# **Public Document Pack**



**Committee:** Planning Committee

Date: Thursday 10 December 2020

Time: 4.00 pm

Venue Virtual meeting

## Membership

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

Councillor Andrew Beere
Councillor Hugo Brown
Councillor Colin Clarke
Councillor Chris Heath
Councillor David Hughes
Councillor Councillor Mike Kerford-Byrnes

Councillor Cassi Perry
Councillor Lynn Pratt
Councillor George Reynolds
Councillor Les Sibley
Councillor Katherine Tyson

## **Substitutes**

Councillor Mike Bishop
Councillor Surinder Dhesi
Councillor Tony Ilott
Councillor Ian Middleton
Councillor Douglas Webb
Councillor Bryn Williams
Councillor Councillor Conrad Copeland
Councillor Timothy Hallchurch MBE
Councillor Tony Mepham
Councillor Richard Mould
Councillor Bryn Webster
Councillor Barry Wood

# AGENDA

## 1. Apologies for Absence and Notification of Substitute Members

## 2. Declarations of Interest

Councillor Sean Woodcock

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 - 14)

To confirm as a correct record the Minutes of the meeting of the Committee held on 5 November 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. OS Parcel 8975, North of Middle Farm and West of Featherbed Lane, Mixbury (Pages 17 31) 20/02328/F
- 8. Hornton Grounds Quarry, Hornton (Pages 32 65) 20/02453/F
- 9. E P Barrus Limited, Launton Road, Bicester, OX26 4UR (Pages 66 80) 20/02139/F
- 10. Land North and West of Bretch Hill Reservoir, Adj to Balmoral Avenue,
  Banbury (Pages 81 122) 20/01643/OUT

## **Review and Monitoring Reports**

## 11. Great Wolf Public Inquiry

Please note this report will follow as it is being reviewed and finalised.

## **12.** Appeals Progress Report (Pages 123 - 128)

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.

# Information about this Agenda

## **Apologies for Absence**

Apologies for absence should be notified to <a href="mailto:democracy@cherwell-dc.gov.uk">democracy@cherwell-dc.gov.uk</a> 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@cherwell-dc.gov.uk, 01295 221591

## Yvonne Rees Chief Executive

Published on Wednesday 2 December 2020

# Agenda Item 4

## **Cherwell District Council**

## **Planning Committee**

Minutes of a meeting of the Planning Committee held as a Virtual meeting, on 5 November 2020 at 4.00 pm

Present:

Councillor James Macnamara (Chairman)

Councillor Andrew Beere

Councillor John Broad

Councillor Hugo Brown

Councillor Phil Chapman

Councillor Colin Clarke

Councillor Ian Corkin

Councillor Chris Heath

Councillor David Hughes

Councillor Mike Kerford-Byrnes

Councillor Cassi Perry

Councillor Lynn Pratt

Councillor George Reynolds

Councillor Barry Richards

Councillor Les Sibley

Councillor Katherine Tyson

Substitute Members:

Councillor Barry Wood (In place of Councillor Maurice Billington)

Also Present: Joy White, Transport Development Control Lead – Cherwell,

West Oxfordshire and Oxford Communities, Oxfordshire

County Council

Amrik Manku, Growth Manager Cherwell and West at

Oxfordhshire County Council.

Apologies for absence:

Councillor Maurice Billington Councillor Simon Holland

Officers:

Sarah Stevens, Interim Senior Manager – Development Management Nat Stock, Minors Team Leader Matt Chadwick, Principal Planning Officer Andrew Lewis, Principal Planning Officer Rebekah Morgan, Principal Planning Officer Bob Neville, Senior Planning Officer Karen Jordan, Deputy Principal Solicitor

Lesley Farrell, Democratic and Elections Officer

## 88 **Declarations of Interest**

## 7. Heyford Park, Camp Road, Upper Heyford, OX25 5HD.

Councillor James Macnamara, Non Statutory Interest, as a member of Lower Heyford Parish Council which had been consulted on the application.

# 8. Proposed Roundabout Access to Graven Hill and Wretchwick Green, London Road, Bicester.

Councillor Ian Corkin, Declaration, as a Cherwell District Council appointed non-executive director of Graven Hill Development Company and Graven Hill Holding Company and would leave the meeting for the duration of the item.

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.

## 10. The Beeches, Heyford Road, Steeple Aston, OX25 4SN.

Councillor Andrew Beere, Declaration, as the applicant was known to him and he would not take part in the debate or vote.

Councillor Barry Wood, Declaration, as the applicant was known to him and he would not take part in the debate or vote.

Councillor Hugo Brown, Conflict of Interest, as he personally knew the applicant and would leave the meeting for the duration of the item.

Councillor James Macnamara, Declaration, as the applicant was known to him and he would not take part in the debate or vote.

Councillor John Broad, Declaration, as he was known to the applicant as a trustee of the National Transport Trust.

Councillor Lynn Pratt, Declaration, as the applicant was known to her and she would not take part in the debate or vote.

Councillor Mike Kerford-Byrnes, Conflict of Interest, as he had discussed the application with the applicant and would leave the meeting for the duration of the item.

## 89 Requests to Address the Meeting

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

## 90 Minutes

The Minutes of the meeting held on 8 October 2020 were agreed as a correct record and signed by the Chairman.

## 91 Chairman's Announcements

There were no Chairman's announcements.

## 92 Urgent Business

There were no items of urgent business.

## 93 Heyford Park, Camp Road, Upper Heyford, OX25 5HD

The Committee considered application 18/00825/HYBRID, a hybrid planning application consisting of the demolition of buildings and structures and outline planning permission for up to:

- o 1,175 new dwellings (Class C3);
- o 60 close care dwellings (Class C2/C3);
- o 929 m2 of retail (Class A1);
- o 670 m2 comprising a new medical centre (Class D1);
- o 35,175 m2 of new employment buildings, (comprising up to 6,330 m2 Class B1a, 13,635 m2 B1b/c, 9,250 m2 Class B2, and 5,960 m2 B8);
- o 2,415 m2 of new school building on 2.45 ha site for a new school (Class D1);
- o 925 m2 of community use buildings (Class D2); and 515 m2 of indoor sports, if provided on-site (Class D2);
- o 30m in height observation tower with zip-wire with ancillary visitor facilities of up of 100 m2 (Class D1/A1/A3);
- o 1,000 m2 energy facility/infrastructure (sui generis);
- o 2,520 m2 additional education facilities (buildings and associated external infrastructure) at Buildings 73, 74 and 583 for education use (Class D1);
- o creation of areas of Open Space, Sports Facilities, Public Park and other green infrastructure.
  - The change of use of the following buildings and areas:
- o Buildings 3036, 3037, 3038, 3039, 3040, 3041, and 3042 for employment use (Class B1b/c, B2, B8);
- o Buildings 217, 3052, 3053, 3054, 3055, 3102, and 3136 for employment use (Class B8);
- o Buildings 2010 and 3009 for filming and heritage activities (Sui Generis/Class D1);
- o Buildings 73 and 2004 (Class D1);

- o Buildings 391, 1368, 1443, 2005, 2006, 2007, 2008 and 2009 (Class /D2 with ancillary A1-A5 use);
- o Building 340 (Class D1, D2, A3);
- o 20.3ha of hardstanding for car processing (Sui Generis); and
- o 76.6ha for filming activities, including 2.1 ha for filming set construction and event parking (Sui Generis);
- The continuation of use of areas, buildings and structures already benefiting from previous planning permissions, as specified in Sched.2.
- Associated infrastructure works, including surface water attenuation provision and upgrading Chilgrove Drive and the junction with Camp Road.

at Heyford Park, Camp Road, Upper Heyford. OX25 5HD for Dorchester Living Limited.

Jonathan Rees, Chairman of Middleton Stoney Parish Council addressed the Committee in objection to the application.

Gavin Angell, Development Director of Dorchester Living, (the applicant) addressed the Committee in support of the application

It was proposed by Councillor Ian Corkin and seconded by Councillor Barry Wood that application 8/00825/HYBRID be approved subject to various amendments to the conditions and the Section 106 agreement, the agreement of which to be delegated to the Assistant Director Planning and Development, in consultation with the Planning Committee Chairman and the Lead Member for Planning.

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 authority be delegated to the Assistant Director Planning and Development, to grant permission for application 18/00825/HYBRID subject to:
  - 1. The following conditions (and any amendments to those conditions deemed necessary to be agreed in consultation with the Planning Committee Chairman and the Lead Member for Planning):
  - 1. Statutory Time Limit (outline) TL
  - 2. Phased Reserved Matters PC
  - 3. Change of Use
  - 4. Compliance with Plans
  - 5. Phasing Plan PC
  - 6. Reserved Matters (affordable housing)
  - 7. Design Codes CON
  - 8. Levels PC
  - 9. 1175-dwellings max

- 10. Landscaping per phase
- 11. Tree Protection
- 12. Landscaping
- 13. LEMP
- 14. CEMP-biodiversity
- 15. Protected Species Check/Updated surveys CON
- 16. Cat/Dog Proof fence
- 17. Site Clearance (nesting season) TL
- 18. Habitat Boxes CON
- 19. Demolition (prior contractual commitment) TL
- 20. Demolition
- 21. Building Recording PC
- 22. Archaeology
- 23. School
- 24. Construction traffic
- 25. Green Travel Plan
- 26. Parking Strategy
- 27. Wheel Washing
- 28. CEMP-general
- 29. Working Hours
- 30. Noise 1
- 31. Noise 2
- 32. Lighting Strategy
- 33. Waste Management Strategy
- 34. No open storage
- 35. Plant to be internal
- 36. Compounds
- 37. Strategic Surface Water Management Scheme:
- 38. Surface Water Management Scheme (Phases):
- 39. Completion and Maintenance of Sustainable Drainage Shown on Approved Plans:
- 40. SuDS Design Documentation Plans:
- 41. Environment Agency-Remediation Strategy
- 42. Environment Agency-Verification Report
- 43. Environment Agency-No infiltration
- 44. Environment Agency- foul water drainage scheme-1
- 45. Environment Agency- foul water drainage scheme-2
- 46. TWU-Protection Zone
- 47. TWU—Piling method statement
- 48. Sports Park 1
- 49. Sports Park 2
- 50. Community use of sport
- 51. Flying Field- Strategies for parking, lighting, signage, waste and fencing:

- 52. Flying Field- Parking/Storage
- 53. Flying Field- Runways and Taxiways:
- 54. Flying Field- Car Processing1
- 55. Flying Field- Car Processing 2
- 56. Flying Field- Filming production management plan
- 57. Flying Field- Filming-Photo record
- 58. Flying Field- Filming-noise
- 2. 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 to be agreed in consultation with the Planning Committee Chairman and the Lead Member for Planning):

#### Education:

- provision of a new 1.5 entry primary school on a minimum 2.2 ha site as shown on the Composite Parameter Plan (or, in the alternative, agreeing to make a suitable site available for OCC with contributions for a school to be provided to OCC specification);
- contributions towards secondary school places which will consist of an expansion to the existing Heyford Park Free School sites to facilitate an additional 1.5 form of entry (or, in the alternative, providing a financial contribution to OCC);
- contribution towards special education needs.

## **Open Space**

- Provision of a mixture of community orchard areas and allotments;
- Provision of sports pitches to meet CDC requirements, to an agreed quantum;
- Provision of sports pavilion/changing rooms facilities;
- Indoor sport provision, consisting of on-site provision (or, in the alternative, providing a financial contribution for off-site provision);
- Provision of children's' play areas to meet CDC requirements, to an agreed quantum and specification.
  - **Community Facilities**
- Provision of community hall/youth facility to an agreed specification to include Parish Office and;
- Funding towards the provision of a community worker;
- Provision of a neighbourhood police facility.

## Health Care

- Provision of an extra care facility to an agreed specification or financial contribution to healthcare provision
- Provision of an on-site healthcare facility of a minimum of two
  multipurpose treatment rooms with ancillary utility, waiting and
  reception space with financial contribution to primary healthcare
  provision.

Access and Movement

- Resurvey traffic flows in the surrounding area and undertake remodelling
- Form a working group to formulate a strategy for traffic mitigation in the surrounding area.
- Contributions towards public transport provision in the form of a bus service contribution and bus infrastructure to agreed amounts;
- Undertaking Travel Planning initiatives;
- Contributions towards off site highway works to improve highway junctions, including safety improvements contribution to A4260/B4027;
- Middleton Stony junction improvements; Ardley/Bucknell junction improvements; B430/minor road junction improvements; Chilgrove Drive S278 scheme; M40 Junction 10 improvements;
- Contributions towards rural traffic calming schemes including in Middleton Stoney, Lower Heyford including Caulcott, Ardley with Fewcott, Somerton, North Aston, Chesterton, Kirtlington, Bucknell and Fritwell and the contributions to be proportionate to the impact of traffic on the revised modelling outcome
- Introduction of HGV restrictions on B4030 at Middleton Stoney and Lower Heyford
- Routing agreements for all HGV traffic going to or departing from Heyford Park

Mitigation measures to be introduced at the earliest opportunity.

## Heritage

- Provision of a Flying Field Park to an agreed specification;
- Provision of a Control Tower Park to an agreed specification;
- Provision of a Heritage Centre and a Heritage Centre Manager, to an agreed specification;
- Provision of an Observation Tower on the Flying Field, to an agreed specification;
- Provision of Heritage Tours to an agreed specification;
- Baseline building condition surveys and wind and watertight works programme for buildings and structures on the defined Flying Field area:
- Provision of exhibition space in Building 1443 to an agreed specification:
- Refurbishment of Victor Alert Area buildings and structures to an agreed specification;
- Refurbishment of the Control Tower to an agreed specification;
- Provision of the Heyford Trail to an agreed specification;
- Provision of Interpretation Boards to an agreed specification.

## **Ecology**

- Provision of on-site ecological mitigation measures to an agreed specification and quantum;
- Contributions towards and/or provision of off-site ecological mitigation measures to an agreed specification and quantum;
- Provision of a cat-proof fence on the boundary of the settlement area and the Flying Field to an agreed specification.

Library

Contribution towards library provision.

Waste Management Contributions

Contribution towards waste management provision and services.

Bin Contributions

 Contribution towards the provision of recycling and waste bins for households.

Recycling Centre

Contribution towards the provision of recycling centre facilities.

**Apprentices** 

Contribution towards apprenticeship opportunities.

Public Art

Contribution towards public art provision on site

# 94 Proposed Roundabout Access to Graven Hill and Wretchwick Green, London Road, Bicester

The Committee considered application 20/01830/F for a proposed roundabout junction giving access to Graven Hill and Wretchwick Green, London Road, Bicester for Mr Adrian Unitt.

Consideration of the application had been deferred at the previous meeting of the Committee after the local ward member and public speakers had addressed the meeting, therefore, there was no further public participation.

In reaching its decision the Committee considered the officer's report and presentation, the presentation from Joy White, Transport Development Control Lead – Cherwell, West Oxfordshire and Oxford Communities, Oxfordshire County Council and the written updates.

#### Resolved

(1) That authority be delegated to the Assistant Director for Planning and Development to grant permission for application 20/01830/F 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:
  - Covering letter
  - Application forms
  - Drawing number WIE11386-RBT-90-001 Rev A01 [Red line boundary]
  - Drawing number WIE11386-145-03-001-A41 Rev A02 –
     [Pioneer General Arrangement Drawing]
  - Drawing number WIE11386-145-92-500-001 [Roundabout Drainage Strategy]
  - Arboricultural Impact Assessment
  - Archaeological Mitigation Strategy
  - Drainage Strategy
  - Ecological Impact Assessment
  - Transport Assessment
  - Noise Assessment
  - Landscape and Visual Impact Assessment
  - Air Quality Assessment

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

- 3. Construction Environmental Management Plan (CEMP) for Biodiversity No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP: Biodiversity shall include as a minimum:
  - a) Risk assessment of potentially damaging construction activities;
  - b) Identification of 'Biodiversity Protection Zones';
  - Practical measures (both physical and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
  - d) The location and timing of sensitive works to avoid harm to biodiversity features;
  - e) The times during construction when specialist ecologists need to be present on site to oversee works;
  - f) Responsible persons and lines of communication;
  - g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
  - h) Use of protective fences, exclusion barriers and warning signs

The approved CEMP: Biodiversity shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, 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 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.

4. The development hereby permitted shall be carried out in accordance with the recommendations set out in paragraphs 5.14, 5.16 and 5.19-5.24 of the Ecological Impact Assessment by Watermans Infrastructure and Environmental Limited dated September 2020 unless otherwise agreed in writing by the Local Planning Authority.

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

5. Where an offence under Regulation 41 of the Habitat and Species Regulations 2010 is likely to occur in respect of the development hereby approved, no works of site clearance, demolition or construction shall take place which are likely to impact on [bats/newts] until a licence to affect such species has been granted in accordance with the aforementioned Regulations and a copy thereof has been submitted to 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 ESD10 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

6. Prior to the commencement of the development hereby approved, including any demolition and any works of site clearance, a method statement and mitigation strategy for Great crested newts to cover all works not included under an EPSL, and which shall include timing and manner of works, exclusion fencing, the location and design of alternative ponds/habitats together with the timing of their provision as required, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the works 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 ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

7. If the development hereby approved does not commence within 2 years of the date of this decision. A revised Ecological Impact Assessment shall be undertaken prior to the commencement of the development to establish changes in the presence, abundance and impact on 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. 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 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.

8. Prior to the commencement of the development hereby approved, including any demolition, and any works of site clearance, full details of a scheme for biodiversity net gain (minimum 10% net gain) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the biodiversity enhancement measures shall be carried out and retained in accordance with the approved details.

Reason – To conserve and enhance biodiversity in accordance with Government guidance contained within the National Planning Policy Framework.

- 9. Construction shall not begin until a detailed surface water drainage scheme for the site, in accordance with the approved Watermans Drainage Strategy WIE11386-101-TN-1-1-2 June 2020, 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 completed. The scheme shall also include:
  - A compliance report to demonstrate how the scheme complies with the "Local Standards and Guidance for Surface Water Drainage on Major Development in Oxfordshire";
  - Full microdrainage calculations for all events up to and including the 1 in 100 year plus 40% climate change;
  - A Flood Exceedance Conveyance Plan;
  - Detailed design drainage layout drawings of the SuDS proposals including cross section details;
  - Detailed maintenance management plan in accordance with Section 32 of CIRIA C753 including maintenance schedules for each drainage element; and
  - Details of how water quality will be managed during construction.

Reason – To prevent environmental and amenity problems arising from flooding and to accord with Sections 14 and 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.

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

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

11. Following the approval of the Written Scheme of Investigation referred to in condition 10, and prior to any demolition on the site and the commencement of the development (other than in accordance with the agreed Written Scheme of Investigation), a staged programme of archaeological evaluation and mitigation shall be carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the Local Planning Authority within two years of the completion of the archaeological fieldwork.

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

12. Prior to the commencement of any works to the trees on the site, full details of tree re-planting scheme, including number, location, species and size at time of planting shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the replacement tree(s) shall be planted in the first planting season (mid November to end of March) following the removal of the tree(s) for which consent has been granted and any tree which, within a period of five years from being planted dies, is removed or becomes seriously damaged or diseased, shall be replaced in the current/next planting season in accordance with the approved details and the wording of this condition.

Reason – In the interests of the visual amenities of the area and to comply with good arboricultural practice and Government Guidance contained within the National Planning Policy Framework.

## 95 **63 Priory Road, Bicester, OX26 6BL**

The Chairman advised the Committee that application 20/01115/OUT had been withdrawn by the applicant.

## 96 The Beeches, Heyford Road, Steeple Aston, OX25 4SN

The Committee considered application 20/02227/OUT for the erection of up to 10 dwellings with all matters reserved except the means of access on to Heyford Road at The Beeches, Heyford Road, Steeple Aston, OX25 4SN for Adrian Shooter.

Mitchell Barnes of Framptons, Agent for the application, addressed the Committee in support of the application.

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

## Resolved

- (1) That application 20/02227/OUT be refused after 14 November 2020 or upon receipt of the Lead Local Flood Authorities further consultation response whichever was the sooner and include reason 3 of the reasons for refusal listed below only if the Lead Local Flood Authority objections had not been addressed through the submission received on 3 November 2020:
  - 1. The proposed development would not make effective and efficient use of land and would significantly encroach into the countryside beyond the built-up limits of Steeple Aston; contrary to the housing strategy of the Development Plan for the area, for which it has not been demonstrated that there is a justified need. In its proposed location the development would therefore be an unjustified and unsustainable form of development. As such the proposal is contrary to Policies BSC2, ESD1, Villages 1 and Villages 2 of the Cherwell Local Plan 2011-2031 Part 1, Saved Policy H18 of the Cherwell Local Plan 1996, Policy PD1 of the Mid Cherwell Neighbourhood Plan 2018 and Government guidance contained within the National Planning Policy Framework.
  - 2. The proposed development represents inappropriate 'back-land' development that would fail to relate well to the pattern of development in the area and would appear as an intrusion of built form into the countryside, detracting from the rural character and quality of the area the setting of the village. As such the proposal is contrary to Policies ESD13 and ESD15 of the Cherwell Local Plan 2011 2031 Part 1, Saved Policies C28 and C30 of the Cherwell Local Plan 1996, and Government guidance contained within the National Planning Policy Framework.
  - 3. By virtue of a lack supporting information to enable an appropriate technical assessment the proposals have failed to demonstrate that an appropriate sustainable drainage strategy for the site utilising sustainable drainage systems (SuDS) can be delivered. As

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- such the proposal is contrary to Policy ESD7 of the Cherwell Local Plan 2011 2031 Part 1 Government guidance contained within the National Planning Policy Framework.
- 4. In the absence of the completion of a satisfactory Section 106 Agreement, the Local Planning Authority is not convinced that the necessary infrastructure directly required as a result of this development, in the interests of supporting the sustainability of the village and the development, and in the interests of safeguarding public infrastructure and securing on site future maintenance arrangements, will be provided. This would be contrary to Policies INF1, PSD1, BSC3, BSC10, BSC11 and BSC12 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

## 97 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.					
The meeting ended at 7.38 pm						
Chair	man:					
Date:						

# CHERWELL DISTRICT COUNCIL

Planning Committee - 10 December 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**

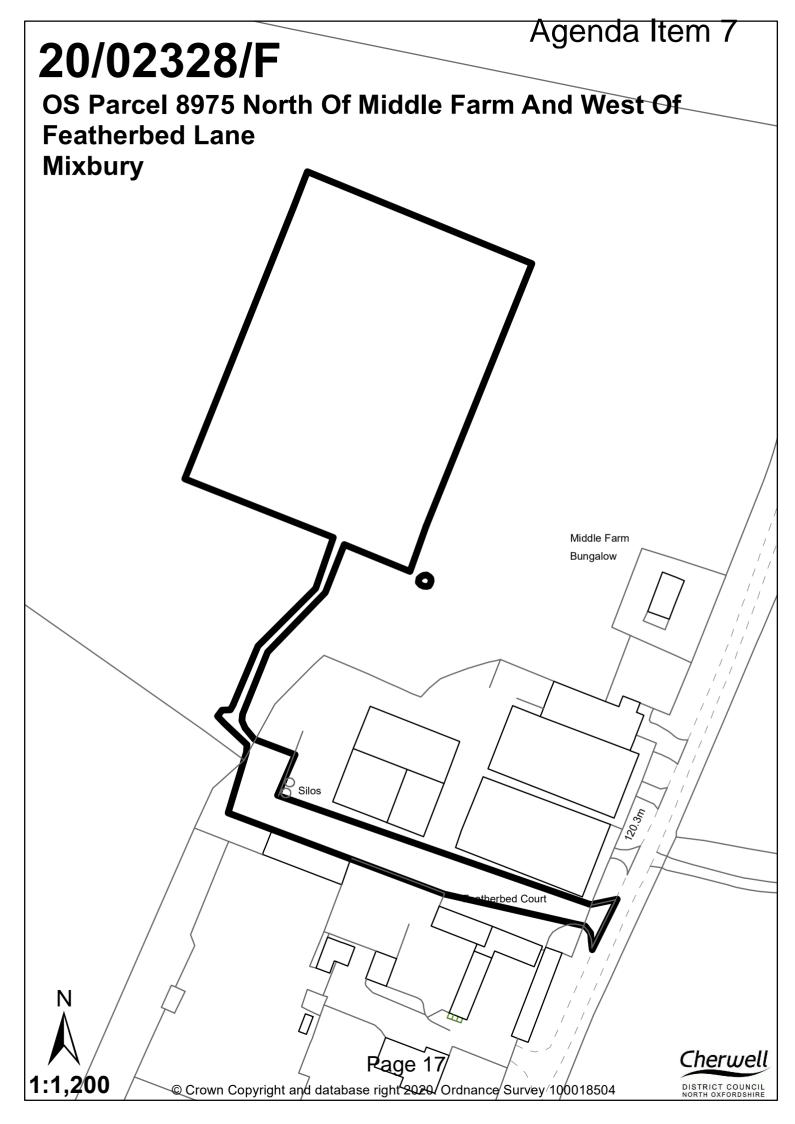
The recommendations in the reports may, if accepted, affect the human rights of individuals under Article 8 and Article 1 of the First Protocol of the European Convention on Human Rights. However, in all the circumstances relating to the development proposals, it is concluded that the recommendations 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.

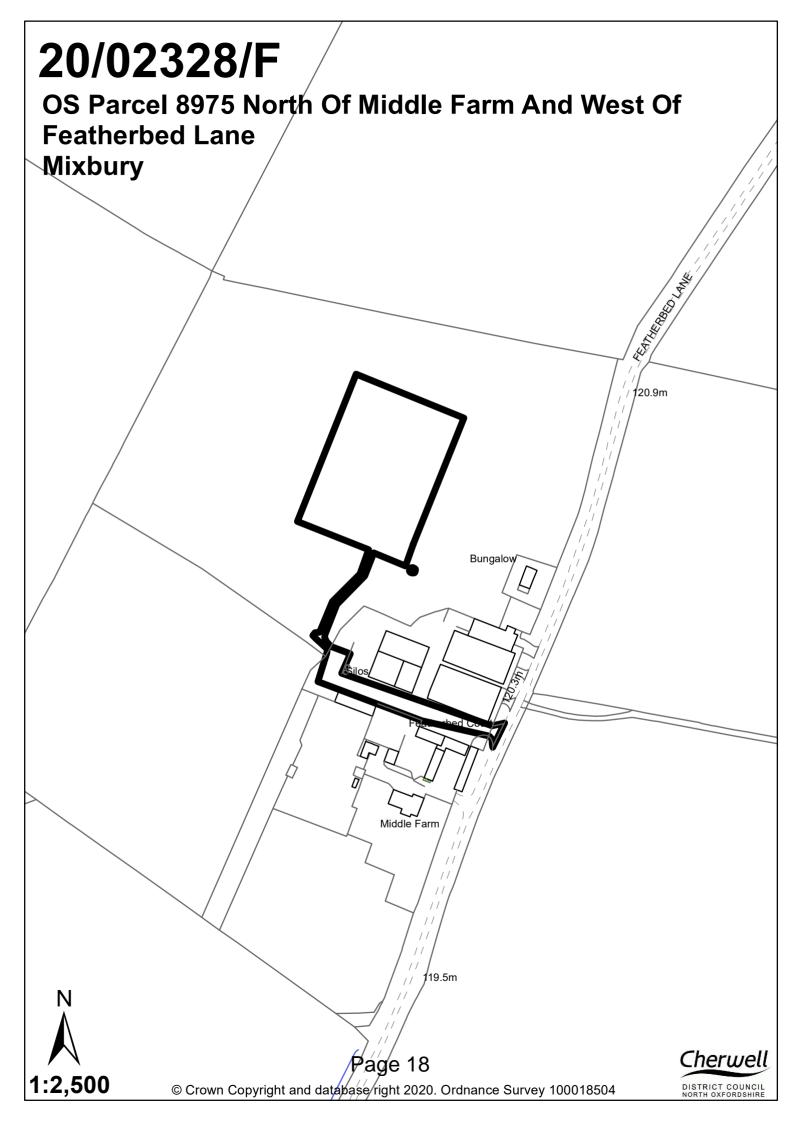
## **Background Papers**

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

Ite m No.	Site	Application Number	Ward	Recommendation	Contact Officer
7	OS Parcel 8975 North Of Middle Farm And West of Featherbed Lane, Mixbury	20/02328/F	Fringford and Heyfords	Refusal	George Smith
8	Hornton Grounds Quarry, Horton	20/02453/F	Cropredy, Sibfords And Wroxton	Refusal	Bob Neville
9	E P Barrus Ltd Launton Road Bicester OX26 4UR	20/02139/F	Bicester East	*Grant Permission	Matthew Chadwick
10	Land North and West of Bretch Hill Reservoir, Adj to Balmoral Avenue, Banbury	20/01643/OUT	Banbury Calthorpe and Easington	To confirm previous refusal decision and refusal reasons	Matthew Chadwick

<sup>\*</sup>Subject to conditions





#### OS Parcel 8975 North Of Middle Farm And West Of

## **Featherbed Lane Mixbury**

Case Officer: George Smith

Applicant: PC & IC Rymer Limited

Proposal: Full planning application for the erection of 2 acres of polytunnels and circular

coated steel water tank (50m3).

Ward: Fringford And Heyfords

Councillors: Cllr Ian Corkin, Cllr James Macnamara, Cllr Barry Wood

Reason for Referral: Major development

Expiry Date: 18 January 2021 Committee Date: 10 December 2020

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

## **RECOMMENDATION: REFUSE PERMISSION**

## **Proposal**

Planning permission is sought for the erection of 2 acres of polytunnels to the north-west of Middle Farm.

#### Consultations

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

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

CDC Ecology, OCC Highways, OCC Drainage, OCC Archaeology,

No third party representations have been received.

