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Cherwell

DISTRICT COUNCIL
NORTH OXFORDSHIRE

Committee: Planning Committee

Date: Thursday 14 January 2021

Time: 4.00 pm

Venue: Virtual meeting

Membership

Councillor James Macnamara (Chairman)

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

Councillor Maurice Billington (Vice- Chairman)

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

Substitutes

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

Councillor Conrad Copeland
Councillor Timothy Hallchurch MBE
Councillor Tony Mephram
Councillor Richard Mould
Councillor Fraser Webster
Councillor Barry Wood

AGENDA

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

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

3. **Requests to Address the Meeting**

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

4. **Minutes** (Pages 1 - 14)

To confirm as a correct record the Minutes of the meeting of the Committee held on 10 December 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. **Barn In OS Parcel 0545, West of Withycombe Farm, Wigginton** (Pages 17 - 40)
20/01933/F

8. **24 Cheney Road, Banbury, OX16 3HS** (Pages 41 - 49) **20/02298/F**

9. **Swerbrook Farm, Hook Norton Road, Wigginton, OX15 4LH** (Pages 50 - 61)
20/02389/OUT

10. **Glebe Farm, Boddington Road, Claydon, Banbury OX17 1TD** (Pages 62 - 111)
20/02446/F

11. **Land North and West of Bretch Hill Reservoir, Adj to Balmoral Avenue, Banbury** (Pages 112 - 151) **20/01643/OUT**

Review and Monitoring Reports

12. **Appeals Progress Report** (Pages 152 - 157)

Report of Assistant Director Planning and Development

Purpose of report

To keep Members informed about planning appeal progress including the scheduling of public inquiries and hearings and decisions received.

Recommendations

The meeting is recommended:

1.1 To note the position on planning appeals contained within the report.

13. Enforcement Report (Pages 158 - 166)

Report of Assistant Director Planning and Development.

Purpose of Report

To update Members on current planning enforcement activity following the last report in October 2020.

Recommendations

1.1 To note the contents of the report.

Information about this Agenda

Apologies for Absence

Apologies for absence should be notified to democracy@cherwell-dc.gov.uk or 01295 221591 prior to the start of the meeting.

Declarations of Interest

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

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

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

Access to Meetings

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

Mobile Phones

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

Queries Regarding this Agenda

Please contact Lesley Farrell, Democratic and Elections democracy@cherwell-dc.gov.uk, 01295 221591

Yvonne Rees
Chief Executive

Published on Wednesday 6 January 2021

Cherwell District Council

Planning Committee

Minutes of a meeting of the Planning Committee held at Virtual meeting, on 10 December 2020 at 4.00 pm

Present:

Councillor James Macnamara (Chairman)
Councillor Maurice Billington (Vice-Chairman)
Councillor Andrew Beere
Councillor John Broad
Councillor Hugo Brown
Councillor Phil Chapman
Councillor Colin Clarke
Councillor Ian Corkin
Councillor Chris Heath
Councillor Simon Holland
Councillor David Hughes
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 Mike Kerford-Byrnes)

Apologies for absence:

Councillor Mike Kerford-Byrnes

Officers:

Sarah Stevens, Interim Senior Manager – Development Management
Andy Bateson, Team Leader – Major Developments
Nat Stock, Minors Team Leader
Matt Chadwick, Principal Planning Officer
Bob Neville, Senior Planning Officer
Karen Jordan, Deputy Principal Solicitor
George Smith, Planning Officer
Lesley Farrell, Democratic and Elections Officer
Natasha Clark, Governance and Elections Manager

98 **Declarations of Interest**

8. Hornton Grounds Quarry, Hornton.

Councillor George Reynolds, Non Statutory Interest, as the Clerk to Drayton Parish Council

Councillor James Macnamara, Non Statutory Interest, as a customer of the applicant Certas Energy Limited.

Councillor Phil Chapman, Non Statutory Interest, as a Local Authority Board Member of Cotswold Area of Outstanding Natural Beauty.

9. E P Barrus Limited, Launton Road, Bicester, OX26 4UR.

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

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

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

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

99 **Requests to Address the Meeting**

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

100 **Minutes**

The Minutes of the meeting held on 5 November 2020 were agreed as a correct record and would be signed by the Chairman in due course, subject to the following amendment to resolution (2) of Minute 99, Heyford Park, Camp Road, Upper Heyford:

Under the heading "Access and movement" insert the following:

- Resurvey traffic flows and undertake reassessment using traffic models of whether the proposed mitigation scheme at Middleton Stoney remains the most appropriate solution

- Form a working group to consider solutions to relieve congestion at Middleton Stoney and advise on additional mitigation measures for other villages that may arise as a result of any such solution

101 **Chairman's Announcements**

The Chairman made the following announcements:

1. There had been three supplements to the Planning Agenda;
 - Written Updates
 - Great Wolf late report
 - Update on Bretch Hill decision
2. After consideration and approval of the Heyford Park Master Plan it had been before the Secretary of State. The Department of Communities and Local Government has decided not to call in application 18/00825/HYBRID so there would not be a Public Enquiry and the Committee's decision stands.

102 **Urgent Business**

There were no items of urgent business.

103 **OS Parcel 8975, North of Middle Farm and West of Featherbed Lane, Mixbury**

The Committee considered application 20/02328/F for the erection of 2 acres of polytunnels and a circular coated steel water tank (50m³) at OS Parcel 8975 North of Middle Farm and West of Featherbed Lane, Mixbury for PC & IC Rymer Limited.

Ms Melissa Balk, Agent for the application addressed the meeting in support of the application and read a statement from Mr Peter Rymer the applicant in support of the application.

It was proposed by Councillor Corkin and seconded by Councillor Wood that application 20/02328/F be approved contrary to officer recommendations as it would cause no significant harm. Suitable conditions delegated to officers.

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 20/02328/F contrary to officer recommendations.

- (2) That authority be delegated to the Assistant Director Planning and Development to add suitable conditions to application 20/02328/F.

104

Hornton Grounds Quarry, Hornton

The Committee considered application 20/02453/F for a fuel depot including ancillary offices, the installation of plant and hardstanding at Horton Grounds Quarry for Certas Energy Limited and FINSCO Property Company.

Councillor Douglas Webb, Local Ward Member addressed the meeting in objection to the application.

Sir David Gilmour, Chairman of (Campaign to Protect Rural England CPRE) Oxfordshire, addressed the meeting in objection to the application.

Parish Councillor Steven Tilling Hornton Parish Council addressed the meeting in objection to the application.

Mr Peter Frampton, Agent for the applicant addressed the meeting in support of the application.

In reaching its decision the Committee considered the officers report and presentation, the addresses of the local ward member and public speakers and the written updates.

Resolved

- (1) That application 20/02453/F be refused for the following reasons:
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 vision 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 water 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.

105

E P Barrus Limited, Launton Road, Bicester, OX26 4UR

The Committee considered application 20/02139/F for the demolition of existing VOSA buildings and the erection of two new commercial buildings at Launton Road, Bicester, OX26 4UR for Morleys Stores Limited.

Paul Troop, Bicester Bike Users Group addressed the Committee in objection to 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 authority be delegated to the Assistant Director Planning and Development to grant permission for application 20/02139/F subject to the following conditions (and any amendments to those conditions considered 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 and Swept Path Analysis (2020-F-018-007); Proposed Access Arrangements (Ghost RTL) (2020-F-018-008I REV B) and Proposed Access Arrangements (Ghost RTL) (2020-F-018-008II 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, the requirements of Bicester LCWIP and LTN 1/20.

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.

106

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

The Committee considered application 20/01643/OUT, an outline application for the erection of up to 49 homes, public open space and other infrastructure, with all matters reserved except access at Land North and West of Bretch Hill Reservoir Adj to Balmoral Avenue Banbury for Lone Star Land Limited.

This application had been considered by Planning Committee on 8 October 2020 and was refused contrary to the officer's recommendations.

In light of advice from the council's legal team, the application had been resubmitted to clarify and/or inform the Committee regarding the site's Development Plan status and the Banbury Vision & Masterplan SPD, and to seek confirmation of the wording of the three reasons for refusal:

It was proposed by Councillor Colin Clarke and seconded by Councillor Chris Heath that the original decision on application 20/01643/OUT made at 5 November 2020 Planning Committee be dissolved and the application be reconsidered at the 14 January 2021 meeting of Planning Committee when a new report with information received after the October meeting be included.

The Chairman advised the Committee that as the application would be including additional significant information for Members' consideration, to ensure fairness, public speakers would be permitted to address the meeting.

Resolved.

- (1) That the original decision on application 20/01643/OUT be dissolved and the application be reconsidered at the 14 January 2021 meeting of the Planning Committee.

107

Great Wolf Public Inquiry

The Assistant Director Planning and Development submitted a report on the Great Wolf Public Inquiry.

In introducing the report, the Team Leader – Major Developments explained that the report was being presented to Members to address suggestions made by the Appellant (Great Lakes UK Limited) that the Council's decision to refuse planning permission and its reasons for doing so were arrived at, in some respects, without regard to information which had been provided at the end of the application process, by the then Applicant.

The Team Leader – Major Developments explained that the application (reference 19/02550/F) had been refused for the following reasons:

1. The proposed development by reason of its location would result in the loss of an 18-hole golf course when the Local Planning Authority's evidence indicates the course is not surplus to requirements and there is a need for more provision for golf courses in the Bicester sub-area over the plan period. The evidence and proposals for alternative sports and recreation provision included with the application is not considered sufficient to make the loss of the golf course acceptable. The development is contrary to Policy BSC10 of the Cherwell Local Plan 2011-2031 Part 1 which seeks to protect existing sport and recreation provision and enhance the existing provision. It is also contrary to

Government guidance contained within the National Planning Policy Framework.

2. The proposed development would result in the creation of a substantial leisure and hospitality destination in a geographically unsustainable location on a site largely devoid of built structures and beyond the built limits of the nearest settlement. It has no access via public transport and would not reduce the need to travel or offer a genuine choice of alternative travel modes over the private motor vehicle. Given the predominant guest dynamic (families with children) the majority of trips are likely to be made via private motor vehicle, utilising minor rural roads. Furthermore, the proposal is for retail and leisure development in an out-of-centre location and no impact assessment has been provided as required by Policy SLE2. The Council do not consider that exceptional circumstances have been demonstrated to justify the development in this location, and as such the proposal is contrary to Policies SLE1, SLE2, SLE3, SLE4 and ESD1 of the Cherwell Local Plan 2011-2031 Part 1, Saved Policies T5, TR7 and C8 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.
3. The proposed development fails to demonstrate that traffic impacts of the development are, or can be made acceptable, particularly in relation to additional congestion at the Middleton Stoney signalised junction of the B4030 and B430. As such the proposal is contrary to Policy SLE4 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1, Saved Policy TR7 of the Cherwell Local Plan 2011-2031 Part 1, Policy 17 of the Oxfordshire Local Transport Plan 4 and Government guidance contained within the National Planning Policy Framework.
4. The development proposed, by virtue of its considerable size, scale and massing and its location in the open countryside beyond the built limits of the village of Chesterton, along with its institutional appearance, incongruous design, and associated levels of activity including regular comings and goings, will cause significant urbanisation and unacceptable harm to the character and appearance of the area, including the rural setting of the village and the amenities enjoyed by users of the public right of way, and would fail to reinforce local distinctiveness. The proposal is therefore contrary to Policies ESD13 and ESD15 of the Cherwell Local Plan (2011-2031) Part 1, Saved Policies C8 and C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.
5. The submitted drainage information is inadequate due to contradictions in the calculations and methodology, lack of robust justification for the use of tanking and buried attenuation in place of preferred SuDS and surface management, and therefore fails to provide sufficient and coherent information to demonstrate that the proposal is acceptable in terms of flood risk and drainage. The proposal is therefore contrary to Policies ESD6 and ESD7 of the Cherwell Local Plan 2011-2031 Part 1

and Government guidance contained within the National Planning Policy Framework.

6. In the absence of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement the Local Planning Authority is not satisfied that the proposed development provides for appropriate infrastructure (including highway infrastructure) directly required as a result of the development and necessary to make the impacts of the development acceptable in planning terms, to the detriment of both existing and proposed residents and contrary to Policies SLE4, INF1, and PSD1 of the Cherwell Local Plan 2011-2031 Part 1 and Government Guidance contained within the National Planning Policy Framework.

The Committee was advised that the appellant had submitted additional information and raised queries with regards the decision and refusal reasons. The Team Leader – Major Developments advised the Committee that it was recommended that the Council maintain its first, second, third and fifth reasons for refusal of application 19/02550/F (whilst also still maintaining refusal reasons 4 and 6) and continue to argue at the forthcoming Inquiry on 9 -17 February 2021 that appeal APP/C3105/W/20/3259189 should be dismissed for all the reasons specified in its original decision notice, dated 12 March 2020.

Resolved

- (1) That notwithstanding the information submitted on behalf of the Appellant regarding potential alternative golf course re-provision at Bicester Hotel, Golf & Spa (*listed below), which suggested the District Council had failed to appropriately consider or interpret relevant evidence and planning guidance, the Council still wishes to maintain its first, second, third and fifth reasons for refusal at the forthcoming Inquiry on 9 -17 February 2021.

***(Paragraph 5.5 of the Appellant's Rule 6 Statement) and the further submissions (made in paragraphs 5.9, 5.14 and 5.35 of the Appellant's rule 6 Statement)**

"5.5...the Appellant had in fact put forward the offer of a planning obligation prior to the determination of the application to secure the provision of an 18-hole course on the remaining golf course site, combined with investment in the practice range and a scholarship fund to support youth golfers. The evidence of that offer (which was not addressed by CDC in the determination of the application) is set out in the email and attachments from DP9 to CDC and England Gold, dated 11 March 2020 (included as part of the material submitted with this Appeal). A formal response was never received. This meant that CDC determined the planning application on an incorrect basis and on an assumption that clearly would have tainted their whole approach to the Proposed Development and its benefits.

5.9 The allegation of the absence of any impact assessment referred to in Policy SLE2 is also misconceived. This is dealt with in paragraphs 6.58 to 6.63 of the Planning Statement. The relevant policy requirements in the Development Plan and NPPF are identified. An assessment was provided. Neither CDC's Planning Policy team, nor the Committee addressed it, and the resultant reason for refusal demonstrates a flawed approach by CDC. There appears to have been an assumption by CDC that a quantitative assessment was required, but that runs contrary to the guidance in the NPPG, as identified in the Planning Statement.

5.14 At the time of determination of the Planning Application, the only outstanding concern from OCC related to the B430/ B4030 junction in Middleton Stoney. The TA, however, demonstrates that the Proposed Development will not result in a material change in vehicle trips at the B430/ B4030 Middleton Stoney junction and therefore the Proposed Development will not result in a material impact on the operation of this junction. Notwithstanding this, the Appellant had in fact put forward a scheme of highway improvement works to provide additional traffic capacity at the Middleton Stoney junction. This will ensure that the Proposed Development will not have any impact at this junction. Motion, on behalf of the Appellant, has prepared an additional technical note (dated 4 September 2020), and summary note of discussions with OCC, which are included at Appendix 4. A formal note from OCC is expected but based on these ongoing discussions, it is still the Appellant's intention to resolve this reason prior to the Inquiry.

[and]

5.35 CDC commissioned Tyréns to undertake a review of Curtins' flood management and drainage work, as well as other material. Tyréns report was provided to the Appellant on 26 February 2020. The Appellant's experts Curtins responded in detail on 9 March 2020. This response does not appear to have been considered by CDC as part of their determination of the application. It has never been considered and responded to as part of the correspondence prior to the submission of this appeal."

108

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 6.15 pm

Chairman:

Date:

CHERWELL DISTRICT COUNCIL

Planning Committee - 14 January 2021

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

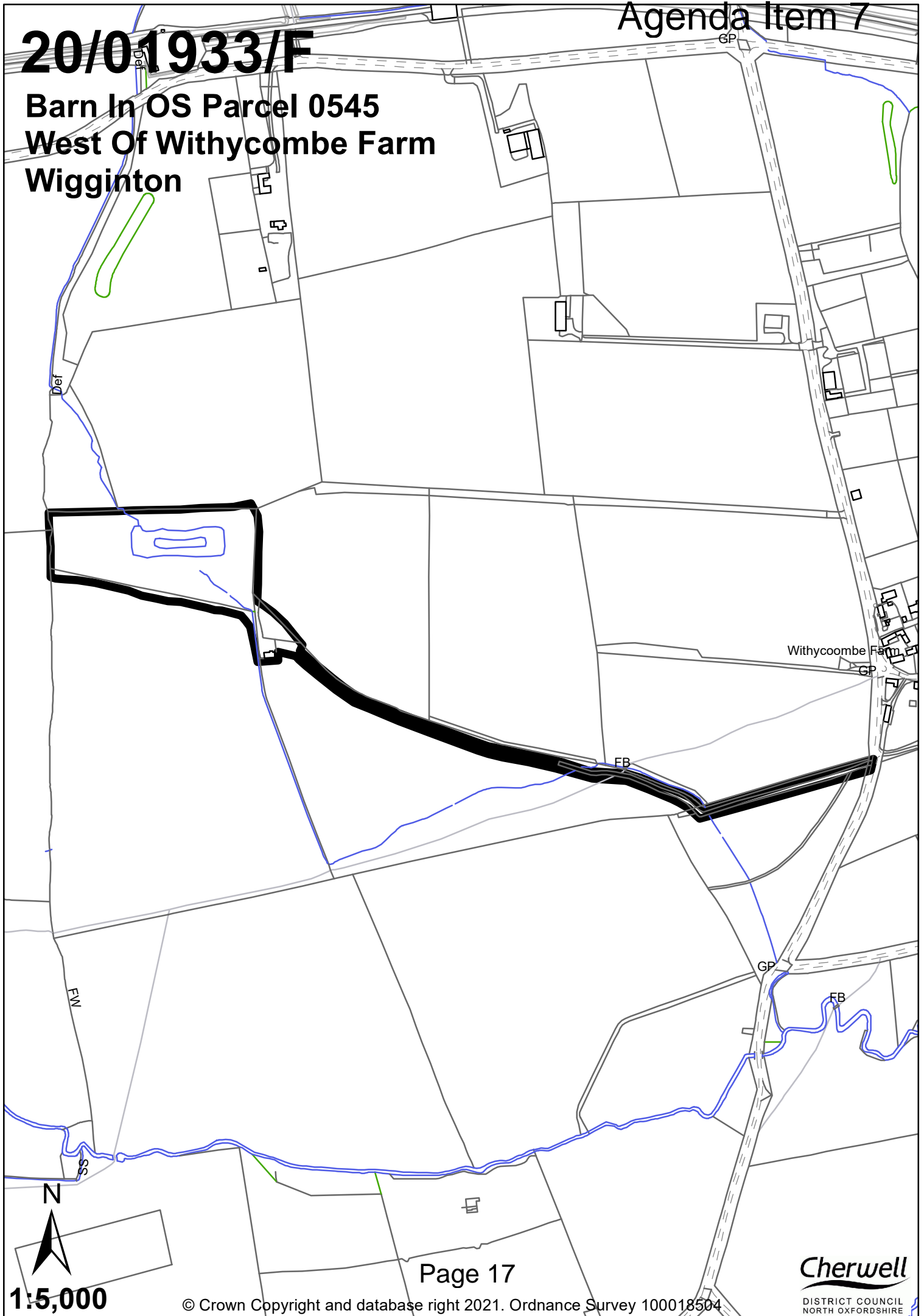
For each of the applications listed are: the application form; the accompanying certificates and plans and any other information provided by the applicant/agent; representations made by bodies or persons consulted on the application; any submissions supporting or objecting to the application; any decision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

Item No.	Site	Application Number	Ward	Recommendation	Contact Officer
7	Barn In OS Parcel 0545 West Of Withycombe Farm Wigginton	20/01933/F	Deddington	*Grant Permission	Matthew Chadwick
8	24 Cheney Road, Banbury, OX16 3HS	20/02298/F	Banbury Grimsbury and Hightown	*Grant Permission	Emma Whitley
9	Swerbrook Farm Hook Norton Road Wigginton OX15 4LH	20/02389/OUT	Deddington	*Grant Permission	Shona King
10	Glebe Farm Boddington Road Claydon Banbury OX17 1TD	20/02446/F	Cropredy, Sibfords and Wroxton	*Grant Permission	Shona King
11	Land North and West of Bretch Hill Reservoir, Adj to Balmoral Avenue, Banbury	20/01643/OUT	Banbury Calthorpe and Easington	*Grant Permission	Matthew Chadwick

*Subject to conditions

20/01933/F

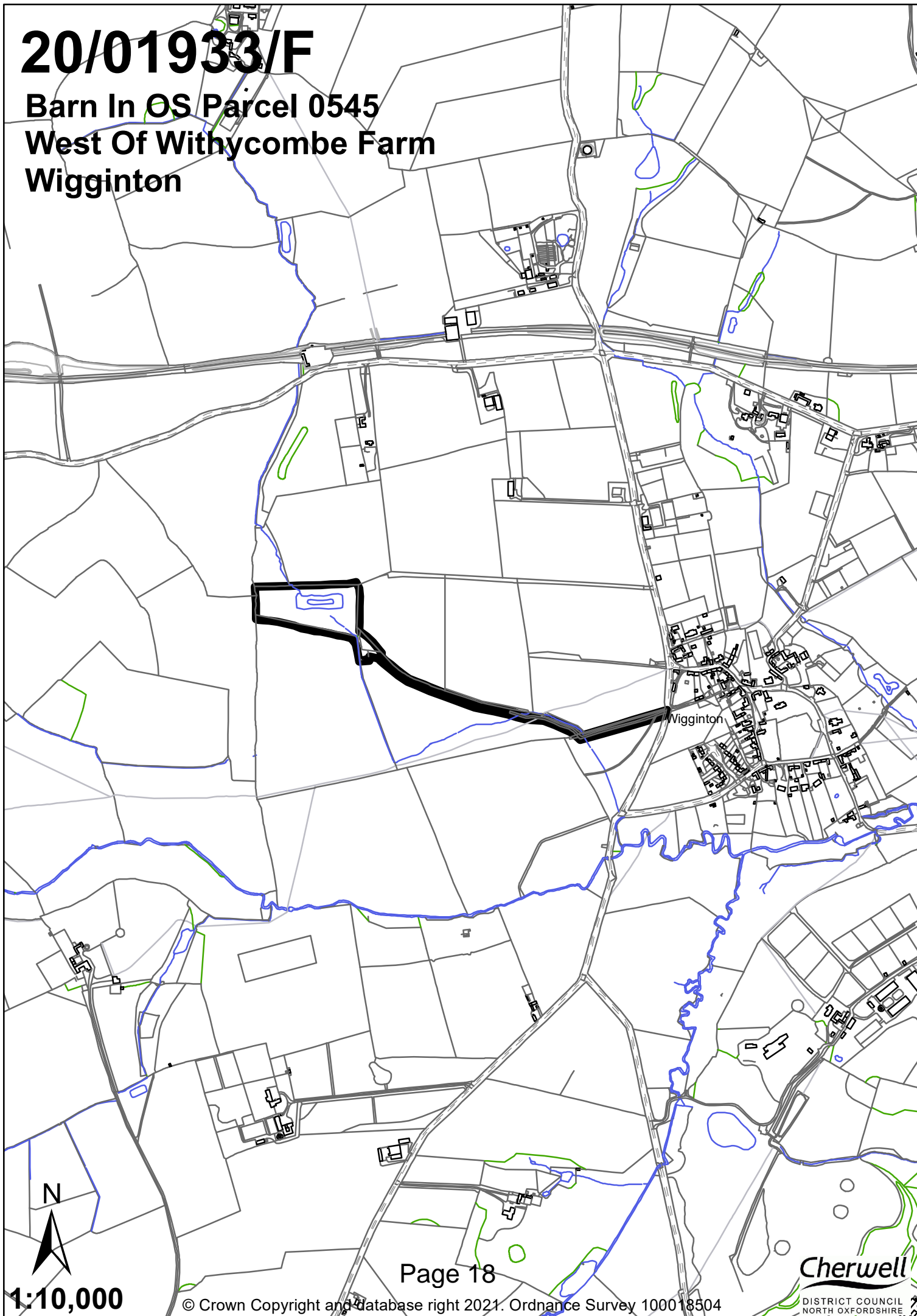
Barn In OS Parcel 0545
West Of Withycombe Farm
Wigginton



Withycombe Farm

20/01933/F

Barn In OS Parcel 0545
West Of Withycombe Farm
Wigginton



Wigginton

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Page 18

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Cherwell
DISTRICT COUNCIL
NORTH OXFORDSHIRE

**Barn In OS Parcel 0545 West Of Withycombe Farm
Wigginton****Case Officer:** Matthew Chadwick**Applicant:** Virginia Sweetingham**Proposal:** Erection of one residential dwelling for multi-generational living and landscape enhancements and associated works**Ward:** Deddington**Councillors:** Councillor Hugo Brown
Councillor Mike Kerford-Byrnes
Councillor Bryn Williams**Reason for Referral:** Over 1,000 sq m floor space created**Expiry Date:** 18 January 2021**Committee Date:** 14 January 2021**1. APPLICATION SITE AND LOCALITY**

- 1.1. The application site is located in the open countryside to the west of the village of Wigginton. The red line for the site includes an access from the main road through Wigginton, an existing agricultural building and an ash plantation approximately 700m from the settlement. Within the plantation is a man-made lake and the dwelling would be constructed to the east of this lake.
- 1.2. The site is currently well screened from views from the public domain, with the most prominent views achieved from the public footpath to the south of the application site (409/6/20). The site itself is relatively flat but the levels of the land rise up to the east and north.

2. CONSTRAINTS

- 2.1. The application site is not within a designated conservation area and is not in close proximity to any listed buildings. The access to the site is positioned opposite the Wigginton Conservation Area. Public footpath 409/6/20 runs across the access to the site and the site lies in an area of naturally elevated levels of arsenic. Ragged Robin and Prickly Poppy have been located in close proximity of the site, which are protected species.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. Planning permission is sought for the erection of a single dwelling, plus associated landscaping and the conversion of the existing agricultural building on the site to a machinery store and alterations to the access.
- 3.2. The Design and Access Statement submitted with the planning application states the following:

The fundamental objective of the proposal was to deliver a house of exceptional quality, reflecting the highest standards in architecture whilst being sensitive to the defining characteristics of the local area, and making a significant enhancement to its immediate setting. Overlain onto these objectives was the client's brief to design and deliver a house that is suitable for multigenerational living now and adaptable to changing needs and circumstances in the future.

- 3.3. The proposed dwelling has a floor space of approximately 1600 sq m. The living accommodation for the dwelling would be distributed across two buildings both of two storey scale. The larger of these buildings would be 'L' shaped and would project over the lake; the other building would be located to the south-east of this and would be rectangular in shape. The dwelling would be externally faced in timber.
- 3.4. The garaging for the development would be located in the north of the site. The barn to the south-east of the approved dwelling would be used as a machinery shed. A gravelled access track would be created to give access to the main road to the east. The lake is proposed to be reshaped and the woodland is proposed to be replanted, with views created through the planting to the south and west of the site.

4. RELEVANT PLANNING HISTORY

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

17/00749/F – Reinstatement of farm track – Application Permitted

18/00063/Q56 - Change of use of agricultural building to a dwellinghouse and associated operational development – Application Permitted

5. PRE-APPLICATION DISCUSSIONS

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

6. RESPONSE TO PUBLICITY

- 6.1. This application has been publicised by way of a site notice displayed near the site 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 August 2020**, although comments received after this date and before finalising this report have also been taken into account.

- 6.2. We have received letters of objection from 16 households and letters of support from 17 households. The comments raised in objection by third parties are summarised as follows:

- The development would cause harm to the character and appearance of the area.
- The driveway would cause landscape harm.
- The development would cause harm to the views achieved from nearby public footpaths.
- The development would cause harm to the setting of the conservation area.
- The development would result in light pollution.

- The development is three dwellings, not one.
- The development would not comply with Paragraph 79 of the NPPF.
- The materials are not acceptable.
- The development would result in the loss of a number of trees.
- The development would have an impact on highway safety.
- The development would set a precedent.

The comments raised in support are summarised as follows:

- The design will enhance the landscape of the area.
- The development would result in an enhancement to biodiversity on the site.

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

7. RESPONSE TO CONSULTATION

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

PARISH COUNCIL AND NEIGHBOURHOOD FORUMS

7.2. WIGGINTON PARISH COUNCIL: **Objects**. The proposal would impact on the character and appearance of the countryside. The development could be used as three separate dwellings. There is no information on how the development would be serviced.

