proposed F.A.S.T development would have a limited impact on current flying operations but we object to the application pending full consideration and response to the comments above*'.

Second submission – This consists of a full aviation assessment of the proposals. The report sets out background information about the site, a number of operational considerations, factors affecting choice of runs, airfield utilisation and consideration of the masterplan proposals.

## **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)

- BICESTER 8: Former RAF Bicester
- BSC7: Education
- PSD1: Presumption in favour of Sustainable Development
- SLE1: Employment Development
- SLE4: Improved Transport Connections
- ESD1: Mitigating and Adapting to Climate Change
- ESD2: Energy Hierarchy and Allowable Solutions
- ESD3: Sustainable Construction
- ESD4: Decentralised Energy Systems
- ESD5: Renewable Energy
- ESD6: Sustainable Flood Risk Management
- ESD7: Sustainable Drainage Systems
- ESD10: Biodiversity and the Natural Environment
- ESD13: Local Landscape Protection and Enhancement
- ESD15: The Character of the Built and Historic Environment
- INF1: Infrastructure

## CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- TR1: Transport Funding
- C1: Protection of Sites of Nature Conservation Value
- C2: Development affecting Protected Sites
- C4: Creation of New Habitats
- C7: Landscape Conservation
- C23: Retention of features contributing to the character or appearance of a Conservation Area
- C25: Development affecting the Site or Setting of a Scheduled Ancient Monument
- C28: Layout, design and external appearance of new development
- ENV12: Development on Contaminated Land

### 8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- RAF Bicester Conservation Area Appraisal – November 2008
- RAF Bicester Planning Brief 2009
- Cherwell Non-Statutory Local Plan 2011
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- 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
- Impact on Gliding

- Parameters – heights, scale, massing and design
- Heritage Impact
- Landscape and visual impact
- Ecology Impact
- Highway Safety - Connectivity and Access
- Residential Amenity
- Flood Risk and Drainage
- Environmental Impacts
- Energy Efficiency
- Planning Obligations

### Principle of Development

#### *Policy Context*

- 9.2. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 9.3. Paragraph 11 of the National Planning Policy Framework sets out a presumption in favour of sustainable development and states for decision taking, this means *'approving development proposals that accord with an up-to-date development plan without delay'*. The presumption in favour of sustainable development is reiterated in Policy PSD1 of the Cherwell Local Plan 2031.
- 9.4. The application site is allocated in the Cherwell Local Plan 2031 under Policy Bicester 8 for *'conservation-led proposals to secure a long lasting, economically viable future for the Former RAF Bicester technical site and flying field'*. Policy SLE1 supports employment development on new allocated sites within the plan; RAF Bicester is one of the sites allocated for employment development (B Use classes) within the plan.
- 9.5. Policy Bicester 8 refers to a Planning Brief for the allocation. This Brief was prepared in 2009 and is now somewhat out of date and superseded by both the CLP Part 1 itself, as well as national planning policy and guidance and material circumstances including the surrounding context and development that has taken place within the wider RAF Bicester site. The document provides only informal development principles and does not have the status of a Supplementary Planning Document and its stated purpose was *'to respond quickly to provide guidance on the future of this important site to advise potential purchasers'*. The document sets out the Council's aspirations for the site and future uses that would be considered appropriate. Therefore, given its age and status, the document can only be afforded limited weight.
- 9.6. The site has been occupied by Bicester Heritage (now part of Bicester Motion) since 2013, who have developed the site as a focus for historic motoring interests and technology with associated employment, leisure and apprenticeship opportunities. Paragraph 80 of the National Planning Policy Framework states *'Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development'*. It goes on to suggest an approach where areas build on their strengths and is particularly important where Britain can be a global leader in driving innovation.



## Assessment

- 9.7. The application site is part of the wider RAF Bicester site which is allocated under Policy Bicester 8 of the CLP 2031. The policy seeks to establish uses which will be complementary to, and help enhance, the character and appearance of the Conservation Area and the nationally important heritage value of the site whilst securing an economically viable future for the site. Policy Bicester 8 is a permissive policy setting out a number of acceptable uses including employment uses.
- 9.8. The land allocated within Policy Bicester 8 includes the technical site and the whole of the flying field. The policy is not specific about the type of employment uses that would be appropriate, or the form such development should take (conversion, re-use or new build for example); nor does it stipulate which parts of the overall site are suitable for development.
- 9.9. The Planning Brief for the allocated site identifies the application site as comprising part of the flying field, with part of the application site within an '*open vista to the bomb stores*'. The Brief is not supportive of development on any part of the flying field, on the grounds it would harm the Conservation Area. Accordingly, the submitted proposal cannot be considered to accord with the Planning Brief.
- 9.10. However, in your officer's opinion, there are material considerations which must be considered in the balance against the apparent conflict. Due to the age and status of the Planning Brief (which pre-dates the presumption in favour of sustainable development contained in the NPPF), it has been concluded that it can only carry limited weight. The context of the site and the surrounding area have changed significantly since the production of the brief; the site has been sold by the MOD with its acquisition, investment and re-use by Bicester Motion. Furthermore, the decisions to grant consent for the extension of the technical site and the construction of a new hotel and the granting of consent for employment development on the neighbouring site (Link 9) are also relevant. It should also be noted that neither Historic England or the Council's Conservation Officer has objected to the principle of allowing some built development on the edge of the flying field beyond the perimeter track. Therefore, it is not considered that conflict with the planning brief alone, would be sufficient to conclude that the proposal is unacceptable in principle.
- 9.11. In addition to Policy Bicester 8, proposals to provide additional employment uses on this allocated site are also supported by Policy SLE1 which permits new employment uses that are focused on existing and allocated sites. Furthermore, paragraph B.33 of the CLP 2031 sets out the aims for Bicester which include '*maintaining and increasing the motorsport industry and other performance engineering, encouraging high tech companies and improving its sustainability and self-sufficiency*'. The proposal is to create a 'future automotive, speed and technology' zone on the site that would focus on the motoring industry and performance engineering.
- 9.12. The proposal will bring many economic benefits, not just to Bicester and the wider District, but to Oxfordshire, the south-east of England and the UK contributing to building a strong economy and delivering positive growth. The proposal aims to become '*home to leading international innovation and technology businesses, inspire and excite the next generation and create skilled apprenticeship and employment opportunities in technology*'. The proposal will provide for highly skilled jobs in areas of knowledge driven, creative and high-technology industries.
- 9.13. The proposals include D1 (Education) use to enable the provision of additional apprenticeship schemes and/or the expansion of apprenticeship schemes that

currently run from the technical site. The existing model of providing on site apprenticeship opportunities, within the existing cluster of businesses (which focus on historic motoring) is highly successful at the site.

- 9.14. The provision of this type of employment development at the site is supported by the Policy Bicester 8 allocation and Policy SLE1 of the Cherwell Local Plan and the proposals will contribute towards the Council's economic growth objectives.

#### *Conclusion*

- 9.15. The NPPF states that achieving sustainable development means the planning system has three overarching objectives; an economic objective, a social objective and an environmental objective. The objectives need to be balanced to ensure they can be pursued in a mutual supportive way.
- 9.16. The application proposes the provision of additional employment development that will support the local economy and create additional jobs, providing an economic benefit. It is anticipated that the development will create a well designed and safe place for employees and visitors, allowing some access to this part of the historic site and the scheduled monuments. The creation of employment development contributes to creating vibrant communities. As will be set out in later sections of this report, the proposal would respect the historic and natural environmental context of the site, providing mitigation and enhancement where required, and the use of the site for gliding will not be unduly compromised. Therefore, the development is considered to constitute 'sustainable development' and the presumption in favour must apply.
- 9.17. The proposal will provide additional employment development on an allocated site in accordance with Policies Bicester 8 and SLE 1 of the Cherwell Local Plan 2031. The apparent conflict with the 2009 Planning Brief is not considered significant given the limited weight that can be attributed to the document and the significant change in context at the RAF Bicester site. The principle of employment development on the site is considered to be acceptable.
- 9.18. The proposal would constitute sustainable development on the site. Provided the proposal complies with other policies within the development plan (discussed below), it should be approved without delay in accordance with Government guidance contained within the NPPF and Policy PSD1 of the Cherwell Local Plan 2031.

#### Impact on Gliding

##### *Background and Policy Context*

- 9.19. A number of third-party representations, including comments from the Bicester Gliding Club and the General Aviation Awareness Council (GAAC) raised concerns/comments regarding the potential impact on gliding activities and deficiencies they identified in the applicant's aviation report.
- 9.20. Furthermore, the application site has been recently designated a National Significant Area for Sport (SASP) with regards to gliding. The Sport England website states '*The aim of significant areas for sport (SASP) is to help ensure that our most important sporting sites are fully recognised for the part they play in the delivery of individual sports. These sites have been identified by the individual national governing bodies of sport in partnership with us, describe why the site is important to the sport, and identify what specific features makes the site so special*'. The website gives an overview of the process and criteria for designation of sites;

however, it does not provide any specific details about the designation of the Bicester site.

- 9.21. The designation as a National SASP does not carry any additional weight in planning legislation but it is a material planning condition.
- 9.22. Government guidance contained in the National Planning Policy Framework (Open space and recreation) highlights the importance of access to a network of high-quality open spaces and how opportunities for sport and physical activity are important for the health and well-being of communities. There is an established gliding club on the site which has been in operation for a significant period of time.
- 9.23. The Council will seek to protect sports and access to sport as part of its wider healthy place shaping agenda and this is supported by Policy BCS 10 of the Cherwell Local Plan 2031.
- 9.24. Policy Bicester 8 of the Cherwell Local Plan 2011-2031 states '*The Council will encourage conservation-led proposals to secure a long-lasting, economically viable future for the Former RAF Bicester technical site and flying field*'. The policy goes on to state the type of uses that would be acceptable on the site, a requirement to accord with the approved Planning Brief and some other material planning considerations. In relation to aviation, the policy states only that '*The continuation of gliding use will be supported*'.

#### *Assessment*

- 9.25. The application site is located outside of the perimeter track, but this area is still considered to be part of the functioning airfield and the development proposal has the potential to impact on aviation use at the site.
- 9.26. The application was submitted with an aviation report prepared by ASA. The report set out the process for assessment, the constraints considered and conclusions regarding implications for airfield operations. The report's key conclusion was that the proposal would have a limited impact on current airfield operations.
- 9.27. Following receipt of the objections from the Bicester Gliding Club and others, the Council commissioned Eddowes Aviation Safety Ltd to undertake an independent review of the proposal, an appraisal of the submitted aviation report, and give consideration to third party comments. Eddowes were selected due to their experience with gliding opposed to just general aviation. The Council brief was very clear that consideration should only be given to the proposal contained within the application being considered (Bicester Motion's masterplan document and any comments relating to it should be discounted as the masterplan has no planning status and does not form part of the proposal).
- 9.28. Regarding the submitted aviation report, the independent review was critical of the methodology used by ASA and identified a number of concerns which supported a conclusion that the ASA report does not provide a sound basis for determining the application. The independent review therefore applied a different methodology to assess the aviation impact. It should be noted that this methodology for assessment has been successfully used in an appeal situation at another authority and has therefore undergone robust scrutiny, so the Council can be confident it is an appropriate method to use to assess impacts on gliding (and aviation in general) at the site.
- 9.29. The independent advice offered by Eddowes Ltd suggests that the proposal that is the subject of this application would have little or very limited impact on gliding

activities at the site. The advice does caveat however that it is informed by certain assumptions and states *'The interpretation of this information and the associated assumptions are considered to be reasonable though it is accepted that some details of the operational practices in use may differ from those assumed'*.

- 9.30. In its latest response, the British Gliding Association has reiterated its position that further work should be done in conjunction with a recommended expert. The comments raise technical points regarding impacts on undershoot possibilities on the northerly approach path, a reduction in available approach paths, with the proposal inevitably restricting the utilisation of the airfield in certain directions. In their opinion, this would compromise the very feature for which Bicester Aerodrome is renowned, that being its omnidirectional operations.
- 9.31. The independent report commissioned by the Council was deliberately carried out without input from the applicant or any third parties to ensure it offered truly independent advice, and Officers have no reason to doubt the veracity of the advice given. It is accepted that any development on the edge of the airfield or within close proximity to it would have some impact on glider operations at the site. The decisions taken by pilots when performing a take off or landing will need to take account of many factors including the built environment surrounding an airfield. Nevertheless, taking account of the comments provided by the British Gliding Association and others, whilst the impact on gliding could be slightly more than suggested in the independent review, it is reasonable to conclude that the proposal would not prevent gliding or other aviation activity at the site.
- 9.32. It is the case that Sport England have submitted an objection. In their response, they state *'it is clear that the development will have some impact on gliding to a lay person. However, a lay person cannot quantify that impact. Looking at the site after reviewing all the documentation submitted, I am of the opinion that some development, perhaps the quantum of development can take place, but the case has not been proven, to use the Scottish legal phrase, beyond reasonable doubt, that it can take place in the precise location it has been shown in without a small amount of further work'*. Sport England defer to the comments submitted by the British Gliding Association regarding specific impacts on gliding and support the view the proposal would have a detrimental impact on gliding and as a result would have a negative impact on a National Significant Area for Sport.
- 9.33. In this case Sport England are acting as an advisory (and not a statutory) consultee. Whilst the designation of the site a National SASP highlights its importance in terms of sport, the designation does not appear to offer any additional statutory protection in planning; the starting point for decision-making must be the policy position set out in the development plan. Policy Bicester 8 is the only policy that pays specific regard to gliding/aviation at the site. On this matter, the policy states only that *'the continuation of gliding use will be supported'*.

#### *Conclusion*

- 9.34. Policy Bicester 8 of the Cherwell Local Plan 2031 is a site wide allocation that expects development proposals to come forward for the site. Whilst the policy supports the continuation of gliding, it does not offer any specific protection that would prevent a proposal being considered where there is some impact on aviation activities. In this case, the independent advice is clear that gliding activities and general aviation could continue on site if this development is permitted. Based on the independent advice received, the proposal would not result in the loss of gliding (as a sport) from the site and the proposal does not result in the loss of the airfield itself. Whilst there may be some impact on gliding (as set out above), the policy

position and the planning status of a National SASP would not provide sufficient weight to refuse the application on the basis of impact on sport.

- 9.35. Therefore, with regard to gliding/aviation, the proposals are considered to fully accord with Policy Bicester 8 of the Cherwell Local Plan 2031.
- 9.36. The Council is aware of discussions between the land owner and the gliding club (as a lease holder) regarding the future operational control and management of the airfield. This matter is a separate issue to the application that is before members for consideration. Airfield management/operational arrangements are not controlled by planning legislation and are outside of the remit of the Local Planning Authority.

#### Parameters – heights, scale, massing and design

##### *Policy context*

- 9.37. Policy ESD 15 of the Cherwell Local Plan 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 standards and should respect the historic environment including conservation areas and listed buildings. Policy Bicester 8 of the Cherwell Local Plan also makes it clear that development at this site is to be ‘conservation led’, therefore meaning that it is what is appropriate for the site in terms of heritage related issues that must be at the forefront at all times.
- 9.38. Both of these policies are supported by Government guidance contained within the National Planning Policy Framework (sections on design and heritage) which states that good design is a key aspect of sustainable development to create better places (para. 124). Decisions should ensure that (amongst other factors) developments are visually attractive; sympathetic to the local character and history and optimise the potential of the site (Para.127). Section 16 on the historic environment acknowledges that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance (Para. 184).
- 9.39. Saved policy C28 of the Cherwell Local Plan 1996, requires all new development to ensure that standards of layout, design and external appearance are sympathetic to the character of the context.
- 9.40. With the above policy context in mind, whilst the principle of new employment development at the site is supported, it is imperative that it is appropriately sited and designed to ensure that it fits in with the historical context of the site and respects the existing pattern of development.

##### *Assessment*

- 9.41. The heritage impacts of the development are subject to detailed assessment in a later section of this report. It is important, however, to first establish whether the broad design principles and parameters are an appropriate starting point for guiding development on the site. The application is submitted in outline with all matters reserved except for access, therefore the proposal does not include full design details for the buildings, and these will be the subject of a separate application. However, at this stage it is still imperative that the Council is confident the site can accommodate the level of development proposed without causing harm.
- 9.42. Parameter plans have been submitted to demonstrate maximum heights, developable area, open space/landscape parameters and building uses. The combination of developable areas which are clearly identified, constrained spaces

for the location of buildings and the open space/landscape information, means that there will be very limited options in terms of building footprint at the reserved matters stage. Combined with the height parameters, the plans suggest a series of buildings which increase in size/height from west to east. The tallest building would be located closest to the neighboring employment development to the east and would not exceed its height.

- 9.43. The parameter plans would allow for potential gaps between buildings, which would be imperative to meet the suggestions made by Historic England in relation to views from the Scheduled Monument (see the heritage section of this report for further consideration of this point). Whilst the plans do not identify the locations or width of any gaps, the design will need to take a conservation-led approach to ensure any impact on heritage is minimised. The parameter plans, as currently set out, would not prevent this approach from occurring.
- 9.44. The parameter plans, as submitted, are considered to be appropriate. The heights would not exceed those of the neighboring buildings and the gradual change in heights would help to set the buildings within the context of the site.
- 9.45. The parameters should not be taken as a blueprint for the buildings. Design will be an important consideration at the reserved matters stage; architectural style can affect the feel of a building in terms of its bulk and massing. Therefore, the design, layout and scale will need to be considered as a whole.
- 9.46. Given the proposal shows the potential for a series of buildings on the site, there is a risk that proposals for each building could come forward separately, especially if individual occupiers have the opportunity to influence their building. Therefore, a cohesive design approach is going to be essential to ensure the buildings work collectively whilst potentially allowing some individuality or variation. On this basis, a condition has been recommended to require the approval of a design code for the whole site prior to the submission of any reserved matters application. The design code will need to be detailed, dealing with potential design features, materials palette, boundary treatment, hard and soft landscaping, building frontages and servicing arrangements.

### Heritage Impact

#### *Legislative and policy context*

- 9.47. Paragraph 184 of the NPPF states *'Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations'*.
- 9.48. The application site is within the RAF Bicester Conservation Area. There are Scheduled Monuments within the application site area and elsewhere on the RAF Bicester Site. A large proportion of the original buildings (including the hangars) within the technical site are Listed Buildings.
- 9.49. 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.*

- 9.50. 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.
- 9.51. Scheduled Monuments are protected under the Ancient Monuments and Archaeological Areas Act 1979 (as amended); any works to a Scheduled Monument require separate consent (with an application being made directly to the Secretary of State).
- 9.52. Paragraph 192 of the NPPF states '*In determining applications, local planning authorities should take account of:*
- a) *the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
  - b) *the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and*
  - c) *the desirability of new development making a positive contribution to local character and distinctiveness*
- 9.53. Conservation Areas, Listed Buildings 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.* Policy ESD15 of the CLP 2031 Part 1 echoes this guidance.

#### *Assessment*

- 9.54. Scheduled Monument: The proposed development is located adjacent to and to the south-west of a designated Scheduled Monument consisting of two seagull trenches and two mushroom pillboxes. Comments from Historic England explain the arrangement of the structures and how the complex would have included a position for an anti-aircraft Lewis gun. RAF Bicester was considered vulnerable to enemy invasion and this complex would have formed a significant part of the defence system that collectively offered all-round fire with the purpose of delaying enemy occupation long enough to allow reinforcements to arrive.
- 9.55. Historic England advise that '*most of the various elements of the defensive system were intended to cover the airfield (this being the most likely site for invasion), rather than being intended to defend the airfield from attack from the surrounding countryside. Because of this the indivisibility of the surviving defensive elements, the other components of the airfield and the flying field itself are critical. While critical to the understanding of the operation of the seagull/mushroom complex itself, the south-west facing aspect – the direction of fire from the south-west seagull trench – can be considered to be of less significance than the north-east aspect in understanding how the complex fitted in the overall system*'.
- 9.56. Scheduled Monuments are designated within the context of the Ancient Monuments and Archaeological Areas Act 1979 (AMAA 1979). This designation affords a higher

degree of protection than Listing, and decisions about proposed development potentially affecting them are assessed by Historic England.

- 9.57. Historic England considers that *'the proposed development will impact upon the appreciation of the function of the complex, insofar as it will make it harder to understand the operation of the south-west seagull trench because new buildings will effectively block much of the field of fire. It is the case that the setting in this direction has already been compromised to a degree by new buildings, but these are located some distance away across Skimmingdish Lane. There will therefore be harm to the significance of the historic asset'*.
- 9.58. Design of the buildings, including positioning/spacing, will be crucial to minimising the impacts of the setting of the Scheduled Monument. The application is currently submitted in outline, with design a reserved matter. Historic England acknowledge this position and comment that *'the location and spacing of the new buildings might be arranged in such a way as to allow an understanding of the original south-west aspect, and a clear architectural statement would need to be made to avoid any perception that the new buildings are part of the original complex. The landscaping would need to be carefully considered, in particular with significant tree and shrub planting avoided'*.
- 9.59. When considering 'harm' to an historic asset, the NPPF provides different approaches for considering 'substantial harm' and 'less than substantial harm'. On this matter Historic England advise *'The proposed development will cause harm to the significance of the Scheduled Monument. That harm will be less than substantial, but as a nationally important asset, great weight should be attached to the need to avoid harm'*.
- 9.60. Policy ESD15 of the Cherwell Local Plan 2031 requires development proposals that harm the significance of a heritage asset to meet the tests set out in the NPPF.
- 9.61. Paragraph 196 of the NPPF states *'where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use'*.
- 9.62. Paragraph 200 of the NPPF states *'Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably'*.
- 9.63. As part of the proposal, the better management of the area around the Scheduled Monument, in terms of landscape management is offered as one benefit of the scheme. Historic England acknowledges the *'removal of the dense scrub will certainly allow a better understanding of the main purpose of the defences here. Those public benefits are significant, but could (at least theoretically) be delivered by another mechanism other than development'*. No details have been provided to suggest an alternative mechanism to deliver these benefits without development. It is most likely that the only route would be through the goodwill of the site owner. Whilst the scrub obscures views of the Scheduled Monument, it does not appear to be physically harming or causing deterioration to the structures and therefore, the normal options available to force owners to carry out work to prevent assets falling into disrepair, is unlikely to be an option. Furthermore, something more binding will be required to ensure the longer-term management of the landscape around the structures; the development has the potential to offer this benefit.



- 9.64. In conclusion, Historic England acknowledge the public benefits offered by improved management around the area of the Scheduled Monument and *'the wider economic benefits in terms of the overall management of a unique conservation area and its other designated assets'*. They go on to advise *'it is for the local authority to decide if those benefits outweigh the harm to the asset'* identified in their consultation response.
- 9.65. It is your officer's opinion that the design of the buildings (at the reserved matters stage) can be negotiated to reduce the harm caused to the setting of the Scheduled Monument. The parameter plans set out maximum areas for development, which have the flexibility to be adjusted with particular consideration to the Scheduled Monument, but which also show scope to provide gaps between some of the buildings to protect key views. Furthermore, the architectural style of the buildings can be carefully considered to ensure they are understood as a new yet complementary addition to the site rather than confusing the historic context; in this location the site would be capable of adopting a modern architectural style that takes references from the historic architecture rather than trying to replicate it.
- 9.66. The proposal offers the opportunity to ensure appropriate landscape management is agreed for the land surrounding the Scheduled Monument. This would better reveal the structures and their relationship with other structures around the site, therefore improving the understanding of the defence structures as a whole. Whilst this could theoretically be achieved without a development proposal, the application does offer the opportunity to secure this via condition and provide the Council with control over the detail of the landscape management plan. Furthermore, the development of this area of the site has the potential to provide access to the Scheduled Monument for staff/visitors at the site.
- 9.67. The proposal also offers other significant public benefits from an economic point of view. The proposal will provide business uses creating jobs and supporting the local economy. The site owners have a track record of supporting high quality apprenticeship schemes on the site and this proposal includes educational facilities to support further schemes.
- 9.68. When considering the proposal against the test set out in paragraph 196 of the NPPF, it is considered that the public benefits of the scheme would outweigh the 'less than substantial harm' caused by the proposal. Conditions can be imposed to secure the long-term landscape management of the area to ensure the Scheduled Monument is appropriately revealed and understood in the wider context.
- 9.69. It is noted that at the reserved matters stage, the application will need to take great care in the design and layout of the buildings; reducing harm to the Scheduled Monument should be at the forefront of the design process. There will be an expectation for gaps between the buildings to be carefully sited to ensure they allow the original 'field of fire' to be understood and this important view through the development to be retained.
- 9.70. Conservation Area: The significance of this site relates to this being one of the best-preserved examples of an inter-war airfield, developed after the First World War at a time when technological advances in aircraft led to a need for different philosophies in military architecture and urban planning, led by Sir Hugh Trenchard (founder of the RAF).
- 9.71. The Conservation Area Appraisal describes the military base at RAF Bicester as *'the quintessential airfield of its age; almost better than any other site it typifies the public perception of the World War II airfield'*. It goes on to say *'The character of RAF Bicester is unified by its function as a military station. There were principles*

*underpinning the planning of airfields in the first half of the 20th century and these are key determinants of the character that remains today'. English Heritage (now Historic England) also states that 'RAF Bicester retains, better than any other military airbase in Britain, the layout and fabric relating to pre-1930s military aviation.....With West Rainham in Norfolk it comprises the best-preserved bomber airfield dating from the period up to 1945....it also comprises the best preserved and most strongly representative of the bomber stations built as part of Sir Hugh Trenchard's 1920's Home Defence Expansion Scheme'.*

- 9.72. The base was designated a conservation area in 2002, its primary architectural and social historic interest being its interwar design, layout and use. The nature of the site is defined by the historic landscape character of distinct zones; the domestic site (to the west of Buckingham Road), the technical site and the flying field (to the east of Buckingham Road). The layout of the site is built to a 'trident' pattern – with 3 arms branching out from a central axis creating avenues. The location of buildings was deliberately spacious so that if any buildings were ever bombed other buildings may be preserved. The conservation area designation acknowledges the special architectural interest, and as a conservation area, the character of which it is desirable to preserve or enhance and provides the context and framework to ensure the setting and appearance of sections of the military landscape are preserved.
- 9.73. It is in recognition of the significance of the site in the national context that Policy Bicester 8 of the Cherwell Local Plan requires a 'conservation-led' approach to the development to be taken. Policy ESD15 of the Local Plan also requires developments to conserve, sustain and enhance designated and non-designated heritage assets and their settings.
- 9.74. The proposed site is located on the edge of the airfield (beyond the perimeter track) in the southeast corner of the site. This area was originally part of a network of access roads and 'panhandles' used to store aircraft in a dispersed manner. Originally, the dispersal areas would have extended far beyond the current site. The expansion of Bicester for residential development and the re-alignment of Skimmingdish Lane has dissected the panhandles and significantly reduced the overall size of the airfield.
- 9.75. In terms of remaining physical evidence, there is some hardstanding remaining in the location of the panhandles within the application site, although the condition has eroded over time. The application seeks to incorporate the location of the access route and one of the panhandles into the design of the internal road layout to ensure this element of history can still be understood within the context of the site.
- 9.76. In terms of considering the visual impacts of the proposed development on the character and appearance of the Conservation Area, consideration needs to be given to views of the proposal from within the Conservation Area itself and the impact on current views into the Conservation Area.
- 9.77. Due to the openness of the airfield, there will be clear views of the proposal from within the Conservation Area; these views will be across the airfield and from the technical site. The height parameters have been set to ensure the buildings would be no higher than the buildings on the land immediately adjacent to the site. Design of the buildings can be carefully considered to ensure the new buildings are easily read as new additions to the site.
- 9.78. The designation of a Conservation Area does not serve to prevent any changes within the area, but is there to ensure any changes are sympathetic to its character and preserves its history. Furthermore, in allocating the site for development, Policy

Bicester 8 of the Cherwell Local Plan 2031 included the whole of the airfield and therefore it is not unreasonable to expect some potential development in this area.

- 9.79. The buildings proposed would sit in the context of the adjacent industrial buildings and the built development of the residential areas of Bicester. Due to the proposed location, a large gap will be left along the southern boundary; this will distinguish the new buildings from the technical site and maintain the open feel of the airfield on this side. With careful design, the buildings would not be overly intrusive and would respect the character and appearance of the Conservation Area.
- 9.80. When looking into the Conservation Area from the public domain, the main affected view will be that from Skimmingdish Lane. In this context the buildings will be clearly read in the context of the neighbouring industrial buildings. By maintaining a gap along the southern boundary, there will still be opportunities to view the wider airfield from this side.
- 9.81. Listed Buildings: The listed buildings on the site are clustered within the technical site, with the majority of the original buildings having a listed status including the hangars that form the 'waterfront' facing onto the airfield.
- 9.82. There will be points where the new buildings could be viewed within the context of the technical site (and the listed buildings) but these would be longer distance views.
- 9.83. It is considered that with careful design, the proposed buildings can be developed without causing significant harm to the setting of the listed buildings. Any harm would be less than substantial and therefore fall under the test set out in paragraph 196 of the NPPF. As set out when considering Scheduled Monuments, there are public benefits of the scheme that would outweigh this limited harm.
- 9.84. Archaeology: Oxfordshire County Council's Archaeologist has confirmed there are no below ground archaeological constraints to this development. With regards to Scheduled Monuments, they defer to Historic England to provide advice on this matter.