## **Planning Policy and Constraints**

The application site is approximately 820m metres to the south of Mixbury Conservation Area and approximately 1.8km to the north east of Cottisford Conservation Area. The access to the field off Featherbed Lane runs adjacent to three Grade II listed buildings within the Middle Farm complex, comprising a farmhouse, barn and stable range. The site is in an area of high archaeological interest. The site is also within a Minerals Consultation Area.

Public Footpath 303/11/20 runs past the site to the west, approximately 37m away at the nearest point, whilst Public Footpath 303/18/20 runs to the west of the site in the adjacent field approximately 400m away.

The application has also been assessed against the relevant policies in the National Planning Policy Framework, 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
- Ecology impact
- 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 visual/landscape effects
- 2. Harm to setting of designated heritage assets

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, which comprises part of an arable field, is situated approximately 820 metres to the south of the village of Mixbury and approximately 430 metres to the south of the Banbury Road. The site is accessed off Featherbed Lane, to the east of the site, and the field would be accessed via an existing track through the Middle Farm complex. The site itself is relatively flat and not bounded by any hedgerow, being located centrally within this field. The wider field is bounded by hedging on the north, east and west boundaries. However, the south boundary is bounded by a fence. The hedging surrounding the site has some gaps in places and also has some trees within it. The surrounding area is agricultural in character and is relatively flat.
- 1.2. The farm is served by Middle Farmhouse, which has the benefit of a flat that is rented out on an AirB&B basis and a dwelling known as Stones Throw which is subject of an agricultural occupancy condition and which is occupied by a worker who used to work on the dairy enterprise. Planning permission was granted under Class Q of the 2015 GDPO for the conversion of a former grain store adjacent Coldharbour Barn to the south of the site to a market dwelling (application reference 18/01955/Q56), and this building has been sold.

## 2. CONSTRAINTS

- 2.1. The application site is approximately 820m metres to the south of Mixbury Conservation Area and approximately 1.8km to the north east of Cottisford Conservation Area. The access to the field off Featherbed Lane runs adjacent to three Grade II listed buildings within the Middle Farm complex, comprising a farmhouse, barn and stable range. The site is in an area of high archaeological interest. The site is also within a Minerals Consultation Area.
- 2.2. Public Footpath 303/11/20 runs past the site to the west, approximately 37m away at the nearest point, whilst Public Footpath 303/18/20 runs to the west of the site in the adjacent field approximately 400m away.

#### 3. DESCRIPTION OF PROPOSED DEVELOPMENT

3.1. The applicant seeks permission for 2 acres of polytunnels, located to the northwest of Middle Farm and accessed via a track from Featherbed Lane and through the existing yard for Middle Farm. The polytunnels would be sited relatively centrally in a field currently used for arable farming. There would be 8-rows of polytunnels, each reaching a total height of 6.5m and an eaves height of 4m, with a "Dutch Barn" style roof. The polytunnels would be 105m in length, with each bay being 9.6m wide. A rainwater harvesting tank is also proposed adjacent to the buildings, being circular form, 4.57m in diameter and 3.04m high.

## 4. RELEVANT PLANNING HISTORY

- 4.1. The following planning history is considered relevant to the current proposal:
- 4.2. **19/00423/F** Erection of 6no poultry rearing buildings and associated infrastructure Refused

## 5. PRE-APPLICATION DISCUSSIONS

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

#### 6. RESPONSE TO PUBLICITY

- 6.1. This application has been publicised by way of a site notice displayed near the site 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 **30 October 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. MIXBURY PARISH COUNCIL: No comments received

## OTHER CONSULTEE RESPONSES

- 7.3. CDC ECOLOGY: **No objections** subject to a condition for biodiversity enhancement
- 7.4. OCC HIGHWAYS: No objections
- 7.5. OCC DRAINAGE: No objections
- 7.6. OCC ARCHAEOLOGY: **No objections** subject to conditions for a WSI (Written Scheme of Investigation)

## 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 2015)

- PSD1 Presumption in Favour of Sustainable Development
- SLE4 Improved Transport and Connections
- ESD1 Mitigating and Adapting to Climate Change
- ESD6 Sustainable Flood Risk Management
- ESD7 Sustainable Drainage Systems
- 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 and Historic Environment
- ESD17 Green Infrastructure
- INF1 Infrastructure

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

- TR7 Development attracting traffic on minor roads
- TR10 Heavy Goods Vehicles
- AG2 Construction of farm buildings
- C8 Sporadic development in the countryside
- C14 Countryside management projects
- 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)
  - 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
  - Heritage impact
  - Residential amenity
  - Ecology impact

Highway safety

## Principle of the Development

## Policy Context

- 9.2. Paragraph 11 of the National Planning Policy Framework (NPPF) states that the decision maker should apply a presumption of sustainable development. There are three dimensions to sustainable development, as defined in the NPPF, which require the planning system to perform economic, social and environmental roles. These roles should be sought jointly and simultaneously through the planning system.
- 9.3. Paragraph 12 of the NPPF notes that the development plan is the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise. Cherwell District Council has an up-to-date Local Plan which was adopted on 20th July 2015.
- 9.4. The NPPF supports the sustainable growth and expansion of all types of business and enterprise in rural areas (Paragraph 83), both through the conversion of existing buildings and well-designed new buildings. This also includes the development and diversification of agricultural and other land-based rural businesses.

#### Assessment

- 9.5. Officers have previously reached the conclusion that the agricultural business is established, and that diversification would benefit the enterprise. The applicant currently farms 850 acres of land, a substantial portion of land. In the submission the applicant highlights the benefits of the proposal as support for an expanding agricultural business, economic gain for the local economy including provision of jobs and contribution towards UK-wide food supply.
- 9.6. The information contained within the application fails to demonstrate the size of the existing holding. There is emphasis placed on the expansion of the current business, but officers have not been provided with information on the extent of the business at present or whether these new buildings can be sustained by this existing holding. There is also no information contained within the application to demonstrate why such a large expanse of buildings are required for this purpose.

## Conclusion

9.7. On this basis, it has not been demonstrated that the polytunnels are necessary to sustain the enterprise. The proposal thus fails to comply with saved Policy AG2 of the CLP 1996 or relevant paragraphs of the NPPF. Notwithstanding this, the overall acceptability of the proposals is also clearly dependant on other matters as discussed below, in particular the proposals' impact on the landscape and character and appearance of the surrounding area and heritage impact.

## Visual Effects

## Policy Context

9.8. Government guidance contained within the NPPF towards achieving well-designed places states that the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. The NPPG goes on to note that good design is a key aspect of sustainable development, creates better

places in which to live and work and helps make development acceptable to communities. Further, Paragraph 130 of the NPPF states that permission should be refused for development of poor design that fails to take the opportunities for improving the character and quality of an area and the way it functions.

- 9.9. Policy ESD13 of the CLP 2015 notes that development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to the local landscape character cannot be avoided. Policy ESD13 also states that: "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."
- 9.11. Policy ESD15 of the CLP 2015 states that: "New development will be expected to complement and enhance the character of its context through sensitive siting, layout and high-quality design. All new development will be required to meet high design standards."
- 9.12. Saved Policy AG2 of the CLP 1996 notes that farm buildings and associated structures requiring planning permission should normally be so sited that they do not intrude into the landscape or into residential areas.
- 9.13. Saved Policy C28 of the CLP 1996 exercises control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context.
- 9.14. Saved Policy C8 of the CLP1996 notes that sporadic development in the open countryside will generally be resisted if its attractive, open and rural character is to be maintained. Saved Policy C8 applies to all new development proposals beyond the built-up limits of settlements but will be reasonably applied to accommodate the needs of agriculture. The NPPF also advises that the open countryside should be protected for its own sake.

#### Assessment

- 9.15. The landscape around the site is located within both the Woodland Estatelands character type and the Farmland Plateau character type within the Oxfordshire Wildlife & Landscape Study (OWLS) 2004.
- 9.16. The OWLS notes that the Farmland Plateau is characterised by a high limestone plateau with a distinctive elevated and exposed character, broad skies and long distance views. It is also noted within the OWLS that large-scale arable fields dominate the landscape, with some medium-sized plantations partially obscuring the otherwise open views. The OWLS sets out that there are level or gently rolling open ridges dissected by narrow valleys and broader vales.
- 9.17. The OWLS states that the Woodland Estatelands is characterised by arable farming and small villages with a strong vernacular character. The OWLS sets out that the key characteristics comprise rolling topography with localised steep slopes, large blocks of ancient woodland and mixed plantations of variable sizes and a regularly shaped field patter dominated by arable fields.

- 9.18. From visiting the site, the site and surrounding land is more typical of the Farmland Plateau character type, given the level or gently rolling ridges and the large-scale arable fields which are afforded long distance views.
- 9.19. The application is accompanied by a Landscape and Visual Impact Assessment (LVIA), which assesses the potential impacts on the landscape character and amenity of the site and surrounding area. The authors undertook fieldwork to identify 14 viewpoints in the immediate and wider setting of the site.
- 9.20. The LVIA concludes that there is medium landscape character sensitivity and that, when considering the scale and nature of the development and its juxtaposition to other agricultural uses, the magnitude of change is small, therefore resulting in a level of landscape effect of *minor/moderate*.
- 9.21. Officers do not agree that the level of landscape effect would be *minor*.
- 9.22. Whilst the proposed use is for agricultural purposes, the polytunnels would cover a substantial area of the field, totalling 2 acres in footprint (8,093.71 sq m).
- 9.23. The polytunnels would be clearly visible from the surrounding landscape. The LVIA identifies three viewpoints that would be significantly compromised by the proposed development. Two of these are from the adjacent footpath, which is c.37m away at its nearest point. The 3<sup>rd</sup> viewpoint significantly impacted would be from the garden of Farm Cottage. The report also identifies a further two viewpoints; however, it states that boundary planting means that this impact would lessen to 'not significant' after planting matures at year 15 of the planting schedule.
- 9.24. Views of the proposed development would also be gained elsewhere, including from the main road into Mixbury from the south, Public Footpath 303/10/20 to the east of the site, Public Footpath 303/13/10 to the south east of the site and the street to Juniper Hill to the west of the site
- 9.25. It is acknowledged that the LVIA sets out a mitigation measures to better assimilate the development into the landscape. However, and particularly given the size and scale of the polytunnels collectively, the proposed development would still remain clearly visible from key viewpoints along the adjacent footpath, whilst there would also be good visibility from further afield, which could not be offset by on-site or boundary planting.

## Conclusion

- 9.26. The addition of these sizeable new structures and associated infrastructure would undoubtedly have a harmful impact upon the rural character and appearance of the landscape. From the above, it is considered that the proposal would cause moderate harm to the landscape character of the area. In addition, whilst it is accepted views of the site would be localised, it is considered that there would be significant harm to the immediate locality and harm to the enjoyment of users of the nearby Public Rights of Way.
- 9.27. The proposal is therefore considered to be contrary to Policies ESD13 and ESD15 of the CLP 2015 and saved Policies AG2, C8 and C28 of the CLP 1996 and related paragraphs of the NPPF.

#### Heritage Impact

Legislative and policy context

- 9.28. The site affects the setting of a Grade II listed buildings (Middle Farmhouse, Barn and Abutting Stables Building), with the access to the site passing the barn and stables buildings from Featherbed Lane. The Mixbury Conservation Area is located approximately 820m to the north.
- 9.29. 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.
- 9.30. 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.
- 9.31. Paragraph 189 of the NPPF states that: "In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance."
- 9.32. 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 2015 echoes this guidance.
- 9.33. Paragraph 196 of the NPPF states that: "Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use."
- 9.34. Policy ESD15 of the CLP 2015 states that new development proposals should: "Conserve, sustain and enhance designated 'heritage assets' (as defined in the NPPF) including buildings, features, archaeology, conservation areas and their settings, and ensure new development is sensitively sited and integrated in accordance with advice in the NPPF and NPPG."
- 9.35. On the matter of setting, the PPG states: "A thorough assessment of the impact on setting needs to take into account, and be proportionate to, the significance of the heritage asset under consideration and the degree to which proposed changes enhance or detract from that significance and the ability to appreciate it...Setting is the surroundings in which an asset is experienced, and may therefore be more extensive than its curtilage. All heritage assets have a setting, irrespective of the form in which they survive and whether they are designated or not."
- 9.36. The PPG goes on to state that: "The extent and importance of setting is often expressed by reference to visual considerations. Although views of or from an asset will play an important part, the way in which we experience an asset in its setting is also influenced by other environmental factors such as noise, dust and vibration from other land uses in the vicinity, and by our understanding of the historic relationship between places."

- 9.37. Mixbury Conservation Area is the closest conservation area to the site and is approximately 650 metres to the north. The settlement of Mixbury was constructed as a planned model village and it has retained this essential character. The village street remains remarkably homogenous with the essential form of the buildings retained and a strong degree of uniformity in the form of the details. The central core of the existing settlement is entirely residential, with the historic church located to the east. The model village aspect of Mixbury is of historical and architectural interest and makes a considerable contribution to the significance of the Mixbury Conservation Area.
- 9.38. Mixbury Conservation Area is set in a slight dip in the landscape and views of the proposed development would most likely only be visible from the southern exit from the village. Whilst the footpaths adjacent the development site gain views of this conservation area, these are not outlined as being positive or important views within the MCAA and one does not gain an appreciation of the model village character of Mixbury from these footpaths given the distance and intervening vegetation. Officers therefore do not consider that these views from the footpaths adjacent the site make a great contribution to the significance of the village conservation area.
- 9.39. Given the overall scale of the built development on the site and the distance between the site and the Mixbury Conservation Area, it is considered that the proposed development would not over-dominate Mixbury Conservation Area or materially alter the way this conservation area is experienced. It is therefore considered that the built element of this proposed development would not cause harm to the significance of the Mixbury Conservation Area or its setting.
- 9.40. The site is within close proximity to the Middle Farm complex which accommodates three Grade II listed buildings. The access to the unit would run adjacent to these listed buildings and the unit itself would be approximately 90 metres away from the nearest listed building within this complex. The classical farmhouse and extensive barn and stable ranges are thought to be late 18th Century in date and are of limestone and slate roofed. These are all of historical and architectural interest and are situated to the south of the farmyard complex. Four modern agricultural buildings are located to the north of this same complex. The farmyard is surrounded by open countryside which makes a pleasant rural setting for the complex and gives one a greater understanding of the farm complex, therefore contributing to the significance of the listed buildings at Middle Farm.
- 9.41. Given the overall scale of the built development, which would be relatively large in comparison to other farm developments in the locality and would be larger in area than the existing farmyard at Middle Farm, and given its relatively close proximity to these listed buildings within Middle Farm, it is considered that the proposed development would erode the rural setting of these listed buildings, and this would be noticeable from the nearby footpaths the west. The listed buildings and proposed polytunnels would also be clearly visible in the same vista from the footpath to the west and given their scale which would over-dominate the listed buildings, would cause harm to their significance through change to their settings. This harm is considered to be less than substantial harm.
- 9.42. The site is in an area of high archaeological interest. The County Council Archaeologist has raised no objection to this proposal, but requests that conditions be attached for a Written Scheme of Investigation to be completed. Officers see no reason to disagree with this and such conditions can be imposed on any planning permission given.

## Conclusion

9.43. It is considered that the proposal would cause *less than substantial* harm to the three listed buildings within the Middle Farm complex as it would erode its pleasant rural setting by virtue of the scale of the proposed intensive agricultural development and its relatively close proximity to these listed buildings. This harm will need to be weighed in the planning balance. In this regard, public benefits will need to outweigh this identified harm as outlined in paragraph 196 of the NPPF for the development to be acceptable.

## Residential amenity

- 9.44. 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 2015, 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'.
- 9.45. The dwelling most affected by this proposal would be *Middle Farm Bungalow* to the east. This dwelling is located approximately 70m away. Officers consider that this distance involved means the proposal would not cause any significant harm to this neighbour through over-domination or loss of light. It is acknowledged that it would likely block a pleasant view over the vast landscape; however, occupiers do not have a right to a view in planning terms i.e. this is not a material consideration for the decision maker.
- 9.46. The proposal is therefore acceptable on these grounds, compliant with local and national policy.

## **Ecology Impact**

## Legislative context

- 9.47. 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.
- 9.48. 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.
- 9.49. 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.

- 9.50. 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.
- 9.51. 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, pipelines, transport and works, and environmental controls (including discharge consents under water pollution legislation).

## Policy Context

- 9.52. 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.
- 9.53. Paragraph 175 states that when determining planning applications, local planning authorities (LPAs) should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.
- 9.54. 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.
- 9.55. Policy ESD10 of the CLP 2015 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.

- 9.56. Policy ESD11 is concerned with Conservation Target Areas (CTAs), and requires all development proposals within or adjacent CTAs to be accompanied by a biodiversity survey and a report identifying constraints and opportunities for biodiversity enhancement.
- 9.57. These polices are both supported by national policy in the NPPF and also, under Regulation 43 of Conservation of Habitats & Species Regulations 2017, it is a criminal offence to damage or destroy a breeding site or resting place, unless a licence is in place.
- 9.58. The Planning Practice Guidance dated 2014 post-dates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that LPAs should only require ecological surveys where clearly justified, for example if there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.

#### Assessment

- 9.59. The Council's Ecology Officer (CE) has commented that although the polytunnels cover a relatively large area it is within the middle of an arable field and well away from the hedgerows and any field edges, there are no particular protected species issues.
- 9.60. The CE adds that here may be some loss of habitat to farmland birds not least from increased disturbance, so there should be an enhancement for biodiversity on or adjacent to the site in order to achieve an overall net gain for biodiversity as per policy additional planting may be appropriate or a larger wildlife friendly field margin to the hedgerows. The CE therefore recommends that a biodiversity enhancement scheme should be conditioned.
- 9.61. Officers see no reason to disagree with this assessment and recommend that this condition is attached to any consent given. Subject to said condition, the proposal accords with Policy ESD10 of the CLP 2015.

## Highway safety

- 9.62. Policy ESD15 of the CLP 2015 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.
- 9.63. The local highway authority raises no objections to the proposed development, advising that it is unlikely to have any notable impact on the local highway network as it would be a small intensification. Officers see no reason to disagree with this view. The proposal is therefore considered acceptable in this regard.

## 10. PLANNING BALANCE AND CONCLUSION

10.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined against the provisions of the development plan unless material considerations indicate otherwise. The NPPF supports this position and adds that proposals that accord with an up-to-date development plan should be approved and those which do not should normally be refused unless outweighed by other material considerations.

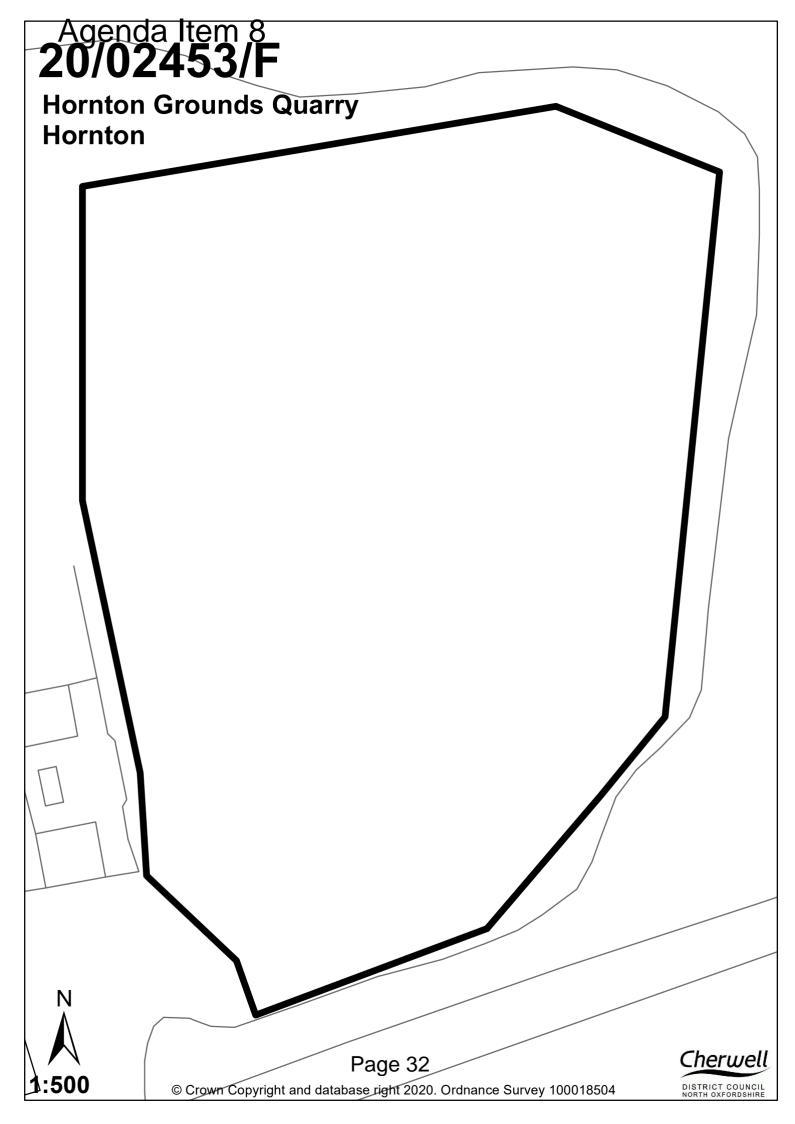
- 10.2. The addition of this sizeable new building complex would undoubtedly have a harmful impact upon the rural character and appearance of the landscape. Officers consider that the proposal would cause moderate harm to the landscape character of the area. In addition, whilst it is accepted views of the site will be relatively localised, Officers consider that there would be significant harm to the immediate locality and harm to the enjoyment of users of the nearby Public Rights of Way. Furthermore, it is considered that there would be some additional harm upon the tranquillity of the area. The proposal is therefore considered to be contrary to Policies ESD13 and ESD15 of the CLP 2015 and saved Policies AG2, C8 and C28 of the CLP 1996.
- 10.3. In addition, it is considered that the proposal would cause harm to the significance of three listed buildings within the Middle Farm complex as it would somewhat erode its pleasant rural setting by virtue of the scale of the proposed intensive agricultural development and its relatively close proximity to these listed buildings. The proposal therefore conflicts with Policy ESD15 of the CLP 2015. The applicant has failed to submit sufficient information to demonstrate that there are public benefits which would outweigh this identified harm caused. Therefore, the proposal is hereby recommended for refusal, for the reasons set out below.

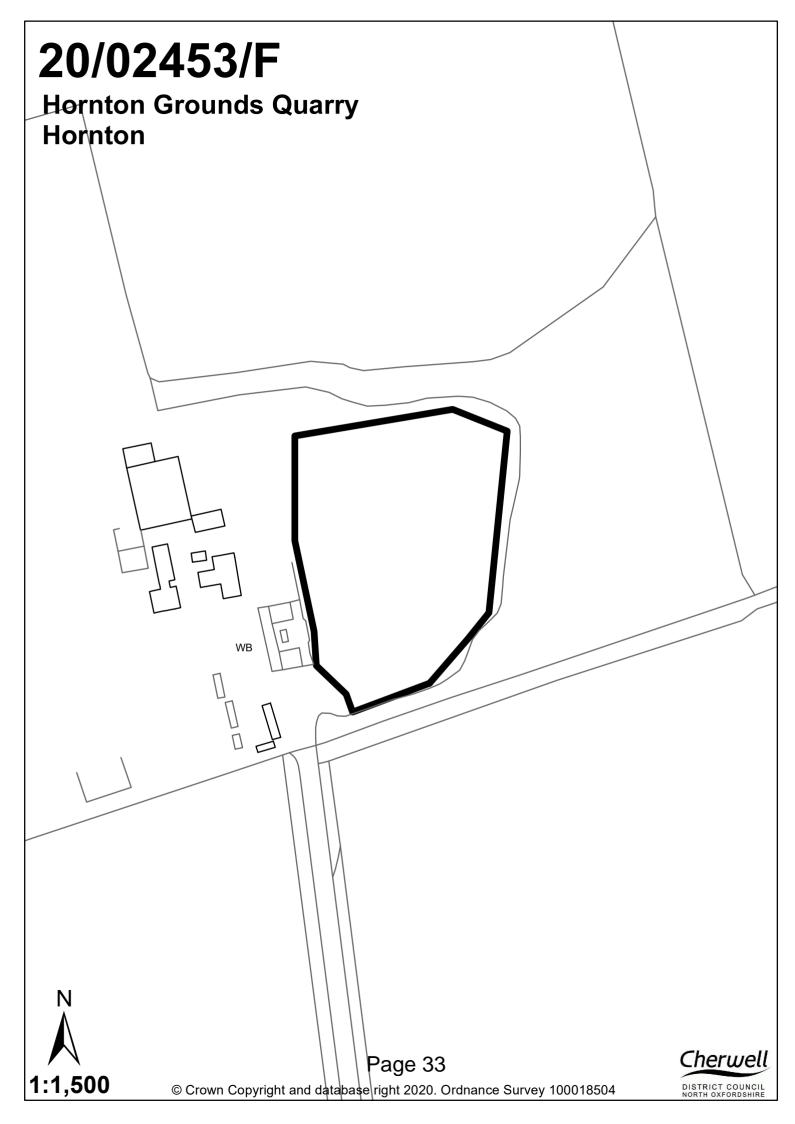
#### 11. RECOMMENDATION

## RECOMMENDATION - REFUSAL FOR THE REASONS SET OUT BELOW

- By virtue of its scale and siting, the proposal 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 to the tranquillity of the area, and this harm significantly and demonstrably outweighs the need for the proposal and the benefits arising from the proposal. Diversification of the farm has already taken place and it has not been satisfactorily demonstrated that this scale of further diversification is needed in order to keep the farm business viable. 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.
- By virtue of its scale and siting, the proposal would result in harm to the setting of the listed buildings at Middle Farm. This harm which would be 'less than substantial' is not outweighed by public benefits arising from the proposal. The proposal is therefore contrary to Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and government guidance in the National Planning Policy Framework, including paragraph 196.

CASE OFFICER: George Smith TEL: 01295 221899





# **Hornton Grounds Quarry Hornton**

Case Officer: Bob Neville

**Applicant:** Certas Energy Limited and FINSCO Property Company

**Proposal:** A fuel depot including ancillary offices, the installation of plant and

hardstanding

Ward: Cropredy, Sibfords And Wroxton

Councillors: Cllr Phil Chapman, Cllr George Reynolds, Cllr Douglas Webb

**Reason for** In light of significant public interest

Referral:

**Expiry Date:** 03 November 2020 **Extension of Time:** 15 December 2020

Committee Date: 10 December 2020

# **EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION**

# **RECOMMENDATION: REFUSE PERMISSION**

# **Proposal**

The application seeks planning permission for the development of a fuel oil storage and distribution depot with ancillary offices, with associated installation of plant, hardstanding security fencing, lighting and landscaping.

#### **Consultations**

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

 Drayton Parish Council, Horton Parish Council, Wroxton and Balscote Parish Council, Campaign to Protect Rural England, Cotswolds Conservation Board, Landscape Officer (CDC), Lead Local Flood Authority (OCC), Local Highway Authority (OCC).

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

 Archaeology (OCC), Building Control (CDC), Ecology (CDC), Environment Agency, Environmental Protection (CDC), Stratford-on-Avon DC, Warwickshire County Council Highways.

The following consultees are **in support** of the application:

Banbury Town Council

131 letters of objection have been received, 1 letter of comment and 1 letter of support have been received.

# **Planning Policy and Constraints**

In terms of site constraints, the site is part of a former quarry sitting in open countryside with the surrounding land classified by Natural England as Grade 1(excellent) agricultural land. The site is within an area where the geology is known to contain naturally occurring elevated levels of Arsenic Chromium and Nickel; as is seen in many areas across the district; and also an area affected by Radon Gas.

Hornton Grounds Farmhouse lies some 330m south-east of the site and is a grade II listed

building.

The Sor Brook rivers flows approximately 3.35km east of the site and a tributary from the brook is located approximately 0.75km to the south.

A Public Right of Way (PRoW) ref. Bridleway 255/5/10 (part of the D'Arcy Dalton route) runs across land south/south-east of the site. A further PRoW ref. Footpath 255/6/10 crosses land north of the site.

The boundary of the Cotswolds Area of Outstanding Natural Beauty lies approximately 250m west of the site (at its nearest point). 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; including landscape impact
- Heritage Impact
- Highway safety
- Residential amenity
- Ecology and Biodiversity
- Drainage and Flood-risk

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

- 1. The proposals represent inappropriate and unjustified development within the rural countryside.
- 2. Adverse visual impact.
- 3. Adverse impacts on highway safety.
- 4. Adverse harm arising from the significant increase in HGV movements on the amenity of residential areas and villages.
- 5. It has not been satisfactorily demonstrated that a sustainable drainage strategy could be achieve, such that proposals would not have an adverse impact on water quality.

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 part of a former quarry site, located on flat ground some 1km (0.6 miles) west of the village of Hornton, within countryside and on the edge of the District. Adjacent to the west of the site is an existing stone processing and cutting yard. The stone processing yard is accessed from the A422 (Stratford Road) by an existing haulage road. Bunding and landscaping (that has previously been developed at the site in connection with previous consents) exists to the north and

- east of the boundaries of the site. A mature hedgerow and farm access track lies along the southern boundary of the site.
- 1.2. At the time of the application the site appears to have previously been cleared with limited vegetation within the site, potentially in preparation for future development of the site for a conservation stone yard area for the processing of stone under Class B2 (approved under consents 14/01286/CM and16/01155/CM as detailed below). Land adjacent to the east of the site benefits from an extant planning permission for 3no agricultural buildings (17/01109/F).

