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Cherwell

DISTRICT COUNCIL
NORTH OXFORDSHIRE

Committee: Planning Committee
Date: Thursday 11 February 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 Illott
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 - 9)

To confirm as a correct record the Minutes of the meeting of the Committee held on 14 January 2021.

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.

a.

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

The Assistant Director - Planning and Development to report if any virtual site visits have been requested.

Planning Applications

8. **Barn In OS Parcel 0545 West Of Withycombe Farm, Wigginton** (Pages 12 - 35)
20/01933/F

9. **The Chesterton Hotel, Bicester Road, Chesterton, OX26 1UE** (Pages 36 - 46)
20/02653/F

10. **Straw Barn College Farm, Main Street, Wendlebury, OX25 2PR** (Pages 47 - 55)
20/02859/F

11. **Axis J9 Phase 1 OS Parcel 4200 Adjoining Middleton Road and Howes Lane, Bicester** (Pages 56 - 84)
20/03199/F

12. **3 The Green Barn, Stoke Lyne Road, Stratton Audley, Bicester, OX27 9AT**
(Pages 85 - 97) **20/03426/F**

13. **Glebe Farm, Boddington Road, Claydon, Oxfordshire OX17 1TD** (Pages 98 - 153)
20/02446/F

Review and Monitoring Reports

14. **Appeals Progress Report** (Pages 154 - 160)

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.

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 3 February 2021

Cherwell District Council

Planning Committee

Minutes of a meeting of the Planning Committee held as a Virtual meeting, on
14 January 2021 at 4.00 pm

Present:

Councillor James Macnamara (Chairman)

Councillor Andrew Beere
Councillor John Broad
Councillor Hugo Brown
Councillor Phil Chapman
Councillor Colin Clarke
Councillor Ian Corkin
Councillor Chris Heath
Councillor Simon Holland
Councillor David Hughes
Councillor Mike Kerford-Byrnes
Councillor Cassi Perry
Councillor Lynn Pratt
Councillor George Reynolds
Councillor Barry Richards
Councillor Les Sibley

Substitute Members:

Councillor Barry Wood (In place of Councillor Maurice Billington)

Apologies for absence:

Councillor Maurice Billington

Officers:

David Peckford, Assistant Director: Planning and Development
Alex Chrusciak, Senior Manager - Development Management
Nat Stock, Minors Team Leader
Matt Chadwick, Senior Planning Officer
Emma Whitley, Planning Officer
Amy Sedman, Enforcement Team Leader
Karen Jordan, Deputy Principal Solicitor
Natasha Clark, Governance and Elections Manager
Lesley Farrell, Democratic and Elections Officer

109 **Declarations of Interest**

8. 24 Cheney Road, Banbury, OX16 3HS.

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

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

Councillor Colin Clarke, Non Statutory Interest, as a member of Banbury Town Council which had been consulted on the application and he was related to the objector and would leave the meeting for the duration of the item.

11. 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.

110 **Requests to Address the Meeting**

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

111 **Minutes**

The Minutes of the meeting held on 10 December 2020 were agreed as a correct record and signed by the Chairman.

112 **Chairman's Announcements**

The Chairman made the following announcement:

1. The Chairman welcomed Mr Alex Chrusciak – Senior Manager – Development Management who joined Cherwell District Council on 14 January 2021.
2. The Chairman reminded Members that they had voted for a change in speaking procedure at Council on 14 December 2020. Limits per application were now 10 minutes for Local Ward Members, unchanged at 5 minutes for Public Speakers and Committee Members limited to 3

minutes unless proposing a motion when they were limited to 5 minutes.

113 **Urgent Business**

There were no items of urgent business.

114 **Barn In OS Parcel 0545, West of Withycombe Farm, Wigginton**

The Committee considered application 20/01933/F for the erection of one residential dwelling for multi-generational living, landscape enhancements and associated works at Barn in OS Parcel 0545 West of Withycombe Farm, Wigginton for Virginia Sweetingham.

It was proposed by Councillor Hugo Brown and seconded by Councillor Mike Kerford-Byrnes that application 20/01933/F be deferred to allow for a virtual site visit to take place.

Resolved

- (1) That application 20/01933/F be deferred to allow for a virtual site visit.

115 **24 Cheney Road, Banbury, OX16 3HS**

The Committee considered application 20/02298/F for a single storey front, side & rear extension including new porch to front. Double storey side extension, and new outbuilding to rear of garden at 24 Cheney Road, Banbury OX16 3HS for Mr Asif Elahi.

Mr Tony Mephram, local resident addressed the Committee in objection to the application.

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

Resolved

- (1) That permission be granted for application 20/02298/F subject to the following conditions:
 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.

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

The Committee considered application 20/02389/OUT for the erection of an indoor horse training arena at Swerbrook Farm, Hook Norton Road, Wigginton, OX15 4LH for Mr J Dunkley.

Caroline Mills, local resident addressed the Committee in objection to the application.

It was proposed by Councillor Hugo Brown and seconded by Councillor Mike Kerford-Byrnes that application 20/02389/OUT be approved subject to an extra condition regarding a suitable lighting scheme.

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

Resolved

- (1) That authority be delegated to the Assistant Director Planning and Development to grant permission for application 20/02389/OUT subject to the following conditions (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.

Lighting

9. No lighting shall be installed at the site unless and until full details of that external lighting 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 approved details and shall be retained as such thereafter.

Reason - To ensure that the development does not cause harm to any protected species or their habitats and to safeguard the character and appearance of the area in accordance with Policies ESD10 and ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

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

The Committee considered application 20/02446/F for the formation of an inland waterways marina with ancillary facilities building, car parking, access and associated landscaping including the construction of a new lake at Glebe Farm, Boddington Road, Claydon, Banbury, OX17 1TD for W A Adams Partnership (This was a re-submission of application 18/00904/F).

Councillor Douglas Webb, Local Ward Member addressed the Committee in support of the application.

Jenny Jones, Local resident addressed the Committee in objection to the application.

Mr Stephen Rice, Agent for the applicant addressed the Committee in support of the application.

It was proposed by Councillor George Reynolds and seconded by Councillor Phil Chapman that application 20/02446/F be refused contrary to officer recommendation due to unsustainability, effects on Heritage Assets (Policy ESD 15) and impact on Highway safety.

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

Resolved

- (1) That application 20/02446/F be refused contrary to the officer's recommendation (with the exact wording of the reasons delegated to the Assistant Director Planning and Development).

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

The Committee considered application 20/01643/OUT 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 was a revised scheme of application 19/01811/OUT.

Councillor Kieron Mallon, Local Ward Member addressed the Committee in objection to the application

Andy Fathers, local resident addressed the Committee in objection to the application.

Jerry Cahill addressed the Committee on behalf of the applicant in support of the application.

It was proposed by Councillor Colin Clarke and seconded by Councillor Barry Richards that application 20/01643/OUT be refused contrary to officer recommendations on the grounds of harm to the character and appearance of the area through development of a greenfield site and the Council having a 4.8 year housing land supply, impact on highway safety through additional traffic and an unsuitable junction, poor standard of amenity for future occupiers and insufficient biodiversity gain.

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

Resolved

- (1) That application 20/01643/OUT be refused contrary to the officer's recommendations (with the exact wording of the reasons delegated to the Assistant Director Planning and Development).

119 **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.

120 **Enforcement Report**

The Assistant Director Planning and Development submitted a report which updated Members on current planning enforcement activity following the last report in October 2020.

Resolved

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

The meeting ended at 7.03 pm

Chairman:

Date:

Agenda Annex

CHERWELL DISTRICT COUNCIL

Planning Committee - 11 February 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

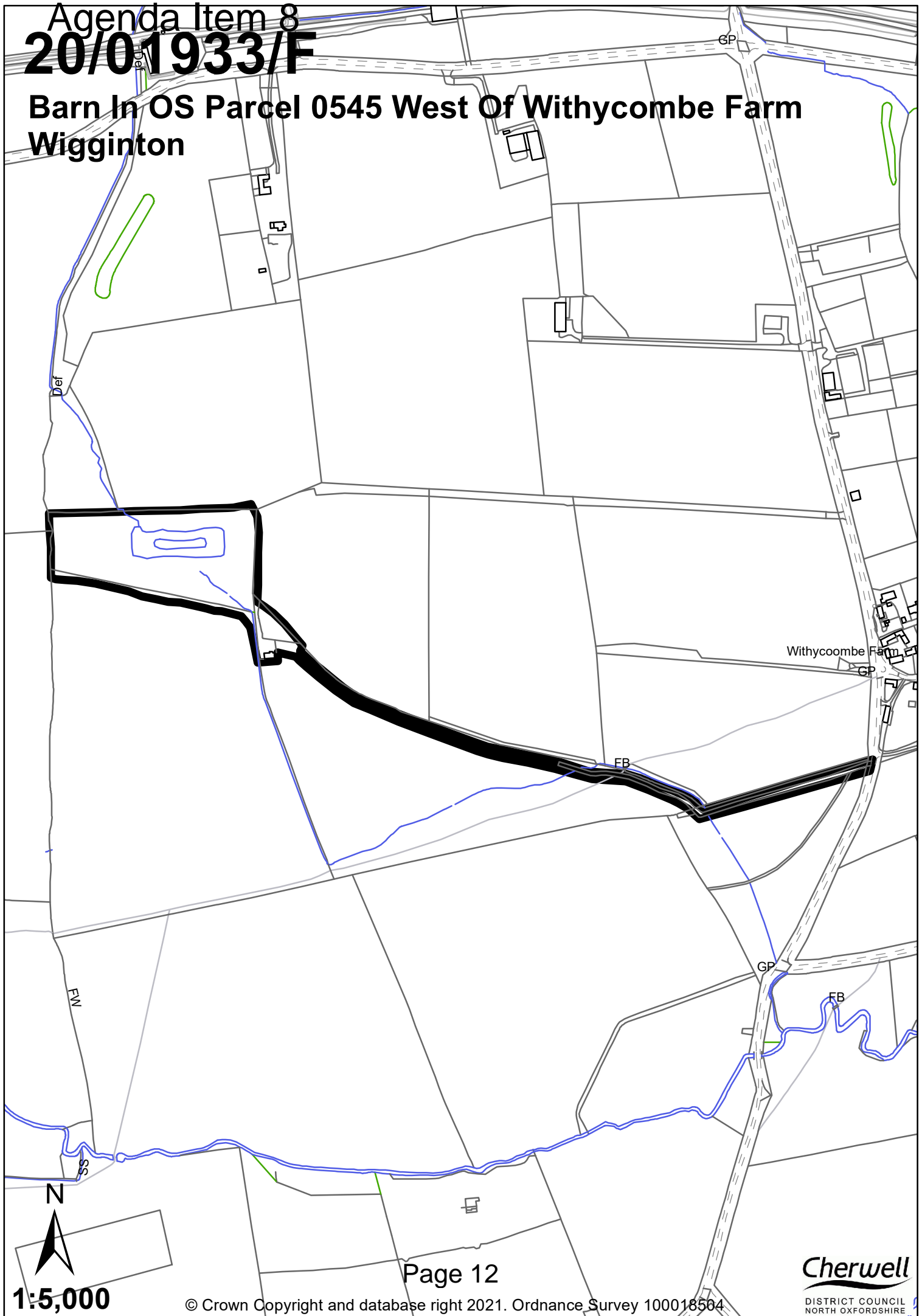
For each of the applications listed are: the application form; the accompanying certificates and plans and any other information provided by the applicant/agent; representations made by bodies or persons consulted on the application; any submissions supporting or objecting to the application; any decision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

Item No.	Site	Application Number	Ward	Recommendation	Contact Officer
8	Barn In OS Parcel 0545 West Of Withycombe Farm, Wigginton	20/01933/F	Deddington	*Grant Permission	Matthew Chadwick
9	The Chesterton Hotel Bicester Road Chesterton OX26	20/02653/F	Fringford and Heyfords	Refusal	Matthew Chadwick
10	Straw Barn College Farm, Main Street, Wendlebury, OX25 2PR	20/02859/F	Launton and Otmoor	*Grant Permission	Emma Whitley
11	Axis J9 Phase 1 OS Parcel 4200 Adjoining Middleton Road and Howes Lane, Bicester	20/03199/F	Bicester North and Caversfield	*Grant Permission	Caroline Ford
12	3 The Green Barn Stoke Lyne Road Stratton Audley Bicester OX27 9AT	20/03426/F	Fringford and Heyfords	*Grant Permission	Matthew Chadwick
13	Glebe Farm Boddington Road Claydon, Oxon OX17 1TD	20/02446/F	Cropredy, Sibfords and Wroxton	Refusal	Shona King

*Subject to conditions

Agenda Item 8
20/01933/F

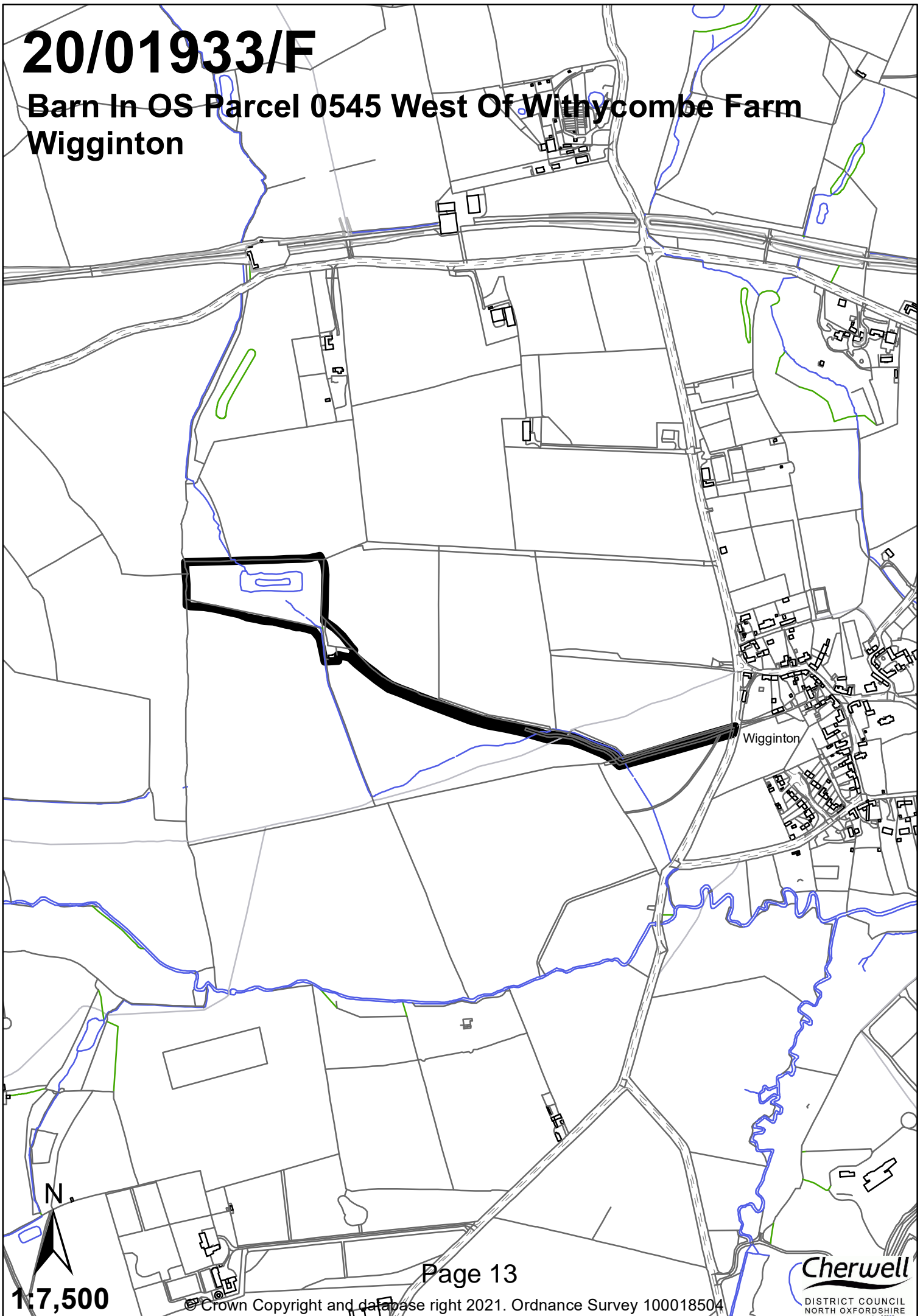
**Barn In OS Parcel 0545 West Of Withycombe Farm
Wigginton**



1:5,000

20/01933/F

Barn In OS Parcel 0545 West Of Withycombe Farm Wigginton



1:7,500

**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:** 11 February 2021

This application was deferred by Members at the January Planning Committee meeting so a virtual site visit could take place. This motion was proposed by Councillor Hugo Brown and seconded by Councillor Mike Kerford-Byrnes.

At the time of writing this report, the date for the virtual site visit has not been set but discussions are taking place between the drone survey company, the applicant and the Member that proposed the motion.

Since the January Planning Committee meeting, one further letter of objection has been received. The applicant has submitted a lighting report, to which the Environmental Protection Officer has raised no objections.

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 1127 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 17 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 certain particular 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 would 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 1127 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. A lighting report has been submitted with the application. The Environmental Protection Officer has raised no objections to this and therefore it is considered that the development would be acceptable in this regard.
- 9.48. 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

- 9.49. 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.
- 9.50. 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.

- 9.51. 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

- 9.52. 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.
- 9.53. 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.
- 9.54. 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.
- 9.55. 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.
- 9.56. 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

- 9.57. 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.
- 9.58. 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.
- 9.59. 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.
- 9.60. 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.
- 9.61. 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.
- 9.62. 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.
- 9.63. 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

- 9.64. 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')

9.65. 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.

9.66. The application is supported by a detailed protected species survey which concluded that bats, nesting birds and reptiles are present on the site.

9.67. 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

9.68. 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

9.69. 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.

9.70. Policy ESD7 of CLP 2015 requires the use of Sustainable Urban Drainage Systems to manage surface water drainage systems.

9.71. 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.

- 9.72. 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.
- 9.73. 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.
- 9.74. 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.
- 9.75. 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.
- 9.76. 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

- 9.77. 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.
- 9.78. 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.
- 9.79. 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) That application 18/00063/Q56 shall not be implemented
- b) The use of the building as one dwelling only

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,

- (d) 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.