CONSULTEES

7.3. CDC ARBORICULTURE: **No objections**.

7.4. CDC BUILDING CONTROL: Comments that a Fire Engineers design will be required to how the proposal meets the requirements for means of escape etc as required under approved document B of the building regulations. A disabled access design statement will be required to show how the proposal complies with the requirements of approved document M of the building regulations

7.5. CDC ECOLOGY: **No objections**, subject to conditions requiring a LEMP and CEMP.

7.6. CDC ENVIRONMENTAL HEALTH: **No objections**, subject to conditions relating to contaminated land and electric vehicle charging infrastructure.

7.7. OCC HIGHWAYS: **No objections** subject to standard conditions in respect of width of the access, visibility splays and that the parking and turning areas are constructed from porous materials or drain within the site.

7.8. CDC LANDSCAPE SERVICES: **No objections**.

- 7.9. CDC RIGHTS OF WAY: **No objections**, subject to standard conditions requiring the protection of the footpath.
- 7.10. OCC RIGHTS OF WAY: **No objections**, subject to standard conditions requiring the protection of the footpath.

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 2015 Local Plan 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
- BSC1 - District Wide Housing Distribution
- BSC4 - Housing Mix
- ESD1 - Mitigating and Adapting to Climate Change
- ESD2 - Energy Hierarchy and Allowable Solutions
- ESD3 - Sustainable Construction
- ESD5 - Renewable Energy
- ESD6 - Sustainable Flood Risk Management
- ESD7 - Sustainable Drainage Systems (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
- ESD17 - Green Infrastructure

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- H18 – New dwellings in the countryside
- C8 – Sporadic development in the open countryside
- 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)
- 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
- Landscape impact
- Heritage impact
- Residential amenity
- Highway safety
- Ecology impact
- Flood risk and drainage
- Other matters

Principle of Development

Policy Context

- 9.2. Paragraph 11 of the National Planning Policy Framework states that a presumption of sustainable development should be seen as a golden thread running through decision taking. 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 of decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise. Cherwell District Council has an up-to-date Local Plan which was adopted on 20th July 2015.
- 9.4. Saved Policy H18 of the Cherwell Local Plan 1996 ('CLP 1996') states that planning permission will only be granted for the erection of new dwellings beyond the built-up limits of settlements other than those identified under Policy H1 (proposals map policy from CLP 1996) when (i) it is essential for agriculture or other existing undertakings, or (ii) the proposal meets the criteria set out in policy h6 (affordable housing policy from the CLP 1996); and (iii) the proposal would not conflict with other policies in the plan.
- 9.5. Policy ESD1 of the CLP 2015 states that measures will be taken to mitigate the impact of development within the District on climate change. At a strategic level, this will include:
- distributing growth to the most sustainable locations as defined in the Local Plan;
 - 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;
 - designing developments to reduce carbon emissions and use resources more efficiently, including water; and
 - promoting the use of decentralised and renewable or low carbon energy where appropriate.

- 9.6. Policy ESD15 of the CLP 2015 requires new development proposals to provide high quality design. Specifically, development should be designed to deliver high quality safe, attractive, durable and healthy places to live and work in. Development of all scales should be designed to improve the quality and appearance of an area and the way it functions.
- 9.7. Paragraph 79 of the NPPF states that planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of a number of circumstances apply. One of these circumstances is Paragraph 79 (e) which is that *'the design is of exceptional quality, in that it: - is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and - would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area'*.
- 9.8. Paragraph 129 of the NPPF states that local planning authorities should ensure that they have access to, and make appropriate use of, tools and processes for assessing and improving the design of development. These include workshops to engage the local community, design advice and review arrangements, and assessment frameworks such as Building for Life. These are of most benefit if used as early as possible in the evolution of schemes, and are particularly important for significant projects such as large scale housing and mixed use developments. In assessing applications, local planning authorities should have regard to the outcome from these processes, including any recommendations made by design review panels.

Assessment

- 9.9. The site is outside the built limits of the nearest village (Wigginton, a Category C village, is over 700 metres to the east of the site) and is within the open countryside. The site is therefore a location remote from key facilities, with future occupiers reliant on private transport for access to key services. The proposal therefore conflicts with Policies BSC1 and ESD1 of the CLP 2015 and saved Policy H18 of the CLP 1996.
- 9.10. However, paragraph 79 of the NPPF allows for the principle of isolated new homes in exceptional circumstances, and the application has been submitted on this basis, i.e. the applicant asserts compliance with criterion (e.) of paragraph 79. For a development proposal to be considered acceptable under this policy it must be both (1) truly outstanding or innovative in design and (2) significantly enhance its immediate setting and be sensitive to the defining characteristics of the local area.
- 9.11. The application site must also be isolated to be considered under paragraph 79. The NPPF does not provide a clear definition of what 'isolated homes' are. There have been a number of appeal decisions and court cases which have steered decision makers on this matter. Not all of those judgments agree, but relevant factors include whether the site is within a settlement, its physical separation to a settlement and its proximity to other dwellings and services.
- 9.12. The site is located over 700m from the nearest dwelling, which is considered to be isolated for the purposes of paragraph 79. However, a Class Q application has been approved in relation to a barn that sits within the red line site area for this application (18/00063/Q56). A legal agreement would therefore be required to ensure that this building would not be converted, because if it were to be converted then the application site would not be truly isolated. The applicant has submitted a draft legal agreement and at the time of writing this report officers are reviewing its content. No

positive decision will be issued on this application until a satisfactory legal agreement is agreed between the two parties.

9.13. Turning to consider the proposal against paragraph 79 (for the criteria see paras 9.7 and 9.10 above), the planning application has been accompanied by a Design and Access Statement, an Architectural Design Document and the conclusions of The Design Review Panel. The Design Review Panel is an organisation that has provided independent expert appraisal on design quality for the applicant based in Exeter and is comprised of a range of built environment professionals, including architects, urban designers, landscape architects, conservation specialists, ecological or sustainability experts, civil engineers, structural engineers, chartered surveyors, independent town planners and arboriculturalists.

9.14. The Design and Access Statement sets out that the applicant's brief was to provide a family dwelling for themselves and their children whilst seeking to achieve the criteria set out in Paragraph 79 of the NPPF. One of the key objectives was to deliver a house that is suitable for multigenerational living now and adaptable to changing needs and circumstances in the future.

9.15. The applicant's aspirations were as follows (as set out in the Architectural Design Document):

- The place should be 'magical', 'wild' and 'natural, informal landscape' that encourages exploring and wandering, and should be especially suited to her small grandchildren who would play in the grounds and potentially swim in the pond.
- A quirky twist on traditional / vernacular, using natural materials - ideally lots of wood.
- A design inspired by the log cabin in the woods that Virginia used to own at Swerford
- To respect and enjoy the natural setting, rather than imposing too much upon it. [NB. Criterion (e.) of para 79 requires a proposal to "significantly enhance its immediate setting".]
- To improve the poorly managed plantation, but without losing the magic of the woodland setting.
- For the dwelling to have as small a carbon footprint as possible.
- The dwelling to ideally be located adjacent to an existing pond and set into a woodland context.
- Provision made for 3 car parking spaces and 2 visitor spaces with careful consideration for access across the wider site.
- Ecological diversity across the wider site and further observations are to be made concerning the potential presence of rare flora and fauna.
- The barn field located south of the pond is an unimproved meadow (for 10 years) that can be further enhanced and celebrated as part of the overall masterplan.
- A strategy to be developed that will address drainage issues and ameliorate the current drainage ditches across the wider site

- 9.16. The proposed dwelling has 7 bedrooms, various living, dining and kitchen areas, service areas, balconies and garaging, complete with landscaped gardens and amenity areas around the focal point of the house itself. The dwelling would be constructed externally from larch, red cedar and charred larch cladding and would be of one and a half and two storeys in scale. The dwelling would have sloping roofs with gable projecting elements.
- 9.17. The energy strategy for the dwelling is set out within the 'Concepts for Heating, Power and Ventilation' document submitted with the application. A multisource heat pump is proposed and solar PV is proposed to service the site. The dwelling and landscape scheme have been designed in such a way to minimise requirements for energy. The use of materials, proximity of trees to the dwelling and fenestration siting are three examples of design features that have been implemented to reduce energy requirements, among many others. The 'Concepts for Heating, Power and Ventilation' document concludes that the site will produce more clean carbon free energy per year that it will consume. The energy strategy alone is not truly outstanding or innovative.
- 9.18. Proposing a floor area of 1600 sq m, the house has evolved during a design process lasting almost a year and the scheme has been the subject of three different reviews by The Design Review Panel.
- 9.19. The first review by The Design Review Panel (November 2019) found that the multi-generational living concept could create an innovative and outstanding dwelling on the site, but considered there to be a number of issues with the design of the dwelling whereby it would fall short of the bar set by Paragraph 79. This first review had concerns with the architecture of the central element of the dwelling, its siting and fenestration, the energy strategy and considered that there was a disconnect between the design of the dwelling and the landscape.
- 9.20. The second review by The Design Review Panel (February 2020) concluded that the design of the scheme had developed and that the proposals would now significantly enhance their immediate setting and be sensitive to the defining characteristics of the local area, but that the proposals would still not yet meet paragraph 79 in that would not be truly outstanding or innovative. The review panel stated that the multi-generational living aspects should have a greater influence over the design of the scheme and that this concept should link closer to the re-wilding concept.
- 9.21. The third review by The Design Review Panel (April 2020) concluded that the design of the scheme had developed to a stage that it now complied with paragraph 79. The separation but inter-dependence of the three blocks of the building was now considered to be clear and relationship between the built form and landscape had improved significantly from the earlier iterations of the scheme.
- 9.22. The outstanding quality of the design of the building has emerged from a thorough and detailed analysis of the site and a collaboration between many different disciplines, including architecture, landscape, ecology, arboriculture, drainage and planning. The architecture of the building, the landscaping, the proposed materials and the ecological improvements all contribute to this outstanding design. It is considered that the proposals when considered as a whole would significantly enhance the setting in both the short and long term.
- 9.23. The multi-generational living concept is embedded in the design of the building, which promotes high levels of sustainability, and both adaptable and flexible future living arrangements, which is considered to be an innovative approach to design.

9.24. Paragraph 129 of the NPPF states that in assessing applications local planning authorities should have regard to the outcome from these processes, including any recommendations made by design review panels. Having considered the submitted plans and documents, the findings of The Design Review Panel and the criteria set out within NPPF paragraph 79, it is considered that the that the development proposed is a very high quality scheme that has been carefully considered and takes into account the context and setting of the development. The proposal raises standards of sustainability and design more generally and overall meets the criteria of paragraph 79 (e) of the NPPF. It is important that conditions are imposed to ensure that the detailing and final finish can be controlled and built to the high standard intended and that the landscaping is provided as proposed.

Conclusion

9.25. Having regard to the conclusions of The Design Review Panel, it is considered that the design of the dwelling is of exceptional quality, truly outstanding and innovative and would raise standards of design architecturally and that the proposal's design would draw on and reflect the defining characteristics of the site. The outstanding quality of the design would significantly enhance the setting in both the short and long term and the multi-generational living concept is considered to be innovative which would contribute to flexible and adaptable ways of living in the future. It is therefore considered that the proposals comply with paragraph 79 of the NPPF and that the principle of development is acceptable.

Landscape impact

Policy context

9.26. Policy ESD13 of the CLP 2015 states that opportunities will be sought to secure the enhancement of the character and appearance of the landscape, particularly in urban fringe locations, through the restoration, management or enhancement of existing landscapes, features or habitats and where appropriate the creation of new ones, including the planting of woodlands, trees and hedgerows.

9.27. The policy goes on to state 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
- 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.

9.28. Policy ESD15 of the CLP 2015 states that development should contribute positively to an area's character and identity by creating or reinforcing local distinctiveness and respecting local topography and landscape features, including skylines, valley floors, significant trees, historic boundaries, landmarks, features or views, in

particular within designated landscapes, within the Cherwell Valley and within conservation areas and their setting

Assessment

9.29. The site lies beyond the built-up limits of the village in an area of open countryside. Local plan policies require for development to not cause visual intrusion in the open countryside and to respect local landscape features. Paragraph 170 of the NPPF is consistent with this and seeks for the protection of the open countryside.

9.30. The applicant has undertaken a Landscape and Visual Impact Assessment (LVIA) which has been considered by the Council's landscape architect. Landscape character is the physical make up and condition of the landscape itself and the visual amenity is the way in which the site is experienced.

9.31. The LVIA provides an assessment of the landscape setting by the applicant. This sets out the following:

- The site sits within in a rural context. The surrounding fields have remnants of ridge and furrow and are predominately improved grassland. The field boundaries are unmanaged hedgerows with a number of large mature hedgerow trees, predominately oak and ash.
- The man made pond is fed by an overgrown, unmanaged stream to the north of the site. The pond is rectangular in shape, has an unnatural character and is in poor condition due to lack of management. The water flows out of the pond on the south side and is directed along the field boundaries via man made ditches.
- The southern section of the site is an open agricultural field. The grassland is diverse and has the potential to become a nationally important damp meadow habitat. A public footpath crosses the field to the south of the stream.
- Visibility of the site is largely from the south along with an isolated view from the east. Views from the north and west are limited by the existing topography along with the intervening tree cover (along the dismantled railway), or the boundary planting on site itself. There are no views beyond 1.5km distance.

(Section 3.4 of the LVIA, prepared by Seed Landscape Design Ltd dated August 2020)

9.32. The LVIA looks at four different viewpoints. In the case of three of these viewpoints, it finds that the proposal would have no visual impact. It concludes that from Viewpoint 3 (Public Footpath 409/6/20) that there would be a minor adverse impact. All of the boundary hedgerow trees would be retained. The central section of the overgrown boundary hedgerow would be laid, this would open up glimpsed views into the site. Parts of the meadow and snap shots of the house would become visible.

9.33. The LVIA states that there would be no significant impact during the construction phase. It is stated that the boundary landscape works are to be implemented prior to any construction works and the materials / management compound is to be sited in the north of the site. Further details of this can be secured through a Construction Management Plan and subject to this condition, officers consider that the development would not cause harm in this regard

- 9.34. The dwelling has a very large floor space but a low form and has been positioned in the site to reduce landscape impact. The use of timber as a building material would also help the development to assimilate into the wider landscape given its setting within a woodland plantation.
- 9.35. The proposed landscaping scheme seeks to replace the existing Ash woodland with a mixed native woodland. The current plantation is suffering from Ash Dieback and it is stated in the LVIA that the landscaping proposals would result in a 35% ecological net gain (would need to be secured through conditions), with works to the lake to improve hydrology also proposed.
- 9.36. The Council's Landscape Officer (CLO) agrees with the findings of the LVIA. The CLO advises that there would be no significant long-term landscape impact. Views would be achieved of the dwelling from Public Footpath 409/6/20; however, these views would only be glimpsed and there would not be harm in this regard.

Conclusion

- 9.37. Paragraph 79 of the NPPF requires for development to significantly enhance its immediate setting and be sensitive to the defining characteristics of the local area. Given the conclusions of the LVIA, the comments of the Council's Landscape Officer and my own findings, it is considered that subject to conditions the development would comply with both the criteria of Paragraph 79 and Policies ESD13 and ESD15 of the CLP 2015.

Heritage Impact

- 9.38. The access to the site is opposite to the Wigginton Conservation Area. The dwelling itself would be approximately 700m from the conservation area.
- 9.39. 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.*
- 9.40. 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.
- 9.41. 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.
- 9.42. The site is a significant distance away from the conservation area. Concerns have been raised in the consultation process regarding the light pollution from the proposed dwelling.
- 9.43. The site is well screened from the public domain by vegetation and topography. That being said, unrestricted lighting of the site would cause harm to the rural character of the countryside and the setting of the Wigginton Conservation Area. It is clear that

a dwelling of this scale would require some lighting and therefore a lighting scheme would need to be required by condition.

- 9.44. Subject to the submission of an appropriate lighting scheme, the proposed development would not cause harm to the setting or significance of the Wigginton Conservation Area.

Residential amenity

- 9.45. 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.
- 9.46. As previously stated in this report, the site is over 700m away from the nearest dwelling. Given this separation distance, it is considered that the development would not have an impact with regard to a loss of light, overlooking or overdomination. The most significant impact could be light pollution from the dwelling; however, as set out in the previous section of this report, a condition requiring a lighting scheme would make the development acceptable in this regard.
- 9.47. Subject to conditions, the proposed development would not cause harm to the amenities of neighbours and would therefore comply with Policy ESD15 of the CLP 2015 and Government guidance contained within the NPPF.

Highway safety

- 9.48. 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.
- 9.49. The Highways Officer has offered no objections to the development, subject to conditions relating to the access, vision splays and the parking and turning areas. The access track to the site has been previously approved under 17/00749/F, however at time of the site visit this had only been built approximately halfway to the location of the proposed dwelling. The plans submitted with the application indicate that the driveway will be 3m wide Spray tar and chip tyre. It is considered that further details are required of the access and a condition shall be included in this regard.
- 9.50. 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.

Ecology Impact

Legislative context

- 9.51. 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.

- 9.52. 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.
- 9.53. The Regulations provide for the control of potentially damaging operations, whereby consent from the appropriate nature conservation body 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.
- 9.54. 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.
- 9.55. 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

- 9.56. 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.
- 9.57. 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.

- 9.58. 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.
- 9.59. 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.
- 9.60. 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.
- 9.61. These policies are both supported by national policy in the NPPF and also, under Regulation 43 of Conservation of Habitats & Species Regulations 2017, it is a criminal offence to damage or destroy a breeding site or resting place, unless a licence is in place.
- 9.62. The Planning Practice Guidance (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

- 9.63. 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')
- 9.64. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site contains semi-improved grassland, a fragment of semi-natural woodland, some plantation woodland and a man-made pond. There are is a single farm building within the application site which is proposed to be converted to a machinery store building.

- 9.65. The application is supported by a detailed protected species survey which concluded that bats, nesting birds and reptiles are present on the site.
- 9.66. The Council's Ecology Officer has offered no objections, subject to conditions requiring a Landscape Environmental Management Plan (LEMP) and a Construction Environment Management Plan, The LEMP would need to include types, locations, design and numbers of all additional features to be included for wildlife as outlined in the ecological reports (bird boxes/bricks, bat bricks, measures for reptiles, barn owl nesting site). Subject to these conditions, it is considered that the proposals would result in a net gain to biodiversity on the site.

Conclusion

- 9.67. Officers are satisfied, on the basis of the information submitted and advice from the Council's Ecology Officer, and subject to conditions, that the welfare of any European Protected Species found to be present at the site and surrounding land would 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. The proposed development therefore complies with Policy ESD10 of the CLP 2015 and Government guidance contained within the NPPF.

Flood risk and drainage

- 9.68. 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.
- 9.69. Policy ESD7 of CLP 2015 requires the use of Sustainable Urban Drainage Systems to manage surface water drainage systems.
- 9.70. The site is located in Flood Zone 1, which is the area at lowest risk of flooding. The majority of the dwelling would be sited in close proximity to the pond on the site, whilst some of the dwelling would project over the pond. The site of the proposed dwelling has been modified in the last 20 years to form a pond and plantation. The watercourse entering the pond at present is unmanaged, the pond includes still areas and the surrounding trees have caused the pond to become stagnant.
- 9.71. The application proposes to clean out the pond, adjust its shape and improve the management of the watercourses and ditches through maintenance of the existing features. There are no proposals to divert the watercourses or ditches.
- 9.72. A SuDS strategy is proposed for the development, which would include swales and permeable surfaces within the site. The landscaping has been integrated with the drainage design to create this drainage scheme. The rainwater landing on the site is managed by infiltration where possible, and the runoff from the main roofs is mainly attenuated by the swale/rill, with a small area attenuated in the large pond.
- 9.73. The foul water drainage would be conveyed to a proprietary package treatment works within the site, as there is no existing foul drainage on site, and no foul sewers in the vicinity of the site.

- 9.74. The drainage strategy is considered to provide a SuDS strategy that would be safe for its lifetime and would comply with local and national guidance with regard to drainage and flood risk.
- 9.75. 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.

Other matters

- 9.76. The Environmental Protection Officer (EPO) has no objections subject to the inclusion of the full contaminated land conditions. Given the agricultural history of the site, these conditions are considered to be reasonable and necessary.
- 9.77. The EPO has also recommended the inclusion of a condition relating to EV charging infrastructure. Paragraph 110 (e) of the NPPF states that development proposals should be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations. It is therefore considered that this condition would be reasonable and necessary.
- 9.78. The Council's Arboricultural Officer has offered no objections but has requested a number of areas of clarification. An amended Arboricultural Assessment would need to be required by condition and to include these areas of clarification.

10. PLANNING BALANCE AND CONCLUSION

- 10.1. 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. For the reasons set out in this report the proposal conflicts with the relevant policies of the Development Plan, namely Policies BSC1 and ESD1 of the CLP 2015 and saved Policy H18 of the CLP 1996.
- 10.3. However, it is considered that the proposed development complies with the criteria set out in paragraph 79(e) of the NPPF and that the development would be truly outstanding and innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas and it would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.
- 10.4. The proposed development would not cause harm to the setting or significance of the Wigginton Conservation Area, would not cause harm to the safety of the local highway network or the amenities of neighbours.
- 10.5. It is therefore considered that the proposed development is acceptable, subject to the conditions set out below.

11. RECOMMENDATION

RECOMMENDATION – DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT TO GRANT PERMISSION, SUBJECT TO THE CONDITIONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY) AND THE COMPLETION OF A UNILATERAL UNDERTAKING 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) The revocation of the Council's decision in respect of 18/00063/Q56

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 (117-L-01); Proposed Site and Roof Plan (117-P-01 Rev D); Proposed Ground Floor Plan (117-P-02 Rev D); Proposed First Floor Plan (117-P-03 Rev D); Elevations (117-E-01 Rev E); Stone Barn in NW of Damp Meadow Plans and Elevations as Proposed (117-B-02 Rev A)

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

3. No development shall commence above slab level unless and until samples of the timber to be used externally in the construction of the walls and roof of the development have been 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 samples so approved and shall be retained as such thereafter.

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

4. No development shall commence unless and until a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme for landscaping the site shall include:-

(a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas,

(b) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,

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

means of enclosure.

The development shall not be carried out other than in accordance with the approved landscaping scheme and the development shall not be occupied until the hard landscape elements of the approved scheme have been carried out and the hard landscape elements shall be retained as such thereafter.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

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

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

6. The dwelling hereby approved shall not be occupied unless and until the existing means of access between the land and the highway has been improved, formed, laid out and constructed strictly in accordance with Oxfordshire County Council's guidance.

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

7. The vision splays shall not be obstructed by any object, structure, planting or other material of a height exceeding 0.9 m measured from the carriageway level.

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

8. Prior to the first occupation of the development hereby approved, the parking and manoeuvring areas shall be provided in accordance with the plan approved (drawing no. 117-P-02 D) and shall be constructed from porous materials or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the site. Thereafter, the parking and manoeuvring area shall be retained in accordance with this condition and shall be unobstructed except for the parking and manoeuvring of vehicles at all times.

Reason - In the interests of highway safety, to ensure the provision of off-street car parking and to comply with Government guidance contained within the National Planning Policy Framework

9. No development shall commence unless and until full specification details of the proposed access drive including construction, surfacing, layout, drainage and

road markings, have been submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the first occupation of the dwelling the development shall be constructed in accordance with the approved details.

Reason - In the interests of highway safety, to ensure a satisfactory standard of construction and layout for the development and to comply with Government guidance contained within the National Planning Policy Framework.

10. No development shall commence unless and until a Landscape and Ecological Management Plan (LEMP), which shall include types, locations, design and numbers of all additional features to be included for wildlife as set out in the Preliminary Ecological Appraisal prepared by ecologybydesign dated August 2019, 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 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.

11. 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.

12. 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 prior to the first occupation of the development. 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.

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

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and

other offsite receptors in accordance with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework

14. If a potential risk from contamination is identified as a result of the work carried out under condition 13, prior to the commencement of the development hereby permitted, a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals shall be documented as a report undertaken by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place unless the Local Planning Authority has given its written approval that it is satisfied that the risk from contamination has been adequately characterised as required by this condition.

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

15. If contamination is found by undertaking the work carried out under condition 14, 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

16. If remedial works have been identified in condition 15, the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 15. 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

17. If, during development, contamination not previously identified is found to be

present at the site, no further development shall be carried out until full details of a remediation strategy detailing how the unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. Thereafter the remediation strategy shall be carried out in accordance with the approved details.

Reason - To ensure that 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

18. No development shall commence unless and until full details of the external lighting have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in strict accordance with the approved details and shall be retained as such thereafter.

Reason - To safeguard the character and appearance of the area and surrounding landscape and heritage assets and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

19. Notwithstanding the submitted details, no development shall commence unless and until an amended Arboricultural Method Statement (AMS), undertaken in accordance with BS:5837:2012 and all subsequent amendments and revisions, has been submitted to and approved in writing by the Local Planning Authority. Thereafter, all works on site shall be carried out in accordance with the approved AMS.

Reason – To ensure the continued health of retained trees/hedges and to ensure that they are not adversely affected by the construction works, in the interests of the visual amenity of the area, to ensure the integration of the development into the existing landscape and to comply with Policy 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.

20. Notwithstanding the provisions of Classes A to E (inc.) of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 and its subsequent amendments, the approved dwelling shall not be extended, nor shall any structures be erected within the curtilage of the said dwelling, without the grant of further specific planning permission from the Local Planning Authority.

Reason: To ensure and retain the satisfactory appearance of the completed development and to enable the Local Planning Authority to retain planning control over the development of this site to protect the character of the wider landscape and countryside and in the interests of sustainable development and to comply with Policies BSC1, ESD1, 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

20/02298/F

**24 Cheney Road
Banbury
OX16 3HS**



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20/02298/F

24 Cheney Road
Banbury
OX16 3HS



1:1,000

24 Cheney Road Banbury OX16 3HS**Case Officer:** Emma Whitley**Applicant:** Mr Asif Elahi**Proposal:** Proposed single storey front, side & rear extension including new porch to front. Double storey side extension. Proposed new outbuilding to rear of garden.**Ward:** Banbury Grimsbury And Hightown**Councillors:** Cllr Andrew Beere, Cllr Shaida Hussain and Cllr Perran Moon**Reason for Referral:** Called in by Cllr Andrew Beere for the following reasons: public interest**Expiry Date:** 15 January 2021**Committee Date:** 14 January 2021**1. APPLICATION SITE AND LOCALITY**

1.1. The application site relates to a two-storey detached dwelling located in a residential area of Banbury to the north-east of the town centre. The house is constructed from red facing brick with grey uPVC fenestration, under a plain tiled roof. The property has an attached garage in addition to an area of hardstanding to the front providing off-street parking. The property benefits from a large rear garden, with an existing single storey garden room situated at the end of the garden.

2. CONSTRAINTS

2.1. The dwelling is not listed, nor is it situated within close proximity to any listed buildings. The dwelling is not within a conservation area. There are public rights of way to the south and west of the site (route codes: 120/77/10 and 120/76/10). There are also public rights of way within close proximity to the site (route codes: 120/76/20 and 120/77/20). There are no additional planning constraints considered relevant to this proposal.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

3.1. The applicant seeks planning permission for a single storey front and rear extension and a two-storey side and rear extension. The proposals also include the provision for a replacement outbuilding to the rear of the garden.

3.2. The proposed lean-to front extension would protrude by 1.6 metres from the proposed two-storey side element and would extend by 1 metre from the existing dwelling. The front extension would cover the entire width of the existing dwelling and proposed two-storey side extension and would be in the form of a lean-to, although the central section would remain open.

3.3. The two-storey side extension would require the removal of the existing attached garage. The length of the extension would be 10.6 metres x 2.5 metres wide at the front, widening to 2.8 metres to the rear. The extension would protrude by 2.5 metres from the rear of the existing dwelling at two storey level. The maximum roof

ridge height would be 7.2 metres, dropping to a gable end roof ridge height of 6.2 metres to the rear of the dwelling and an eaves height of 5 metres.

- 3.4. The proposed single storey rear extension would protrude by 4 metres to the rear of the existing dwelling and by 1.5 metres from the proposed two-storey side extension. The width of the proposed rear single storey extension would be 8.6 metres and the width of the first floor rear extension would be 3 metres. The roof would be flat with a small parapet wall taking the height to 3.3 metres.
- 3.5. The extensions would be constructed from matching red-facing brick with grey uPVC windows to match the existing. There is one small window proposed in the upper-floor side of the proposed two-storey side extension, which would be for a bathroom. Two additional windows are proposed for the front elevation of the dwelling, with two windows, bi-fold doors and an additional door proposed in the rear elevation. No additional windows are proposed to the north elevation.
- 3.6. The proposed outbuilding would replace the existing outbuilding and would be 7.3 metres wide x 4.3 metres deep. The ridge height would be 4 metres, dropping to an eaves height of 2.1 metres. The proposed design of the outbuilding would be sympathetic to the main dwelling, with the materials matching the dwellinghouse.