#### 2. CONSTRAINTS

- 2.1. The site is part of a former quarry; the surrounding land is classified by Natural England as Grade 1 (excellent) agricultural land. The site is within an area where the geology is known to contain naturally occurring elevated levels of Arsenic Chromium and Nickel; as is seen in many areas across the district; and also an area affected by Radon Gas.
- 2.2. Hornton Grounds Farmhouse, a grade II listed building, lies some 330m south-east of the site.
- 2.3. The boundary of the Cotswolds Area of Outstanding Natural Beauty lies approximately 250m west of the site (at its nearest point).
- 2.4. A Public Right of Way (PRoW) ref. Bridleway 255/5/10 (part of the D'Arcy Dalton route) runs across land south/south-east of the site. A further PRoW ref. Footpath 255/6/10 crosses land north of the site.
- 2.5. The Sor Brook rivers flows approximately 3.35km east of the site and a tributary from the brook is located approximately 0.75km to the south.

## 3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The application seeks planning permission for the development of a fuel oil storage and distribution depot with ancillary offices, the installation of plant and hardstanding. The proposals include six double skinned horizontal steel fuel storage tanks with loading gantry (5.2m high inc. access/loading gantry). The tanks would each have a capacity of 125,000 litres. Fuel stored would be diesel (diesel oil for road vehicles and gas oil) and kerosene and would be housed within a purpose-built concrete bund. There would also be two smaller, ancillary above-ground tanks; 1no. 'Glowmax' (kerosene additive) tank of 6,000 litres and 1no Company own Consumption (CoC) tank to refuel tankers with DERV which will have a capacity of 2,500 litres.
- 3.2. The proposals include ancillary office building (measuring 33m x 7.2m x 3.2m) and boundary enclosures (2.4m high) with 10no 5m high security lighting columns. The proposal would include both operational parking for 15no tankers and 19no staff/visitor parking spaces. The applicant indicates that the site would be accessed via the existing access road off the Stratford Road, albeit that the site (as defined by the red line) does not extend to the highway (see below).
- 3.3. Some limited landscaping is also proposed to the south of the site, including reinforcement of the existing hedgerow south of the site.
- 3.4. In terms of site operations, the supporting Transport Statement (TS) sets out that: 'A total of 17 staff members will be employed as part of the site operations. Fourteen drivers will work one shift per day from Monday to Friday over a 24-hour period with seven drivers employed on a Saturday from 06:00 to 18:00'.
- 3.5. Further, 'It is estimated that up to 158 fuel tanker trips will be generated per week; this equates to an average of only 29 trips per day based on a week of five and a half days. This includes the smaller depot tankers delivering fuel to locations within a

- 50-mile radius of Banbury from Monday to Saturday, as well as the larger articulated tanker trucks bringing fuel to the depot from Monday to Sunday'.
- 3.6. During the application officers highlighted to the applicant's agent that the site did not include all land necessary for the proposed development i.e. access up to the adopted highway and all land necessary for appropriate vision splays to be demonstrated and maintained going forward. The proposals are for a fuel distribution facility and as such access is a fundamental component of the proposals. This error in the application would make the application technically invalid. It would be noted by a Planning Inspector at appeal and an appeal would be dismissed on this basis even if the proposal was acceptable in all other respects.
- 3.7. Further, officers noted to the applicant's agent that these changes to the red line site area would require a different certificate of ownership (Certificate B) to be completed; i.e. notice would need to be served on all relevant parties having an interest in respect of additional land that needs to be incorporated in to the application's site boundary (including access up to the adopted highway).
- 3.8. An extension of time was agreed with the applicant's agent to allow them opportunity to respond to a number of concerns and issues that have been raised during the application. Despite the agent's indicating that the issues raised would be addressed, regrettably no further/revised information had been submitted and no substantive response to the issues raised by officers had been received at the time of the preparation of this recommendation.
- 3.9. On Monday 30<sup>th</sup> November the applicant's agent submitted some additional information, comprising a covering letter, a revised Flood Risk Assessment, a statement considering alternative sites and changes to the proposed use, with accompanying amended Transport Statement, Route Management Plan and site plans. This has been submitted too late to be considered in the context of the current application; there is insufficient time before the revised target date to consult on this amended set of information and it is reasonable for all parties to expect a decision to be made in a timely manner. Further, it is the Council's protocol not to negotiate during the application process, particularly this late in the process, when there are significant or fundamental issues with a proposal.
- 3.10. As such the proposals have been assessed and recommendation made on the basis of the details submitted with the application; and the issue of the application's site boundary remains unresolved at this time. Officers have encouraged the applicant's agent to withdraw the application but this invitation has not been taken up.

## 4. RELEVANT PLANNING HISTORY

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

**Application: 00/01017/F** Permitted 11 August 2000

Erection of gable extension to existing building to house stone cutting saw

**Application: 11/00571/F** Permitted 15 July 2011

Erection of agricultural buildings comprising of grain store, general purpose building and livestock building with associated hardstanding, landscaping and gravel access track

**Application: 12/00798/F** Permitted 24 July 2012

Retention of roadway to serve agricultural buildings permitted by Planning

Permission 11/00571/F

Application: 14/01284/CM No Objections 3 September 2014

Retention of existing structures and buildings as Class B2 of the Town and Country

Planning (Use Classes) Order 1987 (OCC Ref MW.0088/14)

**Application: 14/01286/CM**No Objections 3 September 2014

Outline Planning Permission for the conservation stone yard area for the processing of stone as class B2 of the Town and Country Planning (Use Classes) Order 1987

(OCC Ref MW.0090/14)

**Application: 16/00752/F** Permitted 4 November 2016

Erection of new agricultural buildings

**Application: 17/01109/F** Permitted 17 October 2017

Variation of condition 2 of 16/00752/F - To allow for the relocation of the approved

agricultural buildings within the established red line boundary.

**Application: 16/01155/CM**No Objections 8 July 2016

Outline planning permission for the conservation stone yard area for the processing of

stone as Class B2 of the Town and Country Planning (Use Classes) Order 1987

**Application: 17/02553/CM**No Objections 12 January 2018

Reserved matters pursuant to condition 2 of planning permission 14/01286/CM which

granted permission for B2 use - OCC ref:- MW.0106/17

Application: 17/02552/CMNo Objections12 January 2018

Reserved matters pursuant to Condition 2 of planning permission 16/01155/CM –

OCC ref: - MW.0105/17

**Application: 17/02552/CM** Permitted 12 January 2018

Erection of an internal boundary wall (Part retrospective)

## 5. PRE-APPLICATION DISCUSSIONS

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

**19/02746/PREAPP** - Due to a lack of information submitted at the pre-application stage officers did not offer a definitive opinion as to whether a future planning application could be supported for the proposals as detailed within the enquiry. However, significant concerns were raised in respect of the site's environmentally unsustainable location, as well as the potential transport issues and detrimental impacts on the valued rural landscape discussed above. It was highlighted that there would appear to be significant conflict with both the policies of the development plan and national policy guidance, and it was advised that unless it can be demonstrated that any such harm would not be significant or that it would be outweighed by potential benefits of the proposals, it was unlikely that a future planning application could be supported. Response issued 15/01/2020.

## 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 (amend as appropriate). The final date for comments was 23 November 2020; although comments received after this date and before finalising this report have also been taken into account.
- 6.2. 131no letters of objection, 1no letter of comment and 1no letter of support have been received during the application. The comments raised by third parties are summarised as follows:

# Support:

- The site is a brownfield site and committed employment land. The
  development would provide new investment and jobs and would enable the
  current brownfield site that is occupied by Certas that is in a highly
  sustainable location in the centre of Banbury to be developed for high
  density housing- thereby reducing the requirement for greenfield land.
- The company provides a useful service to the surrounding community in the supply of heating fuel.
- The operation would be highly regulated by the planning and environmental processes to ensure that is safe.

#### Comment:

 The conclusions of the submitted Transport Statement that the proposals would have a "negligible impact on the local highway network and villages surrounding them" are disputable; given that the A422 road goes directly through two villages (Wroxton and Drayton) and includes something close to a 90 degree bend in Wroxton village where the road also narrows considerably.

## Objection:

- Inappropriate location for a fuel storage depot in 24/7 operation, that would not be consistent with the tranquil rural character and appearance of the area and would be to the detriment of the area.
- The countryside needs to be protected. The application is contrary to Cherwell District Council July 2020 review of the Local Plan to 2040, which stressed the importance of protecting 'valued landscapes' and 'areas of tranquillity'.
- Detrimental impacts on the amenities of neighbouring properties including Grade II listed Hornton Grounds Farmhouse, and properties within the villages along the Stratford Road (A422).
- It doesn't appear that any other alternative sites for this installation have been considered. Proposals should be located in a more sustainable location with better links to the wider road network.
- Any potential benefits of the proposals (i.e. relocation of the existing business from Banbury Town Centre) would not outweigh the significant environmental harm that would be caused by the proposals.
- Similar proposals were refused at a nearby site at Shenington Business Park; these proposals raise the same considerations.
- To consider this is a 'brownfield' site and, therefore, that it is suitable for this
  kind of industrial operation is simply ignoring the site's actual history and
  Planning conditions. After the quarrying and stone extraction on this site
  ended, there were conditions to return the area to agriculture. The field to the
  west of the adjacent existing stone cutting yard was farmed and then

became a series of spoil heaps before planning permission was sought and granted for agricultural buildings. There was then an application to vary this to light industry, which was granted. Now we are faced with this application which is most certainly not light industry.

- There would be a significant increase in traffic and intensity with regard to the use of the access road at its junction with the A422 and in view of the lack of adequate sightlines would be to the detriment of highway safety.
- The site is not on a designated HGV route and has poor links to the M40 motorway; with HGV vehicles having to travel through residential areas of surrounding villages and Banbury to reach the M40.
- No details of supply tankers included within the application.
- The site is not served by public transport and there are no footpath links. The
  proposed scheme does not demonstrate that the location of the development
  would minimise demand for travel, offer genuinely sustainable travel choices,
  improve road safety and support the objectives of both local and national
  policy.
- The A422 is already a hazardous route with history of accidents, and the risk
  of accident would be increased as a result of additional HGV movements to
  and from the site.
- Increased HGV traffic would only exacerbate heavy volumes currently experienced within villages along the A422; having significant implications for Wroxton, Drayton and Sun Rising Hill; in terms of pedestrian safety, vehicle movements and potential for damage to be caused to properties through vibrations from passing HGVs.
- Increased traffic would severely impact on the resident's quality of life in the villages along the route used by the HGVs.
- Route up Edgehill and Sun Rising Hill not appropriate for large HGV tanker movements.
- Existing permissions at the site limits HGV movements to just 10 lorries per day entering the shared access.
- Existing speed limits within the villages not observed.
- The condition of the road is poor now with signs of subsidence this extra load
  of large vehicles daily would exacerbate this.
- Increased lorry activity would have a detrimental effect on ramblers quiet enjoyment of that picturesque D'Arcy Dalton Way public right of way through the countryside.
- Noise pollution arising from 24 hour operation of the site.
- Air pollution; through increased vehicle emissions and smell of fuel emanating from the site.
- Potential dangers and negative impacts regarding storage of flammable fuels; including: risk of fire/explosion; leakage and surface water run-off into environment and/or water potentially resulting in ground pollution and pollution of natural springs and general water quality.
- Increased flood risk through surface water flooding.
- Negative impacts on the Cotswold AONB and surrounding valued countryside, through noise and light pollution affecting the dark skies currently experienced.

- Potential negative impact on ecology and biodiversity; including impacts on the Ornithological Society wildlife reserve created at the former Balscote Quarry site.
- Detrimental impact on the established businesses within the vicinity of the site; including the farming of adjacent land, farm shop and B&B; and, in turn, tourism in the local area, including visitors to Upton House and gardens.
- Proposed use as a petroleum fuel depot for 20 years, seems to be completely at odds with the UK government's strategic goal to achieve net zero emissions by 2050, and also CDCs ambitions to be carbon neutral by 2030.
- Proposals would set a precedent for potential further expansion of the site and similar developments within the rural countryside.
- Property devaluation [not a material consideration]
- Application has a number of inaccuracies; including: the site should properly
  include the means of access to the public highway i.e. all land to the A422
  junction access; if the site includes the access road then the certificate of
  ownership is incorrect; as notice would need to be served on others with
  access rights (i.e. Hornton Grounds). Minor drafting errors on submitted
  drawings also noted.
- 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.

## WARD MEMBER

7.2. <u>Cllr Reynolds:</u> 'I am becoming concerned about the build-up of traffic on the A422 from the numerous commercial activities along the A422. Clearly the road is capable of taking the traffic but there is the effect on the villages of Wroxton and Drayton.

The possibility of fuel spill is my real concern as previous spillage some years ago polluted several water courses and even came up in the village of Balscote some distance away. So, if the development is approved there must be a fool proof system of containing it and not letting it get into the water system which has been changed by the digging out of the ironstone'.

# PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

- 7.3. BANBURY TOWN COUNCIL: **Supports.** Comments: "It is recognised that CDC as planning authority will determine this application after a careful assessment of this proposal against national and local planning policy, an assessment of the proposal's impact upon traffic safety, and impact upon landscape character and appearance, and upon residential amenity, and taking into account any special circumstances that may be appropriate.
- 7.4. Banbury Town Council consider that a significant special circumstance that needs to be considered as part of the balancing exercise is the strong need to find an acceptable alternative site for this business that is currently located in the Canalside development area allocated in the Cherwell Local Plan (Policy BAN 1). Whilst that is a policy proposing a mixed use development, the fuel depot is a non-conforming development that due to its size, nature and traffic generation is incompatible with new residential development and needs to be relocated. Failure to find an alternative site will either force the closure of the business or the frustration of the

Council's intended redevelopment policy (which is a fundamental part of the supply of land for housing). It is noted that CDC's Economic Development Officer stresses both the importance of maintaining the future fuel supply to rural areas and the difficulty of finding acceptable alternative sites. Banbury TC share this view and therefore urge the approval of this proposal".

- 7.5. DRAYTON PARISH COUNCIL: **Objects.** Proposals will have a significant impact on the village, in particular the residents on the main Stratford Road and for this reason object to this application on the grounds of increased heavy vehicle traffic.
- 7.6. Raise a number of further points for consideration:
  - The Transport Statement deficient in that it does not assess potential supply tanker movements.
  - Proposed vehicle movements would go through the Conservation Areas of Wroxton and Drayton, both attractive villages that have very sharp bends and properties adjacent to the road. Proposals would result in additional pollution both in noise and air quality; and further the increased numbers of heavy vehicles will cause serious damage to the old properties adjacent to the road; both Drayton and Wroxton are having many historic properties with little or no foundations leaving them susceptible to vibrations caused by heavy vehicles. Similar comments can be made for Ettington and Pillerton Priors in Warwickshire.
  - The consequences of an accident and spillage within the village areas are catastrophic. No reference within the application with regards to proposed measures to be put in place if there is an oil spillage from the tanks or a tanker at the site; and potential for oil escaping into the ground contaminating the ground water.
  - In appropriate location for the proposals with unsuitable access to motorway network.
  - Drayton should be formally consulted on the proposals.
- 7.7. HORLEY PARISH COUNCIL: No comments to make
- 7.8. HORNTON PARISH COUNCIL: Objects. Raises concerns in respect of:
  - The principle of development is contrary to the policies of the Development Plan and would be an alien intrusion, completely out of character with the surrounding countryside and set an alarming precedent.
  - Highways and transport impacts.
    - The site has no easy access to the Oxfordshire Lorry Route Network and that existing permissions on the site are restricted in their number of HGV movements.
    - This road has records of accidents. Slow moving fuel tankers operating night and day would potentially exacerbate the risk of accidents
    - The site is not served by public transport and would not be safe for walking and cycling to the site.
    - Public Safety and the risk to users of the D'Arcy Dalton Way.
  - Detrimental impacts on the amenity of nearby residential properties and B&B business.
  - Environmental impacts. A nearby site has previously been considered unacceptable for a new waste site; overlying a principal aquifer and not being located on Oxfordshire Lorry Route (A361) and lies over 5km from Banbury; and the same issues would apply to current proposals.

- 7.9. RATLEY & UPTON PARISH COUNCIL: Makes the following comments on the potential for light pollution and an appropriate lighting strategy to be in place. Further comments that the projected additional vehicle movements would not be significant, for their parish given the relatively small numbers cited and the nature of the road.
- 7.10. WROXTON & BALSCOTE PARISH COUNCIL: **Objects.** Raises concerns in respect of:
  - Vehicle movements being routed through Wroxton; with the village already subject to alarming levels of heavy vehicle traffic, particularly during the early morning from about 5 a.m. onwards. The proposed vehicle movements throughout 24 hours will add to this.
  - Existing traffic not adhering to the speed limit through the village.
  - Concerns in relation to safety, noise and air pollution as well as on the environment and wildlife generally.
  - Further safety concerns about quantities of inflammable material being transported through the village.
  - Notes the safety record of the existing road and serious accidents on the A422

The PC urges CDC to consider with particular care the environmental risks of leakage and/or fire and ground contamination at a site in a rural location distant from the nearest fire station.

The PC further does not accept that the application is likely to add to the local economy and is for a non-sustainable commodity.

# OTHER CONSULTEE RESPONSES

- 7.11. ARCHAEOLOGY: No objections.
- 7.12. BUILDING CONTROL: **No objections.** Proposals will require separate building regulations approval.
- 7.13. CAMPAIGN TO PROTECT RURAL ENGLAND (CPRE): **Objects.** Commenting: The proposals are unsuitable for a rural and very scenic area with access only to a busy and dangerous road snaking through the villages of Wroxton and Drayton before entering western Banbury.

The proposals only benefit the promoters/applicants and would be to the detriment of the roads, the wildlife, the polluted environment - and above all the hundreds of people living along the route who would be subjected to almost incessant noise, disruptive light and the eternal hazards that a fuel depot always carries. Some people, such as the owners of a neighbouring B&B, would lose their livelihoods. The depot should clearly remain where it is or else be re-sited somewhere near the M40.

Further comments that the proposals would contradict the good intentions of CDC as recently stated in its review of the Local Plan up to 2040; in looking to protect 'valued landscapes' and 'areas of tranquillity' as well as the need to identify areas 'where development would be inappropriate'. The suggestion that the Council 'might protect those areas which are relatively undisturbed by noise and are valued for their recreational and amenity value' was welcomed by CPRE. Of only two such places specified by the review, one is the Ironstone Downs, in which the Hornton Quarry sits at the centre. "It would thus make a mockery of the Council's plans if this noisy, destructive and wholly unnecessary application were to be approved".

7.14. COTSWOLDS CONSERVATION BOARD (CCB): **Objects.** The CCB considers that the applicant's submitted Landscape and Visual Impact Assessment (LVIA), does not adequately assess the potential impacts on the Cotswolds National Landscape (formerly Cotswolds Areas of Outstanding Natural Beauty); and considers that potential visual effects for receptors within the National Landscape (and on its boundary) should be more thoroughly assessed. This should include an assessment

of night-time visual effects, as outlined below in relation to the dark skies of the National Landscape.

The relative tranquillity of the Cotswolds National Landscape is one of the area's 'special qualities'. A key consideration, in this regard, is the potential increase in traffic movements on roads in the National Landscape and along its boundary, including, in this instance, the A422 to the north of the proposed development. The Board's Tranquillity Statement (Section 4.5) indicates that, as a rule of thumb, an increase in traffic movements and/or HGV movements of 10% or more should be considered to be significant.

Whilst the applicant has indicated the number of traffic movements to and from Hornton Grounds Quarry, they have not addressed the associated % increase in traffic/HGV movements on the A422. As such, it is not clear if the development would be compatible with the Board's Tranquillity Position Statement or with Policy CE4 (Tranquillity) of the Cotswolds AONB Management Plan.

Another 'special quality' of the Cotswolds National Landscape is its extensive dark sky areas. These dark sky areas can be adversely affected by new and/or increased levels of light pollution, including where the source of this light pollution is in the setting of the National Landscape. Appendix A of the Board's Dark Skies & Artificial Light Position Statement shows that the area of the proposed development has (or, at least, should have) relatively low levels of light pollution.

The Board is concerned that the lighting associated with the proposed development could potentially increase levels of light pollution in the locality and adversely affect the dark skies of the National Landscape. For example, the proposed lighting could potentially be more visible from locations within the National Landscape than the existing on-site lighting and/or outside of the operating hours of the current on-site lighting. This would not be compatible with the Board's Dark Skies and Artificial Light Position Statement or with Policy CE5 (Dark Skies) of the Cotswolds AONB Management Plan.

7.15. ECOLOGY: **No objections subject to conditions**. Comments: There are few ecological issues due to the current level of disturbance and historical use of the land. The proposal is to retain the areas of greatest value (hedgerows and waterbody to the North and South boundaries) and recommendations are made to ensure they are protected during construction. Proposals include some enhancements for biodiversity on site by including small areas of scrub and a hibernaculum. These should benefit wildlife long term if managed appropriately although continuing the hedgerows so they connect with others would also be valuable.

Conditions required to secure compliance with Section 5 of the Preliminary Ecological Appraisal; Compliance with Section 4 of the Lighting Impact Assessment and that a biodiversity enhancement scheme is submitted for approval.

7.16. ECONOMIC DEVELOPMENT: Comments: This proposal to relocate an established business and service provider would enable the existing jobs and important supply of oil for heating and transportation to be provided from a local hub away from a centre of population. Therefore, to achieve the Council's aims of job creation/safeguarding and enabling business/community services, the proposed development would be beneficial - but only if appropriate environmental and operational safeguards are established and adhered to.

Whilst initially commenting that the availability of alternative sites has been investigated, subsequently advises that it would be helpful to see a detailed, independent and transparent sequential site assessment of all potential alternative sites. This would include: previously developed industrial sites/estates; sites beyond the boundary of Cherwell; sites included in Cherwell's Local Plan; and any other site that is not in the Local Plan but could potentially provide a more appropriate

- solution. Further that the relationship of the sites to a 'heat map' of journeys might usefully be overlaid to help the consideration and minimisation of traffic impact.
- 7.17. ENVIRONMENTAL PROTECTION: **No objections subject to conditions.** Having assessed the submitted Noise Impact Assessment and Air Quality Report has no further comment to make on these matters. Conditions required in respect of the proposals being carried out in accordance with the submitted lighting impact assessment and Electrical Vehicle charging infrastructure to be put in place.
- 7.18. ENVIRONMENT AGENCY (EA): **No objection.** The EA makes no comment in relation to contaminated land and flood risk; deferring to the Lead Local Flood Authority on matters surface water flooding. Notes that the submitted Geo Environmental Site Investigation confirms there are no specific historic contamination issues with the site.

The EA notes that the storage of fuel is proposed to be above ground within double skinned tanks with containment, therefore the risk of pollution to the environment is low, providing the development proceeds in accordance with the submitted plans. Provides advice to applicant in respect of the foul drainage method proposed detailed within the application requiring an environmental permit under the Environmental Permitting (England & Wales) Regulations 2016, from the Environment Agency, unless an exemption applies; and advises the applicant to contact them direct in relation to this matter.

7.19. LANDSCAPE SERVICES: **Objects.** The Landscape Officer (LO) advises that there is a lack of appropriate information within the application to allow for a detailed assessment of the potential impacts of the proposals, both on the landscape and also the nearby D'Arcy Dalton Public Right of Way.

The landscape sensitivity and capacity are not sufficiently addressed in the body of the LVIA. The application requires a comprehensive and proportionate LVIA implemented by a Chartered Landscape Architect in a practice registered with the Landscape Institute. Important operational impacts and effects remain to be addressed and should be done so in the forthcoming LVIA.

The LO advises that it is not just the impact of the proposed built form of the distribution centre that needs to be properly assessed, but also the impacts of significant vehicle movements to and from the site; with particular concern in respect of the use of distribution lorries and their harm to this landscape. The LO states that the Johnson's quarry stone operation adjacent to the application site, combined with the fuel distribution when both sites are at rest would not present cumulative visual harm within the quarry itself, because (if established) the existing earth bunding with hedgerow will screen. However, once both sites are fully operational the arrival of lorries and other traffic originally associated with Johnsons will increase to a level may provide cumulative visual harm for receptors using approx. 170 m of d'Darcy Dalton Way. The means potentially that the operational magnitude of change is High in this particular area which results in a Substantial significance of effect (not to mention the impact of noise and fumes on d'Arcy Dalton Receptors).

The quarry and its slopes is a sub-character area surrounded by landscape areas with potentially uncharacteristic and harmful development that would require the appropriate level of landscape mitigation the characterises and reinforces the surrounding landscape structure.

Further, appropriate level of landscape mitigation would be required that the characterises and reinforces the surrounding landscape structure. If this application was approved it should be on the basis of increasing the extent of the application boundary to include the perimeters of the earth bunds and associated structural vegetation to ensure planning control of these essential features where a landscape and landscape management conditions would apply.

- 7.20. LOCAL HIGHWAY AUTHORITY (LHA): **Objects.** Considers the key issues to be that:
  - The generated HGV traffic would adversely affect the village of Wroxton, which is contrary to Policy TR10 of the Cherwell Local Plan
  - It has not been demonstrated that the site access junction with the A422 is satisfactory, considering the proposed intensification of use.

Following its initial response the LHA provided further comment highlighting an issue with the site's application boundary. The Location Plan drawing no. 6289-803 Rev. C indicates a red line area around the site, but does not include the access route to the public highway. This was pointed out in the Single Response but mistakenly not raised as a reason for objection. The access road is shown in filled red; however, this also does not connect to the public highway at the southern extent. It has not been demonstrated that a right of access is available along the access road, or indeed between the public highway and the access road (which is shared with Hornton Grounds Farm).

- 7.21. LEAD LOCAL FLOOD AUTHORITY (LLFA): **Objects.** Considers the key issues to be that:
  - Concerns regarding the constant use of loading surface by HGVs. Regular turning manoeuvres could affect the strength of cellular tank proposed.
  - Proposal is not in line with Local and National Standards
  - There's no demonstration of water quality being managed appropriately in accordance with SuDS CIRIA Manual.
  - Suitability of the access road for the proposed development.
- 7.22. STRATFORD-ON-AVON DISTRICT COUNCIL: No objections.
- 7.23. THAMES VALLEY POLICE DESIGN ADVISOR: No comments received.
- 7.24. THAMES WATER: No comments received.
- 7.25. WARWICKSHIRE COUNTY COUNCIL: **No objections subject to conditions.**Condition required in respect of establishing HGV movements through an HGV Routeing Strategy; required as insufficient information has been provided with the application with regard to movements by large tankers that are likely to be used for bulk delivery of fuel to the application site for distribution. Further advises that Warwickshire Highway Authority considers that the most appropriate route would be south-east of the application site along the A422 between the site and the M40.

## 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 2015)

- Villages 1: Village Categorisation
- PSD1: Presumption in Favour of Sustainable Development
- SLE1: Employment Development

- SLE4: Improved Transport and Connections
- ESD1: Mitigating and Adapting to Climate Change
- ESD3: Sustainable Construction
- 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 and historic environment
- Banbury 1: Banbury Canalside

# CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- TR7: Development attracting traffic on minor roads
- TR10: Heavy Goods Vehicles
- C28: Layout, design and external appearance of new development
- C31: Compatibility of proposals in residential areas
- ENV1: Development likely to cause detrimental levels of pollution
- ENV12: Development on contaminated land

# 8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- Oxfordshire Wildlife & Landscape Study (OWLS) 2004
- Cherwell Countryside Design Summary (1998)
- Cotswolds Area of Outstanding Natural Beauty Management Plan 2018-2023 (CAONBMP 2023)
- 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; including landscape impact
  - Heritage Impact
  - Highway safety
  - Residential amenity
  - Ecology and Biodiversity
  - Drainage and Flood-risk

# 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 as well as a number of Adopted Neighbourhood Plans.
- 9.3. Court judgements have concluded that there is no presumption in favour of sustainable development within the NPPF where a proposal conflicts with an up-to-date development plan given that the plan itself will have been prepared against national planning policy and guidance and so must in itself be a sustainable strategy for the area. As a result, significant and specific overall benefits would need to be demonstrated to justify departing from a development plan that is up-to-date with respect to national policy rather than a generic balancing exercise as part of a presumption in favour of sustainable development.

# Policy Context

- 9.4. The purpose of the planning system is to contribute to the achievement of sustainable development and the NPPF defines this as having three dimensions: economic, social and environmental; and seeks to secure support for the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well-designed new buildings and encourages Local Planning Authorities to proactively meet the development needs of business.
- 9.5. Policy PSD1 contained within the CLP 2015 echoes the NPPF'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. The CLP 2015 supports sustainable new development and 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.
- 9.7. Policy ESD1 advises that measures will be taken to mitigate the impact of development within the District on climate change. This includes distributing growth to the most sustainable locations and delivering development that seeks to reduce the need to travel and which encourages sustainable travel options including walking, cycling and public transport to reduce dependence on private cars; and further, designing developments to reduce carbon emissions and use resources more efficiently; to ensure that development is more resilient to climate change impacts.
- 9.8. The proposals would provide new employment generating development in a rural location. The proposal is sui generis but comprises B class uses. Policy SLE1 of the CLP 2015 relates to B class uses. In this respect Policy SLE1 of the CLP 2015 is considered relevant. Policy SLE1 seeks to protect existing employment sites whilst supporting sustainable economic growth. It states that: 'Employment development will be focused on existing employment sites. On existing operational or vacant employment sites at Banbury, Bicester, Kidlington and in the rural areas employment development, including intensification, will be permitted subject to compliance with other policies in the Plan and other material considerations'. The application submission sets out the proposal for the relocation of an existing

business from within Banbury, but for this to be relevant the relocation would need to be secured as part of the planning permission, which would be difficult to achieve.