#### *Conclusion*

- 9.85. The proposed addition of new buildings in the southeast corner of the airfield is considered to cause less than substantial to the designated heritage assets; these being a Scheduled Monument, a range of Listed Buildings and the RAF Bicester Conservation Area. Paragraph 196 of the NPPF requires this harm to be '*weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use*'.
- 9.86. The public benefits of the scheme can be summarised under two key areas; 1) Improved landscape management of the area around the Scheduled Monument to better reveal its significance and relationship with the wider site, 2) Economic benefits including the creation of new jobs and apprenticeship schemes at the site. It is also acknowledged that development of the site would allow the Scheduled Monument to become accessible to staff/visitors of the new development.
- 9.87. It is acknowledged that high quality, good design will be essential in terms of reducing the level of potential harm and mitigating any impacts. At the reserved matters stage the design will need to be held up to high levels of scrutiny, but officers are convinced that a suitable design option is entirely possible. The site would be capable of accommodating a high quality contemporary development that ensures this phase of development reads as a new addition to the site history.

Furthermore, the applicant has demonstrated the ability to deliver high quality design on the existing site.

- 9.88. In conclusion, the public benefits of the scheme are considered to outweigh the 'less than substantial harm' and therefore the test set out in paragraph 196 of the NPPF is met. Appropriate conditions including the requirement for a detailed management plan (relating to the Scheduled Monument) and the requirement for a design code are included in the recommendation.

#### Landscape and Visual Impact

- 9.89. Policy ESD13 of the Cherwell Local Plan 2031 states '*Opportunities will be sought to secure the enhancement of the character and appearance of the landscape, particularly in urban fringe locations, through the restoration, management or enhancement of existing landscapes, features or habitats and where appropriate the creation of new ones, including the planting of woodlands, trees and hedgerows.*

*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*
- *Impact on areas judged to have a high level of tranquillity*
- *Harm the setting of settlements, buildings, structures or other landmark features, or*
- *Harm the historic value of the landscape*

- 9.90. The openness of the airfield at Bicester Heritage is one of the distinctive features of the site and significantly contributes to the overall character of the site. Consideration needs to be given to the landscape and visual impact of the proposal both from within the site and the wider area. There are no statutory landscape designations at the site, but careful consideration needs to be given to the character of the Conservation Area and the historic landscape.

- 9.91. The application has been submitted with a Landscape Character and Visual Impact Assessment. The report has resulted from a process of desktop study, site appraisal and analysis (based on current guidelines). The report addresses the landscape and visual impact of the FAST development on the site itself, on the wider setting of the former RAF Bicester, and the wider landscape.

- 9.92. The report acknowledges there will be some receptors that will experience more change than others. However, the parameter plans have been informed by the information collected. Heights are reflective of the adjacent industrial units, with a reduction as you move into the site along Skimmingdish Lane. In the context of Skimmingdish Lane, views from the public domain (closest to the site) will not be significantly harmed because of the wider context of the area.

- 9.93. In terms of the openness of the airfield, the site is deliberately chosen as it is set back beyond the perimeter track and the flying field. Given the backdrop of existing buildings, the report concludes '*The overall impact is therefore not considered to be so great as to overwhelm or to significantly harm the existing open character of the airfield*'. It should be noted that impact on the character of the Conservation Area and impact on heritage has been assessed in detail in the section above.

- 9.94. Due to the location of the proposed development, important views from the historic technical site and watchtower, out towards the open countryside would not be impacted.
- 9.95. It is considered that the former RAF Bicester Site does have some capacity to absorb some change, this is reflected in its allocation under Policy Bicester 8 of the Cherwell Local Plan. The location of the application site would mean that any development could be clearly read as an addition to the site without overwhelming or detracting from the historic character of the site. The proposed uses and the scale of the buildings proposed, are not considered to be inappropriate.
- 9.96. Policy ESD13 of the Cherwell Local Plan seeks to protect the unique character of landscapes within the district, but it is not intended to prevent change. The proposal would sit within the context of other buildings of a similar scale and appropriate landscaping can be effectively used to mitigate the longer term visual impacts.
- 9.97. The Council's Landscape Officer has reviewed the Landscape and Visual Impact Assessment, providing comments throughout the pre-application process and reviewing the final submission. No objections have been raised in relation to the methodology or the conclusions; comments provided at the pre-application stage have been incorporated within the final submission.
- 9.98. As is being highlighted throughout this report, the importance of design is recognised in the applicant's Landscape and Visual Impact Assessment which states *'the importance in landscape and visual terms of the detailed buildings design cannot be understated. The nature of the buildings form, massing and detailing can drastically alter the appearance and impact on character and views'*.
- 9.99. Your officers consider that the development can be designed to sit sensitively within its setting and design can be used to mitigate landscape impacts. To ensure this is adequately considered, a condition has been recommended requiring a further Landscape and Visual Impact Assessment to be submitted with each reserved matters application. In conjunction with a design code requirement, this will ensure the site is developed in a cohesive way and provides high quality design.

### Ecology Impact

#### *Legislative context*

- 9.100. 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.
- 9.101. 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.
- 9.102. 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.

9.103. 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.

9.104. 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*

9.105. 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.

9.106. 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.

9.107. 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.

- 9.108. 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.
- 9.109. This policy is 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.
- 9.110. 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 – Impact on Protected Species*

- 9.111. 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')

- 9.112. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site contains historic structures (seagull trenches and pillboxes), is within a Local Wildlife Site and there are a number of mature trees/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.

- 9.113. 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.

- 9.114. 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.

- 9.115. The application is supported by a detailed ecological assessment which states that *'a number of protected species surveys and assessments have been undertaken across the wider site (including the FAST site). These surveys have identified the wider site to support a range of species, not least a notable invertebrate assemblage (of at least local value), a medium population of GCN and a small to medium populations of common reptiles. Of additional interest is the presence of a modest assemblage of wintering and breeding birds, badgers and low levels of foraging and commuting bats'*. When discussing the application site, the report states *'as a component of the wider site, (the application site) provides a subset of the wider resource for the above faunal assemblages, the FAST site itself only supports a relatively limited range of the habitat mosaic present within the wider site (with much of the biodiversity interest confined to the quarry area). Important opportunities nonetheless exist for common reptiles and a range of invertebrates within the FAST site, with limited opportunities for foraging and commuting bats, breeding and wintering birds'*.
- 9.116. The submitted ecological report concludes that *'the ecological survey work undertaken at the site has informed emerging masterplan proposals for the wider site, as well as the outline development proposals for the FAST site. Appropriate principles and measures have been identified to avoid impacts where possible and otherwise to guide appropriate mitigation and enhancement opportunities which may be implemented at a detailed design stage of planning. As such, it is considered that the FAST proposals may offer long term enhancements for biodiversity over the existing situation, in line with relevant legislation and planning policy'*.
- 9.117. Officers are satisfied, on the basis of the advice from the Council's Ecologist and the absence of any objection from Natural England, 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.

#### *Assessment – Impact on Biodiversity*

- 9.118. Policy ESD 10 of the Cherwell Local Plan seeks to protect and enhance the natural environment by a number of measures. One requirement is *'in considering proposals for development, a net gain in biodiversity will be sought by protecting, managing, enhancing and extending existing resources, and by creating new resources'*.
- 9.119. The site is part of a Local Wildlife Site, some of which will be lost through this development. The Council's Ecologist has advised *'applicants have submitted a Biodiversity Impact Calculator which shows that despite the proposed habitat creation on site and enhanced management of areas of grassland there would be an overall net loss in habitat value on site. A cover note is included which outlines some of the specific circumstances on this site which make it more difficult to achieve a no net loss score through the use of a metric. I have no argument with much of this and the points made are all valid. Metrics are a tool to help assess overall biodiversity loss and gain and it is known that there are exceptions such as scrub removal/grassland management which may not be taken into account. I would conclude from this that long term a net loss is likely to be avoided here'*.
- 9.120. In short, the Council's Ecologist accepts the position that the proposal would not result in a loss of biodiversity overall. The Council aims to seek a net gain in the region of 10% of the original biodiversity value, but can only require a demonstration of clear and meaningful net gain. It is unclear if this net gain can be achieved as the



data appears to rely on green roofs being incorporated on buildings, but with appearance being a reserved matter, the design of the buildings is yet to be finalised. It is accepted if green roofs were included, they could give a greater score.

9.121. An alternative that has been discussed is the provision of biodiversity gain elsewhere on the Bicester Heritage site (on land within the applicants ownership). Given the design will not be agreed until the reserved matters stage, and there is the potential to provide biodiversity net gain on the wider site, it is considered that a condition would be an acceptable route to achieving this. It would give the applicant the flexibility to demonstrate net gain within the development if features such as green roofs are included in the building designs or they have the option of providing alternative habitat creation elsewhere on the wider site.

#### Highway Safety – Accessibility and Access

##### *Accessibility*

9.122. Initial objections were raised by the Local Highway Authority regarding the accessibility of the site and its connections to the wider public transport network. The Local Highways Authority commented that *'the proposed FAST site is not as well located in terms of access to sustainable transport as other areas of the wider Bicester Motion site, however improved options for sustainable travel could be made available for future occupiers and visitors to both the FAST site and the wider allocation site with a comprehensive sustainable transport strategy. The county council does not consider that the application demonstrates that appropriate opportunities to promote sustainable transport modes have been taken up, as required under para 108 of the NPPF, and therefore objects to the application'*.

9.123. It is important that the site connects well to the local public transport network and the wider pedestrian/cycle links in Bicester to link it up with residential areas and other leisure based areas such as Bicester Village and the Town Centre. To ensure the site maximises potential accessibility, it needs to demonstrate good links through the wider Bicester Heritage site to ensure maximum opportunities to access bus stops on the Buckingham Road side of the site.

9.124. Following ongoing discussions and the submission of further information, the Local Highway Authority have now withdrawn their objection. A transport Technical Note has been submitted which outlines the accessibility of the application site and proposals to enhance the access by sustainable transport. The Local Highway Authority comment that:

- *The proposed footway/cycleway connection between the site access and the existing facilities on Skimmingdish Lane is welcomed.*
- *Further information has been submitted to outline the internal footway/cycle connections that will be provided on-site*
- *The County Council welcome the proposed provision of secure and covered cycle parking.*

9.125. The County Council maintains the need for the proposal to be considered in the context of both the recently permitted developments and the extensive future masterplan for the site. Therefore, financial contributions have been sought. These are discussed below.

##### *Access*

9.126. The proposal includes a new vehicular access point on to Skimmingdish Lane which would be used to provide access for servicing and staff. An existing access

point (currently used by the Gliding Club) would be used for visitors and essentially provide the 'front of house' entrance. It is understood that the two accesses would be used separately and would not provide a through route within the site.

- 9.127. Highway works are proposed (which will require Traffic Regulation Orders) to ensure vehicles can only leave the site with a 'left turn only' on to Skimmingdish Lane. With the proximity of the Launton Road roundabout, this is considered to be acceptable as it would allow vehicles a convenient option for turning to access the opposite carriageway.
- 9.128. With regards to the new access, the Local Highway Authority have maintained a view that they do not believe the access is absolutely necessary to enable the development to proceed, however, they have concluded that *'while the county council does not necessarily support the creation of another access into the site from Skimmingdish Lane, it is not considered that this is a sufficient reason to object to the development'*.
- 9.129. Officers raised concerns at the pre-application stage that a separate access to the site would provide the potential for the site to be separated from the remainder of the former RAF site. However, refusing the new access on this basis would not necessarily prevent this from occurring; with access from the existing gliding club entrance, the site could still easily be separated. The key will be ensuring the design of the development provides strong links with the existing site rather than turning its back on the airfield.
- 9.130. Pedestrian and cycle access to the site will utilise the existing gliding club access with an informal tactile crossing with a pedestrian/cycle refuge island being provided on Skimmingdish Lane.

#### *Strategic Transport - Skimmingdish Lane*

- 9.131. As part of the wider strategic transport infrastructure for Bicester, proposals are being developed for the potential widening of Skimmingdish Lane. The Local Highway Authority have advised:

*'Intensification of access from Skimmingdish Lane is not desirable, due to the strategy to dual the road. In these circumstances the junction could only be left-in, left-out, with appropriate acceleration and deceleration flares or may not even be possible at all depending on the eventual scheme layout.'*

*The site abuts the highway boundary and so it is difficult to determine what the future impact of such a scheme would have on the site or visibility from a site access onto Skimmingdish Lane. This should be taken into account in consideration of the location of the built area of the site, in order to reduce the potential visibility constraint between the access and Skimmingdish Lane'.*

- 9.132. The proposal to dual Skimmingdish Lane is not yet fully developed or adopted by the Local Highway Authority as a future scheme. Therefore, whilst consideration can be given to ensure the visibility from the site takes account of this future potential scheme, it would not be reasonable to prevent the new access on this basis. The application must be determined on the basis of planning policy and material considerations as they exist at the current time.

#### *Traffic Impact*

- 9.133. The Local Highway Authority has advised *'the trip rate for the proposed development has been derived from surveys taken at the existing Technical Site.'*

*This approach is acceptable on the understanding that the use of the proposed units will be restricted to that of a similar nature to the Technical Site, primarily as a campus dedicated to motoring and aviation or similar use as permitted under Policy Bicester 8. A planning condition is requested to ensure this'.*

9.134. Following the junction assessments, the County Council states:

*'mitigation schemes at the A4421 Buckingham Rd / A4421 Skimmingdish Lane / Buckingham Road / A4095 roundabout and the A4421 Skimmingdish Lane / Launton Road / Care Home roundabout junctions are considered necessary to mitigate the development's traffic impact. However, there is a need to limit the number of works taking place at these junctions to avoid unnecessary disruption to the highway network, bearing in mind the S278 mitigation schemes at these same junctions already permitted and required to mitigate the impact of the approved hotel development at the Bicester Motion site.*

*Furthermore, the proposed mitigation schemes for this (FAST) application do not take account of forthcoming applications that are expected, associated with the wider masterplan, meaning further mitigation may be required at the same junctions, causing further disruption to the network and, potentially, abortive works. An agreement is therefore required on an approach to delivering the mitigation that is required for all these developments while limiting the impact of works at these junctions. Minor alterations to these mitigation schemes will be required, for instance the proposed hatching at the existing deceleration lane on the east side of Buckingham Road will need to be altered to take account of the bus stop, however details such as these can be worked through at the detailed design S278 stage. As noted in the TA, the county council is collecting developer funding contributions towards a mitigation scheme for the B4100 Banbury Road / A4095 Southwold Lane / A4095 Lords Lane roundabout junction. Therefore, rather than the developer implementing a smaller scale 'nil-detriment' mitigation scheme, it is considered fair that a financial contribution to the equivalent value of the cost of the proposed mitigation scheme is made towards the larger-scale mitigation scheme that OCC is collecting towards. This financial contribution would be pooled with S106 developer contributions already secured towards that scheme and used to supplement forthcoming funding streams that become available (e.g. Bicester Garden Town funding)'.*

9.135. Consideration of requests for financial contributions are set out in the section below.

#### *Car and Cycle Parking*

9.136. The Local Highway Authority acknowledge that the level of car and cycle parking will be provided in accordance with the County's guidance. As the application has been submitted in outline, the final detail, including number, type and location of provision will be determined at the reserved matters stage. The site is considered to be of a sufficient size to accommodate an appropriate level of provision.

#### *Travel Plan*

9.137. Detailed comments have been provided in response to the submitted Travel Plan and the applicant is advised to consider the Country Council's travel plan guidance. The current Travel Plan is unacceptable and therefore a condition will be recommended to ensure a revised plan is submitted.

### Residential Amenity

- 9.138. Paragraph 127 of the National Planning Policy Framework includes, as a core planning principle, a requirement that planning should have a *'high standard of amenity for all existing and future users'*. This is reflected in Policy ESD 15 of the Cherwell Local Plan 2031, which states that *'new development proposals should: consider the amenity of both existing and future development, including matters of privacy, outlook, natural light, ventilation, and indoor and outdoor space'*.
- 9.139. The nearest residential properties are some distance away from the application site on the opposite side of Skimmingdish Lane. The type of employment development proposed is similar to the employment site (Link 9) immediately adjacent to the application site. The proposal would have no greater impact than the existing situation with employment uses in this area. Furthermore, it is not envisaged that this type of development would cause harmful levels of noise and the Council's Environmental Protection Officer has raised no concerns.
- 9.140. Representations have been received for this application which raise concerns relating to noise, but these concerns appear to be related to the masterplan proposals to utilise the airfield perimeter track for motor vehicles and this does not currently form part of the proposal before Members. The existing use of the site for event days is also outside of the scope of this application.
- 9.141. Given the above position, it is not considered that this development would cause any detrimental impact to residential amenity.

### Flood Risk and Drainage

- 9.142. The application site is located within Flood Zone 1 which means it is at low risk of flooding from fluvial, tidal or groundwater flood events. However, Policy Bicester 8 requires development proposals to consider the Council's Strategic Flood Risk Assessment and as the proposal is a major development, the application has been supported by a Flood Risk Assessment. A flood risk and drainage assessment report has been submitted with the application.
- 9.143. The Flood Risk Assessment concludes the site *'is not identified as being at risk of flooding associated with fluvial, pluvial, tidal, sewers or groundwater. There is an overland pluvial flood risk within the south west part of the development but the proposed drainage strategy for the New Technical Site will manage the overland flows. However, should overland flows enter the site then the proposed infiltration swales will convey them to a shallow infiltration basin located in the southern corner of the site'*.
- 9.144. In terms of surface water runoff, the report concludes this *'should be managed using Sustainable Urban Drainage Systems (SuDS) as these will not only manage surface water run-off, but also offer benefits in pollution prevention creating and sustaining better places for people and nature. SuDS systems identified to manage the surface water run off from the Bicester Motion development have been detailed on the outline drainage strategy drawing provided in Appendix D. The local geology (cornbrash formation) suggests there is a high potential for infiltration which greatly benefits use of the SuDS systems. Infiltration testing undertaken as part of the site investigation for NTS identified that soakage systems are a suitable means of surface water disposal'*.
- 9.145. Oxfordshire County Council as the Local Lead Flood Authority have assessed the submitted information and raise no objection to the proposal. Conditions have been requested to ensure the required infiltration data is provided and that Sustainable

Urban Drainage Systems are implemented and maintained on the site. All of the suggested conditions have been included within the officer recommendation.

- 9.146. With regards to waste water infrastructure and water network infrastructure, Thames Water have provided comments raising potential capacity issues with network capacity. They have suggested conditions to ensure details and any required network upgrade works are agreed prior to occupation on the site. The applicant's Flood Risk Assessment acknowledges this issue and the need to carry out a pre-development enquiry with Thames Water.

#### Environmental Impacts

- 9.147. The proposals have been submitted with a Phase 1 Land Contamination and ground Condition Report which concludes that that the application site is of low risk from contaminants and it is unlikely that ground conditions or potential pollutant sources would have any significant impact on industrial or commercial development and the associated receptors identified.
- 9.148. The Council's Environmental Protection Officer has confirmed that he is satisfied with the findings of the Phase 1 report and its recommendations that the majority of the site is safe for this type of development.
- 9.149. Recommendations relating to the need for a Phase 2 study relating to the quarry site are beyond the remit of this application; the quarry site is on the opposite side of the airfield and outside of the application site area.
- 9.150. Conditions have been recommended to ensure that any mitigation and recommendations associated with the application site are carried out and to ensure that any unsuspected contamination found during construction is dealt with appropriately.
- 9.151. With regard to air quality, it should be noted that the Council's Environmental Protection officers have requested conditions requiring an air quality impact assessment and, if necessary, a mitigation strategy. No justification is provided for these conditions, and similar conditions have not been applied to the existing consents at the Bicester Motion site including the New Technical Site which is under construction. Therefore Officers consider these conditions do not meet the relevant tests in the NPPF and should not be applied.

#### Energy Efficiency

- 9.152. Policies ESD1-5 of the Cherwell Local Plan 2031 require development proposals to mitigate the impacts of climate change by providing a reduction in carbon emissions through sustainable construction by using decentralised energy systems and renewable energy.
- 9.153. No energy statement has been submitted with the application, but as the application is submitted in outline with all matters reserved except for access, and given the heritage constraints of the site, it is acceptable for this matter to be dealt with at the reserved matters stage when full design details are considered.
- 9.154. It should be noted that, whilst it is clearly important to ensure compliance with Policies ESD1-5, the energy proposals will need to be balanced against the heritage context of the development to ensure that all proposals are appropriate to its surroundings and will not adversely impact on the heritage assets. As noted above, the site is sensitive in heritage terms and design will play a key role in ensuring the

buildings are appropriate for the setting, therefore any energy proposals that impact on the external appearance of the buildings will need to be carefully considered.

### Planning Obligations

9.155. OCC Highways have requested the following Section 106 contributions on the grounds they are necessary to fund improvements to the local transport network, to mitigate the traffic and transport impacts of the development:

- Strategic Highways Contribution (Skimmingdish Lane) - £219,397
- Traffic Regulation Order - £6,240
- Travel Plan Monitoring Fee - £2,040
- Highway Works 1 (Banbury Road Roundabout) – Cost TBC
- An obligation to enter into a Section 278 agreement

9.156. A strategic highways contribution is required towards:

*Local Transport Plan Bicester Area Strategy Policy BIC 1 scheme:*

*'Upgrade link to dual carriageway on the A4421 between the Buckingham Road and Gavray Drive to complement the transport solution at the railway level crossing at Charbridge Lane and facilitate development in the area.'*

*The contribution would be used towards the dualling of the Skimmingdish Lane section of the above scheme.*

The County Council has provided a detailed justification for this request and information setting out the calculation used to determine the financial contribution.

9.157. In respect of other Section 106 obligations requested, the changes to the Traffic Regulation Order are considered necessary in order to make the development safe in terms of highway safety and a contribution towards the monitoring of the Travel Plan for a period of 5 years is necessary to ensure that it remains up to date.

9.158. Section 278 highways works will also be required for works to the two access points on Skimmingdish Lane and two off-site roundabout mitigations. It is intended that these measures would also be secured via the Section 106 agreement.

9.159. OCC considers that all of these contributions are required in order to make the development acceptable in planning terms and that they are all justified and compliant with CIL Regulation 122. The applicant has informally agreed to the requested contributions and the County Council Officers will be instructing their solicitors to commence work on the Section 106 agreement.

9.160. Initially a Public Transport Service contribution (£187,200) and Highways Works relating to foot/cycleway connections (£86,190) were also sought. Following discussions with the applicant and the County Council, OCC Highways have withdrawn these requests as it was accepted the contributions were related to the wider masterplan proposals (the applicant's aspirations for the site) which do not form part of the current application and therefore were not considered to be compliant with CIL Regulation 122.

## **10. PLANNING BALANCE AND CONCLUSION**

10.1. Achieving sustainable development comprises of three objectives; an economic objective, a social objective and an environmental objective. The objectives need to be balanced to ensure they can be pursued in a mutual supportive way.

- 10.2. The application proposes the provision of additional employment development that will support the local economy and create additional jobs, providing an economic benefit thereby meeting the economic objective. It is anticipated that the development will create a well designed and safe place for employees and visitors, allowing some access to this part of the historic site and the scheduled monuments. The creation of employment development contributes to creating vibrant communities thereby meeting the social objective. The buildings can be designed to ensure they meet the required energy efficiency standard. The proposal would respect the historic and natural environmental context of the site, providing mitigation and enhancement where required thereby meeting the environmental objective. Therefore, the development is considered to constitute 'sustainable development'.
- 10.3. Whilst it is acknowledged that the proposal is considered to cause less than substantial harm to the heritage assets at the site, this is considered to be outweighed by the public benefits derived from the proposal in terms of finding an economically viable use for this part of the site, providing many economic benefits to Bicester and the District and improving the historic relationship between the Scheduled Monument and the wider site to enable the defence structures to be appreciated in a collective manner and securing their long-term future.
- 10.4. The application site is an allocated site under Policy Bicester 8 of the Cherwell Local Plan. The proposal, including the uses applied for, complies with the details of the allocation. Whilst it is acknowledged there may be some limited impact on gliding/aviation at the site, the proposal would not prevent it entirely and therefore the policy support for the continuation of gliding is met.
- 10.5. As set out in the assessment above, the proposal is not considered to cause harm to residential amenity, highway safety (subject to infrastructure works and financial contributions), the wider landscape setting of the site, ecology, contaminated land or flood risk and drainage.
- 10.6. The proposal is therefore considered to comply with the relevant policies of the Development Plan set out in the report, specifically Policy Bicester 8 and the National Planning Policy Framework, and permission should be granted.

## 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 FOLLOWING (AND ANY AMENDMENTS AS DEEMED NECESSARY):

- a) Strategic Highways Contribution (Skimmingdish Lane) - £219,397
- b) Traffic Regulation Order - £6,240
- c) Travel Plan Monitoring Fee - £2,040
- d) Highway Works 1 (Banbury Road Roundabout) – Cost TBC
- e) An obligation to enter into a Section 278 agreement

FURTHER RECOMMENDATION: THE STATUTORY DETERMINATION PERIOD FOR THIS APPLICATION EXPIRES ON 17<sup>th</sup> JULY 2020. IF THE SECTION 106 AGREEMENT/UNDERTAKING IS NOT COMPLETED AND THE PERMISSION IS NOT ABLE TO BE ISSUED BY THIS DATE AND NO EXTENSION OF TIME HAS

BEEN AGREED BETWEEN THE PARTIES, IT IS FURTHER RECOMMENDED THAT THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT IS GIVEN DELEGATED AUTHORITY TO REFUSE THE APPLICATION FOR THE FOLLOWING REASON:

1. In the absence of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement the Local Planning Authority is not satisfied that the proposed development provides for appropriate highway mitigation works required as a result of the development and necessary to make the impacts of the development acceptable in planning terms, contrary to Government Guidance contained with the National Planning Policy Framework.

### CONDITIONS

#### **Time Limit and Plans**

1. 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 (Development Management Procedure) (England) Order 2015 (as amended).

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

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

3. 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:

#### Plans

- 5002854-RDG-Z05-ST-PL-A-0012 – Site Location Plan A
- 5002854-RDG-Z05-ST-PL-A-0010 Rev D – Site Location Plan B
- 5002854-RDG-Z05-ST-PL-A-0030 Rev H – Indicative Layout Plan
- 5002854-RDG-Z05-ST-PL-A-0090 Rev H – Parameter Plan: Proposed Land Use
- 5002854-RDG-Z05-ST-PL-A\_0092 Rev K – Parameter Plan: Proposed Developable Area
- 5002854-RDG-Z05-ST-PL-A-0094 Rev K – Parameter Plan: Existing and Proposed Heights and Massing
- 5002854-RDG-Z05-ST-PL-A-0096 Rev F – Parameter Plan: Proposed Open Space/Landscape
- 5002854-RDG-XX-ST-PL-C-0503 Rev B – Surface Water Drainage Strategy



### Documents

- Planning Statement prepared by Edgars dated November 2019
- Design and Access Statement prepared by Ridge and Edgars dated June 2019
- Heritage Report prepared by Worlledge Associates dated November 2019
- Archaeological Desk Based Assessment prepared by Oxford Archaeology dated September 2018
- Landscape Character and Visual Impact Assessment prepared by Anthony Stiff Associates Ltd dated November 2019
- Arboricultural Implications Assessment prepared by Brian Higginson (On Centre Surveys Ltd) dated April 2019
- Flood Risk and Drainage Assessment prepared by Ridge dated November 2019
- Phase 1 Land Contamination and Ground Condition Report prepared by Crestwood Environmental Ltd dated July 2018

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.

4. No development shall take place until a phasing plan covering the entire application site 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 phasing plan and each reserved matters application shall only be submitted in accordance with the terms of the approved phasing plan and refer to the phase (or phases) it relates to as set out in the approved phasing plan.

Reason: To ensure the proper phased implementation of the development and associated infrastructure in the interests of well-planned development, in accordance with Policies ESD15, Bicester 8 and INF1 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

### **Design**

5. Prior to the submission of any reserved matter application, a Design Code shall be submitted to and approved in writing by the Local Planning Authority covering at least such matters as the distribution of land uses, forms of buildings, identification of building frontages, materials, boundary treatment positions and types, strategic landscape, servicing, parking and sustainability features. Thereafter the reserved matters shall be made in accordance with the agreed Design Code.

Reason: To ensure high quality development in accordance with Policies ESD13, ESD15 and Bicester 8 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

6. 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 in accordance with the approved levels.

Reason: In order to safeguard the visual amenities of the area in accordance with

Policies ESD13, ESD15 and Bicester 8 of the Cherwell Local Plan 2011-2031 Part 1 and advice 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.

7. All services serving the proposed development shall be provided underground unless details of any necessary above ground service infrastructure, whether or not permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), have first been submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first occupation of the development that they serve, the above ground services shall be provided on site 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.