4. RELEVANT PLANNING HISTORY

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

20/00047/F – Proposed two-storey side extension with associated internal/ external works. *Application Permitted.*

52/00114/B – 3 Detached dwellinghouses with private garages with vehicular accesses. *Application Permitted.*

- 4.2. Permitted development rights remain intact for this dwelling as they have not been removed by way of condition.

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 to the site and letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was **12 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, which relate to the originally submitted plans, are summarised as follows:

- Proposed development is over large for the site and represents overdevelopment of the site
- Proposed development is out of character of the design of the surrounding houses
- Additional parking would be required for the proposed development, which cannot be accommodated within the immediate vicinity and create additional parking congestion

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

7. RESPONSE TO CONSULTATION

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

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

- 7.2. BANBURY TOWN COUNCIL – **No objections. Comments:** Some concern about the adequacy of off-street parking for the proposed 5-bedroom house. The ancillary building should be conditioned so that it remains in ancillary use and cannot become a separate unit of accommodation.

OTHER CONSULTEES

- 7.3. LOCAL HIGHWAYS AUTHORITY – **No objections. Comments:** The proposals are unlikely to have any adverse impact upon the local highway network from a traffic and safety point of view. The proposals would not materially change the volume or type of vehicles accessing the development.
- 7.4. BUILDING CONTROL (CDC) – **No objections. Comments:** Reception 2 should have an escape window. Building control application required.
- 7.5. OPEN SPACES SOCIETY – **No objections/ comments** received at the time of drafting the report.
- 7.6. RAMBLERS ASSOCIATION – **No objections/ comments** received at the time of drafting the report.
- 7.7. RIGHTS OF WAY (CDC) – **No objections/ comments** received at the time of drafting the 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 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the 'saved' policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District's statutory Development Plan are set out below:

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

- ESD15 - The Character of the Built and Historic Environment

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C28 – Layout, design and external appearance of new development
- C30 – Design of new residential development

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Cherwell Residential Design Guide (2018)
- Cherwell Council Home Extensions and Alterations Design Guide (2007)

9. APPRAISAL

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

- Design, and impact on the character of the area
- Residential amenity
- Highway safety/parking provision

Design and Impact on the Character of the Area

- 9.2. Paragraph 124 of the NPPF states that: *'Good design is a key aspect of sustainable development'* and that it *'creates better places in which to live and work'*. This is reflected in Policy ESD15 of the CLP 2031 Part 1, which states that new development proposals should: *be designed to improve the quality and appearance of an area and the way it functions...contribute positively to an area's character and identity by creating or reinforcing local distinctiveness...(and) respect the traditional pattern of routes, spaces, blocks, plots, enclosures and the form, scale and massing of buildings.*
- 9.3. Saved Policies C28 and C30 of the CLP 1996 reinforce this, with Policy C30(ii) stating: *that any proposal to extend an existing dwelling (should be) compatible with the scale of the existing dwelling, its curtilage and the character of the streetscene.*
- 9.4. The proposed extensions and outbuilding would be constructed from red-facing brick, tiles and uPVC to match the existing dwelling and therefore are considered acceptable and in keeping with the red brick character of the immediate locale.
- 9.5. The two-storey side extension would replace the existing attached garage on the southern elevation of the dwelling. There are examples within the wider streetscene of extensions above garages and so this element of the proposed development would not appear out of place (the principle of a two storey extension was previously established with the approval of 20/00047/F). Furthermore, the two-storey element would be subservient to the main dwelling with the roof remaining hipped to ensure that it blends in within the immediate built environment and would not appear overly bulky.
- 9.6. As originally proposed, the two storey side extension would have resulted in a large unbroken expanse of brick which would face directly on to a public right of way. Amended plans reduced the impact with the rearmost element of the extension, beyond the original rear elevation, being stepped back off the boundary at first floor level. The impact of the proposal when viewed from the footpath is now considered to be acceptable.
- 9.7. Although there are not any other front extensions in the immediate vicinity, given its modest depth, it is nonetheless considered that the proposed front extension would be an appropriate addition.

- 9.8. The proposed outbuilding has a relatively large footprint but would be permitted development if it were repositioned so that it was to be at least 2 metres from the closest boundary. As with the single storey extension, which like the outbuilding is considered to be of an acceptable design, a large proportion of the proposed building would be screened from the public domain by the existing boundary fence. Officers do however share the concerns of the Town Council regarding the use of the outbuilding and a condition is proposed to ensure that the building remains ancillary to the dwellinghouse.
- 9.9. Neighbour objections were received in relation to the impact the works would have on the local character of the area and that they would result in an overdevelopment of the site. For the reasons set out above, Officers are satisfied that the design of the various elements of the scheme are acceptable. Whilst the proposal represents quite a significant increase in floor area, it is concluded that it does not represent an overdevelopment of the site; the application property occupies one of the larger curtilages in the vicinity.
- 9.10. For these reasons, the proposals are therefore acceptable in terms of design and impact on the character of the area, and thus accords with Government guidance contained within the NPPF, saved Policies C28 and C30 of the Cherwell Local Plan 1996 and Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1.

Residential Amenity

- 9.11. Paragraph 127 of the NPPF includes, as a core planning principle, a requirement that planning should have *a high standard of amenity for all existing and future users*. This is reflected in Policy ESD15 of the CLP 2031 Part 1, which 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*.
- 9.12. The Council's Home Extensions and Alterations Design Guide (2007) provides informal guidance on how the Council will assess proposed extensions to houses, including guidance on assessing the impact on neighbours. This includes assessing whether a proposed extension would extend beyond a line drawn at a 45° angle, as measured horizontally from the mid-point of the nearest habitable room window.
- 9.13. The proposed two-storey side extension would extend past the rear elevation of the existing dwelling and would therefore be visible to the neighbour situated north of the site, 26 Cheney Road. However, the rear extension would be situated approximately 9 metres away from the boundary with this neighbouring property and would not include any side windows facing towards this neighbour. As such, the impact caused by the two-storey side extension to this neighbour in terms of impact to privacy, outlook and light would be minimal.
- 9.14. The rear of the neighbouring dwellings located to the south of this site, which are at right angles to the application property, are situated approximately 17 metres away from the proposed side extension. The side extension element would comply with the guidance contained within the Cherwell Council Home Extensions and Alterations Design Guide (2007); which states that there should be a separation of at least 14 metres from a window of a neighbour's habitable room to prevent overshadowing. The intervening right of way and neighbouring garage also helps to lessen the impact on these neighbours. Only one window is proposed in this southern elevation, a bathroom window, which would be obscurely glazed to prevent any overlooking.

- 9.15. The single storey rear extension would align with the rear extension of 26 Cheney Road and would not therefore breach the 45-degree line. This element would also be screened by the shared boundary treatment. The impact on these neighbouring residents and indeed the other surrounding neighbours of this part of the development would therefore be minimal.
- 9.16. The front extension would extend by 1 metre along the north elevation, closest to No. 26 Cheney Road and would not breach the 45-degree rule in relation to this neighbour. The nearest structure to the south of the site is a detached garage and so there would not be any amenity issues presented by the front extension to this side.
- 9.17. Given its relatively limited height and the distance, approximately 18 metres, from the closest neighbour to the south (49 Grimsbury Square), the impact of the proposed outbuilding on the properties to the south is considered to be acceptable. The neighbour to the north of the site at 26 Cheney Road has an outbuilding situated adjacent to the proposed outbuilding and as with the other extensions the proposal would also be partly screened, from this neighbour, by existing boundary treatment.
- 9.18. For the above reasons, the proposals are considered to accord with Government guidance contained within the NPPF, saved Policy C30 of the Cherwell Local Plan 1996 and Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, which seek standards of amenity and privacy acceptable to the Local Planning Authority.

Highway Safety/Parking Provision

- 9.19. Policy ESD15 of the CLP 2031 Part 1 states, amongst other matters, that new development proposals should: *be designed to deliver high quality safe...places to live and work in*. This is consistent with Paragraph 110 of the NPPF which states that: *developments should create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles*.
- 9.20. Although the extension would encroach on the existing driveway, there would still be space for two off-street parking spaces. Notwithstanding the neighbour objections and the reservations expressed by the Town Council, the Local Highways Authority concluded that there was adequate parking provision and that the proposal would be unlikely to have any adverse impact upon the local highway network. Officers concur with this assessment, particularly as the property is in a sustainable location well served by public transport. The proposal is therefore considered acceptable in this regard.

10. PLANNING BALANCE AND CONCLUSION

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

11. RECOMMENDATION

GRANT PERMISSION, SUBJECT TO THE CONDITIONS SET OUT BELOW

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.

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

Drawing Numbers:

00-PR-02 Rev A

00-PR-04 Rev A

00-PR-01 Rev A

00-PR-03 Rev A

00-OB-PR-02 Rev A

00-OB-PR-01 Rev A

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

3. The materials to be used for the external walls, roof, doors and windows of the development hereby permitted shall match in terms of colour, type and texture those used on the existing building.

Reason: To ensure that the development is constructed and finished in materials which are in harmony with the materials used on the existing building and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

4. The first floor window in the first floor southern elevation shall be obscure glazed, using manufactured obscure glass that is impenetrable to sight, (not an applied adhesive film) before the extension is first occupied and shall be permanently retained as such thereafter. The window shall also be non-opening, unless those parts which can be opened are more than 1.7m above the floor of the room in which it is installed and shall be permanently retained as such thereafter.

Reason - To safeguard the privacy and amenities of the occupants of the neighbouring properties and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C30 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

5. The outbuilding hereby permitted shall be used solely as ancillary accommodation to the existing dwellinghouse, currently known as 24 Cheney Road, and as such shall not be sold, leased, let, sub-let or used as an independent dwelling unit.

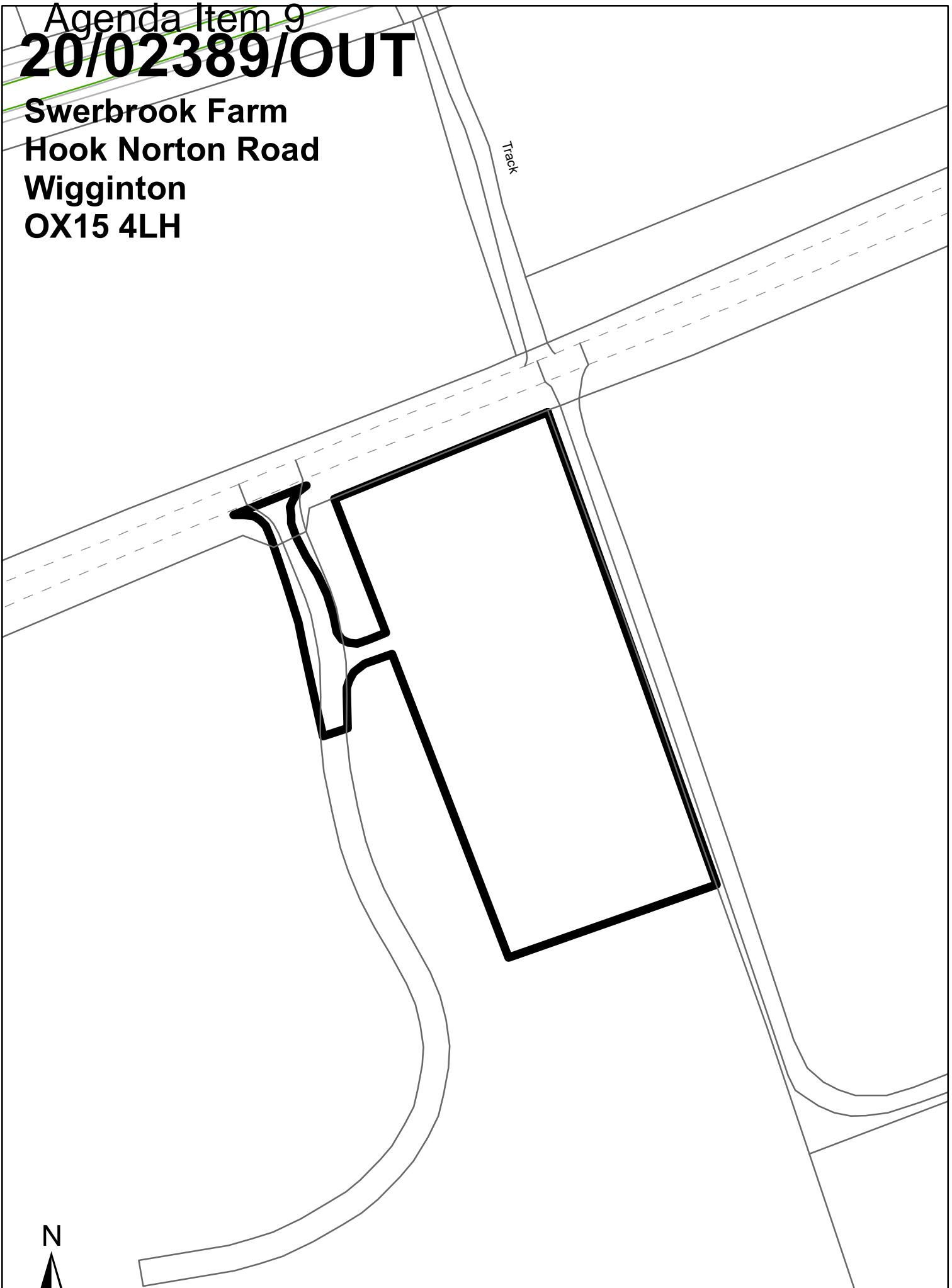
Reason : The site is unsuitable to accommodate a separate dwelling without it being cramped or causing harm to the amenities of the occupants of the adjoining dwelling and in order to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policies C28 and C30 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

CASE OFFICER: Emma Whitley

TEL: 01295 221504

Agenda Item 9
20/02389/OUT

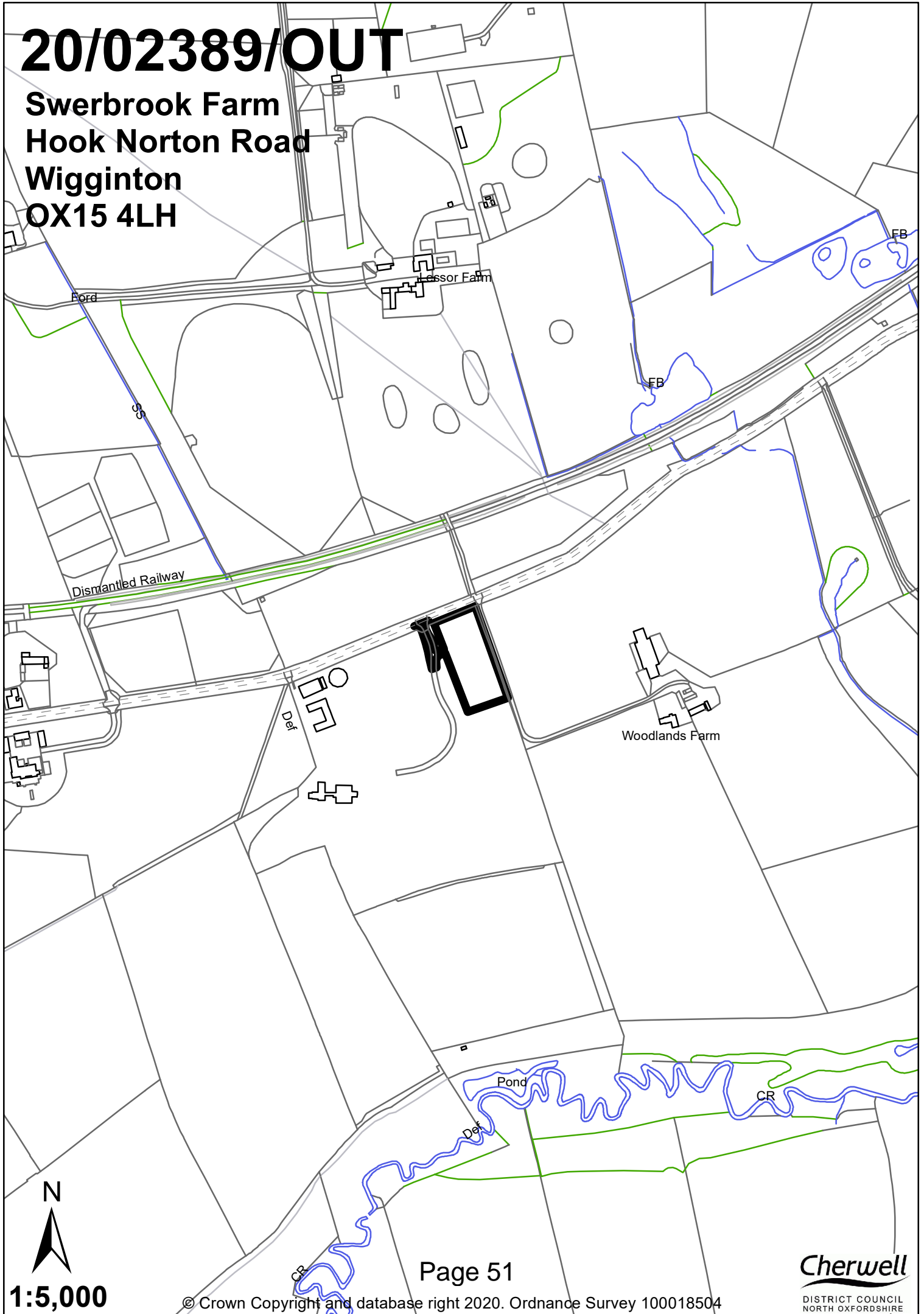
**Swerbrook Farm
Hook Norton Road
Wigginton
OX15 4LH**



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20/02389/OUT

**Swerbrook Farm
Hook Norton Road
Wigginton
OX15 4LH**



**Swerbrook Farm Hook Norton Road Wigginton
OX15 4LH****Case Officer:** Shona King**Applicant:** Mr J Dunkley**Proposal:** Erection of an indoor horse training arena**Ward:** Deddington**Councillors:** Cllr. Hugo Brown, Cllr. Mike Kerford-Byrnes and Cllr Bryn Williams**Reason for Referral:** Major development**Expiry Date:** 11 February 2021**Expiry Date:** 11 February 2021**1. APPLICATION SITE AND LOCALITY**

- 1.1. The application site is located in open countryside on the south side of Hook Norton Road, between the villages of Hook Norton, Milcombe and Wigginton.
- 1.2. The site is not located within a conservation area and there are no listed buildings in proximity of the site. Public Footpath 409/1/10 runs to the northwest of the site.

2. DESCRIPTION OF PROPOSED DEVELOPMENT

- 2.1. Outline planning permission is sought for the erection of an indoor horse training arena. That said, only landscaping is a reserved matter, i.e. all matters apart from landscaping are to be determined under this application. The proposed building would be sited adjacent to the eastern boundary and would measure approx. 67.2 metres long by 22.8 metres wide (footprint of 1,532 sq m) and would have a height of approx. 5.85m. It would be constructed externally from timber boarded walls and a sheet metal roof. Access to the building would be via the existing access from Hook Norton Road shared with Swerbrook Farmhouse and the existing equestrian buildings on the site.

3. RELEVANT PLANNING HISTORY

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

17/00489/F Demolition of existing dwelling and erection of replacement dwelling with associated landscaping and outbuilding - Application Permitted

17/01294/F Demolition of existing stables and grooms accommodation. Erection of replacement stables and groom's / staff accommodation. Retention of existing farm building for storage of hay, straw and equipment - Application Permitted

18/00372/F Change of use of land and operational development to form a horse training arena. Application Permitted

18/02011/F Erection of a horse walker - Application Permitted

19/00846/F Variation of Condition 2 (plans) of 17/00489/F - design changes to the fenestration on the garage block, the addition of a chimney to the dwelling, a plant room added to the garage, a link to the main house and a swimming pool and amended landscaping details - Application Permitted

19/01158/F Formalisation of temporary construction access and permanent retention to serve the dwelling and stables. Close off existing access. Provide new gates and piers to Hook Norton Road.

19/01159/OUT Erection of an indoor horse training arena. Application Withdrawn

4. PRE-APPLICATION DISCUSSIONS

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

5. RESPONSE TO PUBLICITY

5.1. 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 **8th December 2020**, although comments received after this date and before finalising this report have also been taken into account.

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

- Visual impact
- Siting should be closer to existing buildings
- Spreads development across site
- Overshadowing and overbearing on adjacent land
- Loss of view of sunset
- Impact on biodiversity
- Location of high-level windows and light pollution
- Condition to equestrian use only
- impact on neighbours during construction

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

6. RESPONSE TO CONSULTATION

6.1. 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

6.2. MILCOMBE PARISH COUNCIL: **No objection**

OTHER CONSULTEES (CDC unless otherwise stated)

6.3. LOCAL HIGHWAY AUTHORITY (OCC): **No objection** subject to conditions restricting the use of the arena to private use only and that the additional hardstanding proposed is to be constructed from either porous materials or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the site, in the interest of flood prevention

- 6.4. ENVIRONMENTAL PROTECTION: **No objection** on grounds of noise, contaminated land, air quality, odour or light.
- 6.5. ECOLOGY: **Comments** that the site is within the Conservation Target Area and there is also a nearby record of polecats being present and as these are a Priority Species we need to have regard to their conservation so some enhancements aimed at this species should be included on site. Whilst there will not be any major ecological issues on site ideally a biodiversity report to confirm constraints and opportunities should be submitted. As a minimum, a condition is recommended requiring a biodiversity enhancement scheme be submitted which should include locations and types of bat and bird boxes (along with some integrated into the new building where possible) and additional planting (with polecats and the aims of the conservation target area in mind) with a brief statement on management of the hedgerow, surrounding vegetation and benefits to wildlife of the scheme.
- 6.6. LANDSCAPE OFFICER: **No comment to date**

7. RELEVANT PLANNING POLICY AND GUIDANCE

- 7.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 7.2. 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)

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

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C8: Sporadic development in the countryside
- C28 – Layout, design and external appearance of new development
- AG5: Development involving horses

- 7.3. Other Material Planning Considerations
- National Planning Policy Framework (NPPF)
 - Planning Practice Guidance (PPG)

8. APPRAISAL

- 8.1. The key issues for consideration in this case are:

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

Principle of the development

- 8.2. Paragraph 11 of the National Planning Policy Framework (NPPF) states that decisions should apply a presumption of sustainable development. The NPPF explains that the purpose of the planning system is to contribute to the achievement of sustainable development. This is defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs.
- 8.3. 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.
- 8.4. The application seeks outline planning permission for the erection of an indoor horse training arena. Saved Policy AG5 states that proposal for horse related development will normally be permitted provided they do not adversely affect the character and appearance of the countryside and are not detrimental to the amenity of the neighbouring properties. The proposed development will be considered against Policy AG5 further below. This is consistent with Paragraph 83 of the NPPF which promotes the “development and diversification of agricultural and other land-based rural businesses”.
- 8.5. Therefore, the principle of equestrian related development in this rural location is acceptable in principle; the acceptability of this particular proposal is subject to other material considerations.

Design and impact on the character of the area

- 8.6. Paragraph 124 of the NPPF states that: *‘Good design is a key aspect of sustainable development’* and that it *‘creates better places in which to live and work’*. This is reflected in Policy ESD15 of the CLP 2015, which states that new development proposals should: *be designed to improve the quality and appearance of an area and the way it functions...contribute positively to an area’s character and identity by creating or reinforcing local distinctiveness...(and) respect the traditional pattern of routes, spaces, blocks, plots, enclosures and the form, scale and massing of buildings*. Saved Policy C28 of the CLP 1996 reinforces this, stating: *standards of layout, design, and external appearance, including the choice of external-finish materials, are sympathetic to the character of the urban or rural context*.
- 8.7. 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 be permitted where, amongst other criteria, they would cause undue visual intrusion into the countryside or cause undue harm to important natural landscape features and topography.
- 8.8. The application site is in the open countryside, with only sporadic dwellings in the vicinity located outside of the nearby villages of Milcombe and Wigginton. Saved Policy C8 of the CLP 1996 seeks to resist sporadic development in the open countryside. However, the site is in equestrian use and the building would be used in association with the existing use of the land.
- 8.9. The previous submissions under application 18/00372/F and 19/01159/OUT were for a training arena parallel to the Hook Norton Road and closer to the other buildings. The comments received from CDC Landscape Officer in respect of 18/00372/F were:

“The site is contained by the conifer hedge on the western boundary and the roadside hedgerow and trees. This vegetation must therefore be retained at sufficient height and density to screen the ménage from visual receptors (walkers) on the PRow to the west and road users. There appears to be sufficient structural vegetation/cover i.e. intervening hedgerows and trees between the site and Woodlands Farm.”

- 8.10. The proposed building has been rotated relative to those previous proposals such that the narrower part of the building faces public views.
- 8.11. The part of the site in which the building is to be located is flat, before the levels of the land drop to the south towards the valley. In addition, the building would be set down from the level of the highway and cut into the site as indicated on drawing No. 16047 PP0052 – B. It would be sited away from the boundaries of the site and therefore the existing boundary hedges can be protected during construction and retained.
- 8.12. Despite its floor area, the building would not be particularly prominent in public views due to the orientation with the ridge running north/south, rather than east west as previously approved.
- 8.13. Additional planting has taken place immediately to the south and west of the site for the proposed building and this would further mitigate any longer distance views of the building gained from the south.
- 8.14. The site location plan has been amended during the course of the application to allow for a landscaping plan. The original submission showed the red line tightly around the building and access, affording no space within the site for landscaping, important for mitigating visual impact and because this is an outline application but with only landscaping a reserved matter.
- 8.15. Overall, given its siting, design and materials, it is considered that the proposed building would appear as an agricultural building in the landscape and would not result in any significant harm to the rural character of the area, compliant with the local and national policies cited above.

Residential amenity

- 8.16. The proposed building would be located approximately 180m from the closest residential property. Given this relationship it is considered that the building would not result in any significant levels of overlooking or be overbearing on the outlook from that dwelling.
- 8.17. Concerns have been raised in the representations about the potential overbearing/overshadowing impact on the access drive to the adjacent dwelling, light pollution from the high-level windows and the loss of the view of the sunset. Whilst the building would extend down the shared driveway it would not result in any significant adverse impacts on the living amenities of the adjacent dwelling and the retention of the hedgerow between the building and the dwelling would help to mitigate any light pollution arising from the high-level windows in the east elevation of the building. The loss of the view of the sunset is not a matter that can be taken into consideration in the determination of the application.
- 8.18. The proposal is therefore considered acceptable in residential amenity terms and compliant with Policy ESD15 of the CLP 2015 and Government guidance in the NPPF.

Highway safety

- 8.19. The proposed development would utilise an existing access onto the highway approved under application 19/01158/F. The local highway authority has raised no objections to the proposals.
- 8.20. It is considered that the level of vehicular movements would not increase significantly with the use of the building as set out in the information submitted with the application. It is therefore considered that the development would not result in any significant detriment to highway safety to warrant refusal of the application.
- 8.21. Conditions are recommended restricting the use of the arena to private use only and that the additional hardstanding proposed is to be constructed from either porous materials or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the site, in the interest of flood prevention.
- 8.22. The proposal is therefore considered acceptable in highway safety terms and compliant with Policy ESD15 of the CLP 2015 and Government guidance in the NPPF.

Ecology

- 8.23. The Planning Practice Guidance (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.
- 8.24. 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
- 8.25. 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')
- 8.26. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard there are a number of mature trees and hedgerows within and adjacent the site, and therefore the site has the potential to be suitable habitat for bats, breeding birds, and badgers.
- 8.27. Section 40 of the Natural Environment and Rural Communities Act 2006 (NERC 2006) states that "every public authority must, in exercising its functions, have

regard ... to the purpose of conserving (including restoring / enhancing) biodiversity”.