#### Assessment

- 9.9. Hornton Grounds Quarry is part of a larger permission for ironstone extraction that also includes quarries at Wroxton, Alkerton and Balscote. Extraction has ceased at Hornton Grounds Quarry and the area has been mostly restored back to agriculture except for the stone processing area, and the current site and land to the east. The use of the wider site has evolved over time. The wider site began with the quarrying of the stone, before altering the business activities at the site to involve the import of stone via heavy goods vehicles; processes currently undertaken at the stone cutting yard adjacent the site, which functions as rural premises for the working and manufacturing of stone materials into end products providing the building materials for the homes and buildings throughout the district and beyond. It has previously been considered that the nature of the business activities at the site means a rural location is appropriate.
- 9.10. The site is land that has previously been use for commercial purposes associated with quarrying operations, and as noted above the application site has extant planning permissions for industrial development within Class B2. Neither permission MW.0090.14 nor MW.0076/16 restricts the form of Class B2 activity which can be carried on from the site. Given the extant permissions would be employment generating development Officers therefore conclude that the site could be considered an existing employment site in the context of CLP Policy SLE1.
- 9.11. Policy SLE1 seeks to enhance the employment opportunities within the district in the most sustainable locations. Rural employment opportunities are supported on existing operational or vacant employment sites where justification is provided to demonstrate that proposals are compatible with the character of the surrounding environment; and further, subject to compliance with other policies in the Development Plan and other material considerations.
- 9.12. Para. 84 of the NPPF further advises of the need to recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.
- 9.13. The site is not a geographically sustainable location being located some distance from the urban centre of Banbury and any Category A settlements, and the proposals would not be particularly sympathetic to the rural context, having a commercial appearance more suited to an industrialised area. Given the remote location employees of the site would likely be highly dependent on the use of private motor vehicles to access the site, with there being no suitable public transport. The proposals would lead to a significant increase in HGV movements on the surrounding road network. There are no bus services within walking distance of the site, and the site is served by a rural road which mostly provides access to farms, with no footway or provision for walking or cycling.
- 9.14. No justification has been put forward within the application for the proposed fuel storage depot in this remote rural location. Further, the application submission did not include an assessment of any alternative sites.
- 9.15. In terms of potential benefits, the proposals would see the relocation of an existing business, which due to its size, nature and traffic generation is incompatible with the proposed redevelopment of the Banbury Canalside area, and ideally needs to be

- relocated. There would be a reduction in HGV movements associated with the business ceasing from within the Town Centre area
- 9.16. The proposals would also support the operational needs and expansion of the existing business and new investment in economic growth, allowing for the retention of existing jobs based at the Tramway Road site.
- 9.17. However, there is insufficient information provided to establish whether the new location would indeed reduce the overall impact, when considered against the existing site within Banbury; with no details of existing movements and further, no specific details of the frequency of supply delivery tankers. In this respect the site is not considered a sustainable location for this level of increased activity as a result of new development and it has not been demonstrated that the proposals would represent a more sustainable option than the existing site within the urban centre of Banbury
- 9.18. In addition, it should be noted that were permission to be granted there is nothing within the application that would compel the applicant to cease use of the existing site to relocate and we could potentially see two sites benefitting from an authorised use as a storage/distribution depot.
- 9.19. The existing business site is located within the centre of Banbury and officers acknowledge that access to and from the site brings with it impacts on the surrounding highway network, and by relocating the site away from the centre could potentially reduce the potential impacts of such vehicle movements. That said, HGVs would use Hennef Way, for example, to access the M40, whether sited at the Banbury Canalside site or the Hornton Grounds Quarry site.
- 9.20. Whilst there would undoubtably be benefits with the relocation of the business away from the Canalside area, to the extent that such benefits can be material they needs to be balanced against the potential adverse impacts of the proposed development, through the redevelopment of this rural countryside location. In this respect officers have significant concerns with regards to the significant intensification of the use of the site and the detrimental impacts that the proposals would have on not just the immediate environment of the site, including nearby by residential properties and businesses, but also wider impacts on the surrounding villages, that would be on the route of the HGV vehicle movements to and from the site. These matters are discussed in more detail below.

#### Conclusion

9.21. Whilst there would be benefits through the relocation of the existing business to facilitate the Council's future aspirations for redevelopment of the Canalside Area in Banbury area, and in some respects would support the existing business and economic growth, officers consider that it has not been satisfactorily demonstrated that there exists sufficient justification as to why an intensification of the employment use should be allowed in this unsustainable location and that the proposals would not be to the significant detriment of environment. Further, it has not been demonstrated that any such need for the relocation of the existing business could not be met on existing or allocated employment sites; the proposals are therefore considered contrary to Policies SLE 1 and ESD 1 of the CLP 2015 and Government guidance within the NPPF.

## Design and impact on the character of the area

# Policy Context

9.22. 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.

- 9.23. These aims are also echoed within Policy ESD15 of the CLP 2015 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, further stating that: "Development of all scales should be designed to improve the quality and appearance of an area and the way it functions, deliver buildings, places and spaces that can adapt to changing social, technological, economic and environmental conditions and support the efficient use of land and infrastructure, through appropriate land uses, mix and density/development intensity".
- 9.24. Policy ESD12 of the CLP 2015 states that: 'High priority will be given to the protection and enhancement of the Cotswolds AONB and the Council will seek to protect the AONB and its setting from potentially damaging and inappropriate development. The Cotswolds AONB Management Plan will be used as supplementary guidance in decision making relevant to the AONB'.
- 9.25. Policy CE5 of the Cotswolds Management Plan states that: 'Proposals that are likely to impact on the dark skies of the Cotswolds AONB should have regard to these dark skies, by seeking to (i) avoid and (ii) minimise light pollution'; these aims are reflected in Policy ESD15 of the CLP 2015.
- 9.26. Policy ESD13 of the CLP 2015 states that development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided. Proposals will not normally 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, or impact on areas judged to have a high level of tranquillity.
- 9.27. 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.

#### Assessment

- 9.28. The site is located in open countryside where land levels are relatively constant. The site is bounded by bunding to northern and eastern boundaries with bunding and hedgerow to the southern boundary and existing stone cutting/processing site adjacent to the west. Views of the site are experienced from the surrounding land, adjacent farm track and PRoW the cross land south/east of the site. The application is support by a Landscape Visual Impact Assessment (LVIA) prepared by C.A.T. Landscape Consultancy.
- 9.29. The applicants contend that the proposals would have a lower impact upon the landscape than the approved development at the site (B2 use building with footprint of ~1220m² and overall ridge height of~9.7m) and the 3no agricultural buildings approved on land adjacent to the east. The fuel storage depot would have a markedly different appearance (particularly the large storage tanks, 2.4m high security fencing and 5m high security lighting) than that of the adjacent stone cutting yard and the previously approved buildings on site and adjacent. The approved buildings on the site and the adjacent site, whilst of a greater scale, would have a character and appearance that would be more sympathetic to and consistent with utilitarian agricultural buildings that are often seen in such rural locations, as opposed to the fuel depot which would be an commercial urban feature alien to the rural countryside location.
- 9.30. The Council's Landscape Officer (CLO) has reviewed the submitted information and objects to the proposal, advising that there is a lack of appropriate details to allow for a detailed assessment of the potential impacts of the proposed development and further that the LVIA has not appropriately assessed the impacts of the proposals on the surrounding landscape. The LVIA does not assess the potential impacts of the

- intensification of the use of the site and access track or the potential impacts of lighting on the night sky.
- 9.31. The CLO advises that because of the important landscape sensitivity and capacity criteria associated with this development, and the fact that landscape sensitivity and capacity are not sufficiently addressed in the body of the LVIA, the application requires a comprehensive and proportionate LVIA implemented by a Chartered Landscape Architect in a practice registered with the Landscape Institute.
- 9.32. The landscape around the site and envelope of sensitivity and capacity covers two distinctive landscape character areas within the District as defined by OWLS: Wooded Pastures, Valleys and Slopes, and Farmland Plateau.
- 9.33. The OWLS note that the Farmland Plateau is characterised by 'a high limestone plateau with a distinctive elevated and exposed character, broad skies and long distance views. Large scale arable fields dominate the landscape, with some medium-sized plantations partially obscuring the otherwise open views'. The OWLS set out that the key characteristics comprise of:
  - Level or gently rolling open ridges dissected by narrow valleys and broader vales
  - Large, regular arable fields enclosed by low thorn hedges and limestone walls.
  - Rectilinear plantations and shelterbelts.
  - Sparsely settled landscape with a few nucleated settlements.
  - Long, straight roads running along the ridge summits.
- 9.34. Whilst the Wooded Pastures, Valleys and Slopes is characterised by pastoral and wooded landscapes associated with the steep slopes and valleys of small streams and main rivers. The OWLS set out that the key characteristics comprise of:
  - Steep sided valleys and slopes.
  - Large, interlocking blocks of ancient and plantation woodland.
  - Small pasture fields with localised unimproved grassland.
  - Tall, thick hedges and densely scattered hedgerow trees.
  - Small, intact villages and hamlets.
- 9.35. The Council's Countryside Design Summary (1998) encourages sensitive and appropriate development across the District and sets out specific advice relevant to this case. This divides the Cherwell District into four broad areas and this site is identified as lying within the Ironstone Downs area. The landscape of the area is described as 'strongly undulating landscape, which rises to the west forming an upland ridge on the western boundary of the district'. The Design Summary also sets out that: 'Mixed farmland is characteristic of this area. Where the land is gently sloping, large-scale intensive arable farmland predominates. Elsewhere on steeper slopes, small scale grazing land exists with strong patterns of mixed thorn hedgerows containing hedgerow trees such as Oak, Ash, Sycamore and occasional Beech'; and further there are very few extensive areas of woodland.
- 9.36. The Countryside Design Summary sets out that 'all forms of development need to be sited with care in order to avoid locations where development would be either, prominent, visually intrusive, out of character or would harm a feature or site, which is important to the character of the area'.
- 9.37. The Wooded Pastures Valleys and Slopes define a noticeable change to an intimate more contained landscape as one walks westwards from the expansive Farmland Plateau. The site itself resides in the Farmland Plateau character area.
- 9.38. The quarry and its slopes are a sub-character area surrounded by the aforementioned landscape areas with potentially uncharacteristic and harmful

- development that would require the appropriate level of landscape mitigation the characterises and reinforces the surrounding landscape structure.
- 9.39. The CLO notes that the existing site is hidden successfully by intervening topography most notably with the Wooded Pastures, Valleys and Slopes intervening established hedgerow along the north of D'Arcy Dalton Way. Even an ~38m gap in the hedgerow does not allow visual experience of the site due to intervening field boundary hedgerows.
- 9.40. The existing landscaping features once established could potentially provide screening of the site of the actual fuel depot. There is a recently planted hedgerow on top of the bunding that will establish and mature and provide reinforcement screening with the appropriate landscape management plan; however, the CLO notes that this area falls outside of the application's site boundary and is concerned that appropriate control cannot be achieved without the application site being expanded to encompass these areas.
- 9.41. However, particular concern rests with the use of distribution lorries their harm to this landscape, including receptors that use the important D'Arcy Dalton Way PRoW, especially around the highway access. The sensitivity of D'Arcy Dalton Way is generally high because of its public perception as an important route which is very well used.
- 9.42. The CLO advises that by the intensification of the use of the site there would be cumulative visual harm arising from the operations of the existing stone cutting/processing yard operation, adjacent to the application site, combined with the fuel distribution operations, with the arrival of lorries and other traffic rising to a level that harm for receptors using approx. 170m of D'Arcy Dalton Way. This would mean that the operational magnitude of change is high in this particular area, which results in a substantial significance of effect (not to mention the impact of noise and fumes on D'Arcy Dalton Receptors).
- 9.43. The site sits some 250m from the boundary of the Cotswolds Area of Outstanding Natural Beauty. The site is in area considered by the Cotswolds Area of Outstanding Natural Beauty Management Plan 2018-2023 (CAONBMP 2023) to be of relatively dark skies. Policy CE5 (Dark Skies) advises that proposals that are likely to impact on the dark skies of the Cotswolds AONB should have regard to these dark skies, by seeking to (i) avoid and (ii) minimise light pollution. Policy ESD 15 echoes the requirement for consideration of light pollution stating that 'New development proposals should: Limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation'. Objections are raised by both the Cotswolds Conservation Board and CPRE in respect of potential of adverse landscape impact including light pollution of the night-time sky.
- 9.44. In terms of assessment of lighting impact the application is supported by a Lighting Impact Assessment (LIA) prepared by RSK Environment Ltd (RSK). This report states that: 'The scheme will not cause significant light spillage beyond the developed area at Hornton Grounds'. and further concludes that: 'In summary it has been shown that the proposed development will have an insignificant effect on the immediate environment with respect to lighting pollution. Although light spill has increased illuminance levels at some locations, the potential increase in illuminance is considered negligible'.
- 9.45. In respect of horizontal light spill the report demonstrates that there would not be significant light spill outside of the site beyond existing landscaping features. However, there are concerns with regards to potential vertical light spill creating Sky Glow at the site. The LIA states that: 'When considering direct Sky Glow, as a result of direct upwards light, there is the possibility of a site wide effect being visible from darker environments, however, direct Sky Glow cannot be measured. The baseline is assessed relative to visual baseline survey conditions and published Campaign to

- Protect Rural England (CPRE) Night Blight data. Taken on a local scale, existing saturated Sky Glow was not noticeable at the time of the site visit'.
- 9.46. As noted above the submitted LVIA does not assess the visual impacts of the proposed development on the night-time sky and is considered deficient in this respect. It is noted that there is existing security lighting at the stone cutting/processing site however, it is unclear whether this is in operation throughout the night. The proposals are for 24/7 operation and as such there would be a cumulative increase in lighting at this location within an area of relatively dark skies.
- 9.47. Given the surrounding topography in a rural location the proposed lights have the potential for significant visual impacts and being visually apparent from distance and detrimental to the night-time sky. In this respect, in light of the lack of evidence to the contrary, officers consider that the proposals would result in detrimental impacts on the night-time sky and landscape at this location, further compounding the potential adverse visual impacts discussed above.

## Conclusion

9.48. Policies ESD13 and ESD15 of the CLP 2015 seeks to safeguard, maintain and enhance the district's valued rural landscape. Overall officers consider that the LVIA does not appropriately assess or accurately reflect the likely potential visual impacts of the proposed development, and that the proposed intensification of the use the site coupled with urbanising effect of the proposed development would have a significant and demonstrable detrimental impact on the character and appearance on the character area and surrounding valued rural landscape; further the use of the site for such development has not been justified within the application. The proposed development would therefore be contrary to the identified Development Plan policies causing unjustified visual harm through intrusion into the open countryside and valued rural landscape and is unacceptable in this regard.

# Heritage Impact

Legislative and policy context

- 9.49. The site is within 330m of Hornton Grounds Farmhouse a Grade II listed building and has the potential to affects the setting of this Listed Building
- 9.50. 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. 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 2015 echoes this guidance.

#### Assessment

- 9.52. Hornton Grounds Farmhouse is a grade II listed building, which lies some 330m south-east of the site of the depot and some 270m from the route of the access road serving the existing operations at the stone cutting/processing yard.
- 9.53. As noted above, the site of the fuel depot would largely be screened by existing landscape features; and in respect of the site's and access road's relationship with Hornton Grounds Farmhouse there are further trees bounding the farmhouse site on intervening land providing natural screening.

9.54. Whilst officers have significant concerns with regards to potential impacts on the surrounding landscape, given the significant distance between Hornton Grounds Farmhouse and the development proposals and existing natural screening that exists it is considered that the proposals would not result in demonstrable harm to the significance of the listed building above those currently experienced.

Conclusion

9.55. It is considered that the proposed development would not result in demonstrable harm to the significance of heritage assets, in line with Policy ESD15 of the CLP 2015 and Government guidance within the NPPF.

# Highway safety

Policy Context

- 9.56. The NPPF (Para. 108) states that the planning system should actively manage patterns of growth in support of the achievement of promoting sustainable transport. However, notes that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.
- 9.57. 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.
- 9.58. Both Policies ESD15 and SLE 4 of the CLP 2015 reflect the provision and aims of the NPPF. Policy ESD15 of the CLP 2015 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".
- 9.59. Saved Policy TR7 of the CLP 1996 states that: 'Development that would regularly attract large commercial vehicles or large numbers of cars onto unsuitable minor roads will not normally be permitted'.
- 9.60. Saved Policy TR10 states that: 'Development that would generate frequent heavy-goods vehicle movements through residential areas or on unsuitable urban or rural roads will not be permitted. The council will resist proposals for the establishment of heavy-goods-vehicle operating centres where they would create traffic problems or adversely affect the amenity of residential areas or villages'.

Assessment

9.61. Whilst not within the application's site boundary the applicant indicates that the proposals would utilise the existing access road that currently serves the existing stone processing yard and would provide parking and manoeuvring within the proposed depot site itself. The fact that the application's site boundary does not include the access and land necessary to demonstrate appropriate vision splays at the access point is considered to be a fundamental issue that means that limited control can be exercised over such matters.

- 9.62. The application is supported by a Transport Statement (TS) prepared by Wormald Burrows Partnership Limited and Travel Plan (TP). The site would be 24 hr operation and allowing for supply delivery tanker movements would operate 7 days a week. In terms of trip generation, the submitted TS sets out that 17 staff (fourteen tanker drivers and three office staff) will be employed at the site, Monday to Friday over a 24-hour period with seven drivers employed on a Saturday from 06:00 to 18:00. It is estimated that up to 158 fuel tanker trips will be generated per week; this equates to an average of only 29 trips per day based on a week of five and a half days. This includes the smaller depot tankers delivering fuel to locations within a 50-mile radius of Banbury from Monday to Saturday, as well as the larger articulated tanker trucks bringing fuel to the depot from Monday to Sunday.
- 9.63. Significant concerns are raised in third party comments and objections received from local parish councils on the route between the site and Banbury and at Hornton, in relation to potential increased numbers of large vehicle movements through the nearby villages.
- 9.64. Extant permissions at the site include restrictions on the number of HGV vehicle movements to and from the site (MW.0090/14 10 (5 in, 5 out) per day and MW.0076/16 4 (2 in, 2 out) per day) to control the number of HGVs through the village of Wroxton in accordance with the provisions aims of saved Policy TR10 of the CLP 1996 which looks to restrict HGV movements through residential areas and villages where such would create traffic problems or adversely affect the amenity of such areas. The proposals would result in a much more intensive use of the site with some 29 movements per day.
- 9.65. Whilst it is indicated that proposals have been progressed on the basis of a 360-degree route analysis, details of such were not included within the application submission and it is unclear as to the actual geographical catchment area for the business. Further the TS, whilst estimating potential HGV movements, does not appear to have assessed the cumulative impacts of such HGV movements resulting from combined vehicle movements of the proposed development and existing operations at the stone processing yard and nearby quarrying operations at Wroxton.
- 9.66. The LHA advises that whilst classed as a 'A' road the A422 is not on the Oxfordshire Lorry Route Map (Connecting Oxfordshire: LTP4 Freight Strategy) and is, therefore, below a local access route in the hierarchy of roads. The Freight Strategy aims to "Plan the location of new employment sites and any related transport infrastructure so that these can function well, with efficient freight access to and from the strategic transport network without adverse impacts on local communities, road users and the environment." And further the LHA advises that: 'the application has failed to demonstrate that the A422 is suitable to accommodate the number of HGV movements that the proposals would generate, and the location is not one that would satisfy the guidelines of LTP4'.
- 9.67. The TS indicates that large fuel tankers would have no need to travel along the narrow rural roads serving the surrounding villages and would have a negligible impact on the local highway network and the villages surrounding them. HGV movement whilst on an 'A' road on a route towards Banbury (and access to the M40) takes through them the villages of Wroxton and Drayton and residential areas of Ruscote and Hardwick; and as such would impact on the residential area immediately adjacent the route of the vehicles. It is considered that a detailed Routing Agreement would need to be secured in this respect to ensure that the proposals would not have a detrimental impact on the minor roads and villages, through an inappropriate increase in larger vehicles on such routes; however such matters have not be pursued by officers given that the principle of development is not considered acceptable in this unsustainable location.

9.68. In addition to the above the LHA also raises objections in terms of highway safety; advising that there is insufficient information presented within the application to demonstrate that appropriate visibility is achieved at the access to the highway, to accommodate a more intensive use of the site. As noted above the access is not included within the site area and vision splays are not demonstrated for the appropriate speed of passing vehicles; and in light of such it is considered that the development will have an unacceptable impact on highway safety, which is contrary to the Policy ESD15 of the CLP 2015 and national guidance within the NPPF.

#### Conclusion

- 9.69. The Development Plan is the starting point for decision making for development proposals and the policies considered relevant to the assessment and consideration of transport impacts are set above. The NPPF (Para. 109) states 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'.
- 9.70. In this instance it is considered that the site would not be a geographically sustainable location and proposals would result in significant new vehicle movements to and from the site, both in terms of HGV and smaller vehicles and contrary of the aims of the achievement of promoting sustainable transport. The proposals would likely generate frequent HGV movements through residential areas on the outskirts of Banbury and through the nearby villages of Drayton and Wroxton and would be to the detriment of the residential amenity of these areas. Further it has not been demonstrated that safe and suitable access can be achieved for a more intensive use of the site. The proposals are therefore contrary to saved Policy TR10 of the CLP 1996, Policies ESD15 and SLE4 of the CLP 2015 and Government guidance within the NPPF in respect of promoting safe and sustainable transport.

# Residential amenity

# Policy Context

- 9.71. Saved Policy C31 of the CLP 1996 states that: 'In existing and proposed residential areas any development which is not compatible with the residential character of the area, or would cause an unacceptable level of nuisance or visual intrusion will not normally be permitted'; with the aim being that new development, including changes of use, does not prejudice the environment of the areas concerned. These provisions are echoed in Policy ESD15 of the CLP 2015, 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'.
- 9.72. Saved Policy ENV1 of the CLP 1996 further states that: 'Development which is likely to cause materially detrimental levels of noise, vibration, smell, smoke, fumes or other type of environmental pollution will not normally be permitted'; with the Council seeking 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.

#### Assessment

- 9.73. Hornton Grounds is the closest residential property, with a B&B that is also run from the site. This property is located some 330m south-east of the site of the proposed fuel depot, and ~280m from the access road at its nearest point. A further residential property The Dairy Cottage, is located to the south-west and approximately 500m from the quarry and 200m from the access road.
- 9.74. Given the distance of the site from residential properties, it is considered that the only potential impacts on residential amenity would be that generated by the noise

- of the operation of the business on a 24hr basis. In this respect the application is supported by Noise Impact Assessment (NIA) prepared by LF Acoustics Ltd (dated June 2020), which has assessed the potential impacts on these residential properties. The NIA concludes that following an assessment of the calculated noise levels made against the requirements of BS 4142, the operation of the proposed depot, including potential night time deliveries, would have a low potential to give rise to adverse noise impact at surrounding properties and would not result in any significant adverse noise impacts.
- 9.75. The proposals are located some distance from the residential properties at Hornton Grounds, including B&B accommodation. The Council's Environmental Protection Team has assessed the proposals and supporting NIA and raises no objections in respect of the impacts of noise on the amenities of surrounding properties.
- 9.76. However, late night tanker movements to and from the site do have the potential to cause disruption to residential properties, given the proximity of the access road. Should the Council be minded to approve the application conditions would need to be applied to any such permission to regulate the hours in which the receipt of fuel and the fuelling of customer tankers occurs.
- 9.77. Overall, whilst there would clearly be some impact of 24hr operation of the site, it is considered that, given the relationship of the application site with the existing nearby residential properties and the context of the site, subject to appropriate control over the timing of vehicle movements to and from the site the proposed development would not adversely impact on residential amenity and is thus acceptable in this respect.

Conclusion

9.78. Given the above, officers are satisfied that the development could be made acceptable in residential amenity terms; in accordance with the provisions and aims of the Development Plan policies identified above.

## **Ecology Impact**

Legislative context

- 9.79. 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.
- 9.80. 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.
- 9.81. 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.
- 9.82. 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.
- 9.83. 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

- 9.84. 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.
- 9.85. Paragraph 175 states that when determining planning applications, local planning authorities (LPAs) should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.
- 9.86. 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.
- 9.87. 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.
- 9.88. Policy ESD11 is concerned with Conservation Target Areas (CTAs), and requires all development proposals within or adjacent CTAs to be accompanied by a biodiversity survey and a report identifying constraints and opportunities for biodiversity enhancement.
- 9.89. These polices are both supported by national policy in the NPPF and also, under Regulation 43 of Conservation of Habitats & Species Regulations 2017, it is a criminal offence to damage or destroy a breeding site or resting place, unless a licence is in place.

9.90. The Planning Practice Guidance dated 2014 post-dates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that LPAs should only require ecological surveys where clearly justified, for example if there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.

Assessment

- 9.91. 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 LPAs can also ask for:

- a scoping survey to be carried out (often called an 'extended phase 1 survey'), which is useful for assessing whether a species-specific survey is needed, in cases where it's not clear which species is present, if at all
- an extra survey to be done, as a condition of the planning permission for outline plans or multi-phased developments, to make sure protected species aren't affected at each stage (this is known as a 'condition survey')
- 9.92. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site contains whilst the site generally appears to be of low ecological value, the site does have some potential for ecological value, particularly in the boundary hedgerows and waterbodies to the north and south boundaries, and therefore has the potential to be suitable habitat for bats, breeding birds, badgers, reptiles and great crested newts.
- 9.93. In order for the LPA to discharge its legal duty under the Conservation of Habitats and Species Regulations 2017 when considering a planning application where EPS are likely or found to be present at the site or surrounding area, LPAs must firstly assess whether an offence under the Regulations is likely to be committed. If so, the local planning authority should then consider whether Natural England (NE) would be likely to grant a licence for the development. In so doing the authority has to consider itself whether the development meets the 3 derogation tests listed above.
- 9.94. 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.
- 9.95. The application is supported by a Preliminary Ecological Appraisal (including surveys carried out on the 26<sup>th</sup> and 28<sup>th</sup> May 2020) and Lighting Impact Assessment and Addendum prepared by Griffin Ecology.
- 9.96. The Council's Ecologist (CE) considers the submitted ecological information and its conclusions and recommendations are largely acceptable with regards to protected species, which are not a particular constraint on site due to the current level of disturbance and historical use of the land. She notes recommendations with the reports to retain the areas of greatest value (hedgerows and waterbody to the north and south boundaries) to ensure they are protected during construction. Further that the proposals look to create some enhancements for biodiversity on site by including small areas of scrub and a hibernaculum. These should benefit wildlife long term if managed appropriately although continuing the hedgerows so they connect with others would also be valuable and should be considered.
- 9.97. The CE recommends that Section 5 of the Preliminary Ecological Appraisal is conditioned and that a biodiversity enhancement scheme is submitted which should

include both the proposals shown, timing of provision, any additional enhancements on site or adjacent and a longer term management scheme for the planting and pond.

## Conclusion

9.98. Officers are satisfied, on the basis of the CE's advice 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. Further that the proposals could demonstrate a nett gain in biodiversity at the site in accordance with the provisions and aims of Policy ESD10 of the CLP 2015 and Government guidance within the NPPF in respect of Conserving and enhancing the natural environment.

# Flood-risk and drainage

# Policy Context

- 9.99. Policy ESD6 of the CLP 2015 essentially replicates national policy contained in the NPPF with respect to assessing and managing flood risk. In short, this policy resists development where it would increase the risk of flooding and seeks to guide vulnerable developments (such as residential) towards areas at lower risk of flooding.
- 9.100. Policy ESD7 of the CLP 2015 requires the use of Sustainable Drainage Systems (SuDS) to manage surface water drainage systems. This is with the aim to manage and reduce flood risk in the District.
- 9.101. Policy ESD8 Policy ESD8 requires that: 'Water quality will be maintained and enhanced by avoiding adverse effects of development on the water environment. Development proposals which would adversely affect the water quality of surface or underground water bodies, including rivers, canals, lakes and reservoirs, as a result of directly attributable factors, will not be permitted'.

## Assessment

- 9.102. In terms of flood-risk and drainage the application is supported by a Flood-Risk Assessment (FRA) prepared by Wormald Burrows Partnership Limited. The Environment Agency's flood maps indicate that site is not within a higher risk flood zone and is within Flood Zone 1 where less vulnerable can be considered acceptable in principle subject to no increased flood risk elsewhere as a result of proposal.
- 9.103. Third party concerns are raised in respect of the proposals potentially impacting on local water quality, as a result of spillages and surface water discharging into nearby water courses. Further photographic evidence has been provided by third parties showing some flooding of surrounding fields and existing drainage channels.
- 9.104. The site would become an impermeable area, with the development of hardstanding for the proposed facility and associated parking and manoeuvring areas for cars and HGVs. Soakaways have been discounted due to ground conditions presence of shallow groundwater; a drainage scheme has therefore been developed which includes attenuation with a restricted discharge to the existing ditch adjacent to the access road.
- 9.105. The Environment Agency (EA) has assessed the application and supporting information and advises that they no comments to make on this proposal in relation to contaminated land and flood risk. The submitted Geo Environmental Site Investigation confirms there are no specific historic contamination issues with the site. But further, the EA advises that the County Council as Lead Local Flood

- Authority (LLFA) should be consulted in respect of surface water flooding being a matter for them to advise on.
- 9.106. The LLFA has assessed the application and supporting information and objects on the grounds of the lack of appropriate information in respect of whether an acceptable drainage strategy could be achieved at the site that would be compatible with the significant HGV movements at the site, ensuring that water quality would be maintained and that the proposals would accord with both Local and National Standards.
- 9.107. Specific concerns are raised by the LLFA in respect of:
  - The proposed development requiring a water quality assessment in accordance with Section 4 and Section 26 of SuDS Manual.
  - The Proposed development must meet local standards, L19, "At least one surface feature should be deployed within the drainage system for water quality purposes, or more features for runoff which may contain higher levels of pollutants in accordance with the CIRIA SuDS Manual C753. Only if surface features are demonstrated as not viable, then approved proprietary engineered pollution control features such as vortex separators, serviceable/ replaceable filter screens, or pollution interceptors may be used"
  - The continued suitability of the access road with the increased vehicle movements from the development and the effect on the local drainage systems, specifically the ordinary watercourse near to the access on the public highway. This should be included in the FRA and the required Water Quality Assessment.
- 9.108. Given the LLFA's concerns, officers consider that it has not been satisfactorily demonstrated that the proposed site can be appropriately drained without it having a potential detrimental impact the water environment.
- 9.109. In respect of potential for spillages, the proposed drainage strategy would include interceptors that would manage spillages within the site; the EA raises no concerns in this respect storage of fuel is proposed to be above ground within double skinned tanks with containment, therefore the risk of pollution to the environment is low, providing the development proceeds in accordance with the submitted plans. Appropriate control in this respect could be achieved through conditions attached to any such permission, should the Council be minded to approve the application.
- 9.110. Officers consider that, in light of the technical objection raised by the LLFA, the
- applicant has failed to demonstrate that appropriate surface water drainage scheme for the site, based on sustainable drainage principles, can be achieved to ensure appropriate drainage of the site and that water quality would be maintained; the proposals are therefore not considered to be in accordance with the Development Plan polices identified above and are not acceptable in terms of flood-risk and drainage.