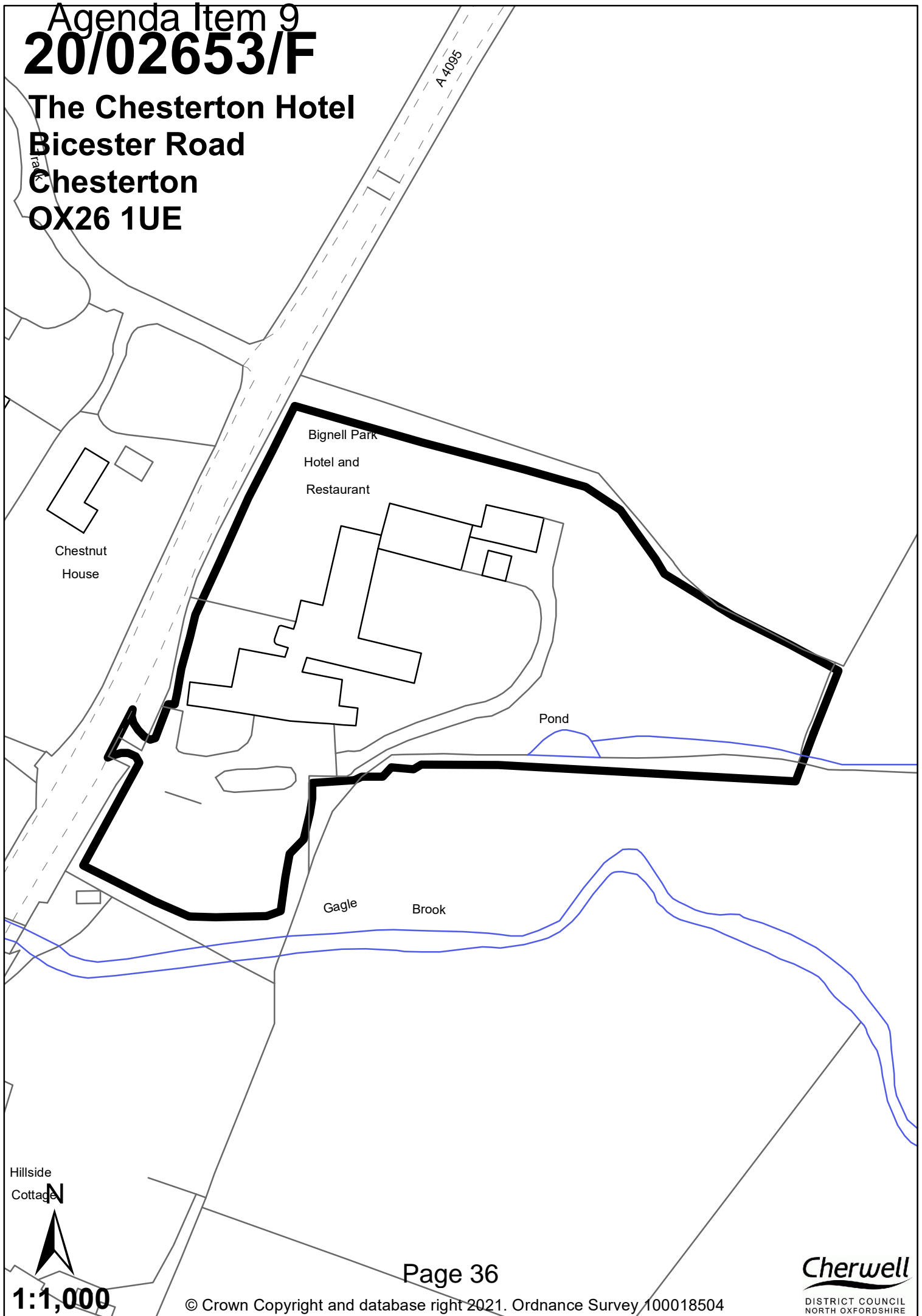
Reason: To ensure and retain the satisfactory appearance of the completed development and to enable the Local Planning Authority to retain planning control over the development of this site to protect the character of the wider landscape and countryside and in the interests of sustainable development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

CASE OFFICER: Matthew Chadwick

TEL: 01295 753754

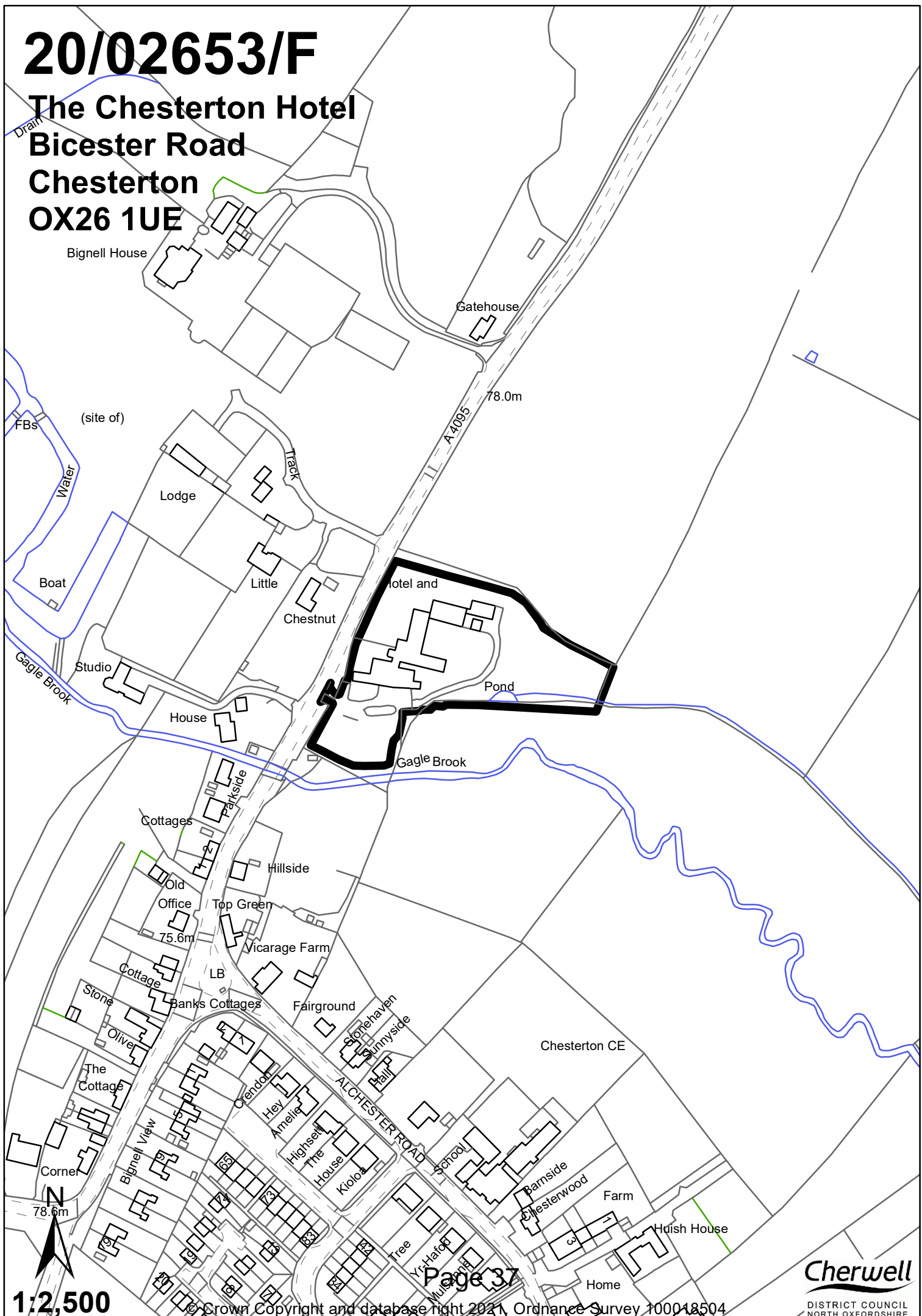
Agenda Item 9
20/02653/F

The Chesterton Hotel
Bicester Road
Chesterton
OX26 1UE



20/02653/F

The Chesterton Hotel Bicester Road Chesterton OX26 1UE



1:2,500

Case Officer: Matthew Chadwick

Applicant: Rabinder Gill

Proposal: Variation of Condition 2 (plans) of 18/01529/F - to amend the design of the extension

Ward: Fringford And Heyfords

Councillors: Councillor Ian Corkin, Councillor James Macnamara and Councillor Barry Wood

Reason for Referral: Called in by Councillor Corkin on the grounds of public interest

Expiry Date: 20 November 2020

Committee Date: 11 February 2021

1. APPLICATION SITE AND LOCALITY

1.1. The application relates to the existing Chesterton Hotel in Chesterton. The hotel is located at the northern end of the village, to the east of the A4095 and north of the Gagle Brook. The hotel building has a relatively large footprint and is two storeys in height. The hotel currently accommodates 19 rooms. A car park is situated to the south of the building. The site has been used for weddings and other functions in the past and previously had a large temporary marquee connected to the building at the rear.

2. CONSTRAINTS

2.1. The hotel building is not a listed building and there are no listed buildings within close proximity to the site. The site is not within a Conservation Area. The southern edge of the site (the car park) is within Flood Zone 2/3. The site is on land that is potentially contaminated. The site has some ecological potential as legally protected species have been recorded within the vicinity of the site. The site has medium archaeological interest. There is a public footpath to the north of the site

3. DESCRIPTION OF PROPOSED DEVELOPMENT

3.1. Planning consent is sought to vary condition 2 of 18/01529/F to alter the design of the function hall and kitchen extensions to the hotel. The depth of the kitchen extension would be reduced slightly, there would be alterations to the fenestration and the walls would be rendered instead of finished in natural stone as previously approved. The function hall has increased in length slightly, the amount of glazing has increased significantly, and the roof form has altered significantly.

3.2. The application is retrospective and at the time of the officer's site visit the construction phase was at an advanced stage. There is a second, undetermined application at the site (ref. 20/02643/NMA), which seeks approval as non-material amendments for changes to the finishes of selected external walls from 18/01529/F.

4. RELEVANT PLANNING HISTORY

- 4.1. There has been a long history of applications at the site, however only the following planning history is considered relevant to the current proposal:

18/01529/F - Extensions to the hotel building to provide a function hall and bigger kitchen facility with associated external works – Application Permitted

- 4.2. This application was permitted on 30th November 2018. The conditions for this application have yet to be discharged.

5. PRE-APPLICATION DISCUSSIONS

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

6. RESPONSE TO PUBLICITY

- 6.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was **13 November 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 13 households and letters of support from 16 households. The comments raised in objection from third parties are summarised as follows:

- The extension would cause harm to the character and appearance of the area due to the temporary design of the extension.
- The development would cause harm to the amenities of neighbours due to noise pollution.
- The development would overlook nearby gardens.
- The development would result in significant light pollution.
- The development would cause harm to highway safety.
- The development would cause harm to local ecology.
- Screening of the site has been removed.

- 6.3. The comments raised in support are summarised as follows:

- The development would support the jobs at the hotel.
- The development has been suitably designed and would not cause harm to neighbours.
- The development would not cause harm to highway safety.

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

7. RESPONSE TO CONSULTATION

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

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

7.2. CHESTERTON PARISH COUNCIL: **Raises concerns** regarding the significant change in the design of the building from that which was approved and comments that suitable tree planting would be required, alongside an assessment of the noise and light levels.

OTHER CONSULTEES

7.3. OCC ARCHAEOLOGY: **No objections.**

7.4. CDC BUILDING CONTROL: A full Building Regulations application will be required.

7.5. OCC DRAINAGE: No comments received at the time of writing this report.

7.6. CDC ECOLOGY: No comments received at the time of writing this report.

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

7.8. OCC HIGHWAYS: **No objections**, subject to conditions relating to a travel plan and cycle parking provision.

7.9. CDC LANDSCAPE SERVICES: No comments received at the time of writing this report.

7.10. CDC RIGHTS OF WAY: **No objections.**

7.11. THAMES WATER: No comments received at the time of writing this report.

8. RELEVANT PLANNING POLICY AND GUIDANCE

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

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

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

- PSD1: Presumption in Favour of Sustainable Development
- SLE4: Improved Transport and Connections
- ESD1: Mitigating and Adapting to Climate Change
- ESD6: Sustainable Flood Risk Management
- ESD7: Sustainable Drainage Systems

- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD15: The Character of the Built and Historic Environment
- Villages 1: Village Categorisation

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C28: Layout, design and external appearance of new development
- ENV1: Development likely to cause detrimental levels of pollution

8.3. Other Material Planning Considerations

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

9. APPRAISAL

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

- Principle of development
- Design, and impact on the character of the area
- Residential amenity
- Highways safety
- Flooding risk
- Ecological impact
- Other matters

Principle of Development

Policy Context

9.2. Policy ESD1 of the Cherwell Local Plan 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 this 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

9.3. Government guidance within the NPPF encourages Local Planning Authorities to support a prosperous rural economy and notes that planning decisions should enable:

- The sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings;
- Sustainable rural tourism and leisure development which respect the character of the countryside.

Assessment

9.4. The case officer for 18/01529/F considered that, given the scale of the function hall building and the number of guests it can accommodate, the function hall element of

the business would be a relatively significant proportion of the business, especially given that the hotel would only accommodate 18 rooms. The case officer did not consider the function hall use would be ancillary to the hotel and restaurant use and therefore that the site would be *sui generis* (outside of any use class). The function hall is slightly larger than that approved under 18/01529/F and therefore officers remain of the same view with regard to its use.

- 9.5. The proposal would be compliant with the NPPF insofar that the extension would facilitate the sustainable growth and expansion of an existing business within a rural area, which this would help support the goal of a prosperous rural economy.
- 9.6. Although the site is not within one of the towns of the district or the large village of Kidlington, it is within a category A village, which is defined as one of the most sustainable villages within the District's rural areas within the Local Plan (i.e. one of the larger villages which has a range of services and facilities). The site is also within relatively close proximity to the town of Bicester (under 1KM). It is therefore a relatively sustainable location for this scale of development.
- 9.7. The development consented for under 18/01529/F has been commenced but no conditions have been discharged. That said, the consent remains extant until 30th November 2021 so there remains 11 months for those conditions to be discharged and regularise that consent or, for a further (Section 73) application to be submitted to make minor modifications to the approved development.
- 9.8. Given the above, it is considered that the principle of development is acceptable.

Conclusion

- 9.9. The principle of development remains to be acceptable and the development would comply with Policy ESD1 of the Cherwell Local Plan 2015 and Government guidance contained within the NPPF.

Design, and impact on the character of the area

Policy context

- 9.10. Policy ESD15 of the Cherwell Local Plan Part 1 states that: "*New development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design. All new development will be required to meet high design standards.*"
- 9.11. Saved Policy C28 of the Cherwell Local Plan 1996 exercises control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context as well as compatible with existing buildings.

Assessment

- 9.12. Regarding the function hall extension, this element of the building would not be highly visible from the public domain given its siting to the rear of the building. The extension would also be well screened from the public footpath to the north of the site by landscaping and the existing building.
- 9.13. However, the design of the function hall has changed significantly from the approved scheme. The footprint of the extension is slightly larger, there is more glazing and the design of the roof is significantly different. The footprint of the function hall would

have a maximum length of 30m and a maximum depth of 15m, whilst the approved extension had a maximum length of 26m and a maximum depth of 16m.

- 9.14. On the southern elevation of the extension, the building as approved had three sliding windows and stone walls at both corners of the extension. On the eastern elevation, the extension had a gable with a significant amount of glazing and stone walls at the corners. On the northern elevation, the extension had a blank elevation with stone walls to match the existing building.
- 9.15. On the extension as proposed, there would be significantly more glazing on all elevations. The sliding windows on the southern elevation have been removed and there are exit doors for the extension on the northern and eastern elevations. The replacement of the masonry elements of the scheme with glazing contributes to the extension appearing more lightweight; however, in doing so the extension does not relate as well to the existing building due to the loss of the materials from which the majority of the existing building is constructed.
- 9.16. The most significant alteration is that to the roof. The roof as approved was to be constructed externally from plain tiles to match the existing building and had a pitched roof running west to east. The roof as now proposed is labelled on the plans as 'semi-permanent marquee system membrane roof'. The overall height of the roof has been reduced from that approved, but the new roof design gives the building a more temporary appearance and results in the extension having an incongruous appearance when viewed next to the existing building. The use of a significant amount of glazing and the membrane roof does not relate well to the more traditional design of the rest of the building, constructed from stone under tiled roofs.
- 9.17. The applicant has stated that the changes to the design were as a result of the COVID19 pandemic and the financial cost of building the extensions as approved. Whilst officers sympathise with this position, it is not considered an adequate reason to compromise on good design can be compromised, which is strongly supported in local and national policy.
- 9.18. Paragraph 127 of the NPPF encourages developments that are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change. Policy ESD15 of the CLP 2015 is consistent with this and states that new development should contribute positively to an area's character and identity by creating or reinforcing local distinctiveness. It is considered that the development would not be innovative in its design and would fail to create or reinforce local distinctiveness due to its lightweight and temporary appearance and its use of incongruous materials. It is considered that its incongruous design would cause harm to the character and appearance of the area. A temporary planning consent for the development would not be appropriate given that the proposal is for operational development i.e. rather than the siting of a temporary or removable structure.
- 9.19. The kitchen extension would be reduced in scale slightly and the materials would be altered from stone to render and brick slips. The changes to this element of the scheme are considered to be relatively minor and would not cause harm to the character and appearance of the area.
- 9.20. No further details of the landscaping have been submitted with this application. If the development were considered acceptable in all other respects then a landscaping scheme could be required by condition.

Conclusion

- 9.21. It is considered that the design of the function hall extension would cause harm to the character and appearance of the area and would fail to comply with Policy ESD15 of the CLP 2015, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the NPPF.

Residential amenity

Policy context

- 9.22. Policy ESD15 of the Cherwell Local Plan Part 1 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. Paragraph B.42 in the Cherwell Local Plan Part 1 states that: *“In all cases very careful consideration should be given to locating employment and housing in close proximity and unacceptable adverse effects on the amenity of residential property will not be permitted.”*
- 9.23. Saved Policy ENV1 of the Cherwell Local Plan 1996 states that: *“Development which is likely to cause detrimental levels of noise, vibration, smell, smoke, fumes or other type of environmental pollution will not normally be permitted.”*

Assessment

- 9.24. The proposed extensions are sited so as to prevent demonstrable harm to neighbouring properties in terms of loss of light, loss of privacy or overlooking, or the creation of an overbearing effect and the changes proposed under this application do not affect officers' view in this regard.
- 9.25. There have been several objections raising concerns regarding the noise impact of the development. The approved scheme had sliding doors on its southern elevation which would face towards dwellings approximately 200m to the south. The proposed scheme does have slightly more glazing on this elevation but given that these are non-opening windows, it is considered that the proposed scheme would be no more harmful with regard to noise disturbance. The applicant has submitted information regarding the sound insulation for the building.
- 9.26. The Environmental Protection Officer has raised no objections. A condition was imposed on the approved scheme for the function hall only to be used between the hours of 8am to 12am and if the scheme were considered acceptable in all other respects then it would be reasonable to include this condition again.
- 9.27. On the approved scheme, a condition relating to full details of the extraction system for the kitchen extension was imposed. Again, on this application, limited details have been displayed in relation to the extraction system. Therefore full details of this would need to be requested as a kitchen so as to ensure that the odour and noise levels are acceptable.

Conclusion

- 9.28. Subject to conditions the development would not cause harm to the amenities of neighbours and would comply with Policy ESD15 of the Cherwell Local Plan 2015, Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the NPPF.

Highway safety

- 9.29. OCC Highways as local highway authority (LHA) has raised no objections to the proposal, but this is subject to conditions. One such condition is the submission of a travel plan to limit guests to the function hall arriving via private motor car. The LHA states that the travel plan is required to alleviate the concerns in relation to the existing car park not being proposed to be expanded beyond the 48 standard and 2 accessible car parking spaces, while the hotel still providing 18 rooms, and a function hall proposed to accommodate up to 178 people and the associated staff. As Policy ESD1 of the Cherwell Local Plan (2011-2031) Part 1 notes that the LPA will deliver development that seeks to reduce the need to travel and reduce dependence on private cars, and given the LHA's comment, it is considered necessary to require this by condition.
- 9.30. Given the location of the site and its close proximity to Bicester, and if one was to grant permission, it would be reasonable to impose a cycle parking condition to promote sustainable forms of transport and alleviate congestion in the existing car park, particularly for staff and to provide another mode of transport that can be factored into the Travel Plan that is also suggested as a condition.
- 9.31. Subject to the aforementioned conditions, the proposals are considered acceptable in terms of local highway safety.

Flooding risk

- 9.32. The car park to the south of the site is partly within Flood Zones 2 and 3 (areas of higher flooding risk), but the proposal does not involve any operational development within these flood zones. Thus, it is considered that a sequential test and a flood risk assessment are not required for this application. It is therefore considered that the proposal is unlikely to increase the flooding risk on the site or elsewhere.

Ecological impact

- 9.33. Paragraph 170 of the NPPF states that: *"The planning system should contribute to and enhance the natural and local environment by...minimising impacts on and providing net gains for biodiversity."*
- 9.34. Policy ESD10 of the Cherwell Local Plan Part 1 reflects the requirements of paragraph 170 of the NPPF and seeks to ensure protection and enhancement of biodiversity.
- 9.35. The Council's Ecologist has not raised comments within the consultation period. The site comprises hardstanding and mowed lawn. It is not considered that the development would have any further ecological impact than the approved scheme and therefore the development is considered to be acceptable in regard. The proposals thus comply with Policy ESD10 of the CLP 2015 and Government guidance contained within the NPPF.

10. PLANNING BALANCE AND CONCLUSION

- 10.1. For the reasons set out in this report, the proposals would result in a visually incongruous and poorly designed form of development that would adversely affect the character and appearance of the area. In terms of benefits, the development would help to support the expansion of the existing hotel business and its employment of local people. However, these are also benefits accrued through the previously approved scheme and are not specific to the current proposals in particular. Officers consider that the identified harm to the character and appearance of the area would outweigh these benefits and alternative schemes, including that

approved, yield those same benefits. The application is therefore recommended for refusal for the reason set out below.