8. A Signage Strategy for the site shall be submitted to and approved in writing by the Local Planning Authority prior to the installation of any external signage (either free-standing or on buildings). The signage shall be installed in accordance with the approved scheme thereafter.

Reason: In the interests of visual amenity, to preserve the character and appearance of the conservation area and to comply with Policy ESD15 and Bicester 8 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policies C18, C28 and C30 of the Cherwell Local Plan 1996 and Government advice in The National Planning Policy Framework.

9. Full details of the refuse/recycling bin storage for the site, including location and compound enclosure details, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of that work. Thereafter and prior to the first occupation of the development, the refuse/recycling bin storage area(s) shall be provided in accordance with the approved details and retained unobstructed except for the storage of refuse/recycling bins.

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

### **Landscaping**

10. Each reserved matters application shall be accompanied by an updated Landscape Character and Visual Impact Assessment considering the impact of the final design of the building(s), identifying any changes to the level of impact, and setting out how the building(s) have been designed to reduce impact.

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

11. A schedule of landscape maintenance for a minimum period of 10 years starting from first occupation or completion of the development (whichever is sooner) shall be submitted to and approved in writing by the Local Planning Authority prior to first occupation of the development. Thereafter the approved landscaping shall be

maintained in accordance with the approved schedule.

Reason: To ensure that the agreed landscaping scheme is maintained over a reasonable period that will permit its establishment in the interests of visual amenity and to accord with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

### **Highways**

12. No development shall take place until a Construction Travel Management Plan (CTMP) has been submitted to and approved in writing by the Local Planning Authority. The CTMP shall include the following:

- The CTMP must be appropriately titled, include the site and planning permission number.
- Routing of construction traffic and delivery vehicles is required to be shown and signed appropriately to the necessary standards/requirements. This includes means of access into the site.
- Details of and approval of any road closures needed during construction.
- Details of and approval of any traffic management needed during construction.
- Details of wheel cleaning/wash facilities – to prevent mud etc, in vehicle tyres/wheels, from migrating onto adjacent highway.
- Details of appropriate signing, to accord with the necessary standards/requirements, for pedestrians during construction works, including any footpath diversions.
- The erection and maintenance of security hoarding / scaffolding if required.
- A regime to inspect and maintain all signing, barriers etc.
- Contact details of the Project Manager and Site Supervisor responsible for onsite works to be provided.
- The use of appropriately trained, qualified and certificated banksmen for guiding vehicles/unloading etc.
- No unnecessary parking of site related vehicles (worker transport etc) in the vicinity – details of where these will be parked and occupiers transported to/from site to be submitted for consideration and approval. Areas to be shown on a plan not less than 1:500.
- Layout plan of the site that shows structures, roads, site storage, compound, pedestrian routes etc.
- A before-work commencement highway condition survey and agreement with a representative of the Highways Depot – contact 0845 310 1111. Final correspondence is required to be submitted.
- Local residents to be kept informed of significant deliveries and liaised with through the project. Contact details for person to whom issues should be raised with in first instance to be provided and a record kept of these and subsequent resolution.
- Any temporary access arrangements to be agreed with and approved by Highways Depot.
- Details of times for construction traffic and delivery vehicles, which must be outside network peak and school peak hours.

Reason: In the interests of highway safety and to mitigate the impact of construction vehicles on the surrounding network, road infrastructure and local residents, particularly at peak traffic times, in accordance with guidance contained in 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.

13. No development shall take place until full specification details (including construction, layout, surface finish and drainage) of the turning areas which shall be provided within the curtilage of the site so that motor vehicles, including HGVs, refuse vehicles and fire tenders may enter, can turn and leave the site in a forward direction, have been submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first occupation of the development, the turning area shall be constructed in accordance with the approved details and shall always be retained for the manoeuvring of motor vehicles thereafter.

Reason: In the interest of highway safety and in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and the Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

14. No development shall take place until a plan showing car parking provision for an agreed number of spaces to be accommodated within the site to include layout, surface details, and drainage, has been submitted to and approved in writing by the Local Planning Authority. The number of spaces to be provide shall be based on an indicative breakdown of the Gross Internal Area (GIA) between the proposed land uses and in line with the County Council's car parking standards. Thereafter, and prior to the first occupation of the development, the parking spaces shall be laid out, surfaced, drained and completed in accordance with the approved details and shall be retained for the parking of vehicles at all times thereafter.

Reason: In the interest of highway safety and in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and the Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

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

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

16. Prior to the first occupation of the development, the submitted Framework Travel Plan shall be revised and resubmitted for approval in writing by the Local Planning Authority. Thereafter the development shall be carried out and operated in accordance with the measures and recommendations contained in the approved Framework Travel Plan.

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

## Drainage

17. No development shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site using sustainable drainage methods, to include a fully detailed list of all SuDS features to be used on site, has been submitted to and approved in writing by the Local Planning Authority.

The detailed design shall be based on the principles as set out in: Ridge Flood Risk and Drainage Assessment, 12th November 2019. 5002854-RDG-XX-ST-PL-C-0503-B-F.A.S.T. - Surface Water Drainage DRAWING 5002854-RDG-XX-XX-DOC-C-0552 App D SW Drainage Strategy 5002854-RDG-XX-XX-DOC-C-0552 App E Source Control Calc 5002854-RDG-XX-XX-DOC-C-0552-3.0-F.A.S.T. - Flood Risk and Drain REPORT and shall include:

- a) Information about the design storm period and intensity (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.

The surface water drainage scheme shall be implemented in accordance with the approved detailed design prior to the first use of any building commencing and shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan.

Reason: To ensure that the development is served by sustainable arrangements for the disposal of surface water, to comply with Policy ESD6 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government advice in the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

18. No buildings hereby permitted shall be brought into use until confirmation has been provided to the Local Planning Authority that either:

- a) all water and wastewater network upgrades required to accommodate the additional flows from the development have been completed; or
- b) an infrastructure phasing plan has been agreed with Thames Water to allow additional business units to first be brought into use. Where an infrastructure phasing plan is agreed no use of the buildings shall take place other than in accordance with the agreed 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, to comply with Policy ESD8 of the Cherwell Local Plan 2011-2031 Part 1.

## **Contaminated Land**

19. Prior to the commencement of the development hereby permitted, a comprehensive intrusive investigation (Stage 2 contaminated land report) in order to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals shall be documented as a report undertaken by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place unless the Local Planning Authority has given its written approval that it is satisfied that the risk from contamination has been adequately characterised as required by this condition.

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

20. If contamination is found by undertaking the work carried out under condition 19, prior to the commencement of the development hereby permitted, a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval of the scheme of remediation and/or monitoring required by this condition.

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

21. If remedial works have been identified in condition 20, the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 20. A verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority

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

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

Reason: To ensure that any ground and water contamination is identified and

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

### **Ecology**

23. The development hereby approved shall be carried out in accordance with the recommendations set out in the Ecological Assessment carried out by Ecology Solution dated November 2019.

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

24. No development shall take place until a Landscape and Ecology Management Plan (LEMP) including a timetable for its implementation has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the LEMP shall be carried out in accordance with the approved details.

Reason: To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy ESD10 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance contained within Section 15 of the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

25. Prior to, and within two months of, the commencement of the development, the site shall be thoroughly checked by a suitably qualified ecologist to ensure that no protected species, which could be harmed by the development, have moved on to the site since the previous surveys were carried out. Should any protected species be found during this check, full details of mitigation measures to prevent their harm shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved mitigation scheme.

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

26. All site clearance (including the removal of any vegetation or works to hedgerows) should be timed so as to avoid the bird nesting season, this being during the months of March until July inclusive unless alternative provisions have been previously agreed in writing by the Local Planning Authority.

Reason: To ensure that the development will conserve and enhance the natural environment and will not cause significant harm to any protected species or its habitat in accordance with the Government's aim to achieve sustainable development as set out in Section 15 of the National Planning Policy Framework.

### **Noise**

27. Prior to the first use of any building hereby permitted, all mechanical plant or machinery to be installed within the relevant building shall be identified and

assessed in accordance with BS4142:2014 and the report, along with any mitigation or acoustic enclosure required, submitted to and approved in writing by the Local Planning Authority. Where the approved assessment identifies the need for any mitigation or acoustic enclosure, these measures shall be put in place prior to the first occupation of any building.

Reason: To ensure the creation of a satisfactory environment free from intrusive levels of noise in accordance with Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained in the National Planning Policy Framework.

### **Electric Vehicle Charging**

28. Prior to the commencement of the development of any phase, full details of Electric Vehicle Charging (EVC) points and EVC infrastructure to be provided in that phase shall be submitted to and approved in writing by the Local Planning Authority. The Electric Vehicle Charging (EVC) points and EVC infrastructure shall be installed and operational prior to the first use or occupation of any building within that phase of the development hereby permitted and retained thereafter.

Reason: To ensure energy and resource efficiency practices are incorporated into the development and sustainable modes of transport encouraged in accordance with Policies SLE4 and ESD 1 - 5 of the Cherwell Local Plan 2011-2031 Part 1 and the Government's aim to achieve sustainable development as set out within the National Planning Policy Framework.

### **Lighting**

29. Details of all external lighting including the design, position, orientation, illumination and its intensity together with any screening of the lighting shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of those works. The lighting shall be installed, operated and retained in accordance with the approved scheme at all times thereafter.

Reason: In the interests of visual amenity, to preserve the character and appearance of the conservation area, to accord with the findings of the ecological survey and to comply with Policy ESD10 and ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policies C18, C28 and C30 of the Cherwell Local Plan 1996 and Government advice in The National Planning Policy Framework.

### **BREEAM**

30. The development hereby approved shall be constructed to achieve at least a BREEAM 'Very Good' standard.

Reason: To ensure sustainable construction, reduce carbon emissions and to ensure energy and resource efficiency practices are incorporated into the development in accordance with the Government's aim to achieve sustainable development as set out in the National Planning Policy Framework and to accord with Policy ESD3 of the Cherwell Local Plan 2011-2031.

### **Energy Strategy**

31. No development shall take place until an Energy Strategy has been submitted to and approved in writing by the Local Planning Authority. This should include proposals to reduce energy demand, increase energy efficiency, and generate energy from renewable energy sources. It should also propose ways in which



carbon emissions will be reduced and low carbon measures be embodied into the proposals. The development shall proceed in accordance with the approved Strategy.

Reason: To ensure sustainable construction and reduce carbon emissions in accordance with Government guidance contained within the National Planning Policy Framework and to ensure energy and resource efficiency practices are incorporated into the development in accordance with the Government's aim to achieve sustainable development as set out in the National Planning Policy Framework and to accord with Policies ESD1 and ESD3 of the Cherwell Local Plan 2011-2031. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

#### **Use**

32. Notwithstanding the provisions of the Town and County Planning (General Permitted Development) (England) Order 2015 and subsequent amendments, the buildings hereby approved shall be used only for purposes falling within Class B1 (c), B2, B8 and/or D1 as specified in the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) or in any provision equivalent to that class in any statutory instrument revoking, amending or reenacting that order and for no other purpose(s) whatsoever.

Reason: In accordance with Policy Bicester 8 of the Cherwell Local Plan 2011 – 2031 Part 1.

33. Any building hereby approved that is used for purposes falling within Class D1 shall only be so used ancillary to or in association with other permitted uses taking place within the land outlined in blue on Drawing No: 5002854-RDG-Z05-ST-PL-A-0010 Rev D – Site Location Plan B.

Reason: To define the permission, and in the interests of highway safety and well-planned development, In accordance with Policies SLE4, ESD15 and Bicester 8 of the Cherwell Local Plan 2011 – 2031 Part 1.

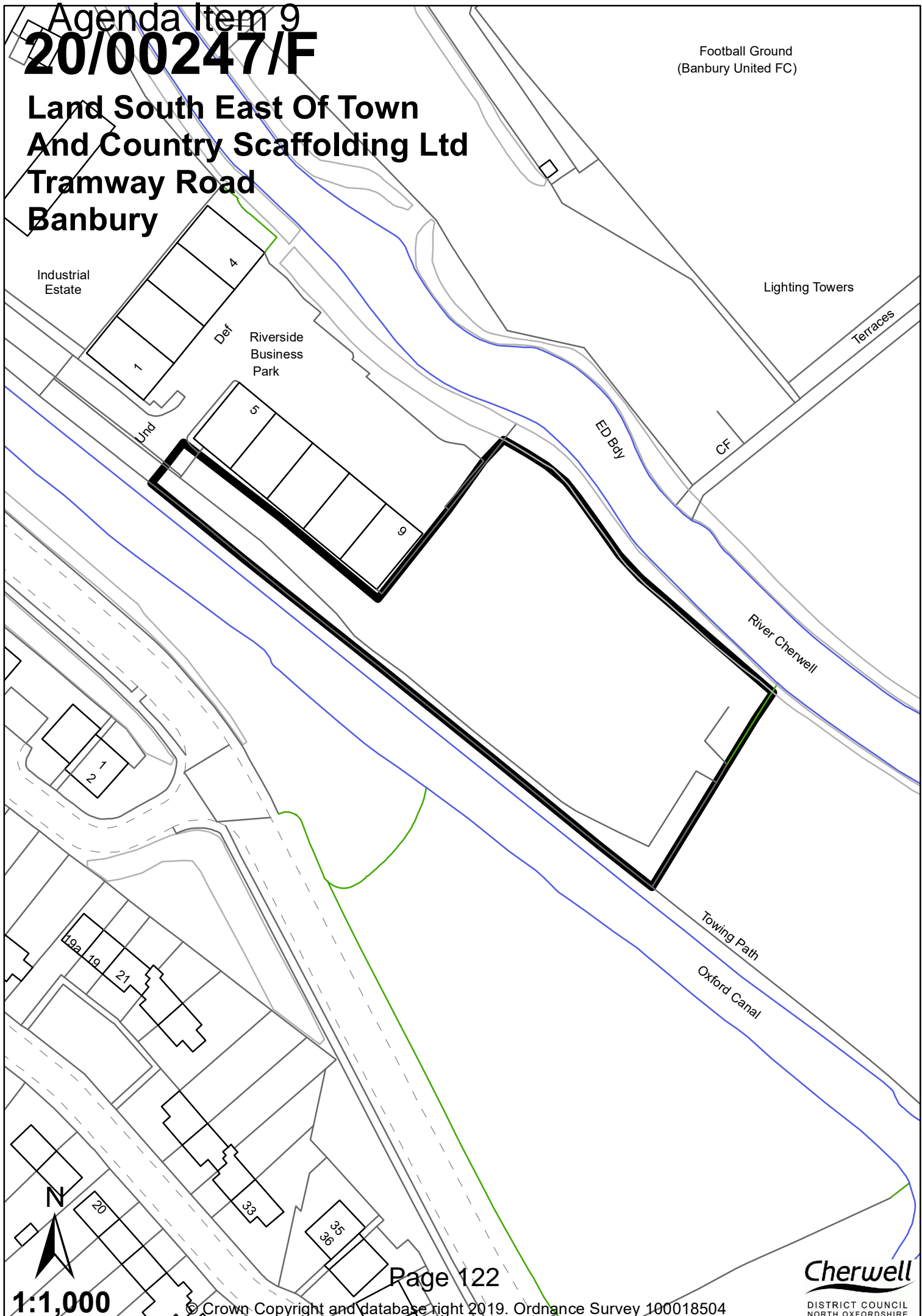
#### **Planning Notes**

1. **Condition 8** - In respect of condition 8 above, the requirement for a Signage Strategy does not replace or avoid the need for separate advertisement consent under The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended).
2. **Condition 24** – In respect of condition 27 above, the LEMP will be expected to clearly demonstrate a minimum 10% net biodiversity gain for the site.
3. **Condition 27** - In respect of condition 30 above, all mechanical plant or machinery should be assessed to ensure noise is not a problem at nearby noise sensitive receptors. Ideally there should be no increase on existing background levels when assessed as a rating level.

# Agenda Item 9 20/00247/F

## Land South East Of Town And Country Scaffolding Ltd Tramway Road Banbury

Football Ground  
(Banbury United FC)



Industrial Estate

Lighting Towers

Riverside Business Park

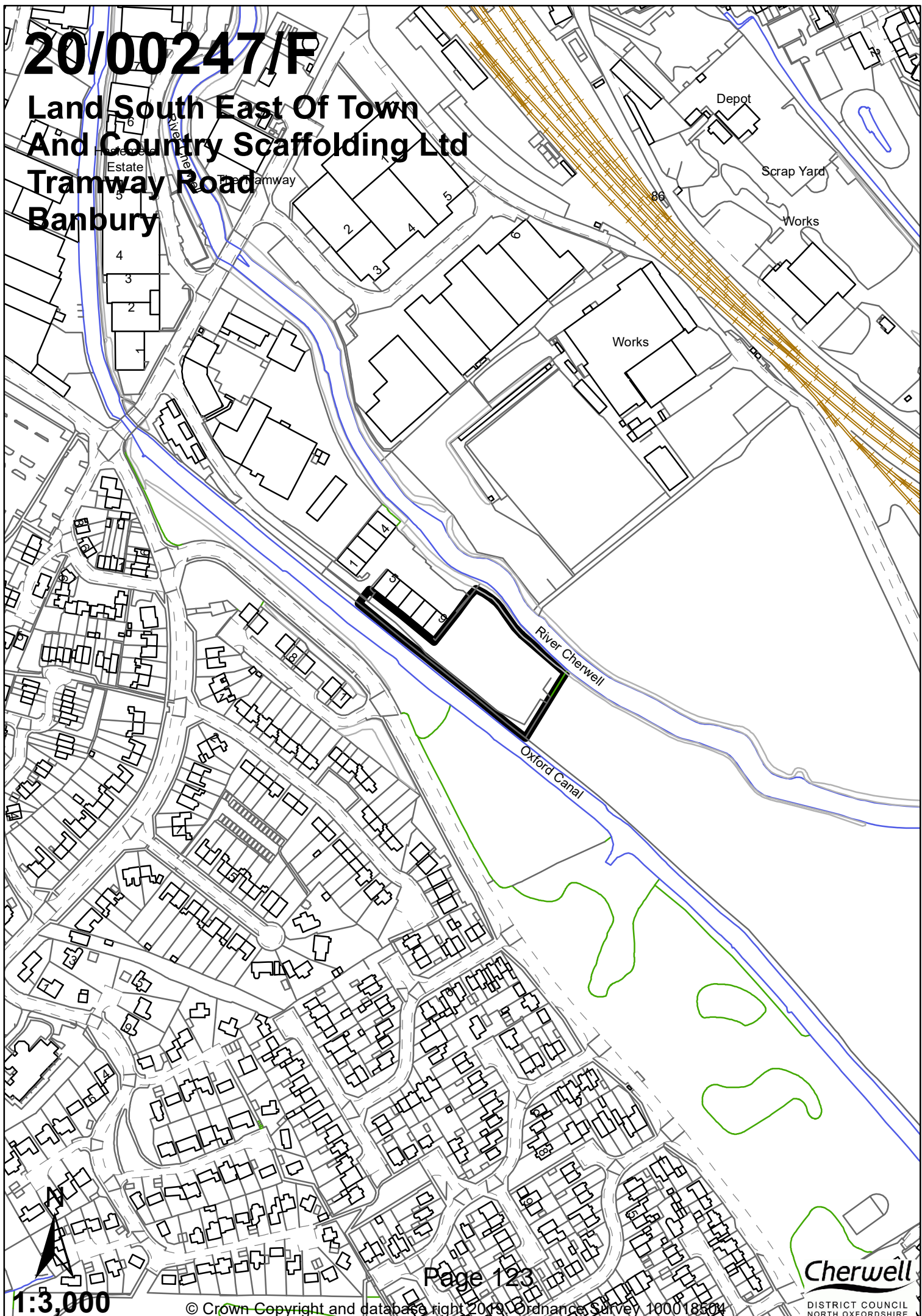
River Cherwell

Towing Path

Oxford Canal

# 20/00247/F

## Land South East Of Town And Country Scaffolding Ltd Tramway Road Banbury



**Case Officer:** James Kirkham

**Applicant:** Mr R Levenston

**Proposal:** Erection of three B1 (c) light industrial units

**Ward:** Banbury Grimsbury and Hightown

**Councillors:** Councillor A Beere, Councillor S Hussain and Councillor P Moon

**Reason for Referral:** Major development

**Expiry Date:** 31 July 2020

**Committee Date:** 16 July 2020

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## **EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION**

**RECOMMENDATION: GRANT PERMISSION SUBJECT TO NO OBJECTION BEING RECEIVED FROM THE COUNCIL'S ECOLOGIST BY 31<sup>st</sup> AUGUST 2020 AND SUBJECT TO CONDITIONS AND COMPLETION OF A S106 LEGAL AGREEMENT**

### **Proposal**

The proposed development for the erection of a block of 3no attached light industrial units on the site.

### **Consultations**

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

- None

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

- Banbury Town Council, OCC Highway, OCC Drainage, CDC Environmental Protection, CDC Arborist Canals and River Trust, Environment Agency

The following consultees are **outstanding** on the revised information:

- CDC Ecology

One letter of objection has been received.

### **Planning Policy and Constraints**

The application site is within the site allocation known as Banbury 1 (Canalside). The northern and eastern parts of the site also lie within Flood Zone 2 and 3 associated with the River Cherwell which exists to the north of the site. The Oxford Canal Conservation Area runs to the south of the site which includes a tow path which is a public right of way.

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 and heritage
- Highways
- Flood risk and Drainage
- Ecology Impact
- Residential amenity
- Other matters

The report considers the key planning issues in detail, and Officers conclude that subject to no objection being raised by the Environment Agency or the Councils Ecologist the proposal is acceptable subject to conditions and a legal agreement.

**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 vacant area of land to the east of a number of existing industrial units on The Tramway in Banbury. The Oxford Canal is located to the south and the River Cherwell to the north. The site is relatively level with the exception of the northern boundary which banks down to the River Cherwell where a number of trees also exist.

### **2. CONSTRAINTS**

- 2.1. The application site is within the site allocation in the Cherwell Local Plan Part 1 (2015) known as Banbury 1 (Canalside). The northern and eastern parts of the site also lie within Flood Zone 2 and 3 associated with the River Cherwell which exists to the north of the site. The Oxford Canal Conservation Area runs to the south of the site which includes a tow path that is a public right of way.

### **3. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 3.1. The current application seeks permission to erect three light industrial units (use class B1(C)) on the application site. The units would be 2 storey in height with a pitch roof and mezzanine floor and be covered with grey/silver cladding. They would have a total floorspace of 1558sqm. The units would be arranged in a single rectangular box and would be orientated on an east west axis and would be situated

towards the northern part of the site. The proposal includes 29 parking spaces, which would be located to the south of the units. The site would be accessed via an area of land to the south of the existing industrial units to the west of the site.

#### 4. RELEVANT PLANNING HISTORY

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

**Application: 08/02216/OUT**      Application      25 February 2010  
Permitted

OUTLINE - Erection of new industrial units Class B1 use

**Application: 12/01350/REM**      Application      11 March 2013  
Permitted

Reserved matters to outline application 08/02216/OUT - erection of new industrial units Class B1 use

**Application: 14/00581/OUT**      Application      29 June 2015  
Permitted

OUTLINE - Erection of three new B1 Industrial Units (Renewal of 08/02216/OUT)

**Application: 15/00387/DISC**      Application      23 November 2015  
Permitted

Discharge of Conditions 5, 10, 11, 14 and 15 of 14/00581/OUT

**Application: 15/00018/OBL**      Application      29 June 2015  
Permitted

Variation of planning obligation to approved application 08/02216/OUT

**Application: 15/01622/REM**      Application      23 November 2015  
Permitted

Reserved matters to 14/00581/OUT - Landscaping including Condition No 5

**Application: 18/01009/CLUE**      Application      9 August 2018  
Permitted

Development approved under references 14/00581/OUT, 15/00387/DISC & 15/01622/REM was physically and formally commenced on 25th February 2016.

**Application: 19/02074/OUT**      Pending  
consideration

Variation of Condition 4 (plans), 10 (surface water drainage scheme) and 11 (materials and finishes) of 14/00581/OUT - Amendments proposed are inclusion of mezzanine floors; increased eaves height with amended pitch; changed cladding and updated drainage strategy



Officer comment: This application is still outstanding due to discussions over the necessary legal agreement, which in part relate to some of the same outstanding issues that affect this full planning application.

## 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 **4 March 2020**, although comments received after this date and before finalising this report have also been taken into account.

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

- Residential amenity - Impact of new lighting in combination with existing lighting from railway and football ground.
- Impact on wildlife and vegetation between the site, canal and residential properties.
- Proposal could destabilise the bank of the canal
- Concerns over flood risk and drainage.

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

### CONSULTEES

7.3. OCC HIGHWAYS: **No objections** subject to conditions on parking, access and cycle parking and a contribution of £25,000 toward the provision of new bus stops on Tramway Road. The proposal significantly greater floorspace (628m<sup>2</sup> to 1558m<sup>2</sup>) than the earlier approval. Given the level of parking it is considered crucial that suitable cycle storage and public transport measures are taken to encourage sustainable forms of travel. At least 8 covered cycle hoops capable of storing 16 cycles should be provided. The site location in central Banbury will be feasible for many staff to reach by cycle, and this sustainable mode of transport is to

be encouraged, particularly as the local road network suffers from regular congestion.

- 7.4. In regard to public transport, OCC is engaged in a scheme to improve access to Banbury Rail Station by opening the existing restriction point at the top of Tramway Road. This will open a “bus and taxi only” two-way link past the station to Bridge Street, thus dramatically increasing opportunities for sustainable journeys to the area by public transport by re-routing the existing B3 service along Tramway Road itself. Since the original application in 2014 the Cherwell Local Plan has been adopted and there is an emerging SPD for Canalside - the Tramway link is in both.
- 7.5. The scheme would enhance the opportunities to access the development site by public transport. It is to be funded by Growth Deal and developer contributions. Hence, a contribution of £25,000 is required towards the bus stops that will be located on Tramway Road, very close to the site access road.
- 7.6. OCC DRAINAGE: **No objection** subject to condition securing details drainage scheme.
- 7.7. ENVIRONMENT AGENCY: **No objection** subject to conditions requiring compliance with the submitted Flood Risk Assessment.
- 7.8. CANAL AND RIVER TRUST: **Comment.** Further details are required of the existing and proposed boundary treatment and landscaping adjacent to the canal. It is important that landscaping screens the site. Details of any external lighting should also be proposed.
- 7.9. CDC ARBORIST: **No objection.** The submitted assessments and tree removal is acceptable. A Method Statement will be required alongside details of the replacement tree planting to mitigate for the removals.
- 7.10. Request consideration given to securing contributions towards improvements to the canal towpath and infrastructure given the potential increased usage.
- 7.11. CDC ENVIRONMENTAL PROTECTION: **No objections** subject to conditions for CEMP, details of any extraction equipment, land investigation, electrical vehicle charging points and full details of any external lighting.

## **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
- SLE4: Improved Transport and Connections
- ESD1-5: Climate Change and Sustainable Construction
- ESD6: Flood Risk
- ESD7: Sustainable Drainage Systems
- ESD10: Protection and Enhancement and the Natural Environment
- ESD13: Local Landscape Protection and Enhancement
- ESD15: The Character of the Built and Historic Environment
- Banbury 1: Canalside

#### CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C28: New development design
- ENV1: Pollution Control

#### 8.3. Other Material Planning Considerations

- Banbury Vision and Masterplan (2016)
- Developer Contributions SPD (2018)
- Draft Canalside SPD (2009)
- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- 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
- Design, and impact on the character of the area and heritage
- Highways

- Flood risk and Drainage
- Ecology Impact
- Residential amenity
- Other matters

### Principle of Development

#### *Policy Context*

- 9.2. Legislation in the form of Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 require planning applications to be determined against the provisions of the development plan for the area unless material considerations indicate otherwise.
- 9.3. The adopted Cherwell Local Plan 2011-2031 Part 1 (CLP 2015) is the principal development plan document for the District that sets out a strategy and overarching policies to provide for sustainable growth within the District to meet identified need through to 2031. It primarily focuses new growth in the District to Banbury and Bicester whilst limiting it elsewhere in order to provide for the most sustainable form of growth over the plan period. Amongst other things it identifies a number of strategic sites for housing and employment development in and around Banbury so that they are provided in carefully considered proportions in order to deliver a sufficient number and type of jobs to reduce the need for out-commuting from Banbury arising from the new housing which would be unsustainable.
- 9.4. Policy SLE1 of the CLP 2015 states that employment development will be focused on existing employment sites and intensification will be permitted subject to compliance with other policies in the plan and other material considerations.
- 9.5. The site is also located in the area allocated under Policy Banbury 1: Canalside. This is a large strategic allocation (26 hectares), which stretches between the town centre and the railway station and down to Swan Close Road in the south and allocates the wider site for approximately 700 homes and a mix of retail, office and leisure uses. The Banbury Vision and Masterplan Supplementary Planning Document, which was adopted in 2016 builds on this vision. A draft SPD for the wider Canalside site was consulted upon in 2009; however, given its age and the fact it pre-dates the CLP 2015 it is not considered to carry significant weight in decision making at the current time. The Local Development Scheme does outline that work will recommence on the preparation of an SPD for Canalside but to date no draft has been issued for consultation.