# Other Matters

Conclusion

9.111. Third party comments raise concerns with regards to the storage and transportation of flammable substances and risk from such. The EA and Council's Environmental Protection Team have raised no concerns in this respect and Officers are not aware of any significant issues arising from the operation of the existing facility within Banbury. The business operations would be subjected to statutory regulations to ensure safe storage of fuel, that would sit outside of planning. Subject to such regulations being adhered to it is considered that there would be no significantly greater risk arising from the transportation and storage of fuel above the current situation.

- 9.112. Third party comment is made in respect of a similar proposal at Sugarswell Business Park (19/01202/F) previously refused and consider there to be no difference to current proposals under consideration. Each application must be assessed on its own merits and whilst there are similarities in the nature or the proposals there are also significant differences to the respective site contexts and appropriate assessment must be undertaken.
- 9.113. Third party comments have also been made in respect of the proposals detrimentally impacting on the value of properties within the vicinity of the site and along the routes serving the site. Property valuation is not a material planning consideration and as such has not been considered in the context of this application.

# **Human Rights and Equalities**

- 9.114. The Human Rights Act 1998 ("HRA") sets out fundamental freedoms which have been laid out by the European Convention on Human Rights ("ECHR"). In making any decisions, Cherwell District Council ("the Council") should have due regard to and take into account any implications that may arise under the HRA. As a public authority, it is unlawful for the Council to act in a manner which is incompatible with the ECHR.
- 9.115. The rights under the ECHR which the Council views as being the most likely to affect planning matters are: Article 6 (the right to a fair trial); Article 8 (right to respect for private and family life); Article 14 (prohibition of discrimination); and Article 1 of the First Protocol (protection of property).
- 9.116. Officers have considered these matters and have resolved that, whilst there are potential rights in play, these will not be affected by the application due to the application being publicised by way of neighbour letter and site notice giving affected third parties the opportunity to comment on the application and their views taken into account when considering the application. In this case any comments/concerns raised by third parties are listed above and have been taken into account in assessing the application. Furthermore, should a third party be concerned about the way the application was decided they could complain to the Local Government Ombudsman or if they question the lawfulness of a decision can appeal to the Courts for Judicial Review of the application.
- 9.117. Officers have considered the duties under both Article 8 and Article 1 of the First Protocol and have resolved that the application does respect the private and family life of neighbours and does not fail to protect the neighbours' property.
- 9.118. Officers have considered that, in the event that the application is granted planning permission, there will not be any discrimination (or potential discrimination) on neighbours.
- 9.119. S149 of the Equalities Act 2010 ("EA") sets out what is known as the Public Sector Equality Duty ("PSED"). Under the PSED, the Council, as a public authority, must have due regard to the need to, inter alia, advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and has to foster good relations between persons who share a relevant protected characteristic and persons who so not share it. The protected characteristics to which the PSED refers are: (a) age; (b) disability; (c) gender reassignment; (d) pregnancy and maternity; (e) race; (f) religion or belief; (g) sex; (h) sexual orientation.
- 9.120. Officers have considered the application and resolved that none of the protected characteristics is affected or potentially affected by the application.

# 10. PLANNING BALANCE AND CONCLUSION

- 10.1. The 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. Given the above assessment in the light of current guiding national and local policy context, it is considered that proposals represent an unjustified, inappropriate and unsustainable form of development in this remote rural location. Whilst the proposals could likely be considered acceptable in terms of residential amenity and ecology, it is considered that through significant intensification of the use of the site that would have a detrimental urbanizing effect, which when coupled with the significant associated HGV movements, would fail to preserve the overriding rural character and appearance of the area and would result in harm to the amenities of residents of nearby villages; and further it has not been demonstrated that the proposals could be satisfactorily drained or that that safe and suitable access to the site could be achieved
- 10.3. The addition of this sizeable new storage depot and associated infrastructure would appear as an alien feature in the rural countryside, resulting in a significant and unjustified detrimental impact upon the rural character and appearance of the landscape and open countryside at this location.
- 10.4. However, there remains a need to undertake a balancing exercise to examine whether the adverse impacts of a development would be outweighed by the benefits such that, notwithstanding the harm, it could be considered sustainable development within the meaning given in the NPPF. In carrying out the balancing exercise it is, therefore, necessary to take into account policies in the development plan as well as those in the NPPF. It is also necessary to recognise that Section 38 of the Act continues to require decisions to be made in accordance with the development plan and the NPPF highlights the importance of the plan led system as a whole.
- 10.5. The proposed development would create new employment on the site and development also provides some construction opportunities. In terms of social benefits, the proposal would contribute in meeting demand for fuel.
- 10.6. However, officers consider that the economic and social benefits identified above are not sufficient to outweigh the significant environmental identified harm in this instance. It is considered that there would be significant adverse impacts to the natural environment, through intrusive development which fails to reflect or reinforce the local distinctiveness and unsustainable associated transport, which further conflicts with the environmental and sustainability policies of the Development Plan. As such it is considered the harm and conflict with development plan policy clearly outweighs any benefits in this case.
- 10.7. The proposals are therefore contrary to the above-mentioned policies and as such the application is therefore recommended for refusal for the reasons set out below.

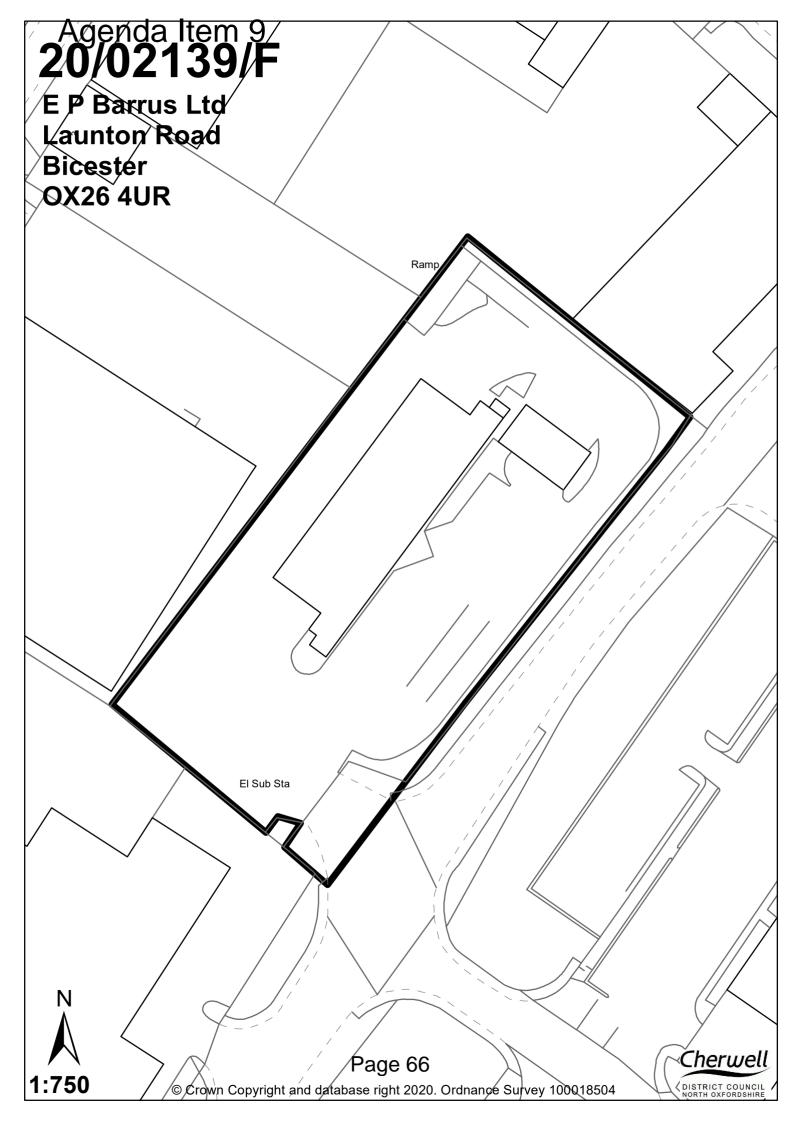
## 11. RECOMMENDATION

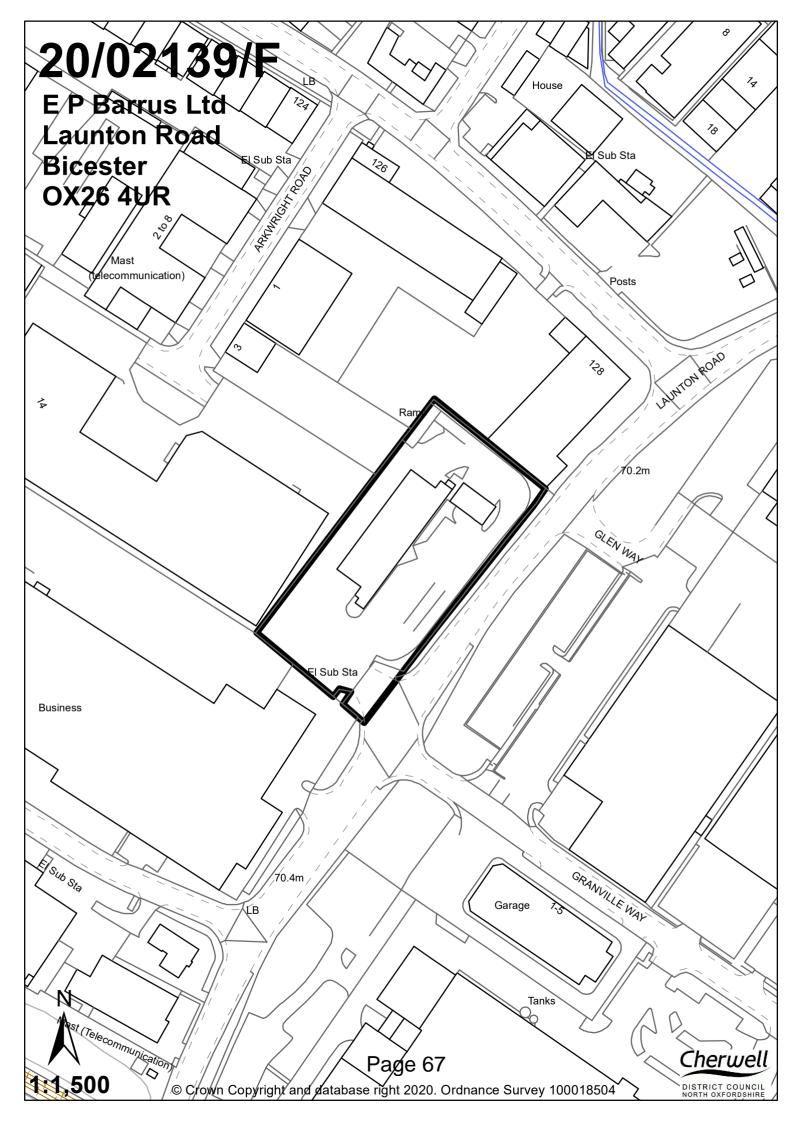
# RECOMMENDATION - **REFUSAL** FOR THE REASONS SET OUT BELOW REASONS FOR REFUSAL

1. The proposed development represents an unjustified and unsustainable form of development in a rural location, which lack opportunities for sustainable travel to and from the site and would in significant adverse impacts on the character of the surrounding environment, for which it has not been demonstrated that exceptional circumstances exist for such development in this unsustainable location. The proposals are therefore contrary to the provisions and aims of Policies SLE1, SLE4 and ESD1 of the Cherwell Local Plan 2011-2031 Part 1

- and Government guidance contained within the National Planning Policy Framework.
- 2. By virtue of its siting, scale and form and associated lighting and significant HGV vehicle movements the proposed development would appear as an alien feature within the rural landscape, intruding into the open countryside. The proposals would have a detrimental visual impact on the rural character and appearance of the locality, causing significant and demonstrable harm to the character and appearance of the area and open rural landscape. The proposals are therefore contrary to Policies ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.
- 3. The proposals have failed to demonstrate that safe and suitable access with appropriate vison splays can be achieved at the site, to accommodate the proposed significant intensification of the use of the site and associated vehicular movements. The proposals are therefore contrary to Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.
- 4. The proposals would generate frequent heavy-goods vehicle movements through residential areas, including the villages of Drayton and Wroxton and Hardwick and Ruscote on the periphery of Banbury. It has not been satisfactorily demonstrated that the levels of such movements would not adversely affect the amenity of these residential areas and villages, to the detriment of the living environment in these locations. The proposals are therefore contrary to saved Policies TR10 and C31 of the Cherwell Local Plan 1996 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1.
- 5. The applicant has failed to demonstrate that an appropriate surface water drainage strategy, and mitigation measures necessary in the event of spillage of fuel, can be achieved at the site that would ensure that the proposed development would not be to the detriment of the environment/surrounding natural environment and that water quality would be maintained and enhanced by avoiding adverse effects; contrary to saved Policy ENV1 of the Cherwell Local Plan 1996, Policies ESD7 and ESD8 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

CASE OFFICER: Bob Neville TEL: 01295 221875





# E P Barrus Ltd Launton Road Bicester OX26 4UR

20/02139/F

Case Officer: Matthew Chadwick

**Applicant:** Morleys Stores Ltd

**Proposal:** Demolition of existing VOSA buildings and the erection of two new

commercial buildings

Ward: Bicester East

Councillors: Cllr. Sean Gaul, Cllr. Richard Mould and Cllr. Tom Wallis

Reason for Major development

Referral:

Expiry Date: 14 December 2020 Committee Date: 10 December 2020

# **EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION**

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

# **Proposal**

Planning permission is sought to demolish the existing buildings on the site and erect two new commercial buildings on the site, along with making alterations to the access onto Launton Road

#### **Consultations**

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

OCC Drainage

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

 Bicester Town Council, CDC Building Control, CDC Environmental Protection, OCC Archaeology, OCC Highways

The following consultees have commented on the application:

• Bicester Bike User's Group

No letters of objection have been received.

## **Planning Policy and Constraints**

The site is located in an area of potentially contaminated land.

The application has also been assessed against the relevant policies in the National Planning Policy Framework, 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
- Land contamination

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 is located in the east of the town of Bicester and is accessed off Launton Road to the south-east. The site is currently occupied by the former vehicle testing buildings and hardstanding to the front of the site. The existing buildings on the site are externally faced in brickwork and corrugated metal. The site is located in an area of industrial uses, with retail further to the south-west and residential to the north.

#### 2. CONSTRAINTS

2.1. The application site is within an area of potentially contaminated land. The site is not in a conservation area and there are no listed buildings in close proximity of the site.

#### 3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. Planning permission is sought for the demolition of the existing buildings on the site and their replacement with 2no, two-storey buildings, which would form seven commercial units. The total floorspace of these two buildings would be 2,320 sq m. The access for the site would be relocated from the south-west corner of the site to the centre of the frontage with Launton Road. Each unit would be provided with a parking and loading area for lorries. 49 car parking spaces would be provided and 15 cycle parking spaces. Block 1 would have a height to ridge of approximately 8.7m and the height of Block 2 to ridge would be approximately 8.9m. The buildings would be constructed from composite cladding, with metal sheet roofs.
- 3.2. The planning statement sets out that the intended use of the buildings would be B1, B2 or B8. The application was submitted before the changes to the Use Classes Order. Government guidance states that from 1 September 2020, for purposes of Use Class, A1/2/3 & B1 to be treated as Class E. However, for any planning applications submitted before 1 September 2020, the Use Classes in effect when the application was submitted will be used to determine the application. The current application was submitted on 6 August 2020.

#### 4. RELEVANT PLANNING HISTORY

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

#### 5. PRE-APPLICATION DISCUSSIONS

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

- 19/02897/PREAPP Re-development of this block of land with demolitions of existing buildings, erection of new units, and refurbishment of some existing units with B1, B2 and B8 use classes
- 5.2. The broad principle of development was considered to be acceptable but more information was required on the highway safety and environmental impacts of the development.

#### 6. RESPONSE TO PUBLICITY

- 6.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was 24 November 2020, although comments received after this date and before finalising this report have also been taken into account.
- 6.2. The comments raised by third parties are summarised as follows:
  - The development should not have an impact on electrical supply capacity.
- 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.

# TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

7.2. BICESTER TOWN COUNCIL: Supports the application and the employment it will bring.

# CONSULTEES

- 7.3. OCC ARCHAEOLOGY: No objections.
- 7.4. BICESTER BIKE USERS GROUP: Comments that the Launton Road is part of the adopted Bicester Local Walking and Cycling Infrastructure Plan network (LCWIP). The LCWIP deems this section of the Launton Road as a 'quickway' requiring the provision of a cycle track with priority across the mouth of this junction. The mouth of the planned junction needs to be reduced as far as possible (while accommodating motor vehicle movements) so as to facilitate walking and cycling. The Oxfordshire Cycle Design standards and LTN 1/20 require cycle paths, preferably on a raised table, with priority for cyclists along the frontage. Where space precludes this, a shared walking and cycle path is required.
- 7.5. CDC BUILDING CONTROL: A Building Regulations application would be required.
- 7.6. OCC DRAINAGE: **Objects**, as the submitted drainage strategy needs to be more detailed.
- 7.7. CDC ECOLOGY: No comments received at time of writing this report.

- 7.8. CDC ECONOMIC DEVELOPMENT: No comments received at time of writing this report.
- 7.9. CDC ENVIRONMENTAL PROTECTION: **No objections**, subject to conditions requiring a CEMP and a further contaminated land report being submitted if contamination is detected. A condition requiring electric vehicle charging infrastructure is also recommended.
- 7.10. OCC HIGHWAYS: **No objections** subject to conditions in respect of access, and turning and parking details. A Section 278 agreement would also be required to provide a number of highway mitigation and improvement works. These are:
  - Blocking off the existing site entrance, with kerbs and a shared-use cycle track continued across
  - Construction of a new bellmouth junction access, including dropped kerbs and tactile paving. Design of the access to incorporate a priority cycle track crossing in accordance with the guidelines within LTN 1/20.
  - Relocation of the pedestrian refuge and associated dropped kerbs/tactile paving to a position to be agreed
  - Changes to the white lining as necessary, including the removal of the right turn lane into the current entrance and the creation of a new ghosted right turn.
  - Realignment of the kerbs on both sides of Launton Road, as shown indicatively in drawing no. 2020-F-018-008 Rev. A, to accommodate a fullwith right turn lane
  - Reconstruction of the shared-use cycletrack, as shown indicatively in drawing no. 2020-F-018-008 Rev. A, to a width of 3.0m (absolute minimum 2.5m).
- 7.11. CDC LANDSCAPE SERVICES: No comments received at time of writing this report.
- 7.12. CDC PLANNING POLICY: No comments received at time of writing this report.
- 7.13. SOUTHERN GAS NETWORK: No comments received at time of writing this report.
- 7.14. THAMES WATER: No comments received at time of writing this report.

#### 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 (CLP 2015) was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The CLP 2015 replaced a number of the 'saved' policies of the adopted Cherwell Local Plan 1996 (CLP 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 2015)

- PSD1: Presumption in Favour of Sustainable Development
- SLE1: Employment Development
- SLE4: Improved Transport and Connections
- BSC2: The Effective and Efficient and Efficient Use of Land
- 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 (SuDS)
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- 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 of new residential development
- ENV1: Environmental pollution
- ENV12: Development on contaminated land
- 8.3. Other Material Planning Considerations
  - National Planning Policy Framework (NPPF)
  - Planning Practice Guidance (PPG)
  - Local Walking and Cycling Infrastructure Plan (LWCIP)

#### 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
  - Drainage
  - Environmental protection and sustainability

# Principle of Development

# Policy Context

9.2. Policy SLE1 of the CLP 2015 states that employment development will be focussed on existing employment sites. On existing operational sites in Bicester, employment development (including intensification) will be permitted subject to compliance with other policies in the Plan and other material considerations. Policy SLE1 defines employment development, for the purpose of the policy, as B class uses.

#### Assessment

9.3. Policy SLE1 protects against the loss of B class uses and supports the intensification of existing employment sites. The proposed development would

involve intensification of the existing site. However, the site is in a commercial area with other B class uses. The site has been most recently used as a vehicle testing centre, which is 'sui generis' (outside of a use class) but the nature of the use is similar to many B class uses. The application site is brownfield land and the re-use of such land is supported by both local and national policy.

- 9.4. The loss of 'sui generis' uses are not covered by any specific policies in the Cherwell Local Plan. Therefore, the principle of the proposed development is considered acceptable, subject to the other considerations set out below.
- 9.5. As set out in the first section of this report, Government guidance states that from 1 September 2020, for purposes of Use Class, A1/2/3 & B1 to be treated as Class E, however for any planning applications submitted before 1 September 2020, the Use Classes in effect when the application was submitted will be used to determine the application. The current application was submitted on 6 August 2020 and therefore the proposed use of the buildings are B1/B2/B8. These uses are considered acceptable within this area and a condition would be included to ensure this use.

Conclusion

9.6. The principle of development is considered acceptable and complies with local and national policy in this regard.

Design and impact on the character of the area

Policy Context

- 9.7. Government guidance contained within the NPPF requiring good design states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. 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.
- 9.8. Policy ESD15 of the CLP 2015 states that new development proposals should contribute positively to an area's character and identity by creating or reinforcing local distinctiveness. Development should respect the traditional pattern of spaces, blocks and plots and the form, scale and massing of buildings.
- 9.9. Saved Policy C28 of the CLP 1996 states that control will be exercised over all new development to ensure that the standards of layout, design and external appearance, including the choice of materials, are sympathetic to the character of the context of that development.

- 9.10. The site is located in a commercial area of Bicester. The majority of the buildings are functional in their design and this is the case for the existing buildings on the site. There is a variety of building materials used in the area, with brick being the main material used and then secondary elements of render, blockwork and metal cladding. The site is not within an architecturally sensitive area of the town.
- 9.11. The layout of the development is that of two buildings running parallel to each on a perpendicular basis from Launton Road. The access to the development would be located centrally and then hardstanding would be created to the front of the units to provide parking and turning areas for the units. There would be some tree planting close to Launton Road and within the site. There is no established pattern of

- development in the area and as a result the proposed layout would not appear incongruous.
- 9.12. The proposals would result in an increase of the built development on the site. The current site has a large area of hardstanding and the existing buildings are not of a significant scale. The proposed buildings would have a maximum height of 8.9m. The scale of commercial and industrial buildings in the area is relatively consistent and the proposed buildings would not be out of keeping with this scale.
- 9.13. The current buildings on the site are constructed from a mix of cladding and brick. The walls of the proposed buildings would be constructed from composite cladding with metal sheet roofs. Brick is the main material used in the area. However, as previously stated, there is a mix of materials, with no set building design or appearance. Given that the area is not particularly architecturally sensitive and is within a commercial area, it is considered that the proposed materials are acceptable.

Conclusion

9.14. The proposed development would not cause harm to the character and appearance of the area and therefore complies with Policy ESD15 of the CLP 2015, Policy C28 of the CLP 1996 and Government guidance contained within the NPPF.

# Residential amenity

Policy Context

9.15. Policy ESD15 of the CLP 2015 states that new development proposals should consider the amenity of both existing and future development, including matters of privacy outlook, natural lighting, ventilation, and indoor and outdoor space.

Assessment

9.16. The site is located approximately 170 metres from the nearest dwellings, which are to the north of the site off Churchill Road. In between these dwellings and the site are a number of other commercial buildings and therefore it is considered that the development would not cause harm to the amenities of any dwellings.

Conclusion

9.17. The site is located a sufficient distance away the nearest residential properties and would not cause significant harm to the amenities of any neighbouring occupiers. The development would comply with Policy ESD15 of the CLP 2015 and Government guidance contained within the NPPF.

## Highway safety

Policy Context

9.18. Policy SLE4 of CLP 2015 states that all development where reasonable to do so, should facilitate the use of sustainable modes of transport to make the fullest possible use of public transport, walking and cycling. Encouragement will be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Development which is not suitable for the roads that serve the development and which have a severe traffic impact will not be supported.

- 9.19. The application seeks to move the access from the south-west corner of the site to be more centrally located and proposes a number of alterations to Launton Road, including the construction of a new bellmouth access, the relocation of the pedestrian refuge, changes to the existing white lines to create a ghosted right turn into the site and realignment of the existing kerbs.
- 9.20. The local highway authority (LHA) initially objected to the application but following the submission of swept path details and a Transport Statement, these objections were removed. The LHA has recommended conditions relating to full details of the access and parking and manoeuvring areas. These conditions are considered to be acceptable. The applicant would also need to enter into a Section 278 agreement with Oxfordshire County Council in order to secure highway mitigation and improvement works.
- 9.21. The proposals would result in an intensification of the use of the site. However, subject to conditions it is considered that sufficient cycle and car provision would be provided on site and a safe and suitable access would be provided to the development. It is therefore considered that the development would not cause harm to the safety of the local highway network.

Conclusion

9.22. Subject to conditions, the proposed development would not cause harm to the safety of the local highway network and thus complies with Policy SLE4 of CLP 2015 and Government guidance contained within the NPPF.

#### <u>Drainage</u>

Policy Context

- 9.23. Policy ESD6 of CLP 2015 states that the Council will manage and reduce flood risk in the District through using a sequential approach to development; locating vulnerable developments in areas at lower risk of flooding. Development proposals will be assessed according to the sequential approach and where necessary the exceptions test as set out in the NPPF and NPPG. Development will only be permitted in areas of flood risk when there are no reasonably available sites in areas of lower flood risk and the benefits of the development outweigh the risks from flooding.
- 9.24. Policy ESD7 of CLP 2015 requires the use of Sustainable Urban Drainage Systems to manage surface water drainage systems.

- 9.25. The County Council Drainage Engineer has objected to the scheme due to a lack of information. A drainage strategy for the site has been submitted within the Design and Access Statement, which proposes to provide cellular water storage in shallow below ground combined tanks to attenuate the discharge rate from the whole site to no more than 60% of the existing flow. The site is a brownfield site that is currently approximately 100% hard surfaced. The applicant proposes to provide the detail of the volume of these cellular water tanks, and the size of the hydrobrake discharge from these tanks at a later stage.
- 9.26. The comments of the County Council Drainage Engineer are noted. However, the site is a brownfield site, with a significant amount of hardstanding and has existing surface water and foul water drainage connections. The principles of the surface water drainage strategy set out within the Design and Access Statement are

considered to be reasonable and an acceptable drainage scheme can be achieved on the site, subject to a condition that a surface water drainage scheme is submitted and approved by the Local Planning Authority.

Conclusion

9.27. Subject to a condition requiring a surface water drainage scheme, it is considered that the proposed development would not be at risk of flooding or increase the risk of flooding elsewhere and, subject to conditions, would comply with Policies ESD6 and ESD7 of CLP 2015 and Government guidance contained within the NPPF.

# Environmental protection and sustainability

Policy Context

- 9.28. Saved Policy ENV1 of CLP 1996 states that development which is likely to cause materially detrimental levels of noise, vibration, smell, smoke, fumes or other type of environmental pollution will not normally be permitted.
- 9.29. Saved Policy ENV12 of CLP 1996 states that development on land which is known or suspected to be contaminated will only be permitted if: (i) adequate measures can be taken to remove any threat of contamination to future occupiers of the site (ii) the development is not likely to result in contamination of surface or underground water resources (iii) the proposed use does not conflict with the other policies in the plan.

Assessment

- 9.30. The site is located in an area of potentially contaminated land and in an industrial area. The Council's Environmental Protection Officer (EPO) has requested that a Construction Environment Management Plan is required by condition and this is considered to be reasonable and to meet the tests for conditions.
- 9.31. A contaminated land report has been submitted with the application. The EPO has offered no objections to this and agree with the recommendations for further investigation once the existing building has been demolished and when phase 2 may be developed. Should contamination be found in these areas then a report should be provided to the LPA along with a remediation scheme. No works should be undertaken until the remediation scheme has been agreed with the LPA. A condition will be included in this regard.
- 9.32. The EPO has stated that provision should be made for electrical vehicle charging infrastructure on the site. This condition is considered reasonable and would encourage sustainable forms of transport.
- 9.33. The Design and Access Statement sets out there is an opportunity for the use of photovoltaic panels and air source heat pumps at the site. The use of these measures would comply with Policies ESD4 and ESD5 of CLP 2015 and a condition shall be included in this regard to ensure that these measures are included in the completed development.