11. RECOMMENDATION

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

REASONS FOR REFUSAL

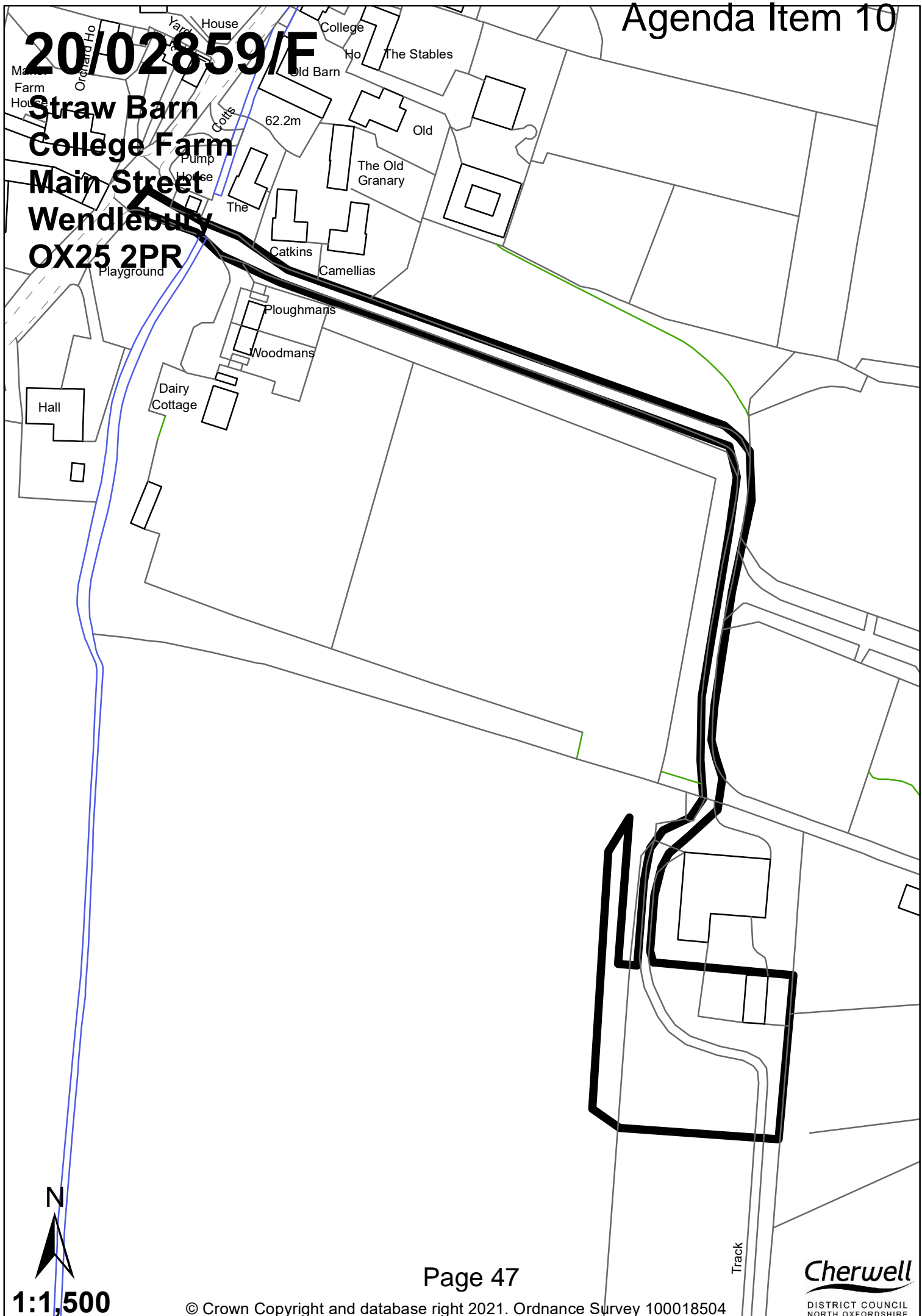
1. By virtue of its design, form and use of materials, the proposed function hall extension would result in a visually incongruous and poorly designed form of development that would fail to relate to well to the existing hotel building and would adversely affect the character and appearance of the area. This harm would significantly and demonstrably outweigh the proposals' benefits. The proposed development would therefore fail to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

CASE OFFICER: Matthew Chadwick

TEL: 01295 753754

20/02859/F

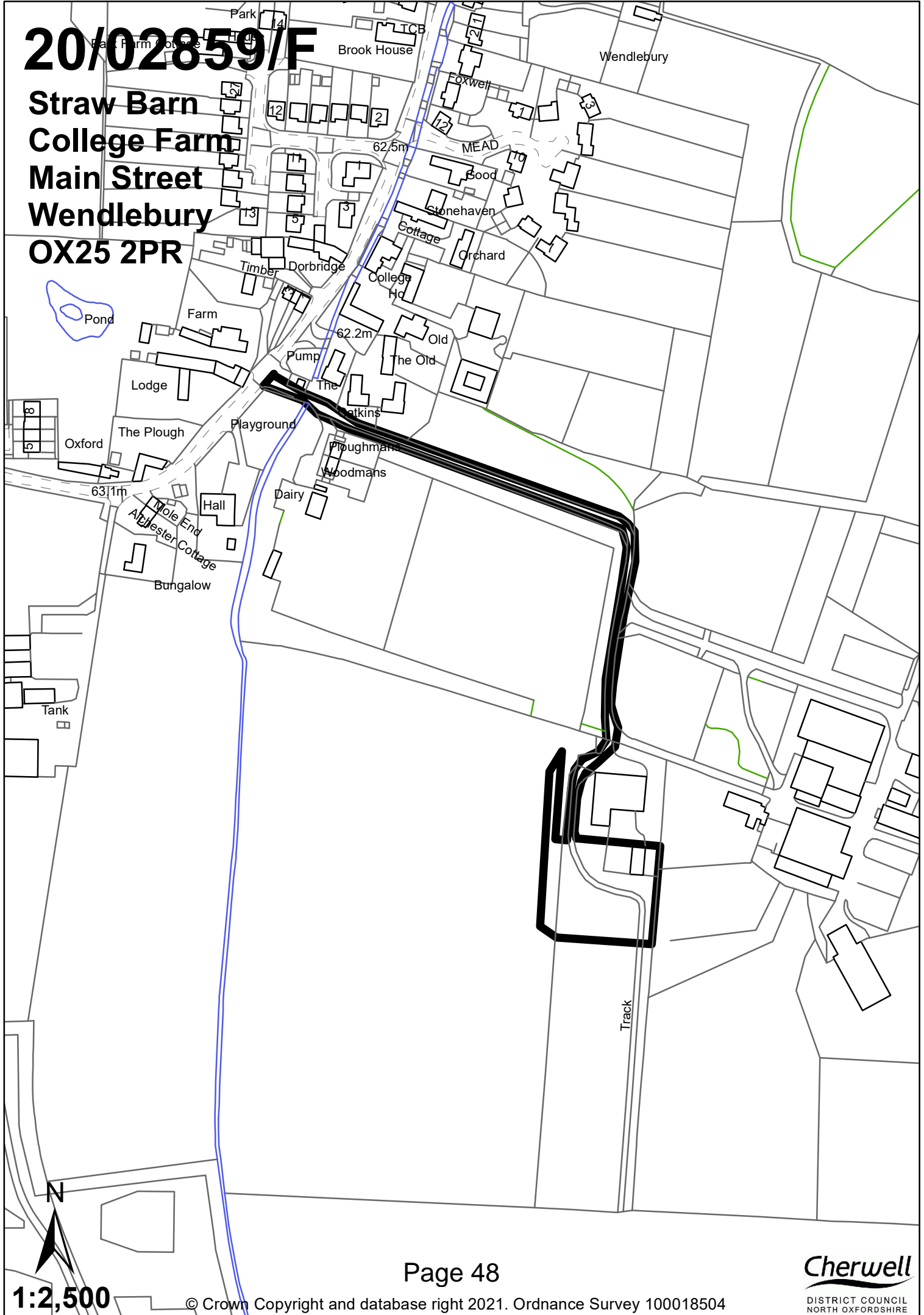
**Straw Barn
College Farm
Main Street
Wendlebury
OX25 2PR**



1:1,500

20/02859/F

**Straw Barn
College Farm
Main Street
Wendlebury
OX25 2PR**



Straw Barn College Farm, Main Street, Wendlebury, OX25 2PR

Case Officer:	Emma Whitley		
Applicant:	Mr & Mrs T Howard		
Proposal:	Erection of a general-purpose agricultural building		
Ward:	Launton And Otmoor		
Councillors:	Cllr Timothy Hallchurch MBE, Cllr Simon Holland and Cllr David Hughes		
Reason for Referral:	Major development		
Expiry Date:	12 February 2021	Committee Date:	11 February 2021

1. APPLICATION SITE AND LOCALITY

- 1.1. The application relates to a parcel of agricultural land to the south-east of the village of Wendlebury. The site is accessed from a hard-surfaced track between The Willows and Ploughman's Cottage on Main Street in Wendlebury.
- 1.2. The application site is located to the west of a complex of buildings and consists of a part-open fronted agricultural building used for housing of cattle and an open fronted barn used for hay storage to the south.

2. CONSTRAINTS

- 2.1. The application site is within an area containing swift nests in buildings and an archaeological alert area (Wendlebury historic core) A small part of the entrance to the site, where it meets the main road, is within flood zones 2 and 3, the development site itself is however located within a flood zone 1.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The applicants seek planning permission for the erection of an agricultural building. The footprint would be 30 metres x 48 metres (measured externally) with a height of 7.9 metres to the central pitch. The barn would be part-open fronted.
- 3.2. The applicant has indicated that the proposed barn would be used by cattle during the winter, as well as provide space to store straw, hay, silage and associated farm machinery.

4. RELEVANT PLANNING HISTORY

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

5. PRE-APPLICATION DISCUSSIONS

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

6. RESPONSE TO PUBLICITY

- 6.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was **27 January 2021**.
- 6.2. No comments have been raised by third parties.

7. RESPONSE TO CONSULTATION

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

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

- 7.2. WENDLEBURY PARISH COUNCIL: **No objections or comments.**

CONSULTEES

- 7.3. CDC Ecology: **No objections.** Comments:

The site for the proposed building appears from the Design and Access statement to already be largely hard standing. However, it is in an 'amber zone' for habitat suitability for Great Crested Newts.

Whilst I think impacts on great crested newt habitat are likely to be limited it would be advisable to condition a method statement (or similar as part of a CEMP) to include measures to ensure that any potential to harm newts passing through the site is minimised. This could be through measures such as ensuring vegetation on site is kept short before works commence, that materials are only stored on hard standing and rubble etc.. is limited to avoid it becoming an attractive refuge for newts.

Should Great Crested Newts be found on site during works all works need to stop until further guidance is sought and a licence to continue is obtained.

Should the developers wish to ensure this sort of delay is not a possibility they could apply for a district licence however this would need to be done prior to determination.

As far as I can tell from the plans there are no trees to be removed? If any shrubs or trees are to be removed, then this will need to be done outside the bird nesting season of March-August inclusive. The proposed tree planting would be a fair enhancement for biodiversity on site and should be conditioned. Beyond this I have no other concerns to raise on ecological grounds.

- 7.4. CDC Environmental Health: **No objections**
- 7.5. CDC Landscape Services: **No objections** based on the submitted landscaping scheme.
- 7.6. CDC Planning Policy: No comments received.

- 7.7. CDC Arboriculture: **No objections** subject to adequate protection being afforded to nearby trees during construction.
- 7.8. CDC Economic Development: No comments received.
- 7.9. CPRE: No comments received.
- 7.10. Public Art: No comments received.
- 7.11. Thames Valley Police: No comments received.
- 7.12. OCC Highways: **No objections**.
- 7.13. OCC Archaeology: **No objections**.

8. RELEVANT PLANNING POLICY AND GUIDANCE

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

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

- PSD1 – Presumption in Favour of Sustainable Development
- ESD6 – Sustainable Flood Risk Management
- ESD10 – Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13 – Local Landscape Protection and Enhancement
- ESD15 - The Character of the Built and Historic Environment

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- AG2 – Construction of farm buildings
- C28 – Layout, design and external appearance of new development
- ENV1 – Pollution control

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Planning Advice for Farmers on Siting and Design of Farm Buildings (2002)

9. APPRAISAL

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

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

- Highway safety
- Flood Risk

Principle of development

- 9.2. The proposed development would involve the erection of an agricultural building on existing farmland. The principle of such development is normally acceptable, and this is reflected by the approach taken by the Government towards to agricultural development in Part 6 of the General Permitted Development Order 2015 (as amended) which enables relatively large buildings to be constructed without the need for planning permission. This positive approach is also reflected in Policy AG2 of the CLP 1996 and the guidance set out in the NPPF.
- 9.3. The barn is required to accommodate an increase in the size of the applicant's cattle herd from 30 to 50 animals. In addition, rather than selling them on at 8-9 months old, as is currently the case, the farmer intends to keep them for a longer period of time (24-30 months) which requires additional space to segregate the cows at different stages of their development. The barn would also be used to store feed and farm machinery.
- 9.4. With an appropriate justification, subject to the considerations set out below the principle of the proposal is considered to be acceptable.

Design, and impact on the character of the area

- 9.5. Policy ESD13 of the CLP 2031 Part 1 expects development to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided. Policy ESD15 of The CLP 2031 Part 1 requires development to complement and enhance the character of its context through sensitive siting, layout and high-quality design. All new development will be required to meet high design standards.
- 9.6. Saved Policy C28 of the CLP 1996 seeks a standard of layout, design and external appearance, including the choice of external finish materials, that are sympathetic to the character of the context of the development.
- 9.7. Saved Policy AG2 of the CLP 1996 relates to new farm buildings and associated structures that require planning permission. It requires them to be so sited that they do not intrude into the landscape or into residential areas. Where appropriate a landscaping scheme should be included, and materials of construction should be chosen so that the development fits sympathetically into its rural setting.
- 9.8. The site is largely level and sits within a flat rural landscape. Land immediately surrounding the proposed building is open, with similar agricultural style buildings within the wider College Farm complex. A revised scheme of native tree planting, agreed with the Council's Landscape Officer is proposed to the west of the proposed building, which would lessen the impact of the building when viewing the site from the southern edge of the village. The existing vegetation to the east is proposed to be retained. Subject to condition, this has met with the approval of the Ecology Officer and Arboricultural Officer.
- 9.9. The use of timber cladding, concrete wall panels and grey fibre cement roof sheets are considered acceptable given its agricultural context and the use of similar materials to that of the surrounding barns.
- 9.10. It is noted that guidance contained within the *Planning Advice for Farmers on Siting and Design of Farm Buildings* suggests that new buildings should be positioned

within the corner of a field rather than in an exposed position in the middle of a field. The proposed building would be positioned adjacent to the eastern boundary, and whilst the proposal is centrally positioned along this boundary, given the location of trees, it is considered that this location be preferential in order to avoid any harm to them.

- 9.11. Given the assessment above, it is concluded that the proposal accords with the above Policies in respect of its visual impact.

Residential amenity

- 9.12. Policy ESD15 of the CLP 2031 Part 1 requires all development to consider the amenity of both existing and future development. Saved Policy ENV1 of the CLP 1996 seeks to ensure that the amenities of the environment, and in particular the amenities of residential properties, are not unduly affected by development proposals which may cause environmental pollution, including that caused by traffic generation.

- 9.13. The proposed barn is positioned a sufficient distance from the nearest residential dwellings, over 230 metres, in order to avoid any harm in terms of a loss of residential amenity. In addition, the Environmental Health Officer was satisfied that at such a distance there would be no undue environmental impact from the use of the building to house cattle during winter. The proposals are therefore considered to accord with the above Policies.

Highway safety

- 9.14. 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.*

- 9.15. The access to the barn would be taken via the existing access to the north of the site. The proposals are not considered to attract a significant change to vehicular movements nor would they present any demonstrable harm to the highway network. In addition, the Local Highways Authority did not provide any objections to the proposal. The proposals are therefore considered acceptable in this regard.

Flood Risk

- 9.16. Although a small part of the entrance to the site lies within flood zones 2 and 3, the affected area does not include any of the operational land on which the barn would be constructed. A flood risk assessment was not therefore sought and the development accords with Policy ESD6 of the CLP 2031 Part 1.

10. PLANNING BALANCE AND CONCLUSION

- 10.1. The principle of development is considered acceptable as it would support the existing agricultural use of the farm complex. The proposed building would be well screened from the public domain, would not adversely affect the amenities of any residential dwellings within the locale 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.

11. RECOMMENDATION

RECOMMENDATION – GRANT PERMISSION, SUBJECT TO THE CONDITIONS SET OUT BELOW

CONDITIONS:

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: 20.192.01 Rev B; 20/0192.02; 20/192.03 Rev A and the Landscaping Scheme produced by Pyramid Consulting Arboricultural Consultancy (January 2021).

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 tree planting scheme, as shown on approved drawing number 20-0192-01 Rev B, and the Landscaping Scheme produced by Pyramid Consulting Arboricultural Consultancy (January 2021), shall be completely implemented within the first planting season following the first use of any part of the approved development. All planting, seeding or turfing comprised in the approved details of landscaping shall be maintained for a period of 5 years from the first use of any part of the approved development. Any trees and/or shrubs which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent for any variation.

Reason – To provide an effective and attractive screen for the development in the interests of visual amenity and to accord with Policy ESD13 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. 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 Policy ESD10 of the Cherwell Local Plan 2011–2031 Part 1, and Government guidance contained within the National Planning Policy Framework.

5. The existing trees to be retained along the eastern border of the development shall be protected in accordance with the detail set out in the Landscaping Scheme produced by Pyramid Consulting Arboricultural Consultancy (January

2021).

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

6. If the use of the building, hereby approved, for the purposes of agriculture permanently ceases, the building must be removed from the land and the land must, so far as is practicable, be restored to its condition prior to the implementation of this permission or to such a condition as agreed in writing by the Local Planning Authority.

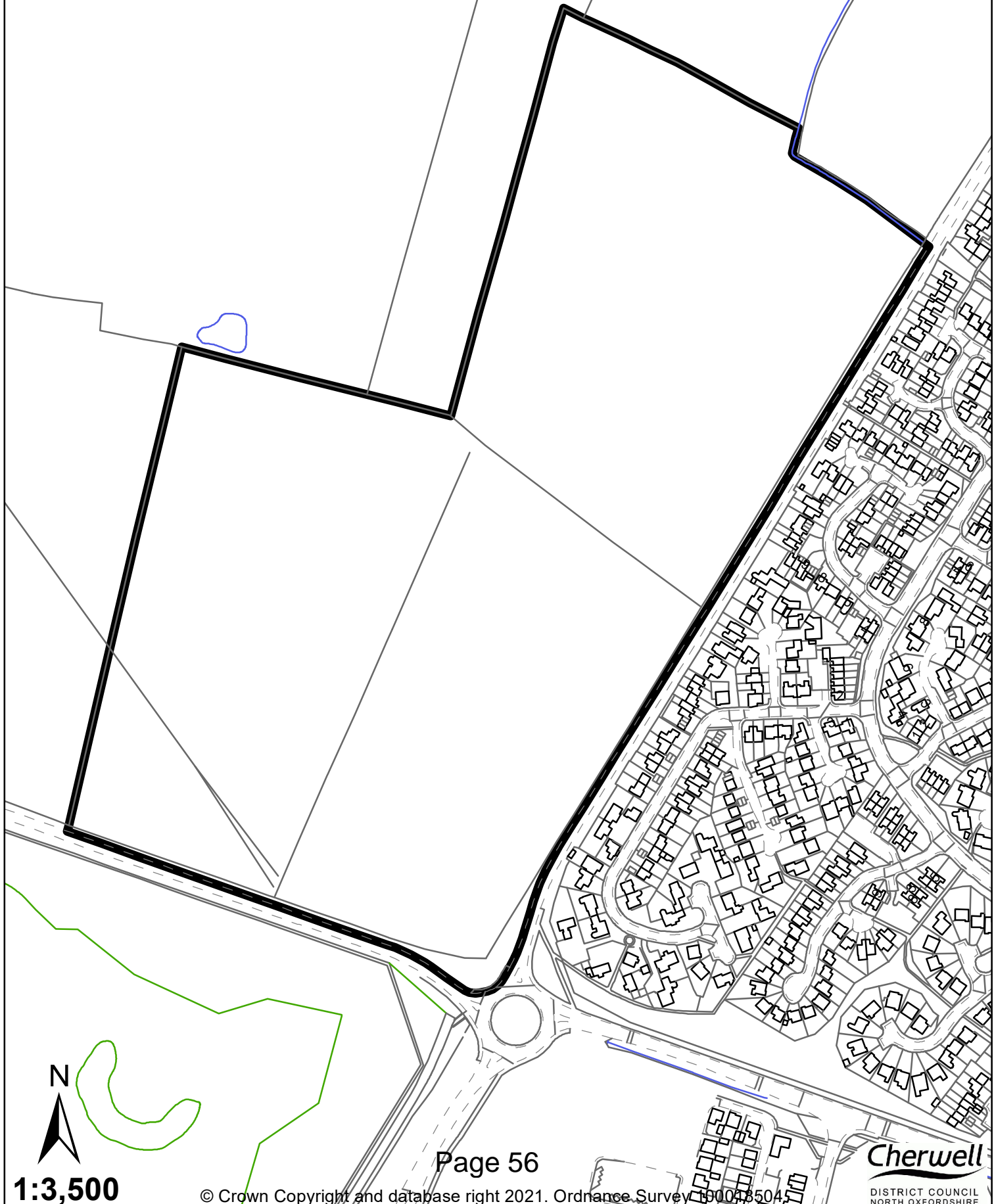
Reason – The site is in an area where permission for development unrelated to the needs of agriculture would not normally be granted and therefore to enable the Local Planning Authority to retain planning control over the development of the site and in order to safeguard the amenities of the area in accordance with saved Policies C28 and ENV1 of the Cherwell Local Plan 1996, Policies ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