#### *Assessment*

- 9.6. The current application seeks permission for new industrial uses on the site. As outlined above there are long term aspiration for the redevelopment of the wider Banbury 1 allocation for a high quality mixed use development. The proposed development would not be in line with these longer term objectives for the site. However, as outlined above considerable further work still needs to be undertaken on the vision for the wider allocation and the location of the current site is peripheral to the allocation.

- 9.7. More importantly in this case there is planning history on the site which is highly material to the consideration of the application. A number of permissions have been granted on the application site for new commercial uses and a permission for 3 smaller commercial units from 2014 (14/00481/OUT and 15/01622/REM) has been partially implemented (as confirmed by a Certificate of Lawful Development under 18/01009/CLUE). This means that there is already a permission existing on the site for commercial development which is capable of being fully implemented. It is therefore considered that any identified conflict with Policy Banbury 1 of the CLP 2015 is outweighed by the site's planning history.
- 9.8. In the earlier applications on the site a strip of land to the northern boundary of the site was safeguarded for the provision of a potential new footpath cycle route alongside the River Cherwell. Essentially the legal agreement requires this land to be transferred to the Council if appropriate notice is served. Both Policy Banbury 1 and the Banbury Vision and Masterplan still seek to secure a new riverside park including footpaths and cycle routes through the Banbury 1 site as part of the wider Banbury 1 allocation. The current application therefore seeks to safeguard the same route to the north of the site as was previously secured so a new footway/cycleway could potentially be provided along the River Cherwell in the future. This needs to be secured by a S106 legal agreement.
- 9.9. Furthermore, it is also noted that the proposed development would provide a source of new employment in a sustainable location within proximity of the town centre and residential areas. This would be in accordance with Policy SLE1 of the Cherwell Local Plan and advice in the NPPF which seeks to reduce the need to travel. Overall, therefore, the principle of the development is considered to be acceptable.

#### Design and impact on character and appearance and heritage Impact

##### *Policy context*

- 9.10. Policy ESD13 states proposals will not be permitted if they would cause undue visual intrusion into the open countryside, be inconsistent with local landscape character or harm the setting of settlements. Policy ESD15 states that new development will be expected to complement and enhance the character of its context through sensitive design and siting and be designed to deliver high quality, safe, attractive and durable places to live and work. The NPPF also outlines that high-quality development is fundamental to achieving sustainable development.
- 9.11. The site is outside of the Oxford Canal Conservation Area but development of the site would affect the setting of the Conservation Area. Conservation Areas 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 proposed development would be located in the context of the existing commercial buildings to the west of the site. The proposed building would have a

similar appearance, mass and scale to these and would form part of the Banbury 1 allocation. The site is relatively well visually contained by the vegetation from the River Cherwell and other planting to the north and west and would not appear incongruous in longer distant views.

- 9.13. The Oxford Canal Conservation Area exists to the south and filtered views of the proposal would be visible from the Canal Tow Path, which would slightly increase the perception of commercial development from the Canal. However, these views would largely be seen in the context of the existing commercial development and are not considered to be significantly greater than the scheme already permitted on the site. Furthermore, the new building is set back further from this boundary of the site which would help reduce its prominence. The Canal and River Trust has requested details of the landscaping and boundary treatment adjacent to the canal to ensure the site is effectively screened. A Tree Report has been submitted which outlines that the trees on this boundary can largely be retained with the layout proposed. A full landscaping scheme and boundary treatment plan can be secured by planning condition to ensure that adequate additional planting is provided adjacent to the canal and other boundaries. Concerns have also been raised regarding the impact of external lighting and conditions can be used to control this matter.
- 9.14. Overall the impact of the development on the character and appearance of the area and the setting of the Canal is therefore considered to be acceptable subject to planning conditions, and the proposal thus compliant with Policy ESD15 in this regard as well as the relevant paragraphs of the NPPF.

### Highways

#### *Policy*

- 9.15. Policy SLE4 of the Cherwell Local Plan Part 1 states that 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 has a similar and also requires that safe and suitable access is achieved for all.

#### *Assessment*

- 9.16. The proposed development would be accessed from Tramway using the same access as was previously permitted at the site and the Highway Authority have raised no objection to this. The proposed development would be served by 29 parking spaces. The Local Highway Authority (LHA) raises no objection to this but advises that given the parking provision is relatively low it is vital that opportunities for other sustainable forms of travel are taken up. The site is located within Banbury and relatively close to the centre where opportunities to access the site by cycle, walking and public transport are available.
- 9.17. There are plans to open up a new 2 way bus and taxi link between the northern end of Tramway and Banbury Train Station and these are supported by Policy Banbury 1 of the CLP and the Banbury Vision and Masterplan. As part of this new bus stops will need to be provided on Tramway and these will be funded through developer contributions and the Oxfordshire Growth Deal. The proposed development would increase the amount of people working at the site and a contribution of £25,000 is therefore sought to provide the bus stop infrastructure to encourage the use of

public transport to the site. This is similar to an earlier contribution, which was sought on the earlier approved scheme on the site and is considered to be required to make the development acceptable in planning terms. This will need to be secured by a S106.

- 9.18. The LHA also requests additional cycle parking to serve the site and amended plans have now been provided to show this. This is considered to be acceptable.
- 9.19. Overall, therefore, the proposal is acceptable in highway safety terms and in accord with Policies SLE4 and ESD15 in this regard.

### Flood Risk and Drainage

#### *Policy*

- 9.20. Policy ESD6 of the Cherwell Local Plan (2011-2031) Part 1 essentially replicates national policy contained in the NPPF with respect to assessing and managing flood risk. In short, this policy resists development where it would increase the risk of flooding and seeks to guide vulnerable developments towards areas at lower risk of flooding. Banbury 1 states development should take account of the Council's Strategic Flood Risk Assessment.
- 9.21. Policy ESD7 of the Cherwell Local Plan (2011-2031) Part 1 requires the use of Sustainable Drainage Systems (SuDS) to manage surface water drainage systems. This is with the aim to manage and reduce flood risk in the District.

#### *Assessment*

- 9.22. The site lies mainly in Flood Zone 1 (the low probability of flooding 1 in 1000) however some parts of the northern and western parts of the site lie within Flood Zone 2 and 3 on the Environment Agency Flood Risk maps. The building and operational development is largely located within Flood Zone 1 however small parts of the site do impact on Flood Zone 2. The application site is part of an allocated site and therefore does not need to be subject to the sequential test for flood risk.
- 9.23. The application has been accompanied by a Flood Risk Assessment (FRA) and outline Drainage Strategy. The proposal includes the use of water butts, a below ground attenuation tank to the north of the building and a swale to the south of the site to collect run of water from the external yard area prior to discharging to the River Cherwell at greenfield rate. The drainage scheme has been designed to accommodate all storm events up to and including 1 in 100 years plus 40% climate change event and it has been demonstrated that infiltration is not possible due to ground conditions.
- 9.24. During the course of the application the applicant has provided additional information to address the concerns the Lead Local Flood Authority (LLFA) previously raised regarding water quality and the potential for the attenuation tank to be impacted by flood water or ground water. The LLFA now raises no objection to the scheme subject to conditions and the drainage scheme is therefore considered to be acceptable to officer.
- 9.25. The applicant has reviewed the modelled flood levels from the Environment Agency (EA) against the existing levels of the site which are to be developed and state that this indicates that the whole area of the site to be developed is outside the areas

liable to flood. Having considered the FRA the EA raises no objection to the scheme subject to compliance with the submitted FRA.

- 9.26. Subject to conditions securing compliance with the FRA and the submission of a detailed drainage strategy Officers are therefore satisfied the proposed development is acceptable in terms of flood risk and drainage.

### Ecology Impact

#### *Legislative context*

- 9.27. 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.
- 9.28. 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.
- 9.29. 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.
- 9.30. 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.
- 9.31. 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*

- 9.32. 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.
- 9.33. 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.
- 9.34. 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.
- 9.35. 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.
- 9.36. 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*

- 9.37. The application site is currently undeveloped, has overgrown vegetation and is close to the river and canal and therefore has the potential to be suitable habitat for protected species.
- 9.38. 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, local planning authorities 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. 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.

- 9.39. The current application has been accompanied by a Preliminary Ecological Appraisal which has assessed the habitats on site. This identified a number of potential habitats on the site which could be impacted by the development. Previous surveys had identified populations of grass snake and common lizard on site and a mitigation strategy was approved as part of the earlier planning approvals on the site which included an onsite receptor area at the south eastern end of the site which would be enhanced and managed for reptiles. The current application still seeks to provide this area although it has been reduced in size but now includes larger strips of land to the north east and south western boundaries to connect to the surrounding habitats.
- 9.40. Updated Reptile Surveys have been undertaken and confirmed a small number of common lizards on the site. No other reptiles were found. The application includes a Reptile Mitigation Strategy, which includes details of establishment and management of the area of land to the south east of the site for reptiles. The Council's Ecologist has reviewed this and is satisfied with the strategy subject to conditions.
- 9.41. The applicant has also undertaken a number of other surveys relating to bats, otters and water vole and mammals which have now been submitted. The comments of the Council's Ecologist on these matters are awaited and will be updated to committee.

#### Residential amenity

##### *Policy*

- 9.42. Policy ESD15 of the Cherwell Local Plan Part 1 requires a good standard of amenity for future and proposed residents. Saved Policy ENV1 seeks to restrict development which would be materially harmful by way of noise or air pollution.

##### *Assessment*

- 9.43. The proposed development would be located in an established commercial area and is considered to be a sufficient distance from the closest residential properties not to unduly impact on them in terms of noise and disturbance or other impacts.
- 9.44. However, there are a number of canal boat moorings on the canal adjacent to the site which also need to be considered. The proposed development is for a light industrial use (use class B1 (C)). Such uses are classified in the Town and Country Planning (Use Classes) Order 1987 (as amended) as uses which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes or smoke. Therefore, the type of uses authorised to



operate from the site would not likely give rise to significant amenity issues for occupiers of these boats noting also that the area already has established commercial uses present. Details of any mechanical plans such as extraction equipment can be controlled by condition.

- 9.45. The Council's Environmental Protection Officer has also requested details of the measures to reduce the impact of noise and disturbance from the development from the construction and these can be controlled with a Construction Environmental Management Plan.

#### Other matters

- 9.46. In terms of sustainable construction, Policy BSC3 requires all new non-residential development to meet at least BREEAM 'very good' standard and this could be secured through a planning condition. It is also proposed that the provision of feasibility assessments for the provision of renewable energy provision in the development be required through condition alongside details of electrical vehicle charging points to comply with Policies ESD1-ESD5 of the CLP 2015.
- 9.47. The Canal and River Trust has requested that consideration be given by the Council to seeking contributions to upgrading the existing canal towpath and other canal infrastructure and also to providing a link between the site and canal. Whilst officers are supportive of this approach in principle, given that such contributions were not secured on the earlier permissions for development of the site, which remain extant, and the relatively small scale of the proposal it is not considered they could be justified by this proposal.

### **10. PLANNING BALANCE AND CONCLUSION**

- 10.1. Paragraphs 7 and 8 of the NPPF state that the purpose of the planning system is to contribute to the achievement of sustainable development. This means the planning system has three overarching objectives – economic, social and environmental – which are interdependent and need to be pursued in mutually supportive ways.
- 10.2. The proposed development would contribute to the economic, environmental and social objectives by providing a new area of employment in a sustainable location. Whilst the proposal would not accord with Policy Banbury 1 of the Cherwell Local Plan, the planning history of the site is considered to outweigh this conflict. Subject to no objection being raised by the Councils Ecologist or the Environment Agency the environment would be protected, and the visual impacts of the development are considered to be acceptable in light of the context of the site.
- 10.3. When viewed a whole the proposed development is therefore considered to constitute a sustainable form of development and it is recommended that planning permission be granted.

### **11. RECOMMENDATION**

**RECOMMENDATION – DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT TO GRANT PERMISSION, SUBJECT TO NO OBJECTIONS BEING RAISED BY THE COUNCIL'S ECOLOGIST BY 31<sup>ST</sup> AUGUST AND SUBJECT TO THE CONDITIONS SET OUT BELOW (AND ANY**

AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY) **AND THE COMPLETION OF A PLANNING OBLIGATION UNDER SECTION 106** OF THE TOWN AND COUNTRY PLANNING ACT 1990, AS SUBSTITUTED BY THE PLANNING AND COMPENSATION ACT 1991, TO SECURE THE FOLLOWING (AND ANY AMENDMENTS AS DEEMED NECESSARY):

- a) Provision of a financial contribution towards the provision of new bus stop infrastructure on Tramway Road.
- b) The safeguarding of a footpath/cycle way route on the northern boundary of the site (adjacent to the River Cherwell) and option to transfer this land to the Council at no cost to the Council

### CONDITIONS

#### **Time Limit**

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

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

#### **Compliance with Plans**

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: Application forms, Preliminary Arboricultural Assessment, Flood Risk Assessment and Drainage Strategy (issue 02), Preliminary Ecological Appraisal (May 2020), Reptile Survey (Report No: RT-MME-150960-02), Reptile Mitigation Strategy (Report No: RT-MME-150960-01 Rev A), Bat Survey (Report No: RT-NME-152681-01), Otter and Water Vole Survey and Mammal Hole Monitoring (Report RT-NME-152681-02) and drawing numbers 0700 003, 0705 008, 0706 001, 0710 003, 0771001, 0720 002, 19-088/310 P2, 19-088/311 P1.

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.

#### **Detailed Drainage Strategy**

3. Development shall not begin until a detailed surface water drainage scheme for the site, in accordance with the approved Drainage Strategy drawing 19-088 / 310 P2, has been submitted to and approved in writing by the planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is occupied and shall be managed and maintained in perpetuity with the agreed details. The scheme shall also include:
  - A Flood Exceedance Conveyance Plan;
  - Detailed maintenance management plan in accordance with Section 32 of CIRIA C753 including maintenance schedules for each drainage element;
  - Explanation of “Flood” on PN 2.000 SP2

Reason: To ensure the site is appropriately drained and does not contribute to

flood risk in the locality in accordance with the National Planning Policy Framework.

4. Prior to occupation of the development hereby permitted, a record of the approved SuDS details shall be submitted to and approved in writing by the Local Planning Authority for deposit in the Lead Local Flood Authority Asset Register. The details shall include:

- As built plans in;
- Photographs to document each key stage of the drainage system when installed on site;
- Photographs to document the completed installation of the drainage structures on site.

Reason: In accordance with section 21 of the Flood and Water Management Act 2010.

#### **Arboricultural Method Statement and Protection Plan**

5. No development shall commence until an Arboricultural Method Statement and Protection Plan has been submitted and approved in writing by the Local Planning Authority. The development shall not be carried out other than in strict accordance with the approved details.

Reason: To protect the existing trees and vegetation on site in the interests of visual amenity and ecology and the significance of the Oxford Canal Conservation Area. To accord with Policies ESD10, ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and advice in the National Planning Policy Framework.

#### **Construction Environmental Management Plan**

6. No development shall commence until a Construction Environment Management Plan (CEMP), which shall include details of the measures to be taken to ensure construction works do not adversely affect residential properties on, adjacent to or surrounding the site together with details of the consultation and communication to be carried out with local residents has been submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out other than in accordance with approved CEMP.

Reason: To safeguard the amenity of the neighbouring occupiers including residential moorings on the Oxford Canal 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 advice in the National Planning Policy Framework.

#### **Landscaping and Boundary Treatment**

7. 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.

(d) details of the proposed boundary treatment

The development shall not be carried out other than in accordance with the approved details and the hard landscape elements shall be carried out prior to the first occupation of the development and shall be retained as such thereafter.

Reason: To protect the visual amenity and ecology of the area including the setting of the Oxford Canal Conservation Area. To accord with Policies ESD10, ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in the National Planning Policy Framework.

8. 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.

#### **Electrical vehicle charging points**

9. No development shall commence above slab level until a scheme for a system of ducting to allow for the future installation of electrical vehicle charging infrastructure to serve the car park or a scheme showing the provision of electrical vehicle charging points to serve the development 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 any building.

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.

#### **Renewable Energy**

10. No development shall commence above slab level until a feasibility assessment for the potential of on-site renewable energy provision has been submitted and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details prior to the first occupation of the buildings hereby permitted and unless otherwise agreed in writing by the Local Planning Authority shall be retained as such thereafter.

Reason: To encourage the use of sustainable construction and renewable energy in accordance with Policy ESD1 and ESD5 of the Cherwell Local Plan and advice in the National Planning Policy Framework.

#### **External Materials**

11. No development shall commence above slab level until a schedule of materials and finishes for the external walls and roof(s) of the development hereby approved has been 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 safeguard the character and appearance of the area and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

#### **Plant and machinery**

12. Prior to the installation of any mechanical plant, such as extraction equipment, into any of the buildings hereby permitted, full details of its appearance, noise output and/or odour suppression shall be submitted and approved in writing by the Local Planning Authority. This may require the submission of a noise report to BS4142:2014 (or future amendments). The development shall be carried out in strict accordance with the approved details and shall be retained as such thereafter.

Reason: To safeguard the amenity of the neighbouring occupiers including residential moorings on the Oxford Canal and to comply with Policy ESD15 of the Cherwell Local Plan, Saved Policy ENV1 of the Cherwell Local Plan 1996 and advice in the National Planning Policy Framework.

#### **External lighting**

13. No external lights/floodlights shall be erected on the land or building unless a scheme of lighting including lux plans has been first submitted and approved in writing by the Local Planning Authority. The development shall be carried out in strict accordance with the approved details and shall be retained as such thereafter.

Reason - In order to safeguard the amenities of the area and ecology and to comply with Policies ESD10 and ESD15 of the Cherwell Local Plan 2015, Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework

#### **Contamination**

14. If during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.

Reason - This site has been previously land filled. Although the site investigation concluded that the site does not pose a threat to controlled water, there is the possibility that undetected contamination may exist on site.

15. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason - Given the land filling operation it is not possible to exclude the possibility of unexpected contamination existing on site. Details of piling operations would be required to confirm that there is no danger that contamination may be mobilized.

#### **Flood Risk Compliance**

16. The development shall not be carried out other than in accordance with the submitted Flood Risk Assessment, prepared by Bradbrook Consulting, reference 19-088, dated 10 January 2020 and the Drainage Layout and Levels Drawing, prepared by Bradbrook Consulting, reference 19-088 / 310, revision P1, dated 8 January 2020, and the following mitigation measures it details:

-Finished floor levels should be set no lower than 91.20m AOD.

-There shall be no raising of existing ground levels.

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To ensure the site is appropriately in respect of Flood Risk and does not contribute to flood risk in the locality in accordance with Policy ESD6 and ESD7 of the Cherwell Local Plan 2011-2031 part 1 and Government guidance in the National Planning Policy Framework.

#### **Parking and Manoeuvring**

17. The development shall not be used or occupied until the parking and manoeuvring areas have been provided in accordance with the plan hereby approved and have been constructed, laid out, surfaced, drained and completed in accordance with specification details which shall have been submitted to and approved in writing by the Local Planning Authority prior to the commencement of development, and shall be retained unobstructed except for the parking and manoeuvring of vehicles at all times thereafter.

Reason - In the interests of highway safety and to comply with government guidance contained within the National Planning Policy Framework. Specification details are required prior to commencement of development to ensure the details are appropriate before groundwork is commenced.

#### **Vision Splays**

18. The vision splays shall not be obstructed by any object, structure, planting or other material.

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

#### **Cycle parking**

19. Prior to the first use or occupation of the development hereby permitted the cycle parking as shown on the approved plans shall be provided in accordance with the approved plans, except that they shall be covered. The said cycle parking facilities shall be permanently retained and maintained thereafter 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 Government guidance contained within the National Planning Policy Framework.

**PD withdrawal**

20. Notwithstanding the provisions of Class H of Part 7, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 and its subsequent amendments, the approved building shall not be extended or altered without the grant of further specific planning permission from the Local Planning Authority.

Reason - To enable the Local Planning Authority to retain planning control over the development of the site in order to safeguard the amenities of the area in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

**BREEAM very good**

21. The development hereby approved shall be constructed to achieve at least a BREEAM 'Very Good' rating based on the relevant BREEAM standard for that building type applicable at the time of the decision. Verification of this standard shall be submitted and approved in writing within 3 months of the first occupation of any part of the building hereby permitted

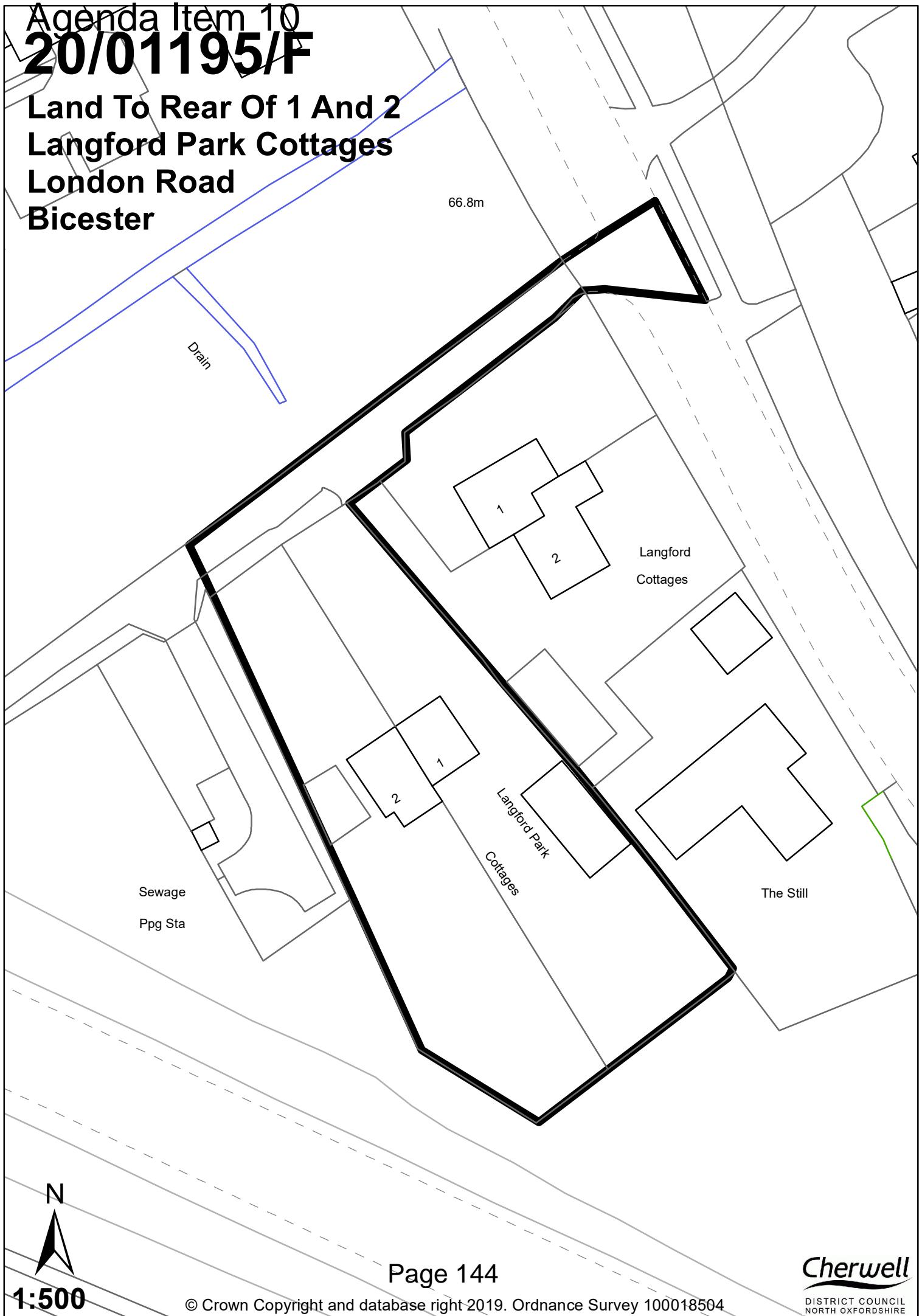
Reason - To ensure sustainable construction and reduce carbon emissions in accordance with ESD3 of the Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

CASE OFFICER: James Kirkham

TEL: 01295 221896

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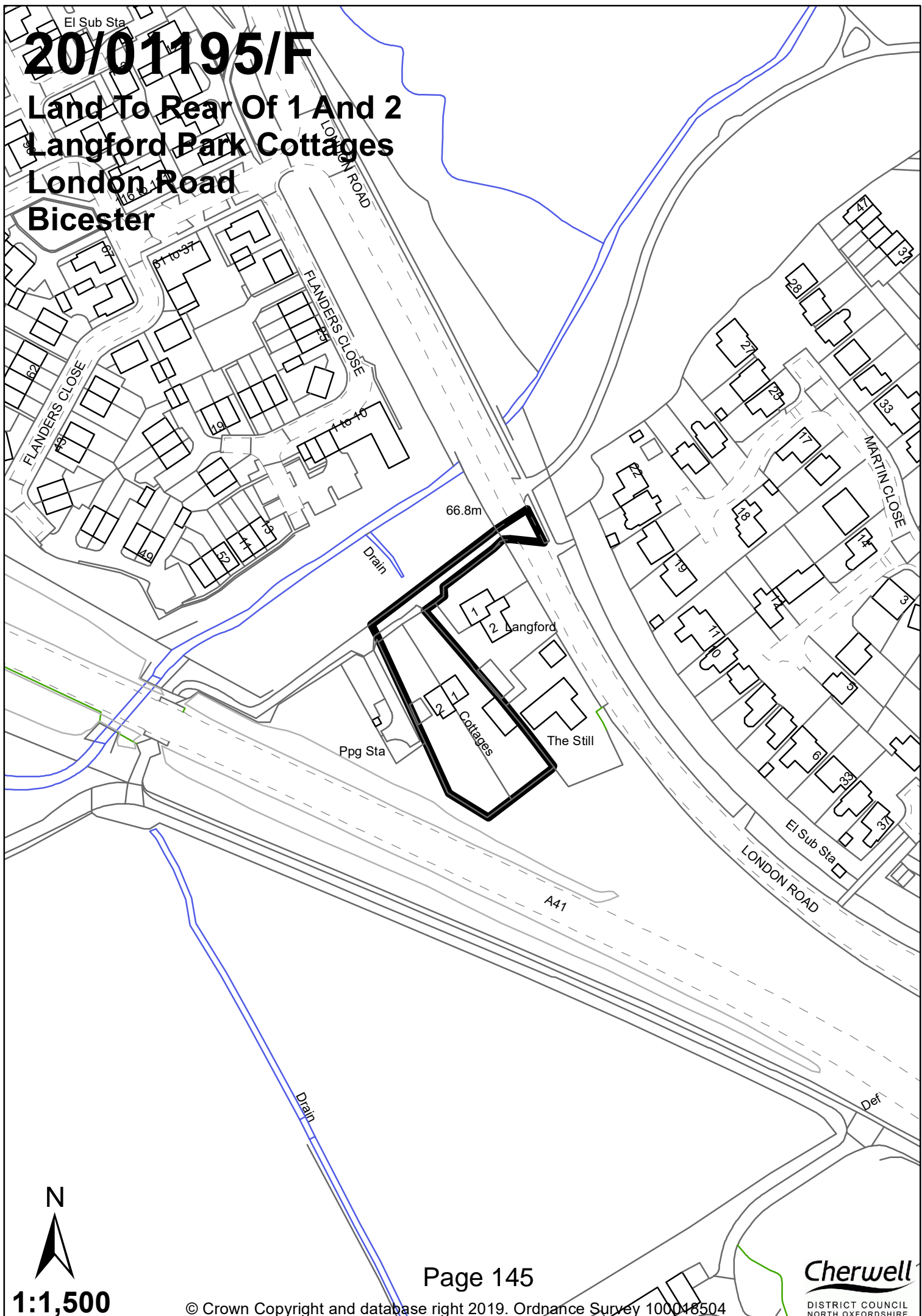
## Land To Rear Of 1 And 2 Langford Park Cottages London Road Bicester





# 20/01195/F

Land To Rear Of 1 And 2  
Langford Park Cottages  
London Road  
Bicester



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1:1,500

**Case Officer:** George Smith

**Applicant:** Stuart Newynskyj & Alan Tucker

**Proposal:** Demolition of existing garage and erection of 2no single storey dwellings at the rear of 1, 2 & 3 Langford park cottages - (Re-submission of 19/02416/F)

**Ward:** Bicester South And Ambrosden

**Councillors:** Councillor Nick Cotter  
Councillor Dan Sames  
Councillor Lucinda Wing

**Reason for Referral:** Called in by Councillor Sames for the following reasons: Sustainable development with worthwhile benefits

**Expiry Date:** 20 July 2020

**Committee Date:** 16 July 2020

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## **EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION**

### **RECOMMENDATION: REFUSE PERMISSION**

#### **Proposal**

The proposal is for two single-storey dwellings located on existing garden land of 1-3 Langford Park Cottages. The proposal seeks access via the side of 1 Langford Park Cottages, thus requiring the demolition of the existing garage for this property.