Conclusion

9.34. Subject to conditions, it is considered that the proposed development would comply with Policies ESD4 and ESD5 of CLP 2015, Saved Policies ENV1 and ENV12 of CLP 1996 and Government guidance contained within the NPPF in this regard.

# 10. PLANNING BALANCE AND CONCLUSION

10.1. The principle of development is considered to be acceptable, given that the existing use on the site is sui generis, which is not protected by any local or national policy and the proposed use is B1/B2/B8, which is acceptable for the commercial area in which the site is located. The area is not architecturally sensitive, and it is considered that the proposals would not cause harm to the character and appearance of the area. The site is located a sufficient distance away from residential properties as to not cause harm to the amenities of any residents. Subject to conditions, the development would not cause harm to highway safety and would not increase flood risk elsewhere. It is therefore considered that the development is acceptable, subject to the conditions set out below.

#### 11. RECOMMENDATION

# 12. RECOMMENDATION

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

# **CONDITIONS**

#### **Time Limit**

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

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

# **Compliance with Plans**

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: Site Location Plan (210,34-40 rev A); Proposals for Block 1 – plans (210,34 – 41 rev A); Proposals for Block 2 – plans (210,34 – 43 rev A); Site Utilities with proposed new buildings (210,34 – 50 rev A); Site Layout plan as proposed (210,34 – 51 rev B); Proposals for Block 1 – elevations (210,34 – 42 rev B); Proposals for Block 2 – elevations (210,34 – 44 rev B); Preliminary planting layout plan (BD 0216.3 SD 003 R02); Proposed Access Arrangements and Swept Path Analysis (2020-F-018-004); Proposed Access Arrangements and Swept Path Analysis (2020-F-018-005); Proposed Access Arrangements and Swept Path Analysis (2020-F-018-006); Proposed Access Arrangements (Ghost RTL) (2020-F-018-008I REV B) and Proposed Access Arrangements (Ghost RTL) (2020-F-018-008I REV B).

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

3. The premises shall be used only for purposes falling within Classes B1, B2 and B8 as specified in Schedule 1 to the Town and Country Planning (Use Classes) Order 1987 (as amended) and for no other purpose(s) whatsoever, including any other purpose(s) within Class E of Schedule 2 to the Town and Country Planning (Use Classes) Order 1987 (as amended).

Reason - In order to safeguard the character of the area and safeguard the amenities of the occupants of the adjoining premises and in the interests of highway safety and in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policies C28 and C31 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

4. No development shall commence unless and until full details of the means of access between the land and the highway, including, position, layout, construction, drainage and vision splays have been submitted to and approved in writing by the Local Planning Authority. The means of access shall be constructed in strict accordance with the approved details and shall be retained and maintained as such thereafter.

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

- 5. No development shall commence unless and until full specification details (including construction, layout, surfacing and drainage) of the turning area and 49 parking spaces within the curtilage of the site, arranged so that motor vehicles may enter, turn round and leave in a forward direction and vehicles may park off the highway, have been submitted to and approved in writing by the Local Planning Authority. The turning area and car parking spaces shall be constructed in accordance with the approved details prior to the first occupation of the development shall be retained as such for the parking and manoeuvring of vehicles at all times thereafter.
- 6. No development shall commence unless and until a detailed scheme for the surface water and foul sewage drainage of the development has been submitted to and approved in writing by the Local Planning Authority. The approved surface water drainage scheme shall be fully carried out prior to the commencement of any building works on the site, and the approved foul sewage drainage scheme shall be implemented prior to the first occupation of any building to which the scheme relates. All drainage works shall be laid out and constructed in accordance with the Water Authorities Association's current edition "Sewers for Adoption".

Reason - To ensure satisfactory drainage of the site in the interests of public health, to avoid flooding of adjacent land and property and 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 guidance contained within the National Planning Policy Framework.

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

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development

- can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.
- 8. If remedial works have been identified in condition 7, the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 7. A verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.
  - Reason To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.
- 9. No development shall commence unless and 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 ensure the environment is protected during construction in accordance with Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.
- 10. Prior to the first occupation of the development, a scheme for the provision of vehicular electric charging points to serve the development shall be submitted to and approved in writing by the Local Planning Authority. The vehicular electric charging points shall be provided in accordance with the approved details prior to the first occupation of the unit they serve, and retained as such thereafter.
  - Reason To comply with Policies SLE 4, ESD 1, ESD 3 and ESD 5 of the adopted Cherwell Local Plan 2011-2031 Part 1 and to maximise opportunities for sustainable transport modes in accordance with paragraph 110(e) of the National Planning Policy Framework.
- 11. Prior to the first occupation of the development, a scheme for the provision of solar PV to serve the development shall be submitted to and approved in writing by the Local Planning Authority. The solar PV shall be provided in accordance with the approved details prior to the first occupation of the unit they serve, and retained as such thereafter.
  - Reason To support the delivery of renewable and low carbon energy in accordance with Government guidance contained within the National Planning Policy Framework.
- 12. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with BS 4428:1989 Code of Practice for general landscape operations (excluding hard surfaces), or the most up to date and current British Standard, in the first planting and seeding seasons following the occupation of the building(s) or on the completion of the development, whichever is the sooner. Any trees, herbaceous planting and shrubs which,

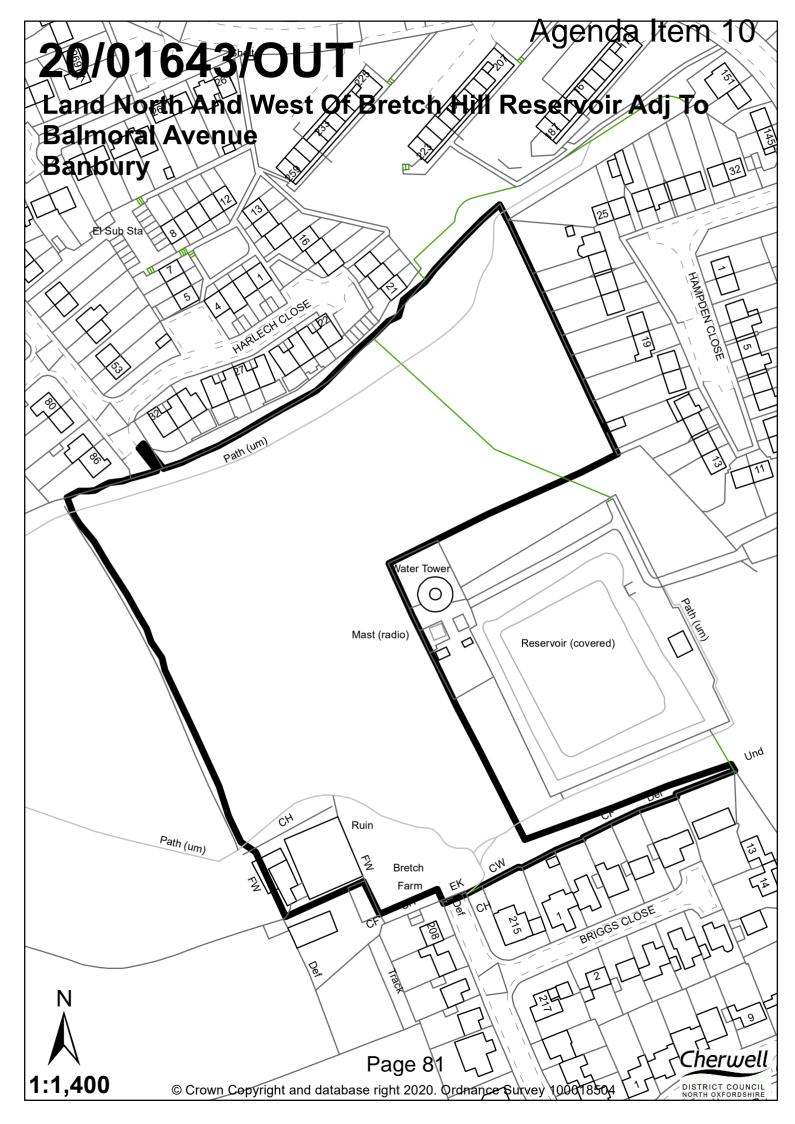
within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the current/next planting season with others of similar size and species.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development, to encourage the use of sustainable modes of transport and to comply with Policies ESD1 and ESD15 of the Cherwell Local Plan (2011-2031) Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

13. No goods, materials, plant or machinery shall be stored, repaired, operated or displayed in the open without the prior express planning consent of the Local Planning Authority.

Reason - In order to safeguard the visual amenities of the area in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework

CASE OFFICER: Matthew Chadwick TEL: 01295 753754





# Land North and West of Bretch Hill Reservoir Adj to Balmoral Avenue Banbury

Case Officer: Matthew Chadwick

**Applicant:** Lone Star Land Limited

Proposal: Erection of up to 49 homes, public open space and other infrastructure, with all

matters reserved except access - re-submission of 19/01811/OUT

Ward: Banbury Calthorpe and Easington

Councillors: Councillor Clarke, Councillor Mallon and Councillor Mepham

Reason for Referral: Major Development

**Expiry Date:** 21 September 2020 **Committee Date:** 10 December

2020

#### 1. BACKGROUND

- 1.1. The application was considered by Planning Committee on the 8 October 2020.
- 1.2. This report should be read as an addendum to the Officers' report from the 8 October 2020 committee. (attached)
- 1.3. Members resolved to refuse the application for three reasons: The principle of development; the impact that the proposal would have on the safety of the local highway network; and the poor standard of amenity that future occupiers would have due to the nearby water tower and communications mast.
- 1.4. In preparing a decision, officers reviewed the Committee's resolution and the debate that preceded it. The day after the Committee the applicant also submitted submissions regarding the material considerations and policies that had been drawn to the attention of the Committee prior to the decision being made.
- 1.5. Having reviewed the matter and having taken advice from the Council's legal services team, officers are returning this application to the Committee to seek clarity on particular matters, to advise on developments since the October meeting and to obtain the Committee's instructions.

# 2. APPRAISAL

## 2.1 This report seeks:

- To clarify and/or inform the Committee regarding the site's Development Plan status and the Banbury Vision & Masterplan SPD; and
- To confirm the wording of the reasons for refusal in respect of the three matters set out in para 1.3 above.

The site's Development Plan status

- 2.2 Members' discussion in this regard placed emphasis on the fact that the site is not allocated for development. It was not clear to officers whether this weighed into the reason for the principle of development. Clarity is sought in this regard.
- 2.3 The site was identified for development within the 2004 Non-Statutory Plan but given that Plan's status the site was not thereby allocated. The Cherwell Local Plan 2011-2031 Part 1 ('CLP 2015') did not allocate sites for less than 100 dwellings. It was on this sole basis that the site was not allocated within the CLP 2015.
- 2.4 It is correct that the site is not allocated for development in the Development Plan. However, the housing strategy of the Development Plan is to focus development "in and around" Bicester and Banbury (B.88, page 57). The CLP 2015 was a Part 1 document, allocating strategic sites (100+ dwellings) and was intended to be followed by a Part 2 which would have allocated smaller sites for development.
- 2.5 Further, while the Development Plan is the starting point for decision making, it is not the end point. Not being allocated does not in itself make a site unacceptable. The decision maker must decide what harm is caused by such a development proposal, either to the Council's housing strategy or to other interests.
- 2.6 In summary, to refuse permission on the basis that the site is not allocated is not defensible and would leave the Council vulnerable to an award of costs at appeal.

# The Banbury Vision & Masterplan SPD

- 2.7 The applicant has brought to our attention that the Officers' report from the 8 October 2020 committee meeting did not mention the Banbury Vision & Masterplan SPD. This document is a material planning consideration that was not considered during the debate and before the committee resolution to refuse the application of 8 October 2020.
- 2.8 The BVM establishes the long-term vision for the town and identifies the main projects and initiatives to support the town's growth.
- 2.9 The applicant had made submissions that the BVM SPD includes the site in the built form of the settlement and that it identifies the site as being a 'future development site'.
- 2.10 However, the BVM SPD (as set out within the Adoption Statement of 19 December 2016) 'builds upon and provides further guidance to support the adopted Cherwell Local Plan 2011-2031 Part 1'. While it is a material consideration, the BVM cannot allocate sites for development. Allocation can only be done through the Local Plan or Neighbourhood Plan process.
- 2.11 Officers do not consider the BVM has any material bearing on the acceptability or otherwise of the principle of development.

# 3. CONCLUSION

3.1 In officers' view, while the BVM SPD is a material planning consideration, it does not change the acceptability or otherwise of the principle of development. Members are asked to consider the information set out above in respect of the site's Development Plan status and the BVM, and in light of this information to consider the extent to which this affects its resolution of 8 October 2020.

#### 4. **RECOMMENDATION**

That, having regard to the additional information contained in this report,

- (a) The Planning Committee confirms its previous decision made on 8 October 2020; and,
- (b) Agrees the wording of the reasons for refusal

Proposed wording for Refusal Reason 2:

By virtue of its siting in close proximity to the water tower and telecommunications mast, the proposed development would result in significant and demonstrable harm to the living conditions and general amenity of the future occupiers of the proposed development, and this harm is not capable of being addressed through any layout of development or through a reduced number of dwellings. The proposal is therefore contrary to Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, Saved Policy C30 of the CLP 1996 and Government guidance contained with National Planning Policy Framework.

Proposed wording for Refusal Reason 3:

By virtue of the increased vehicular movements onto Broughton Road, the proposed development would cause harm to the safety of the local highway network. The proposal is therefore contrary to Policy SLE4 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained with National Planning Policy Framework.

CASE OFFICER: Matthew Chadwick TEL: 01295

753754

# Land North and West of Bretch Hill Reservoir Adj to Balmoral Avenue Banbury

Case Officer: Matthew Chadwick

**Applicant:** Lone Star Land Limited

Proposal: Erection of up to 49 homes, public open space and other infrastructure, with all

matters reserved except access - re-submission of 19/01811/OUT

Ward: Banbury Calthorpe and Easington

Councillors: Councillor Clarke, Councillor Mallon and Councillor Mepham

Reason for Referral: Major Development

**Expiry Date:** 21 September 2020 **Committee Date:** 8 October 2020

# **EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION**

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

# Proposal

Outline planning permission is sought for up to 49 dwellings including 30% affordable housing. All matters reserved except access which is proposed from Balmoral Avenue to the south of the site. The site is on the western edge of Banbury, to the north of the Broughton Road and surrounded on three sides by existing residential development.

#### Consultations

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

• Banbury Town Council, OCC Drainage, Clinical Commissioning Group

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

 CDC Building Control, CDC Ecology, CDC Landscape Services, CDC Rights of Way, OCC Highways, CDC Planning Policy, CDC Recreation and Leisure, CDC Strategic Housing, Thames Water, CDC Environmental Health

14 letters of objection have been received.

## **Planning Policy and Constraints**

A public right of way (ref 120/24/10) runs along the northern boundary to the north-east corner of the site. There are a number of notable protected species which have been recorded as present on the site or within 250m of the site. Within 2km of the site is a Site of Special Scientific Interest (Neithrop Fields Cutting).

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

- Site layout and design principles
- Design, and impact on the character and appearance of the area
- Highways
- Rights of way, access and pedestrian connectivity
- Residential amenity
- Affordable housing
- Flood risk and drainage
- Ecology impact
- Infrastructure
- Other matters

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 is located on the western edge of Banbury to the immediate west of Bretch Hill. The site comprises approximately 2.8 hectares and is land formerly used for agricultural purposes associated with Bretch Farm but is now scrub. The physical remains of Bretch Farm lie in the south-west corner of the site with a number of buildings in ruin.
- 1.2. To the west is an existing water tower and an underground reservoir under the ownership and control of Thames Water. On three sides the site is bounded by existing residential development.
- 1.3. The site is generally flat with a slight drop in land level from west to east and the site is effectively on the top of the hill. There is also a significant fall on the northern boundary of the site and the rear gardens of properties on Harlech Close. The fall means that the site sits approximately 2.5 metres above these rear gardens.
- 1.4. The proposed access to the site would be off the existing gated entrance from Balmoral Avenue to the south of the site. Balmoral Avenue is a steep road on rising and from the Broughton Road to the south.

#### 2. CONSTRAINTS

- 2.1. The land is predominantly enclosed by hedgerows and well-established mature trees. There is a copse of trees in the northern corner which extends in a linear fashion along the northern boundary backing on to dwellings on Harlech Close. This woodland is classified as deciduous woodland priority habitat.
- 2.2. A public right of way (ref 120/24/10) runs along the northern boundary to the northeast corner to join a hard-surfaced footpath stretching into Bretch Hill. The current footpath within the site is unmarked, not levelled or laid to hardstanding or surfaced and is unlit.

- 2.3. There are a number of notable protected species which have been recorded as present on the site or within 250m of the site. Within 2km of the site is a Site of Special Scientific Interest (Neithrop Fields Cutting).
- 2.4. The site is dominated by the adjacent telecommunications mast (approximately 48 metres high) and concrete water tower (approximately 22 metres high). A raised reservoir lies immediately to the south east of the site surrounded by grassed embankments and steel palisade fencing.

#### 3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The planning application seeks outline consent for residential development with all matters reserved except access. The proposal comprises the following elements:
  - Erection of up to 49 dwellings;
  - 30% affordable housing;
  - Vehicular access from Balmoral Avenue;
  - Pedestrian access from Balmoral Avenue and via public right of way to Bretch Hill:
  - 0.68 hectares of public open space;
  - Local Area of Play;
  - Informal play space;
  - Sustainable urban drainage systems; and
  - Other supporting infrastructure.
- 3.2. The application proposes vehicular and pedestrian access to be taken from Balmoral Avenue to the south of the site. This is a continuation of the existing road. In addition, the illustrative plan shows the public right of way running along the northern boundary of the site would remain in situ and as is, to provide a link through to Bretch Hill.
- 3.3. Whilst the layout is not submitted for approval, an illustrative layout plan has been submitted to show one way that the development could be delivered. The development proposed comprises up to 49 dwellings. A mix has been provided for illustrative purposes alongside the layout. It is acknowledged in the Planning Statement that the figures submitted are illustrative only and the mix for affordable units would be set by an agreed S106 agreement and the mix for market housing set through the relevant reserved matters application.
- 3.4. The illustrative layout shows the retention of the woodland to the north and this includes an area of public open space, a LAP and informal play space.
- 3.5. In terms of density, the proposed 49 dwellings are provided on approximately 1.52 hectares of developable land resulting in a density of 32 dwellings per hectare.
- 3.6. The application is accompanied by an illustrative site layout and landscape masterplan, Planning Statement, Design and Access Statement, Flood Risk Assessment, Ecological Appraisal and management plan, Air Quality report, Bat

report, Utilities assessment, Drainage statement, Tree Report, Transport Statement and a Landscape and Visual Impact Assessment.

## 4. RELEVANT PLANNING HISTORY

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

19/01811/OUT – Outline – Erection of up to 70 dwellings, public open space, and other infrastructure, with all matters reserved except access

#### 5. PRE-APPLICATION DISCUSSIONS

- 5.1. The following pre-application discussions have taken place with regard to this proposal:
- 5.2. Pre-application advice was first given in January 2018 (17/00170/PREAPP refers). It was advised that the site was allocated through Policy H1b of the non-statutory Cherwell Local Plan. The designation is a material planning consideration but carries little weight. The report concluded that careful consideration would need to be given to the landscape impact of the proposed development and design and layout of the proposed development to ensure that satisfactory visual amenity (both perceived and actual) was achieved for future residents. Subject to these matters being satisfactorily resolved, and to the assessment of access and traffic matters and other technical matters, the principle of development was considered to be acceptable.
- 5.3. Limited advice was also given on the affordable housing requirements, developer contributions, landscape and visual impact, residential amenity, impact on trees and access and transport matters.
- 5.4. Advice was given on the requirement to provide suitable access from the site to existing bus stops in that any application should ensure dwellings are within 400m of bus stops in Bretch Hill. It was considered that bringing the existing public right of way across the northern boundary of the site up to a suitable standard to encourage people to use it would likely be too expensive and as it passes through woodland this would be difficult to light and people would avoid it due to personal safety concerns. The officer at the time expressed a preference to providing a footpath connection to Balmoral Avenue to the north which would allow access to bus stops at Chepstow Gardens. This link would also provide access towards schools and local shops.
- 5.5. The pre-application advice concluded that, although there was no pressing need for the release of further housing for development, the presumption in favour of sustainable development would need to be applied. Taking into account the previous allocation of the site and the apparent wider limited landscape impacts it was officer opinion that the development of the site could possibly be supported. This was on the basis that is could be demonstrated that development could be appropriately accommodated taking into account the site's constraints.
- 5.6. Pre-application advice was given following the withdrawal of the last application (20/00330/PREAPP refers). It was advised that the principle of development remained acceptable but that as set out in the published report to Planning Committee in November 2019 there were a number of issues that needed to be addressed for development of the site to be supported, pedestrian connectivity, layout and relationship with existing built development, provision of a LAP and the housing mix including affordable housing mix along with biodiversity enhancement and flood risk.

- 5.7. The layout submitted with the pre-app enquiry showed a LAP, which was an improvement on the previous planning application which didn't, although in officers' view it was in the wrong location and needed to be re-sited e.g. within the POS to the east of the proposed built development. The housing mix and affordable housing mix were not far away from being acceptable and the changes required were set out in the officer response.
- 5.8. Officers advised that it remained critically important that the pedestrian and cycleway links are provided and that providing satisfactory pedestrian routes and connectivity in the northern part of the site without detriment to trees or wildlife remained the major challenge with the site in order to bring forward development, i.e. the principle of development would only be acceptable if these issues can be resolved.

#### 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 4 September 2020, although comments received after this date and before finalising this report have also been taken into account.
- 6.2. Letters of objection have been received from 12 households (11 households in the vicinity of the site and 1 household in Kirtlington). The comments raised by third parties are summarised as follows:
- 6.3. <u>Need</u> no immediate need for additional houses given the ample developments in other areas of Banbury, e.g. Elmwood Park
- 6.4. <u>Local Plan</u> not an allocated site / not part of the Cherwell Local Plan
- 6.5. <u>Design</u> the design of the dwellings is not in keeping with those on Balmoral Ave
- 6.6. <u>Footpaths</u> the proposal would impact on the existing footpaths across the site, dog walkers, etc.
- 6.7. Access the proposal would create safety issues for residents
- 6.8. <a href="Impact on highway safety">Impact on highway safety</a> the unsuitability of extra traffic; the very steep hill; the potential of parking problems; noise, heavy machinery, large construction vehicles, etc. The submitted transport assessment showed that speed limits are exceeded by between 15 and 33% (Dec 2018 figures); difficulties for parking for tradesmen and lorries during construction; blind corners when exiting from Briggs Road, Dorchester Grove or Denbigh Close; difficulties caused by multiple accesses close together on Broughton Road; the condition of Balmoral Ave is not suitable for construction and future use by occupiers of the proposed development
- 6.9. <u>Impact on wildlife</u> e.g. badgers in the field, bats in the farmhouse
- 6.10. Drainage/Water impact on water pressure and on foul water drains
- 6.11. Light pollution the proposal would increase light pollution in the area
- 6.12. Noise development of this site would make Balmoral Ave a noisier place

- 6.13. Crime additional houses would bring more crime into Balmoral Ave
- 6.14. Issues raised with the first application not addressed with the second application
- 6.15. Condition of any permission given Any permission given should be subject to a requirement for any prospective developer to engage "a recognised independent road testing consultant carry out a detailed condition report and assess it's suitability for both the construction traffic and that from the proposed additional homes. Such a report to include road pavement deflection testing. Subject to their findings it may require a Developer to re-construct the entire length of Balmoral Avenue (Broughton Road Side) should planning approval be granted".
- 6.16. <u>Condition of any permission given</u> swift nest bricks to be incorporated in the development as a biodiversity enhancement, swifts now being amber-listed as birds of conservation concern.
- 6.17. 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: **Objects**, for the following reasons: 1, Adverse impact on local highway network - Broughton Road junction is not considered suitable for the additional traffic that will be generated. 2. The site is not within the adopted Local Plan and the area has a 3 year housing supply so the additional housing is not needed on a site that due to the size and positioning of the large adjacent structures will have a poor standard of amenity.

# OTHER CONSULTEES

- 7.3. CDC LANDSCAPING: **No objections** the LVIA's weighting and judgements are reasonable. The masterplan is generally acceptable. The attenuation basin when full must not flood into adjacent gardens and may need re-siting. Detailed landscape proposals, play area proposals (with construction details) and tree pit detail are required under relevant planning conditions.
- 7.4. CDC ECOLOGY: **No objections**, subject to conditions relating to a CEMP, LEMP and full lighting strategy.
- 7.5. CDC LEGAL SERVICES RIGHTS OF WAY: **No objection** the proposal would not require any diversion to the public footpath numbered 120/24 which extends along the northern boundary of the site
- 7.6. OCC HIGHWAYS: **No objections subject to conditions** (provision of new permanent public footpaths, access full details, Travel Information Pack, Travel Plan Statement and Construction Traffic Management Plan, **and s106 financial contributions** (see below) **and s278 agreement.** 
  - □ Public transport services £49,000 (£1,000 per dwelling) towards the strengthening and enhancing of the B5 bus service which runs through Bretch Hill

$\hfill \square$ Public rights of way - £5,000 $-$ to improve the surfaces of all routes within 2km and to take account of the likely increase in use by residents of the development as well as new or replacement structures like gates, bridges and seating, sub-surfacing and drainage to enable easier access, improved signing etc.
$\hfill \Box$ Strategic highway contribution - £62,772 $-$ a) Bridge Street/Cherwell Street eastern corridor improvements and b) A361 Bloxham Road/Queensway/Springfield Avenue junction movements.
$\hfill \square$ Developer to enter into a S278 agreement to secure mitigation/improvement works including:
o A dropped kerb crossing facility to be provided at the origin of footpath 120/24 where it joins onto Bretch Hill.

- o Provision of the site access and pedestrian footways as shown by a plan agreed with Highway Authority.
- o Improvement of Public Right of Way 120/24 into a "blacktop" footpath which is illuminated to OCC standards. The footpath would need to connect the development to Bretch Hill and Balmoral Avenue north or Harlech Close. This could take the form of a self-binding gravel type path suitable for all users, without the need to tarmac.
- 7.7. In other comments, the vehicular access in the proposed location is deemed acceptable. The highway boundary appears to extend in full width to the site boundary; however, the applicant should verify this to ensure that a road of adequate width including footways can be extended into the site.
- 7.8. Pedestrian and Cycle Access The proposals show two pedestrian and cycle links, the Broughton Road/Balmoral Avenue junction to the south and a connection linking the site to Balmoral Avenue North. The site still lacks a credible east/west connection but since footpath 120/24 is, at best, an illegible and muddy path we would not consider this footpath in its current condition a credible option for pedestrians or cyclists.
- 7.9. As the footpath could provide a good option for east/west connectivity and provide easy access to the bus stop opposite Mascord Road junction, we consider it imperative that it receive improvements. The proposals demonstrate a footpath linking the development and footpath 120/24 together so improvements to it would be a common sense approach to providing an effective east/west connection to the wider Banbury area. This could be done via resurfacing providing a self-binding gravel type path, with no tarmacking required.
- 7.10. Public Transport Stops near to Chepstow Gardens and Bretch Hill serve the B5 bus which is a much more frequent service (4 buses per hour during weekday times). OCC is seeking to add additional value including route options, extended hours and extend the weekend hours of the route.
- 7.11. Traffic Impact The overall conclusions of the Transport Statement as it relates to trip rates are accepted. The justification for not assessing the Queensway roundabout is considered sound. The methodology used to generate the final trip rates is accepted and it is noted that the Balmoral Avenue/Broughton Road junction is within capacity.
- 7.12. Travel Plan For a development of this size, the slimmed down version of a travel plan, a Travel Plan Statement (TPS) and a travel information pack will be required.

Our approved guidance contains a simple form to complete to ensure that the TPS contains all the necessary information.

- 7.13. OCC DRAINAGE **Objects.** No objections in principle with the proposed method of disposal via infiltration but expresses concerns with this being predominantly managed as a site solution in large volumes adjacent to existing properties. In line with local and national guidance, we expect surface water to be managed at source (i.e. close to where it falls) with residual flows then conveyed downstream to further storage or treatment components, where required. There is space throughout the site to provide storage or infiltration features to minimise the requirement for a large drainage feature so close to existing properties.
- 7.14. OCC EDUCATION: No objection subject to S106 contributions as follows:

□ Primary education - £269,976 – for the expansion of primary capacity serving the
Banbury area. This is based on 21.39 being the number of primary pupils expected
to be generated from the development. The estimated cost per pupil of expanding a
primary school is £15,256.

- □ Secondary education (including sixth form) £407,462 towards a new secondary school in Banbury. This is based on 15.06 being the number of secondary and sixth form pupils expected to be generated from the development. The estimated cost per pupil of building a new 600-place secondary school is £31,159.
- 7.26. The above contributions are based on a unit mix of:
- 6 x 1 bed dwellings
- 13 x 2 bed dwellings
- 21 x 3 bed dwellings
- 9 x 4 bed dwellings
- 7.15. OCC ARCHAEOLOGY: No objections
- 7.16. CDC STRATEGIC HOUSING: **Comments.** The mix in the pre-app scheme has been changed in line with our request. The units are therefore:

Rented Units:

- 4 x 1 bed 2-person maisonettes
- 2 x 1 bed 2-person houses
- 2 x 2 bed 4-person houses
- 2 x 3 bed 6-person houses
- 1 x 4 bed 7-person house

Total – 11 units

We would seek a social rent tenure for the rented units. The one-bed houses are to fulfil an unmet need and we would like these to be retained in any future planning applications.