CASE OFFICER: Emma Whitley

TEL: 01295 221594

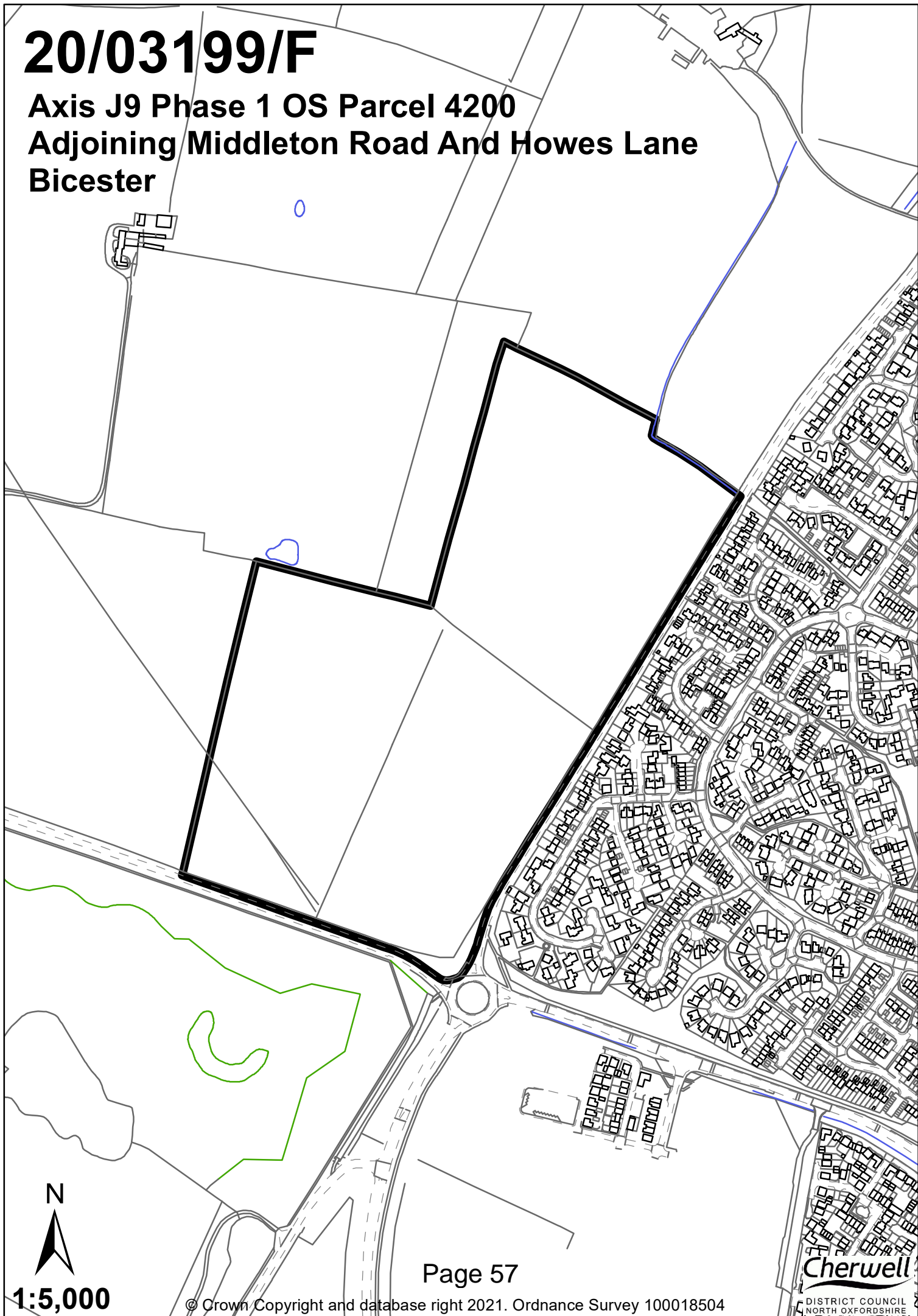
Agenda Item 11
20/03199/F

**Axis J9 Phase 1 OS Parcel 4200
Adjoining Middleton Road And Howes Lane
Bicester**



20/03199/F

Axis J9 Phase 1 OS Parcel 4200
Adjoining Middleton Road And Howes Lane
Bicester



Case Officer: Caroline Ford

Applicant: Albion Land Two Ltd

Proposal: Variation of condition 13 (extent of employment development usage) of 19/00347/OUT - to enable the full employment development to be occupied for Use Class B8 in respect of the above site

Ward: Bicester North and Caversfield

Councillors: Councillor Mawer, Councillor Pratt and Councillor Slaymaker

Reason for Referral: Called in by Councillor Sibley (adjacent Ward – Bicester West) for the following reasons: concern regarding the proposal to amend the Use Class of the development (full objection reported in the appraisal)

Expiry Date: 3 March 2021 **Committee Date:** 11 February 2021

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

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

Proposal

The application is made under S73 of the Town and Country Planning Act 1990 (as amended) to vary planning condition 13 of outline approval 19/00347/OUT, which controls the uses for which the development can be used for. Specifically, the proposal relates to the use of the employment floor space with flexibility sought to enable the development to be used for up to 100% B8 (Storage and Distribution) uses.

Consultations

The following consultees have raised **objections** to this condition variation application:

- Bicester Town Council and Bicester West Ward Members

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

- CDC Landscape, CDC Building Control, CDC Environmental Protection, OCC Transport, Environment Agency and Natural England.

OCC have made strategic comments on the application.

2 letters of objection have been received.

Planning Policy and Constraints

The application site is within the extent of allocated site Bicester 1 and has outline planning permission subject to conditions and a S106 agreement. There are some natural constraints at the site including ecology, plus trees and hedgerows.

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

Conclusion

The key issues arising from the application details are:

- Environmental Statement
- Principle of the proposed change to the use class of the development
- Impact of the proposed change on the character of the area
- Impact of the proposed change on highway safety
- Impact of the proposed change on residential amenity
- Impact of the proposed change on other site constraints
- Impact of the proposed change on the Eco Town Standards
- Conditions and Planning Agreement

The report examines the key planning issues in detail, and Officers conclude that on balance the proposal is acceptable, subject to conditions and a legal agreement.

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

MAIN REPORT

1. APPLICATION SITE AND LOCALITY

1.1. The application site is situated to the northwest of Bicester, bounded by the Middleton Stoney Road (B4030) to the south, Howes Lane (A4095) to the east and land to the north and west forming part of the strategic allocation site at NW Bicester (Policy Bicester 1). To the east of Howes Lane is the existing developed edge of Bicester and to the southeast is Kingsmere, Phase 2 of which is currently being developed. The land extends to around 20ha in area.

1.2. The application site benefits from outline planning permission for, in summary, up to 53,000sqm of floorspace for mixed B1, B2 and B8 (use classes, i.e. offices/light industry; general industry; and warehouse/distribution) within two employment zones and up to 150 dwellings on 4.5ha of residential land, along with infrastructure, access and landscaping. The planning history is complicated and is explained below. Reserved matters permission has been granted for the two main employment phases, with Phase 1 completed, which has included the provision of the main access arrangements from the Middleton Stoney Road and Phase 2 due to commence in February 2021.

2. CONSTRAINTS

2.1. The application site is within an area with some potential ecological interest and the land also has some potential to be contaminated. There are trees protected by a preservation order on the site and there are other natural features such as a block of woodland on the north-western edge of the site.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

3.1. The application is made under S73 of the Town and Country Planning Act 1990 (as amended) to vary planning conditions on the approved outline permission for the site (19/00347/OUT). The specific condition is number 13, which currently states:

No more than 53,000 sq m of employment floor space shall be constructed on the site, of which no more than 80% shall be utilised for purposes falling within Class B1c or B2 (including ancillary uses) and no more than 70% within Class B8 (including ancillary uses) of the Town and Country Planning (Use Classes) Order 1987 (or their equivalent in subsequent enactments or re-enactments) and none for any other purposes whatsoever.

Reason: In order to retain planning control over the use of the site, to ensure that the significant environmental effects arising from the development are mitigated, as set out in the Environmental Statement and in accordance with Government guidance contained within the National Planning Policy Framework.

- 3.2. The proposed changes are restricted to the uses for which the development can be used for only. There are no changes proposed to either the parameter plans approved through the outline permission or to any of the buildings approved via reserved matters in terms of their physical construction. The changes and reason for them are explained in further detail in this appraisal.
- 3.3. The original applications for the site were accompanied by EIA and therefore this S73 application is accompanied by an Environmental Statement Addendum and has been advertised in accordance with the EIA Regulations.

4. RELEVANT PLANNING HISTORY

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

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
14/01675/OUT	OUTLINE - Erection of up to 53,000sqm of floor space to be for B8 and B2 with ancillary B1 (use classes) employment provision within two employment zones covering an area of 9.45ha; parking and service areas to serve the employment zones; a new access off the Middleton Stoney Road (B4030); temporary access off Howes Lane pending the delivery of the realigned Howes Lane; 4.5ha of residential land; internal roads, paths and cycleways; landscaping including strategic green infrastructure (G1); provision of sustainable urban systems (suds) incorporating landscaped areas with balancing ponds and swales. Associated utilities and infrastructure.	Application Refused/but Allowed at appeal
17/00455/HYBRID	Hybrid (part full & part outline) application for: (1) Full - construction of a temporary vehicular and pedestrian access (including footway along Howes Lane), permanent highway works (part of proposed realigned Howes Lane) and pedestrian link to Howes Lane; (2) Outline - residential development,	Application Permitted

including landscaping, public open space, vehicular and pedestrian access.

17/01090/OUT	Development of B1, B2 and B8 (Use Classes) employment buildings, including landscaping; parking and service areas; balancing ponds and swales; and associated utilities and infrastructure. Construction of a new access off Middleton Stoney Road (B4030); temporary access off Howes Lane; internal roads, footways and cycleways.	Application Permitted
19/00348/REM	Reserved Matters to 14/01675/OUT - Layout, scale, appearance and landscaping details for Phase 1 of the employment development (21,684sqm flexible B1c/B2/B8 floorspace) and earthworks for Phase 2 of the employment development (pursuant to the Appeal Consent)	Withdrawn
19/00349/REM	Reserved Matters to 14/01675/OUT - layout, scale, appearance and landscaping details for Phase 1 of the employment development (21,684sqm flexible B1c/B2/B8 floorspace) and earthworks for Phase 2 of the employment development (pursuant to the Amended Appeal Consent)	Permitted
19/00347/OUT	Minor material amendment to planning permission 14/01675/OUT to vary conditions 6, 7, 8, 9 and 10 to refer to updated parameter plans and temporary access plan; variation of condition 14 to enable delivery of employment development in full in advance of strategic link road; and amendment of condition 20 to reflect removal of temporary access onto Howes Lane (Outline reference number 14/01675/OUT, granted at Appeal - Ref: APP/C3105/W/16/3163551 for the erection of up to 53,000sqm of floor space to be for B1, B2 and B8 (use classes) employment provision within two employment zones covering an area of 9.45ha; parking and service areas to serve the employment zones; a new access off the Middleton Stoney Road (B4030); temporary access off Howes Lane pending the delivery of the	Permitted

realigned Howes Lane; 4.5ha of residential land; internal roads, paths and cycleways; landscaping including strategic green infrastructure (GI); provision of sustainable urban systems (SUDS) incorporating landscaped areas with balancing ponds and swales; associated utilities and infrastructure)

20/02454/REM Reserved Matters application to Permitted
19/00347/OUT - layout, scale, appearance and landscaping details for Phase 2 of the employment development (23,226sqm flexible B1c and/or B2 and/or B8 floorspace), associated utilities and infrastructure and swale (SuDS) and strategic green infrastructure landscaping.

- 4.2. The Council refused planning application 14/01675/OUT in June 2016 due, in part, to the use classes of the development proposed (up to 70% B8 and 30% B2 uses). Following legal advice in response to a submitted appeal against this refusal, the Council granted planning permission for application 17/00455/HYBRID and 17/01090/OUT, which together formed substantially the same development as was refused and a condition was imposed to control the use class mix of the development to no more than 30% of the floorspace for use Classes B1c/B2 and no more than 70% of the floorspace for use Class B8.
- 4.3. The appeal against 14/01675/OUT was heard at Inquiry and focussed on the legal agreement (a Unilateral Undertaking (UU)) and planning conditions. The Inspector allowed the appeal and in doing so, allowed several of the suggested schedules in the UU but also declined to accept others, and imposed a set of planning conditions. On this basis, the applicant intended to implement 14/01675/OUT.
- 4.4. Following a further review of the scheme, the applicant submitted a S73 application against 14/01675/OUT (allocated reference number 19/00347/OUT). This proposed a number of important changes to the appeal permission and was approved under delegated powers with the changes agreed as generally beneficial changes to the original outline. The agreed changes can be summarised as follows:
- The allowed temporary access arrangement onto the existing Howes Lane was removed from the plan, with all access to the commercial development proposed to be taken from Middleton Stoney Road with a temporary access arrangement through into the small employment area.
 - An increase in height of the development plateau levels, but with a consequent reduction in proposed heights of the buildings themselves to ensure that the overall height of the development was no higher than the maximum height that was approved through the original outline if it were implemented to its maximum parameter.
 - A change to the Grampian condition restricting the level of development that could occur on the site until the realigned Howes Lane and tunnel were provided and opened was agreed. This change restricted the residential development, which cannot now commence until the strategic works are completed and opened. It also enabled all of the commercial development to

be delivered and occupied prior to the strategic roadworks being opened, but with a restriction whereby B1c and B2 uses would comprise no more than 18,020sqm of the total.

- Other conditions were varied to reflect the agreed main changes as described above.

The application was granted with a set of conditions that reflected the appeal decision and a S106 which reflected the UU as determined by the Inspector (and which added a schedule on the Community Management Organisation), but which was agreed between the parties.

- 4.5 The applicant has subsequently implemented outline application 19/00347/OUT and has made two submissions for reserved matters against this – 19/00349/REM for Phase 1 and 20/02454/REM for Phase 2, both of which have been approved. In combination, these reserved matters approvals permit 44,810sqm of floorspace, which represents 84.5% of the original floorspace consent.
- 4.6 Various discharge of condition and obligation applications have been made against both the outline and reserved matters applications, which have enabled Phase 1 to be completed and for Phase 2 to commence in February 2021.

5. PRE-APPLICATION DISCUSSIONS

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

6. RESPONSE TO PUBLICITY

- 6.1. The 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 **22 December 2020**, although comments received after this date and before finalising this report have also been taken into account in the assessment of the proposal.
- 6.2. Two letters of objection have been received and the comments raised by third parties are summarised as follows:
- Strongly object as one of the original proposals of the developer was that jobs would be created in B1 and B2 uses, to enable office/smaller type facilities as a balance of employment on the number and type of jobs available.
 - The developers are changing what was originally stated and how the development was to minimise the impact to nearby residents.
 - If the amendment is approved then there is nothing to say the developer would not move to build more, massive B8 warehouses rather than B2 facilities which would result in more HGVs, more light and noise pollution.
 - B2 facilities would give Bicester a wider range of employment opportunities and would mean that some Bicester residents would not have to travel outside of Bicester for employment. This would align with the concept of Bicester being an Eco Town that was environmentally friendly.
 - The developer should be made to provide better incentives for companies who will undertake B2 employment. Bicester is known as a warehouse town.

- Object to there being a breaking of agreements for the strategic road link to be built and open before fully occupying the site. Permission should not be granted to fill all the employment units in advance of Howes Lane being realigned and the new link road built.

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. BICESTER TOWN COUNCIL: Strongly object to this application and the variation of employment usage. The employment expectation at approval had already been increased to 70% B8, to increase to 100% is unacceptable as it does not accommodate a wide range of skills and employment as would be gained from a mixed B classes use. Employment variety from this and other sites is key to the achievement of Local Plan policy objectives and local expectations. In addition, the additional impact on the road network for a complete B8 use is significant and would be detrimental to the local area and nearby residential properties.

7.3. BICESTER WEST WARD COUNCILLORS (Sibley, Broad and Webster): Strongly object to the proposal to change condition 13 to enable the full development to be occupied for Use Class B8 in respect of the above site. It is essential for Employment Class Uses B1 and B2 to be retained on site, to provide a range/mix of employment opportunities.

CONSULTEES

7.4. CDC LANDSCAPE: The landscape and visual assessment included in the appeal scheme ES remains valid.

7.5. CDC BUILDING CONTROL: No adverse comments to make.

7.6. CDC ENVIRONMENTAL PROTECTION: No comments or objections to this variation of condition provided all other conditions on the original permission are met.

7.7. OCC Strategic Comments: There are no technical transport reasons to object to this application as long as detailed matters within the original permission still stand. There are concerns about the impact on the job offer locally from this changing to the whole allocation being Use Class B8. The original Local Plan intention was for B8 to be limited within this allocation.

7.8. OCC TRANSPORT: No objection subject to all other conditions and obligations on the original planning permission, which may require a linking agreement.

- The agreed peak hour trip rates for warehousing (B8) are considerably lower than for industrial so substituting warehousing for industrial over 30% of the floorspace would result in a net reduction of peak hour trips, so there would be no adverse impact on congestion on the network.

- Whilst there can be a wide variation in trip rates depending on the type of warehousing and distribution activity (for example those businesses using vans to deliver in the local area generate many more trips), the rates are still below the peak hour industrial trip rates agreed.
- It should be noted that the proportion of HGV traffic is larger with warehousing, which would be noticeable across a 12-hour day. However, the site is subject to an operational routing agreement secured on the original S106.

7.9. ENVIRONMENT AGENCY: No objection to the proposed variation of condition 13 providing all existing environmental conditions are included if this application is approved.

7.10. NATURAL ENGLAND: No comments to make.

8. RELEVANT PLANNING POLICY AND GUIDANCE

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

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

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

- PSD1: Presumption in Favour of Sustainable Development
- SLE1: Employment Development
- SLE4: Improved Transport and Connections
- BSC1: District wide housing distribution
- BSC2: Effective and efficient use of land
- BSC3: Affordable housing
- BSC4: Housing mix
- BSC7: Meeting education needs
- BSC8: Securing health and well being
- BSC9: Public services and utilities
- BSC10: Open space, sport and recreation provision
- BSC11: Local standards of provision – outdoor recreation
- BSC12: Indoor sport, recreation and community facilities
- ESD1: Mitigating and adapting to climate change
- ESD2: Energy Hierarchy and Allowable solutions
- ESD3: Sustainable construction
- ESD4: Decentralised Energy Systems
- ESD5: Renewable Energy
- ESD6: Sustainable flood risk management
- ESD7: Sustainable drainage systems
- ESD8: Water resources
- ESD10: Biodiversity and the natural environment
- ESD13: Local landscape protection and enhancement
- ESD15: Character of the built environment

- ESD17: Green Infrastructure
- Policy Bicester 1 North West Bicester Eco Town
- Policy Bicester 7 Open Space
- INF1: Infrastructure

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- TR10: Heavy Goods Vehicles
- 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)
- Eco Towns Supplement to PPS1
- North West Bicester SPD (February 2016)

9. APPRAISAL

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

- Environmental Statement
- Principle of the proposed change to the use class of the development
- Impact of the proposed change on the character of the area
- Impact of the proposed change on highway safety
- Impact of the proposed change on residential amenity
- Impact of the proposed change on other site constraints
- Impact of the proposed change on the Eco Town Standards
- Conditions and Planning Agreement

Environmental Statement

9.2. The original outline application 14/01675/OUT was accompanied by an Environmental Impact Assessment (EIA) which was re-done for the appeal and the decision was therefore based upon the EIA dated June 2017. The last S73 application was accompanied by an addendum, which concluded that the conclusions of the 2017 EIA remained valid and that no greater environmental effects would arise. The current application is also not a '*subsequent application*' as defined by the Environmental Impact Assessment Regulations but the development remains EIA development. As such, the application is accompanied by an addendum as well as the previous addendum from February 2019 and reference should also be made to the June 2017 full EIA (available on 14/01675/OUT and 19/00347/OUT). The current November 2020 addendum considers the amendments proposed to the development subject to this current application.

9.3. The EIA addendum concludes that the conclusions of the 2017 EIA remain valid and are not changed by the amendments proposed through this application with the proposed uses likely to have no greater environmental impact than the previously consented mix. No additional mitigation is identified or proposed. Where relevant through the appraisal of this report, reference is made to specific topics but overall, planning conditions are imposed as per the appeal decision, which secure the mitigation as identified in the June 2017 EIA as required. In this respect, regard has been paid to the submitted EIA information pursuant to this development and it is considered to be sufficient for the purpose of considering this application.

- 9.4. The original condition was required to control the development to that assessed by the EIA. As an addendum has been provided to assess an alternative mix, it is considered that sufficient information is available to consider such a change.