#### **Consultations**

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

- Bicester Town Council, CDC Environmental Health

OCC Highways have **objected** to the application.

No third-party correspondence has 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 considers the key planning issues in detail, and Officers conclude that the proposal is unacceptable for the following reasons:

1. Adverse effect on the character and appearance of the locality
2. Highway safety; access and parking arrangements

**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 formed of the far section of the rear garden land of 1-3 Langford Park Cottages. Langford Park Cottages are a row of 3 terraced houses located towards the south of Bicester, accessed off London Road via an unadopted track. 1-2 Langford Park Cottages are post-war era dwellings, whereas 3 Langford Park Cottages is an addition to the former semi-detached block within the last 3 years. The existing dwellings make up half of a cluster of dwellings, with the Victorian era dwellings to the northeast named 1-2 Langford Cottages, and a dwelling erected within the last 3 years, 'The Still', located to the south of these which fronts onto London Road. To the east and south of the site runs the A41 (Boundary Way), and a belt of vegetation.

### **2. CONSTRAINTS**

- 2.1. There are several notable species located near the site. The site is located entirely within Flood Zone 1, but near to areas within Flood Zones 2 and 3 (north).

### **3. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 3.1. The applicants seek planning permission for the erection of two semi-detached, single-storey dwellings on this site. The dwellings would be accessed off London Road, onto the unadopted track and then via a new driveway created down the side of 1 Langford Park Cottages. The dwellings would then be orientated facing eastwards, with private gardens located to the rear (west). Each dwelling would be made-up of 2 bedrooms, with separate kitchen, lounge and bathrooms.
- 3.2. The dwellings would be built to a ridge height of approximately 5.9m and an eaves height of approximately 2.4m.
- 3.3. The dwellings would have a relatively contemporary appearance, similar in style to 'The Still'. The construction would be in timber boarding with a rendered lower section and under a grey tiled roof. A separate double garage to the east of the dwelling would match this style.

### **4. RELEVANT PLANNING HISTORY**

- 4.1. The following planning history is considered relevant to the current proposal:
- 4.2. Approved new dwelling at 3 Langford Park Cottages, ref: 17/00826/F
- 4.3. Approved new dwelling at The Still, refs: 17/00886/F and 17/02446/F

### **5. PRE-APPLICATION DISCUSSIONS**

- 5.1. The following pre-application discussions have taken place with regard to this proposal:
- 5.2. **19/00160/PREAPP** - Proposed 2no single storey dwellings and associated access, Parking, garaging and removal of ex. Garage outbuilding.
- 5.3. Whilst elevation drawings were not provided at this stage, the applicant was advised that the scheme submitted would fail to represent acceptable development. It was advised that harm would be caused to the character and appearance of the of the area and resulting in an overdevelopment of the site, also failing to relate well to the existing built form.

## **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 **16 June 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. BICESTER TOWN COUNCIL: **No objections**

### OTHER CONSULTEES

- 7.3. CDC ENVIRONMENTAL HEALTH: **No objections** – however a noise survey should be provided prior to commencement, to demonstrate that habitable rooms shall be sufficiently insulated for noise reduction. Dwellings should also be provided with EV charging points.
- 7.4. OCC HIGHWAYS: **Objection** - due to the access and parking arrangement. The Highway Officer considers that the access track and the junction with London Road is not suitable for intensification of vehicle movements in its current form. The Officer states that the width of the access does not allow for vehicles to pass when meeting leading to reversing manoeuvres, with this likelihood to materially increase as a result of the proposed development. Reversing vehicles would pose a significant safety risk to pedestrians and cyclists using this route, which is only likely to increase due to the Langford Park and Graven Hill developments. The Highway Officer also suggests that the parking arrangement would likely lead to overspill parking on the lane, particularly with visitors.

## **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
- 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
- C30 – Design Control

- 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. 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. The Development Plan for the District comprises the adopted Cherwell Local Plan 2011-2031 and the saved policies of the Cherwell Local Plan 1996.

- 9.3. The National Planning Policy Framework (NPPF) explains that the purpose of the planning system is to contribute to the achievement of sustainable development. This is defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs. Paragraph 7 of the NPPF sets out the Government’s view of what sustainable development means in practice for the planning system – the three strands being the economic, social and environmental roles. It is clear from this that as well as proximity to facilities, sustainability also relates to ensuring the physical and natural environment is conserved and enhanced as well as contributing to building a strong economy through the provision of new housing of the right type in the right location at the right time.

- 9.4. The NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that conflicts with the Local Plan should be refused unless other material considerations indicate otherwise (Para. 12).
- 9.5. Cherwell District Council can demonstrate a 3-year supply of housing. The Written Ministerial Statement of 12th September 2018 states that relevant and important policies for determining the application may be considered out of date only where a 3-year supply of deliverable sites cannot be demonstrated. The presumption in favour of sustainable development, as advised by the NPPF, will need to be applied in this context.
- 9.6. Policy ESD1 of the Cherwell Local Plan Part 1 states measures will be taken to mitigate the impact of development on climate change and deliver the goals of sustainable development. This includes distributing housing growth to the most sustainable locations as defined in the Local Plan and delivering development which reduces the need to travel. The local plan has a strong urban focus with large amounts of housing planned at Bicester and Banbury. The policies relating to rural housing growth are therefore more restrained.

#### *Assessment*

- 9.7. There is no specific policy governing the principle of housing development in Bicester, but the overall strategy of the Cherwell Local Plan is to focus the bulk of the proposed growth in and around Bicester and Banbury, whilst limiting growth in rural areas and directing it towards larger and more sustainable villages, also aiming to strictly control development in open countryside. Thus, the principle of development, in general sustainability terms, is acceptable. However, the overall acceptability of the proposal is subject to other considerations such as the impact of the proposal on the visual amenity of the site and surrounding area, the living conditions of neighbours, and highway safety. These matters are discussed in more detail below.

#### Design and impact on the character of the area

##### *Policy context*

- 9.8. 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.
- 9.9. 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.
- 9.10. 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.”* This policy goes on to say that development proposals should reinforce local distinctiveness and positively contribute to an areas character, whilst also respecting *“the traditional pattern of routes, spaces, blocks, plots, enclosures and the form, scale and massing of buildings”*.

#### *Assessment*

- 9.11. The site lies within a part of Bicester that embodies a sparser built form, with the site bounded to the south and east by extensive tree cover and the A41. The proposed dwellings would be visible in glimpsed views from the A41, but given the speed of vehicular movement and direction of travel they would not be easily read.
- 9.12. The existing cluster of 6 dwellings appears detached from any other housing development in the immediate area and are in a somewhat peculiar location, being channelled by the A41 to the south and the B4100 (London Road) to the north. The majority of dwellings in the cluster (except for The Still from London Road) are not readily visible from either road, and it is only when on the unadopted track that the remaining 5 are readily visible. Two dwellings have been constructed on this site within the past 3 years, both directly addressing London Road or the unadopted track.
- 9.13. The proposed dwellings can be described as 'backland' development due to their siting in the rear gardens behind two rows of dwellings. Such development is generally resisted due to the lack of frontage and inharmonious placement set behind other dwellings. The NPPF (at para 70) also supports LPAs seeking to resist such development.
- 9.14. The proposed dwellings subject to this application would be out of keeping with this prevailing character in having no active road frontage. The site would be accessed via a narrow track to the side of 1 Langford Park Cottages and the development would be visible as a result, the access and track, the new garaging and the presence of additional parked cars drawing attention to the presence of the dwellings.
- 9.15. While backland development is not always necessarily harmful, in this instance the proposal would result in a cramped form of development and overdevelopment of this wider site.
- 9.16. Turning to the appearance and scale of the dwellings, there is considered to be a conflict in this regard. It is recognised that there is a varied style of dwelling in this immediate area. However, the proposed dwellings would be significantly set down from the prevailing two-storey pattern. Whilst this would help to mask any substantive views of the dwellings from outside of the site, from within the site their set-down would draw attention to the site's constrained nature. Any dwellings here should be two-storey, to create an increased height to follow the general pattern of this cluster. However, if they were two-storey scale this would lead to increased neighbour amenity impacts, likely through overlooking and over-domination. As such, this conflict draws attention to the unsuitability of this site for further residential development and an overall over-development of this site and wider cluster of dwellings.
- 9.17. The dwellings are thus considered to appear contrived and cramped when viewed from the unadopted track to the north, failing to relate well to the existing pattern or scale of the existing residential development in this locality, appearing awkward and out of place. This harm to the wider pattern of development is considered significant and demonstrable.
- 9.18. When considered in isolation and notwithstanding the harm caused in other respects, the design and architectural detailing of the dwellings is considered appropriate to this context.

*Conclusion*

9.19. For the reasons outlined above, the proposal is considered to cause significant and demonstrable harm to the character and appearance of the locality. The proposal therefore fails to comply with Policy ESD15 of the CLP 2031, saved Policies C28 and C30 of the CLP 1996 and relevant paragraphs of the NPPF, particularly Chapter 12 focussing on securing well-designed places.

#### Residential amenity

9.20. 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'.

9.21. Despite the proposed gardens being located in close proximity to the busy A41, which would create some noise irritation, the site is already used as residential garden. Therefore, it is not considered that a refusal reason could be sustained at appeal on this basis.

9.22. The dwelling at 3 Langford Park Cottages to the north-east is located approximately 14m from the boundary of the nearest proposed dwelling. However, the orientation of these dwellings and this separation distance is considered not to create harmful overlooking.

9.23. Furthermore, given the single storey nature of the dwellings, they would not introduce any impacts on neighbours by way of loss of light, outlook, loss of privacy or over-domination onto adjacent neighbours.

9.24. Overall, the current proposal is considered acceptable in terms of impact on the amenity of existing and future occupiers and in accord with the policies identified in para 9.20 in this regard.

#### Highway safety

9.25. 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.

9.26. The Local Highway Authority has objected to the proposal as submitted, citing that the lane is not suitable for further intensification, particularly as vehicles cannot pass each other when entering or leaving the site, with this impact particularly harmful on cycle and pedestrian users of the lane, which has recently increased and will continue to increase due to the development at Graven Hill which is linked to Bicester by a path under the A41 and past this development. The Officer also has concern with the parking arrangement, stating that the 1 parking space for future dwellings is not suitable, particularly as it would lead to visitor overspill parking. The garages are also labelled as being for No's 1 and 2 Langford Park Cottages, which would be a vastly impractical arrangement as the new dwellings parking would block these in.

9.27. Overall, the proposal is considered unacceptable on highway safety matters, not achieving sufficient off-road parking for future residents whilst also creating a potentially hazardous arrangement for pedestrians and cyclists. The proposal



therefore fails to comply with Policies ESD15 of the CLP 2031 and relevant paragraphs of the NPPF in this regard.

## **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. Significant weight is attached to this benefit, through the benefit is minor given the quantum of development. 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. The general principle of development in Bicester is acceptable in geographical sustainability terms and the Council's housing strategy, and the proposal would not adversely affect the amenity of neighbours.
- 10.4. However, for the reasons set out in this report, by virtue of their siting, the proposed development would result in cause be out of keeping with the form and character of the area and would result in a cramped form of development and general overdevelopment of the wider site. The scale of the dwellings, being at single-storey level, would be incompatible with the overall character of this wider cluster, thus further emphasising the contrived nature of the development. Furthermore, the development is considered detrimental to pedestrians and cyclists using the local highway network, by virtue of an intensification of an inadequate junction and increased likelihood of overspill parking on this lane.
- 10.5. The significant and demonstrable harm identified is not outweighed by the limited public benefits of the proposal.
- 10.6. The proposal is therefore contrary to the provisions of Policies ESD15, saved Policies C28 and C30 of the CLP 1996 and relevant paragraphs of the NPPF, and permission should be refused for the reason set out below.

## **10. RECOMMENDATION**

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

### REASONS FOR REFUSAL

1. By reason of its siting and scale, the proposal would appear contrived and fail to relate well to the existing built development, resulting in an overdevelopment of the site and significant and demonstrable harm to the character and appearance of the area. The proposal is therefore in direct conflict with the provisions and aims of Saved Policy C30 of the Cherwell Local Plan 1996 ESD 15 of the Cherwell Local Plan 2011- 2031 Part 1 and government guidance contained within the National Planning Policy Framework.
2. By reason of the access and parking arrangements, the proposal would fail to provide a safe development for pedestrians and cyclists using the local highway network. Through the intensification of an inadequate junction, the proposal would create an increasingly hazardous arrangement for pedestrians and cyclists through vehicles reversing on this lane. Furthermore, the proposed parking arrangement would fail to provide sufficient parking for future occupiers or visitors of these residents, leading to overspill parking on this lane to the further detriment of users of the local highway network. The proposal is therefore in direct conflict with the provisions and aims of 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

# 20/01427/F

112 Mold Crescent  
Banbury  
OX16 0EU



# 20/01427/F

## 112 Mold Crescent

### Banbury

### OX16 0EU



1:1,500

**Case Officer:** Bob Neville

**Applicant:** Mr Balbir S Dhesi

**Proposal:** Alterations, rear extension, removal of chimney and conversion of existing 3 bed dwelling into 2 independent flats

**Ward:** Banbury Ruscote

**Councillors:** Cllr Cherry, Cllr Richards and Cllr Woodcock

**Reason for Referral:** Application submitted by a relation of a CDC Councillor (Cllr Dhesi)

**Expiry Date:** 28 July 2020

**Committee Date:** 16 July 2020

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## **EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION**

### **RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS**

#### **Proposal**

The application seeks planning permission for the extension of the existing residential dwelling and its conversion to provide 2no flats (1-bedroom and 1no. 2-bedroom). The proposed extension would be to the rear of the property, with a flat-roof extension extending ~5.17m off the rear elevation at a height of ~2.85m and width of ~4.75m. Materials to be used are proposed to match those on the existing building. Hardstanding would be retained at the front of the site for the parking of two vehicles and access onto the adjacent highway.

#### **Consultations**

No consultee **objections** to the application have been received:

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

- CDC Building Control, OCC Highways

No letters of objection or support have been received at the time of the preparation of this report.

#### **Planning Policy and Constraints**

The application site is not within a conservation area and there are no listed buildings within the vicinity of the site. A Public Right of Way (ref. Footpath 120/15/20) runs along the northern boundary. The site is located within an area known to be affected by Radon gas and naturally occurring elevated levels of arsenic; as seen across much of the district. There are no other notable site constraints relevant to planning and this application.

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 considers 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 relates to an existing residential dwelling located within the suburbs of Banbury. The area is predominantly residential with Princess Diana Park to the rear (north) of the site. St Josephs Catholic Primary School lies to the north-west of the site and a small parade at Orchard Way Shopping Parade being approximately 400m to the north-east.
- 1.2. The existing dwelling is a mid-terraced property of brick construction with under a concrete tiled roof. Land levels drop into the site from the adjacent highway. The property has garden areas to rear and front of the property, with part of the front garden laid to a raised area of hardstanding for parking and access onto the adjacent highway. The rear garden is bounded by close boarded and mature hedgerow planting and trees along the rear (northern) boundary.

### **2. CONSTRAINTS**

- 2.1. The application site is not within a conservation area and there are no listed buildings within the vicinity of the site. A Public Right of Way (ref. Footpath 120/15/20) runs along the northern boundary. The site is located within an area known to be affect by Radon gas and naturally occurring elevated levels of arsenic; as seen across much of the district. There are no other notable site constraints relevant to planning and this application.

### **3. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 3.1. The application seeks planning permission for the conversion and extension of the existing residential property to provide 2no. flats (1-bedroom and 1no. 2-bedroom). The proposed extension would be to the rear of the property, with a flat-roof extension extending ~5.17m off the rear elevation at a height of ~2.85m and width of ~4.75m. Materials to be used are proposed to match those on the existing building. Hardstanding would be retained at the front of the site for the parking of two vehicles and access onto the adjacent highway.

### **4. RELEVANT PLANNING HISTORY**

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

### **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 is **13 July 2020**.
- 6.2. No letters of objection or support have been at the time of preparation of this report. Given that consultation period has not expired at the time of preparation of this report any further comments, and any implications of such, received post finalisation of this report will be fully assessed and reported to planning committee by way of written update prior to the commencement of the committee meeting.

## **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. BANBURY TOWN COUNCIL: No comments received.

### OTHER CONSULTEES

- 7.3. BUILDING CONTROL: **No objections**. Proposals will require a separate building regulations approval.
- 7.4. OCC HIGHWAYS: **No objections** subject to a standard condition in respect of securing cycle parking, in the interest of promoting sustainable forms of transport.

## **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)

- 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
- ESD1: Mitigating and Adapting to Climate Change
- ESD3: Sustainable Construction
- ESD5: Renewable Energy
- ESD7: Sustainable Drainage Systems (SuDS)
- 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
- C30: Design Control

- 8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Cherwell Residential Design Guide SPD 2018 (CRDG)

## 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

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. The Development Plan for the District comprises the adopted Cherwell Local Plan 2011-2031 and the saved policies of the Cherwell Local Plan 1996.

### *Policy Context*

- 9.3. Government guidance contained within the NPPF explains that the purpose of the planning system is to contribute to the achievement of sustainable development. This is defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs.
- 9.4. Paragraph 8 of the NPPF sets out the Government's view of what sustainable development means in practice for the planning system. It is clear from this that sustainability concerns more than just proximity to facilities, it clearly also relates to ensuring the physical and natural environment is conserved and enhanced as well as contributing to building a strong economy, through the provision of new housing of the right type in the right location at the right time.
- 9.5. Policy PSD1 contained within the CLP 2031 echoes the Framework's requirements for 'sustainable development' and that planning applications that accord with the policies in the Local Plan (or other part of the statutory Development Plan) will be approved without delay unless material considerations indicate otherwise.
- 9.6. Cherwell District Council can demonstrate a 4.6-year supply of deliverable housing sites (i.e. less than the 5-year supply required in the NPPF). Notwithstanding this, the Written Ministerial Statement of 12th September 2018 provides for a 'temporary change to housing land supply policies as they apply in Oxfordshire'. Until the adoption of the Joint Statutory Spatial Plan, the Oxfordshire Authorities are required to demonstrate a 3-year supply of deliverable housing sites (as well as meeting their requirements in respect of the Housing Delivery Test).
- 9.7. As such, policies for determining the application are only to be considered out of date (in accordance with paragraph 11d – footnote 7 of the NPPF) where a 3-year supply of deliverable sites cannot be demonstrated. A 3-year supply can be demonstrated in this case and so the presumption in favour of sustainable development, as advised by the NPPF, will need to be applied in this context.

### *Assessment*

9.8. There are no adopted Local Plan policies relating specifically to housing development within Banbury, however, the Cherwell Local Plan Part 1 states that housing growth will be directed towards the urban areas of Banbury and Bicester. Paragraph B.88 states: '*By focussing development in and around the towns of*



*Bicester and Banbury we aim to ensure that the housing growth which the District needs only takes place in the locations that are most sustainable and most capable of absorbing this new growth’.*

- 9.9. Policy BSC 1 of the CLP 2031 sets out the distribution of housing growth throughout the Cherwell District Council area up to 2031, stating 22,840 homes are to be delivered during the plan period, with 7,319 of those to be delivered within Banbury.
- 9.10. The site is located in an established residential area of Banbury, with good accessibility to a wide range of services and facilities, including public transport. The proposals are for the extension and subdivision of the existing property to provide two flats. The general principle of such development, in sustainability terms, is generally considered acceptable. However, the acceptability of the proposal is also subject to other considerations such as the impact of the proposal on both the visual amenity of the site and surrounding area, impact on neighbours and highway safety.

#### *Conclusion*

- 9.11. The site is within an established residential area of Banbury. The dwelling would be extended and subdivided to provide an additional residential unit. It is considered that the principle of new development may be considered acceptable in general sustainability terms of the location but having regard to other policies in the development plan and further considerations, discussed further below.

#### Design, and impact on the character of the area

##### *Policy Context*

- 9.12. The Government attaches great importance to the design of the built environment within the NPPF. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. These aims are also echoed within Policy ESD15 of the CLP 2031 which looks to promote and support development of a high standard which contributes positively to an area’s character and identity by creating or reinforcing local distinctiveness.
- 9.13. Saved Policy C28 of the CLP 1996 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 context of that development. Further, saved Policy C30 of CLP1996 states control will be exercised to ensure that all new housing development is compatible with the appearance, character, layout, scale and density of existing dwellings in the vicinity.

##### *Assessment*

- 9.14. The existing street largely consists of brick built two storey semi-detached and terraced properties, with a varying colour of brick and some use of render to the front elevations. On-site parking to the front is a prominent feature within the area.
- 9.15. The dwelling, which is mid-terraced, would be extended and converted to provide 2no flats. Both flats would be accessed via the existing front door entering into a communal hallway, removing the need for any external alterations to provide any additional entrances. There would be little no significant alteration to the front of the dwelling as a result of the proposed development.
- 9.16. The rear extension is proposed to be externally faced in materials to match existing and given existing boundary treatment there would very limited opportunity to view this element from the public domain. In this respect it is considered that the proposals would not appear out-of-place or to the detriment of the visual amenities of the local area.
- 9.17. The front garden of the existing dwelling has an existing raised area hardstanding that provides parking, and this is an existing feature of several properties within the

street-scene. This arrangement would be retained going forward and again would not result in any significant changes to the general character of the site.

- 9.18. Land levels drop down into the site and this would allow for waste and recycling bins to be stored to the rear of the parking area, out of view from the wider street-scene.

#### *Conclusion*

- 9.19. It is considered that the proposed development would not adversely affect the character and appearance of the area and is therefore considered acceptable in this regard; according with the provisions and aims of Policy ESD15 of the Cherwell Local Plan 2011 - 2031 Part 1 and retained Policy C30 of the Cherwell Local Plan 1996 and relevant paragraphs of the NPPF.

#### Residential amenity

##### *Policy Context*

- 9.20. 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*'.

##### *Assessment*

- 9.21. The proposals would provide units of modest internal floorspace, with outdoor garden/amenity space. Officers consider that overall the scheme would adequately provide for the day to day requirements of its intended future occupiers and would result in acceptable living conditions in this respect.
- 9.22. With regard to potential impacts on the amenity of neighbouring properties, the residential nature of the use of the site would not change as a result of the proposed development, albeit that use would be intensified with the additional units.
- 9.23. By virtue of its depth, the proposed extension would have an impact on the outlook of the adjoining neighbour to the west. However, given its single storey nature (~2.85m high) and the orientation of the dwellings officers consider that the proposed extension would not have any significant impact on the residential amenity of neighbouring properties in terms of loss of light, outlook or privacy. It is also to be noted that the same extension could be developed under permitted development rights, had such works been undertaken whilst the property remained as a single residential property and had a larger homes prior notification application been submitted. It is noted that neither of the adjoining neighbours has objected on grounds of the impact of the extension. The design of the scheme is such that there would be no greater opportunity for over-looking through new window openings above ground floor level, thereby sustaining levels of privacy.

#### *Conclusion*

- 9.24. Given the context of the site, the nature, scale and massing of the development and its relationship with surrounding properties discussed above, officers consider that the proposals would not adversely affect the living conditions of neighbours and would provide for an acceptable standard of living for potential future occupants. It is therefore considered that the proposed development accords with saved Policy C28 of the Cherwell Local Plan 1996 and Policy ESD15 of the Cherwell Local Plan 2011 - 2031 Part 1 in this respect.

#### Highway safety

##### *Policy Context*

9.25. The NPPF (Para. 108) advises that in assessing specific applications for development, it should be ensured that:

- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
- b) safe and suitable access to the site can be achieved for all users; and
- c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

9.26. Both Policies ESD15 and SLE4 of the CLP 2031 reflect the provision and aims of the NPPF. Policy ESD15 of the CLP 2031 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”*; whilst 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”*.

#### *Assessment*

9.27. The LHA has assessed the proposals and raises no objections subject to specific details of cycle storage being secured.; commenting that the proposals are unlikely to have any significant adverse impact upon the local highway network from a traffic and safety point of view. Officers see no reason to disagree with the LHA’s assessment.

9.28. The site has existing hardstanding for parking to the front of the site which would be retained for use for the proposed flats. Whilst the level of parking provision (2 spaces) is below the level usually required for the level of accommodation proposed, the site is considered to be in a relatively sustainable location in Banbury, and therefore a moderate relaxation of parking standards is considered acceptable.

9.29. The LHA advises that ensuring the provision secure cycle storage would also look to encourage the use of more sustainable forms of transport; and that this could be secured through an appropriate condition attached to any such permission.

9.30. Paragraph 110(e) of the NPPF states that development should be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations. These aims are echoed within Policies SLE 4, ESD 1, ESD 3 and ESD 5 of the CLP 2031, which look to maximise opportunities for sustainable transport modes. Whilst no consideration appears to have been given with regards to the future need for Electrical Vehicle (EV) charging at the site, it is considered that appropriate infrastructure details could be secured through an appropriate condition; to ensure that potential future needs could be met and to comply with both local and national policy requirements.

#### *Conclusion*

9.31. Subject to appropriately worded conditions, it is considered that proposals would not be detriment of the safety and convenience of highway users and would accord with Local Plan Policy ESD15 and the relevant paragraphs of the NPPF and are therefore acceptable in terms of highway safety.

## **10. PLANNING BALANCE AND CONCLUSION**

10.1. The development is considered to cause no significant harm to neighbour amenity or highway safety; further the design and scale of the proposed development are such that it would not detrimentally impact on the visual amenities of the site;

sustaining its appearance within the street-scene and preserving the character and appearance of the surrounding area, whilst providing standards of amenity which are considered acceptable.

- 10.2. 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 - 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 application form and drawings numbered: 00-ST-001/A, 00-ST-02/A, 00-PR-01/A and 00-PR-02/A

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.

**Transport**

3. Prior to the first 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 Government guidance contained within the National Planning Policy Framework.

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

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

5. Prior to the first occupation of the development hereby approved, the parking area shall be provided in accordance with the plan approved and shall be constructed from porous materials or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the site. Thereafter, the parking and manoeuvring area shall be retained in accordance with this condition and shall be unobstructed except for the parking and manoeuvring of vehicles at all times.

Reason: In the interests of highway safety, to ensure a proper standard of development and to comply with Government guidance contained within the National Planning Policy Framework.

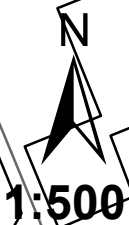
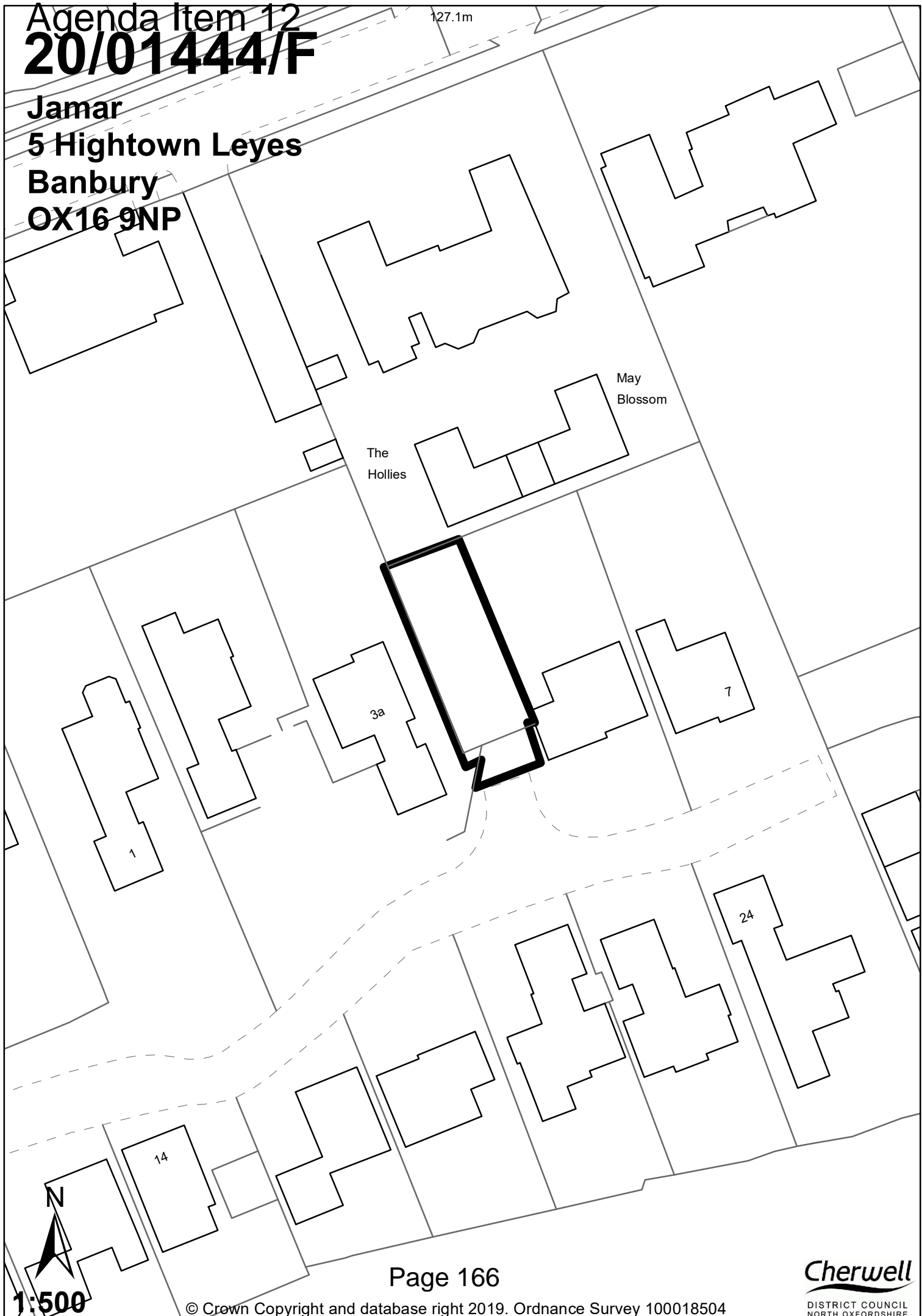
Planning Notes:

1. Planning permission only means that in planning terms a proposal is acceptable to the Local Planning Authority. Just because you have obtained planning permission, this does not mean you always have the right to carry out the development. Planning permission gives no additional rights to carry out the work, where that work is on someone else's land, or the work will affect someone else's rights in respect of the land. For example, there may be a leaseholder or tenant, or someone who has a right of way over the land, or another owner. Their rights are still valid, and you are therefore advised that you should seek legal advice before carrying out the planning permission where any other person's rights are involved.
2. The applicant's and/or the developer's attention is drawn to the requirements of the Control of Pollution Act 1974, the Environmental Protection Act 1990 and the Clean Air Act 1993, which relate to the control of any nuisance arising from construction sites. The applicant/developer is encouraged to undertake the proposed building operations in such a manner as to avoid causing any undue nuisance or disturbance to neighbouring residents. Under Section 61 of the Control of Pollution Act 1974, contractors may apply to the Council for 'prior consent' to carry out works, which would establish hours of operation, noise levels and methods of working. Please contact the Council's Environmental Protection Team Leader for further advice on this matter.
3. The applicant shall draw to the attention of the Local Planning Authority the presence of any unsuspected contamination encountered during development. In the event of contamination to land, water or environment being encountered, no development shall continue until a programme for investigation and/or remedial work, to be performed by a competent person, has been submitted in writing and approved by the Local Planning Authority. No part of the development shall be occupied until remedial, monitoring and certification of works have been undertaken and a remediation and validation reports submitted to and approved by the Local Planning Authority. For further information please contact the Council's Environmental Protection Officer.