Shared Ownership Units:

- 2 x 2 bed 4-person houses
- 2 x 3 bed 5-person houses

Total – 4 units

- 7.17. In terms of space, all rented dwellings must comply with the DCLG Technical housing standards nationally described space standard.
- 7.18. We expect at least 50% of the social rented dwellings to meet Approved Document Part M4(2) Category 2. These units are especially suited to ground floor maisonettes in order to provide maximum accessibility.
- 7.19. Regarding the car parking, we note that the applicant has addressed comments from the Planning Officer so that parking along the frontages has been removed and more streets and trees are shown on the layout. However, we would like to see a better relationship to the car parking for some plots, especially plots 35 & 36, and to plots 37-39 if possible. We did not comment on this previously as these units were originally proposed as market housing.
- 7.20. We expect 1-bedroom dwellings will have a minimum of 1 parking space per unit, and all 2, 3- and 4-bedroom dwellings should have a minimum of 2 parking spaces per unit. Car parking spaces for units compliant with Part M4(2) should meet the requirements of the relevant part of the document.
- 7.21. The Landscape and Visual impact statement understandably considers the impact of the site from existing viewpoints on the fringes of the site, but as the mobile phone mast and water tower are very prominent features within views of the site, it would be reassuring to see a drawing which shows the relationship between the dwellings (assumed to be maisonettes) on plots 40-43, which have these tall structures behind them, to demonstrate the visual impact and the enhancement that the trees will provide.
- 7.22. To ensure the creation of mixed and cohesive communities the affordable housing should be fully integrated with the market housing (the proposed clustering and distribution of the affordable housing is good). Affordable housing should also be visually indistinguishable from the market housing. The Registered Provider taking on the affordable housing units would need to be agreed with the Council.
- 7.23. CDC COMMUNITY INFRASTRUCTURE: **No objections subject to s106 financial contributions** in line with the adopted 2018 SPD developer contributions guidance. These are:
  - Off-site Outdoor Sports Contribution 49 dwellings x £2,017.03 per dwelling contribution = £98,834.47 towards pitch and pavilion improvements at North Oxfordshire Community use site or the development of a new artificial pitch at Hanwell Fields playing fields in Banbury.
  - Off-site Indoor Sports Contribution 49 dwellings x 2.49 avg. people per dwelling x £335.32 per person contribution = £40,912.39 towards Banbury Indoor Tennis Centre and/or the improvements of leisure centre provision in the locality.
  - Community Hall Contribution 70 dwellings x 2.49 avg. people per dwelling x £520 contribution per person = £56,018.74 towards improvements at The Hill or Sunshine Centre in Banbury.

- 7.24. CDC WASTE AND RECYCLING: **No response at the time of writing this report**. Any response received prior to the committee meeting will be included in the written updates.
- 7.25. CLINICAL COMMISSIONING GROUP: **Objects** in the absence of mitigation for the health requirements of the additional population associated with this development. OCCG notes (as submitted to Cherwell DC in January 2017 for inclusion in the Infrastructure Development Plan) that primary medical care in Banbury is at capacity, and further housing growth will require additional or expanded infrastructure to be in place. OCCG therefore object to this application pending agreement of appropriate contributions to primary care infrastructure. Seeks a developer contribution of £42,336 to support improvement of local primary care infrastructure if this development were to go ahead. This calculation is based on OCCG's adopted policy to use a calculation of 2.4 x number of dwellings x £360 for contributions to health infrastructure. The size of this development does not justify a new separate health centre or equivalent, so we would anticipate funds being used for enhancing existing primary care medical infrastructure to meet the needs of a growing population.
- 7.26. WATER AUTHORITY: **No objection** subject to conditions and informative notes. Thames Water notes that the existing foul water network is not able to accommodate the needs of this development proposal, but advises this issue can be addressed through a planning condition: "No properties shall be occupied until confirmation has been provided that either:- 1. All wastewater network upgrades required to accommodate the additional flows from the development have been completed; or- 2. A housing and infrastructure phasing plan has been agreed with Thames Water to allow additional properties to be occupied. Where a housing and infrastructure phasing plan is agreed, no occupation shall take place other than in accordance with the agreed housing and infrastructure phasing plan." Reason -Network reinforcement works are likely to be required to accommodate the proposed development. Any reinforcement works identified will be necessary in order to avoid sewage flooding and/or potential pollution incidents. The developer can request information to support the discharge of this condition by visiting the Thames Water website at thameswater.co.uk/preplanning. Should the Local Planning Authority consider the above recommendation inappropriate or are unable to include it in the decision notice, it is important that the Local Planning Authority liaises with Thames Water Development Planning Department (telephone 0203 577 9998) prior to the planning application approval.
- 7.27. Officer comment:- Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Section 70(4) of the 1990 Act (as amended) defines a local finance consideration as a grant or other financial assistance that has been, that will or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy.
- 7.28. In this particular instance, the above financial payments are not considered to be material to the decision as they would not make the development acceptable in planning terms. It would not be appropriate to make a decision based on the potential for the development to raise money for a local authority and hence the above response from the Council's Finance department is therefore provided on an information basis only.

## 8. RELEVANT PLANNING POLICY AND GUIDANCE

- 8.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 8.2. The Cherwell Local Plan 2011-2031 Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 Part 1 replaced a number of the 'saved' policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District's statutory Development Plan are set out below:

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

- PSD1: Presumption in Favour of Sustainable Development
- BSC1: District Wide Housing Distribution
- BSC2: The Effective and Efficient Use of Land Brownfield Land and Housing Density
- BSC3: Affordable Housing
- BSC4: Housing Mix
- BSC10: Open Space, Outdoor Sport and Recreation Provision
- BSC11: Local Standards of Provision Outdoor Recreation
- ESD1: Mitigating and Adapting to Climate Change
- ESD2: Energy Hierarchy and Allowable Solutions
- ESD3: Sustainable Construction
- ESD6: Sustainable Flood Risk Management
- ESD7: Sustainable Drainage Systems (SuDS)
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD15: The Character of the Built and Historic Environment
- Banbury 10: Bretch Hill Regeneration Area

## NON-STATUTORY CHERWELL LOCAL PLAN 2011

Policy H1b: Allocation of sites for residential development

# 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)
  - EU Habitats Directive
  - Conservation of Habitats and Species Regulations 2017
  - Circular 06/2005 (Biodiversity and Geological Conservation)
  - Human Rights Act 1998 ("HRA")
  - Equalities Act 2010 ("EA")
  - Cherwell Residential Design Guide SPD
  - Cherwell Developer Contributions SPD

# 9. APPRAISAL

- 9.1. The key issues for consideration in this case are:
  - Principle of development
  - Site layout and design principles
  - Design, and impact on the character and appearance of the area
  - Highways
  - Rights of way, access and pedestrian connectivity
  - Residential amenity
  - Affordable housing
  - Flood risk and drainage
  - Ecology impact
  - Infrastructure
  - Other matters

# Principle of Development

9.2. Planning law requires that planning decisions are made in accordance with the Development Plan unless material considerations indicate otherwise. Paragraph 12 of the National Planning Policy Framework (NPPF) makes clear that it does not change the statutory status of the development plan as the starting point for decision making. Proposed development that conflicts with the development plan should be refused unless other material considerations indicate otherwise. Cherwell has an up to date Local Plan and can demonstrate a 5 year housing land supply. However, the NPPF is a significant material consideration.

#### **NPPF**

9.3. Paragraph 11 of the NPPF explains the Government's presumption in favour of sustainable development. For decision-taking this means approving proposals that accord with an up to date development plan and in cases where there are either no relevant development plan policies or those policies important for determining the application are out of date; granting permission unless the NPPF policies provide a clear reason for refusal or any adverse impacts significantly and demonstrably outweigh the benefits.

# Development Plan

- 9.4. The Development Plan comprises the saved policies of the 1996 adopted Cherwell Local Plan (CLP1996) and the 2015 adopted Cherwell Local Plan (CLP 2031 Part 1). The policies important for determining this application are referenced above.
- 9.5. Policy PSD1 of the Cherwell Local Plan 2011-2031 accords with the NPPFs requirement for sustainable development and that planning applications that accord with policies in the statutory Development Plan will be approved without delay.
- 9.6. The Cherwell Local Plan 2011-2031 seeks to allocate sufficient land to meet District Wide Housing needs. The overall housing strategy is to focus housing growth at the towns of Bicester and Banbury.
- 9.7. Policy H1b of the Non-Statutory Cherwell Local Plan identifies the site as suitable for residential development of approximately 70 dwellings. This document was never formally adopted as part of the Development Plan but it does hold some weight in terms of decision making in the District, albeit more limited. The adopted Part 1 Local Plan does not allocate sites under the threshold of 100 residential units, thus not considering this site.

- 9.8. The Council's 2019 Annual Monitoring Report (AMR) confirms that the District can demonstrate a 4.4 years housing land supply. In the circumstances that a LPA cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer), there is a presumption in favour of sustainable development and ordinarily the circumstances at paragraph 11d of the NPPF are engaged in short development should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
- 9.9. However, in respect of the Oxfordshire Authorities including Cherwell there is a Written Ministerial Statement ("WMS") made in September 2018 concerning the Housing and Growth Deal, which is a significant material consideration. This sets out the requirement for a 3 year (rather than 5 year) supply of deliverable housing sites (with the appropriate buffer) from the date it was made (12/09/2018) until the adoption of the Joint Statutory Spatial Plan in each area, providing the timescales in the Housing and Growth Deal are adhered to. Therefore, in this case, the tilted balance set out by Paragraph 11d is not engaged because the Housing Supply requirement for the District should be taken to be 3 years in accordance with the WMS.
- 9.10. Whilst the Council can demonstrate a 3 year housing land supply, significant weight is still afforded to benefits of providing housing to contribute towards meeting the requirements of Local Plan Part 1, meeting the housing needs of the area and contributing towards meeting the need of the Oxfordshire Growth deal.
- 9.11. Paragraph 11 of the NPPF sets out the presumption in favour of sustainable development. The NPPF sets out the economic, social and environmental roles of planning in seeking to achieve sustainable development: contributing to building a strong, responsive and competitive economy; supporting strong, vibrant and healthy communities; and contributing to protecting and enhancing our natural, built and historic environment.
- 9.12. In terms of the economic impact, the proposed development would create jobs both directly and indirectly. Socially, the development would provide both market and affordable housing whilst environmentally it would provide new planting and some enhancements for a range of habitats available for wildlife and the setting of the site. It is considered that the proposed development fulfils the requirements of paragraph 8 of the Framework and can be considered to be sustainable. However, these aspects are explored in greater detail through the coming paragraphs.

## Conclusion

9.13. Therefore, considering (1) the site allocation (albeit it holds limited weight), (2) the physical location of the site in Banbury and it being bounded by existing residential development on three sides, (3) that the proposal would assist in the delivering of new homes and meeting overall district housing requirements, including affordable housing to 2031 and (4) the presumption in favour of sustainable development, it follows that the development is acceptable in principle.

# Site Layout and Design Principles

# Policy Context

9.14. Policy ESD15 of the CLP 2015 provides guidance as to the assessment of development and its impact upon the character of the built and historic environment. It seeks to secure development that would complement and enhance the character of its context through sensitive siting, layout and high quality design meeting high

- design standards and complementing any nearby heritage assets. The National Planning Policy Framework is clear that good design is a fundamental to what the planning and development process should achieve.
- 9.15. Policy BSC10 of the Cherwell Local Plan Part 1 2011-2031 outlines the requirements for open space, outdoor sport and recreation provision. Policy BSC11 sets out the local standards of provision for outdoor recreation including children's play space.
- 9.16. The site is located in the Bretch Hill Regeneration Area (Policy Banbury 10), which states that development proposals will be permitted for small scale redevelopment/renewal that would result in improvements to the existing housing stock and community facilities.
- 9.17. The Council's Residential Design Guide SPD seeks to ensure that new development responds to the traditional settlement pattern, character and context of a village. This includes the use of continuous building forms along principle routes and adjacent to areas of the public open space, the use of traditional building materials and detailing and form that respond to the local vernacular.

#### Assessment

- 9.18. The application is in outline with all matters reserved except for access. The application is accompanied by an indicative concept layout. This layout, in contrast to that submitted with the last application, embraces the principles set out in the 2018 Residential Design Guide, including active surveillance from proposed dwellings onto the footpath which is broadly parallel to the northern boundary and terminates at the north/north-eastern corner; active surveillance onto the public open space now being achievable, provided corner turner dwellings are used this can be secured at reserved matters stage; LAP now provided on the site; parking now provided to the sides of dwellings and in rear courtyards rather than on frontages; and provision of cycle link from Balmoral Avenue south to north.
- 9.19. Whilst design and materials would be assessed under a reserved matters application it is considered that, given the location of the site on the edge of the town and adjacent existing residential development, appropriate levels of control should be secured at any such detailed application stage, to ensure compliance with design principles reflective of those within the area and wider district.
- 9.20. The proposed landscaping, with retention of the existing tree lined boundaries, woodland and introduction of landscape buffers would provide a softer edge to the proposed development allowing for a transition to the rural landscape to the west.
- 9.21. That said, whilst every application would need to be assessed on its own planning merits at the time of the of any such application, officers are confident of the level of control that could be safeguarded through ensuring broad compliance with any approved plans secured by way of appropriate condition attached to any such permission.

# Conclusion

9.22. It is considered that while the submitted indicative layout would not be acceptable, with some relatively minor amendments it would be acceptable and, importantly, (1) does not form part of any approval of the current application if supported and (2) demonstrates that 49 dwellings can be delivered on the site, and also allow for the provision of a well-designed, safe, accessible and well-connected environment with an appropriate tenure mix. As such, the proposal accords with Policies BSC10,

BSC11 and ESD15 of the adopted Cherwell Local Plan 2011-2013 and government guidance within the NPPF.

# Impact on the character and appearance of the area

- 9.23. Government guidance contained within the NPPF towards achieving well-designed places states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. The NPPG goes on to note that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Further, Paragraph 130 of the NPPF states that permission should be refused for development of poor design that fails to take the opportunities for improving the character and quality of an area and the way it functions.
- 9.24. Paragraph 127 of the NPPF states that planning decisions should ensure that developments:
  - Will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
  - Are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
  - Are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change;
  - Establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
  - Optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks;
  - Create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users, and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 9.25. Policy ESD15 of the Cherwell Local Plan Part 1 states that: "New development proposals should:
  - Contribute positively to an area's character and identity by creating or reinforcing local distinctiveness and respecting local topography, including skylines, valley floors, significant trees, historic boundaries, landmarks, features or views.
  - Respect the traditional pattern routes, spaces, blocks, plots, enclosures and the form, scale and massing of buildings. Development should be designed to integrate with existing streets and public spaces, and buildings configured to create clearly defined active public frontages."
- 9.26. Policy ESD13 of the Cherwell Local Plan Part 1 states that: "Development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided. Proposals will not be permitted if they would:

- Cause undue visual intrusion into the open countryside;
- Cause undue harm to important natural landscape features and topography;
- Be inconsistent with local character;
- Harm the setting of settlements, buildings, structures or other landmark features;
- Harm the historic value of the landscape."
- 9.27. Saved Policy C28 of the Cherwell Local Plan 1996 exercises control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context and Saved Policy C8 seeks to limit sporadic development beyond the built limits of settlements.
- 9.28. Saved Policy C33 states the Council will seek to retain any undeveloped gap with is important in preserving the character of a loose knit settlement structure or maintaining the setting of heritage assets.
- 9.29. The Cherwell Residential Guide SPD (2018) builds on the above policies and provides a framework to deliver high quality locally distinctive development.
- 9.30. The Non Statutory Local Plan also contains relevant policies as set out below: Policy EN31 (Countryside Protection) (like its equivalent policy C9 in the Adopted Cherwell Local Plan 1996) states that beyond the existing and planned limits of the towns of Banbury and Bicester, development of a type, size or scale that is incompatible with a rural location will be refused.
- 9.31. Policy EN34 (Landscape Character) sets out criteria that the Council will use to seek to conserve and enhance the character and appearance of the landscape through the control of development. Proposals will not be permitted if they would:
  - cause undue visual intrusion into the open countryside
  - cause undue harm to important natural landscape features and topography
  - be inconsistent with local character
  - harm the setting of settlements, buildings, structures or other landmark features
  - harm the historic value of the landscape

- 9.32. Given the site's location on the edge of the town, its rural location and on top of the hill, the proposed development has the potential to cause harm and each of these criteria needs to be carefully considered.
- 9.33. The western boundary to the site is heavily treed and with well-established mature hedgerow providing a strong visual barrier to the wider open countryside beyond the site. The site visually is well-contained by tree-lined boundaries and being bounded on three sides by existing residential development. It is also dominated by the adjoining water tower and telecommunications tower.

- 9.34. The application is accompanied by a Landscape and Visual Impact Assessment (LVIA) produced by Mood Landscape Ltd, which seeks to introduce the principle of development into the context of the existing landscape character, visual environment and landscape related policy to assess the ability of the site to integrate future development. In terms of the visual assessment carried out by Mood Landscape, fieldwork was undertaken to identify several viewpoints in the immediate and wider setting of the site.
- 9.35. Within the Oxfordshire Wildlife & Landscape Study the site is identified as being adjacent the 'Farmland plateau' landscape type. Farmland plateau landscape type are identified as being:

☐ Level or gently rolling open ridges dissected by narrow values and broader vales,
$\hfill \square$ Large, rectangular arable fields enclosed by low thorn hedges and limestone walls,
□ Rectilinear plantations and shelterbelts,
□ Sparsely settled landscape with few nucleated settlements,
☐ Long, straight roads running along the ridge summits.

- 9.36. As noted above the site is a 'greenfield' site set at the edge of Banbury. It is described that the site is consistent with some of the key characteristics of the farmland plateau character area. It is a geometric elevated plateau with wooded rectilinear plantations of field maple, ash and oak on its boundaries. However, it has some distinct differences to the neighbouring farmland plateau character including the imposing water tower and mobile telephone mast on the site boundary and close proximity of neighbouring houses, which gives the site an urban fringe character and heavily dilutes any farmland character.
- 9.37. Although the site itself is not within the farmland plateau character area, the western boundary area of the site forms the eastern boundary of this character area and therefore the impact on the adjoining character area is relevant to the study and is categorised as being of medium sensitivity. The proposed development would bring the built environment closer to the boundary of the character area. The current transitional zone that the site provides between the existing housing in Bretch Hill and the farmland plateau would change in character. However, this is the only example of a transition zone being between the built form and the character area and the close proximity of housing to the edge of the character area is considered to be typical of the character along this boundary.
- 9.38. The LVIA asserts that the development would make a positive contribution to the character of the site area as it directly addresses and enhances an untidy fringe of the town and would help absorb the impact of the water tower and mobile phone mast in the urban fabric of the town. This coupled with the development bringing the boundary of the built form in line with the boundaries to the north and south represents a negligible overall impact on the farmland plateau character area and would not result in a significant impact on the character area.
- 9.39. The Landscape Visual Impact Assessment concludes that "the site is heavily influenced by the surrounding housing and most notably the adjoining water tower and mobile phone mast, which are detracting features and dominate the view across the site. These necessary but overbearing urban influences coupled with the unkempt rough grassland create a site, which is typically urban fringe in character.

- 9.40. The addition of properties and the associated infrastructure within the site will change its character from being urban fringe to urban"
- 9.41. The Council's Landscape Officer (CLO) has assessed the proposals and accompanying LVIA and associated assessment of key viewpoints. The CLO raises no objections, his comments relating to a detailed layout which is a reserved matter and not for assessment here, e.g. seeking the relocation of the attenuation basin to ensure it never floods residents' gardens. The CLO requests the inclusion of several planning conditions should permission be granted, although landscaping is a reserved matter and so these matters are better handled by way of informative notes.

#### Conclusion

9.42. Officers consider that residential development of this site is generally acceptable in terms of the impact upon the character of the area and wider open countryside. This is demonstrated by a satisfactory Landscape Visual Impact Assessment. Any harm that would be caused to the wider landscape setting would not be so significant to warrant a reason to refuse the application.

# Highway safety and vehicular access

Policy context

- 9.43. The NPPF (Para. 108) states that the planning system should actively manage patterns of growth in support of the achievement of promoting sustainable transport. However, notes that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.
- 9.44. 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.
- 9.45. 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".
- 9.46. Policy TR7 states that: 'Development that would regularly attract large commercial vehicles or large numbers of cars onto unsuitable minor roads will not normally be permitted'.

#### Assessment

9.47. All matters are reserved except access. The development would include a new access from Balmoral Road (south) to serve the new housing. This would extend from the existing highway where there is currently a field access at the end of the

- highway. Pedestrian footpath would also be included with the access connecting with the existing footpath on Balmoral Avenue.
- 9.48. The Local Highway Authority (LHA) advises the proposed vehicular access is acceptable based on the information submitted. In terms of traffic impact, the overall conclusions of the Transport Statement are accepted. The LHA is content with the methodology used to generate the final trip generation figures and it is noted that the Balmoral Avenue/Broughton Road junction is within capacity.
- 9.49. The NPPF (Para. 109) states 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'.
- 9.50. The LHA raises no objection to the application on the basis of highway safety.
- 9.51. The LHA also requests financial contributions to Bridge Street/Cherwell Street eastern corridor improvements. A361 Bloxham Road/Queensway/Springfield Avenue junction improvements, enhancement of public transport services by addition extended route options, hours and weekend hours to the B5 bus service on Bretch Hill and a rights of way contribution towards mitigation measures to footpaths within 2km of the site.
- 9.52. There have been a significant number of neighbour objections relating to the proposal's impact on the safety of the local highway network, specifically relating to the unsuitability of extra traffic, the steep hill accessing the site, the potential of parking problems; noise, heavy machinery and large construction vehicles. These concerns are noted but given that the LHA has not objected to the application it is considered that the proposal is acceptable in this regard and that any refusal on grounds of highway safety could not be substantiated at appeal.

## Conclusion

9.53. In light of the LHA's advice, and subject to conditions, S106 contributions and an obligation to enter into a S278 agreement, it is concluded that the proposal would not have a significant adverse impact upon the safe and efficient operation of the highway network, and therefore complies with Local Plan Policy ESD15 in this regard and government guidance within the NPPF.

## Rights of Way, access and pedestrian connectivity

# Policy Context

- 9.54. The National Planning Policy Framework outlines three overarching objectives being economic, social and environmental. From a social perspective the NPPF discusses achieving sustainable development means supporting "strong, vibrant and healthy communities.... By fostering a well-designed and safe built environment". At paragraph 102(c) the NPPF requires transport issues to be considered at the earliest stages of development proposals so that opportunities to promote walking, cycling and public transport use are identified and pursued".
- 9.55. At paragraph 122 section c) the NPPF states that planning decisions should support development which make efficient use of land, taking into account "the availability and capacity of infrastructure and services both existing and proposed as well as their potential for further improvement and the scope to promote sustainable travel modes that limit car use".

- 9.56. Local Plan Policy SLE4 relates to improved transport and connections. It supports the NPPF where it states; "all development where reasonable to do so, should facilitate the use of sustainable modes of transport to make the fullest possible use of public transport, walking and cycling."
- 9.57. Local Plan Policy Banbury 10 requires the layout of new development to enable a high degree of integration and connectivity with the existing communities and to support improve walking and cycling connections to the town centre.
- 9.58. The Cherwell Residential Design Guide SPD gives advice on routes for pedestrians and cyclists and states they "should be safe, direct, attractive and legible". The SPD sets out guidance on how developments should respond to the site context and this includes where can access and connection to the wider network be gained and whether there are existing movement routes that should be retained. The SPD also poses questions about how the scheme can connect into the surrounding street and footpath/cycleway network and how does the site relate to existing public transport routes.
- 9.59. In addition, Oxfordshire County Council Residential Design Guide requires all developments of more than 50 homes to be served by at least an hourly bus service and for homes to be within 400m walkable distance of a bus stop.
- 9.60. Policy 34 of LTP4 states that "Oxfordshire County Council will require the layout and design of new developments to proactively encourage walking and cycling, especially for local trips, and allow developments to be served by frequent, reliable and efficient public transport". One of the ways this is done is "ensuring that developers promote and enable cycling and walking for journeys associated with new development, including through the provision of effective travel plans".

- 9.61. A public right of way (footpath 120/24) follows the northern boundary of the site connecting the open countryside to Bretch Hill. The footpath, which is currently unsurfaced and unlit, runs along the tree line adjacent the boundary and then through the woodland to the northeast. The path is currently a muddy track, and in places is difficult to distinguish as a path because of the vegetation on and around it.
- 9.62. The bus stop on Broughton Road serves 4 buses a day and cannot be considered a credible bus service and therefore the nearest bus stops to the site are in Bretch Hill, at Chepstow Gardens and Hampden Close on Bretch Hill. These are a 1 mile walk away using the Broughton Road access if no other credible pedestrian access is provided at the north of the site. It is therefore critical for accessibility to provide that connectivity between the site and the surrounding development and there were concerns with the previously withdrawn scheme regarding the lack of pedestrian and cycle links.
- 9.63. The development as now proposed has sufficient pedestrian and cycle links to the surrounding residential area, bus stops and amenities. The proposals now show pedestrian links through to the north of the site to join the development to Balmoral Avenue (north), their provision meaning that the aforementioned bus stops would be within 400m of the site, and include provision for the improvement of the existing right of way.
- 9.64. The opening up of the public right of way to make it safer and more accessible, particularly through the woodland area, has the potential to be detrimental to ecology and biodiversity. The need to light the footpath would have an impact on species using the tree lined boundary as a foraging and migrating route. However,

based on the current application submission, and in light of the advice from OCC Highways and CDC Ecology, officers now have sufficient comfort that the footpath can be retained and upgraded to provide active surveillance and safe movement without detriment to trees or ecology. This would need to be subject to either conditions or legal agreement.

9.65. As the wooded area is a Priority Habitat a careful balance would need to be achieved as to how much, if any, of the trees could be removed. Safeguarding the priority habitat and biodiversity net gain is a priority in planning and must be balanced against the need to firstly deliver much need housing and then providing sustainable, safe and accessible connections to the existing built environment and facilities.

#### Conclusion

9.66. For the reasons set out above, the site as now proposed has sufficient pedestrian and cycle links to the surrounding residential area, bus stops and amenities. The current application is accompanied by sufficient information relating to the proposed use of the public right of way along the northern boundary as a pedestrian link. Subject to conditions and/or legal agreement, the current proposal would therefore provide for retention and enhancement of the right of way, plus a new pedestrian connection from the site to Balmoral Avenue (north) such that the development would enable a high degree of integration and connectivity with the existing communities and to support improve walking and cycling connections to the town centre, compliant with national and local planning policy as listed in the paragraphs above.

## Residential amenity

#### Policy Context

9.67. 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'.

- 9.68. The application is in outline only. Any detailed proposals would need to have due regard to requirements of Section 6 of the Residential Design Guide SPD about appropriate standards of amenity for both existing and future residents. Appropriate positioning and scale of dwellings, boundary treatments and the nature of such treatments could be given due consideration at reserved matters stage.
- 9.69. The nearest residential properties to the site would be on Balmoral Avenue north, Harlech Close to the north and Balmoral Avenue south to the south. In terms of the properties along Balmoral Avenue north and Harlech Close these are to the north of the boundary of the proposed site separated by well-established trees its entire length. It is considered that, subject to appropriate scale and design of any proposed dwellings along the northern boundary of the site, and retention and potential enhancement of existing boundary planting it is likely that a satisfactory layout could be achieved that would avoid any significant unacceptable impacts on the residential amenity of the neighbouring residential properties.

- 9.70. Existing properties along Balmoral Avenue South would sit side on to the site and face the access road. They are currently separated from the site by some shrubs, hedgerow and fencing. Again, subject to a satisfactory layout being achieved and any proposed landscaping and planting, it would avoid any unacceptable impacts on the residential amenity of these neighbouring properties.
- 9.71. Assessment of internal amenity with the proposed dwellings would be a matter for consideration at any reserved matters or detailed application stage. Whilst only indicative at this stage, the concept layout indicates an appropriate layout that would provide for both public and private outdoor amenity space that would allow for an acceptable standard of living to be achieved for potential future occupants.

#### Conclusion

9.72. Given the above, officers are satisfied that the development can be made acceptable in residential amenity terms, both for existing residents neighbouring the site and future occupiers, with acceptable details to be secured at reserved matters stage.

## Affordable housing

### Policy Context

9.73. The NPPF advises that in order to create sustainable, inclusive and mixed communities, Local Planning Authorities should plan for a mix of housing, reflect local demand and set policies for meeting affordable housing need. Policy BSC4 of the adopted Cherwell Local Plan part 1 2011-2031 requires new residential development to provide a mix of homes in the interests of meeting housing need and creating socially mixed and inclusive communities. Policy BSC3 requires development such as this are to provide 30% affordable housing on site and provides details on the mix that should be sought between affordable/social rent and shared ownership. Policy BSC2 requires that to make efficient use of land that new residential development should be provided at a net density of at least 30 dwellings per hectare.

- 9.74. On a development of 49 units Policy BSC3 would require 15 units to be provided as affordable housing. Of these 15 affordable units, the Strategic Housing Team recommends an indicative mix of tenures and sizes of the following:
  - 4 x 1 bedroom 2 person maisonette for social rent
  - 2 x 1 bedroom 2 person house for social rent
  - 2 x 2 bedroom 4 person house for social rent
  - 2 x 2 bedroom 4 person house for shared ownership
  - 2 x 3 bedroom 5 person house for shared ownership
  - 2 x 3 bedroom 6 person house for social rent
  - 1 x 4 bedroom 7 person house for social rent
- 9.75. This represents a 70/30 split between social rent and shared ownership units as stated in the adopted Local Plan Part 1 Policy BSC3, but also blends the findings of

the most recent county-wide Strategic Housing Market Assessment, with our own district-specific levels of in-house date to relate this mix which will best meet local needs.