Principle of the proposed change to the use class of the development

Policy Context

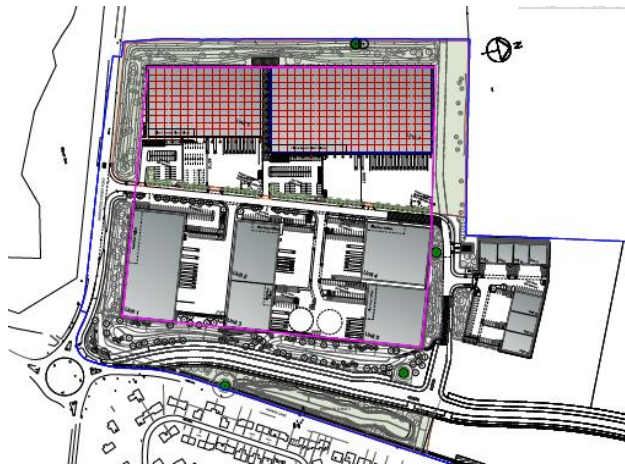
- 9.5. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the District comprises the adopted Cherwell Local Plan 2011-2031 (Part 1), the adopted Cherwell Local Plan 2011-2031 (Part 1) Partial Review – Oxford’s Unmet Housing Need, the saved policies of the Cherwell Local Plan 1996 and a number of Neighbourhood Plans.
- 9.6. The adopted Cherwell Local Plan 2011-2031 Part 1 includes strategic allocation Policy Bicester 1, which identifies land at NW Bicester for a new zero carbon mixed use development including 6,000 homes and a range of supporting infrastructure including employment land. The policy is comprehensive in its requirements and this, alongside the other relevant policies of the Development Plan are relevant to the consideration of this application. The application site forms part of the land allocated by Policy Bicester 1.
- 9.7. Policy Bicester 1 identifies that planning permission will only be granted for development at NW Bicester in accordance with a comprehensive masterplan for the whole area. A Masterplan has been produced for NW Bicester and this has been embedded within the North West Bicester SPD, adopted in February 2016. The SPD amplifies the Local Plan policy and provides guidance on the interpretation of the Eco Towns PPS and standards for the NW Bicester site.
- 9.8. Policy Bicester 1 identifies employment requirements for the wider site at NW Bicester. It identifies a minimum of 10ha, comprising business premises focussed at Howes Land and Middleton Stoney as well as employment space in local centre hubs and as part of mixed-use development. With regard to the business park at the southeast corner of the site, the Policy anticipates that this would generate between 700 and 1,000 jobs in use classes B1, B2 and B8 early in the Plan period. There is a separate bullet point which identifies that across the site as a whole, Use Class B1, with limited B2 and B8 uses is expected. The SPD identifies a parcel of land at the corner of Howes Lane and Middleton Stoney Road for commercial/business uses and identifies it for business space for offices, workshops, factories and warehousing of a larger scale to provide employment space for target sectors including high value logistics, manufacturing and low carbon companies.
- 9.9. Policy SLE1 of the Cherwell Local Plan Part 1 (2011-2031) sets out that employment development on new sites allocated in the Plan will be the type of employment development specified within each site policy. The Plan has an urban focus to development, with allocated employment sites focussed predominantly at Banbury and Bicester.
- 9.10. The NPPF sets out that planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Economic growth and productivity should be supported with significant weight placed on this. At paragraph 82, it is clear that planning policies and decisions should recognise and address the specific locational requirements of different sectors. This includes making provision for clusters or networks of knowledge and data-driven, creative or high technology

industries; and for storage and distribution operations at a variety of scales and in suitably accessible locations.

- 9.11. In September 2020, amendments were made to the Use Classes Order. Use Classes B2 and B8 remain valid. However, Use Class B1 has been revoked and this use is now included within the new Class E. Class E is a broader Use Class relating to commercial, business and service uses (covering those uses previously in classes A1, A2, A3, B1 and D1(a-b) and is in 11 parts. Class E(g)(i), (ii) and (iii) essentially relates to what were previously classified as B1 uses. There are transitional arrangements in place which mean that from the 1 September 2020 onwards, if a building falls within uses A1, A2, A3, B1 and D1 (a-b), then it will be treated as though it is being used for a purpose specified in the new Class E and planning permission would not be required for changes of use to another use within Class E. This means that if any building on the site were used for Class B1c uses (allowed for by the original permission), then it could be used for any other purpose in Class E unless planning conditions are used to remove this permitted development right. These changes will be referred to within the appraisal where relevant.

Assessment

- 9.12. The planning history of the site is identified above. It is clear that the use of the development has been a concern of Members, as reflected by the refusal of the first application for development on the site (14/01675/OUT). However, taking into account the history and the allowed appeal for 14/01675/OUT, the current position at the site, is that a maximum of 53,000sqm floor space is allowable with up to 70% for uses within class B8 and up to 80% for uses within classes B2/ B1c. This would equate to up to 37,100sqm that could be used for B8 uses (with the balance B2/B1c) or up to 42,400sqm that could be used for B2/B1c uses (with the balance B8). B1a uses are approved only as ancillary floorspace to the predominant uses at the site of B1c, B2 and B8. This is controlled by planning condition 13 of the implemented outline permission 19/00347/OUT (which was a S73 application to 14/01675/OUT which was approved).
- 9.13. The reason for the imposition of the condition on development was related to the form of development assessed within the Environmental Statement. If an alternative, unassessed form of development was to be provided, it could have environmental implications which had not been adequately assessed. The wording of the reason was *'in order to retain planning control over the use of the site, to ensure that the significant environmental effects arising from the development are mitigated, as set out in the Environmental Statement and in accordance with Government guidance contained within the National Planning Policy Framework'*.
- 9.14. Since approval of the amended outline application, the applicant has submitted two reserved matters applications. The first reserved matters approval granted consent for 12 employment units, 5 on plot 4 (on the eastern plateau of the southern plot) and 7 smaller units on plot 3 (the northern plot). The total floorspace granted was 21,584sqm. All 12 units have now been constructed. The second reserved matters approval granted permission for 2 units on the western plateau of plot 4 with a total floorspace of 23,226sqm. Combined, the total floorspace currently granted is 44,810sqm. The layout of the site as approved is:



9.15. The floorspace granted (84.5%) is less than the total amount allowed for through the outline permission and, given the site layout, it is unlikely that any further commercial floorspace could be provided. The reserved matters permissions have assessed the proposals and the approved development complies with the outline parameters set including in relation to maximum building heights. In addition, the environmental impact assessment information already before the Council was taken into account in the consideration of the proposed development.

9.16. Through this planning application, the applicant seeks permission for the restriction on use Class B8 to be removed to enable them to benefit from flexibility to occupy the whole site for uses falling within Class B8, if they choose to. No changes are proposed to the quantum or scale of development including the detail as approved by the reserved matters (as referred to above).

9.17. The applicant's justification for seeking this change is to reflect known market demand and occupier requirements in a flexible way so that it can continuously meet the needs of the local employment market. They advise that this change would allow the second phase of the employment development to proceed by giving the forward funders (an Investment Fund called Mirastar), developers and future occupiers of the scheme the reassurance that they can occupy the development in line with market demand. The applicant has advised that the arrangement with the forward funders is, in part, conditional upon the approval of this application and it has also been confirmed that there is interest from occupiers for the two units yet to be built from B8 occupiers (which could not be fulfilled if the flexibility sought were not granted). Due to restrictions on floorspace occupation by condition 14 and the cap on B8, it is likely that if the flexibility now sought were not granted, then Unit 6 would probably not be developed.

9.18. In considering the implications of this proposal, the agent has identified that:

- Even if the main use of the site did fall into Use Class B8 at some point, there would more than likely always still remain an element of ancillary office use associated with those storage and distribution activities.
- It is likely (although not guaranteed), that some of the smaller units would always be occupied by 'cottage industries' and start up businesses, which often fall into Use Class B1c (as it was) [now part use class E].
- The current sales and lettings are for a range of uses demonstrating that 100% of the site may not always be used for B8 uses.

- Granting an additional level of flexibility such that more floorspace could be used for B8 uses puts Bicester in the strongest possible position to benefit from the growth of the logistics sector and associated job creation and investment.
- Continued provision of employment floorspace at the site would provide employment opportunities within sustainable travelling distance from new homes to be built at NW Bicester.

9.19. The applicant's agent also acknowledges that this amendment is sought at a particularly challenging time for the economy, both locally and nationally, brought about by the COVID-19 pandemic which is creating economic uncertainty and meaning businesses are having to evolve and change but where logistics is playing an increasingly important role in the economy.

9.20. Nationally, the logistics sector involves a growing number of businesses, supporting a significant number of employees. It is intended that the employment part of the site will continue to be brought forward.

9.21. The applicant has submitted further information from their agents regarding the need for flexibility which confirms that occupiers are anticipated to be concerned by the B8 limit and how this would be monitored such that it would give uncertainty around whether their operations could be deemed unlawful if other uses elsewhere on the estate change. The majority of queries received so far have been for B8 uses and this is a region wide trend. They confirm that serious pre-let interest has been expressed for Unit 6 from a major manufacturer, but their requirement is for the company's logistics operations in support of its main activity to also be possible on site.

9.22. Further information has been provided by the applicant relating to the interested occupier for Unit 6 – a company reported to be a market leader in the zero-emissions transportation sector. They currently occupy three buildings at Link 9 on the Skimmingdish Lane in Bicester which has enabled them to establish an electric vehicle manufacturing base alongside an R&D composites division and hydrogen technology unit. The company also has a main R&D facility in Banbury. The company require a dedicated logistic operation to support their production and R&D facilities which cannot be accommodated on site at Link 9 Bicester. They have been searching for an appropriate building and consider that Unit 6 meets their search requirements (Unit 7 is too large for them) with the timing and proximity to Link 9 attractive to them. Unit 6 would need to benefit from a B8 use to meet their requirements. The applicant has emphasised that this is a real enquiry from a market leader in zero carbon technology that would be a B8 use that fits with the zero carbon objectives of the NW Bicester site. It also demonstrates the essential interaction between manufacturing employment uses and B8.

9.23. Policy Bicester 1 refers to Use Classes across the site being B1, with limited B2 and B8. However, specifically in relation to the southeast corner of the site, it identifies use classes B1, B2 and B8. The permitted use classes for this site already allows for a significant proportion of B8 uses. This was thoroughly assessed at the time and this took into account the fact that other employment uses across the site are likely, including within local centres and small business uses which would likely be uses that would now fall within Class E, as well as home working, educational jobs, construction jobs and the Eco Business Centre. Across the whole site, this would create a wide range of work opportunities that would contribute to the mixed-use development sought and this position has not changed. This proposal relates to only part of the NW Bicester development.

9.24. Policy Bicester 1 refers to approximately 700-1,000 jobs being created at the business park at the southeast corner of the site. The consented development was anticipated to generate 900-1,200 jobs based upon 53,000sqm of B8 and B1c/B2 floorspace calculated in accordance with the Homes and Communities Agency 2015 Employment Density Guide. The applicant has calculated that the current proposal based upon wholly B8 use (47,700-53,000sqm) with ancillary office space could generate between 1,050 and 1,115 jobs (if B1c/B2 uses were present, then job numbers would likely be higher). Officers have calculated this to be more in the range of 550-750 jobs depending upon the type of B8 use (because there is a difference in job density between a national distribution centre and regional or 'final mile' distribution centres) and this includes a 10% allowance for ancillary office space. This does suggest an under delivery of employment opportunities when compared to what Policy Bicester 1 anticipated for the business park itself but this would contribute overall to the job numbers across NW Bicester as a whole (3,000). Nevertheless, Officers have been content with the design and layout of the site and the provision of less than the maximum floorspace permitted as the buildings particularly on the first phase have created a layout that responds well to its surroundings and the buildings allow for a range of floor space rather than only large profile warehouse buildings.

9.25. The key change now proposed is the removal of the restriction on a maximum proportion of B8 uses. Officers consider that the following points are of relevance to considering this proposal:

- The proposed layout, form and scale of the development is now approved and there are no changes proposed in this regard.
- Officers accept that even if B8 uses were allowed for across the site, there would most likely remain an element of ancillary office space within the larger units as the design for each of those buildings approved through reserved matters has included this.
- Officers also agree that whilst the small units could be potentially used for B8 purposes, they would not attract large logistics companies due to their scale and form and so any B8 uses would be smaller scale. In any event, these units may be more attractive for users within Use Class B2 or new Use Class E(g)(iii) (Industrial processes) due to their size and there would be nothing to stop those uses occupying either the small or larger units (providing no more than 80% of the site were occupied for those uses).
- The potential to use the application site for 100% B8 uses does not mean it will be (and for the reasons described above there is a strong chance it will not be 100% B8). This proposal allows the flexibility to do so, if that is required to meet market demand.
- There is a real risk that if flexibility is not allowed, that this would not enable the full commercial development area to be delivered (as confirmed through correspondence from the applicant's agents and the likely forward funders). Interest has been received for Unit 6 (the unit likely not to be constructed if flexibility is not granted) meaning that interested occupiers would look elsewhere for employment space to suit their needs.
- The restriction of up to 70% B8 relates to the total level of floorspace permitted by the outline permission of 53,000sqm. 44,810sqm has been approved and is planned to be delivered. As 37,100sqm is already permitted for B8 uses (70% of 53,000sqm), this proposal relates only to 7,750sqm of floorspace where flexibility is sought. To put it another way, 44,810sqm is

approximately 85% of 53,000sqm and so, whilst the proposal has been made to enable up to 100% of the site to be used for B8 uses, based upon the approved floorspace compared to the amount of floorspace that could be permitted, it is actually 85% of the total level of floorspace permitted by the outline permission of 53,000sqm that is sought to be used for B8 uses.

- 9.26. On this last point, if Members were concerned about allowing up to 100% of the site to be used for B8 uses, it would be possible to amend the condition to refer to the site being used for no more than 85% B8 uses. This would enable the whole site as it is planned to be used for B8 uses, but if further floorspace were proposed in the future, this would be restricted to B2/E(g)(iii) uses (as the up to 80% restriction on B2/B1c (now E(g) (iii) would remain in place). Officers recommend that Class E(g) (iii) is referred to as the grant of this permission would be a new permission for the site, but it is necessary to restrict change of use to other uses within Class E given the nature of this commercial site. The applicant has confirmed that they would agree to a condition of this nature, if Members were minded to impose it.
- 9.27. There are no other changes proposed to this development in terms of the principle either in respect to the commercial development or the residential parts of the site.

Conclusion

- 9.28. The current position as controlled by the outline permission, allows for a significant proportion of B8 uses on the site. This has previously been assessed against the requirements set out in Policy Bicester 1, which has had regard to the NW Bicester site as a whole. The applicant now proposes to remove the restriction for B8 uses at the site to enable flexibility to meet market demand. The consideration of this must be made taking into account the current controls at the site and whether this amendment would conflict with Policy or raise any other material concerns that could justify resisting this change.
- 9.29. The NPPF encourages support for economic growth and planning decisions should help create the conditions in which businesses can invest, expand and adapt. Whilst Policy Bicester 1 has a preference for Use Class B1, with limited B2 and B8, the application site already provides for only B2/B1c (up to 80%) and B8 (up to 70%) uses with B1a uses ancillary. The proposed change seeks to change the balance of uses to enable up to 100% of the site for B8 uses (85% when taking into account the level of floorspace to be provided as approved by reserved matters applications). In effect, this proposal relates to 7,750sqm of floor space only based upon what has been approved through reserved matters applications.
- 9.30. Phase 1 of the employment site is constructed and construction is due to commence on Phase 2 in February 2021. The applicant has confirmed that critically, Unit 6 could not be constructed without flexibility being granted and information has been submitted to demonstrate that a potential occupier is interested in the unit. Whilst the number of jobs that could be delivered on the site could be an under delivery of what the Policy requirement is for this part of the wider NW Bicester site, this application does not mean that the whole site will be used for B8 uses (it just allows flexibility for it to be). In addition, this proposal would enable flexibility but Officers are mindful that ancillary office space remains within the units, which is unlikely to be lost and that the small units due to their nature are more attractive to small businesses that could well be occupied by a mix of uses.
- 9.31. No other changes are proposed in terms of size, form, design and appearance of the buildings and indeed, given the first phase of development is constructed (which was built in some places to lower than the outline parameters would have allowed for and given the position of buildings has not created a mass of building on the

eastern boundary) and the second phase reserved matters has been granted, the character and form of the development can be appreciated. This proposal relates only to the use those approved buildings can be put to.

- 9.32. Taking into account the above assessment, Officers consider that the principle of the proposed development can be considered to accord broadly with Policy Bicester 1, particularly taking into account the difference between that now proposed compared to that previously approved. It provides for B-use classes on a site shown for such uses within the NW Bicester Masterplan, the SPD and as set out in Policy Bicester 1. Economic development should be supported, particularly in the current circumstances where logistics is playing an increasingly important role and enabling flexibility to meet market demand is reasonable. It is however necessary to consider the other impacts of this proposed change on the development and to ensure that the EIA has adequately assessed the proposed alternative.

Impact of the proposed change on the character of the area

- 9.33. The Eco Town PPS advises that planning applications should demonstrate that they have adequately considered their implications for the local landscape and historic environment to ensure that development compliments and enhances the existing landscape character. The adopted Cherwell Local Plan Policy Bicester 1 also requires development to respect its landscape setting and requires a well-designed development appropriate to the urban edge which relates development at the periphery to its rural setting. Policy ESD13 also seeks to ensure that development respects and enhances the local landscape character and that there is a need to secure appropriate mitigation where damage to local landscape character cannot be avoided. The NW Bicester SPD includes several development principles relating to reducing the impact upon landscape character and to secure the provision of Green Infrastructure (40% as a minimum).
- 9.34. The change proposed by this application relates only to the use class of development for which the buildings can be put to and no changes are proposed to the quantum, extent and scale of the development including the areas of strategic landscaping. Reserved matters approvals have been made for the commercial uses on the site and therefore the form and character of the development is known. No changes are proposed in this regard. There are also no changes to the parameters set for the residential part of the site. The ES addendum finds that the Landscape and Visual Impact Assessment remains valid and that there would be no additional environmental effects. Officers agree with this conclusion and therefore conclude that the requirements of the above policies continue to be satisfied.

Impact of the proposed change on highway safety

- 9.35. The NPPF confirms 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. Development proposals should promote sustainable transport, ensure safe and suitable access can be achieved and mitigate any significant impacts to an acceptable degree. Policy SLE4 of the Cherwell Local Plan Part 1 2011-2031 also requires development to facilitate the use of sustainable transport and confirms that new development must mitigate offsite transport impacts. At NW Bicester, and as confirmed by Policy Bicester 1 and the NW Bicester SPD through a series of development principles, the achievement of modal shift, infrastructure to support sustainable transport and for development to facilitate the provision of new strategic infrastructure (including contributions towards it) are clear requirements.

- 9.36. The transport limitations at NW Bicester prior to the delivery and opening of new strategic infrastructure at NW Bicester is well documented in the appraisals for the previous applications. Without repeating those issues, the application site is controlled by Planning Condition 14, which is a Grampian condition restricting the ability to deliver the whole development prior to that new infrastructure. In this case, none of the dwellings approved by the original outline permission can be occupied nor can more than 18,020sqm of B1c/B2 floorspace be occupied until the strategic works have been completed and the road opened to vehicular traffic. There is no restriction on B8 (i.e. the approved up to 70% of the 53,000sqm can be delivered and occupied prior to the strategic road works being completed and opened).
- 9.37. In light of the proposed change through this application, a technical note has been submitted relating to the transport impacts of the amended proposals. This has compared what number of peak trips would result from a B8 use across the full quantum of consented floorspace to the traffic that would be generated if 80% of the site were occupied for B1c/B2 uses with the balance occupied for B8 (which would be a permissible mix in accordance with the current wording of Condition 13). The peak trip rates for a scheme of 100% B8 would be significantly less (as B8 uses have a lower trip generation) and therefore in terms of traffic impact, no additional impacts on the local highway network would arise as a result of the proposed removal of the limitation on B8 uses at the site.
- 9.38. The Highway Authority have considered the proposal and the technical note and agree that a changed mix of development with up to 100% B8 uses would result in a net reduction of peak hour trips so there would be no adverse impact on congestion on the network. The Highway Authority have also considered the impact of a warehouse use that may have greater trip rates (i.e. a business that uses vans to deliver in the local area) but it is advised that in that scenario, the rates would still fall below the peak hour industrial trip rates agreed. It is also relevant to note that as trip rates could decrease if 100% of the floor area were used for B8 uses, this would not raise any additional environmental effects than already considered through the outline ES.
- 9.39. The Highway Authority note that B8 uses tend to generate greater proportions of HGV traffic which could be noticeable. In highway safety terms, the site is subject to an operational routing agreement secured on the original S106, but this matter should be considered in terms of other site constraints.
- 9.40. Given the above, Officers conclude that the proposal to amend the planning condition in terms of the impact of this in highway safety terms is acceptable.
- 9.41. No other changes are proposed in transport terms relating to access arrangements and linkages to other sites or to the S106 which secures various matters relating to transport including a licence to access the land required for the strategic infrastructure. This is discussed below.