Agenda Item 12  
**20/01444/F**

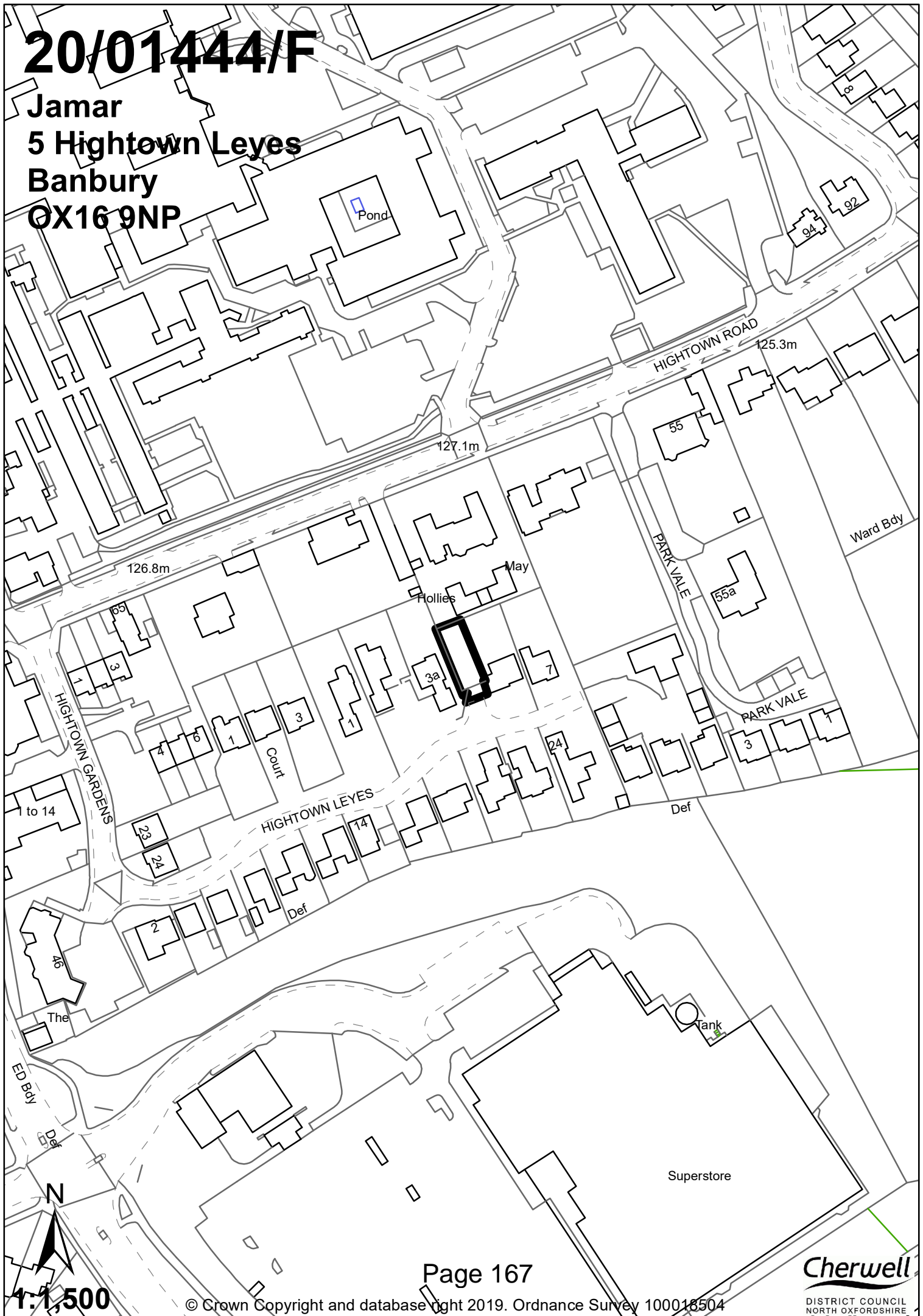
**Jamar**  
**5 Hightown Leyes**  
**Banbury**  
**OX16 9NP**

127.1m



# 20/01444/F

Jamar  
5 Hightown Leyes  
Banbury  
OX16 9NP



**Case Officer:** Bob Neville

**Applicant:** Mr Mike Bishop

**Proposal:** Erection of one, 3-bedroom residential dwelling

**Ward:** Banbury Grimsbury and Hightown

**Councillors:** Cllr Andrew Beere, Cllr Shaida Hussain and Cllr Perran Moon

**Reason for Referral:** Application submitted by a CDC Councillor (Cllr Mike Bishop)

**Expiry Date:** 29 July 2020

**Committee Date:** 16 July 2020

## **EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION**

### **RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS**

#### **Proposal**

The application seeks planning permission for the erection of a two-storey detached 3-bedroom dwelling with associated garden area and parking. The proposed dwelling would be of brick construction under a concrete tiled roof. 2 no. parking spaces are proposed at the front of the property. Given differences in land levels between the site and existing dwelling (5 Hightown Leyes) and adjacent the site would be excavated to enable the proposed dwelling to sit at a similar level as the existing dwelling and provide level access.

#### **Consultations**

No consultees **objections** to the application have been received:

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

- OCC Highways

1 letter of objection has been received, and no letters of support have been received at the time of the preparation of this report.

#### **Planning Policy and Constraints**

In terms of site constraints, the application site sits adjacent and south of the Banbury Conservation Area. Land levels vary from the front of the site to the rear; rising approximately 4.2m from the street level to the rear boundary of the site. The site is located within an area known to be affect by Radon gas. There are no other notable site constraints relevant to planning and this application.

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
- Heritage impact
- Residential amenity
- Highway safety

The report considers 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 forms part of the residential curtilage of 5 Hightown Leyes, in the form of residential garden which currently sits in an elevated position (approximately 2.3m higher) in relation to the existing dwelling and the highway to the front. Land levels continue to rise to the north.
- 1.2. The existing building on the site is a detached dwelling externally faced in brick under a tiled roof and benefits from generous garden to the side and rear. The rear garden area is bounded by close-boarded fencing to the north, west and eastern boundaries. The front of the existing garden which fronts on to Hightown Leyes has a brick faced retaining wall with metal railings atop.
- 1.3. The area is urban in its character with two storey dwellings creating a linear form of residential development along Hightown Leyes. Properties generally benefit from off-street parking located to the front, with some properties also benefitting from on-site garaging.

### **2. CONSTRAINTS**

- 2.1. In terms of site constraints, the application site is located outside of but adjacent to and south of the Banbury Conservation Area. Land levels vary from the front of the site to the rear; rising approximately 4.2m from the street level to the rear boundary of the site. The site is located within an area known to be affected by Radon gas. There are no other notable site constraints relevant to planning and this application.

### **3. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 3.1. The application seeks planning permission for the erection of a two-storey detached 3-bedroom dwelling with associated garden area and parking. The proposed dwelling would be externally faced in brick under a concrete tiled roof, proposed to match materials currently in use on other properties within the vicinity of the site. Two parking spaces are proposed at the front of the property. Given differences in land levels between the site and existing dwelling (5 Hightown Leyes) and adjacent, the site would be excavated to enable the proposed dwelling to sit at a similar level as the existing dwelling and provide level access.
- 3.2. This is a revised application of a similar scheme (ref. 20/00906/F), which the applicant withdrew following concerns being raised by officers in relation to the proposed parking provision not being appropriate. The revised submission has sought to

address previous concerns through a reduction in the plan depth of the proposed dwelling to allow for additional space for parking at the front of the dwelling.

#### **4. RELEVANT PLANNING HISTORY**

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

<b>Application: 20/00906/F</b>	Application	27 May 2020
	Withdrawn	

Erection of one, 3-bedroom residential dwelling

#### **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 is **13 July 2020**.

6.2. 1no letter of objection has been received from a local resident at the time of preparation of this report. Given that consultation period has not expired at the time of preparation of this report any further comments, and any implications of such, received post finalisation of this report will be fully assessed and reported to planning committee by way of written update prior to the commencement of the committee meeting.

6.3. The comments made in the letter of objection are summarised as follows:

- Highway safety issues resulting from the loss of the turning head

6.4. 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. BANBURY TOWN COUNCIL: No comments received.

##### CONSULTEES

7.3. BUILDING CONTROL: No comments received; however, previously raised no objections to the withdrawn application 20/00906/F.

7.4. OCC HIGHWAYS: **No objections** subject to a standard condition in respect of securing cycle parking, in the interest of promoting sustainable forms of transport.

#### **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)

- 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
- ESD1: Mitigating and Adapting to Climate Change
- ESD3: Sustainable Construction
- ESD5: Renewable Energy
- ESD7: Sustainable Drainage Systems (SuDS)
- 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
- C30: Design Control

#### 8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Cherwell Residential Design Guide SPD 2018 (CRDG)

### **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
- Highway safety

#### 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. The Development Plan for the District comprises the adopted Cherwell Local Plan 2011-2031 and the saved policies of the Cherwell Local Plan 1996.

#### *Policy Context*

9.3. Government guidance contained within the NPPF explains that the purpose of the planning system is to contribute to the achievement of sustainable development. This is defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs.

9.4. Paragraph 8 of the NPPF sets out the Government's view of what sustainable development means in practice for the planning system. It is clear from this that sustainability concerns more than just proximity to facilities, it clearly also relates to ensuring the physical and natural environment is conserved and enhanced as well as contributing to building a strong economy, through the provision of new housing of the right type in the right location at the right time.

- 9.5. Policy PSD1 contained within the CLP 2031 echoes the Framework's requirements for 'sustainable development' and that planning applications that accord with the policies in the Local Plan (or other part of the statutory Development Plan) will be approved without delay unless material considerations indicate otherwise.
- 9.6. Cherwell District Council can demonstrate a 4.6-year supply of deliverable housing sites (i.e. less than the 5-year supply required in the NPPF). Notwithstanding this, the Written Ministerial Statement of 12th September 2018 provides for a 'temporary change to housing land supply policies as they apply in Oxfordshire'. Until the adoption of the Joint Statutory Spatial Plan, the Oxfordshire Authorities are required to demonstrate a 3-year supply of deliverable housing sites (as well as meeting their requirements in respect of the Housing Delivery Test).
- 9.7. As such, policies for determining the application are only to be considered out of date (in accordance with paragraph 11d – footnote 7 of the NPPF) where a 3-year supply of deliverable sites cannot be demonstrated. A 3-year supply can be demonstrated in this case and so the presumption in favour of sustainable development, as advised by the NPPF, will need to be applied in this context.

#### *Assessment*

- 9.8. There are no adopted Local Plan policies relating specifically to housing development within Banbury, however, the Cherwell Local Plan Part 1 states that housing growth will be directed towards the urban areas of Banbury and Bicester. Paragraph B.88 states: *'By focussing development in and around the towns of Bicester and Banbury we aim to ensure that the housing growth which the District needs only takes place in the locations that are most sustainable and most capable of absorbing this new growth'*.
- 9.9. Policy BSC 1 of the CLP 2031 sets out the distribution of housing growth throughout the Cherwell District Council area up to 2031, stating 22,840 homes are to be delivered during the plan period, with 7,319 of those to be delivered within Banbury.
- 9.10. The site would represent infill development within an existing residential estate within Banbury, consistent with the Council's housing strategy for the district, in directing new housing to the more sustainable locations within the district. The general principle of development, in sustainability terms, is acceptable. However, the acceptability of the proposal is subject to other considerations such as the impact of the proposal on both the visual amenity of the site and surrounding area, impact on neighbours and highway safety.

#### *Conclusion*

- 9.11. The site is within the built-up limits of Banbury, and the development would be in a geographically sustainable location. Overall acceptability is subject to assessment against other policies in the development plan and further considerations as discussed further below.

#### Design, and impact on the character of the area

##### *Policy Context*

- 9.12. The Government attaches great importance to the design of the built environment within the NPPF. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. These aims are also echoed within Policy ESD15 of the CLP 2031 which looks to promote and support development of a high standard which contributes positively to an area's character and identity by creating or reinforcing local distinctiveness.
- 9.13. Saved Policy C28 of the CLP 1996 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 context of that development. Further, saved

Policy C30 of CLP1996 states control will be exercised to ensure that all new housing development is compatible with the appearance, character, layout, scale and density of existing dwellings in the vicinity.

#### *Assessment*

- 9.14. The proposals would be sited between existing properties within the Hightown Leyes street-scene, a more modern residential development constructed in the early 1990s. The area is characterised by detached brick two storey properties with open fronted gardens and on-site parking. The Council has previously supported additional appropriate infill development within the Hightown Leyes residential development, e.g. the dwelling now known as 3a Hightown Leyes adjacent to the west of the site.
- 9.15. The part of Hightown Leyes in which the application site is located has a linear pattern of development. The proposed dwelling would be detached and would sit on a similar alignment to neighbouring properties, respecting the existing building line. The proposed design of the dwelling is considered sympathetic to the context reflecting design aspects (bay window/canopy porch arrangement) seen on the existing dwelling and elsewhere within the street and is proposed to be faced in materials to match those currently in use on other properties within the vicinity of the site.
- 9.16. The proposals would require the removal of part of the existing retaining wall of the garden area and excavation of the site to provide level access and appropriate levels in relation to the existing dwelling (5 Hightown Leyes); resulting in development of a similar height to 5 Hightown Leyes. The neighbouring dwelling to the west (3a Hightown Leyes) would sit in an elevated position in relation to the proposed dwelling, but not to the extent that it would appear overly dominant.
- 9.17. The front elevation of the proposed dwelling would be partially obscured by the existing boundary/retaining wall of the adjacent property (3a Hightown Leyes) to be retained. Whilst this is not an ideal relationship it is considered that this would not be to the significant detriment of the overall appearance of the proposed development or harmful to the extent that would warrant refusal of the application on this basis.
- 9.18. Two parking spaces would be created to the front of the proposed dwelling, which is consistent with parking arrangements seen at other properties within the vicinity of the site.
- 9.19. The proposed dwelling would have an elevated rear garden area similar to that of the existing property; with existing timber boarded boundaries being retained along the western and northern boundaries of the site and a new boundary wall with close-boarded fencing atop creating the eastern boundary. These elements would not generally be visible from the public domain, aside from some glimpsed views between the proposed dwelling and the existing dwelling (No.5).
- 9.20. No details of proposed waste and recycling storage provision have been included with the submission. However, it is considered that there is sufficient space for such provision to be made to the side/rear of the property, and that such details could be secured by way of an appropriate condition attached to any such permission; to ensure that appropriate provision is made and that bins would not be stored in public view to the potential detriment of the visual amenities site or the wider street-scene.
- 9.21. It is considered that the proposed dwelling would not be out of keeping with the general established character and appearance of the surrounding area, and that there would be a degree of separation maintained between neighbouring properties, to ensure that it would not appear unduly cramped in the street scene and would have adequate amenity space.

#### *Conclusion*

- 9.22. Subject to the approval of an appropriate palette of materials and bin storage details it is considered that the proposed development would not be to the detriment of the character of appearance of the area and are therefore considered acceptable in this regard; according with the provisions and aims of Policy ESD15 of the Cherwell Local Plan 2011 - 2031 Part 1 and retained Policy C30 of the Cherwell Local Plan 1996.

### Heritage Impact

#### *Legislative and policy context*

- 9.23. The site sits adjacent the boundary of the Banbury Conservation Area (BCA); and the development has the potential to affect the setting of the conservation area.
- 9.24. 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.*
- 9.25. 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.
- 9.26. 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*

- 9.27. As noted above the site sits adjacent the BCA. The property immediately adjacent to the north of the site is of brick construction with a blank elevation facing directly on the rear boundary of the site, with only roof lights looking out toward the south. This built form restricts views from within the BCA to the site. The site sits at a significantly lower level than properties within the BCA to the north and again there are no significant views into the conservation area.
- 9.28. As discussed above it is considered that proposed development would be sympathetic to the context and would not be to the detriment of the visual amenities of the site or its setting within the wider street-scene. The proposals would not significantly affect views into or out of the conservation area.

#### *Conclusion*

- 9.29. It is considered that the proposed development would not result in any significant harm to the character and appearance of the Conservation Area or its setting and the proposal therefore accords with Policy ESD15 of the CLP 2031 and Government guidance within the NPPF in this regard.

### Residential amenity

#### *Policy Context*

- 9.30. 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’.*

#### *Assessment*

- 9.31. The proposals would provide for an appropriate standard of both internal and external amenity space, with appropriately sized rooms and residential garden area, that would provide from an acceptable standard of living for potential future occupants and is acceptable in this regard.
- 9.32. The proposed dwelling would sit between the two existing properties (3a & 5 Hightown Leyes) and these are the properties that are most likely to be affected by the proposed development.
- 9.33. In respect of potential impacts on No. 3a the proposed dwelling would be sited on a similar alignment albeit at a lower level and would not result in any issues of over-dominance or loss of light. Aside from a first floor obscurely glazed window in the western elevation, serving a stairwell, there would be no windows in the proposed development that would offer direct views into 3a and levels of privacy would be maintained.
- 9.34. There are two obscurely glazed windows in the east side elevation of 3a that would be affected by the proposed development. These are shown on the plans for the dwelling (No. 3a) approved in 2008 (18/01236/F) as serving a stairwell and first floor bathroom. Given the difference in relative levels of the existing and proposed dwellings, and the ~3.5m separation that would exist between the properties, and that these windows are obscurely glazed, it is considered that any impact on outlook or loss of light to these windows would not be significant.
- 9.35. In respect of potential impacts on the existing dwelling (No. 5), the proposed dwelling would be of a similar height and would not appear overly prominent in relation to the existing dwelling. There are no windows in the proposed development that would offer direct views into No. 5 and levels of privacy would be maintained.
- 9.36. The proposed dwelling is set to the rear of No. 5 and would extend beyond the rear existing rear elevation by some 6m. The proposals would breach the 45-degree informal guidance (used when assessing potential impacts on existing windows and potential loss of outlook and light). However, having regard to the site’s context and spatial relationship with neighbouring properties, with land levels rising to the rear, it is considered that any loss of light or outlook from the nearest window in the rear elevation of No. 5 would not be so significant that it would warrant a reason to refuse the application. It should also be noted that No.5 is the applicant’s own property and who is obviously aware of, and accepting of, the potential impacts of the proposed development. Further, should No.5 change ownership in the future post construction of any approved development that any potential future occupants would be aware of the relationship between the two properties when considering taking up residency.
- 9.37. In terms of outdoor amenity space, whilst the proposals would result in loss of outdoor amenity space associated with the existing dwelling it is considered that sufficient space is retained that it would not be to the significant detriment of the amenity of the occupants of the host dwelling.
- 9.38. The property on the northern boundary of the site has no rear facing windows and sits at a higher level. Rooflights serving this this property are set within the roof and given the topography of the surrounding land do not direct views into the properties to the south or the site. It is considered that the amenity of occupants of this property would not be impacted upon by the proposed development.

#### *Conclusion*

- 9.39. Given the context of the site, the nature of the development and its relationship with surrounding properties discussed above, officers consider that the proposed would not be to the detriment of residential amenity and that the proposal therefore

accords with saved Policy C28 of the Cherwell Local Plan 1996 and Policy ESD15 of the Cherwell Local Plan 2011 - 2031 Part 1 and is considered acceptable in this respect.

### Highway safety

#### *Policy Context*

- 9.40. The NPPF (Para. 108) advises that in assessing specific applications for development, it should be ensured that:
- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
  - b) safe and suitable access to the site can be achieved for all users; and
  - c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

- 9.41. Both Policies ESD15 and SLE4 of the CLP 2031 reflect the provision and aims of the NPPF. Policy ESD15 of the CLP 2031 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”*; whilst 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”*.

#### *Assessment*

- 9.42. The scheme has been amended from the previous submission 20/00906/F, increasing the area of parking available, addressing concerns previously raised by officers and the LHA. The LHA has assessed the proposals and raises no objections subject to appropriate cycle parking/storage being secured going forward; commenting that the proposals are unlikely to have any significant adverse impact upon the local highway network from a traffic and safety point of view.
- 9.43. The proposals include appropriate on-site parking provision (2 no. spaces) for the level of accommodation (3-Bedroom dwelling) proposed. Access would be taken directly off Hightown Leyes as seen at other properties within the street.
- 9.44. Concerns are raised by local residents with regards to the potential impact on the existing turning head adjacent the site and potential loss of this essential feature within the street. Parking restrictions are in place for much of Hightown Leyes, including the immediate area of the site, although anecdotal evidence suggests that these restrictions are sometimes ignored, and that the existing turning head is sometimes compromised through unauthorised parking; resulting in difficulties for vehicles turning in the street. Whilst access would be taken off the turning head, the proposals would not directly impact on the geometry of the turning head and extents of the highway land would not be affected; with the turning head facility being retained.
- 9.45. Whilst not formally confirmed in writing, further concerns have been voiced to officers in respect of disruption being caused by construction traffic during the potential build of the proposed development. Whilst there would likely no doubt be instances when inconvenience may be experienced during any such construction phase, it is unlikely that the level of traffic arising from the construction of a single dwelling would be significant; and further potential impacts are only likely to be short term whilst the build would be taking place.



- 9.46. The LHA raises no concerns in this respect, but advises that appropriate routing of construction vehicles, access and parking arrangements for construction vehicles, and details of times for construction traffic and delivery vehicles, could be secured through an appropriate condition requiring the approval of a Construction Traffic Management Plan (CTMP), in the interests of limiting potential impacts of the construction phase of any such development.
- 9.47. The NPPF (Para. 109) advises that: *'Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe'*. In this instance officers consider that the proposals are acceptable in terms of highway safety and would not have significant impact on the local road network.
- 9.48. Paragraph 110(e) of the NPPF states that development should be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations. These aims are echoed within Policies SLE 4, ESD 1, ESD 3 and ESD 5 of the CLP 2031, which look to maximise opportunities for sustainable transport modes. Whilst no consideration appears to have been given with regards to the future need for Electrical Vehicle (EV) charging at the site, it is considered that appropriate infrastructure details could be secured through an appropriate condition; to ensure that potential future needs could be met and to comply with both local and national policy requirements.

#### *Conclusion*

- 9.49. Subject to the requirements of the LHA being secured and appropriate control over construction traffic, through appropriate conditions, it is considered that proposals would not be detriment of the safety and convenience of highway users and are therefore acceptable in highway safety terms and compliant with Local Plan Policy ESD15 in this regard and relevant paragraphs of the NPPF.

#### Other Matters

- 9.50. Further concerns have been voiced to officers by the occupants of the neighbouring property (No. 3a) with regards to potential detrimental impacts on their property as a result of the proposed construction works; being so close to the boundary and requiring significant excavations. The applicant's agent confirmed, during the assessment of the withdrawn application (20/00906/F), that the proposals have been reviewed with their structural engineer who has confirmed that there would be no special design required for the boundary wall and it would be a standard retaining wall c.1ft thick that would likely need to be constructed in short lengths to appropriate depths. This would be a matter appropriate assessment and approval under a separate building regulations application, and not a reason to withhold the granting of planning permission.
- 9.51. Notwithstanding the above, the granting of planning permission does not over-ride third party rights and only means that in planning terms a proposal is acceptable to the Local Planning Authority. Planning permission gives no additional rights to carry out the work, where that work is on someone else's land, or the work will affect someone else's rights in respect of the land. Given the proximity of the proposed works to the boundary of the property to the west it is considered that a Party Wall Agreement will be required.

## **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 – 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 application form and drawings numbered: 001, 104, 105 and 106.

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. No development shall commence above slab level unless and until a detailed schedule of materials and finishes for the external walls and roofs of the development hereby approved, including samples of such materials, has been 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.

**Transport**

4. Prior to the first occupation of the development hereby approved, the parking area shall be provided in accordance with the plan approved and shall be constructed from porous materials or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the site. Thereafter, the parking and manoeuvring area shall be retained in accordance with this condition and shall be unobstructed except for the parking and manoeuvring of vehicles at all times.

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

5. Prior to the first occupation of the development hereby approved, details of the

cycle parking areas, including dimensions and means of enclosure, shall be submitted to, and approved in writing by, the Local Planning Authority. The development shall not be brought into use until the cycle parking areas and means of enclosure have been provided within the site in accordance with the approved details and thereafter the areas shall be retained solely for the purpose of the parking of cycles.

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

6. No development shall commence above slab level unless and until a Construction Traffic Management Plan, which shall identify:

- Access and parking arrangements for construction vehicles,
- Details of times for construction traffic and delivery vehicles, which must be outside network peak and school peak hours (to minimise the impact on the surrounding highway network)

has been 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 highway safety and to mitigate the impact of construction vehicles on the surrounding network, road infrastructure and local residents, particularly at peak traffic times.

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

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

### **Waste and Recycling**

8. Prior to the first occupation of the development hereby approved, full details of the arrangements for the storage of waste and recycling bins including the siting, design, construction, materials, and finished appearance of any bin store enclosure, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first occupation of the development, the bin store shall be completed and made available for use in accordance with the approved details and shall remain available for use as such thereafter.

Reason: In the interests of the general amenity of the area, 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.

### **Permitted Development Rights**

9. Prior to the first occupation of the dwelling the approved window in the first-floor side (western) elevation of the dwelling shown on drawing no. 103 shall be glazed with obscured glass that achieves a minimum of level 3 obscurity and shall be non-opening below a height of 1.7 metres taken from internal finished floor level and shall be retained as such thereafter.

Reason: To safeguard the privacy and amenities of the occupants of the adjoining premises and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C30 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

**Planning Notes:**

1. Planning permission only means that in planning terms a proposal is acceptable to the Local Planning Authority. Just because you have obtained planning permission, this does not mean you always have the right to carry out the development. Planning permission gives no additional rights to carry out the work, where that work is on someone else's land, or the work will affect someone else's rights in respect of the land. For example, there may be a leaseholder or tenant, or someone who has a right of way over the land, or another owner. Their rights are still valid, and you are therefore advised that you should seek legal advice before carrying out the planning permission where any other person's rights are involved.
2. The applicant's and/or the developer's attention is drawn to the requirements of the Control of Pollution Act 1974, the Environmental Protection Act 1990 and the Clean Air Act 1993, which relate to the control of any nuisance arising from construction sites. The applicant/developer is encouraged to undertake the proposed building operations in such a manner as to avoid causing any undue nuisance or disturbance to neighbouring residents. Under Section 61 of the Control of Pollution Act 1974, contractors may apply to the Council for 'prior consent' to carry out works, which would establish hours of operation, noise levels and methods of working. Please contact the Council's Environmental Protection Team Leader for further advice on this matter.
3. The applicant shall draw to the attention of the Local Planning Authority the presence of any unsuspected contamination encountered during development. In the event of contamination to land, water or environment being encountered, no development shall continue until a programme for investigation and/or remedial work, to be performed by a competent person, has been submitted in writing and approved by the Local Planning Authority. No part of the development shall be occupied until remedial, monitoring and certification of works have been undertaken and a remediation and validation reports submitted to and approved by the Local Planning Authority. For further information please contact the Council's Environmental Protection Officer.