- 8.28. Strict statutory provisions apply where European Protected Species (EPS) are affected, as prescribed in Regulation 9(5) of Conservation of Habitats and Species Regulations 2010. When determining a planning application that affects a EPS, local planning authorities must have regard to the requirements of the EC Habitats Directive which states that “a competent authority, in exercising any of their functions, must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions”.
- 8.29. Under Regulation 41 of the Conservation Regulations 2010 it is a criminal offence to cause harm to an EPS and/or their habitats which includes damage or destruction of a breeding site or resting place. However, licenses from Natural England for certain purposes can be granted to allow otherwise unlawful activities to proceed when offences are likely to be committed, but only if 3 strict legal derogation tests are met which include:
- 1) Is the development needed for public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature?
 - 2) Is there any satisfactory alternative?
 - 3) Is there adequate compensation being provided to maintain the favourable conservation status of the species?
- 8.21. In order for the LPA to discharge its legal duty under Reg 9(5) of the Conservation Regulations 2010 when considering a planning application where EPS are likely or found to be present at the site or surrounding area, LPAs must firstly assess whether an offence under the Regulations is likely to be committed. If so, the LPA should then consider whether Natural England would be likely to grant a licence for the development. In so doing to authority has to consider itself the 3 derogation tests above.
- 8.22. In respect of planning applications and the Council discharging of its legal duties, case law has shown that if it is clear/very likely that Natural England will not grant a licence then the Council should refuse planning permission; if it is likely or unclear whether Natural England will grant the licence then the Council may grant planning permission.
- 8.23 Previously the Council's Ecologist has advised that the land is already grazed pasture and therefore unlikely to be of any particular ecological value and that the proposals did not include the loss of any hedgerows or trees or affect watercourses. This remains the case under this application and as such it is unlikely that there will be any major ecological issues on site.
- 8.24 The site is now, however, within a Conservation Target Area and there is also a nearby record of polecats being present. These are a Priority Species and regard to their conservation is required.
- 8.25 It is therefore recommended that a biodiversity enhancement scheme is conditioned which should include locations and types of bat and bird boxes (along with some integrated into the new building where possible) and additional planting (with polecats and the aims of the conservation target area in mind) with a brief statement on management of the hedgerow, surrounding vegetation and benefits to wildlife of the scheme.

9. PLANNING BALANCE AND CONCLUSION

- 9.1. 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.
- 9.2. The principle of development is acceptable, as the building would not result in a change of use and would support the existing equestrian business. The building would be well screened from the public domain and would be a sufficient distance away from the nearest residential property so as not adversely affect the living conditions of that neighbour and would not affect the safety of the local highway network. The proposed development is therefore considered to be in accordance with the Development Plan, and thus acceptable, subject to the conditions below.

10. 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

Submission of Reserved Matters

1. No development shall commence until full details of the landscaping (hereafter referred to as reserved matters) of the hereby approved development 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, and Article 5(1) of the Town and Country Planning (General Development Procedure) Order 2015 (as amended).

Time Limit

2. In the case of the reserved matters, no application for approval shall be made 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, and Article 5(1) of the Town and Country Planning (General Development Procedure) Order 2015 (as amended).

3. The development to which this permission relates shall be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

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, and Article 5(1) of the Town and Country Planning (General Development Procedure) Order 2015 (as amended).

Plans

4. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the application forms and drawings numbered L0006A, PP0051, PP0053B, PP0130D and PP0131A.

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.

Access and Manoeuvring Area

5. The access and manoeuvring areas shall be provided in accordance with the plan approved (Drawing No. 16047 - L0006 - B) prior to the first use/of the development hereby approved and shall be constructed from porous materials or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the site. The access and manoeuvring areas shall be retained in accordance with the approved details thereafter and shall be unobstructed except for the access and manoeuvring of vehicles at all times.

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

Retention of Hedgerow

6. The existing hedgerow along the northern and eastern boundaries of the site shall be retained and properly maintained at a height of not less than 3 metres, and if any hedgerow plant dies within five years from the completion of the development it shall be replaced and shall thereafter be properly maintained in accordance with this condition.

Reason - In the interests of the visual amenities of the area, to provide an effective screen to the proposed development and to comply with Policies ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Ecology

7. No development shall commence, including any works of site clearance, unless and until a method statement for enhancing the habitat for bats, birds and polecats and the aims of the Conservation Target Area shall be submitted to and approved in writing by the Local Planning Authority. The biodiversity enhancement measures shall be carried out in accordance with the approved details and shall be retained as such thereafter. The method statement shall include locations and types of bat and bird boxes (along with some integrated into the new building where possible) and additional planting with details of the management of the hedgerow, surrounding vegetation and benefits to wildlife of the scheme.

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.

Restriction of Use

8. The horse training area hereby permitted shall be used for private recreation only, by the occupants of Swerbrook Farm, and shall not be used for any commercial equestrian purpose whatsoever including riding lessons, tuition, livery or competitions.

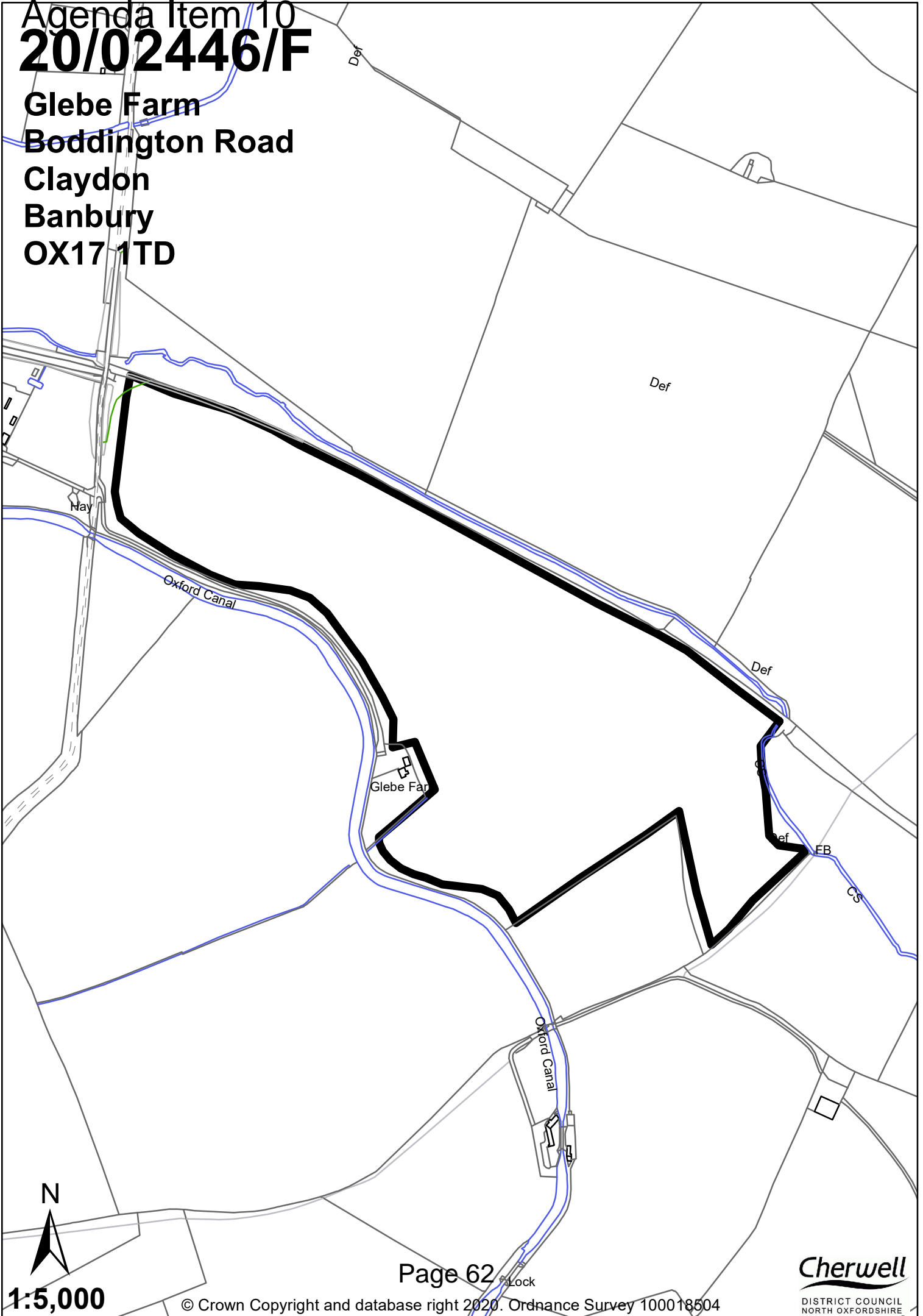
Reason - In order to maintain the rural character of the area in the interests of sustainability and highway safety, in accordance with Policy ESD15 of the Cherwell Local Plan 2011 - 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

CASE OFFICER: Shona King

TEL: 01295 221643

Agenda Item 10 20/02446/F

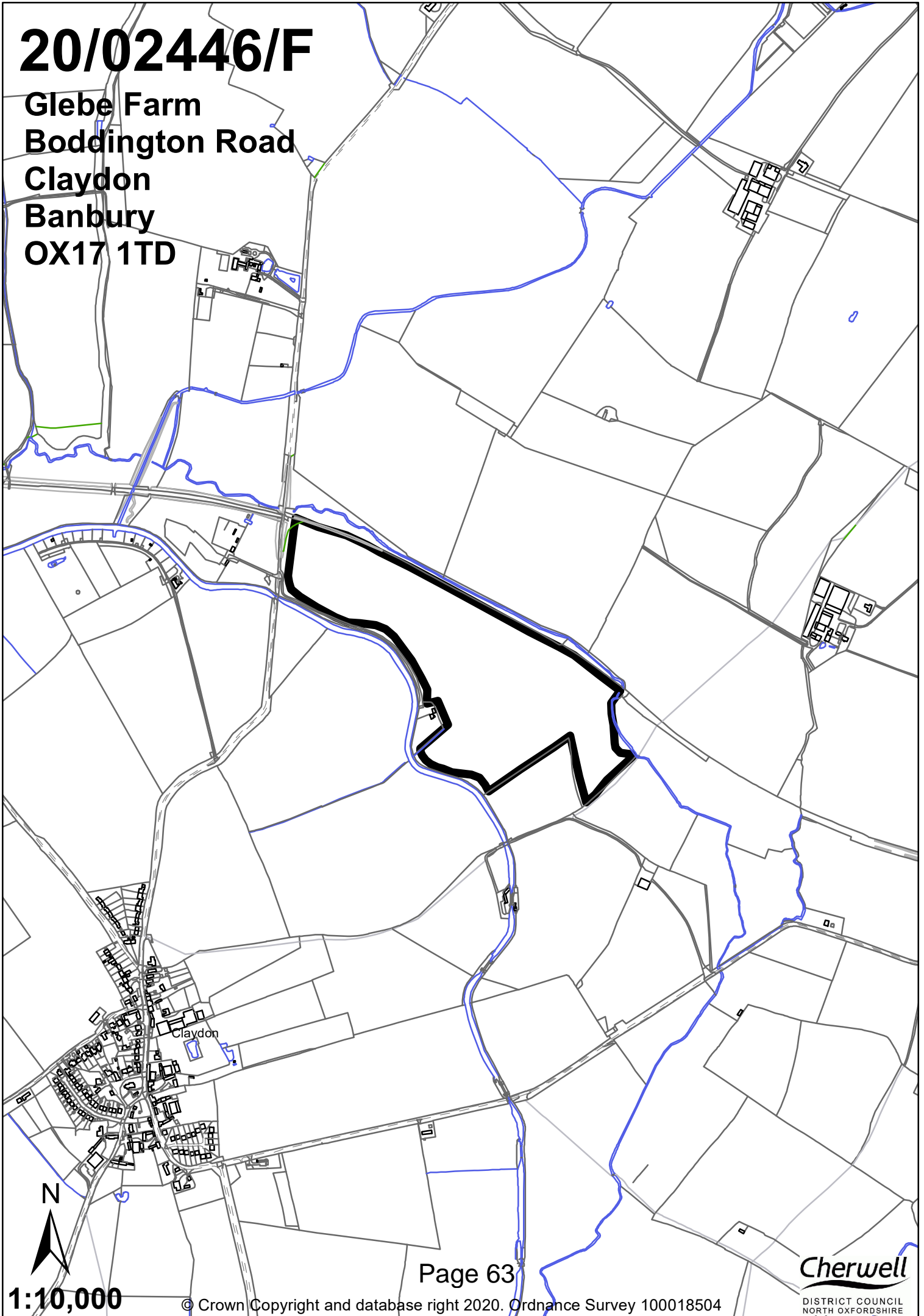
**Glebe Farm
Boddington Road
Claydon
Banbury
OX17 1TD**



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20/02446/F

Glebe Farm
Boddington Road
Claydon
Banbury
OX17 1TD



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Page 63

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Cherwell

DISTRICT COUNCIL
NORTH OXFORDSHIRE

**Glebe Farm Boddington Road Claydon Banbury
OX17 1TD**

Case Officer: Shona King

Applicant: W A Adams Partnership

Proposal: Formation of inland waterways marina with ancillary facilities building, car parking, access and associated landscaping including the construction of a new lake - re-submission of 18/00904/F

Ward: Cropredy, Sibfords And Wroxton

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

Reason for Referral: Major development

Expiry Date: 24 December 2020 **Committee Date:** 14 January 2021

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS

Proposal

The proposal is to create a marina with associated facilities and earthworks. There is an adjacent lake proposed to be used as an irrigation reservoir. The marina would provide mooring for 192 boats for recreational purposes and no residential moorings are proposed.

Consultations

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

- Claydon with Clattercote Parish Council, CDC Conservation

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

- CDC Landscape Services, CDC Ecology, CDC Environmental Protection, CDC Economic Growth, Natural England, OCC Highways, Northants County Council Highways, South Northants Council, Canal and River Trust, HS2, CDC Arboriculture, OCC Archaeology, Thames Valley Police

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

- CDC Strategic Housing

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

Planning Policy and Constraints

The application site lies within the open countryside and within the setting of the Oxford Canal Conservation Area. A small part of the site along its northern boundary lies within Flood Zones 2 and 3. To the north of the site lies the North Claydon Disused Railway Local Wildlife Site (LWS). The application has been assessed against the relevant policies in the NPPF, the adopted Local Plan(s) 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
- Need/Demand for a marina
- Highways/Access
- Visual and landscape impact
- Heritage impact
- Impact on the Canal as a tourist and leisure asset and green transport route
- Ecology and biodiversity Impact
- Drainage and flooding
- Economic and social implications
- Impact on residential amenity
- Other relevant planning 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 lies within open countryside to the north of Claydon and to the north of the Oxford Canal. Its northern boundary runs along a dismantled railway, its western boundary along Boddington Road, from where vehicular access will be taken, and its southern boundary alongside the Oxford Canal. A watercourse runs parallel with the northern site boundary. The extent of the application site area amounts to just under 18 hectares (17.79ha).
- 1.2. The land forms part of a larger mixed-use farming operation of around 580ha (grass and arable) which is farmed by the applicants. The application site is currently in arable use and sits in a 'bowl' which is slightly lower than the canal.
- 1.3. The line of HS2 is proposed to run to the north east of the site; approximately 1-1.5km away. At its eastern corner the site lies adjacent to the district boundary with South Northamptonshire.
- 1.4. There is an existing house adjacent to the canal and owned by the applicants (excluded from the application site) and neighbouring sporadic residential properties further north and west of Boddington Road. There are also residential moorings further west along the canal.

2. CONSTRAINTS

- 2.1. The dismantled railway to the north is a Local Wildlife Site (LWS). A public right of way (PROW) lies to the east of the site. The canal towpath is also a PROW. The Canal is a designated Conservation Area and part of the northern extent of the site lies within Flood Zone 2/3. A watercourse (known as Wormleighton Brook) runs parallel to the site's northern boundary.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The proposal is to create a marina with associated facilities and earthworks. There is an adjacent lake proposed to be used as an irrigation reservoir. The marina would provide mooring for 192 boats for recreational purposes and there will be no residential moorings. In addition to the basin, moorings and lake the proposals include;
- A facilities building providing office and chandlery, clubhouse, showers, toilets, Elsan disposal point and laundry, store and workshop and manager's accommodation and office.
 - Car parking spaces for 142 vehicles arranged in groups around the marina's perimeter.
 - New vehicular access from Boddington Road with internal access roads and footpaths.
 - New pedestrian towpath bridge over the marina entrance continuing the PROW.
 - Yard area with wet dock/maintenance bay for pump out, refuelling and light maintenance.
 - Various embankments from cut and fill
- 3.2. The marina would be somewhat organic in form with groups of berths separated by landscaped 'spits' of land and groups of no more than 16 boats. A large wildlife embankment would extend as a promontory to its eastern end. However, due to existing ground levels the proposal does involve extensive earthworks in order to accommodate the marina at the adjacent canal water level, and to create its dam. The result would be extensive embankments rising up from Boddington Road and the northern site boundary in particular. As an indication, existing grounds levels at Boddington Road are around 113.000 AOD at its lowest point, with the embankment rising to 118.000 AOD at its highest on this western end. The canal and marina water level would be set at 115.000 AOD.
- 3.3. The marina would be circled by an access road (surfaced in local stone) with loading/unloading points to the bottom of the embankments, with a footpath circling it along the top of the embankments. The facilities building would be at its western end to provide surveillance over the canal access point for security purposes.
- 3.4. An entrance for boats would be provided from the canal into the marina. A new footbridge would be provided to continue the canal towpath across the marina entrance.
- 3.5. The application is accompanied by landscaping proposals which show wildflower/grass edges to the marina leading into shrub and native tree planting.
- 3.6. The facilities building has been re-designed to replicate a converted agricultural barn and has a GIA of 363sqm. It is finished with timber cladding and local stone under a natural slate roof. All external joinery would be timber.
- 3.7. The applicants have put forward a number of points in support of the application including:
- The marina would provide a valuable recreational resource on the Oxford Canal, one of the most popular canals for tourism and boating.

- The proposal would create more facilities and choice for boaters wishing to visit the region and cruise the canal.
- HS2 is likely to have a negative impact on tourism and recreation. A positive development such as the marina will help to offset the negative impact.
- The proposal would provide an essential source of non-agricultural income on a farming operation severely impacted by HS2 (118 acres of land for the construction of HS2 for up to 10 years; a line that will bisect the farm).
- The proposal would provide resilience for the farming business in the face of challenges arising from Brexit and TB in cattle. The lake will provide irrigation for crops that are not dependant on EU subsidies.

They have also provided what they term a 'sequential test' considering the suitability of alternative locations for a marina 'within or adjacent to' a settlement. All information is supplied in the applicant's submission which is available on the Council's website.

4. RELEVANT PLANNING HISTORY

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

16/00082/SO – Screening opinion for proposed marina development – not EIA development

18/00041/SO – Screening Opinion to 18/00904/F - Formation of inland waterways marina with ancillary facilities building, car parking, access and associated landscaping including the construction of a new lake – not EIA development

18/00904/F - Formation of inland waterways marina with ancillary facilities building, car parking, access and associated landscaping including the construction of a new lake – withdrawn prior to Planning Committee

5. PRE-APPLICATION DISCUSSIONS

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

6. RESPONSE TO PUBLICITY

6.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records (amend as appropriate). The final date for comments was **22 December 2020**, although comments received after this date and before finalising this report have also been taken into account. The comments raised by third parties are summarised below.

6.2. In total, 67 letters of objection received (including from Cropredy Marina, Fenny Marina (and a solicitor acting on their behalf) and Banbury Sailing Club). No letters of support have been received. The issues received in representation are summarised as follows:

Planning Policy

- Contrary to development plan policies
- Contrary to NPPF in relation to diversification

Highway safety and road infrastructure

- Safety of road users
- Increased traffic
- Lack of footways and passing places
- Narrow roads
- Poor repair of roads
- Claydon used as a 'rat run'
- Proposed traffic routing will be ignored – construction and when operational
- Access for emergency services
- Additional access into site not required

Location

- Unsustainable location
- Lack of public transport in area
- Need to assess all alternative sites

Need and impact on canal

- Already other marinas in area
- Vacancies at other marinas
- No commercial demand for an additional marina in the area
- Capacity on the canal and in locks
- Water shortages in canal - additional marina will add to this
- Impact on wider area – water levels in Boddington Reservoir as it is used to top up the canal
- State of repair of the towpath – additional marina will worsen this

Impact on wider area

- Additional risk of flooding in wider area

Local community

- No benefit to local community
- No local amenities/services to support additional people
- Disturbance to local residents
- No increase in support for local services e.g. doctors' surgery, schools
- Doubles population of Claydon
- Impact on house prices
- Combined impact of HS2 and marina development on local community

Pollution

- Light pollution
- Impact on dark skies
- Noise during construction
- Noise once development completed
- Impact of HS2 already on serenity of canal – marina will add to harm
- Increased water pollution

Proposal

- Design of the clubhouse
- Visually harmful creation of embankments/bunds/raising of ground levels
- Adverse impact on views from Boddington Road and Claydon village
- Drawings inaccurate and lacking detail and clarity
- Impact on heritage asset – Oxford Canal is a Conservation Area
- Impact on setting and history of Claydon

- Inappropriate scale of the development
- Impact on wildlife and natural environment
- Sewage discharge/lack of mains sewers
- Need clarification of terms – mooring place and berth. Mooring place could result in several berths
- Enforcement of non-residential status
- Short cut to residential development
- Concerns raised previously not addressed
- Objections to the previous applications should be taken into consideration
- Members need to visit the site
- Decision should be delayed due to coronavirus restrictions to allow time to comment.

6.3. In addition to the above, the owner of Fenny Marina has objected, as follows:

1. Mooring Surplus Cropredy Marina currently hosts 249 moorings, which have many vacancies, with another 100 moorings due to open in January 2021. Another 50 berths in School Lane, Cropredy, are currently under construction as well - reference no.:11/01069/F. Fenny Marina currently hosts 100 berths, which have not been full since Cropredy opened. Now another 192 berths are being applied for in the same area. Within an 8 miles radius, should this application be passed, mooring would have gone from being 100 moorings to 692, in a space of 5 years. This would create a saturation of moorings in the area that already can't be filled, should the new site be passed. However, the lower South Oxford Canal is completely devoid of any sizable Offline Marinas, due to a surplus of moorings already in existence.

2. There is a more suitable site in Kidlington (photograph no.1), which would be more practical than this application, due to it being further South, the level of the land is better to hold a basin without the construction of manmade bunds, and its roads are easier to access. This would make far more sense, than putting a Marina that requires massive Civil Engineering to create, in our already saturated area.

3. Social and Environmental Impact - Any views of the fields would be lost to the village and its community due to the new site needing to rise 8m above the brook, 3m on the field to level with the canal, and 4.5m above Boddington road. Once buildings are built on top of the 8m bunds which would add another 6.5m, the site will rise to a total of 14.5m/47.6 ft higher than it currently is! The owners of Glebe farm seem to be more interested in constructing what they want in order to make money, disregarding the natural state of the area, and what would benefit the community. This new Marina would only detract from the natural beauty of the area. The Oxford canal is a conservation area, and this application would only create a negative impact on the environment. The negative environmental impact from this colossal construction would be enormous. I.e. Pollution from the diesel engines, huge concrete pads which is very environmentally damaging, the huge gravel trucks that will have to be driven to site, considering there is a surplus of moorings, why should the environment pay such a huge price for something that will only affect it in a negative manner?

4. As the marina would be closed to the public there would be no benefit to the village of Claydon, only causing negative issues such as: 4.1 Noise pollution - More people during the day, traffic horns due to Congestion over the narrow bridge which already is a hazard due to HGV's not reading signs, to not use these roads, then having to reverse these huge trucks a mile to turn back, negotiating two blind bends, which could quite easily cause a major accident requiring the trucks to blow their horns as a means of avoiding danger to anyone. There is also to be noise pollution from the maintenance and repair of boats. Even noise from small electrical hand

held tools, carry hundreds of meters across the water, such as grinders, orbital sanders and drills. Grit blasters (used for cleaning hulls) by their very nature are excessively noisy, and are regularly used for the maintenance on a narrowboat hulls. 4.2 Light pollution - due to the height of the new site (14.5m/47.6ft) even low level lighting, would be seen from a far distance. 4.3 Heavy traffic on the already bad roads, which are full of potholes are a huge concern to the locals. 4.4 More weight on the medical facilities - surgeries are already at full capacity in both Fenny Compton and Cropredy. Who would facilitate medical treatment should a boater get ill?

5. Apparently, the OCC have imposed an undertaking of 10,000.00 worth of piling works along the Canal bank, if the Marina application is approved. This in real terms would mean that approximately 17m worth of piling would be done! A drop in the ocean for what is needed.

6. Water levels - The Fenny Compton summit has suffered from lack of water in the peak seasons, since Cropredy Marina opened. The lack of water usually results in navigation restrictions for boaters, this year being particularly bad allowing boaters only to navigate for no more than 6 hours per day, due to water shortages. Each year only seems to get worse, due to longer dryer summers.

7. The Governing body of the Canal System, Canal and River Trust, had a subsidiary (British Waterways Marinas Ltd), who have recently deemed it fit to sell all 18 of their marinas, the largest Marina operator in the UK, to secure long-term revenue from a more reliable source. If there is such demand for Offline Narrowboat Moorings, why would they do this? Why did they offer such heavy discounts to fill their Marinas whilst they were trading? Therefore, with regards to the above issues, we cannot see the need for this application to be approved.

The Fenny Marina Owner has also provided a supplemental note, mapping and annotated comments against the applicant's alternative site analysis. These documents can all be viewed in full on the Council's website.

6.4. In summary, it is claimed that the proposal is fundamentally at odds with the development plan and the national planning policy framework and that there are no material planning considerations that outweigh this so permission must be refused. Any benefits are of limited weight falling a long way short of overcoming the fundamental policy conflicts; specifically, Policy ESD16 of the adopted Local Plan which requires new facilities for canal users to be located within or immediately adjacent to settlements, but also SLE1, SLE2 and SLE3 and to an extent ESD1.

6.5 It is further claimed that the proposal does not protect, enhance or conserve the iconic heritage asset of the canal or intrinsically beautiful open countryside; is a speculative scheme with no evidence of demand, no public benefit, and is in an unsustainable location; there will be a significant and irreversible impact and the cumulative effect cannot be anything less than adverse, particularly given the advent of HS2; the search area in the FRA is limited and a flawed analysis; all alternative sites along the canal should be assessed and the applicant's search area and assessment is flawed; surface water drainage is not properly addressed; enforcement of occupancy is difficult in the long-term; viability will be a struggle except over an extremely long-term basis; the claims of financial benefit are unjustified; financial and personal circumstances are irrelevant and the marina could be sold.

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

7. RESPONSE TO CONSULTATION

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

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

- 7.2. CLAYDON WITH CLATTERCOTE PARISH COUNCIL: **Objects** on the following grounds:

- 7.3. The proposed development would create a significant increase in general traffic volume on the local network. The Parish Council are concerned about the impact this would have on the safety in the village which already have issues with large vehicles attempting to drive through the village and getting stuck. On the Fenny Compton Road large vehicles ignore the weight limit on the railway bridge which has resulted in damage to the bridge. These issues have been raised numerous times with the County and District Councillors and they are looking into the different options to try to alleviate this. All five routes into and out of Claydon are narrow, twisty, have constrictions or narrow or hump-back bridges. Clearly adding such a large development to the area would be counterproductive.

- 7.4. The road between Claydon and the proposed marina site is so narrow it is difficult for cyclists to pass cars travelling in the opposite direction and there are two blind bends. There are no official passing places. There is an area that has been created over time by vehicles having to pull over to the left before the bridge when leaving the village to allow enough room for vehicles coming into the village over the bridge to pass. This 'passing place' is regularly used by fishermen as a parking space therefore is not available as a passing space for most of the year.

- 7.5. Although we hope that the application will not be approved, if it is approved we believe the following will be required to remedy the problems caused to the local roads:

1. That the Boddington Road would be properly surveyed, its structure analysed and its capacity examined and repaired and/or reconstructed where necessary to take the up-to-date predicted usage by all forms of traffic during and after construction for a period of five years.

2. That the route of the construction traffic through the applicants' farm be appraised as to its suitability as the permanent route of all transport and other traffic to and from the marina, thus making sure that conflicts with pedestrians and vehicles on the Boddington Road are avoided and that Claydon is not on the exit route from the marina.

3. If that is not agreed by the applicants, that safe routes then will be provided for pedestrians and cyclists. The applicant also will ensure that all marina residents and travellers will give priority, and give way, to pedestrians and cyclists on the Boddington Road.

4. That all routes into and through Claydon will be inspected for their suitability for the passage of whatever vehicles will be used to construct and supply and maintain the marina. Where unsuitable, the applicants will ensure that vehicle sizes will be modified to ensure no risk of damage, etc. to people or property will occur. Where

this is not possible, or damage or injury occurs, relevant compensation will be payable firstly to the Parish Council or then as relevant. Where amendments to the roads within Claydon or a structure, property or service is unavoidably altered, compensation will be sought to carry out any necessary works, etc. The applicant will therefore carry public liability insurance as agreed with the local authority.

5. The entrance at Springfield Farm shown in the picture immediately below should be the main entrance to the marina site.