Impact of the proposed change on residential amenity

- 9.42. Planning policy including Policy ESD15 and within the NPPF seeks to secure a high standard of amenity for existing and future residential occupiers. The proposed changes relate to the land uses that the development site can be used for. No changes are proposed to the outline parameters for the residential part of the site or to the reserved matters proposals for the commercial area, which have been assessed themselves in terms of how those proposals impact residential amenity. On this basis, there is no change from the physical development on the residential amenity of nearby residential occupiers. Future reserved matter applications for the

residential part of the site would be assessed as required upon the amenity of nearby residents.

- 9.43. The proposed change could result in a greater proportion of the site being used for B8 purposes which could generate greater proportions of HGV traffic compared to an alternative mix. The EIA addendum has not identified any greater impacts on noise or vibration impacts and it is also relevant that there is a routing agreement in place which directs all HGV traffic to the south along Vendee Drive to the A41 and not to use the existing Howes Lane. The Council's Environmental Protection Team have also raised no objections.

Impact of the proposed change on other site constraints

- 9.44. Again, given there are no changes to the parameter plans which control the quantum, extent and scale of development, including areas of strategic landscaping, there would be no changes to assessments already made in regard to ecological impacts, lighting, air quality, noise and vibration, water resources and drainage or natural constraints such as the site topography and trees/hedgerows including those protected by a TPO. The EIA addendum submitted confirms that the changes have been considered against each of the original topic assessments and no additional environmental effects would result, with existing mitigation sufficient, which can be secured in the same way as the original permissions.

Impact of the proposed change on the Eco Town Standards

- 9.45. In the same way that there would be no additional impact upon site constraints from the proposed change to the way the site can be used, the way that the site meets the Eco Town Standards would also not change. The standards are important and set out by Policy Bicester 1 and amplified by the NW Bicester SPD and a number of conditions and legal obligations are in place to secure the standards. No change is proposed to these matters. Indeed, it is relevant to report that information submitted to satisfy planning conditions for the two phases of commercial development have confirmed that true zero carbon will be achieved for those phases. There are also conditions relating to the provision of real time energy and travel information, the provision of high-speed broadband, details of embedded carbon of construction materials, a travel plan and measures to minimise water consumption. These have also been agreed for the two commercial phases and the conditions will remain in place to relate to the residential phases. Planning obligations require particular build standards and contributions are secured for a number of infrastructure requirements and these would continue to apply. The proposal will continue to meet the standards as far as possible, but consistently in respect to how it would if this amendment were not approved. The parameter plans are unchanged with regard to matters such as the quantum of green space to be secured (at no less than 40%).

Conditions and Planning Agreement

- 9.46. As a S73 application, it is necessary to re-impose all the originally imposed conditions to ensure that the development continues to be bound by those same requirements. The conditions are those originally imposed by the Planning Inspector as updated by the approval of 19/00347/OUT. In this case, whilst only amendments to condition 13 have been applied for, given it is now necessary to refer to the new Use Classes, condition 14 has also been updated.
- 9.47. A S106 agreement was completed pursuant to 19/00347/OUT (which consolidated two UUs from the appeal scheme). This planning permission would need to be tied to that S106 agreement to ensure those requirements also continue to bind the site, which included a number of further agreements relating to the strategic

infrastructure, with this site having secured a licence for the land through the application site for the route of the strategic infrastructure. Officers have reviewed the S106 and there seems no need to update the agreement as the proposed change does not affect it, so only a linking agreement is needed, subject to confirmation from the Council's Legal team.

10. PLANNING BALANCE AND CONCLUSION

- 10.1. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 requires that the three dimensions to sustainable development (economic, social and environmental) are not undertaken in isolation, but are sought jointly and simultaneously. The NPPF, at paragraph 11 confirms that development proposals that accord with an up to date development plan should be approved without delay.
- 10.2. Officers acknowledge that there has been a long history of concern regarding the use classes at the application site. However, this proposal is made to enable flexibility for up to 100% B8 uses, with the very real possibility that this will not be what results (on the basis that office space ancillary to the main uses would remain and the small units particularly could accommodate other uses but, in any event, would be unlikely to attract large logistics companies). The current circumstances with the COVID-19 pandemic are creating significant challenges for the local and national economy and the role of logistics has changed and become more important. There remains confidence in investment in Bicester at this site as has been evidenced by the applicant, which could enable the two last commercial units to be constructed and it is understood that occupiers have expressed interest in them. However, this does require flexibility to secure that investment. Officers have carefully considered this proposal in comparison to what the original outline permission has granted and against what has been approved through reserved matters and, taking into account that the site is part of the NW Bicester development but not all of it, where other opportunities are available, have concluded that the proposed amendment to the use class mix would be acceptable and comply with the relevant policies of the Development Plan. The NPPF encourages support for economic growth.
- 10.3. Officers are mindful that the reserved matters approval for the commercial areas has established the layout, form, scale and design of those areas of the development and therefore the type of development can be appreciated. There would be no change to the details of what is approved through this application with the change relating only to how the buildings can be used. Whilst an application to re-plan Phase 2 could be made, it is unlikely that significantly more floorspace could be permitted on this part of the site and Phase 1 is already complete. There are no changes to the parameter plans already approved for the residential parts of the site.
- 10.4. The assessment has considered all other material considerations that the proposed change to the use class mix could result in and it has been concluded that no other significant impacts would result particularly on the basis that the originally imposed planning conditions are re-imposed and the S106 for the site is linked to this planning permission if this is resolved to be approved.
- 10.5. On the basis of the above assessment, Officers therefore consider the proposal to constitute sustainable development and it is recommended for approval.
- 10.6. As is referenced above, the EIA is considered to be acceptable and sufficient to enable the determination of this application.

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 LINK THE APPLICATION TO THE S106 THAT CURRENTLY BINDS THE SITE (other than in so far as to update the agreement to refer to this permission or and as otherwise advised by the Council's Legal department):

CONDITIONS

1. Details of the access (in so far as not approved in this decision), appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") of any phase of development shall be submitted to and approved in writing by the Local Planning Authority before any development of that phase takes place and the development shall be carried out as 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 (Development Management Procedure) (England) Order 2015 (as amended).

2. No development shall take place until a phasing plan for the whole development has been submitted to and approved in writing by the Local Planning Authority indicating the landscaping, open space, play facilities, affordable housing, cycle ways, footpaths and public transport facilities to be provided in each phase. Development shall be carried out in accordance with the phasing plan.

Reason: To ensure the proper phased implementation of the development and associated infrastructure in accordance with Government guidance contained within the National Planning Policy Framework.

3. Application for approval of the reserved matters for the first phase of employment development shall be made to the Local Planning Authority not later than 3 years from the 19 December 2017.

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

4. Application for approval of the reserved matters for the remaining phases of development shall be made to the Local Planning Authority not later than 5 years from the 19 December 2017.

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

5. The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters 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 (Development Management Procedure) (England) Order 2015 (as amended).

6. The access to the development hereby permitted shall be carried out in accordance with Parameter Plan 06, drawing number 17023/TP/106 Rev A and the following approved plans: 14042-30 revision B and 14042-56. No employment development on plot 4 shall be occupied until the access shown on drawing 14042-30 revision B has been completed to a standard capable of being adopted by the local highway authority.

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

7. No development shall take place other than in accordance with the Land Uses shown on Parameter Plan 02, drawing number 17023/TP/102 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 to comply with Government guidance contained within the National Planning Policy Framework.

8. The height of the development hereby permitted shall not exceed the limits shown on Parameter Plan 03, drawing number 17023/TP/103.

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

9. No development on any phase shall be occupied until the planting proposals shown on Parameter Plan 04_A, drawing number 4216_SK_204_A revision D and encompassed within that phase have been carried out.

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

10. No site clearance, preparatory work or development shall take place on any phase until a scheme for the protection of the trees and hedgerows in that phase shown to be retained on Parameter Plan 05 (drawing number 17023/TP/105 (vegetation retention and removal plan) has been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees and hedgerows shall be carried out as approved. No tree or hedgerow shown to be retained shall be cut down, uprooted, destroyed, pruned, cut or damaged in any manner, other than in accordance with Parameter Plan 05, without the prior written approval of the local planning authority. If any tree or hedgerow shown to be retained is cut down, uprooted or destroyed or dies another tree or hedgerow shall be planted at the same place within the following planting season and that tree shall be of

such size and species as may be specified in writing by the local planning authority. Notwithstanding the detail shown on Parameter Plan 05, the element of hedgerow shown to be removed to the east of Plot 2 shall be retained and protected, which shall be demonstrated through the scheme for the protection of trees and hedgerows.

Reason: In the interests of the visual amenities of the area, to protect landscape features of importance, to ensure that the significant environmental effects arising from the development are mitigated, as set out in the Environmental Statement and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

11. No removal of hedgerows, trees or shrubs shall take place between 1st March and 31st August inclusive.

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 and Government guidance contained within the National Planning Policy Framework.

12. No more than 150 dwellings shall be constructed on the site.

Reason: In order to retain planning control over the use of the site, to ensure that the significant environmental effects arising from the development are mitigated, as set out in the Environmental Statement and in accordance with Government guidance contained within the National Planning Policy Framework.

13. No more than 53,000sqm of employment floor space shall be constructed on the site, which shall be used for uses falling within Class B8 or Class E(g)(iii) or B2 (with no more than 80% utilised for Class E(g)(iii) or B2) (including ancillary uses) of the Town and Country Planning (Use Classes) Order 1987 (or their equivalent in subsequent enactments or re-enactments) only and for no other purposes whatsoever, including no other categories of Class E.

Reason: In order to retain planning control over the use of the site, to ensure that the significant environmental effects arising from the development are mitigated, as set out in the Environmental Statement and in accordance with Government guidance contained within the National Planning Policy Framework.

14. No dwellings and no more than 18,020sqm of Class E(g)(iii)/B2 floor space may be occupied until the development work to realign Howes Lane and Lords Lane approved under application 14/01968/F (or any other such planning permission which may be granted for the Strategic Link Road) has been completed and the road is open to vehicular traffic.

Reason: Oxfordshire County Council as Highway Authority have advised that there is a need for a restriction on the quantum of development that can occur at North West Bicester prior to the opening of the Howes Lane/Lords Lane realignment. The maximum traffic that can be accommodated is a total of 900 homes (including 393 at Elmsbrook) and 40% of the proposed overall 10 hectares of employment land. The development identified to take place prior to the Howes Lane/ Lords Lane realignment would fall within this identified capacity in vehicular movement terms. Beyond this and without the

realignment, the highways impact of development over the identified capacity would be severe. A restriction on development is therefore necessary until such time that the tunnel is in place and open to vehicular traffic to mitigate the impact of traffic from the development in accordance with Government Guidance within the Eco Towns PPS and the National Planning Policy Framework.

15. No dwelling or employment building shall be occupied until it has been provided with devices showing real time energy and travel information in accordance with details which shall have been submitted to and approved in writing by the local planning authority prior to the commencement of their construction. The devices shall thereafter be retained in operational condition.

Reason: To support the delivery of modal shift towards sustainable modes and create high quality, inclusive, sustainable development in accordance with Government guidance contained within the Eco Towns PPS and National Planning Policy Framework.

16. No dwelling or employment building shall be occupied until it has been provided with service connections capable of supporting the provision of high speed broadband from the building to the nearest broadband service connection outside the site.

Reason: To facilitate information provision to homes for energy monitoring, travel and home working change in accordance with Government guidance contained within the Eco Towns PPS and National Planning Policy Framework.

17. Prior to the commencement of each residential phase, those areas of the phase that are likely to be subject to elevated levels of noise, e.g. from the Strategic Link Road, shall be identified and the dwellings that are constructed in those areas shall be designed and constructed in such a manner that they contain elements of sound insulation that will ensure that the internal noise levels contained within table 4 of BS 8233:2014 are achieved in accordance with details to be first submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the details so approved.

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

18. No phase of development shall commence until details of the embedded carbon of its proposed construction materials have been submitted to and approved in writing by the local planning authority. The development shall be carried out in compliance with the approved details.

Reason: To ensure the development achieves a reduced carbon footprint in accordance with Planning Policy Statement 1: Eco Towns.

19. No phase of development shall commence until details of the route of service connections (both under and over ground) for that phase, whether or not permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 or its successor, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure the satisfactory appearance of the completed development and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework

20. There shall be no vehicular access created into the site from the existing A4095 Howes Lane and no existing field accesses from Howes Lane shall be used by any vehicular traffic whatsoever. Prior to the first occupation of the site, the existing field accesses on Howes Lane shall be permanently stopped up by means of planting and reinstatement of highway verge.

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

21. No residential phase shall commence until details of directional signage between the dwellings proposed and both Shakespeare Drive retail and community facilities and Kings Meadow Primary School have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details. No dwelling on the phase concerned shall be occupied until the signage has been installed.

Reason: To ensure sustainable travel in accordance with Government guidance contained within the Eco Towns PPS and National Planning Policy Framework.

22. Prior to the first occupation of any phase of the development, details of a Travel Plan setting out how at least 50% of trips originating within that phase will be made by non-car means, with the potential for this to increase over time to 60%, shall have been submitted to and approved by the local planning authority. The development shall be carried out and continued thereafter in accordance with the approved details.

Reason: To ensure sustainable travel in accordance with Government guidance contained within the Eco Towns PPS and National Planning Policy Framework.

23. Prior to the commencement of any phase of development, details of bus stop locations for that phase shall have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the details as approved.

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

24. No development shall take place on any phase, including any works of demolition, until a Construction Method Statement for that phase has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:

i) the parking of vehicles of site operatives and visitors;

ii) the routeing of HGVs to and from the site;

iii) loading and unloading of plant and materials;

iv) storage of plant and materials used in constructing the development;

v) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;

vi) wheel washing facilities;

vii) measures to control the emission of dust and dirt during construction;

viii) a scheme for recycling/disposing of waste resulting from demolition and construction works;

ix) delivery, demolition and construction working hours;

x) The mitigation measures recommended in the Construction section of table 6.6, paragraphs 7.5.2 and 7.5.3, table 9.10 and paragraphs 10.5.3 and 10.6.13 of the submitted Environmental Statement June 2017;

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

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

25. If, during development of any phase, land contamination is found to be present at the site then no further development of that phase shall be carried out until details of a remediation strategy for that phase has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved remediation details.

Reason: To ensure that any unexpected contamination encountered is dealt with, such that it does not pose an unacceptable risk to controlled water quality as required by PPS1 Policy ET17, Policy ENV12 of the adopted Cherwell Local Plan and the National Planning Policy Framework.

26. The level of noise emitted from the employment development shall not exceed 58 dB LAeq, between 0700 and 2300 daily and 50 dB LAeq, at any other time on Mondays to Fridays (except public holidays) and 48 dB LAeq at any other time on Saturdays, Sundays and public holidays, as measured at a position of 1m in front of the façade of the nearest dwelling.

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

27. Details of any external lighting on any phase of development shall be submitted to and approved in writing by the local planning authority before any development on that phase commences. Development shall be carried out in accordance with the approved details. The lighting shall be installed and made operational before any building on the relevant phase is first occupied.

Reason: To enable the Local Planning Authority to retain planning control over the development of this site in order to safeguard the amenities of the occupants of the adjoining dwellings and to protect ecology in accordance with Policies C28 and C30 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

28. No phase of development shall commence until details of both surface water and foul drainage to serve that phase have been submitted to and approved in writing by the local planning authority. No building shall be occupied until it has been provided with its drainage in accordance with the approved details. The drainage shall thereafter be retained in an operational state.

Reason: To mitigate the risk of surface water flooding, protect water quality and biodiversity on the site and to ensure that sufficient capacity is available for sewage in accordance with Government guidance contained within the Eco Town PPS and the National Planning Policy Framework.

29. No phase of employment development shall commence until details of the measures to be installed in that phase to minimise water consumption have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details. The measures shall thereafter be retained in an operational condition.

Reason: The site is located in an area of water stress and to comply with Government guidance contained within the Eco Town PPS.

30. The residential development shall be constructed so as to meet as a minimum the higher Building Regulation Standard for water consumption limited to 110 litres per day (lppd).

Reason: The site is located in an area of water stress and therefore reaching a higher level of water efficiency is required to comply with Policy ESD3 of the Cherwell Local Plan 2011-2031.

31. No development shall take place on the relevant phase until details of a Scheme of Investigation of the archaeological features identified in figures 6 and 8 of the submitted archaeological evaluation (report 13/43 of Northamptonshire Archaeology dated March 2013) have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved investigation details.

Reason: To safeguard the recording and inspection of matters of archaeological importance on the site in accordance with Government guidance contained within the National Planning Policy Framework.

32. No development shall take place on any phase of development until details of measures (including off-phase and off-site measures if necessary) to achieve zero carbon energy use (as defined in paragraph ET7.1 of the eco-towns supplement to Planning Policy Statement 1) for that phase have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and the measures approved shall thereafter be retained in an operational condition.

Reason: For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and to comply with Government Policy contained in Planning Policy Statement 1: Eco Towns and Policy Bicester 1 of the Cherwell Local Plan 2011-2031.

33. No residential development shall take place until a scheme for the provision as affordable housing of 30% of the number of dwellings proposed in the

submission of reserved matters has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2: Glossary of National Planning Policy Framework or any future guidance that replaces it. The scheme shall include:

- i) the numbers, type, tenure and location on the site of the affordable housing provision to be made;
- ii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
- iii) the arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing if no Registered Social Landlord is involved;
- iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
- v) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

The affordable housing shall be retained in accordance with the approved scheme.

Reason: To ensure that the development satisfactorily contributes towards the creation of mixed and balanced community as required by Policy BSC3 of the Cherwell Local Plan 2011-2031 and Government Guidance set out in the National Planning Policy Framework.

CASE OFFICER: Caroline Ford

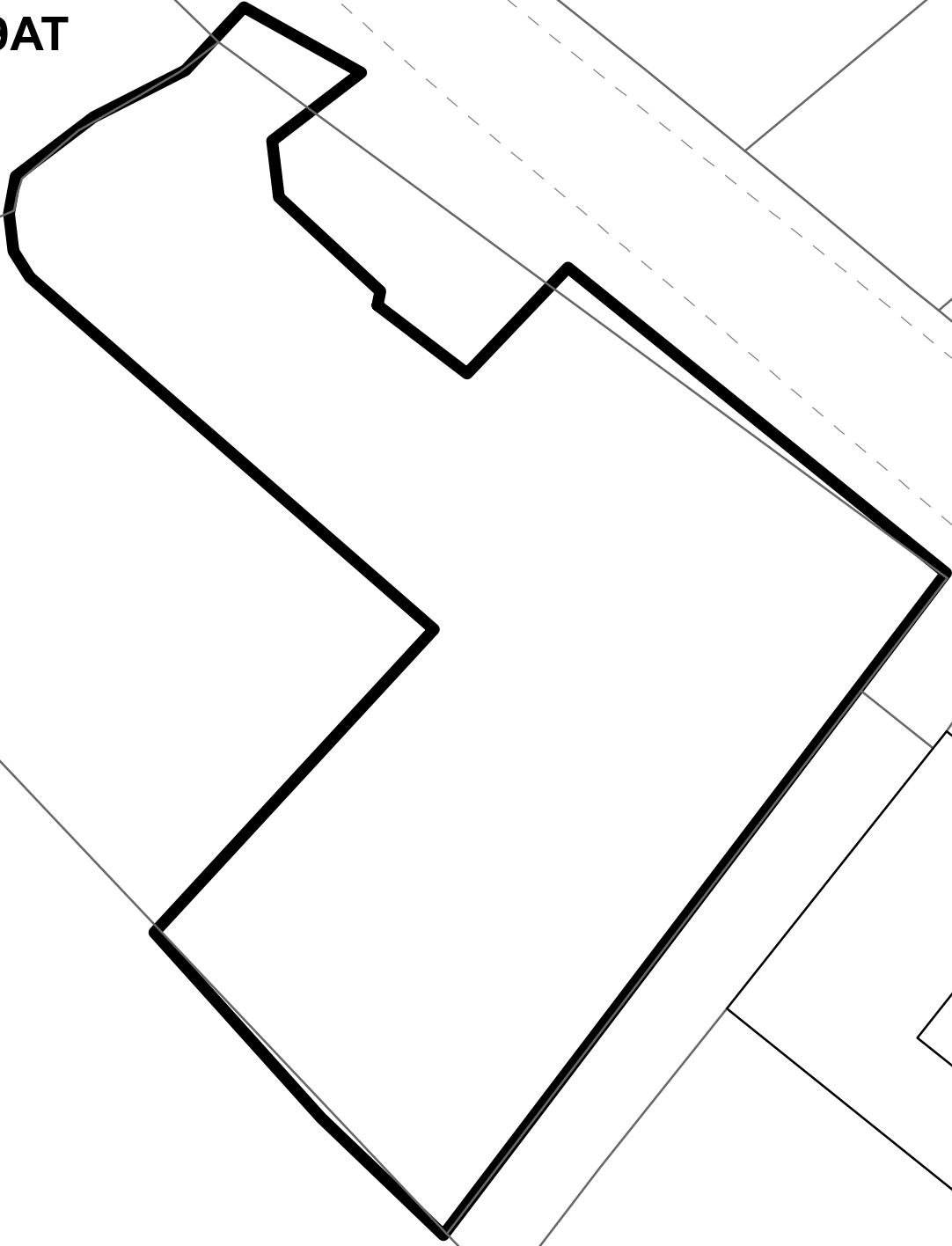
TEL: 01295 221823

Cottages

Row

20/03426/F

**3 The Green Barn
Stoke Lyne Road
Stratton Audley
Bicester
OX27 9AT**



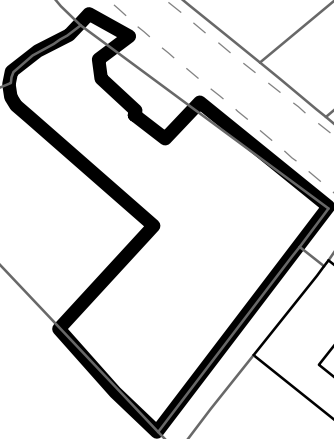
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20/03426/F

3 The Green Barn
Stoke Lyne Road
Stratton Audley
Bicester
OX27 9AT

Kent
Cottage

Oak
House



GLEN CLOSE

Stone
Cottages
Row

CHERRY CLOSE

STOKE LYNE ROAD

Stratton House

West House

West Cottages

EI
Sub Sta

The Stone House

Tel
Ex

TCB

Mallories

GP



1:1,000

Stratton

**3 The Green Barn Stoke Lyne Road Stratton Audley
Bicester OX27 9AT****Case Officer:** Matthew Chadwick**Applicant:** Mobley Ltd**Proposal:** RETROSPECTIVE - Erection of new detached dwelling house - this application seeks to amend the original dwelling design from 16/00366/REM and Appeal APP/C3105/W/16/3154107**Ward:** Fringford And Heyfords**Councillors:** Councillor Ian Corkin, Councillor James Macnamara and Councillor Barry Wood**Reason for Referral:** Called in by Councillor Corkin on the grounds of public interest**Expiry Date:** 25 January 2021**Committee Date:** 11 February 2021**1. APPLICATION SITE AND LOCALITY**

1.1. The application site is located on the south-western side of Stoke Lyne Road on the edge of the village of Stratton Audley. The site previously consisted of a large barrel-vaulted steel-clad barn with a mono pitched single storey projection to the rear. However, this has been demolished since the granting of numerous consents for residential development on the site. Permission has been granted for four dwellings on the site, which are under construction, including the dwelling to which this application relates.