CASE OFFICER: Bob Neville

TEL: 01295 221875

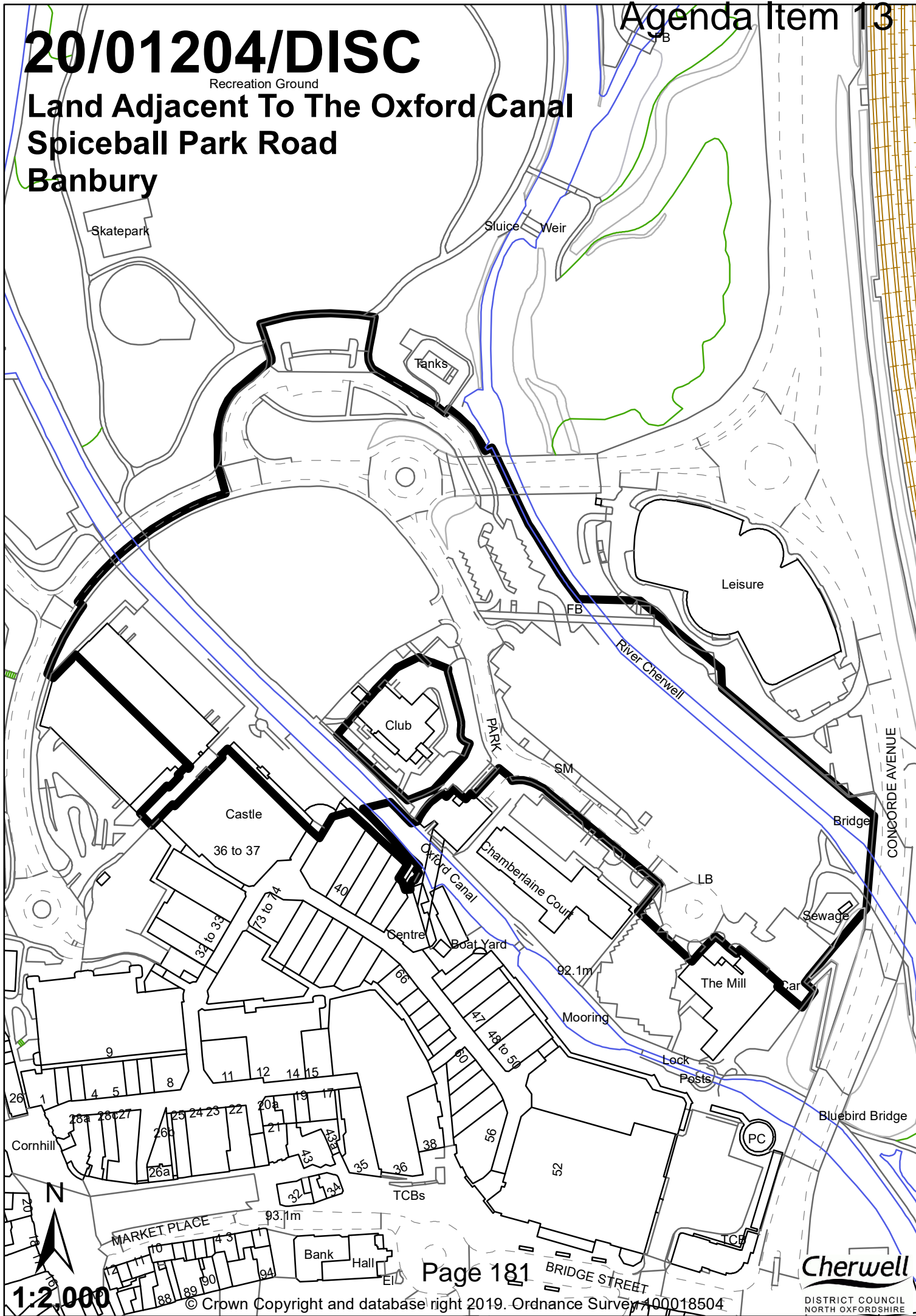
# 20/01204/DISC

Recreation Ground

## Land Adjacent To The Oxford Canal

## Spiceball Park Road

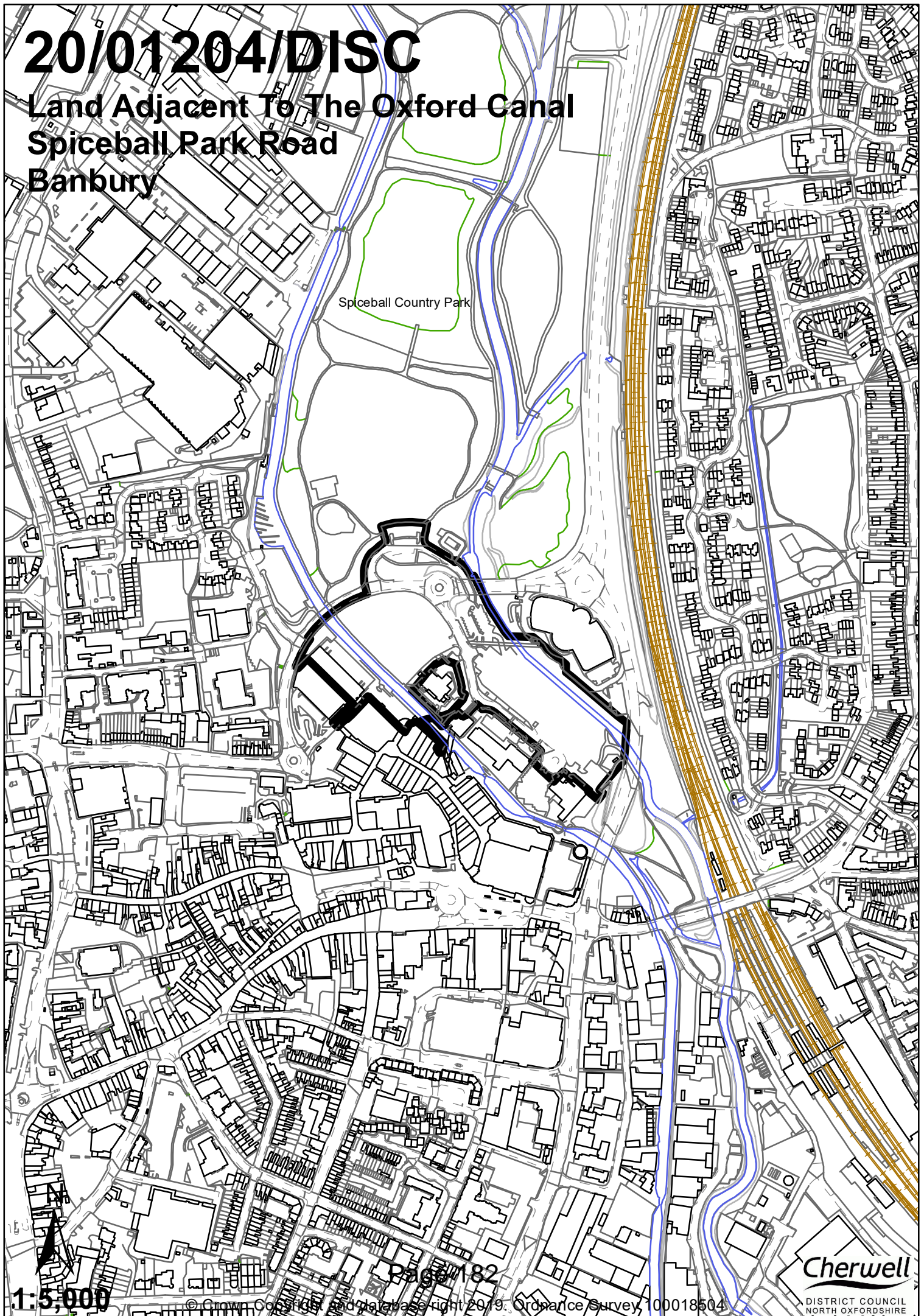
## Banbury





# 20/01204/DISC

Land Adjacent To The Oxford Canal  
Spiceball Park Road  
Banbury



Spiceball Country Park

**Case Officer:** Samantha Taylor

**Applicant:** Ian Wallace

**Proposal:** Discharge of Condition 3 (external lighting) in relation to Block A (Hotel) of 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:** 2 July 2020

**Committee Date:** 16 July 2020

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## **MAIN REPORT**

### **1. APPLICATION SITE AND LOCALITY**

1.1. The application site is located within Banbury Town Centre, to the north of Castle Quay and adjacent to the Oxford Canal. The site is part of the Castle Quay 2 redevelopment which includes the provision of a new supermarket, retail and leisure facilities.

### **2. CONSTRAINTS**

2.1. The application site falls within Flood Zone 2 and is adjacent to the Oxford Canal Conservation Area.

### **3. DESCRIPTION OF PROPOSED DEVELOPMENT**

3.1. The proposal seeks to discharge condition 3 (requiring a lighting scheme) of the reserved matters consent 17/00284/REM, which is the main detailed consent for the development of Castle Quay 2.

### **4. RELEVANT PLANNING HISTORY**

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

4.1. 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. Approved.

4.2. 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. Approved

- 4.3. 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. Approved.

## **5. PRE-APPLICATION DISCUSSIONS**

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

## **6. RESPONSE TO CONSULTATION**

- 6.1. CDC ENVIRONMENTAL HEALTH: **No Objections**, the condition can be discharged
- 6.2. CDC BUILDING CONTROL: **No Comments**

## **7. APPRAISAL**

- 7.1. Condition 3 of planning permission 17/00284/REM requires the submission of full specification details for the lighting within the site, including hours of usage.
- 7.2. The application is supported by a lighting plan pack for Block A. The proposed external lighting comprises LED spotlight 'uplighters' to be mounted on the building at four locations.
- 7.3. The lighting aligns with the standard Premier Inn model and will ensure the hotel is sufficiently lit during the dark/night time hours. The lighting will be controlled by a time clock and photo cell that monitors months, times and period of daylight to sufficiently control the lighting operations.
- 7.4. In addition, there are no spotlights proposed to the entrance, or on the north-east elevation fronting the canal; this will ensure there are no adverse impacts to the waterfront setting.
- 7.5. Overall, noting the character of the development, its town centre location and its proposed use, it is considered the proposed external lighting scheme for the Block A Hotel, is acceptable.

## **8. RECOMMENDATION**

APPROVAL IN ACCORDANCE WITH THE DETAILS AS SET OUT BELOW:

### **Condition 3 Block A Hotel**

Lighting Application, 941-Banbury Castle Quay, Project 8388, Rev J-LA, Dated 12.06.2019

CASE OFFICER: Samantha Taylor

TEL: 01295 221689



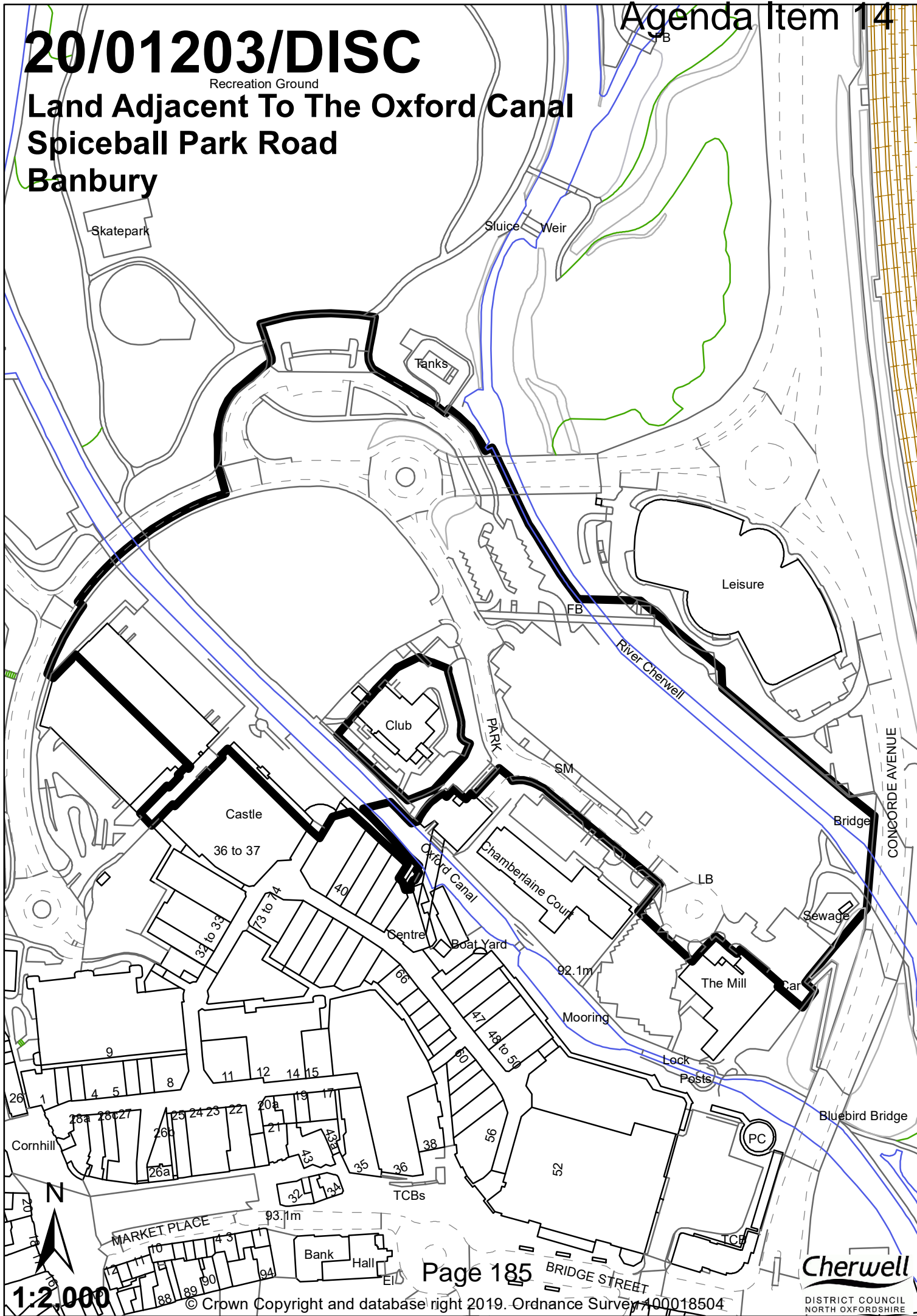
# 20/01203/DISC

Recreation Ground

## Land Adjacent To The Oxford Canal

## Spiceball Park Road

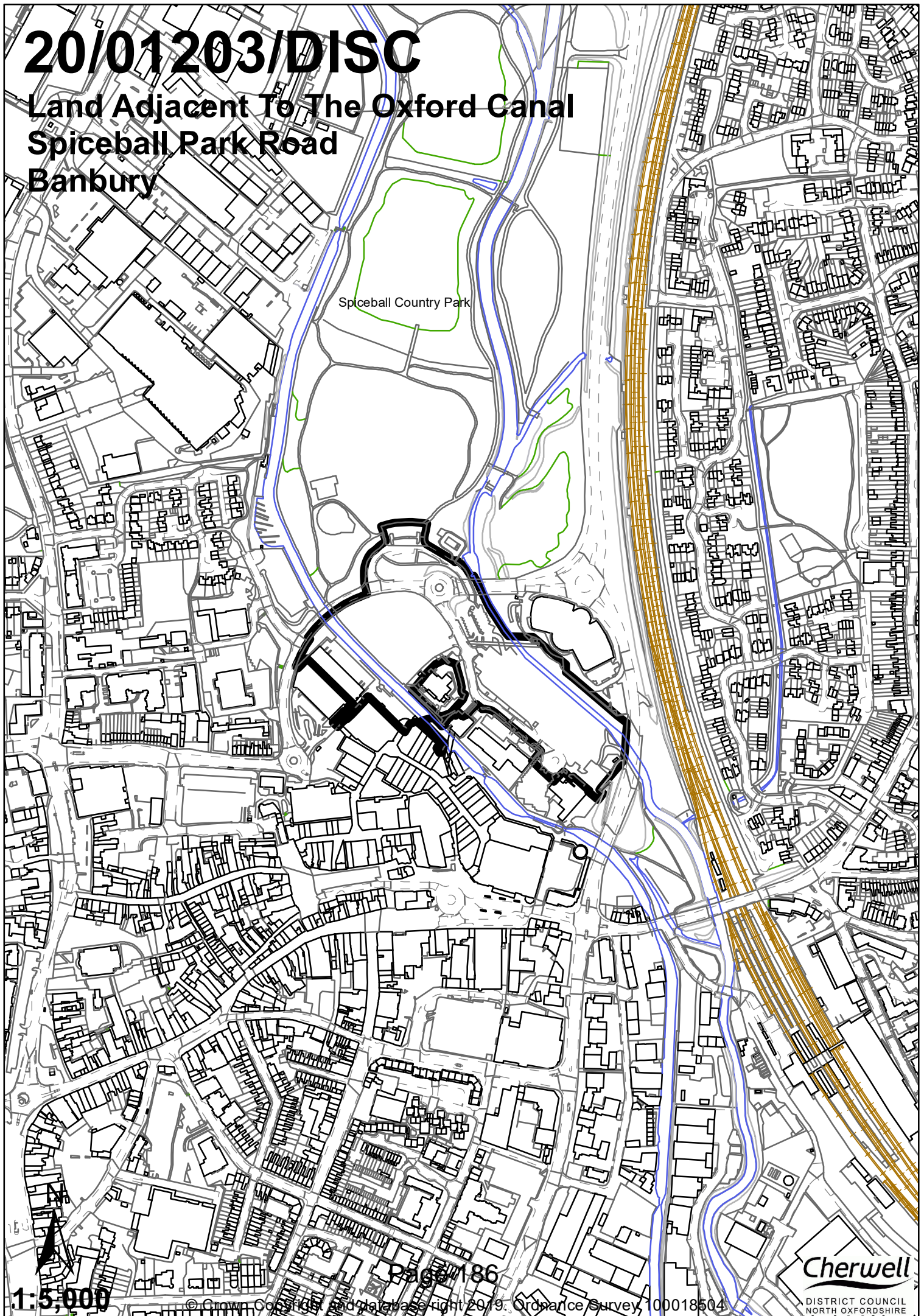
## Banbury





# 20/01203/DISC

Land Adjacent To The Oxford Canal  
Spiceball Park Road  
Banbury



Spiceball Country Park

**Case Officer:** Samantha Taylor

**Applicant:** Ian Wallace

**Proposal:** Discharge of Condition 2 (materials) of 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:** 2 July 2020

**Committee Date:** 16 July 2020

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## **1. APPLICATION SITE AND LOCALITY**

- 1.1. The application site is located within Banbury Town Centre, to the north of Castle Quay and adjacent to the Oxford Canal. The site is part of the Castle Quay 2 redevelopment which includes the provision of a new supermarket, retail and leisure facilities.

## **2. CONSTRAINTS**

- 2.1. The application site falls within Flood Zone 2 and is adjacent to the Oxford Canal Conservation Area.

## **3. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 3.1. The proposal seeks to discharge condition 2 (requiring details of the proposed materials) of reserved matters consent 17/00284/REM, which is the main detailed consent for the development of Castle Quay 2. Details have previously been approved under application ref: 18/00454/DISC; the current application proposes amendments to those details.

## **4. RELEVANT PLANNING HISTORY**

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

- 4.1. 19/02936/NMA – Nonmaterial application for amendments to the Elevations of Blocks B and C, including materials. Approved
- 4.1. 18/00454/DISC – Discharge of conditions application for Condition 2 of 17/00284/REM for Blocks A, B and C. Approved
- 4.2. 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. Approved.
- 4.3. 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.  
Approved

- 4.4. 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. Approved.

## **5. PRE-APPLICATION DISCUSSIONS**

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

## **6. RESPONSE TO CONSULTATION**

- 6.1. CDC CONSERVATION: No response received

## **7. APPRAISAL**

- 7.1. Condition 3 of planning permission 17/00284/REM requires the submission and approval of material details for the site.
- 7.2. Previously details have been approved for Condition 3 under application 18/00454/DISC where materials details were provided for Blocks A, B and C. This application seeks to re-discharge the condition in respect of materials approved under 19/02936/NMA where minor changes were approved to the elevations of Blocks B and C including some material amendments. The changes approved under 19/02936/NMA and the resulting changes to the materials details are summarised below:
- Block B – the previously proposed concrete walls to the car park are to be replaced with metal cladding, to match the cinema block
  - Block C – external timber blinds are to be added to the front supermarket shop front, and a grey band (500mm high) is proposed around the base of the supermarket and Zone C substation.
- 7.3. The materials as detailed above are the same as those approved under 19/02936/NMA, with the discharge of condition application seeking to formalise the amended materials.
- 7.4. As the materials have previously been considered acceptable under the NMA application and are consistent with materials seen within the Castle Quay area, the application is considered acceptable.

**8. RECOMMENDATION**

APPROVAL – IN ACCORDANCE WITH THE DETAILS AS SET OUT BELOW:

**Condition 2 - Additional Materials to Blocks B and C**

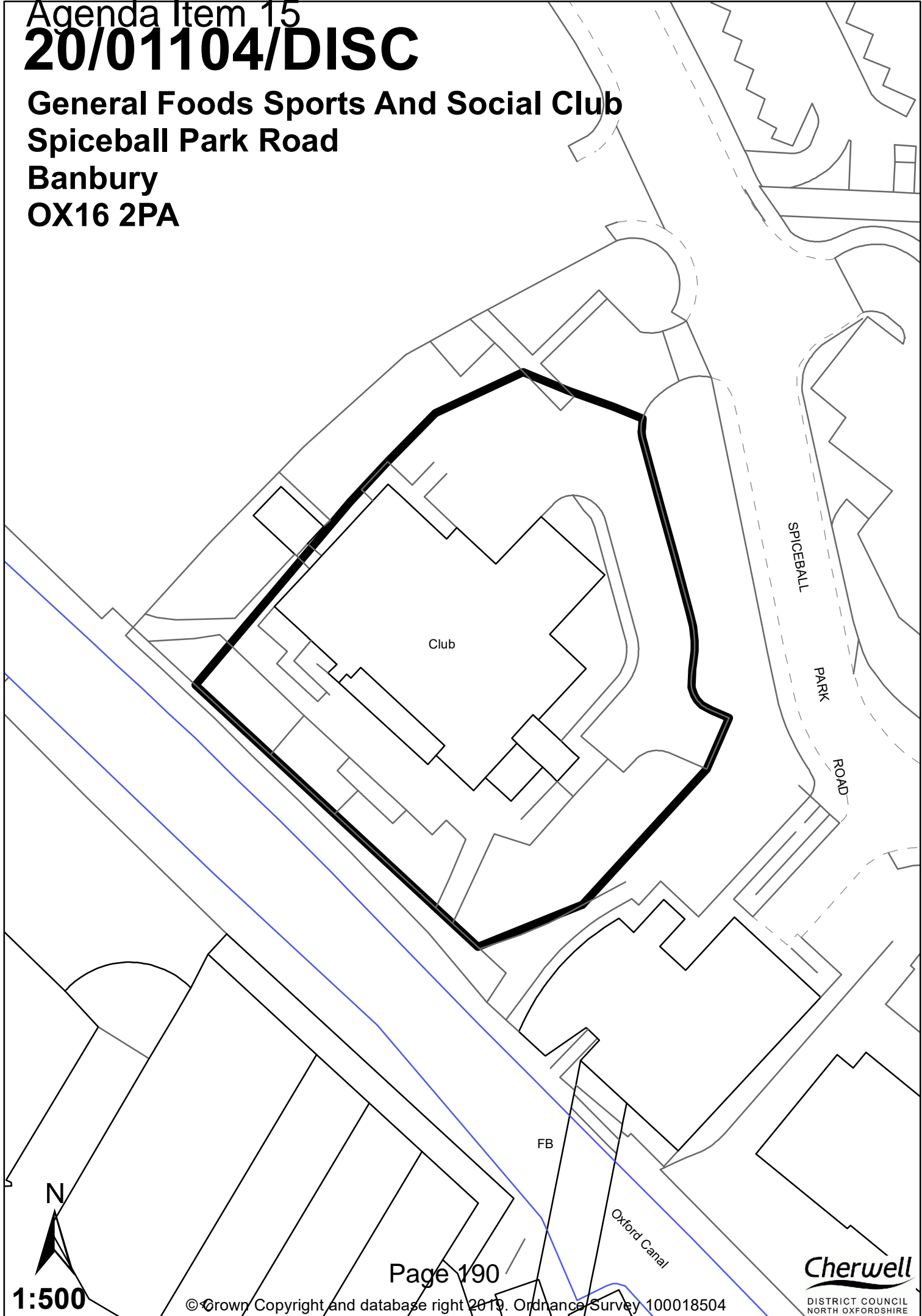
Leslie Jones Architecture, 3787, Report on Revised Planning Drawings and Changes, dated 13<sup>th</sup> September 2019

CASE OFFICER: Samantha Taylor

TEL: 01295 221689

Agenda Item 15  
**20/01104/DISC**

**General Foods Sports And Social Club**  
**Spiceball Park Road**  
**Banbury**  
**OX16 2PA**



Club

SPICEBALL

PARK

ROAD

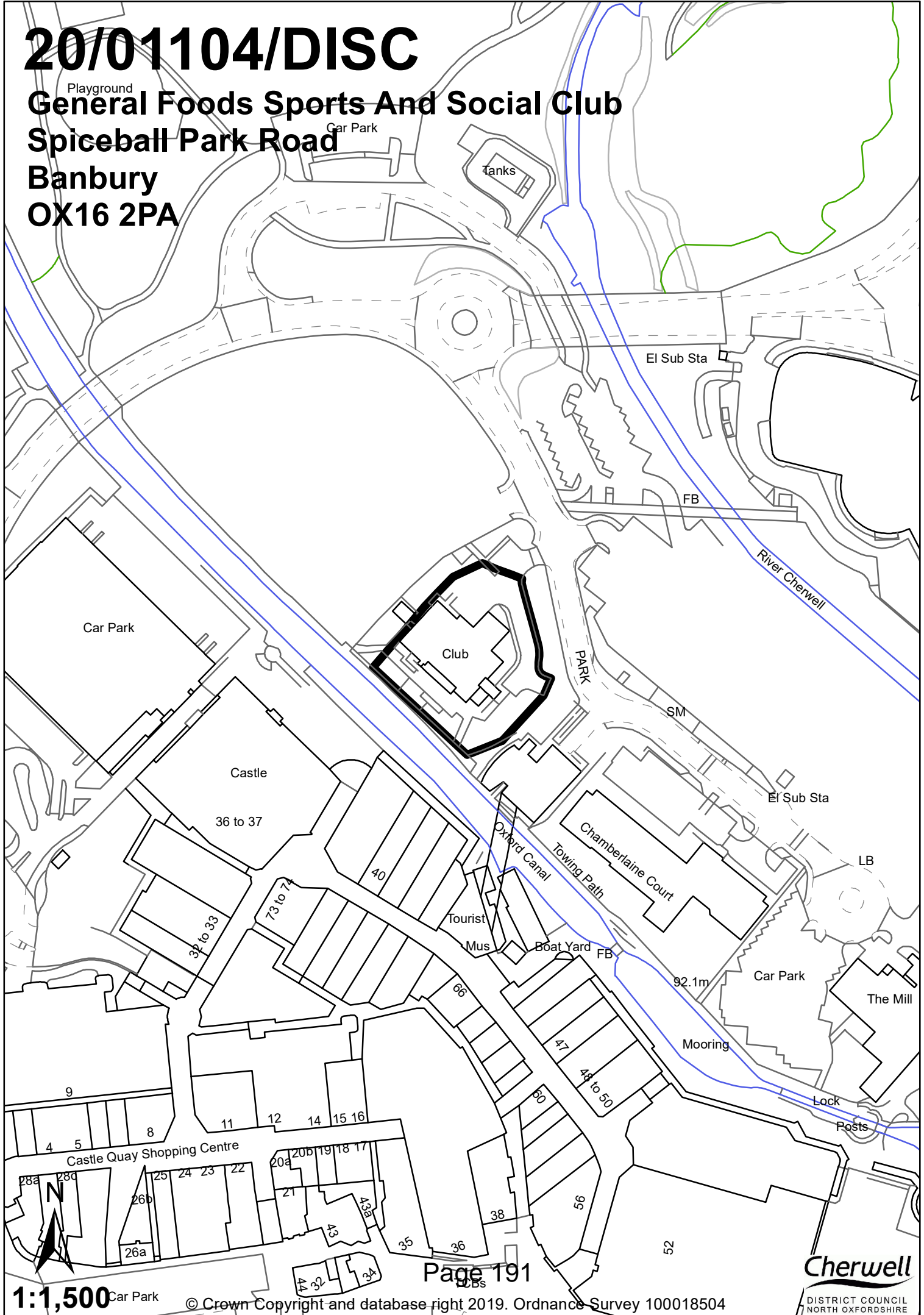
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Oxford Canal



# 20/01104/DISC

Playground  
**General Foods Sports And Social Club**  
Spiceball Park Road  
Banbury  
OX16 2PA



**Case Officer:** Samantha Taylor

**Applicant:** Cherwell District Council

**Proposal:** Discharge of condition 3 (parking space specification) of 17/01113/F

**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:** 22 June 2020

**Committee Date:** 16 July 2020

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## **1. APPLICATION SITE AND LOCALITY**

- 1.1. The application site is located within Banbury Town Centre, to the north of Castle Quay and adjacent to the Oxford Canal. The site is the General Foods Sports and Social Club which forms part of the Castle Quay 2 redevelopment which includes the provision of a new supermarket, retail and leisure facilities.