7.6. The area of this application is roughly $\frac{3}{4}$ the size of the existing village. We believe this would be considerable overdevelopment and unsustainable development in this rural setting. Due to the height of the proposed development and associated planting/bunds the landscape would be greatly changed and will take away some of the pleasant views currently enjoyed by parishioners and visitors to the area.

7.7. There is already a large Marina nearby in Cropredy. Cropredy Marina are currently extending from 249 bays to 347 and they have 130 vacancies. There is also a Marina nearby in Fenny Compton and they have not been full since the Cropredy Marina was opened so we do not believe there is a need/demand for further moorings in this area.

7.8. The parish council cannot see any benefit to the community, particularly as the application states that the public will not be allowed access to the marina. If the application is approved we believe that the following conditions should be included to provide some small benefit to the parishioners:

1. That the applicants and any subsequent owners of the farm and marina in their entirety will agree to free public access to the marina by residents of Claydon. They will also confirm compliance to this free access in the future by the owners and any subsequent owners of the marina, its buildings, facilities, etc., and that any security requirements made for the marina residents, employees, etc. do not affect the rights of the people of Claydon when visiting the site.

2. That the proposed footpath that is to connect with PROW 170/6/20 will be maintained in perpetuity for use by local walkers, etc. and by villagers from Claydon.

3. Complete funding for a village hall in the village with suitable facilities for disabled access which the village currently lacks.

7.9. The proposal is detrimental to the setting, character and appearance of the canal conservation area. Claydon is currently a very rural village with no street lighting. There will of course be a need for lighting at the proposed marina which will create light pollution and will dramatically change the character of the area. Also, with the lack of street lighting in Claydon and there being only one footpath in the village, the additional traffic will increase the danger posed to parishioners walking in the village as in most places they have to walk on grass verges or on the road which is particularly dangerous at night time. Should the application be approved we ask that the following be included as a condition:

1. That all lighting will be designed to ensure that the dark night sky of this area is not affected and that all lighting that is not required for safety will be extinguished by a time agreed with the local authority, appropriate to the relevant season.

7.10. The Parish Council does not believe that the drawings provide sufficient clarity in relation to levels, contours, layout and elevations.

- 7.11. The Parish Council does not believe that the estimates in relation to waste water are realistic.
- 7.12. If the package treatment plant (PTP) is allowed to go ahead there appears to be nothing in place to prevent additional deterioration of Wormleighton Brook. The Environment Agency has classed the brook as 'poor' partly due to elevated phosphate which is partly caused by suspected sewage discharge. None of the regulatory checks on the PTP are associated with phosphorous levels, thereby giving the applicant licence to pollute Wormleighton Brook even further. The facilities provided at the clubhouse have the potential to produce waste water far in excess of that estimated by the applicant. In order to allow for this eventuality, the site should be on mains sewage.
- 7.13. The Parish Council objects to the industrialisation of work in the dry dock in a conservation area. Policy ESD 16 states: *"The length of the Oxford Canal through Cherwell District is a designated Conservation Area and proposals which would be detrimental to its character or appearance will not be permitted."* *"Other than appropriately located small scale parks and picnic facilities new facilities for canal users should be located within or immediately adjacent to settlements."*
- 7.14. **ASTON LE WALLS PARISH COUNCIL** (adjoining parish in SNC) raised concerns at the time of the previous application.

OTHER CONSULTEES

- 7.15. **OCC HIGHWAYS: No objections** subject to conditions (Construction Traffic Management Plan), Section 106 contributions (£10,000 for footpath improvement works) and an obligation to enter into a Section 278 agreement for highway improvements.
- 7.16. Section 106 contributions - An agreement will be required under Section 106 of the Town and County Planning Act 1990 to mitigate the developments local highway impact under Section 278 of the Highways Act 1980 to enable completion of off-site highway improvements. This includes identifying places within highway to provide at least passing places along Boddington Road.
- 7.17. Section 278 Highway Works: An obligation to enter into a S278 Agreement will be required to secure mitigation/improvement works along Boddington Road by provision of about three passing bays in suitable locations within Oxfordshire County Council jurisdiction. This is secured by means of S106 restriction not to implement development (or occasionally other trigger point) until S278 agreement has been entered into. The trigger by which time S278 works are to be completed shall also be included in the S106 agreement.
- 7.18. Detailed comments –
- 7.19. Access: The proposed site access would be taken off Boddington Road. The access detail is illustrated by Drawing No: **ADAMCM-1-1-005 Rev A** shown to benefit from 101m and 82m visibility splays to the north and south respectively along Boddington Road. The splays are considered suitable for 40mph design speed to the north and 35mph to the south.
- 7.20. A 10m wide access mouth, with a 10m kerbing radius would lead to a gate set back by about 30m is suitable for HGV access or a few waiting vehicles without hindering movement on the highway.

- 7.21. Vehicular and pedestrian access to the berths would be provided by a new road that would run adjacent to the marina banks, curving around the whole of the marina basin.
- 7.22. Notwithstanding the above, it is acknowledged that Boddington Road being the strategic access to the wider network from Banbury Road is not without constraints such as width of carriageway, winding nature and dilapidated surfacing. The above factors exacerbated by the site being remote draws attention to safety along the route.
- 7.23. In order to improve accessibility to the site discussions between the OCC and the applicant agreed that it is reasonable to provide at least three passing places at suitable locations along Boddington Road (within Oxfordshire County's jurisdiction). As such, the applicant will identify areas along Boddington Road for localised widening north of the site that would ensure that safe passage of vehicles in opposite directions can be achieved. This will be subject to a S278 agreement of the Highways Act 1980 secured through a S106 obligations of the same Highways Act.
- 7.24. Parking: The Road Traffic Generation and Car Parking Requirements of Marinas Briefing Note (November 2008) issued by British Waterways indicates that during peak times (1pm to 4pm Sunday afternoon) a 100 boat marina would require 64 parking spaces for the whole marina. Using this ratio, a 192 berth marina would require approximately 123 parking spaces. In light of this, the proposed number of parking spaces at the marina is in excess of what is considered as sufficient to accommodate the parking demand generated by a facility of this size.
- 7.25. Parking for vehicles would be available at numerous points on the access road surrounding the basin.
- 7.26. Traffic Impact: The application proposes a development of up to 192 narrow boats. This would include a clubhouse building and ancillary facilities with parking for 142 vehicles.
- 7.27. The proposed development is aimed at boaters with their vehicles and not envisaged to generate any HGV's as part of the development traffic but operational only such as weekly refuse collections and during construction.
- 7.28. Data extracted from TRICS database on marinas possessing similar characteristics such as this one show that they are busiest during bank holiday weekends, generating about one vehicle every 3 minutes during the busiest hour. It is not expected for such a development to generate significant movements during the local network peak hours. Although this would still be additional movements on the network, in view of the nature of development and location, this is not likely to result in a significant detriment to highway safety and/or traffic flow.
- 7.29. Para 5.15 of the Transport Statement asserts that in view of Boddington Road being lightly trafficked and because the predicted traffic from the site shall not have an impact on local junctions, no mitigation measures are required. The applicant should be reminded that because of the constraints along Boddington Road, mitigation measures need to be put in place in order that safe passage of vehicles is provided for.
- 7.30. It is understood that construction vehicles would be limited to those required in the process of spoil excavation in order to create a basin. The excavated spoil on-site is intended to be used for the construction of the Marina. Therefore, construction traffic would be limited to bringing in earth excavating and digging plant at the start and

end of the build and those that would occasionally bring in materials for the clubhouse and car parking/yard areas.

- 7.31. Acknowledgement is made of the applicant's willingness to enter into a routeing agreement that will require the construction vehicles to arrive and eventually leave via Springfield Farms, the adjacent land to the north of the site. This is illustrated on drawing ref: **AdamCM-1-5-006 (Transport Routing Plan)**. This would ensure that the construction related traffic avoids the use of Boddington Road but rather utilise access to Springfield Farm which is under the applicant's ownership. This is acceptable and should be clearly stated as part of the routeing structure in the Construction Traffic Management Plan.
- 7.32. The proposed marina would have little impact upon Oxfordshire County Council roads, although it is requested that should permission be granted the Authority has sight of any routeing agreement.
- 7.33. Public Rights of Way: The proposed footbridge should be constructed to DMRB standards, or to Canal and River Trust (C&RT) public towpath standard. This structure must be maintainable by the applicant or C&RT and OCC accepts no liability for its construction, public liability or future maintenance. The footpath/towpath will need to be closed to enable construction and a temporary closure needs to be applied for from OCC. Note that there is normally a 12 week lead time for this. It is expected that the footpath/towpath will be protected from plant damage and repaired to same or higher standard after the works have been completed.
- 7.34. The applicant should fund improvements for the footpath to Claydon to enable visitors/residents to gain access. A sum of £10k is considered appropriate for spot surface, furniture (stile to gate replacement) and vegetation management works. Other than this the PROW standard measures must apply, i.e. temporary obstructions, route alterations, vehicle access (construction), vehicle access (occupation), gates/rights of way, improvements to routes.
- 7.35. **LEAD LOCAL FLOOD AUTHORITY (OCC): No objection** subject to conditions (full drainage strategy) and EA approval. Key issues: The proposals also require Environment Agency approval. Treatment of runoff from Service area before discharge to Marina needs to be confirmed.
- 7.36. The submitted drainage strategy in the EAS Flood Risk Assessment addresses the main concerns that were raised previously by the LLFA. The proposals also require approval from the Environment Agency.
- 7.37. Treatment of runoff from any trafficked areas before they discharge to the marina may need to be confirmed through detailed design. A water quality assessment should be provided in line with the SuDS Manual C753 to demonstrate how water quality requirements are being met through the design.
- 7.38. **LANDSCAPE (CDC): No objections.** I agree with the conclusion of the LVIA Addendum. I look forward to detailed hard and soft landscaping for the amended scheme (tree pit details and root protection zones to be clarified).
- 7.39. **CANAL AND RIVER TRUST: No objections.** No comment on need. Sufficient water resource is available. Potential for adverse impacts on the infrastructure of the canal in terms of stability, drainage, pollution must be mitigated. No objections in terms of heritage or the character and appearance of the waterway corridor. No objections to the marina entrance and proposed towpath bridge subject to conditions for the final detailed design of the bridge including details on maintenance /

management. No objections in terms of biodiversity of the waterway corridor subject to conditions for landscaping, maintenance and management regimes for the landscaping, a Construction and Environmental Management Plan, lighting.

- 7.40. **CONSERVATION (CDC): Objects:** on the grounds of the proposals' impact on the significance of the Oxford Canal Conservation Area and conflict with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1. Comments as follows:
- 7.41. The proposed plans are not changed in terms of heritage impact from the previous proposals submitted in 2018. Therefore, the comments and observations are not notably different from the previous consultation response provided.
- 7.42. The main consideration is the impact developing a marina in this location will have on the character of the area and as a consequence the canal conservation area in this location. The proposed marina will cover a substantial area of land which is currently a predominantly agricultural landscape, providing a rural setting for the conservation area. This rural setting is highlighted as enhancing the conservation area in the Oxford Canal Conservation Area Appraisal. Overall, the cumulative impact of the buildings, hardstanding and marina itself will result in an intrusion into the landscape and the character of this section of the oxford canal will be notably altered.

The development is considered to result in less than substantial harm to the significance of the conservation area; this harm should be weighed against the public benefits in line with paragraph 196 of the NPPF.

The new pedestrian bridge over the canal and the entrance to the marina would also significantly alter the experience of the canal at this location; however, it is possible that the impact of this could be mitigated with an appropriate design and suitable treatment of the area.

The listed buildings in the local area are located at such a distance from the proposed development site that the proposal would not harm their significance through change to their setting.

- 7.43. **ENVIRONMENT AGENCY:** No objections subject to conditions, for (1) development shall be carried out in accordance with the submitted flood risk assessment (ref 1319/2019 Rev B dated 26/07/2019) and the Hydraulic Modelling Report 2420 Rev C August 2020 and following mitigation measures it details, (2) No development shall take place until a scheme for the provision, protection and management of a 10 metre wide ecological buffer zone alongside the Wormleighton Brook.
- 7.44. Without these conditions we would object to the proposal due to its adverse impact on the environment.
- 7.45. Re Condition 1, Hydraulic modelling undertaken by the applicant has been used to determine the pre and post development flood risk. We have reviewed the model and can confirm it is acceptable as a basis to inform the flood risk assessment. The model indicates that the site would be at risk of flooding during a 1% annual probability flood event with allowances for climate change. The submitted details confirm that no buildings will be located, and no land raising will occur within the area at risk of flooding. Therefore there will be no increased flood risk as a result of this development.
- 7.46. Re Condition 2, Biodiversity Development that encroaches on watercourses and riparian corridors can have a potentially severe impact on their ecological value. Networks of undeveloped buffer zones might also help wildlife adapt to climate

change and will help restore watercourses to a more natural state as required by the river basin management plan. The proposed development will therefore be acceptable if a planning condition is included requiring a scheme to be agreed to protect and enhance a 10 metre wide ecological buffer zone along the Wormleighton Brook

7.47. **ENVIRONMENTAL PROTECTION (CDC): No objections**

7.48. **NATURAL ENGLAND: No comments** to make

7.49. **SOUTH NORTHANTS COUNCIL: No comments** to make

7.50. **CLLR GEORGE REYNOLDS (in his capacity as County Councillor concerning flood and traffic matters):**

7.51. This will be a major development in a rural area in low lying land next to the canal. It will be essential despite the virus restrictions and the previous application that a site visit is made to assess the highway network in the area. It will be seen that the site is accessed by a minor rural road containing a humpback bridge and another bridge that has been scheduled for major repair for a number of years.

7.52. It is my opinion that no traffic should access the site from Claydon due to the narrowness of the road and the bridge let alone the rural roads that access Claydon itself. It is absolutely essential that no works traffic uses the Claydon access as I believe irreparable damage will be done to the road.

7.53. I also understand that there will be HS2 works in the vicinity that may affect the highway network.

7.54. As flood authority OCC need to ensure that any development does not increase the flood risk for the surrounding areas.

7.55. **ECONOMIC DEVELOPMENT (CDC)** supported the previous application 18/00704/F

7.56. **ARBORICULTURE (CDC)** had no objections to the proposals at the time of the previous application ref. above.

7.57. **CROPREDY SURGERY** objected to the previous application ref. above

7.58. **BANBURY SAILING CLUB** based at Boddington Reservoir objected to the previous application ref. above

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
- SLE3 – Supporting Tourism Growth
- SLE4 – Improved Transport and Connections
- 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)
- 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
- EDS16 – The Oxford Canal
- ESD17 – Green Infrastructure

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C5 –Protection of ecological value
- C8 – Sporadic development in the open countryside
- C23 – Retention of features contributing to the character and appearance of a conservation area
- C28 – Layout, design and external appearance of new development
- C29 – Appearance of development adjacent the Oxford Canal
- TR7 –Minor Roads
- TR10 – HGVs
- TR11 – Oxford Canal
- ENV1- Pollution Control
- ENV7 – Water Quality

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
- Need/Demand for a marina
- Highways/Access
- Visual and landscape impact
- Heritage impact
- Impact on the Canal as a tourist and leisure asset and green transport route
- Ecology and biodiversity Impact

- Drainage and flooding
- Economic and social implications
- Impact on residential amenity
- Other relevant planning matters

Principle of Development

Policy Context

- 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 NPPF (2019) makes clear that it does not change the statutory status of the development plan as the starting point for decision making. However, the NPPF is a significant material consideration.
- 9.3. Para 83 of the NPPF 'Supporting a prosperous rural economy' states that planning policies and decisions should enable both the development and diversification of agricultural and other land-based rural businesses and sustainable rural tourism and leisure developments which respect the character of the countryside. Planning decisions should recognise that sites to meet local business and community needs in rural areas may be found beyond 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.
- 9.4. Para 103 of the NPPF states that the planning system should actively manage patterns of growth and that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. Para 108 states that appropriate opportunities to promote sustainable transport modes should be taken up.
- 9.5. The NPPF also provides policies concerning the historic and natural environments, promoting sustainable transport, building a strong and competitive economy and meeting the challenge of climate change and flooding. Section 16 'conserving and enhancing the historic environment' is of relevance, particularly para 196 and weighing less than substantial harm against public benefits.
- 9.6. The Development Plan comprises the Cherwell Local Plan 2011-2031 Part 1 ('CLP 2015') and the saved policies of the Cherwell Local Plan 1996 ('CLP 1996').
- 9.7. Policy PSD1 of the CLP 2015 reflects the Government's policy commitment to securing sustainable development. Para A.29 of the CLP 2015 makes clear that this is about positive growth, making economic, environmental and social progress for this and future generations.
- 9.8. The Council's vision as expressed in the CLP 2015 (page 28) includes plans to develop a vibrant, diverse and sustainable economy; to support a stronger, sustainable rural economy that is diverse and not reliant entirely on agriculture and to cherish and protect the natural and built environment and historic heritage. The Council's spatial strategy to implement this vision is to focus most growth towards the main towns and to strictly control development in the open countryside.
- 9.9. To achieve the Council's vision the CLP 2015 establishes a set of objectives to meet its themes of developing a sustainable local economy, building sustainable communities and ensuring sustainable development (page A.12). Several of these objectives are of relevance to the application including objectives to facilitate economic growth and employment and a more diverse local economy; to support

the diversification of the rural economy; to encourage sustainable tourism; to incorporate the principles of sustainable development in mitigating and adapting to climate change impacts; to focus development in sustainable locations conserving and enhancing the countryside and landscape setting; reducing dependency on the car and protecting and enhancing the historic and natural environment.

- 9.10.** The CLP 2015 also recognises that rural areas must seek to provide appropriate opportunities for new jobs, such as support for farm diversification proposals and rural employment opportunities that are sustainable and support local communities, whilst protecting the landscape of the District.¹ In particular, it encourages proposals that can support a vibrant tourist economy whilst preserving the local environment (para C.238) recognising that in order to remain viable many farms are diversifying into tourism and other uses.

Assessment

- 9.11. The application site lies within the open countryside, immediately adjacent the Oxford Canal, in a location where both the CLP 2015 and the CLP 1996² seek to strictly control development. The CLP 2015 recognises that tourism has scope to play a significant, wealth-creating role for the District (worth over £300 million in the District) and makes a significant contribution to a sustainable local economy, and that it can help support local services and facilities and provide employment.³ Policy SLE3 supports tourism growth in sustainable locations and the supporting text recognises that the Oxford Canal is not used to its full potential and access should be improved to promote green and sustainable leisure opportunities including water, cycling and boating (Para B.65).
- 9.12. Policy ESD16 of the CLP 2015 specifically relates to the Oxford Canal, and recognises its historic, ecological and recreational significance. The Policy, along with Policy ESD17, seeks to protect and enhance the canal corridor as a feature forming part of the green infrastructure network and a green transport route and as a tourism attraction and leisure facility through the control of development in reflection of the above vision and objectives. Proposals which would harm its biodiversity value or character and appearance will not be permitted. Policy TR11 of the CLP 1996 also seeks to preserve the canal as a resource and resist development which would prejudice its future.
- 9.13. Policy ESD16 does not set out an approach to residential canal moorings and boater's facilities, stating that this will be set out in the Cherwell Local Plan Part 2. It does however state that proposals to promote transport, recreation, leisure and tourism related uses of the canal, where appropriate, will be supported. The Policy goes on to state that other than appropriately located small-scale car parks and picnic facilities, new facilities for canal users should be located within or immediately adjacent to settlements.
- 9.14. The Policy is not specific about what is meant by 'new facilities for canal users', noting that the approach to boater's facilities is to be set out in Part 2. Notwithstanding this, the application site is not within or immediately adjacent to a settlement and therefore the provision of a marina in such a location conflicts with this part of Policy ESD16 in this respect. Conversely, the proposal does seek to promote leisure, tourism and recreational use of the canal in reflection of the aspirations of ESD16.

¹ See page 241 of the CLP 2015

² See Policy C8 which seeks to resist sporadic development in the countryside

³ See supporting text to SLE3

- 9.15. Inland waterways have an inherent constraint in that they are non-footloose assets, i.e. their location and alignment are fixed. It is also noted, however, that the canal passes through a wide variety of local environments, some close to existing settlements or wharfs, and some much more rural. Policy ESD1 of the CLP 2015 and NPPF paras noted above state that development must be directed towards the most sustainable locations, and in areas well served by local services such that the need to travel is reduced, where people can gain convenient access to public transport services.
- 9.16. Inspectors in considering appeals for such proposals have expressed the view that sites within or adjoining a built up area would plainly be preferable locations, partly because of the possibility for linked trips which they would offer, but also because they would reduce the pressure on the countryside for development.
- 9.17. The application site is remote and not easily accessible. It is located some 750 metres north of Claydon, a Category C village. It is 3.6km from the A423, whether accessed from the north-west or south-west of Claydon, and the nearest Category A settlement is Cropredy some 4.8km to the south, with Southam c. 14km to the north and Banbury c. 10.5 – 11km to the south.
- 9.18. The site is not served by public transport and is not best suited to access by foot or cycle given not only its location, but the constraints of Boddington Road mentioned above. It is also correct, as many residents have commented, that there are very limited facilities available in either Claydon or Lower Boddington. The site is therefore not in a location that is suited to sustainable transport modes and will be dependent on car travel.
- 9.19. The proposal does offer opportunities for walking links into Claydon via the PRoW to its eastern boundary although a connection from the marina to this PRoW will be needed (NB this can be achieved on the applicant's land and can be secured by condition). The County Council has asked for a financial contribution of £10,000 towards improvements to this footpath, including spot surfacing, replacement of a stile to a gate and vegetation management works, but no further detail has been provided.
- 9.20. It is a balanced judgement as to whether the site represents the sufficiently sustainable location for this scale of development. It might reasonably be considered that the proposed development, by reason of its nature, size and scale combined with its isolated location away from settlements, established moorings and existing popular destinations and with poor alternative transport links, would be an unsustainable insertion into the open countryside detrimental to its character and appearance.
- 9.21. Para 83 of the NPPF states that planning policies and decisions should enable both the development and diversification of agricultural and other land-based rural businesses and sustainable rural tourism and leisure developments which respect the character of the countryside. Planning decisions should recognise that sites to meet local business and community needs in rural areas may be found beyond settlements and in locations that are not well served by public transport. It also seems likely that those who moor their boats in marinas would travel back and forth by car; however accessible the location by alternative means. Boat owners will not all live within easy reach of the proposed marina. The location of the marina is aimed at those boat owners who want an off-line mooring in a rural area, and as such is expected to be reliant on the private car.
- 9.22. However, as noted, and given the site's remote location and poor accessibility credentials, it would be reasonable to expect it to be demonstrated that better, more

sustainable locations had been fully explored and discounted first, and it would be reasonable to consider that there were indeed more sustainable locations that would meet the need for such development – whether or not there we cannot tell.

- 9.23. That said, it is acknowledged that the previous case officer reached a different conclusion on the principle of development.

Conclusion

- 9.24. The Development Plan seeks to deliver sustainable development and positive growth that balances the drive for a sustainable economy with the protection of the built and natural environment and the area's heritage. It seeks to focus most growth to locations within or adjoining the main towns and to protect and enhance the canal corridor as a green transport route, tourism attraction and leisure facility.
- 9.25. Whilst development in the countryside will be strictly controlled, the Plan recognises the need to support the visitor economy; to preserve the Oxford Canal whilst maintaining and realising its potential; that many farms need to diversify to remain viable; and that opportunities for rural employment should be ensured.
- 9.26. The site is an environmentally unsustainable location for new development of this scale and use and the proposed development would conflict with Policies ESD1 and ESD16 of the CLP 2015. However, noting the conclusions of the previous case officer on this issue, officers consider on very fine balance that the development of a marina in this location may be considered acceptable in principle, with overall acceptability then being dependent on consideration of its impacts on the built, historic and natural environment, alongside its benefits, and whether there are material planning considerations that outweigh this conflict.

Need/Demand for a marina

- 9.27. It is appropriate to consider need in the context of potential harm
- 9.28. The applicants advise that they are connected to an existing marina operator who operates marinas in Leicestershire. They advise that they have extensive experience and knowledge of the boating industry and propose this marina as they are satisfied that there is sufficient demand for recreational berths on the Oxford Canal that will ensure that their investment is successful.
- 9.29. The applicants advise that it is not possible to accurately determine the availability of moorings on the canal and point to concerns about competition hindering sharing of information between marina owners. They do, however, believe that there is significant demand for high quality recreational berths on the Oxford Canal. They comment that the berths would attract new boaters to the region who will make a valuable contribution to tourism revenue within Oxfordshire, making use of shops, pubs, restaurants and other tourist facilities. They have supplied supporting information in support of their application which is available on the Council's website.
- 9.30. It is also of note that third parties (including owners of other marinas) have made comments refuting this evidence and commenting that there is already a considerable surplus of marina berths within a 15 mile (c. 24km) radius and that this is also reinforced by delays in implementing a permission for an extension to Cropredy marina.
- 9.31. A report from the Canal and River Trust dating from 2015 (published in response to mooring price decisions) has been provided, which states that south of Napton there

are approximately 870 berths with most operators reported to be full or near full. On the southern stretch of the canal (Napton to Oxford) there are 4 other marinas referred to; two in Napton, one in Cropredy and one in Fenny Compton.

- 9.32. What is clear from the information available is that it is very difficult to find up to date, quantifiable, evidence of need or demand for a marina of this size in this location. The Canal and River Trust does not offer any advice on matters of need/demand and policies pertaining to boaters' facilities were to be addressed in Part 2 of the Local Plan. However, there is no reference in local, adopted, policy to developments such as this needing to establish 'need' for the facility.
- 9.33. In the absence of any clear evidence, and given there is not a policy requirement to establish 'need', the potential benefits of the scheme need to be balanced against the harm that would result from the development and a judgement made about whether any harm is outweighed or otherwise by any benefits.
- 9.34. It must also be noted that such a development as currently proposed will require considerable capital investment, and it is unlikely that the applicant would have proposed, let alone submit a third planning application for the same, if he/she did not believe a healthy return could be made on that investment.

Highways/Access

Policy

- 9.35. Policies TR7 and TR10 of the CLP 2015 state that development that would regularly attract large commercial vehicles, generate frequent HGV movements or large numbers of cars onto unsuitable minor or rural roads will not normally be permitted. Policy SLE4 of the CLP 2015 states that 'where reasonable to do so' all development should facilitate the use of sustainable modes of transport. Development which is not suitable for the roads that serve it and which have a 'severe traffic impact' will not be supported.

Assessment

- 9.36. The application is accompanied by a Transport Statement. Access will be provided from a new access off Boddington Road. The existing agricultural access further north will be retained. Vision splays are shown suitable to 35mph-40mph design speeds.
- 9.37. Boddington Road is a narrow road (3m-4m wide) which is uneven in places and poorly surfaced in parts. It has no footway and is unlit. Many objections have been made to an increase in traffic using this road (and the wider road network including though Claydon village) and the implications for highway safety. This includes not only other car users but also pedestrians, cyclists and horse riders.
- 9.38. The Transport Statement reports traffic count data which found that the busiest traffic recorded on the road was an average of one vehicle every 2 mins with very few HGVs recorded. 85th percentile speeds were recorded as a maximum of 28mph northbound and 26.9mph southbound.
- 9.39. In terms of traffic generation, trip rates can vary depending on the range of facilities available at the marina. TRICS shows that a marina of 192 berths could generate trip rates of 325 trips between 7am and 7pm during weekends (around 27 trips per hour). However, the Transport Statement also provides information collected by former British Waterways in 2008, suggesting that private boats moored at marinas only generate 5 vehicle trips an hour per 100 berths with remaining trips accounted

for by hire boats, sales, visiting public, and catering/retail related. In this case the applicant does not propose hire boats, boat sales and large scale catering/retail facilities and there will not be access available to visiting members of the public.