9.76. The current proposals now include / allow for the affordable housing provision set out above, which would need to be secured through a Section 106 agreement.

Conclusion

9.77. The current proposal and indicative layout provide an acceptable affordable housing mix and layout and thus accords in this regard with Local Plan Policy BSC4.

### Flood Risk and drainage

Policy Context

- 9.78. Policy ESD6 of the CLP 2015 essentially replicates national policy contained in the NPPF with respect to assessing and managing flood risk. In short, this policy resists development where it would increase the risk of flooding and seeks to guide vulnerable developments (such as residential) towards areas at lower risk of flooding.
- 9.79. Policy ESD7 of the CLP 2015 requires the use of Sustainable Drainage Systems (SuDS) to manage surface water drainage systems. This is with the aim to manage and reduce flood risk in the District.

- 9.80. A site-specific Flood Risk Assessment (FRA) prepared BWB Consulting has been submitted in support of the application. The Environment Agency's flood maps indicate that site is not within a higher risk flood zone and are within Flood Zone 1 where residential development is acceptable in principle subject to no increased flood risk elsewhere as a result of proposal.
- 9.81. Oxfordshire County Council as Local Lead Flood Authority raises an objection to the development on the basis of the attenuation pond being in close proximity to the dwellings to the south on Briggs Close and Balmoral Avenue. Following negotiations with the agent, the attenuation pond has been moved further to the north, an additional small attenuation feature has been created in the north-east of the site, and various other SUDS methods have been added.
- 9.82. The position of the attenuation pond is now probably too close to proposed development within the site, but it must be borne in mind that the plan is illustrative and not forming part of the determination of the application. Importantly, the submitted plans demonstrate that the site can be adequately drained and in a safe and sustainable manner. Officers consider that a combination of an attenuation feature and infiltration is considered the most appropriate drainage strategy, which in any case can and would be required by condition of any permission given.
- 9.83. The Drainage Officer has been consulted on the amended drainage proposals but at the time of writing this report has not responded. Their comments will be reported to Planning Committee when received.
- 9.84. Third party comments have raised concerns with regards to the capacity of the sewage system and its ability to cope with additional load as a result of the proposed development. Thames Water, which provides waste water/sewage services, has raised concern regarding an inability of the existing foul water network

to accommodate the needs of the development proposal. TW suggests this could be dealt with by an appropriately worded condition; however, further information is required as to what the necessary wastewater network upgrades are in order to ensure the network can accommodate the developments needs and without knowing this the works may not be deliverable. A sewage drainage strategy itself could be secured through an appropriate condition.

#### Conclusion

9.85. Officers consider that the current proposals can be considered acceptable in terms of flood-risk and drainage, in accord with local and national planning policy in this regard.

## **Ecology Impact**

Legislative context

- 9.86. 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.
- 9.87. 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.
- 9.88. 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.
- 9.89. 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.

9.90. 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

- 9.91. 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.
- 9.92. 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.
- 9.93. 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.
- 9.94. 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.
- 9.95. Policy ESD11 is concerned with Conservation Target Areas (CTAs), and requires all development proposals within or adjacent CTAs to be accompanied by a biodiversity survey and a report identifying constraints and opportunities for biodiversity enhancement.
- 9.96. These polices are both supported by national policy in the NPPF and also, under Regulation 43 of Conservation of Habitats & Species Regulations 2017, it is a criminal offence to damage or destroy a breeding site or resting place, unless a licence is in place.
- 9.97. 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.

9.98. Natural England's Standing Advice states that an LPA only needs to ask an applicant to carry out a survey if it is 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 LPAs can also ask for:

- a scoping survey to be carried out (often called an 'extended phase 1 survey'), which is useful for assessing whether a species-specific survey is needed, in cases where it's not clear which species is present, if at all
- an extra survey to be done, as a condition of the planning permission for outline plans or multi-phased developments, to make sure protected species aren't affected at each stage (this is known as a 'condition survey')
- 9.99. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site contains a number of dilapidated ruined buildings, is on the edge of the built up area of Banbury abutting open countryside and there are a number of mature trees including Priority Habitat Woodland and hedgerows within and adjacent the site, and therefore has the potential to be suitable habitat for bats, breeding birds, badgers, reptiles, great crested newts, water voles and invertebrates.
- 9.100. 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 LPA has to consider itself whether the development meets the 3 derogation tests listed above.
- 9.101. 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.
- 9.102. The application is supported by a detailed protected species survey which concluded that there are bats commuting and foraging round the boundaries of the Site. In addition, the habitats have potential to support other wildlife including breeding birds and potentially badger. Retained habitats and associated species interest have been buffered from the development footprint and recommendations for their protection during the construction, demolition and management during operation to ensure their long-term retention and enhancement. The report also proposed an ecological mitigation strategy for the scheme. The application proposes to enhance the retained vegetation on site and to put forward additional land within the applicant's ownership as compensation to ensure an overall net gain for biodiversity is achievable on site.
- 9.103. The Council's Ecology Officer ('CE') has offered no objections to the proposals, subject to a number of conditions. The CE has commented that the appropriate surveys have been carried out and the recommendations within the ecological report are acceptable and that currently no protected species licences are required.

- 9.104. The CE has requested conditions relating to a CEMP, LEMP, an additional preworks badger survey and a full lighting strategy. These conditions are considered to meet the tests set out in Paragraph 55 of the NPPF.
- 9.105. It is therefore considered that the proposed development complies with Policy ESD10 of the Cherwell Local Plan 2011 2031 and Government guidance contained within the NPPF and is acceptable in this regard.

#### Infrastructure

### Policy Context

- 9.106. New development often creates a need for additional infrastructure or improved community services and facilities, without which there could be a detrimental effect on local amenity and the quality of the environment. National planning policy sets out the principle that applicants may reasonably be expected to provide, pay for, or contribute towards the cost, of all or part of the additional infrastructure/service provision that would not have been necessary but for their development. Planning Obligations are the mechanism used to secure these measures.
- 9.107. Policy INF1 of the CLP 2015 states that: "Development proposals will be required to demonstrate that infrastructure requirements can be met including the provision of transport, education, health, social and community facilities."
- 9.108. Policy BSC11 of the CLP 2015 states that: "Development proposals will be required to contribute to the provision of open space, sport and recreation, together with secure arrangements for its management and maintenance. The amount, type and form of open space will be determined having regard to the nature and size of development proposed and the community needs generated by it. Provision should usually be made on site in accordance with the minimum standards of provision set out in 'Local Standards of Provision Outdoor Recreation'. Where this is not possible or appropriate, a financial contribution towards suitable new provision or enhancement of existing facilities off site will be sought, secured through a legal agreement." Policy BSD12 requires new development to contribute to indoor sport, recreation and community facilities.
- 9.109. The Developer Contributions Supplementary Planning Document (SPD February 2018) sets out its position in respect of requiring financial and on site contributions towards ensuring the necessary infrastructure or service requirements are provided to meet the needs of development, and to ensure the additional pressure placed on existing services and infrastructure is mitigated. This is the starting point for negotiations in respect of completing S106 Agreements.

- 9.110. Where on and off-site infrastructure/measures need to be secured through a planning obligation (i.e. legal agreement) they must meet statutory tests set out in regulation 122 of the Community Infrastructure Ley (CIL) Regulations 2010 (as amended). These tests are that each obligation must be:
  - a) Necessary to make the development acceptable in planning terms;
  - b) Directly related to the development;
  - c) Fairly and reasonably related in scale and kind to the development

- 9.111. Where planning obligations do not meet the above statutory tests, they cannot be taken into account in reaching a decision. In short, these tests exist to ensure that local planning authorities do not seek disproportionate and/or unjustified infrastructure or financial contributions as part of deciding to grant planning permission. Officers have had regard to the statutory tests of planning obligations in considering the application and Members must also have regard to them to ensure that any decision reached is lawful.
- 9.112. Having regard to the above, in the event that Members were to resolve to grant planning permission, the following items would in officers' view need to be secured via a legal agreement with both Cherwell District Council and Oxfordshire County Council in order to secure an appropriate quality of development as well as adequately mitigate its adverse impacts:

#### Cherwell District Council

- Provision of 30% affordable housing together with 70/30 tenure split between social rented and shared ownership;
- Provision of public open amenity space and future maintenance arrangements;
- Provision of a LAP together with future maintenance arrangements;
- Maintenance arrangements for on-site trees, hedgerows, and drainage features;
- Payment of a financial contribution towards the provision of refuse/recycling bins for the development;
- 9.113. Off-site Outdoor Sports Contribution 49 dwellings x £2,017.03 per dwelling contribution = £98,834.47 towards pitch and pavilion improvements at North Oxfordshire Community use site or the development of a new artificial pitch at Hanwell Fields playing fields in Banbury.
  - Off-site Indoor Sports Contribution 49 dwellings x 2.49 avg. people per dwelling x £335.32 per person contribution = £40,912.39 towards Banbury Indoor Tennis Centre and/or the improvements of leisure centre provision in the locality.
  - Community Hall Contribution 49 dwellings x 2.49 avg. people per dwelling x £520 contribution per person = £56,018.74 towards improvements at The Hill or Sunshine Centre in Banbury.

#### Oxfordshire County Council

- Highway Works Contribution of £62,772 towards Bridge Street/Cherwell Street eastern corridor improvements and A361 Bloxham Road/Queensway/Springfield Avenue junction improvements;
- Public Transport Service Financial Contribution of £49,000 towards the enhancement of public transport services serving the site by improving the B5 bus service on Bretch Hill by adding additional route options, extended hours and extended weekend hours;
- Public Rights of Way Contribution of £5,000 to provide mitigation measures in the impact area up to 2km from the site to primarily improve the surfaces

- of all routes as well as new or replacement structures like gates, bridges, seating etc and improved signage and drainage;
- To secure entry into a S278 agreement (Highways Act 1980) to secure mitigation/improvement works, including: a dropped kerb facility to be provided at the origin of footpath 120/24 where it joins onto Bretch Hill, provision of site access and pedestrian footways as show by a plan agreed by the LHA, improvement of PROW 120/24 into a blacktop footpath connecting the development to Bretch Hill and Balmoral Avenue north / Harlech Close. This could take the form of a self-binding gravel type path suitable for all users, without the need to tarmac.
- Primary education contribution of £269,976 for the expansion of primary capacity serving the Banbury area.
- Secondary education (including sixth form) contribution of £407,462 towards a new secondary school in Banbury.
- 9.114. Health care contribution of £42,336 to support improvement of local primary care infrastructure if this development were to go ahead, on the basis that primary medical care in Banbury is at capacity, and further housing growth would require additional or expanded infrastructure to be in place.
- 9.115. CDC's Developer Contributions SPD states that new residential development will be expected to contribute towards the provision of additional health care infrastructure generated by its population growth where there is insufficient existing capacity, well located to serve the development. Whilst the Oxfordshire Clinical Commission Group has been consulted, comments have not been received from this consultee and they have indicated they are only likely to comment on larger applications. Thus, officers do not consider that they can request contributions towards health care infrastructure.

#### Conclusion

9.116. A number of items need to be secured via a legal agreement with both Cherwell District Council and Oxfordshire County Council in order to secure an appropriate quality of development as well as adequately mitigate its adverse impacts. At this stage, no legal agreement has been drafted and therefore the recommendation for the application reflects that the legal agreement must be completed to ensure that the contributions set out above are secured.

#### 10. PLANNING BALANCE AND CONCLUSION

- 10.1. The overall purpose of the planning system is to seek to achieve sustainable development as set out in the NPPF. The three dimensions of sustainable development must be considered in order to balance the benefits against the harm. Section 38(6) of the Planning and Compulsory Act 2004 requires planning applications to be determined against the provisions of the development plan unless material considerations indicate otherwise.
- 10.2. The application proposal seeks consent for up to 49 dwellings on the edge of Banbury, which is considered a sustainable location. Planning policy directs residential development towards Banbury and although the district benefits from a 3 year housing land supply the site has previously been allocated in the non-statutory local plan. As such, considering its location and the benefits of delivering further housing to meet the districts housing need, the principle of development is judged to be acceptable.

- 10.3. The proposed development provides for the retention and upgrading of the public right of way to the northern boundary of the site and subject to conditions / legal agreement would ensuring the upgrade of this footpath to one that is well surfaced, accessible, lit and safe or the provision of a footpath link through to Balmoral Avenue north.
- 10.4. The submitted indicative layout plan demonstrates that 49 dwellings can be satisfactorily delivered on the site in addition to LAP, public open space, etc., and the current proposal and indicative layout provide an acceptable affordable housing mix and layout. Subject to conditions and planning obligations, the proposal is considered acceptable in highway safety terms. The development can be made acceptable in residential amenity terms, both for existing residents neighbouring the site and future occupiers, with acceptable details to be secured at reserved matters stage. Following the receipt of additional/amended information, the proposal is acceptable in terms of flood risk and drainage, and in ecology terms.
- 10.5. Through the development of a greenfield site the proposal would have an adverse impact on the character and appearance of the site and its surroundings albeit that this harm would be limited, and the harm that would be caused to the wider landscape setting would not be so significant to warrant a reason to refuse the application.
- 10.6. The proposal would deliver additional new housing including affordable housing and significant weight must be attached to this benefit. Against this must be balanced the proposal's impact on the character and appearance of the site and its immediate surroundings. Overall, it is considered that the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits, when assessed against the Development Plan and the NPPF, and therefore planning permission should be granted.

## 11. RECOMMENDATION

RECOMMENDATION – DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT TO **GRANT PERMISSION**, **SUBJECT TO THE CONDITIONS SET OUT BELOW** (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY) **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 30% affordable housing together with 70/30 tenure split between social rented and shared ownership;
- b) Provision of public open amenity space and future maintenance arrangements;
- c) Provision of a LAP together with future maintenance arrangements;
- d) Maintenance arrangements for on-site trees, hedgerows, and drainage features;
- e) Payment of a financial contribution towards the provision of refuse/recycling bins for the development;
- f) Off-site Outdoor Sports Contribution 49 dwellings x £2,017.03 per dwelling contribution = £98,834.47 towards pitch and pavilion improvements at North Oxfordshire Community use site or the development of a new artificial pitch at Hanwell Fields playing fields in Banbury.

- g) Off-site Indoor Sports Contribution 49 dwellings x 2.49 avg. people per dwelling x £335.32 per person contribution = £40,912.39 towards Banbury Indoor Tennis Centre and/or the improvements of leisure centre provision in the locality.
- h) Community Hall Contribution 49 dwellings x 2.49 avg. people per dwelling x £520 contribution per person = £56,018.74 towards improvements at The Hill or Sunshine Centre in Banbury.
- i) Highway Works Contribution of £62,772 towards Bridge Street/Cherwell Street eastern corridor improvements and A361 Bloxham Road/Queensway/Springfield

Avenue junction improvements;

- j) Public Transport Service Financial Contribution of £49,000 towards the enhancement of public transport services serving the site by improving the B5 bus service on Bretch Hill by adding additional route options, extended hours and extended weekend hours;
- k) Public Rights of Way Contribution of £5,000 to provide mitigation measures in the impact area up to 2km from the site to primarily improve the surfaces of all routes as well as new or replacement structures like gates, bridges, seating etc and improved signage and drainage;
- I) To secure entry into a S278 agreement (Highways Act 1980) to secure mitigation/improvement works, including: a dropped kerb facility to be provided at the origin of footpath 120/24 where it joins onto Bretch Hill, provision of site access and pedestrian footways as show by a plan agreed by the LHA, improvement of PROW 120/24 into a blacktop footpath connecting the development to Bretch Hill and Balmoral Avenue north / Harlech Close. This could take the form of a self-binding gravel type path suitable for all users, without the need to tarmac.
- m) Primary education contribution of £269,976 for the expansion of primary capacity serving the Banbury area.
- n) Secondary education (including sixth form) contribution of £407,462 towards a new secondary school in Banbury.

#### **CONDITIONS**

#### **Reserved Matters Time Limit**

- No development shall commence until full details of the layout (including the layout of the internal access roads and footpaths), scale, appearance, and landscaping (hereafter referred to as reserved matters) have been submitted to and approved in writing by the Local Planning Authority.
  - Reason: This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- In the case of the reserved matters, the final application for approval shall be made not later than the expiration of three years beginning with the date of this permission.
  - Reason: This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as

amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

The development hereby permitted shall be begun either before the expiration of
five years from the date of this permission or before the expiration of two years
from the date of approval of the last of the reserved matters to be approved
whichever is the later.

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

## **Compliance with Plans**

4. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: PA/104 (Site Location Plan), PA/101 Rev B (Illustrative Site Layout), 19\_106\_01D (Illustrative Landscape Masterplan), 20496-04 (Site Layout Refuse Vehicle Tracking) and BAB-BWB-ZZ-XX-DR-CD-0004\_S2-P2 (Amended Drainage Strategy).

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.

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

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

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

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

7. If a potential risk from contamination is identified as a result of the work carried

out under condition 6, prior to the commencement of the development hereby permitted, a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals shall be documented as a report undertaken by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place unless the Local Planning Authority has given its written approval that it is satisfied that the risk from contamination has been adequately characterised as required by this condition. Reason: To ensure that any ground and water contamination is adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

8. If contamination is found by undertaking the work carried out under condition 7, 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.

9. If remedial works have been identified in condition 8, the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 8. 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.

- 10. Notwithstanding the details submitted, development shall not begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, and which shall be in general accordance with drawing BAB-BWB-ZZ-XX-DR-CD-0004\_S2-P2 (Amended Drainage Strategy), has been submitted to and approved in writing by the local planning authority. The scheme shall not be implemented other than in accordance with the approved details and shall be implemented before the development is completed. The scheme shall also include:
  - Discharge Rates

- Discharge Volumes
- SUDS (Permeable Paving, Soakaway Tanks)
- Maintenance and management of SUDS features (To include provision of a SuDS Management and Maintenance Plan)
  - Infiltration in accordance with BRE365
  - Detailed drainage layout with pipe numbers
  - Network drainage calculations
  - Phasing
- Flood Flow Routing in exceedance conditions (To include provision of a flood exceedance route plan)

Reason: To ensure that sufficient capacity is made available to accommodate the new development and in order to avoid adverse environmental impact upon the community and to ensure compliance with Policy ESD 7 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance 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.

11. Prior to the commencement of the development hereby approved, full details of the improvements to footpath 120/24 including, position, layout, construction, drainage, vision splays and a timetable for the delivery of the improvements shall be submitted to and approved in writing by the Local Planning Authority. The means of access shall be constructed in accordance with the approved details and shall be provided prior to the first occupation of the development and shall be retained as such thereafter.

Reason - In the interests of highway safety and public amenity and sustainable development and to comply with Policies ESD1, ESD15 and Banbury 10 and Government guidance contained within the National Planning Policy Framework.

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

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

- 13. Prior to commencement of the development hereby approved; a construction traffic management plan shall be submitted to and approved by the Local Planning Authority. The CTMP will need to incorporate the following in detail and throughout development the approved plan must be adhered to
  - 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 highway network, road infrastructure and local residents, particularly at morning and afternoon peak traffic times

14. Prior to commencement of the development hereby approved, a Construction Environment and Traffic Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in accordance with the approved CEMP.

Reason: In the interests of highway safety and the residential amenities of neighbouring occupiers and to comply with Government guidance contained within the National Planning Policy Framework.

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

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

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

and approved in writing by the Local Planning Authority. This shall also include a timetable for provision. Thereafter, the biodiversity enhancement measures shall be carried out and retained in accordance with the approved details.

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

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

17. Prior to the commencement of the development hereby approved, a Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in accordance with the approved LEMP.

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

18. Prior to the installation of any external lighting a full lighting strategy to include illustration of proposed light spill and which adheres to best practice guidance, 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 document.

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

- 19. No properties shall be occupied until approval has been given in writing by the Local Planning Authority that either:
  - Evidence to demonstrate that all water network upgrades required to accommodate the additional flows/demand from the development have been completed; or
  - a housing and infrastructure phasing plan has been agreed with Thames Water and the Local Planning Authority in writing to allow additional properties to be occupied. Where a housing and infrastructure phasing plan is agreed no occupation shall take place other than in accordance with the agreed housing and infrastructure phasing plan.

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

20. Prior to first occupation the development a Travel Information Pack shall be submitted to and approved by the Local Planning Authority. Thereafter the first residents of each dwelling shall be provided with a copy of the approved Travel Information Pack.

Reason: To ensure all residents and employees are aware from the outset of the travel choices available to them, and to comply with Government guidance

contained within the National Planning Policy Framework.

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

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

22. The development hereby approved shall be carried out strictly in accordance with the recommendations set out in sections 5.5-5.50 of the Ecological Appraisal carried out by EDP dated June 2020 unless otherwise agreed in writing by 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 ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

23. Each dwelling shall be provided with ducting to allow for the future installation of electrical vehicle charging infrastructure to serve that dwelling prior to its first occupation.

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

CASE OFFICER: Matthew Chadwick TEL: 01295

753754

## **Cherwell District Council**

# **Planning Committee**

## 10 December 2020

# **Appeal Progress Report**

# **Report of Assistant Director Planning 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 Introduction

2.1 This report provides a monthly update regarding planning appeals, including new appeals, status reports on those in progress and determined appeals.

# 3.0 Report Details

## 3.1 New Appeals

None

## 3.2 **New Enforcement Appeals**

None

# 3.3 Appeals in Progress

**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 Representations

**Key Dates:** 

Start Date: 02.03.2020 Statement Due: 07.04.2020 Decision: Awaited

Officer recommendation – Refusal (Delegated)

Appeal reference – 20/00009/REF

19/00970/LB - Bowler House, New Street, Deddington, OX15 OSS - Single

storey rear extension forming new Sun Room Officer recommendation - Refusal (Delegated)

**Method of determination:** Written Representations

**Key Dates:** 

Statement Due: 26.03.2020 Decision: Awaited **Start Date**: 20.02.2020

Appeal reference – 20/00008/REF

19/01542/F - Aviyal, Station Road, Ardley, OX27 7PQ - Change of use from Equestrian to Dog Agility Training Centre and extension of the domestic curtilage of Aviyal to include the existing land to the north enabling the existing stable block to be used as ancillary outbuilding.

Officer recommendation – Refusal (Delegated) **Method of determination:** Written Representations

**Start Date**: 06.10.2020 **Statement Due**: 03.11.2020 **Decision**: Awaited

Appeal reference – 20/00026/REF

## 19/02550/F - Land to the east of M40 and south of A4095, Chesterton, Bicester

- Redevelopment of part of golf course to provide new leisure resort (sui generis) incorporating waterpark, family entertainment centre, hotel, conferencing facilities and restaurants with associated access, parking and landscaping

Officer recommendation – Refusal (Committee)

Method of determination: Public Inquiry

**Start Date**: 23.10.2020 **Statement Due**: 27.11.2020 **Decision**: Awaited

Inquiry start date – Tuesday 9<sup>th</sup> February 2021

Appeal reference - 20/00030/REF

20/00674/F - Land Adjoining And West Of The Kings Head, Banbury Road,

Finmere - Erection of 5no dwellings, formation of new vehicular access and associated hardstanding for parking

Method of determination: Written Representations

**Key Dates:** 

Statement Due: 23.10.2020 Decision: Awaited **Start Date**: 18.09.2020

Appeal reference – 20/00025/REF

20/00675/CLUE - The Lodge, Swift House Farm, Stoke Lyne, OX27 8RS -Certificate of Lawfulness of Existing Use for the use of the annex building as an independent, self-contained dwelling (Class C3).

Officer recommendation – Refusal (Delegated) **Method of determination:** Written Representations

**Start Date**: 01.10.2020 **Statement Due**: 12.11.2020 **Decision**: Awaited

Appeal reference – 20/00028/REF

#### **Enforcement appeals**

# 19/00128/ENFC - OS Parcel 3349, Spruce Meadows, Cropredy Lane, Williamscot.

Appeal against the enforcement notice served for change of use of the Land to use as a caravan site accommodating one mobile home type caravan designed and used for human habitation together with associated parking and storage of motor vehicles and a trailer, storage of shipping containers, erection of a summer house/shed type wooden structure, erection of a free-standing canvas shelter and

associated domestic paraphernalia **Method of determination:** Hearing

**Key Dates:** 

**Start Date**: 06.10.2020 **Statement Due**: 17.11.2020

Hearing date: Monday 25<sup>th</sup> January 2021

**Decision**: Awaited

Appeal reference: 20/00019/ENF

3.4 Forthcoming Public Inquires and Hearings between 11<sup>th</sup> December to 14<sup>th</sup> January 2021

None

### 3.5 Results

Inspectors appointed by the Secretary of State have:

 Dismissed the appeal by Mr & Mrs A Pasteur for Creation of jib door and stair, and associated works to include the removal of ceiling joists. Cedar Lodge, North Side, Steeple Aston, OX25 4SE. 19/02465/LB Officer recommendation – Refusal (Delegated) Appeal reference – 20/00021/REF

The Inspector identified the main issue as being whether the proposal would preserve Cedar Lodge, a Grade II Listed Building, and any features of special architectural or historic interest it possesses.

The Inspector agreed that the main listed building comprises of two elements, the 'main range' or 'principal house, which is taller in height, and the 'service wing' which is lower in height and positioned to the side of the 'principal house'. It was considered that the differing scale and stature of the two elements of the building is indicative as to how it was previously used, with the 'principal house' comprising larger, grander rooms with high ceilings, as opposed to the smaller rooms and lower ceiling heights within the former 'service wing'. The Inspector considered that the significance and special interest of the building derives from its hierarchical plan form and architectural composition, which reflects the historic use and evolution of the listed building and social functions of its internal spaces.

The proposed works would require a significant alteration to accommodate the change in levels between the two rooms, including an increase in ceiling height of the smaller room. The Inspector considered that this work would substantially erode the physical and historic functional separation between the two elements of the building, and would alter its historic plan form. As a result, the social function of the building's spaces and their physical separation, would be obscured, impairing the understanding and appreciation of the building's historic evolution and use. In addition, the work would involve the loss of historic fabric through the removal of an area of lath and plaster ceiling and a number of ceiling joists. The fact that the works were wholly internal was not considered to diminish the harm to the significance of the building that would be caused by the proposal.

The Inspector concluded that the proposed works would result in less than substantial harm to the significance of Grade II Listed Cedar Lodge, and that it

would not result in the optimum viable use of the building and there would be no public benefits. The appeal was therefore dismissed.

 Allowed the appeal by Miller Homes Ltd for Discharge of condition 22 (Car Park Management Plan) of 13/00496/OUT. Land To The Rear And North Of 29 To 33, Quarry Close, Bloxham. 20/01232/DISC Officer recommendation – Refusal (Delegated) Appeal reference – 20/00024/REF

The Inspector considered the main issue to be whether the demarcation of the spaces and hoggin gravel finish would be suitable for the safe operation of the car park, and whether the surface would discourage public use.

The Inspector noted the spaces in the car park had been demarcated at each corner with block pavers, and that at the time of his visit the parking appeared orderly and to be following the demarcation. The Inspector considered that the car park surface was firm and would not damage cars. He noted the surface was permeable and that the car park is drained by a significant slope. The Inspector concluded the surface finish and demarcation of spaces was acceptable in terms of highway safety and visual amenity, and accordingly allowed the appeal.

 Dismissed the appeal by Mr J Drown for Single storey rear extension with associated internal and external works. (Re-submission of 19/02295/F). 101 Cromwell Road, Banbury, OX16 0HF. 20/00962/F Officer recommendation – Refusal (Delegated) Appeal reference – 20/00027/REF

The main issue, identified by the Inspector, was the impact of the proposal upon the living conditions of no. 99 and no. 103 Cromwell Road in relation to an overbearing form, overshadowing, loss of light and loss of outlook.

The proposal was for a single storey rear and side extension to a semi-detached dwelling. The Council considered that the harm to the unattached neighbouring property was sufficiently harmful to the living conditions of the residents in terms of outlook from the rear of the dwelling and also to the outdoor living space to warrant refusal the application. The harm to the attached neighbour was also considered to be harmful – though not as bad as to the unattached dwelling. This was in spite of the fallback position of a householder prior approval of similar impact, having been secured before determination of the application.

The Inspector found that the proposals would appear as an 8m deep extension and that the impact would be heightened by the change in height of the land of 0.5m and the orientation of the development site to the south of the neighbouring property. The Inspector found that, in spite of the large garden and having given 'strong weight' to the fallback scheme, this did not warrant the additional harm they identified stating 'the increased height, both adjacent to the boundary and overall, as proposed within this appeal I find would result in a worse impact for neighbouring residents that that of the fallback'. As a result of this assessment, the appeal was therefore dismissed.

### 4.0 Conclusion and Reasons for Recommendations

4.1 Members are asked to note the report.

## 5.0 Consultation

None

# 6.0 Alternative Options and Reasons for Rejection

6.1 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.

# 7.0 Implications

# **Financial and Resource Implications**

7.1 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: Karen Dickson, Strategic Business Partner, 01295 221900, karen.dickson@cherwell-dc.gov.uk

### **Legal Implications**

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

Comments checked by: Matthew Barrett, Planning Solicitor, 01295 753798 matthew.barrett@cherwell-dc.gov.uk

## **Risk Implications**

7.3 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: Matthew Barrett, Planning Solicitor, 01295 753798 matthew.barrett@cherwell-dc.gov.uk

# 8.0 Decision Information

**Key Decision** 

N/A

## **Financial Threshold Met:**

N/A

# **Community Impact Threshold Met:**

N/A

## **Wards Affected**

ΑII

# **Links to Corporate Plan and Policy Framework**

A district of opportunity

## **Lead Councillor**

Councillor Colin Clarke, Lead Member for Planning

# **Document Information**

# Appendix number and title

None

# **Background papers**

None

# **Report Author and contact details**

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