2. CONSTRAINTS

2.1. There is a public footpath running to the north west of the site (ref: 371/5/10). The Stratton Audley Conservation Area boundary also exists immediately to the north and east of the site.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

3.1. Retrospective planning permission is sought for the erection of a detached dwelling house on the site. The dwelling would be of a similar overall form and scale to that approved under 15/00640/OUT and 16/00366/REM, with the main changes being to the fenestration of the dwelling. Externally, the changes from the previously approved scheme can be summarised as follows:

- On the southwest elevation a porch has been added, along with a window at first floor level and three dormers in the roofslope and the ridge height of the single storey element has been reduced.
- On the northwest elevation, a window has been removed at first floor level.
- On the northeast elevation (facing the road), a window has been added at ground floor level and a window has been added at first floor level.

Alterations are proposed to the approved windows and a window serving the utility room has been removed.

- On the southeast elevation, a window has been added to serve the utility room and a window has been added to serve the dining room, with rooflights above this. At first floor level two windows have been added, which would serve a bedroom, and en-suite and a second floor a window has been added to serve a bedroom.

3.2. Internally, a second floor has been added, which would accommodate a bedroom and a study in the roof space above the double garage. A gap between the garage of the dwelling and the garage for plot 2b would be infilled with a 1.8m stone boundary wall.

3.3. Planning consent is required for the alterations because the dwelling is being constructed not in accord with the approved plans. Permitted development rights have not yet taken effect because the dwelling is not completed; any in any event some of the changes would not constitute permitted development.

4. RELEVANT PLANNING HISTORY

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

<u>App Ref</u>	<u>Description</u>	<u>Status</u>
00/00793/F	Conversion of existing barn to residential accommodation as one house	Application Refused
01/00893/F	Demolition of existing barn and erection of two new 4 bed dwellings	Application Refused
09/01118/F	Demolition of agricultural barn and erection of two pairs of semi-detached houses.	Application Refused
14/01184/PAMB	Proposed conversion of agricultural building into 3 no. dwellinghouses	Application Withdrawn
14/01583/PAMB	Proposed conversion of agricultural building into 3 no. dwellinghouses	Prior approval granted
14/02042/F	Convert existing agricultural building into three dwelling houses and associated building works. Change of use of agricultural land in to residential gardens and amenity space.	Application Permitted
15/00640/OUT	OUTLINE - Demolition of existing dutch barn and erection of three dwellings and formation of new access	Application Permitted
15/02321/OUT	Demolition of existing dutch barn and erection of 4 No dwellings and formation of	Application Refused

new access; siting, layout and massing
(Resubmission of 15/00640/OUT)

16/00366/REM	Reserved matters on application	Application
	15/00640/OUT Layout, scale, appearance	Refused
	and access	

4.2. Application 16/00366/REM was refused for the following reason:

The proposed development, by virtue of the scale and prominence of the main part of the dwelling on Plot 3 and the siting, layout, form and scale of the dwelling on Plot 1, would fail to preserve or enhance the character and appearance of the Stratton Audley Conservation Area and would cause harm to the rural character, quality and appearance of the area. There are not considered to be any public benefits which would outweigh this harm. The proposed development would therefore be contrary to 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 in the National Planning Policy Framework on design and heritage matters.

4.3. This decision was appealed and was allowed by the Planning Inspectorate (APP/C3105/W/16/3154107).

5. PRE-APPLICATION DISCUSSIONS

5.1. No pre-application discussions have taken place with regard to the dwelling currently proposed. A pre-application enquiry relating to the whole site was submitted in 2015 (15/00283/PREAPP) and this related to the principle of development of the wider site rather than the changes proposed here.

6. RESPONSE TO PUBLICITY

6.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was **28 January 2021**, 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 4 households. The comments raised in objection from third parties are summarised as follows:

- The proposed fenestration would cause harm to the character and appearance of the conservation area.
- The proposals would result in a loss of privacy to neighbouring dwellings.
- The building would be in close proximity to the neighbouring building.
- The developer has built elements without consent.

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. STRATTON AUDLEY PARISH COUNCIL: **Objects**, on the grounds that the fenestration would cause harm to the character and appearance of the area and would result in overlooking of the adjacent property. The alterations to the side access of the dwelling could cause highway safety issues.

CONSULTEES

- 7.3. CDC ARBORICULTURE: No comments received at the time of writing this report.
- 7.4. OCC ARCHAEOLOGY: **No objections**.
- 7.5. CDC BUILDING CONTROL: **No objections**; comments that Part M access requirements will apply in terms of level access from the garage to the principal entrance. Also note that the ground floor Utility window may need to be fire-resistant fixed shut if the distance to the boundary is less than 1 metre.
- 7.6. CDC ENVIRONMENTAL HEALTH: **No objections**.
- 7.7. OCC HIGHWAYS: No comments received at the time of writing this report.
- 7.8. CDC LAND DRAINAGE: **No objections**.

8. RELEVANT PLANNING POLICY AND GUIDANCE

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

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

- PSD1: Presumption in Favour of Sustainable Development
- ESD1: Mitigating and Adapting to Climate Change
- ESD13: Local Landscape Protection and Enhancement
- ESD15: The Character of the Built and Historic Environment
- Villages 1: Village Categorisation

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- H18: New dwellings in the countryside
- 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

9. APPRAISAL

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

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

Principle of Development

- 9.2. Policy Villages 1 of the CLP 2015 provides a framework for housing growth in the rural areas of the district and groups villages into three separate categories (A, B and C). Stratton Audley is a Category C settlement, which means that it is one of the least sustainable rural settlements in the district. Within the limits of Stratton Audley, only infilling and conversions are considered acceptable in principle.
- 9.3. Saved Policy H18 of the Cherwell Local Plan 1996 states that planning permission will only be granted for the construction of new dwellings beyond the built-up limits when it is essential for agriculture or other existing undertakings.
- 9.4. The application site has an extensive planning history as set out earlier in this report. The development as proposed would fail to comply with Policy Villages 1, as the proposals do not constitute infilling or conversion of an existing building.
- 9.5. That said, planning consent for four dwellings exists across the wider site and applications 15/00640/OUT and 16/00366/REM have been lawfully implemented with conditions 2, 3 and 5 discharged. Development of the dwelling in question has been commenced and therefore there is consent for a dwelling on this site. Whilst this application proposes a new dwelling which is not supported by policy, significant weight has to be given to the fallback position that exists and the extant permission for a dwelling on this plot. There has been no material change in circumstances since the previous grants of planning consent on this site.
- 9.6. In addition, the nature of the changes proposed between this new dwelling and that previous consented are not significant. Given this planning history, the broad principle of the proposed development is considered to be acceptable, subject to the other material considerations discussed below.

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

Legislative and policy context

- 9.7. Government guidance contained within the NPPF requiring good design states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Further, permission should be refused for development of poor design that fails to take the opportunities for improving the character and quality of an area and the way it functions.

- 9.8. Saved Policies C28 and C30 of the Cherwell Local Plan 1996 exercise control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context. New housing development should be compatible with the appearance, character, layout, scale and density of existing dwellings in the vicinity.
- 9.9. Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1 states that new development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design. All new development will be required to meet high design standards, and should respect the historic environment including Conservation Areas and listed buildings.
- 9.10. 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

Assessment

- 9.11. The scope of the design changes proposed in this application from that approved under 16/00366/REM are set out in the introduction to this report. Many of these changes face inwards into the site and have little or no impact on the character and appearance of the area.
- 9.12. Concerns have been raised by third parties during the consultation process regarding the impact of the new windows on the elevations facing the public domain.
- 9.13. More windows are proposed on the northeast elevation facing the road than were previously approved. Three windows are proposed at ground floor level and three windows at first floor level. This would result in a more uniform appearance to the dwelling, as there is now more rhythm with regards to the location of the fenestration, but officers consider that this would not cause harm to the character and appearance of the area.
- 9.14. On the approved scheme, there were no windows on the southeast elevation whereas in the proposed scheme there are five windows and two rooflights on this elevation. These changes would result in the building having more of a domestic appearance. However, the proposal is for a dwelling within a residential context, and in addition the introduction of these windows would result in the building having more of an active frontage onto the public domain. This element is therefore considered acceptable in visual terms.
- 9.15. The development proposes to infill the existing gap between the garage for Plot 3 and the garage for Plot 2b with a stone wall 1.8m in height. Any permission given would need to be subject of a condition to require that this element of the scheme is constructed externally in stonework to match the sample panel previously approved for the dwelling on the site in order to achieve a well-designed form of development and to safeguard the character and appearance of the area.

- 9.16. Three dormer windows are proposed within the southwest roofslope. These would face into the site are not considered to cause harm to the character and appearance of the area. The ridge height for the dwelling would be the same as the dwelling approved under 16/00366/REM.
- 9.17. For these reasons, it is considered that the development would not cause harm to the character and appearance of the area or the significance of the Stratton Audley Conservation Area through change to its setting. The form and scale of the dwelling would not change from the previously approved scheme and the main visual alterations relate to the introduction of new windows. Whilst the introduction of windows on the northeast and southeast elevations would result in a visual difference from the previously approved scheme, it is not considered that this would result in any material harm to heritage assets.

Conclusion

- 9.18. The development would not cause harm to the character and appearance of the area or the significance of the Stratton Audley Conservation Area through change to its setting. The proposal would therefore comply with Policy ESD15 of the CLP 2015, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the NPPF.

Residential amenity

Policy Context

- 9.19. Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1 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.
- 9.20. The Cherwell Residential Design Guide (2017) states that a minimum distance of 22m back to back, between properties must be maintained and a minimum of 14m distance is required from rear elevation to two storey side gable.

Assessment

- 9.21. Concerns have been raised by third parties regarding the impact that the development would have on neighbours in terms of overlooking.
- 9.22. There would be ground and first floor windows in the elevation of plot 3 facing 2 Cherry Close to the north east of the site. This dwelling has a number of windows in the rear elevation facing towards the application site. The Council would normally expect a back to back distance of 22 metres to be retained between properties to ensure adequate levels of privacy are provided.
- 9.23. However, in this case this is not a traditional back to back relationship as the properties are separated by a road and it is the front elevation of plot 3 that faces towards this neighbour. The presence of the road and footpath reduces the level of privacy and tranquillity to the rear of 2 Cherry Close.
- 9.24. The distance maintained between the first-floor windows on plot 3 and the rear elevation of 2 Cherry Close would be just in excess of 17 metres. This relationship would not be ideal as there would be some overlooking between Plot 3 and the rear elevation of 2 Cherry Close. However, given the unconventional relationship between these properties, the presence of the road and the relatively small size of the bedroom window on plot 3 facing 2 Cherry Close, it is considered on balance

that the proposal would not result in an unacceptable loss of privacy or overlooking to 2 Cherry Close which would justify refusal. Furthermore, this is the same relationship as was approved under 16/00366/REM and the changes proposed in the current application do not make the impact any more harmful.

- 9.25. Concerns have been raised in the consultation period regarding the impact that the proposed windows would have on Mattingley Barn to the southeast of the site. Mattingley Barn openings facing towards the site and be approximately 5m in distance from the closest part of Plot 3. As noted above, the previously approved dwelling had no openings on the southeast elevation.
- 9.26. Respondents have commented that Mattingley Barn has been previously used for storage and engineering purposes. From looking at the planning history of the building, there has been no industrial use approved at the site. The windows that would have the most impact would serve the utility room at ground floor, those that would serve the en-suite and bedroom 1 at first floor level and the window serving bedroom 3 at second-floor level.
- 9.27. In the approved scheme the utility room was served by a window on the northeast elevation. The proposed window would be within 1m of the boundary of the site. The neighbour has stated that they would be able to construct a fence on their boundary in close proximity to this building.
- 9.28. The first-floor windows would serve an en-suite and a secondary window to bedroom 1 and the window at second floor would be a secondary window to bedroom 3. These windows would look towards Mattingley Barn and would either not be the primary windows serving the rooms or would be in an en-suite, in which windows would often be obscurely glazed for privacy reasons.
- 9.29. A condition removing permitted development rights of Classes A to E (inc.) of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 was included on the wider site. Given that the dwelling could be extended or altered in a way that the amenities of neighbours could be negatively affected, this is a reasonable and necessary condition to impose.
- 9.30. Given these issues, the rooms that these windows serve and the proximity of the window to the neighbour, it is considered reasonable to impose a condition that the aforementioned windows should be restricted opening and obscurely glazed. Subject to this condition and given the approved uses of the two buildings, it is considered that this relationship would not cause harm to the occupiers of either building.

Conclusion

- 9.31. It is considered that subject to conditions the development would not cause harm to the amenities of neighbours and that the proposals would comply with Policy ESD15 of the CLP2015 and Government guidance contained within the NPPF.

Highway safety

- 9.32. The local Highway Authority has not commented on the application. The proposed dwelling would not have an extra bedroom than the previously approved scheme, going from three bedrooms to four. The level of proposed parking remains the same, with a double garage and sufficient parking and turning area. It is therefore considered that the development would not cause harm to the safety of the local highway network.

Other matters

- 9.33. Policy ESD3 of the CLP2015 states that Cherwell District is in an area of water stress and as such the Council will seek a higher level of water efficiency than required in the Building Regulations, with developments achieving a limit of 110 litres/person/day. A condition shall be included in this regard.

10. PLANNING BALANCE AND CONCLUSION

- 10.1. The principle of development for residential development on the site is considered to be acceptable given the planning history on the site and the implementation of 15/00640/OUT and 16/00366/REM. The development would not cause harm to the character and appearance of the area or the setting of the conservation area. Subject to conditions, the development would not cause harm to the amenities of neighbours or the safety of the local highway network.

11. RECOMMENDATION

GRANT PERMISSION, SUBJECT TO THE CONDITIONS SET OUT BELOW

CONDITIONS

Compliance with Plans

1. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: Site Location Plan (PU1905/19) and Plot 3 Proposals (PU1905/24).

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

2. The external walls of the development that are to be constructed from natural stone shall be constructed in accordance with the stone sample panel approved under 19/00074/DISC.

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 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.

3. The roofs of the development that are to shall be finished in accordance with the slate sample approved under 19/00074/DISC.

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. Within one month of the date of this consent, full details of the doors and windows hereby approved, at a scale of 1:20 including a cross section, cill, lintel and recess detail and colour/finish, shall be submitted to and approved in writing

by the Local Planning Authority. The doors and windows shall be installed within the building in accordance with the approved details and shall be retained as such thereafter.

Reason - To ensure the satisfactory appearance of the completed development and to safeguard the 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.

5. Prior to the first occupation of any dwelling hereby approved, details of both hard and soft landscape works shall have been submitted to and approved in writing by the Local Planning Authority. These details shall include:
 - i) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas.
 - ii) details of the hard surface areas including pavements, pedestrian areas, reduce-dig areas, crossing points and steps.

The landscaping works shall be carried out in accordance with the approved details and the hard landscaping works shall be carried out before any part of the development is first occupied and shall be retained as such thereafter.

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

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

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

7. Prior to the first occupation of any dwelling hereby permitted, full details of the enclosures along all boundaries and within the site shall be submitted to and approved in writing by the Local Planning Authority. The approved means of enclosure, in respect of the dwellings they are intended to screen, shall be erected in accordance with the approved details prior to the first occupation of those dwellings and shall be retained as such thereafter.

Reason - To ensure the satisfactory appearance of the completed development, to safeguard the privacy of the occupants of the existing and proposed dwellings and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policies C28 and C30 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

8. Prior to any works to provide the access, parking and turning area of the development hereby approved, full specification details (including construction, layout, surfacing and drainage) of the access between the land and the highway, and the turning area and parking spaces within the curtilage of the site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first occupation of the development, the access, turning area and car parking spaces shall be constructed in accordance with the approved details and shall be retained for the parking and manoeuvring of vehicles at all times thereafter.

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. Prior to the first occupation of the development hereby approved, the ground floor window in the southeast elevation of the utility room, the first floor windows in the southeast elevation of bedroom 1 and the associated en-suite and the second floor window of bedroom 3 in the southeast elevation shall be restricted opening to 15 degrees and shall be fully glazed with obscured glass that complies with the current British Standard, and retained as such thereafter.

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

10. 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 altered or 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 enable the Local Planning Authority to retain planning control over the development of this site in order to safeguard the amenities of the occupants of the adjoining buildings in accordance 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.

11. Prior to the first occupation of the development hereby permitted, written confirmation that the development achieves a water efficiency limit of 110 litres/person/day under Part G of the Building Regulations shall be submitted to and approved in writing by the Local Planning Authority.

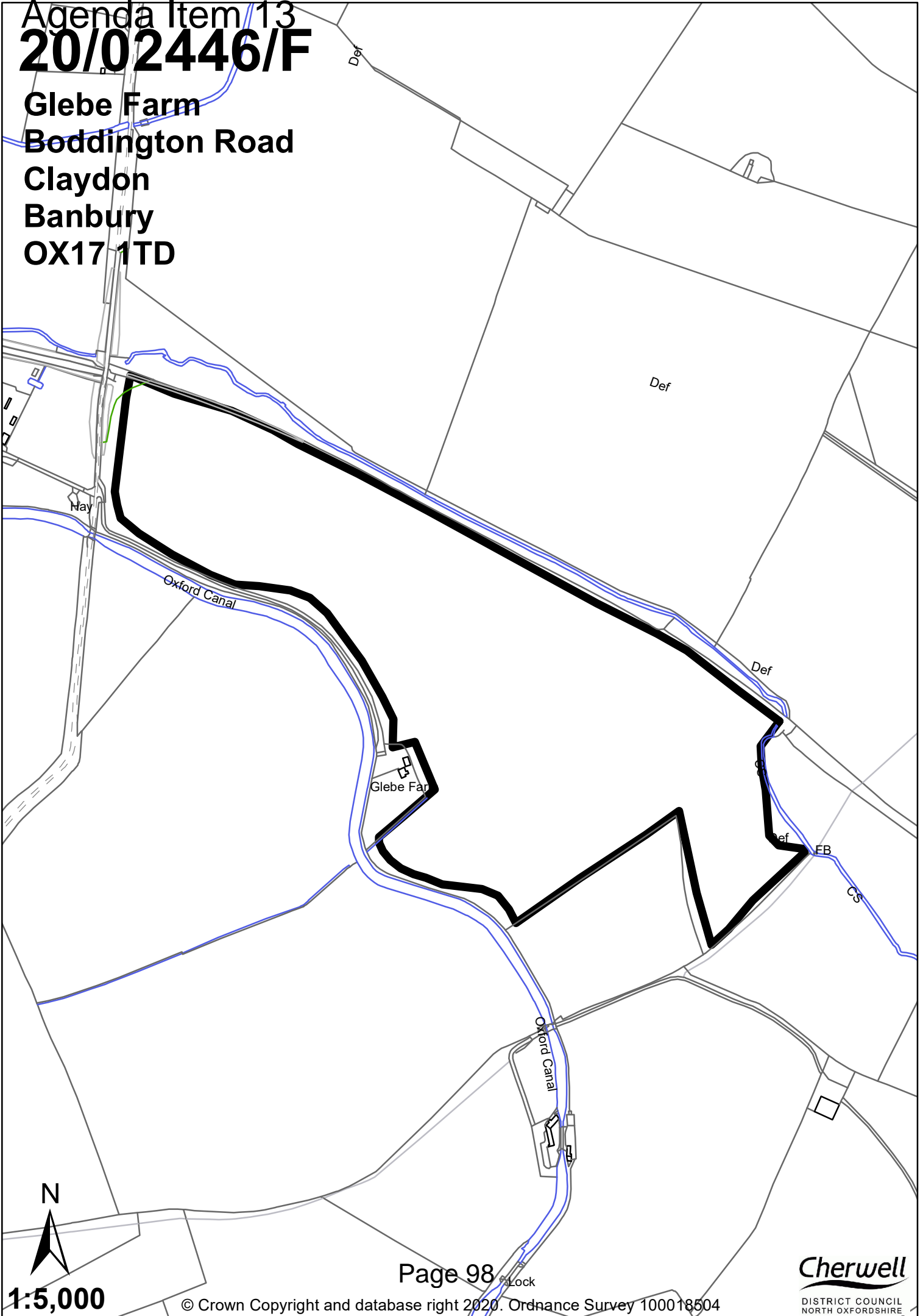
Reason: Cherwell District is in an area of water stress, to mitigate the impacts of climate change and in the interests of sustainability, to comply with Policies ESD1 and ESD3 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in the National Planning Policy Framework.