- 9.40. The Statement also looks at traffic data from a marina at Crick with similar characteristics to the application proposal. The Crick figures suggest that during the busiest hours there could be 12 vehicles per hour entering the site and 9 leaving; this would represent just over one vehicle every 3 minutes during the busiest hours (bank holiday weekends); the suggestion being that actual traffic generation will be lower than TRICS data.
- 9.41. In 2016 planning permission was granted for an extension to Cropredy marina. The extension would increase the number of berths from 249 by a further 100. The applicant for that proposal provided a Transport Statement which demonstrated that the impact of the extended marina, creating a 349 berth marina, would be significantly less than was predicted and considered to be acceptable at the time that the original marina development (249 boat berths) was proposed. When the proposals for the existing 249 berth marina were considered, 120 daily vehicle trips were predicted to be generated. The number of actual vehicle movements each day associated with the 249 berth marina were subsequently recorded at an average of 53 (based on a four week automatic traffic counter survey capturing the busy summer period). The Local Highway Authority (LHA) accepted this position.
- 9.42. The LHA has not objected on highway safety grounds. It does comment that the proposal would see a 'significant' increase in traffic, but in view of the nature of the development and location, states that the proposal is not likely to result in significant detriment to highway safety and/or traffic flow. The LHA further comments that this is not by any means considered severe to warrant refusal on highway grounds in line with the NPPF. By the nature and scale of this development, the LHA considers it unlikely that its impact would be felt during the network peak periods.
- 9.43. The LHA acknowledges the road conditions but does not consider them a basis for objection. The LHA further comments that in order to prevent creeping suburbanisation of the countryside, it is not appropriate to expect the development to provide, or contribute towards, improvements such as paved footways or street lighting in an area that has not got a poor accident record. On quiet lanes where traffic speeds are inherently low due to physical constraints, it will usually be appropriate for pedestrians, cyclists and equestrians to walk/ride along the carriageway on an informal shared-use basis (especially where remote from built-up areas).
- 9.44. However, the LHA has requested the provision of passing places along Boddington Road up to the county boundary. These could be secured by attaching conditions to any permission and such a condition is recommended in the event that permission is granted. A Construction Traffic Management Plan has also been requested (by condition) to ensure that all construction traffic arrives via Springfield Farm rather than Boddington Road. This Plan would also require a dilapidation survey which will ensure that if conditions are worsened by construction traffic to the site remedial measures can be requested.
- 9.45. The applicants have further offered that the marina operator could send guidance to users about routes. This would warn that long vehicles, or vehicles hauling trailers, should not approach from the south because of the hump back bridge. This would also apply to vehicles servicing the marina, such as tankers or refuse vehicles which would be instructed to enter and leave the marina via the north only. Boats would be brought to the site by canal only. A condition requiring submission and approval of a traffic management strategy to secure such measures is recommended.

- 9.46. With regard to emergency access, the LHA assessed the site for emergency service accessibility to within 40m of each building, including swept path analyses of fire appliances into the site. Having done so the LHA advises that the application includes an 11.2m vehicle tracking for vehicles entering and leaving the site using left in/right out manoeuvres. Although this is for refuse, the vehicle used is much longer than any fire appliances used and is within reach of the building. The wider site can be accessed by the inner loop road. The LHA does not see the need to consult fire services.

Conclusion

- 9.47. On balance, as the LHA has raised no objections on highway safety grounds and whilst recognising the nature of the surrounding road network and the strong objections raised by some residents and the Parish Council, it is not considered that there is evidence that a marina of the nature and size proposed, and with the conditions recommended, would give rise to such levels of traffic that there would be an unacceptable and severe impact on highway safety, or that the residual cumulative impacts on the road network would be severe. In accordance with Paragraph 109 of the NPPF development should not therefore be prevented or refused on highways grounds.

Visual and Landscape impact

Policy

- 9.48. Policy ESD13 seeks to respect and enhance local landscape character. Proposals will not be permitted if they cause undue visual intrusion, harm to important features, are inconsistent with local character and impact on areas with a high level of tranquillity or harm landmark features or the historic value of the landscape.
- 9.49. Policies C28 and C29 of the CLP 1996 seek to ensure new development is sympathetic to its context and designed to a high standard which complements its setting in terms of design, materials and landscaping.

Assessment

- 9.50. The application is accompanied by a Landscape and Visual Impact Assessment (LVIA). This finds that the proposals would result in a very evident change to landform and views, especially along Boddington Road. Due to the visual containment of the site however, it also finds that this change would have a localised effect, especially in the longer term.
- 9.51. Officers agree that the visual impact would be localised. From the north the site is well screened by mature planting along the dismantled railway and from the south the site is well screened from the canal and beyond. From the east the development would be visible from the public footpath, however, in the foreground would be the proposed irrigation lake with the marina in more distant views. The LVIA finds that there are a few long distance views from elevated locations allowing panoramic views towards the site but that the proposed development would either not be visible or form a minor new feature within a distant part of the view having a limited effect on the view.
- 9.52. Most views would be from the new canal entrance and from Boddington Road but only from a short stretch between the dismantled railway and canal bridge due to the topography and existing planting. However, from Boddington Road there would be a very evident change to views, especially in the short term.

- 9.53. Officers raised concerns at the time of the 2018 application in relation to the visual impact of the development from Boddington Road and in response amended plans were submitted which reduced the size of the marina and set its dam some 70m from the road at its nearest point. These plans have been in support of the current application.
- 9.54. In addition, the car park and yard area (and consequent extent of hard surfacing) has been considerably reduced from this aspect, the service bays have been relocated and the berths have been moved further east. This all has the effect of reducing the impact from Boddington Road, enabling a much shallower embankment and provision of additional landscaping.
- 9.55. Officers are satisfied that the current proposals, whilst inevitably resulting in change and some degree of conflict with Policy ESD15, would not result in serious harm to landscape character or visual amenity to the extent that there would be a resulting conflict with Policy ESD13. Whilst it is noted that the arrival of HS2 would have an impact on the local landscape and context, this is not considered to lead to the impact of the marina being any more harmful.
- 9.56. External lighting is proposed to be low level and directed downwards. This can and would need to be secured by appropriate conditions.
- 9.57. The clubhouse/facilities building amounts to 281.40 sq m and is traditionally designed to replicate a two storey barn with a single storey wing/extension. The main elevations consist of horizontal timber cladding and local stone. Detailing features red brick quoins and red brick soldier course detailing. External glazing and openings are traditionally styled to reflect features typically associated with agricultural barns & buildings. The windows and doors would be stained hardwood and the pitched roofs will be finished in slate. The proposed facilities building has been positioned to provide the Marina office with an unrestricted view of the Marina canal entrance and new road access to ensure maximum visibility of the main key operational areas in the interests of site safety and security.
- 9.58. The principle of taking this traditional approach is supported (including by the CRT), although conditions are recommended to secure appropriate detailing. The scale of the building is not considered to be inappropriate, nor its location given the security and surveillance function of the building.
- 9.59. In terms of landscaping, 10 semi-mature ash trees would need to be removed to construct the marina entrance but extensive planting is proposed within the site which would include additional planting behind the canal hedgerow. Landscaping proposals are well developed and would help to assimilate the development into the surrounding countryside. Core woodland planting would take place at 2m centres with shrub species at the woodland edge.

Conclusion

- 9.60. The proposed development would result in adverse visual impacts but these would be localised. The marina and its associated buildings and earthworks would be a distinct feature in the local landscape, particularly in the short term until the landscaping is established. Officers are, however, mindful that the Council's Landscape Architect agrees with the methodology, commentary and findings of the submitted LVIA and raises no objections in terms of visual or landscape impact and, on balance, are satisfied that the amended plans overcome previous concerns and that the amended proposals would not result in serious harm to landscape character or visual amenity to the extent that there would be a resulting conflict with Policies ESD13, C28 or C29.

Heritage Impact

Legislative and policy context

- 9.61. The application site is an area of agricultural land to the north of the Oxford Canal. The full length of the canal through the District is a designated Conservation Area and the site lies within its setting. The site does not lie within the conservation area but is within the setting of the conservation area at this location. There are approximately nine Listed Buildings within the wider area; these are along the canal to the south, the closest at Top Lock and within the village of Claydon.
- 9.62. 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.*
- 9.63. 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.
- 9.64. Conservation Areas and Listed Buildings are designated heritage assets, and Paragraph 193 of the NPPF states that: *when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.* Policy ESD15 of the CLP 2031 Part 1 echoes this guidance.
- 9.65. Policy C23 of the CLP 1996 applies a presumption in favour of retaining features which make a positive contribution to a conservation area.
- 9.66. The significance of the site lies in the association between this area of currently agricultural land and the canal conservation area.
- 9.67.** The Oxford Canal Conservation Area Appraisal does not consider the site an 'Important Open Space'. However, it does mention positive vistas across parts of the site from the canal. This Appraisal also notes the development of marinas as a potential threat to the conservation area suggesting "strongly" that any future development of marinas in the rural areas be very carefully designed and quite limited in their capacity. Otherwise they would be obtrusive and inappropriate. It is further recommended that large marina development should be within urban areas, such as Banbury or Kidlington. 'Large' and 'quite limited' in this context are not defined.
- 9.68.** Both the applicant's heritage consultant and the Council's Conservation Officer consider that harm to the setting and significance of the conservation area would be *less than substantial*. Regard must also be had to the very recently issued national guidance in respect of assessing harm to a heritage asset. The PPG makes it clear that within each category of harm, the extent of the harm may vary.
- 9.69. Nevertheless, regardless of the extent of harm, great weight should be given to the asset's conservation and any harm requires clear and convincing justification and should be weighed against the public benefits of the proposal.

- 9.70. In this case the heritage asset is the Oxford Canal as a whole within the District. Except for the creation of the marina entrance, the canal would be untouched. The canal towpath and hedgerow would be unaffected and the original function of the canal would still be clearly read. A recreational marina is development of a character which is not unexpected alongside a canal and not, in terms of use, necessarily incongruous, noting that planning permission has been granted for other marinas along the canal's length. Views of the marina from the canal and towpath would be limited in scope, not least by the established and dense hedgerow planting which runs alongside the canal for the affected stretch. Save for the entrance, the visual impact on views out from the canal to its surroundings, would be limited in extent.
- 9.71. The canal is currently a tranquil space and the surrounding area for the affected stretch is very attractive, remote, undulating countryside. The creation of a marina of the size proposed with its associated earthworks, buildings, hardsurfacing and activity would inevitably have some impact on the character of this short stretch of canal. However, in the wider context of the canal as a whole this impact would be reduced in significance and any increase in noise and activity would be generated by a related function. The marina has been designed with its context in mind and proposes an 'organic' shape with landscaped 'islands' and landscaping around it.
- 9.72. Nevertheless, the marina and its associated hardsurfacing, access, earthworks building and activity would introduce a new feature into the rural landscape providing part of the countryside setting for this stretch of canal. The harm would be 'less than substantial'. That said, the extent of harm must be seen in the context of the canal as a whole, which one might consider to temper the harm somewhat. The planning balance section at the end of this report will weigh this harm against any public benefits likely to arise.

Conclusion

- 9.73. For the reasons set out above, and given that the proposals would result in less than substantial harm to the significance of the canal conservation area, the proposals conflict with Policies ESD15 and ESD16 of the CLP 2015. This harm will need to be weighed against the public interests, examined further in the planning balance.

Impact on the canal as a tourist and leisure asset and green transport route

- 9.74. There is no evidence to suggest that the value of the canal as a tourist/leisure asset and green transport route will be adversely affected by the proposal. Indeed, the application seeks to provide services for boaters to enable easy access to use the canal for such leisure pursuits.
- 9.75. Third parties have raised concerns about available water resources and the impact of increased boat traffic on users of the canal, suggesting that there would be an impact on the already strained water level and congestion and queues at the locks. Boat users report that there is a water shortage at a number of locations on the Canal causing problems during holiday season with boats running aground. Low levels along the southern section of canal are attributed to high lockage use from an increase in boat traffic. There are concerns that increased traffic would add to congestion on the canal and undermine its value and enjoyment for existing boat users.
- 9.76. The Canal and River Trust was asked for a view on these concerns and has commented that the issue of congestion on the waterways is subjective; there is no commonly agreed definition of congestion. They further advise that following an extensive period of research and consultation with the trade, a British Marine Federation/Canal & River Trust agreed process is now applied to all new marina

applications affecting popular boating areas. In relevant cases the Trust will provide estimates of boat movement increase (at the key locks within the relevant area) and make this available to LPAs on request. Whilst they acknowledge their press release of the 1st March 2018 titled “Oxford Canal named as nation’s most popular waterway with boaters”, they state that the proposed marina does not fall within a defined popular boating area in relation to the Trust’s process for appraising new marinas.

9.77. The Trust also advises that it undertakes a tiered assessment approach to consider water resources impact of new marinas and whether proposals would lead to unacceptable impact. In this case they comment that although the marina would place a greater demand on water resources the impact would be minimal and therefore deemed acceptable.

9.78. In light of the Trust’s comments, the Council does not have evidence to demonstrate that the proposed marina would undermine the canal’s role as a leisure and tourism asset or conflict with Policy ESD16 in this regard.

Ecology and Biodiversity 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 appropriate nature conservation body 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, pipelines, 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 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.

9.88. These policies are both supported by national policy in the NPPF and also, under Regulation 43 of Conservation of Habitats & Species Regulations 2017, it is a criminal offence to damage or destroy a breeding site or resting place, unless a licence is in place.

9.89. 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

- 9.90. Natural England's Standing Advice states that habitats that may have the potential for protected species, and in this regard the site is adjacent to the canal, close to a stream and Local Wildlife Site and there are a number of mature trees and hedgerows within and adjacent the site. Whilst the land is in agricultural production, it therefore has the potential to be suitable habitat for bats, breeding birds, badgers, reptiles, great crested newts, water voles and invertebrates.
- 9.91. The application is accompanied by a Preliminary Ecological Appraisal (PEA) as well as a Follow Up Report concerning potential impacts on Wormleighton Brook, opportunities for habitat and connectivity improvements to the LWS and enhancement options for Otters. A Biodiversity Impact Assessment has also been undertaken. It is noted that over 70% of the site is currently in arable production but there are however features of ecological interest such as grass edges, hedgerow boundaries, the canal, nearby watercourse and areas of woodland. There is evidence of badger activity within 2km of the site, trees with potential for bats and moderate foraging habitat, features suitable for nesting birds, habitat suitable for Great Crested Newts and reptiles. There are records of Otter within 2km of the site and water voles within 100m. The ecological information submitted considers the impact on designated sites, the watercourse, habitats and protected species and proposes mitigation where necessary.
- 9.92. The Council's Ecologist finds the submitted ecological appraisal to be acceptable in scope and depth. The arable nature of the site leaves it with limited ecological value other than in hedgerows/ditches. The proposed landscaping with addition of the wildlife peninsular and lake will have some benefits for wildlife in the long-term, as would the additional planting. This includes enhancements for several bird species, foraging opportunities for bats and breeding opportunities for amphibians. Appropriate mitigation during and after construction can further reduce impacts.
- 9.93. Overall, there would be some level of net biodiversity gain although further enhancements should be secured through conditions so there is an agreed level on-going. A Management Plan should also be secured.
- 9.94. To the north of the application site lies the North Claydon Disused Railway Local Wildlife Site (LWS). The Council's Ecologist initially raised concerns about indirect impacts and whether there would be significant increases in recreational use of the LWS of North Claydon disused railway, including by domestic pets. The applicants have advised that boat owners will not be permitted to keep cats on their boats. Some boat owners do own dogs and bring them to their boats, but within the marina dogs will have to be kept on leads and not allowed to roam freely.
- 9.95. The amended plans now propose enhancement of the LWS by providing further scrub planting between the marina site boundary and the northern boundary of the applicant's land to enhance the LWS and provide cover to reduce any disturbance to Otter along the brook. The applicant has agreed to plant and manage this in a manner which improves connectivity of the LWS to the surrounding habitats including those proposed within the site.
- 9.96. Officers are satisfied, on the basis of the advice from the Council's Ecologist and the absence of any objection from Natural England, and subject to conditions, that the welfare of any European Protected Species found to be present at the site and surrounding land will continue and be safeguarded 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. It is further considered that the proposal would not conflict with the aims of Policy C5 of the CLP 1996 and Policies ESD10 and ESD16 of the CLP 2015.

Drainage and Flooding

Policy

- 9.97. Policy ESD6 of the CLP 2015 seeks to use the sequential approach to development where necessary. Development will only be permitted in areas of flood risk when there are no reasonably available sites in areas of lower risk and the benefits of the development outweigh risks from flooding. Policy ESD7 seeks to ensure development uses sustainable drainage systems (SuDS) for the management of surface water run-off.

Assessment

- 9.98. A small part of the site along its northern boundary lies within FZ 2 and 3. The remainder is within FZ1. The application has been amended from the 2018 submission, including a revised Flood Risk Assessment (FRA), in order to respond to the concerns of the Environment Agency and County Council at the time of the previous application. The amendments place the area of development (basin, embankments, access, roads, car parking areas etc) outside of FZ 2 and 3 and wholly within FZ1.
- 9.99. The Environment Agency no longer objects to the proposals, subject to conditions.
- 9.100. Surface water runoff from the access roads and parking areas outside of the marina basin would be directed to filter drains along the edges of the access roads. The filter drains would then outfall at a restricted rate to a detention basin located on the eastern side of the site and a smaller basin closer to Boddington Road. The detention basins would then outfall to the adjacent lake and watercourse.
- 9.101. The access roads within the marina basin would be gravel and any run-off from these access roads along with the building, maintenance yard and other hardstandings within the marina basin would be directed and stored within the marina.
- 9.102. The drainage system would be maintained by the owners/manager and not offered for adoption. The Lead Local Flood Authority (LLFA) does not object to the proposals.
- 9.103. Foul drainage from the facilities building would drain to a package treatment plant which will discharge into the nearby watercourse⁴. A private foul water pumping station and a rising main would be necessary to direct foul flows from the clubhouse to the proposed treatment plant, due to the level differences. Foul waste from the narrowboats would be pumped to an underground holding tank where it would be periodically emptied via a licenced waste disposal firm.
- 9.104. The CRT comments that the drainage methods of new developments can have significant impacts on the structural integrity, water quality and the biodiversity of waterways. It is important to ensure that no contaminants enter the canal from surface water or foul drainage and full details should be submitted and agreed. These details should also include details on petrol interceptors and maintenance

⁴ A Discharge Licence from the Environment Agency will be needed.

regimes to ensure the systems continue to operate as intended. Such details are recommended to be secured by conditions.

Conclusion

9.105. In light of the responses from the EA and the LLFA, the proposals are considered to accord with Policies ESD6 and ESD7 of the CLP 2015 and Government guidance in the NPPF in this regard.

Economic and Social Implications

9.106. The proposal would provide some valuable local employment opportunities during construction and operation in this rural area. When operational it is likely to require the recruitment of 3 full time and 3 part time employees.

9.107. Whilst very difficult to quantify, wider economic and social benefits are also likely to arise such as providing more choice for boat owners, increasing local visitor spend in the District as cruisers are likely to make use of local retail outlets, pubs, restaurants and tourist facilities and encouraging longer stays and increased numbers of visitors in the District. The proposal also helps to sustain and diversify an existing agricultural enterprise.

9.108. In terms of social benefits, the applicants are also keen to see the marina and its facilities make a contribution to local education. As such they have approached local primary schools to discuss whether the facilities that the Marina offers would be of interest to them for educational purposes. This could be in terms of use of the building and site for teaching, as well as the marina being of interest from an ecological and heritage perspective. The lake could have a jetty that would allow supervised primary school children to study aquatic wildlife by allowing them to “pond dip” safely for example. Positive responses were received from 3 primary schools in the area at the time of the 2018 planning application.

Impact on residential amenity

9.109. Policy ENV1 of the CLP seeks to avoid development causing materially detrimental levels of noise, vibration, smell, smoke, fumes or other environmental pollution.

9.110. Those residential properties most closely related to the application site include a property north of the site on the other side of Boddington Road around 500m away, the northern edge of Claydon village to the south and the residential canal moorings

9.111. The location of the site and the nature of the use is such that the proposed development is not considered to cause harm to the amenity of nearby residents. The closest residential properties are sufficiently distant from the proposed marina. The Council’s Environmental Protection Team has not made objections and it is not considered that there would be conflict with Policy ENV1. Construction impacts are considered below.

Other relevant planning matters

Construction impacts

9.112. Concerns have been raised about the impact of the construction phase of development on the local highway network and the amenity of residents.

9.113. All development is likely to result in some temporary disruption to the highway and to neighbours, and this is not itself a reason to refuse permission except in the most

exceptional circumstances. Furthermore, there are separate controls under Environmental and Highways legislation which can be used to manage the impact of construction work. Nevertheless, it is considered appropriate to condition a Construction Management Plan to ensure the impact of construction work is properly managed and kept to a minimum.

9.114. Construction traffic is expected to be minimised due to the use of cut and fill to construct the marina with material not needing to be exported off site. Apart from staff cars, construction related visits would be confined to bringing in plant at the beginning and end of operations and importing of materials for the construction of the clubhouse building.

9.115. Contractors and construction traffic would not be permitted to access the site via the new highway access off Boddington Road and all construction equipment will be brought to the site via Springfield Farm and through the fields, to the east. The farm and route across the fields are wholly within the applicant's land ownership. This can be approached from either the A423 or the A361 via Lower Boddington village. This will avoid the need for heavy construction traffic to travel through the village of Claydon and over the existing canal bridges. A Construction Traffic Management Plan can and should be secured by way of condition.

Water Resources (including impact on Boddington Reservoir)

9.116. Policy ENV7 of the CLP and Policy ESD8 seeks to maintain water quality and ensure adequate water resources. Development which would adversely affect water quality will not be permitted and development will only be permitted where adequate water resources exist or can be provided.

9.117. Third parties have raised concerns about available water resources and the impact on users of the canal (all comments can be viewed on the Council's website). The Canal and River Trust advises that it undertakes a tiered assessment approach to consider water resources impact of new marinas and whether a proposals will lead to unacceptable impact. In this case they comment that although the marina will place a greater demand on water resources the impact will be minimal and therefore deemed acceptable.

9.118. In response to the objections raised by Banbury Sailing Club the CRT comment;

As part of the new marinas process that the Trust uses to assess whether or not we should allow new marinas to connect to our network, we carried out a Stage 2 Water Resources Study. The study considers the impact of the marina proposal on our service standards for navigating canals and rivers within the hydrological unit. Its purpose is not to consider the impact on individual water bodies within that hydrological unit and it is not calibrated to do so. We can, however, provide the following information to assist the council.

The stage 2 study for the proposed Claydon marina concluded that the uplift in demand as a result of the development would be 48 Ml/annum (net impact on the hydrological unit). This is the equivalent of approximately 1% of the average annual inflow to Boddington Reservoir. The marina will be located on the South Oxford Summit, which is part of the Ox&GU hydrological unit. As such, the increased demand from the marina will not simply be met by an increased feed from Boddington Reservoir, even if it is a preferred source. Canal demands within the hydrological unit are met by a combination of water from eight reservoirs and numerous surface water feeders. Additionally, backpumps have the ability to recirculate the water used as boats move through the locks and to transfer water around the hydrological unit. The Trust's Water Management Team consider water

levels in our reservoirs on a weekly basis to assist our decision-making about where to draw water from.

For the reasons above, it is problematic to put the increased demand into the context of a change in water level in Boddington Reservoir. The top 200mm section of the reservoir (i.e. -0.2m below top water level) contains roughly 48 Ml of reservoir storage (the assessed uplift in demand). However, assuming the marina will result in the reservoir operating 200mm lower than currently/pre-marina is incorrect. As outlined above, the increase in canal demand will be met from a combination of different sources, not by one single reservoir.

The Trust, as owner of the reservoir, recognise and value the activity of the sailing club and their use of the reservoir. We also have to be mindful that the primary function of the reservoir is to supply water to the canal network. The stage 2 water resources study assesses the impact of the marina on our service standards for the navigation of the canal network and is appropriate for our needs. As we have advised, a number of sources can be used to supply water to the canal. In these circumstances, it is unclear as to how a definitive answer about the impact of the development of the marina on water levels in the reservoir can be established.

9.119. In light of the response of the CRT there is no evidence that the development would give rise to an unacceptable impact on the water resource of the canal or conflict with ESD8 or ESD16.

Residential Use and Impact on local facilities

9.120. Many of the objections received suggest that the boats would be lived in permanently and that non-residential use would not be enforced. It is suggested that this would have a harmful impact on local services, which are limited in any case. The impact of the marina on the GP service at Cropredy is mentioned as an example.

9.121. This report highlights potential benefits to local services and facilities from increased patronage. Concerns have been expressed about the adverse impact of permanent residential use on services like GP surgeries and schools. The marina is proposed to be for recreational use, which means that the impact on services like schools and GPs should be minimal, but to avoid putting further strain on local services it is key that conditions restricting permanent occupation are both enforceable and enforced.

9.122. The applicants have confirmed that the marina is proposed to be wholly recreational and that no permanent residential use of the boats would be permitted. The marina at Cropredy was similarly proposed for recreational use only. The Council has previously accepted, by the granting of planning permission for the marina at Cropredy, and its subsequent extension, that occupation of the boats can be controlled by applying conditions. This is not an unusual approach.

9.123. Reports have been received that the boats at Cropredy are being occupied on a permanent basis. This has been investigated by the Planning Enforcement Team but it is fair to say that the drafting of the occupancy conditions has caused some issues with enforceability in the past and being able to establish at what point occupancy becomes permanent.

9.124. As a result of these issues, when planning permission was granted for the extension to Cropredy marina the conditions were supplemented and strengthened. The report to the Planning Committee at that time (application 16/01119/F refers) states (abridged);

Comments received from the Parish Council and from third parties have raised concerns that some individuals are living permanently at the site.

In response to the concerns raised by the Parish Council, officers have investigated this matter further. It is the case that a small number of boats moored at the existing marina (seven) appear to have registered address points at the marina and some appear on the electoral roll (i.e. registered to vote) at these addresses. This would suggest that these boats may be occupied residentially on a permanent basis at the site. However, this small number of boats is not a significant number and would therefore not in itself bring into question the need or justification for an additional basin. Furthermore, there is no evidence to suggest that the pressure for additional moorings at the site (and so the reason for the current application) is being driven by unauthorised residential use and not demand for additional leisure moorings.

As regards the current application, officers are satisfied that when considered on its own merits it is acceptable in principle for the reasons outlined above, and concerns about occupancy can be adequately addressed and enforced by condition.

9.125. This was accepted and planning permission was granted for the marina extension with conditions limiting occupancy imposed. In response to the objections raised to this current application, these conditions have been reviewed again and strengthened conditions are recommended which both restrict the number of consecutive days/nights the boats can be occupied, as well as the total number of days/nights the boats can be occupied in any one year. The requirement for the operator to maintain a register of boats is retained but again strengthened to ensure the register is available to the Council on request.

9.126. Whether someone is occupying a boat recreationally or residentially depends on individual circumstances and will include factors such as whether they have a permanent place of residence elsewhere, where they are registered to vote/pay Council tax, where they receive utility bills and bank statements etc. It does present some challenges but that is not to say that appropriately worded conditions would not meet the 6 tests set out in the NPPF. Officers are satisfied that the conditions recommended do meet these tests.

Building Regulations

9.127. An application for Building Regulations Approval will be needed for the buildings if planning permission is granted. Oxfordshire Fire and Rescue Service has been consulted with regard to fire safety/firefighting but no comments have been received. The Highway Authority advises that they have assessed the site for emergency service accessibility and they have raised no concerns on these grounds.

9.128. The internal access routes will be suitable for use by wheelchairs and there will be moorings that are wheelchair accessible.

10. PLANNING BALANCE AND CONCLUSION

10.1. In the absence of a clear position on need/demand for a marina of this size in this location, Officers have sought to balance the benefits of the proposal against its impacts.

10.2. The site is in a remote location with poor sustainability credentials; there are very limited facilities available in either Claydon or Lower Boddington and the site is a significant distance from Cropredy as the nearest Category A village. The site is therefore not in a location that is suited to sustainable transport modes and users of the marina would be dependent on car travel. The proposed development, by

reason of its nature, size and scale combined with its isolated location away from settlements, established moorings and existing popular destinations and with poor alternative transport links, could reasonably be considered an unsustainable insertion into the open countryside detrimental to its character and appearance, and conflicts with Policies ESD1 and ESD16 of the CLP 2015. That said, the previous case officer concluded differently on the 2018 application and it would seem unreasonable for officers to now take a different view, especially since the policy context and environment have not changed in the intervening time.

- 10.3. The proposal would result in harm to the significance of the Canal Conservation Area through change to its setting. This harm would be *less than substantial*. The proposal conflicts with Policy ESD15 of the CLP 2015. Conservation Areas are designated heritage assets and Paragraph 193 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Great weight must therefore be given to this harm.
- 10.4. There are other impacts as a result of the development, notably the localised visual and landscape impact, alongside an increase in traffic on the surrounding road network. However, for the reasons explained in the report, these are not considered to be significant adverse impacts which conflict with the development plan and warrant refusal of the application.
- 10.5. On the other hand, there are some benefits to be considered in the balance. These include economic benefits arising from providing more choice for boat owners, increasing local visitor spend in the District as cruisers are likely to make use of local retail outlets, pubs, restaurants and tourist facilities, encouraging longer stays in the District and providing some valuable local employment opportunities during construction and operation in this rural area. The proposal also helps to sustain and diversify an existing agricultural enterprise.
- 10.6. There are also considered to be some, minor, environmental benefits arising from the biodiversity enhancements proposed and the opportunity for some, albeit more limited, social benefits.
- 10.7. The application is finely balanced but, in light of the previous officer's conclusion on the 2018 application, it is considered on very fine balance that the adverse impacts – the location of the development remote from key facilities and with poor accessibility credentials, the impact on the visual amenity of the local area, and the *less than substantial* harm to the significance of the conservation area – do not significantly or demonstrably outweigh the benefits of the development.