## **2. CONSTRAINTS**

- 2.1. The application site is within Flood Zone 2 and is adjacent to the Oxford Canal Conservation Area.

## **3. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 3.1. The proposal seeks to discharge condition 3 (requiring a parking space specification) of planning permission 17/01113/F which granted permission for external alterations to the building to facilitate the expansion of Castle Quay by improving the existing club building and car parking arrangements.

## **4. RELEVANT PLANNING HISTORY**

- 4.1. The lead application for this discharge of condition application is 17/01113/F, which granted various external alterations to the existing club building and parking.
- 4.2. In addition, the site forms part of the Castle Quay redevelopment area approved under applications 16/02366/OUT and 17/00284/REM.
- 4.3. An earlier application (ref: 18/00349/DISC) was approved in 2018 for a similar parking space specification for the same condition, albeit a slightly altered layout.

## **5. PRE-APPLICATION DISCUSSIONS**

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



## **6. RESPONSE TO CONSULTATION**

6.1. OCC HIGHWAYS: **No objection**

## **7. APPRAISAL**

- 7.1. Condition 3 of planning permission 17/01113/F requires the submission of full specification details for the parking spaces within the site. The specification should include details of the construction, surfacing and drainage details of the parking provision.
- 7.2. An earlier application to discharge condition 3 (18/00349/DISC) was approved in November 2018. The current application seeks to make amendments to the approved details, through the inclusion of an additional two parking spaces to increase the total to 32. The amendments reconfigure the layout and include two new disabled spaced in closer proximity to the Social Club entrance.
- 7.3. The layout allows the retention of sufficient soft landscaping at the car park entrance as well as sufficient paving for access. The addition of two parking spaces would not give rise to harm to highway safety or an unsatisfactory increase in traffic movements.
- 7.4. OCC Highways have considered the amendments and confirm they have no objection. Overall, the proposal would satisfy the requirements of Condition 3 of permission 17/01113/F.

### **RECOMMENDATION**

APPROVAL IN ACCORDANCE WITH THE DETAILS AS SET OUT BELOW:

#### **Condition 3**

Proposed Ground Floor Plan Cq2-Lja-E0-00-Dr-A4300  
Block D – Social Club Drainage G.A Cq2-Mjm-Sc-B2-Dr-C-1575

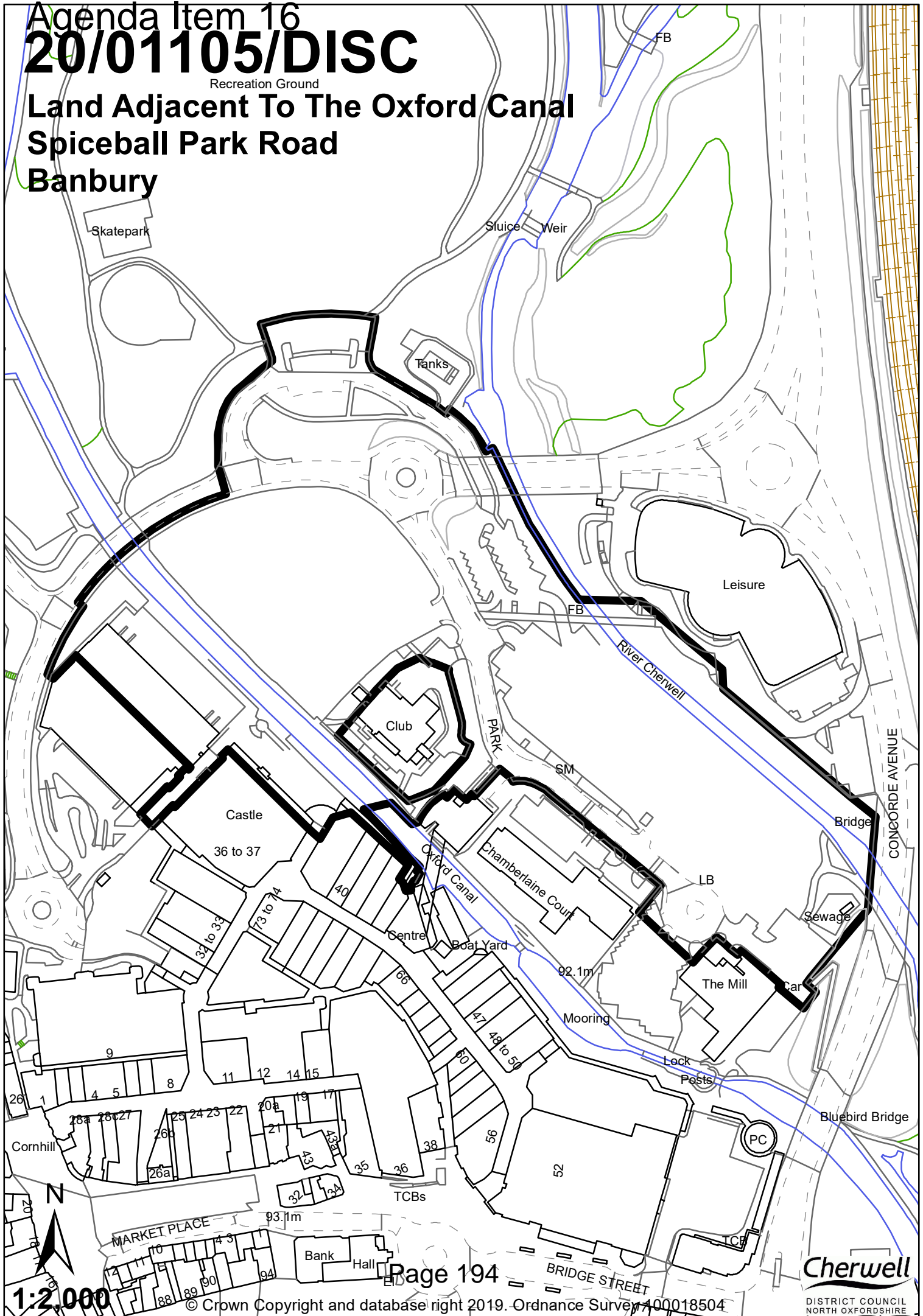
CASE OFFICER: Samantha Taylor

TEL: 01295 221689

# Agenda Item 16 20/01105/DISC

Recreation Ground

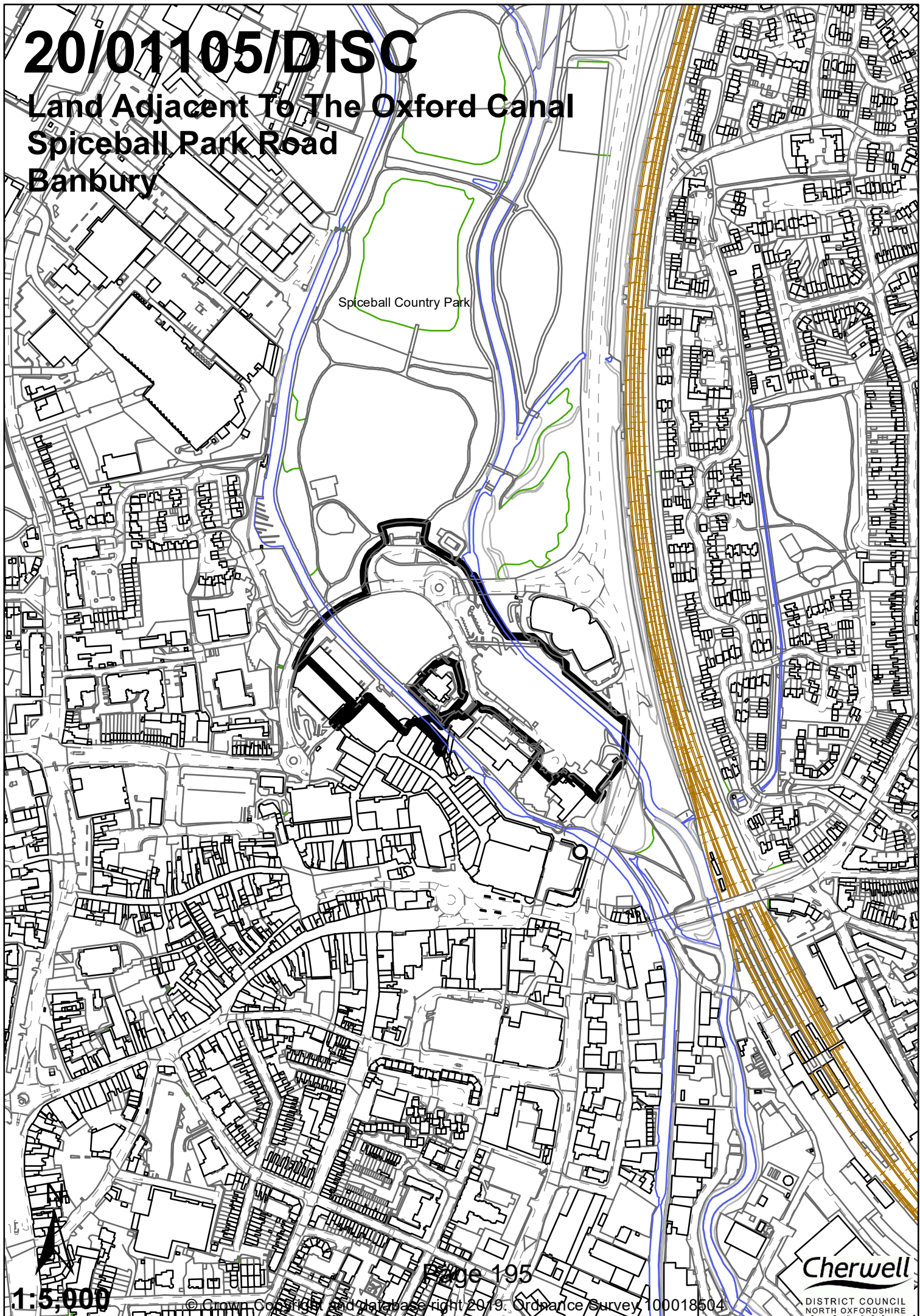
## Land Adjacent To The Oxford Canal Spiceball Park Road Banbury





# 20/01105/DISC

Land Adjacent To The Oxford Canal  
Spiceball Park Road  
Banbury



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**Cherwell**  
DISTRICT COUNCIL  
NORTH OXFORDSHIRE

**Case Officer:** Samantha Taylor

**Applicant:** Mr Ian Wallace

**Proposal:** Discharge of condition 18 (Arboricultural Method Statement) of  
16/02366/OUT

**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:** 22 June 2020

**Committee Date:** 16 July 2020

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## **1. APPLICATION SITE AND LOCALITY**

1.1. The application site is located within Banbury Town Centre, to the north of Castle Quay and adjacent to the Oxford Canal. The site is part of the Castle Quay 2 redevelopment which includes the provision of a new supermarket, retail and leisure facilities.

## **2. CONSTRAINTS**

2.1. The application site falls within Flood Zone 2 and is adjacent to the Oxford Canal Conservation Area.

## **3. DESCRIPTION OF PROPOSED DEVELOPMENT**

3.1. The proposal seeks to discharge condition 18 (requiring the submission of an Arboricultural Method Statement) of outline consent 16/02366/OUT, which is the main planning consent for the development of Castle Quay 2. Details have previously been approved under application ref: 17/00147/DISC; the current application proposes amendments to those details.

## **4. RELEVANT PLANNING HISTORY**

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

4.1. 17/00147/DISC – Condition 18 was previously discharged as part of this application, which sought approval for the pre-commencement conditions associated with outline consent 16/02366/OUT

4.2. 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.  
Approved

- 4.3. 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. Approved.

## **5. PRE-APPLICATION DISCUSSIONS**

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

## **6. RESPONSE TO CONSULTATION**

- 6.1. CDC ARBORICULTURE: No response  
6.2. CDC LANDSCAPING: No response

## **7. APPRAISAL**

- 7.1. Condition 18 which requires the submission of an Arboricultural Method Statement was previously discharged under application ref: 17/00147/DISC. The current application seeks to re-discharge this condition with some amendments.
- 7.2. The amendments sought are the removal of trees T137, T138 and T139 (ornamental pear trees) situated between the canal and the proposed service yard to the cinema block, to facilitate the development. The removal of these trees are sought in accordance with the industry guidance provided in British Standards as outlined within the submitted Arboricultural Method Statement.
- 7.3. Whilst the loss of these trees is regrettable, the trees are not veteran species or subject to a Tree Preservation Order and it is considered that their loss would not have a significant adverse impact on amenity. Their loss would appear to be unavoidable to facilitate the development and it is acknowledged that significant tree planting is proposed as part of the wider development of Castle Quay 2 and this is secured by way of condition on both the outline and reserved matters applications.
- 7.4. The Arboricultural Method Statement accords to relevant British Standards and the loss of 3 additional trees is considered acceptable.

### **RECOMMENDATION**

APPROVAL – IN ACCORDANCE WITH THE DETAILS AS SET OUT BELOW:

#### **Condition 18 – Arboricultural Method Statement**

Leslie Jones Architecture, 3787, Report on Revised Planning Drawings and Changes, dated 13<sup>th</sup> September 2019

CASE OFFICER: Samantha Taylor

TEL: 01295 221689

# Agenda Item 17

## Cherwell District Council

### Planning Committee

16 July 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 New Appeals

**19/01621/F – 1 Derwent Road, Bicester, OX26 2JA** - Retrospective - Replace existing part fence (6 ft 6" high x 17 ft long), part hedge (7-8 ft high) boundary on Dryden Avenue, with new 5 ft high x 6 ft wide wooden fence panels and 1 ft high concrete gravel boards and concrete posts.

Officer recommendation – Refusal (Delegated)

**Method of determination:** Written Representations

**Key Dates:**

**Start Date:** 18.06.2020      **Statement Due:** 23.07.2020

**Appeal reference** – 20/00018/REF

**19/02399/F – Cowpastures Farm, Arcott Road, Piddington, OX25 1AE** - Redevelopment of site; demolition of existing buildings and erection of building for B8 use.

Officer recommendation – Refusal (Delegated)

**Method of determination:** Written Representations

**Key Dates:**

**Start Date:** 18.06.2020      **Statement Due:** 23.07.2020

**Appeal reference** – 20/00020/REF

**19/02267/F – 1 Beechfield Crescent, Banbury, OX16 9AR** - First floor side extension. Single storey rear extension.

Officer recommendation – Refusal (Delegated)

**Method of determination:** Householder (Fast Track)

**Key Dates:**

**Start Date:** 27.06.2020

**Appeal reference** – 20/00017/REF

**20/00174/Q56 – Barn, Folly Farm, Grange Lane, Sibford Ferris, OX15 5EY**

- Change of Use and conversion of 1no agricultural building into 1no self-contained dwellinghouse (Use Class C3) including associated operational development under Part 3 Class Q (a) and (b)

Officer recommendation – Refusal (Delegated)

**Method of determination:** Written Representations

**Key Dates:**

**Start Date:** 01.07.2020      **Statement Due:** 05.08.2020

**Appeal reference** – 20/00022/REF

## 2.2 New Enforcement Appeals

None

## 2.3 Appeals in progress

**19/00831/OUT - Land South Of Home Farm House, Clifton Road, Deddington, OX15 0TP** - OUTLINE - Residential development of up to 15 dwellings

Officer recommendation – Refusal (Committee)

**Method of determination:** Written Representations

**Key Dates:**

**Start Date:** 03.03.2020      **Statement Due:** 09.04.2020      **Decision:** Awaited

**Appeal reference** – 20/00010/REF

**19/02444/OUT - Land South Of Home Farm House, Clifton Road, Deddington, OX15 0TP** - 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 - revised scheme of 19/00831/OUT

Officer recommendation – Refusal (Committee)

**Method of determination:** Written Representations

**Key Dates:**

**Start Date:** 03.03.2020      **Statement Due:** 09.04.2020      **Decision:** Awaited

**Appeal reference** – 20/00007/REF

**19/00969/F - Bowler House, New Street, Deddington, OX15 0SS** – Single storey rear extension forming new Sun Room

Officer recommendation – Refusal (Delegated)

**Method of determination:** Written Reps.

**Key Dates:**

**Start Date:** 27.01.2020      **Statement Due:** 02.03.2020      **Decision:** Awaited

Officer recommendation – Refusal (Delegated)

**Appeal reference** – 20/00009/REF

**19/00970/LB – Bowler House, New Street, Deddington, OX15 0SS - Single storey rear extension forming new Sun Room**  
Officer recommendation – Refusal (Delegated)  
**Method of determination:** Written Reps.  
**Key Dates:**  
**Start Date:** 20.02.2020    **Statement Due:** 26.03.2020    **Decision:** Awaited  
**Appeal reference – 20/00008/REF**

**19/01685/F – 21 Coppice Close, Banbury, OX16 9SW - Removal of dead/dying leylandii hedge approximately 20 metres. To be replaced with pressure treated close board fencing 1.8m high.**  
Officer recommendation – Refusal (Delegated)  
**Method of determination:** Householder (Fast Track)  
**Key Dates:**  
**Start Date:** 01.04.2020    **Statement Due:** N/A    **Decision:** Awaited  
**Appeal reference – 20/00015/REF**

**19/02075/F – The Old Vicarage, Fringford Road, Caversfield, OX27 8TH - Erection of 4no dwelling houses with associated garages, access and landscaping**  
Officer recommendation – Refusal (Delegated)  
**Method of determination:** Written Reps.  
**Key Dates:**  
**Start Date:** 04.03.2020    **Statement Due:** 08.04.2020    **Decision:** Awaited  
**Appeal reference – 20/00011/REF**

**19/02194/F – Swallows Barn, Manor Farm Lane, Balscote, OX15 6JJ - Construction of new greenhouse (retrospective)**  
Officer recommendation – Refusal (Delegated)  
**Method of determination:** Householder (Fast Track)  
**Key Dates:**  
**Start Date:** 17.04.2020    **Statement Due:** N/A    **Decision:** Awaited  
**Appeal reference – 20/00013/REF**

**19/02381/ADV - 10 Banbury Cross Retail Park, Lockheed Close, Banbury, OX16 1LX - Scanlite Digital Electronic LED Full Colour Ticker Display**  
Officer recommendation – Non-determination within prescribed period  
**Method of determination:** Written Reps.  
**Key Dates:**  
**Start Date:** 27.04.2020    **Statement Due:** 08.06.2020    **Decision:** Awaited  
**Appeal reference – 20/00016/NON**

**19/02501/F – Land to the Rear of Otmoor Lodge, Horton Cum Studley - Erection of a detached dwelling with parking, access, landscaping and associated works**  
Officer recommendation – Refusal (Delegated) – A decision was not issued within the prescribed time so an appeal against non-determination was submitted  
**Method of determination:** Written Reps.  
**Key Dates:**



**Start Date:** 24.04.2020    **Statement Due:** 29.05.2020    **Decision:** Awaited  
**Appeal reference** – 20/00014/NON

**19/02861/F – 2 Hudson Street, Bicester, OX26 2EP** - Erection of 2no one bedroom dwellings - revised scheme of 18/02046/F

Officer recommendation – Refusal (Delegated)

**Method of determination:** Written Reps.

**Key Dates:**

**Start Date:** 13.03.2020    **Statement Due:** 17.04.2020    **Decision:** Awaited

**Appeal reference** – 20/00012/REF

### **Enforcement appeals**

None

2.4 Forthcoming Public Inquires and Hearings between 17 July 2020 and 13 August 2020

None

### **2.5 Results**

No decisions since last appeals progress report.

### **3.0 Consultation**

None

### **4.0 Alternative Options and Reasons for Rejection**

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

Option 1: To accept the position statement.

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

### **5.0 Implications**

#### **Financial and Resource Implications**

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

Comments checked by:

Kelly Wheeler, Business Partner, 01295 225170,

[Kelly.wheeler@cherwell-dc.gov.uk](mailto:Kelly.wheeler@cherwell-dc.gov.uk)

#### **Legal Implications**

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

Comments checked by:  
David Mytton, Solicitor,  
[David.Mytton@Oxfordshire.gov.uk](mailto: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,  
[David.Mytton@Oxfordshire.gov.uk](mailto: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**

<b>Appendix No</b>	<b>Title</b>
None	
<b>Background Papers</b>	
None	
<b>Report Author</b>	Sarah Stevens, Interim Senior Manager, Development Management
<b>Contact Information</b>	<a href="mailto:sarah.stevens@cherwell-dc.gov.uk">sarah.stevens@cherwell-dc.gov.uk</a>

## Cherwell District Council Planning Committee

16 July 2020

### Planning Enforcement Report

#### Report of Assistant Director Planning and Development

This report is public

#### Purpose of Report

To inform Members about planning enforcement cases at CDC and update on the current position following the update in January regarding case numbers and how the team has operated during the COVID19 pandemic.

#### 1.0 Recommendation

The meeting is recommended:

- 1.1 To note the contents of the report.

#### 2.0 Details

- 2.1 This report provides an overview of the work of planning enforcement since the last update provided in January 2020. This enforcement update is expected quarterly and as such was due to be reported to April's Committee. However, this did not happen due to the situation with Covid-19. This report will provide the update on enforcement activity, including notices served since the last update in January.
- 2.2 This report will also provide an update on how the enforcement team have been working during COVID19 including putting into place new processes required in line with Government relaxation of planning rules during this time.

#### *Active enforcement and monitoring cases*

- 2.3 There are currently 279 active enforcement cases (298 active cases reported in January 2020). The Council has received a total of 198 new planning enforcement cases and 51 new Monitoring cases so far in 2020 (115 of these new enforcement cases were received since the Lockdown began in March). The number of open cases has continued to reduce but progress has been hampered by restrictions on undertaking site visits and face to face meetings that are necessary for many enforcement investigations.

2.4 With restrictions now being lifted, it is hoped that investigations can be progressed quicker however this needs to be carefully managed against any risk, with the safety of our Officers being our priority.

#### *Notices issued and prosecutions*

2.5 At the beginning of lockdown, a decision was taken to temporarily halt the issue of formal notices unless this was essential. This was because many planning agents had temporarily stopped working and with other pressures on the general public it was not felt appropriate at the time. However, during the period of lockdown, the work continued to prepare notices ready for when restrictions were lifted and now as this happens, the team are now in the process of finalising these notices ready for issuing.

2.6 Between January and March 2020 four enforcement notices and two breach of condition notices have been issued, these are detailed in the table below.

2.7 Four prosecutions were already scheduled for Court were also put on hold and others have been prepared ready for the lifting of restrictions. These will be reported in the next quarterly update.

### **3.0 Updates to significant ongoing cases**

3.1 A brief history and actions to date on cases that are 'public' and of significant Member Interest are set out below. Ward Members are now routinely advised when an enforcement notice is issued within their area, therefore you will be advised if a notice is issued within your ward area. The table is broken down into two halves to show the notices issued since January 2020. The table will only show outstanding enforcement cases where formal action has been taken and remains to be resolved, as cases are resolved they will be removed.

<b>Ref Number</b>	<b>Address</b>	<b>Type of Notice</b>	<b>Date Served</b>	<b>Breach</b>	<b>Commentary</b>
17/00201/ PROS	Field Farm, Stratton Audley Road, Stoke Lyne	EN	24/05/16	Eco-Pod, structures and hard standing	Court hearing was scheduled for April for non- compliance with enforcement notice. All Court Hearings postponed for Covid-19.  First hearing in Court now scheduled for 7 August.
12/00020/ ECOU	The Pheasant Pluckers Inn, Burdrop, Banbury	EN	09/02/12	Change of use from agricultural land to a caravan site	Latest planning appeal refused for change of use from pub to c3 residential use.  Pub had reopened and work

					was underway to establish if this constituted compliance with the enforcement notice, however as all pubs have been closed since lockdown this matter has been placed on hold. Matter to be revisited.
17/00237/ ENFC	OS Parcel 3349 North East Of Highlands Adjoining Cropredy Lane Williamscot	EN	15/03/18	Mobile Home sited in field	Court hearing was scheduled for April for non- compliance with enforcement notice. All Court Hearings postponed for Covid-19.  First hearing in Court now scheduled for 7 August.
18/00057/ ENFB	The Kings Head 92 East Street Fritwell OX27 7QF	EN	14/03/19	Unauthorised change of use from public house to independent dwelling house	Appeal dismissed. Compliance due 1 July 2020. Visits to be scheduled to check compliance with enforcement notice.
17/00241/ ENFC	OS Parcel 4400 South of Manor Farm House and East of North Aston Hall Farm Somerton Road North Aston	EN	14/03/19	Change of use from agricultural land to a caravan site	Compliance date for removal of caravan was January 2020.  Notice not yet complied with but working with owners and closely with housing colleagues to ensure the housing needs of the occupants are met.
<b>Notices Jan-March 2020</b>					
19/00395/ ENF	50 Begbroke Crescent, Kidlington	EN	15/01/20	Garden Shed	Not appealed 15/04//2020  Notice fully complied with
19/00128/ ENF	Spruce Meadows Cropredy Lane Williamscot	EN	13/02/20	Caravan on land used for residential, storage of shipping containers and other structures	Appeal submitted – awaiting start date from PINS
19/00172/ ENF	65 Calthorpe Street, Banbury.	BCN	10/02/20	Breach of condition regarding hours of	No right of appeal  09/03/20

				opening	Site being monitored to check compliance.
19/00171/ ENF	64 Calthorpe Street, Banbury.	BCN	10/02/20	Breach of condition regarding hours of opening	No right of appeal  09/03/20  Site being monitored to check compliance.
19/00309/ ENF	84 Green Road, Kidlington.	EN	13/02/20	Change of use of dwellinghouse to a guesthouse	Appeal not accepted by PINS – submitted out of time  Compliance now required by 18/08/20
19/00099/ ENF	Land to rear of 9-11 The Garth, Yarnton	EN	12/03/20	Change of use of land for storage of builders & Plumbing materials	Not appealed  Compliance was required by 26/04/20. Prosecution now being considered

EN – Enforcement Notice

BCN – Breach of Condition Notice

3.2 Since March 2020 the Government has implemented a number of changes to the planning legislation including temporary relaxations to permitted development and changes to the use classes order. These included relaxation to allow take away and delivery services where these would not usually be permitted. This means there may be some enforcement cases that will need to be reviewed in light of the changes. Further changes are anticipated as we move into the economic recovery phase of the pandemic and we are prepared to respond accordingly.

#### *Development Monitoring*

3.3 Development Monitoring has continued during lockdown, and as construction sites have returned to work, this work, monitoring has increased with more regular visits taking place.

3.4 On 13 May 2020, the Government released a Ministerial Statement allowing greater flexibility around construction site working hours. The guidance was provided to Councils, made it clear that requests for greater flexibility on construction times should not be refused without very compelling reasons for rejection.

3.5 To enable such requests to be assessed and dealt with within the 10 days period allowed a protocol has been put in place. Further draft guidance has since been issued by the Government but has yet to be formalised, however this guidance appears to be in line with what the Council has already put in place.

3.6 To date 7 requests have been received from developers and have been processed.

## **4.0 Conclusions and Reasons for Recommendations**

4.1 The Councillors are asked to note the report.

## **5.0 Consultation**

5.1 None

## **6.0 Alternative Options and Reasons for Rejection**

6.1 None

## **7.0 Implications**

### **Financial and Resource Implications**

7.1 None.

Comments checked by:

Karen Dickson, Strategic Business Partner

[karen.dickson@cherwell-dc.gov.uk](mailto:karen.dickson@cherwell-dc.gov.uk), 01295 221900

### **Legal Implications**

7.2 The body of the report sets out all the important legal implications

Comments checked by:

Matthew Barrett, Planning Solicitor 01295 753798

[matthew.barrett@cherwell-dc.gov.uk](mailto:matthew.barrett@cherwell-dc.gov.uk)

## **8.0 Decision Information**

### **Wards Affected**

All

### **Links to Corporate Plan and Policy Framework**

A district of opportunity

### **Lead Councillor**

Councillor Colin Clarke, Lead Member for Planning

### **Document Information**

<b>Appendix No</b>	<b>Title</b>
N/A	N/A
<b>Background Papers</b>	
None	
<b>Report Author</b>	Amy Sedman, Planning Enforcement Team Leader
<b>Contact Information</b>	Amy.sedman@cherwell-dc.gov.uk