CASE OFFICER: Matthew Chadwick

TEL: 01295 753754

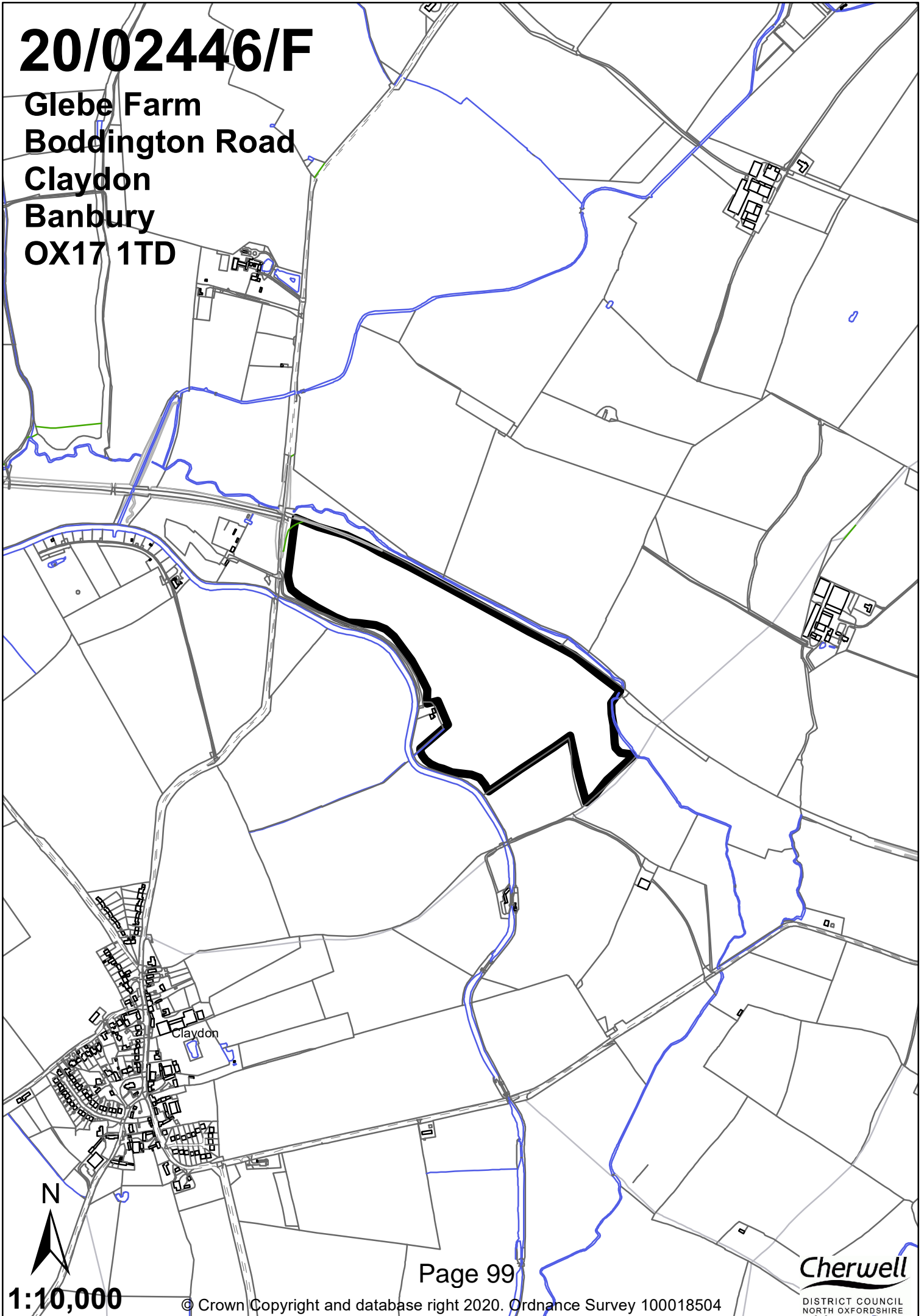
Agenda Item 13
20/02446/F

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



20/02446/F

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 Chapman, Cllr Reynolds and Cllr Webb

Reason for Referral: Major Development

Expiry Date: 24 December 2020

Committee Date: 11 February 2021

1. BACKGROUND

- 1.1. The application was considered by Planning Committee on 14 January 2021.
- 1.2. This report should be read as an addendum to the Officers' report to that committee. The previous officer report is included at Appendix 1 and the Written Update for this application presented to the January committee is included at Appendix 2.
- 1.3. Members resolved to refuse the application for three reasons: The sustainability of the location; the impact that the proposal would have on the safety of the local highway network; and the impact on the character and appearance of the Canal Conservation Area.
- 1.4. In preparing a decision, officers reviewed the Committee's resolution and the debate that preceded it.
- 1.5. Having reviewed the matter and having taken advice from the Council's legal services team, officers are returning this application to the Committee to seek clarity on the Committee's resolution and to obtain the Committee's instructions.

2. APPRAISAL

- 2.1 This report seeks to clarify the Committee's reasons for refusal.
- 2.2 The Member moving for refusal suggested that the application should be refused on the basis of policies T1, T7 and T10 of the Cherwell Local Plan 1996 and Policies ESD1, ESD15, ESD16, LSE1 and LSE4 of the Cherwell Local Plan 2011-2031 Part 1.
- 2.3 Policies T1 and T10 of the Cherwell Local Plan 1996 were not saved and therefore are no longer part of the development plan. Policy T7 (is saved but) relates only to the conversion of buildings so is not relevant for this proposal. Officers think it possible that those being referred to were policies TR1, TR7 and TR10, which are all saved policies.

- 2.4 Policies LSE1 and LSE4 were referred to but these do not exist – officers think it likely that those being referred to were policies SLE1 and SLE4 of the Cherwell Local Plan 2011-2031 Part 1.
- 2.5 The resolution of the committee was to refuse the application contrary to the officer recommendation “(with the **exact** wording of the reasons delegated to the Assistant Director Planning and Development)”. The changes that officers can make have to remain within the scope of the issues raised by and voted upon by the committee.
- 2.6 In this instance, because specific policies were listed and refusal reasons not detailed alongside those policies, Officers are limited as to what we are able to change/amend.
- 2.7 Lastly, Members appeared not to have added a refusal reason relating to the non-completion of a Section 106 agreement as set in the recommendation to the January Planning Committee.
- 2.8 It is regrettable that Officers did not take the opportunity to provide advice to the Councillor in the meeting or clarify the reasons for refusal before the vote. However, by seeking formal endorsement of the reasons for refusal we are able to ensure these best reflect the committee’s views on the proposal.
- 2.9 Officers therefore seek clarification as to the Committee’s resolution and its reasons for refusal.

3. CONCLUSION

- 3.1 Members’ guidance and endorsement is sought on the reasons for refusal.

4. RECOMMENDATION

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

- (a) The Planning Committee agrees the wording of the reasons for refusal:

Proposed wording for Refusal Reason 1:

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. Future users of and visitors to the development would have no realistic choice of transport other than the private car, and the proposal would result in an unsustainable form of development. The proposal would therefore be contrary to Policies SLE1, ESD1, ESD16 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance within the National Planning Policy Framework.

Proposed wording for Refusal Reason 2:

By virtue of its scale and location, the proposed development would result in a significant increase in traffic on the surrounding road network, and it has not been demonstrated that the access to the development or the visibility over bridges in the local area would be adequate for the scale of development proposed. The proposal would therefore be to the detriment of local highway safety and contrary to Policy SLE4 of the Cherwell Local Plan 2011-2031 Part 1 and saved Policies TR1, TR7 and TR10 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Proposed wording for Refusal Reason 3:

By virtue of its scale and siting, the proposed development would fail to preserve the character and appearance of the Oxford Canal Conservation Area. This harm, which would be less than the substantial, would significantly and demonstrably outweigh the benefits of the proposed development. The proposed development would therefore be contrary to Policies ESD15 and ESD16 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Proposed wording for Refusal Reason 4:

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 saved Policy TR1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework and relevant Government guidance in the National Planning Policy Framework.

CASE OFFICER: Shona King / Nathanael Stock
01295 753754

TEL:

**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 routeing 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

**CHERWELL DISTRICT COUNCIL
PLANNING COMMITTEE
14 January 2021**

WRITTEN UPDATES

Agenda Item 10

20/02246/F - Glebe Farm Boddington Road Claydon Banbury OX17 1TD

Additional information received

None.

Additional Representations received

Response received from South Northamptonshire District Council making no comments on the application.

One additional response received, a letter of objection, from a local resident. Their comments are summarised as follows:

- Need for a further marina on the canal?
- Overdevelopment
- Highway access poor
- Queries whether Northamptonshire has been consulted
- Visual impact caused by bunds
- Landscape impact extremely significant and severe
- Impact on canal and towpath from wear and tear and increased boat traffic
- Impact on wildlife
- Impact of flooding on the marina
- Economic and social implications on the village of Claydon
- Lack of enhancement of the landscape
- Development of HS2 should not be considered a precedent
- Appearance of service building
- Light pollution would significantly harm the character of the landscape.
- Drawings difficult to read and understand
- Deterioration of local countryside
- Details missing of access from the applicant's farm, drainage, pollution monitoring etc.
- Queries water supply for lake
- Planning conditions should be discussed with Claydon village
- Out of character with the landscape physically and functionally
- Impact on historic landscape.

The applicant's agent, Stephen Rice, has submitted comments on the report to committee, including:

- apparent errors re consultation responses (page 64);
- omissions from the officer's conclusion as to why the proposal is considered acceptable;

- queries as to (i) why Fenny Marina’s objection is verbatim rather than summarised, (ii) why the ‘no objection’ at para 7.43 is not in bold type, (iii) why “supported” at para 7.55 is not in bold type, and (iv) whether there will be a committee site visit prior to its decision;
- queries as to the coverage in the report of the sustainability of the site’s location;
- lack of coverage of the Council’s vision and objectives;
- various disagreements over the planning judgement;
- the lack of response to this application from the Council’s Economic Growth Officer;
- lack of coverage in the report of the proposal’s benefits; and
- objections to the recommendation in relation to Section 106.

Finally, the applicant’s agent asserts that officers have a “fundamental misunderstanding on the operation of a recreational marina...”

Officer comment

There are errors at page 64 of the report: OCC Drainage as Lead Local Flood Authority raised no objections; the Environment Agency raised no objections; CDC Ecology did not comment on the application; nor did OCC Archaeology, Northants County Council, HS2, Thames Valley Police, or CDC Strategic Housing.

In addition, as the report states, CDC Economic Growth, CDC Arboriculture, Cropredy Surgery and Banbury Sailing Club all responded to the last application but did not comment on the current one.

There is one further clarification to make: In the heritage section the officer assessment begins at para 9.67.

With regard to Fenny Marina’s objection, officers endeavour to summarise representations but at times they are copied in full. It is not inappropriate, in the interests of time, to cite some representations in full in this and other contemporaneous reports. It is noted that in the 2018 report to Committee the CDC Economic Growth Officer’s comments in support were given in full.

The non-emboldening of text at para 7.43 was an unintentional oversight. The non-emboldening of text from paras 7.55 – 7.58 – of both support and objections – was intentional because these consultees did not respond to the current application.

With regard to the sustainability of the site’s location, the report to this Committee sought to provide a full and fair assessment of this material consideration which in officers’ view is central to proposals for new development, and decision makers are directed by local and national policy (as well as Planning Inspectors through appeal decisions) to evaluate proposals in this regard.

Officers would disagree that there is a lack of coverage of the Council’s vision and objectives, and would note that there is no greater and no less reference to the same in the 2018 report to Committee, to which the applicant’s agent did not express the same objection. In addition, and unlike the 2018 report, officers have noted (para 9.34) that such proposals require considerable capital investment and that it is

unlikely that the applicant would have proposed this development if they did not believe there was a need or that a healthy return could be made on that investment.

The Council's Economic Growth Officer was consulted on this application. Planning officers have no record of a response being received, but the report does refer to their support expressed at the time of the 2018 application.

In terms of the proposal's benefits, the report to Committee provides coverage at paras 9.106 – 9.108, which is essentially the same text as the same section in the 2018 report. And the report's conclusion refers to the proposal's benefits (para 10.5), which is the same text as the 2018 report (para 10.4 of that report). Para 10.7 is worded differently from the equivalent paragraph of the 2018 report but the amendments were made to better reflect the wording of para 11 of the NPPF.

The report concludes the proposal is acceptable on the basis that the harm identified does not significantly and demonstrably outweigh the benefits.

Finally, with regard to planning obligations, it is necessary for the recommendation to include a date. The recommendation does say, "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...**" At the time of writing, no further extension of time has been agreed but, if the planning committee was minded to grant planning permission in line with the officer recommendation, officers would then seek a further extension of time from the agent. In this scenario it would not make sense simply to refuse the application 4 days after committee and that is not the intention of the recommendation.

Change to recommendation

None

Agenda Item 14

Cherwell District Council

Planning Committee

11 February 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. Recommendations

The meeting is recommended:

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

2. 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. Report Details

3.1 New Appeals

20/00964/OUT – The Beeches, Heyford Road, Steeple Aston, OX25 4SN -

Erection of up to 8 dwellings with all matters reserved except the means of access on to Heyford Road

Method of determination: Written Representations

Key Dates:

Start Date: 07.01.2021 **Statement Due:** 11.02.2021 **Decision:** Awaited

Officer recommendation – Refusal (Delegated)

Appeal reference – 20/00037/REF

20/00878/F - Ashfield House, Alkerton Road, Balscote, OX15 6JR - Detached Dwelling (Re-submission of Planning Application 19/00550/F).

Method of determination: Written Representations

Key Dates:

Start Date: 15.01.2021 **Statement Due:** 19.02.2021 **Decision:** Awaited

Officer recommendation – Refusal (Delegated)

Appeal reference – 20/00038/REF

20/00841/F - Barn And Land South West Of Cotefield Farm, Church Street, Bodicote - Erection of garage adjacent to approved dwelling and change of use of agricultural land to residential use

Method of determination: Written Representations

Key Dates:

Start Date: 26.01.2021 **Statement Due:** 02.03.2021 **Decision:** Awaited

Officer recommendation – Refusal (Delegated)

Appeal reference – 20/00039/REF

20/01230/TPO - The Brambles, Somerton Road, Upper Heyford, Bicester, OX25 5LB - T1 (Horse Chestnut) - fell. Tree subject to TPO 4/88

Method of determination: Fast Track

Key Dates:

Start Date: 27.01.2021 **LPA Questionnaire Due:** 10.02.2021 **Decision:** Awaited

Officer recommendation – Refusal (Delegated)

Appeal reference – 20/00040/REF

3.2 New Enforcement Appeals

None

3.3 Appeals in Progress

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).

Officer recommendation – Refusal (Delegated)

Method of determination: Written Representations

Start Date: 01.12.2020 **Statement Due:** 05.01.2021 **Decision:** Awaited

Appeal reference – 20/00031/REF

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

Officer recommendation – Refusal (Delegated)

Method of determination: Written Representations

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

Appeal reference – 20/00026/REF

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

Officer recommendation – Refusal (Delegated)

Method of determination: Written Representations

Start Date: 01.12.2020 **Statement Due:** 05.01.2021 **Decision:** Awaited

Appeal reference – 20/00032/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 13 to sitting days

Appeal reference – 20/00030/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.

Officer recommendation – Refusal (Delegated)

Method of determination: Written Representations

Start Date: 11.12.2020 **Statement Due:** 22.01.2021 **Decision:** Awaited

Appeal reference – 20/00035/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.

Officer recommendation – Refusal (Delegated)

Method of determination: Written Representations

Key Dates:

Start Date: 16.12.2020 **Statement Due:** 13.01.2021 **Decision:** Awaited

Appeal reference – 20/00034/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)

Officer recommendation – Refusal (Delegated)

Method of determination: Written Representations

Start Date: 01.12.2020 **Statement Due:** 05.01.2021 **Decision:** Awaited

Appeal reference – 20/00033/REF

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

Officer recommendation – Refusal (Delegated)

Method of determination: Written Representations

Key Dates:

Start Date: 14.12.2020 **Statement Due:** 18.01.2021 **Decision:** Awaited

Appeal reference – 20/00036/REF

Enforcement appeals

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

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

Method of determination: Hearing

Key Dates:

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

Hearing date: TBC

Decision: Awaited

Appeal reference: 20/00019/ENF

3.4 Forthcoming Public Inquires and Hearings between 12 February 2021 and 11 March 2021

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 and Days of the Inquiry: Tuesday 9 February. 10am start. 9th Feb – 12th Feb, 16th Feb – 19th Feb, 1st March – 5th March

Details on how to live stream the online Public Inquiry will be are on the Council's online planning register.

3.5 Results

Inspectors appointed by the Secretary of State have:

- 1. Dismissed the appeal by Mr G Cochrane for Certificate of Lawfulness of Existing Use for the use of the annex building as an independent, self-contained dwelling (Class C3). The Lodge, Swift House Farm, Stoke Lyne, OX27 8RS – 20/00675/CLUE**
Officer recommendation – Refusal (Delegated)
Appeal reference – 20/00025/REF

The case relates to a building that sits within what is a largely separate plot from the adjoining house and has a separate access. The building contains a kitchen, a bathroom and several other rooms.

The Inspector considered the main issue to be whether a material change of use had occurred and if so whether it continued for long enough to be immune from planning control. If a material change of use to a single dwellinghouse has occurred, it is necessary for that to have continued for a period of 4 years prior to the date of the application. This relates to the time limit for taking enforcement action as set out in S171B(2) of the Act.

The Inspector noted that there was no dispute between the parties that the facilities currently provide viable facilities for potential independent living, but that a building with the facilities of a self-contained unit may nonetheless remain part of the same planning unit as the original dwellinghouse. The Inspector further noted that the onus of proof is on the appellant to demonstrate the case but that if the evidence alone is sufficiently precise and unambiguous and the Council has no evidence to contradict that of the appellant's there is no good reason to dismiss the appeal.

The Inspector found there to be 'very little detail' within the submissions about the nature of the occupation of the building, and no explanation of the terms "independent" or "main residence". The Inspector found it clear that the building

had originally been used for purposes ancillary to the occupation of the main dwelling, and noted the appellant's confirmation during his site visit that (1) the annexe and the main dwelling were sharing utilities and (2) there was a degree of functional linkage between the two buildings. The Inspector noted the lack of clarity about when any changes to the nature of the occupation may have occurred.

The Inspector concluded on the basis of the evidence submitted and the representations made that "it is less than probable that 'The Lodge' had been used as a completely independent dwelling within a separate planning unit for any period of 4 years prior to the submission of the application" and therefore that the Council's refusal to grant a certificate of lawful use or development in respect of the use of the annex building as an independent, self-contained dwelling (Class C3), was well founded. Accordingly the appeal was dismissed.

4. Conclusion and Reasons for Recommendations

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

5. Consultation

None.

6. Alternative Options and Reasons for Rejection

- 6.1 None. The report is presented for information.

7. 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:

Karen Jordan, Deputy Principal Solicitor
karen.jordan@oxfordshire.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. Decision Information

Key Decision:

Financial Threshold Met N/A

Community Impact Threshold Met N/A

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

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