11. RECOMMENDATION

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

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):

Section 106 contributions - An agreement will be required under Section 106 of the Town and County Planning Act 1990 to mitigate the developments local highway impact under Section 278 of the Highways Act 1980 to enable completion of off-site highway improvements (£10,000 for footpath improvement works). This includes identifying places within highway to provide at least passing places along Boddington Road.

Section 278 Highway Works: An obligation to enter into a S278 Agreement will be required to secure mitigation/improvement works along Boddington Road by provision of about three passing bays in suitable locations within Oxfordshire County Council jurisdiction. This is secured by means of S106 restriction not to implement development (or occasionally other trigger point) until S278 agreement has been entered into. The trigger by which time S278 works are to be completed shall also be included in the S106 agreement.

FURTHER RECOMMENDATION: THE STATUTORY DETERMINATION PERIOD FOR THIS APPLICATION EXPIRES ON 18th January. IF THE SECTION 106 AGREEMENT/UNDERTAKING IS NOT COMPLETED AND THE PERMISSION IS NOT ABLE TO BE ISSUED BY THIS DATE AND NO EXTENSION OF TIME HAS BEEN AGREED BETWEEN THE PARTIES, IT IS FURTHER RECOMMENDED THAT THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT IS GIVEN DELEGATED AUTHORITY TO REFUSE THE APPLICATION FOR THE FOLLOWING REASON:

1. In the absence of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement the Local Planning Authority is not satisfied that the proposed development provides for appropriate footpath improvements required as a result of the development and necessary to make the impacts of the development acceptable in planning terms, to the detriment of both existing and proposed residents and contrary to Policies SLE4, ESD1, ESD15 and ESD16 of the Cherwell Local Plan 2011-2031 Part 1 and relevant Government guidance in the National Planning Policy Framework.

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:
 - Site Location Plan AdamCM-1-5-001A dated 06/02/2019
 - Proposed Site Plan A05/020F dated 15/07/2019
 - Proposed Site Plan (Levels and Contours) A05/022E dated 15/07/2019
 - Proposed Site/Marina Sections A05/100F dated 19/07/19

- Proposed Highways Access and Visibility Splay Plan ADAMCM-1-1-005 Rev A dated 15/01/19
- Proposed Detention Basin Sections ADAMCM-1-4-003 dated 21/08/19
- Landscaping Proposal - Species Selection and Planting Specification: April 2018 (Rev B – July 2019)
- Tow Path Bridge A05/601B dated 25/10/2018
- Proposed Building A05/405B dated 28/01/2019

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

Compliance with Ecological Report

3. The development hereby permitted shall be carried out in accordance with the recommendations set out in Section 4 of the Preliminary Ecological Appraisal Report by RSK dated April 2018 and Section 3 of the RSK Follow Up Report dated 27th July 2019 unless otherwise agreed in writing by the Local Planning Authority. This shall include;
 - Completion of a detailed badger activity walkover survey no more than 3 months prior to development or site clearance works commencing, with the findings and any mitigation and/or Licensing requirements submitted to the Local Planning Authority for written approval. No development or site clearance to take place until such written agreement is provided.
 - A hand-search of any suitable terrestrial-phase amphibian and reptile habitat prior to any vegetation clearance. Once the affected area has been hand-searched, the habitat will be made unsuitable for amphibians and reptiles as a precaution, by strimming long grass from the centre in an outwards direction to allow any animals present to move to adjacent habitat. The habitat will be kept in an 'unsuitable' condition for terrestrial-phase amphibians and reptiles until the construction phase is complete, during which time enhancements will be made across the wider site for a variety of species, including amphibians in accordance with details which have been previously submitted to and approved in writing by the Local Planning Authority. Any common reptiles and amphibian species found will be moved to suitable areas in the north of the site which will not be affected by works.
 - Checks for Holts and Otter resting sites prior to construction.
 - Ecological Clerk of Works present on site to assess exact headwall locations prior to de-vegetation and during installation.
 - Use of subdued lighting located away from the watercourse so as not to illuminate the brook corridor.
 - Planting and maintenance of additional habitat outside of the site's northern redline boundary (part of the North Claydon Disused Railway LWS) to provide additional cover and habitat connectivity between the watercourse and the boundary of the proposed development.
 - Leaving the banks along the north-eastern boundary of the site (adjacent to Wormleighton Brook) undisturbed and uncut to encourage

vegetation growth for otter and water vole.

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 and to comply with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1.

PRE COMMENCEMENT CONDITIONS

Access Provision

4. 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, the means of access shall be constructed and retained in accordance with the approved details.

Reason - In the interests of highway safety and to mitigate the impact of vehicles on the surrounding highway network, road infrastructure and local residents to comply with Policy SLE4 and ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy TR7 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

Construction Traffic Management Plan

5. No development shall take place until a Construction Traffic Management Plan (CTMP) has been submitted to, and approved in writing by, the Local Planning Authority. The CTMP should incorporate the following in detail:
 - The CTMP must be appropriately titled, include the site and planning permission number.
 - Routing of construction traffic and delivery vehicles with signage 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. from vehicle tyres/wheels migrating onto the 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.
 - Contact details of the Project Manager and Site Supervisor responsible for on-site works.
 - 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. 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.

- 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.

Reason - In the interests of highway safety and to mitigate the impact of vehicles on the surrounding highway network, road infrastructure and local residents to comply with Policy SLE4 and ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy TR7 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

Improvements to Boddington Road

6. No development shall take place until details of improvements to Boddington Road which shall include the provision of passing places to the north of the access to the marina have been submitted to and approved in writing by the Local Planning Authority. The improvements shall be completed in accordance with the approved details before the marina is first brought into use.

Reason - In the interests of highway safety and to mitigate the impact of vehicles on the surrounding highway network, road infrastructure and local residents to comply with Policy SLE4 and ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy TR7 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

Construction Method Statement and Environmental Management Plan

7. No development shall take place until a Construction Method Statement and Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Statement and Plan shall provide for at a minimum:
 - details of pollution prevention measures
 - method of construction to ensure that there would be no potential threat to the water environment of the adjoining canal and the wider network
 - the parking of vehicles of site operatives and visitors
 - the loading and unloading of plant and materials
 - the storage of plant and materials used in constructing the development
 - Details of protective measures to protect current biodiversity interest and avoid impacts during construction (both physical measures and sensitive working practises)
 - Measures to control the emission of dust and dirt during construction
 - A scheme for recycling/ disposing of waste resulting from construction works
 - A timetable to show phasing of construction activities to avoid periods of the year when sensitive wildlife could be harmed (such as when badgers, reptiles and amphibians are active and during bird nesting seasons)
 - The mitigation measures recommended in Section 4 of the Preliminary Ecological Appraisal Report by RSK dated April 2018 and the RSK Follow Up Report Rev 3 dated 26th July 2019 including appropriate mitigation to avoid negatively impacting upon Wormleighton Brook and its surrounding habitats during the construction phase of the development
 - Details of how regular reviews of the impacts on the Local Wildlife Site will take place during construction
 - Delivery, demolition and construction working hours

- Persons responsible for:
 - i) Compliance with legal consents relating to nature conservation;
 - ii) Compliance with planning conditions relating to nature conservation
 - iii) Installation of physical protection measures during construction;
 - iv) Regular inspection and maintenance of the physical protection measures and monitoring of working practices during construction;
 - v) Provision of training and information about the importance of Environment Protection measures to all construction personnel on site.

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

Reason - To ensure the environment is protected during construction, in the interests of the structural integrity of the waterway, to ensure the proposed works do not have any adverse impact on the safety of waterway users, the integrity of the Canal, the general public and features of ecological importance in accordance with Policy ENV1 of the Cherwell Local Plan 1996 and Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government policy contained within the National Planning Policy Framework.

Tree Protection

8. No development shall take place until the existing trees and hedgerows to be retained have been protected in accordance with a Tree Protection Plan and Arboricultural Method Statement that has been submitted and approved in writing by the Local Planning Authority. The approved protection measures shall be in place before any equipment, machinery or materials are brought onto the site for the purposes of development and shall be maintained until all equipment machinery and surplus material has been removed from the site. Nothing shall be stored or placed within the areas protected by any barriers erected in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavations be made, without the written consent of the Local Planning Authority.

Reason : To ensure the continued health of retained trees/hedges and to ensure that they are not adversely affected by the construction works, in the interests of the visual amenity of the area, to ensure the integration of the development into the existing landscape and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

9. Development shall not begin until a detailed foul and surface water drainage scheme for the site, in accordance with the approved flood risk assessment and Drainage Strategy, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is 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 micro-drainage 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 ensure satisfactory drainage of the site in the interests of achieving sustainable development, public health, to avoid flooding of adjacent land and property to comply with Policy ESD6 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government advice in the National Planning Policy Framework.

10. No development shall take place until a scheme for the provision, protection and management of a 10 metre wide ecological buffer zone alongside the Wormleighton Brook has been submitted to, and approved in writing by, the local planning authority.

Thereafter, the development shall be carried out in accordance with the approved scheme and retained and maintained thereafter throughout the lifetime of the development. Any subsequent variations shall be agreed in writing by the local planning authority, in which case the development shall be carried out in accordance with the amended scheme. The buffer zone scheme shall be free from built development including lighting, domestic gardens and formal landscaping.

The scheme shall include:

- plans showing the extent and layout of the ecological buffer zone (measured from the top of the bank)
- details of any proposed planting scheme (for example, native species)
- details demonstrating how the buffer zone will be protected during development and managed over the longer term including adequate financial provision and named body responsible for management plus production of detailed management plan
- details of any proposed footpaths, fencing, lighting, etc.
- confirmation that any headwalls along the brook will be sized appropriately to the discharge and that the localised impact will be mitigated for.

Reason Land alongside watercourses is particularly valuable for wildlife and it is essential this is protected. This Condition will ensure that the ecological value of the brook and its corridor will be protected during the construction phase and management in perpetuity for the benefit of local wildlife. This approach is supported by Cherwell Local Plan policies ESD8 and ESD10, and paragraphs 170 and 175 of the National Planning Policy Framework (NPPF) which recognise that the planning system should conserve and enhance the environment by minimising impacts on and providing net gains for biodiversity. If significant harm resulting from a development cannot be avoided, adequately mitigated, or as a last resort compensated for, planning permission should be refused. This condition is also supported by legislation set out in the Natural Environment and Rural Communities Act 2006 and Article 10 of the Habitats Directive which stresses the importance of natural networks of linked corridors to allow movement of species between suitable habitats, and promote the expansion of biodiversity.

CONDITIONS REQUIRING APPROVAL OR COMPLIANCE BEFORE FIRST USE OF THE MARINA

11. The marina shall not be brought into first use until a footpath link from the site connecting into the existing public rights of way network (footpath 170/6/20) and as shown indicatively on the PROW Access Plan AdamCM-1-1-004 dated 15th

November 2018 has been provided in accordance with details which have been submitted to and approved in writing by the Local Planning Authority. The footpath link shall be retained and made available for use by users of the marina at all times thereafter.

Reason : To provide convenient pedestrian links with the existing public rights of network to facilitate access between the development, Claydon village and the surrounding countryside to comply with Policy ESD15 and ESD17 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.

Landscaping

12. Notwithstanding the approved plans, a scheme for landscaping the site shall be submitted to and approved in writing by the Local Planning Authority which shall include:-

(a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas and written specifications (including cultivation and other operations associated with plant and grass establishment i.e. depth of topsoil, mulch etc),

(b) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,

(c) details of the hard landscaping including hard surface areas, pavements, footpaths, parking and yard areas, pedestrian areas and steps

(d) Tree Pit details

Such details shall be provided prior to the first use of the marina, or such alternative time frame as agreed in writing by the developer and the Local Planning Authority. The hard landscape elements shall be retained as such thereafter. The soft landscape elements shall be implemented by the end of the first planting season following completion or first use of the marina, whichever is the sooner. Any tree(s) or shrub(s) removed, dying, or becoming seriously damaged, defective or diseased within 10 years from the substantial completion of the scheme shall be replaced within the next planting season by tree(s) or shrub(s) of similar size and species to those originally required to be planted.

Reason: To ensure that a satisfactory landscape scheme is provided in the interest of well planned development and visual amenity and to accord with Policies G3(L) and EV29 of the South Northamptonshire Local Plan Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Traffic Management and Routeing Strategy

13. No boats shall be moored at the marina until the applicant has submitted to the Local Planning Authority a Traffic Management and Routeing Strategy and had that Strategy approved in writing by the Local Planning Authority. This Strategy

shall provide details of measures that will be taken by the marina operators to ensure that wherever possible all vehicles visiting the marina enter and leave the marina to the north and avoid routing through Claydon village. The marina operators shall ensure that the agreed measures are in place before the marina is first brought into use and maintained at all times thereafter

Reason: To help minimise disturbance and inconvenience to residents of Claydon Village where possible to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

LEMP

14. A Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority prior to the first use of the marina. The LEMP shall show ongoing management and objectives for the site with the aim of achieving the best possible ecological condition for all habitats in the long term and shall include the following details;

- Landscape and ecological maintenance and management arrangements for the site for a minimum period of 25 years with the aim of achieving best possible ecological condition for all habitats in the long term;
- Additional enhancement measures for wildlife to demonstrate that a net biodiversity gain will be achieved (including within the building proposed)
- Areas of habitat provision on site in areas that are less accessible to people
- Proposals for the use and management of the irrigation lake (which shall not be stocked with fish)
- Measures to prevent any disturbance by domestic pets
- Proposals for the enhancement and maintenance of the buffer to the LWS.

Thereafter the measures approved in the LEMP shall be carried out as approved and all habitats and planting shall thereafter be maintained/managed for a period of at least 25 years from the completion of the development in accordance with the approved details unless otherwise approved in writing by the Local Planning Authority.

Reason : To protect habitats of importance to biodiversity conservation from any loss or damage and to ensure that the agreed landscaping scheme is maintained over a reasonable period that will permit its establishment in the interests of visual amenity and to accord with Policies ESD10 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.

CONDITIONS REQUIRING APPROVAL OR COMPLIANCE BEFORE SPECIFIC CONSTRUCTION WORKS TAKE PLACE

Materials and Detailing

15. Samples of the slate to be used in the construction of the roof of the facilities building and the timber cladding and bricks to be used on the walls of the facilities building shall be submitted to and approved in writing by the Local

Planning Authority before construction of the facilities building above slab level. Thereafter the development shall be carried out in accordance with the samples so approved.

Reason - To ensure that the development is constructed and finished in materials which are in harmony with the building materials used in the locality and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

16. Prior to the commencement of the facilities building hereby approved above slab level, a stone sample panel (minimum 1m² in size) shall be constructed on site which shall be inspected and approved in writing by the Local Planning Authority. Thereafter, the external walls of the building shown on the approved plans to be stone shall be laid, dressed, coursed and pointed in strict accordance with the approved stone sample panel.

Reason - To ensure that the development is constructed and finished in materials which are in harmony with the building materials used in the locality and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

17. Notwithstanding the approved plans, prior to the commencement of the facilities building hereby approved above slab level, full details of the doors and windows (which are to be constructed in timber) and eaves and verges hereby approved, at a scale of 1:20 including a cross section, cill, lintel and recess detail and colour/finish, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the doors, windows, eaves and verge shall be completed in accordance with the approved details.

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

18. Notwithstanding the approved plans, prior to the commencement of any works to the marina entrance from the mainline of the Oxford Canal full details of the marina entrance and towpath bridge shall be submitted to and approved in writing by the Local Planning Authority. These details shall include:

- Handrail details to the towpath bridge;
- Surface finishes for the towpath bridge and approach ramps;
- Finishes for the 'Geobag' retaining structure;
- Maintenance and management regimes for the marina entrance and towpath bridge.

Thereafter the works shall be carried out wholly in accordance with the approved details.

Reason: In the interests of the visual amenities of the Oxford Canal Conservation Area and to ensure the proposed works do not have any adverse impact on the safety of waterway users and the integrity of the Oxford Canal in accordance with Policy ESD15 and ESD16 of the Cherwell Local Plan 2011-2031 Part 1, and Government guidance contained within the National Planning Policy Framework in particular 120 & 121.

SuDS

19. The development shall be carried out in accordance with the submitted flood risk assessment (ref 1319/2019 Rev B dated 26/07/2019) and the Hydraulic Modelling Report 2420 Rev C August 2020 and following mitigation measures it details:

- There shall be no land raising within the 1% annual probability flood extent with a 35% allowance for climate change as shown in Appendix 14 of the modelling report August 2020

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

Reason

To reduce the risk of flooding to the proposed development and to prevent flooding elsewhere by ensuring that storage of flood water is provided.

20. The development shall be carried out in accordance with the submitted flood risk assessment (ref 1319/2019 Rev B dated 26/07/2019) and the Hydraulic Modelling Report 2420 Rev C August 2020 and following mitigation measures it details:

- There shall be no land raising within the 1% annual probability flood extent with a 35% allowance for climate change as shown in Appendix 14 of the modelling report August 2020

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

Reason

To reduce the risk of flooding to the proposed development and to prevent flooding elsewhere by ensuring that storage of flood water is provided.

Bin Storage/Furniture

21. Full details of the following structures shall be submitted to and approved in writing by the Local Planning Authority before their installation in the development;

- Refuse and recycling bin storage including location and compound enclosure details;
- Permanent Outdoor Seating;
- Permanent Outdoor Tables.

Thereafter the structures shall only be provided in accordance with the approved details.

Reason: To ensure the satisfactory appearance of the completed development, and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, and Government guidance contained within the National Planning Policy Framework.

Enclosures

22. No enclosures along any of the site boundaries or within the site (including any walls, fences or gates) shall be erected unless details of those enclosures have previously been submitted to and approved in writing by the Local Planning Authority.

Reason : To ensure the satisfactory appearance of the completed development, and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, and Government guidance contained within the National Planning Policy Framework.

External Lighting

23. Details of all external lighting including the design and specification, position, orientation, illumination levels and any screening of the lighting alongside their operation, management and maintenance regime shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of those works. The lighting shall be installed and operated in accordance with the approved scheme at all times thereafter.

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 advice in The National Planning Policy Framework.

ONGOING REGULATORY CONDITIONS TO BE COMPLIED WITH AT ALL TIMES

Site Clearance

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

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

Occupancy and Use Restrictions

25. All boats moored at the marina hereby approved shall be occupied at all times only for the purposes of recreational moorings and not for any permanent residential or hire fleet purposes or any other purpose whatsoever. None of the 192 boats moored at the marina shall be occupied for more than 60 consecutive days or nights and for no more than a total of 150 days or nights in any one calendar year.

Reason - To ensure that the development does not introduce permanent

residential use of the site which would lead to additional pressure on local services and in the interests of highway safety and to comply with Policy ESD1 of the Cherwell Local Plan 2011-2031 Part 1 and Government advice contained within the National Planning Policy Framework.

26. No more than 192 boats shall be moored at any one time in the marina basin hereby approved and no boats, other than those on the water, shall be stored on the site.

Reason - In the interest of highway safety and the visual amenities of the area and to comply with Policies SLE4 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government Advice in the National Planning Policy Framework.

27. A register of all boats moored at the marina, shall be provided annually to the Local Planning Authority, on or before the 30th April of every calendar year, and shall also be made available to the Local Planning Authority on request. The register shall include details of the previous 12 months of boat moorings (1st April to 31st March) at the marina and the following information:

- i. boat owners names and permanent addresses - for all boats moored at the marina in that year;
- ii. boat names and moorings occupied - for all boats moored at the marina in that year; and
- iii. The arrival date and departure date of each boat moored at the marina in that year, stating the period of time that each boat is moored at the marina, including any periods in which any boat is occupied overnight within the marina.

Reason: To enable the Local Planning Authority to properly monitor the use of the site and to ensure that the development does not introduce permanent residential use of the site which would lead to additional pressure on local services and in the interests of highway safety and to comply with Policy ESD1 of the Cherwell Local Plan 2011-2031 Part 1 and Government advice contained within the National Planning Policy Framework.

28. The living accommodation hereby approved shall be occupied as a manager's residence solely in conjunction with and ancillary to the operation of the marina and shall not be sold, leased or occupied as a separate unit of accommodation or for any other purpose.

Reason: This consent is only granted in view of the security and management needs of the enterprise, which are sufficient to justify overriding the normal planning policy considerations which would resist residential development on the application site, to comply with Policy ESD1 of the Cherwell Local Plan 2011-2031 Part 1 and Government advice contained within the National Planning Policy Framework..

29. The irrigation lake hereby approved shall be used for the purposes of agriculture only and not for any other use (including recreational) unless planning permission has otherwise been granted. The lake shall at no time be stocked with fish.

Reason: The planning application was submitted and determined on this basis. Use for recreational purposes could give rise to such impacts as have not been considered or assessed by the Local Planning Authority including traffic generation and highway impacts. Fish stocking is prohibited to ensure water is

of sufficiently high quality to minimise any risks to Wormleighton Brook in the event of discharge from the overflow.

Informative Notes to Applicant

1. The proposed footbridge should be constructed to DMRB standards, or to Canal and River Trust (C&RT) public towpath standard. This structure must be maintainable by the applicant or C&RT and OCC accepts no liability for its construction, public liability or future maintenance. The footpath/towpath will need to be closed to enable construction and a temporary closure needs to be applied for from OCC. Note that there is normally a 12 week lead time for this. It is expected that the footpath/towpath will be protected from plant damage and repaired to same or higher standard after the works have been completed.
2. **Temporary obstructions.** No materials, plant, temporary structures or excavations of any kind should be deposited / undertaken on or adjacent to the Public Right of Way that obstructs the public right of way whilst development takes place.
3. **Route alterations.** No changes to the public right of way direction, width, surface, signing or structures shall be made without prior written permission by Oxfordshire County Council or appropriate temporary diversion.
4. **Vehicle access (construction):** No construction vehicle access may be taken along or across a public right of way without prior written permission and appropriate safety/mitigation measures approved by Oxfordshire County Council.
5. **Vehicle access (Occupation):** No vehicle access may be taken along or across a public right of way to commercial sites without prior written permission and appropriate safety and surfacing measures approved by Oxfordshire County Council.
6. **Gates / right of way:** Any gates provided in association with the development shall be set back from the public right of way or shall not open outwards from the site across the public right of way.
7. **Improvements to routes:** Public rights of way through the site should be integrated with the development and improved to meet the pressures caused by the development whilst retaining their character where appropriate. No improvements may be implemented without prior approval of Oxfordshire County Council. No improvements to public rights of way may be implemented without prior approval of Oxfordshire County Council.
8. The applicants are referred to the principles and standards of the police's Secured by Design (SBD) scheme in relation to the buildings, and to the advice contained within the British Waterway's publication, 'Under Lock and Quay'.
9. The applicant is advised to contact the CRT Works Engineering Team on 0303 040 4040 in order to ensure that any necessary consents are obtained and that works comply with the "Canal and River Trust Code of Practice for Works affecting the Canal and River Trust."
10. In respect of condition 6 above the applicant will need to enter into an agreement under Section 278 of the Highways Act 1980 with the Highway Authority prior to work commencing within the highway boundary.

11. The canal here has a large population of zander, a species classified as non-native and invasive, the Trust would require access to the marina with electrofishing equipment for the purposes of zander removal and other fish harvesting. Any fish that migrate into the marina would remain the property of the Trust.

Foul drainage

The foul drainage method associated with this development will require an environmental permit under the Environmental Permitting (England & Wales) Regulations 2016, from the Environment Agency, unless an exemption applies. The applicant is advised to contact the Environment Agency on 03708 506 506 for further advice and to discuss the issues likely to be raised. You should be aware that there is no guarantee that a permit will be granted. Additional 'Environmental Permitting Guidance' can be found at: <https://www.gov.uk/environmental-permit-check-if-you-need-one>.

Works affecting main rivers

The Environmental Permitting (England and Wales) Regulations 2016 require a permit or exemption to be obtained for any activities which will take place:

- on or within 8 metres of a main river (16 metres if tidal)
- on or within 8 metres of a flood defence structure or culverted main river (16 metres if tidal)
- on or within 16 metres of a sea defence
- involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
- in a floodplain more than 8 metres from the river bank, culvert or flood defence structure (16 metres if it's a tidal main river) and you don't already have planning permission

For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits> or contact our National Customer Contact Centre on 03708 506 506 (Monday to Friday, 8am to 6pm) or by emailing enquiries@environment-agency.gov.uk.

The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity.

CASE OFFICER: Shona King / Nathanael Stock TEL: 01295 753754 / 221886

Agenda Item 11 20/01643/OUT

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

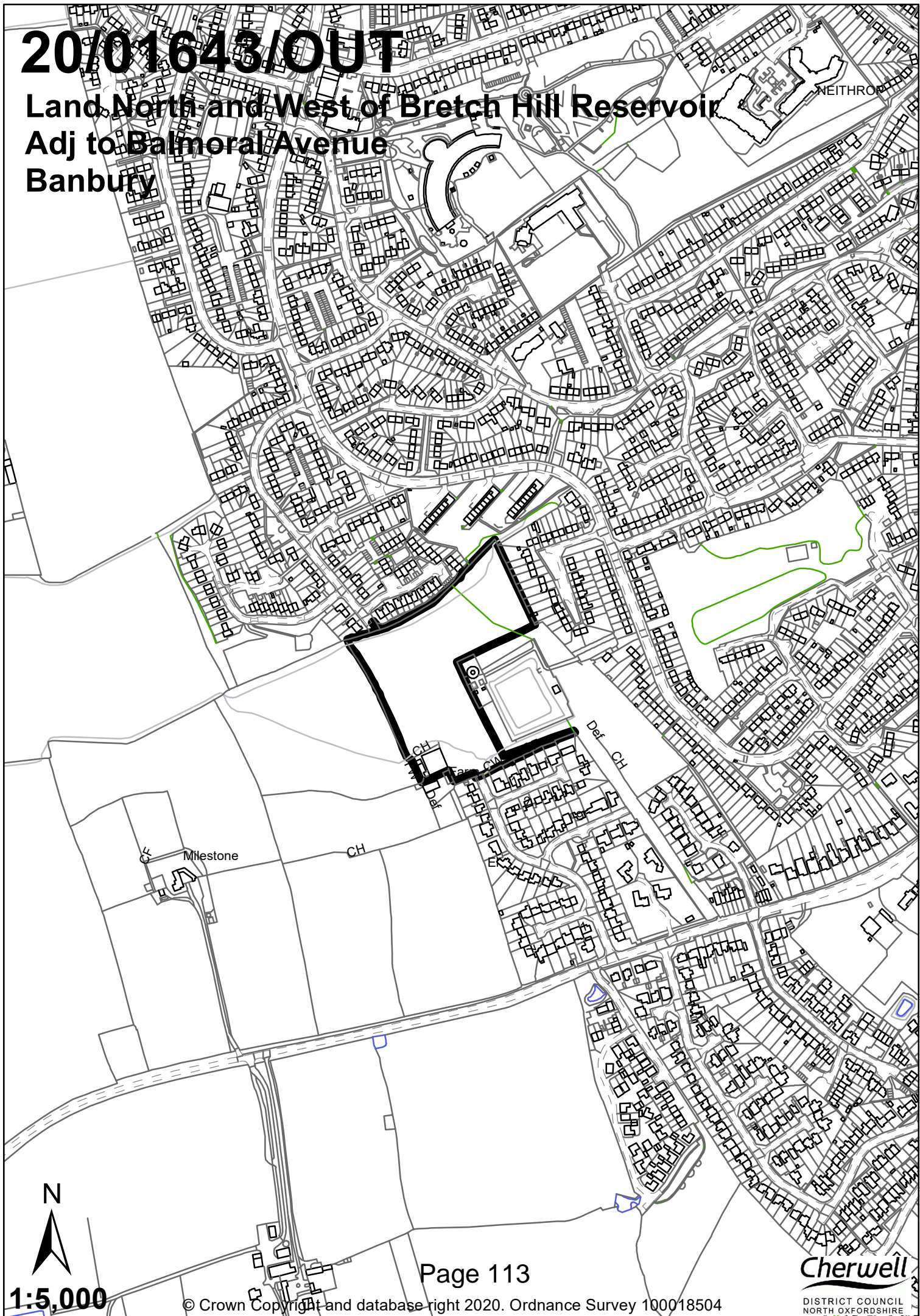


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20/01643/OUT

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

NEITHROP



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

20/01643/OUT

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 – revised scheme 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

IMPORTANT BACKGROUND

This planning application is being brought back to Planning Committee because Members voted at the December Planning Committee to re-consider the application. Their principle reason for doing so was the omission from the officer's report of reference to the Banbury Vision and Masterplan SPD and secondarily the lack of clarity over their reasons for their resolution at the October Planning Committee in respect of the principle of development.

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. Most of 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 that 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 north-east 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 several 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 identification of the site within the 2004 non-statutory plan and the apparent wider limited landscape impacts it was officer opinion that the principle of the development of the site could be supported. This was on the basis that it 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. Need – no immediate need for additional houses given the ample developments in other areas of Banbury, e.g. Elmwood Park
- 6.4. Local Plan – not an allocated site / not part of the Cherwell Local Plan
- 6.5. Design – the design of the dwellings is not in keeping with those on Balmoral Ave
- 6.6. Footpaths – 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. Impact on highway safety – 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. Impact on wildlife – 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 [its] 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. Condition of any permission given – 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
 - 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.
 - Strategic highway contribution - £62,772 – a) Bridge Street/Cherwell Street eastern corridor improvements and b) A361 Bloxham Road/Queensway/Springfield Avenue junction movements.
 - 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 (March 2015) – 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 2015)

- 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 (*the policy identifies the site for 70 dwellings*)

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”)
- Banbury Vision and Masterplan SPD
- 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 2015). The policies important for determining this application are referenced above.

9.5. Policy PSD1 of the CLP 2015 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 CLP 2015 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. The site is partly 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.
- 9.8. 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 much more limited. As a strategic plan, the CLP 2015 does not allocate sites under the threshold of 100 residential units, thus not considering this site.

Assessment

- 9.9. The Council's 2020 Annual Monitoring Report (AMR) confirms that the District can demonstrate a 4.8 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.
- 9.10. 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.
- 9.11. The Council's housing strategy is to focus housing growth at sustainable locations, especially at Banbury and Bicester (B.88, page 57 of the CLP 2015). This strategy will require the development of appropriate greenfield sites, in addition to brownfield sites. The application site is a greenfield site on the edge of Banbury, well related to the settlement and bounded to the north and south by residential development.
- 9.12. In addition, the site was identified for development within the 2004 Non-Statutory Plan but given that Plan's status the site was not allocated. 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. The 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.
- 9.13. While the 2015 Local Plan, as a key part of the Development Plan, is a starting point for decision making, it is not the end point and the Council cannot rely solely on the allocations in the 2015 Local Plan to meet its housing need. The 2015 Local Plan does not have the scope to allocate non-strategic sites and therefore the site's non-inclusion does not make it unacceptable in this regard. It would be unsafe and unreasonable to say that the site is not acceptable for development simply because it is not allocated in the 2015 Local Plan.
- 9.14. Following the October Planning Committee at which this application was first considered, the applicant brought to the Council's attention that the Officers' report

from the 8 October 2020 committee meeting did not mention the Banbury Vision & Masterplan (“BVM”) SPD, which is a material planning consideration for this application.

- 9.15. The BVM SPD establishes the long-term vision for the town and identifies the main projects and initiatives to support the town’s growth.
- 9.16. 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’.
- 9.17. 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 (and does not) allocate sites for development. Allocation can only be done through the Local Plan or Neighbourhood Plan process. In any case, the plans do not show the site as part of the existing settlement.
- 9.18. Officers do not consider the BVM SPD has any significant bearing on the acceptability or otherwise of the principle of development.
- 9.19. The agent (Savills) submitted a letter to the Council on 25th November referring to the housing trajectory set out at Section E of the 2015 Local Plan which includes 369 dwellings to come forward in Banbury up to 2031 on sites of 10 or more dwellings which are not allocations in the Local Plan Part 1. This 269 requirement has been met, although the figure is not a ceiling on development.
- 9.20. The letter from RB also refers to the Oxfordshire Growth Board Meeting on 24 November 2020 which considered the Written Ministerial Statement in light of the new programme for the Oxfordshire 2050 Plan. The agenda papers note that, “In the conversations with MHCLG on extending the timetable for the Plan, they have indicated that an extension to this flexibility is not likely to be supported.” At the time of writing the WMS remains in place and no formal notification of withdrawal of the statement has been received.

Conclusion

- 9.21. Considering (1) the identification of the site for development within the 2004 non-statutory plan (albeit it holds very limited weight), (2) the physical location of the site on the edge of 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 and (4) the presumption in favour of sustainable development, and notwithstanding it not being allocated for development (its non-allocation is simply because it is a site of less than 100 dwellings) it follows that the development is acceptable in principle.

Site Layout and Design Principles

Policy Context

- 9.22. 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.

- 9.23. Policy BSC10 of CLP 2015 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.
- 9.24. 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

- 9.25. 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.
- 9.26. 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.
- 9.27. 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.
- 9.28. 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.
- 9.29. Having considered the application at its October meeting, the Planning Committee resolved to refuse the application on three grounds, one of which was that 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.
- 9.30. Between the October Committee meeting and the December meeting the applicant submitted an alternative indicative layout for part of the site nearest to the water

tower and telecommunications mast to show how the layout might be amended to remove residential development from the area closest to the water tower and the telecoms mast, e.g. at least the same distance away from those two structures as the latter's height.

- 9.31. Notwithstanding the applicant's alternative sketch layout, officers note that the proposal is for 'up to' 49 dwellings and layout is a reserved matter. In officers' view, any such harm is capable of being addressed through an appropriate layout of development which may include a reduced number of dwellings.

Conclusion

- 9.32. 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 CLP 2015 and government guidance within the NPPF.

Impact on the character and appearance of the area

- 9.33. 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.

- 9.34. 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.

9.35. 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 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.”

9.36. 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 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.”

9.37. 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 and Saved Policy C8 seeks to limit sporadic development beyond the built limits of settlements.

9.38. 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.

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

9.40. The Non-Statutory Local Plan also contains relevant policies as set out below: Policy EN31 (Countryside Protection) (like its equivalent policy C9 in the CLP 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.

9.41. 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

Assessment

- 9.42. 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.
- 9.43. 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.
- 9.44. 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.
- 9.45. 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 valleys and broader vales,
 - 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.
- 9.46. 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.
- 9.47. 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.

- 9.48. 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.
- 9.49. 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.
- 9.50. The addition of properties and the associated infrastructure within the site will change its character from being urban fringe to urban”
- 9.51. 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

- 9.52. 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

- 9.53. 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.
- 9.54. 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.
- 9.55. Both Policies ESD15 and SLE4 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”.

- 9.56. 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

- 9.57. 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.

- 9.58. 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*.

- 9.59. 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’.

- 9.60. The LHA raises no objection to the application on the basis of highway safety.

- 9.61. 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.

- 9.62. 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

- 9.63. 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 Policies SLE4 and ESD15 of CLP 2015 in this regard and government guidance within the NPPF.

Rights of Way, access and pedestrian connectivity

Policy Context

- 9.64. 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”.
- 9.65. 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”.
- 9.66. CLP 2015 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.”
- 9.67. CLP 2015 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.
- 9.68. 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.
- 9.69. 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.
- 9.70. 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”.

Assessment

- 9.71. 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.
- 9.72. 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.

- 9.73. 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.
- 9.74. 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.
- 9.75. 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

- 9.76. 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

- 9.77. 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'.

Assessment

- 9.78. 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.
- 9.79. 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.
- 9.80. 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.
- 9.81. 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

- 9.82. 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

- 9.83. 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 CLP 2015 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.

Assessment

- 9.84. 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

9.85. 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 data to relate this mix which will best meet local needs.

9.86. 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

9.87. 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

9.88. 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.

9.89. 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.

Assessment

9.90. A site-specific Flood Risk Assessment (FRA) prepared by BWB Consulting has been submitted in support of the application. The Environment Agency's flood maps indicate that the site is not within a higher risk flood zone and is within Flood Zone 1 where residential development is acceptable in principle subject to no increased flood risk elsewhere as a result of the proposal.

9.91. 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.

9.92. The position of the attenuation pond is now probably too close to the 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.

- 9.93. 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.
- 9.94. 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

- 9.95. 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

- 9.96. 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.
- 9.97. 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.
- 9.98. The Regulations provide for the control of potentially damaging operations, whereby consent from the appropriate nature conservation body 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.
- 9.99. 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.

9.100. 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

9.101. 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.

9.102. 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.

9.103. 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.

9.104. 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.

9.105. 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.

9.106. These policies are both supported by national policy in the NPPF and also, under Regulation 43 of Conservation of Habitats & Species Regulations 2017, it is a criminal offence to damage or destroy a breeding site or resting place, unless a licence is in place.

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

Assessment

9.108. 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')

9.109. 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.

9.110. 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.

9.111. 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.

9.112. 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.

- 9.113. 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.
- 9.114. The CE has requested conditions relating to a CEMP, LEMP, an additional pre-works badger survey and a full lighting strategy. These conditions are considered to meet the tests set out in Paragraph 55 of the NPPF.
- 9.115. It is therefore considered that the proposed development complies with Policy ESD10 of the CLP 2015 and Government guidance contained within the NPPF and is acceptable in this regard.

Infrastructure

Policy Context

- 9.116. 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.
- 9.117. 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."
- 9.118. 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.
- 9.119. 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.

Assessment

9.120. 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

9.121. 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.

9.122. 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;

9.123. 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.

9.124. 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.

9.125. 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

9.126. 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. 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 identified for development in the non-statutory local plan. As such, and in light of its location on the edge of Banbury, 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. The overall purpose of the planning system is to seek to achieve sustainable development as set out in the NPPF. 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. The three dimensions of sustainable development must be considered in order to balance the benefits against the harm.
- 10.6. The proposal would deliver additional new housing including affordable housing and significant weight must be attached to this benefit, as well as its contribution towards meeting the need of the Oxfordshire Growth deal. The proposed development would create jobs both directly and indirectly and environmentally it would provide new planting and some enhancements for a range of habitats available for wildlife and the setting of the site.
- 10.7. Through the development of a greenfield site the proposal would have an adverse impact on the character and appearance of the site, its surroundings and the wider landscape setting, albeit that this harm would be limited.
- 10.8. 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;
- l) 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

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

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

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

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

3. 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

Agenda Item 12

Cherwell District Council

Planning Committee

14 January 2021

Appeal Progress Report

Report of Assistant Director - Planning and Development

This report is public

Purpose of report

To keep Members informed about planning appeal progress including the scheduling of public inquiries and hearings and decisions received.

1.0 Recommendations

The meeting is recommended:

- 1.1 To note the position on planning appeals contained within the report.

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

19/00290/F - Hebborns Yard, Bicester Road, Kidlington, OX5 2LD - Use of land for the storage of (non-residential) portable fairground rides and equipment in connection with, and strictly ancillary to, the authorised use of Hebborn's Yard, Kidlington as Showmen's Permanent Quarters (existing unauthorised)

Method of determination: Written Representations

Key Dates:

Start Date: 01.12.2020 **Statement Due:** 05.01.2020 **Decision:** Awaited

Officer recommendation – Refusal (Delegated)

Appeal reference – 20/00031/REF

19/01715/F – Land To East Of Webbs Way, Mill Street, Kidlington - Restoration of building to be used for storing ground maintenance equipment

Method of determination: Written Representations

Key Dates:

Start Date: 01.12.2020 **Statement Due:** 05.01.2020 **Decision:** Awaited

Officer recommendation – Refusal (Delegated)

Appeal reference – 20/00032/REF

20/01517/F – Manor Farm Cottage, Church Lane, Charlton On Otmoor, OX5 2UA – Erection of a one bedroom studio dwelling and conversion of existing outbuilding; associated works (Resubmission of 20/00311/F)

Method of determination: Written Representations

Key Dates:

Start Date: 01.12.2020 **Statement Due:** 05.01.2020 **Decision:** Awaited

Officer recommendation – Refusal (Delegated)

Appeal reference – 20/00033/REF

20/00789/CLUE – Belmont, 8 Foxglove Road, Begbroke, Kidlington, OX5 1SB - Certificate of Lawful Use Existing for amenity land to west of dwelling at no. 8 Foxglove Road as a domestic garden, with the introduction of boundary fence and hedge on the western and northern boundaries.

Method of determination: Written Representations

Key Dates:

Start Date: 11.12.2020 **Statement Due:** 22.01.2020 **Decision:** Awaited

Officer recommendation – Refusal (Delegated)

Appeal reference – 20/00035/REF

20/02498/F – Esso, Banbury Service Station, Oxford Road, Bodicote, OX15 4AB - Single storey rear extension

Method of determination: Written Representations

Key Dates:

Start Date: 14.12.2020 **Statement Due:** 18.01.2020 **Decision:** Awaited

Officer recommendation – Refusal (Delegated)

Appeal reference – 20/00036/REF

20/00805/F – Highway House, Park Road, Hook Norton, OX15 5LR - Demolition of existing dwelling, demolition of existing outbuildings/structures, erection of replacement dwelling and new outbuilding containing a garage, residential annexe and associated landscaping.

Method of determination: Written Representations

Key Dates:

Start Date: 16.12.2020 **Statement Due:** 13.01.2020 **Decision:** Awaited

Officer recommendation – Refusal (Delegated)

Appeal reference – 20/00034/REF

3.2 New Enforcement Appeals

None

3.3 Appeals in Progress

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 opens – Tuesday 9 February 2021 and anticipated to run for 10 to 14 sitting days

Appeal reference – 20/00030/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, Williamscoth.

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: TBC

Decision: Awaited

Appeal reference: 20/00019/ENF

3.4 Forthcoming Public Inquiries and Hearings between 14 January and 11 February

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

Online Public Inquiry Start Date: Tuesday 9 February. 10am start

Details on how to attend the online Public Inquiry will be published on the appeal record on the Council's online planning register

3.5 Results

Inspectors appointed by the Secretary of State have:

- 1. Dismissed the appeal by Montpelier Estates for Erection of 5no dwellings, formation of new vehicular access and associated hardstanding for parking. Land Adjoining And West Of The Kings Head, Banbury Road, Finmere. 20/00674/F
Officer recommendation – Refusal (Delegated)
Appeal reference – 20/00025/REF**

The appeal site comprises land that is understood to have once been part of an outdoor space associated with a public house. The Inspector noted that the appeal site is in a sensitive location close to the settlement edge, fronting the highway and open land, close to public rights of way from which there would be some filtered views of the proposed dwellings. He considered that the main issue was the effect of the proposed development upon the character and appearance of the area. Notwithstanding the potential modest benefits of the proposal, the Inspector concluded that the development would be significantly harmful to the character and appearance of the area including by reason of its effect on the undeveloped gap which contributes in maintaining the loose-knit settlement structure along Banbury Road.

- 2. Dismissed the appeal by Mrs S Liebrecht for Single storey rear extension forming new Sun Room. Bowler House, New Street, Deddington, Banbury, OX15 0SS. 19/00969/F & 19/00970/LB.
Officer recommendation – Refusal (Delegated)
Appeal reference – 20/00008/REF & 20/00009/REF**

The main issues identified by the Inspector, were whether the proposed development would preserve the Grade II listed building and also the setting of the adjacent listed building and the extent to which it would preserve or enhance the Deddington Conservation Area.

The Inspector upheld the Council assessment, finding that the harm to the plan form of the proposed single storey extension would '*significantly diminish the legibility of the historic layout of the building*' and that the removal of a section of wall and two windows would result in '*the loss of historic openings, the associated pattern of fenestration and a significant area of historic fabric*'. The Inspector also concluded that the development would result in harm to the setting of the adjacent Grove Lodge due to the disruption in the built-form of the L-shaped plan. The Inspector reasoned that there would be no harm to the Deddington Conservation Area given the development would be to the rear of the property and would therefore not be in the public domain and that the impact on the private domain would be limited.

No public benefits were offered in mitigation of the less than substantial harm identified and the Inspector therefore dismissed the appeal.

4.0 Conclusion and Reasons for Recommendations

- 4.1 The report provides the current position on planning appeals which Members are invited to note.

5.0 Consultation

None.

6.0 Alternative Options and Reasons for Rejection

6.1 None. The report is presented for information.

7.0 Implications

Financial and Resource Implications

7.1 There are no financial implications arising from this report. The report is for information only. The cost of defending appeals is met from existing budgets other than in extraordinary circumstances.

Comments checked by:

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

Legal Implications

7.2 As this report is purely for information there are no legal implications arising from it.

Comments checked by:

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

Risk Implications

7.3 This is an information report where no recommended action is proposed. As such there are no risks arising from accepting the recommendation.

Comments checked by:

Louise Tustian, Head of Insight and Corporate Programmes, 01295 221786
louise.tustian@cherwell-dc.gov.uk

Equality & Diversity Implications

7.4 The recommendation does not raise equality implications.

Comments checked by:

Robin Rogers, Head of Strategy, Policy, Communications & Insight, 07789 923206
Robin.Rogers@Cherwell-DC.gov.uk

8.0 Decision Information

Key Decision:

Financial Threshold Met

No

Community Impact Threshold Met

No

Wards Affected

All

Links to Corporate Plan and Policy Framework

Seeking to uphold the Council's planning decisions is in the interest of meeting the strategic priorities from the Business Plan 2020/21:

- Housing that meets your needs
- Leading on environmental sustainability
- An enterprising economy with strong and vibrant local centres
- Healthy, resilient and engaged communities

Lead Councillor

Councillor Colin Clarke, Lead Member for Planning

Document Information

None

Background papers

None

Report Author and contact details

Matthew Swinford, Appeals Administrator

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David Peckford, Assistant Director - Planning and Development

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Agenda Item 13

Cherwell District Council

Planning Committee

14 January 2021

Planning Enforcement Report

Report of Assistant Director - Planning and Development

This report is public

Purpose of Report

To update Members on current planning enforcement activity following the last report in October 2020.

1.0 Recommendation

The meeting is recommended:

- 1.1 To note the contents of the report.

2.0 Introduction

- 2.1 This report provides a quarterly overview of planning enforcement work and updates Members following the last report in October 2020.
- 2.2 It provides an update on enforcement cases where formal notices have been served.

3.0 Report Details

Active enforcement and monitoring cases

- 3.1 There are currently 334 active enforcement cases and 239 active development monitoring cases (compared to 333 and 245 respectively as last reported in October). At the time of writing, the Council has received a total of 68 new planning enforcement cases and 13 new monitoring cases since October 2020.
- 3.2 The number of open cases had been steadily reducing before the pandemic. During the early stages of the pandemic there was a rapid increase in the number of cases received and it was more challenging for enforcement investigations to progress. This situation has since stabilised but remains challenging as national and local circumstances change. Site visits / access

to sites continue to be less straight forward than would otherwise be the case and monthly case numbers remain relatively high.

Notices issued and prosecutions

- 3.3 It was previously reported that officers had resumed the issuing of formal enforcement notices after placing this on hold from March to July 2020. The new notices issued since the last report are detailed below.
- 3.4 A number of prosecutions are being pursued with dates set for February and March 2021. Updates on these prosecutions will be reported in the next quarterly update.
- 3.5 Since the last update, officers learnt of a very serious breach of planning control at Manor Park, Kidlington and have sought to pursue an injunction. Further detail is provided below.

Updates on significant ongoing cases

- 3.6 A brief history, and actions to date, on cases that are 'public' and of significant Member interest are set out below. Ward Members are now routinely advised when an enforcement notice is issued within their area. The tables provide the position on notices issued before 2020, for January to March 2020, for March to October 2020, and for October 2020 to January 2021. The tables only show outstanding enforcement cases where formal action has been taken and cases remain unresolved. However, recently resolved cases are included shown to show progress and outcomes. Live enforcement investigations (without formal notices) are not reported upon.

Pre-2020 Notices

Ref Number	Address	Type of Notice	Date Served	Breach	Commentary
17/00201/ PROS	Field Farm, Stratton Audley Road, Stoke Lyne	EN	24/05/16	Eco-Pod, structures and hard standing	Owners have now largely complied with enforcement notice, and have applied for planning permission to regularise a track that remains to support an ongoing agricultural use at the site. Next hearing scheduled for 5 February 2021.

Ref Number	Address	Type of Notice	Date Served	Breach	Commentary
12/00020/ ECOU	The Pheasant Pluckers Inn, Burdrop, Banbury	EN	09/02/12	Change of use from agricultural land to a caravan site	Latest planning appeal refused for change of use from pub to C3 residential use. Pub had reopened and work was underway to establish if this constituted compliance with the enforcement notice. Presently on hold due to the pandemic and associated uncertainty affecting public houses.
17/00237/ ENFC	Land Parcel 2783 Street From Cropredy To Great Bourton Cropredy	EN	15/03/18	Mobile Home sited in field	Full hearing scheduled for 17 March 2021.
18/00057/ ENFB	The Kings Head 92 East Street Fritwell OX27 7QF	EN	14/03/19	Unauthorised change of use from public house to independent dwelling house	Appeal dismissed. Compliance due 1 July 2020. Presently on hold due to the pandemic and associated uncertainty affecting public houses.
17/00241/ ENFC	OS Parcel 4400 South of Manor Farm House and East of North Aston Hall Farm Somerton Road North Aston	EN	14/03/19	Change of use from agricultural land to a caravan site	Compliance date for removal of caravan was January 2020. Notice not yet complied with but working with owners and closely with housing colleagues to ensure the housing needs of the occupants are met.

Notices Jan-March 2020

Ref Number	Address	Type of Notice	Date Served	Breach	Commentary
19/00128/ ENF	Spruce Meadows Cropredy Lane Williamscot	EN	13/02/20	Caravan on land used for residential, storage of shipping containers and other structures	Appeal being heard at Informal Hearing scheduled for 25 January 2021
19/00172/ ENF	65 Calthorpe Street, Banbury.	BCN	10/02/20	Breach of condition regarding hours of opening	No right of appeal 09/03/20 Site being monitored to check compliance.
19/00171/ ENF	64 Calthorpe Street, Banbury.	BCN	10/02/20	Breach of condition regarding hours of opening	No right of appeal 09/03/20 Site being monitored to check compliance. Planning application received 20/3551/F - Change to operating hours and insertion of door between the two units – Retrospective – currently being determined.
18/00309/ ENF	84 Green Road, Kidlington.	EN	13/02/20	Change of use of dwellinghouse to guesthouse	Notice now complied with and case closed.
19/00099/ ENF	Land to rear of 9-11 The Garth, Yarnton	EN	12/03/20	Change of use of land for storage of builders & Plumbing materials	Not appealed Compliance was required by 26/04/20. Prosecution now being considered. In the hands of receivers who are being made aware of need to comply with the notice.

Notices March-October 2020

Ref Number	Address	Type of Notice	Date Served	Breach	Commentary
19/00225 /ENFC	40 The Daedings, Deddington, Banbury, OX15 0RT	EN	21/08/20	Siting of a shipping container on front driveway	Notice complied with – case closed.
19/00233 /ENFC	Horse and Groom Inn Main Road Milcombe OX15 4RS	EN	21/08/20	Installation of a kitchen extraction and air input system	Not appealed. Compliance period was set for 21 October 2020. Pub has ceased use of extraction system and is seeking to find a resolution to the noise and smell issues with view to regularise.
18/00232 /ENFC	47 Easington Road Banbury OX16 9HJ	EN	14/09/20	Use of outbuilding as self-contained dwellinghouse	Notice was not appealed. Owner has advised that the notice has been complied with. Site visit required to confirm and case can be closed.

Notices October to January 2020

Ref Number	Address	Type of Notice	Date Served	Breach	Commentary
19/00161 /ENFC	The White House, Heathfield, Kidlington, OX17 1QL	EN	01/10/20	Erection of two units of residential accommodation with associated residential curtilages.	Appeal has been lodged but no official 'start date' received from Planning Inspectorate.
19/00161 /ENFC	Sharawle Main Street Great Bourton OX17 1QL	EN	19/10/20	Failure to comply with Condition 3 of Planning Permission 19/01217/F, Regarding Screens.	No appeal received. Compliance with notice to provide correct screening by 19 February 2021.

Ref Number	Address	Type of Notice	Date Served	Breach	Commentary
19/00161 /ENFC	Sharawle Main Street Great Bourton OX17 1QL	EN	19/10/20	Erection of a steel staircase leading down from balcony.	No appeal received. Compliance with notice to remove rear staircase from balcony by 19 February 2021.
18/00162 /ENFC	Lince Lane Copse, Lince Lane, Kidlington	EN	30/10/20	Change of use of the land for the siting of a mobile home being used as residential accommodation	No appeal received. Compliance with notice to remove the mobile home by 30 January 2021.

EN – Enforcement Notice

BCN – Breach of Condition Notice

Injunction at Manor Park, Kidlington

- 3.7 At the beginning of October, officers were made aware that a licenced and permitted Gypsy and Traveller site known as ‘Manor Park’ was not being used for its authorised use. The site has planning permission to be used as a Gypsy and Traveller site for no more than 11 pitches, each pitch consisting of 1 mobile home, one touring caravan and one utility day room. The site is strictly for the use of those from the Gypsy and Traveller community. The site lies within the Oxford Green Belt where there is a presumption against development unless very special circumstances apply.
- 3.8 Officers visited the site and found the site to have almost 50 mobile homes being advertised for rent on the open market. Authority was given to pursue immediate enforcement action to resolve this issue and prevent serious and irreversible harm being caused. The Council sought to obtain an injunction to prevent any further mobile homes being brought onto the site and to prevent any further occupation of those mobile homes that were on the site but not yet occupied.
- 3.9 On 14 October the first hearing was held virtually and an interim injunction was granted by the judge in the High Court, Birmingham. The owners were not given notice of the proceedings due to the speed at which injunction was needed. Papers were then served at the site, including a date for a further hearing on 28 October 2020.

- 3.10 Defendants did not attend court on 28 October and the Judge granted a further interim order preventing any further occupation of vacant mobile homes and further mobile homes being brought onto the site. Papers were again served on defendants at the site with a new Order and new court date of 8 December.
- 3.11 On 8 December, officers again attended Court in order to seek a final injunction to secure that all but the authorised mobile homes on the site to be removed and for the site to be vacated by non-members of the Gypsy and Traveller community. Two of the defendants attended to plead their case. The Judge was not satisfied that a final injunction could be granted as all defendants had not attended and mitigation was put forward by the defendants that did attend. A further interim injunction was granted, however this added a requirement for all additional electrical hook-up pipes and all vacant mobile homes to be fully disconnected on the site.
- 3.12 The further hearing is now scheduled for 4 March 2021, where it is hoped a final injunction will be granted. An update for Committee will be provided in the next quarterly update.
- 3.13 During the latest visit to the site, when the latest interim injunction papers were served, it was observed that some of the vacant mobile homes were being removed from the site.
- 3.14 A planning application has now been submitted (currently invalid) for the change of use of the land to a 50 unit mobile home park.
- 3.15 This has been a challenging and time-consuming piece of work by the Planning Enforcement team but provides illustration that the Council is prepared to take swift action where required in dealing with serious breaches of planning control.

4.0 Conclusions and Reasons for Recommendations

- 4.1 The report provides a summary of the latest planning enforcement position which Members are invited to note.

5.0 Consultation

- 5.1 None

6.0 Alternative Options and Reasons for Rejection

- 6.1 None. The report is presented for information.

7.0 Implications

Financial and Resource Implications

- 7.1 There are no financial implications arising from this report. The report is for information only. The cost of planning enforcement is met from existing budgets other than in extraordinary circumstances.

Comments checked by:

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

Legal Implications

- 7.2 As this report is purely for information there are no legal implications arising from it.

Comments checked by:

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

Risk Implications

- 7.3 This is an information report where no recommended action is proposed. As such there are no risks arising from accepting the recommendation.

Comments checked by:

Louise Tustian, Head of Insight and Corporate Programmes, 01295 221786
louise.tustian@cherwell-dc.gov.uk

Equality & Diversity Implications

- 7.4 The recommendation does not raise equality implications.

Comments checked by:

Robin Rogers, Head of Strategy, Policy, Communications & Insight, 07789 923206
Robin.Rogers@Cherwell-DC.gov.uk

8.0 Decision Information

Key Decision:

Financial Threshold Met	No
Community Impact Threshold Met	No

Wards Affected

All

Links to Corporate Plan and Policy Framework

Planning enforcement activity assists in meeting the strategic priorities from the Business Plan 2020/21:

- Housing that meets your needs
- Leading on environmental sustainability
- An enterprising economy with strong and vibrant local centres
- Healthy, resilient and engaged communities

Lead Councillor

Councillor Colin Clarke, Lead Member for Planning

Document Information

None

Background papers

None

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