

# Public Document Pack



**Cherwell**

DISTRICT COUNCIL  
NORTH OXFORDSHIRE

**Committee:** Planning Committee  
**Date:** Thursday 15 April 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 Kaur Dhesi  
Councillor Tony Ilott  
Councillor Ian Middleton  
Councillor Douglas Webb  
Councillor Bryn Williams  
Councillor Sean Woodcock

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

## AGENDA

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

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

### 3. **Requests to Address the Meeting**

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

### 4. **Minutes** (Pages 5 - 35)

To confirm as a correct record the Minutes of the meeting of the Committee held on 11 March 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.

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

There are no proposed Pre-Committee Site Visits.

## **Planning Applications**

### 8. **Land West of Cotefield Business Park, Oxford Road, Bodicote** (Pages 38 - 66) **20/03353/OUT**

### 9. **Plot 37 Land adj to 7 Henge Close, Adderbury, OX17 3GA** (Pages 67 - 83) **20/03687/F**

### 10. **Amare Cottage, Roundhill Road, Mollington, OX17 1AY** (Pages 84 - 91) **21/00767/F**

## **Review and Monitoring Reports**

### 11. **Appeals Progress Report** (Pages 92 - 101)

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.

#### **Recommendation**

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

### 12. **Planning Enforcement Report** (Pages 102 - 111)

## Report of Assistant Director - Planning and Development

### **Purpose of Report**

To update Members on current planning enforcement activity following the last report in January 2021.

### **Recommendation**

2.1 The meeting is recommended to note the contents of the report.

### **13. Exclusion of Public and Press**

The following report contains exempt information as defined in the following paragraph of Part 1, Schedule 12A of Local Government Act 1972.

3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).

5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

Members are reminded that whilst the following item(s) have been marked as exempt, it is for the meeting to decide whether or not to consider each of them in private or in public. In making the decision, members should balance the interests of individuals or the Council itself in having access to the information. In considering their discretion members should also be mindful of the advice of Council Officers.

Should Members decide not to make a decision in public, they are recommended to pass the following recommendation: "That, in accordance with Section 100A (4) of Local Government Act 1972, the press and public be excluded from the meeting for the following item of business, on the grounds that they could involve the likely disclosure of exempt information as defined in paragraphs 3 and 5 f Schedule 12A of that Act."

### **14. Planning Inquiry Options Appraisal**

\*\* This exempt report will follow as it is being reviewed and finalised \*\*

Exempt report of Assistant Director Planning and Development

## **Information about this Agenda**

### **Apologies for Absence**

Apologies for absence should be notified to [democracy@cherwell-dc.gov.uk](mailto: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](mailto:democracy@cherwell-dc.gov.uk), 01295 221591

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

Published on Wednesday 7 April 2021

## **Cherwell District Council**

### **Planning Committee**

Minutes of a meeting of the Planning Committee held as a Virtual meeting, on 11 March 2021 at 4.00 pm

#### Present:

Councillor James Macnamara (Chairman)

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

#### Substitute Members:

Councillor Richard Mould (In place of Councillor Hugo Brown)  
Councillor Barry Wood (In place of Councillor Maurice Billington)  
Councillor Ian Middleton (In place of Councillor Katherine Tyson)

#### Apologies for absence:

Councillor Maurice Billington  
Councillor Hugo Brown  
Councillor Simon Holland  
Councillor Katherine Tyson

#### Officers:

Alex Chrusciak, Senior Manager - Development Management  
Andy Bateson, Team Leader – Major Developments  
Frances Evans, Housing Strategy and Development Team Leader  
Caroline Ford, Principal Planning Officer – Major Projects Planning Team  
Samantha Taylor, Principal Planning Officer  
Bob Neville, Senior Planning Officer  
Jennifer Crouch, Solicitor  
Lesley Farrell, Democratic and Elections Officer  
Natasha Clark, Governance and Elections Manager

134 **Declarations of Interest**

**8. Bicester Gateway Business Park, Wendlebury Road, Chesterton.**

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

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

**9. Blessed George Napier Roman Catholic School, Addison Road, Banbury, OX16 9DQ.**

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.

**11. Land Adjacent To The Oxford Canal, Spiceball Park Road, 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 Barry Wood, Non Statutory Interest, as a member of the Executive and would leave the meeting for the duration of the item.

Councillor Colin Clarke, Non Statutory Interest, as a member of Banbury Town Council which had been consulted on the application and a separate declaration as a member of the Executive and would leave the meeting for the duration of the item.

Councillor George Reynolds, Non Statutory Interest, as a member of the Executive and would leave the meeting for the duration of the item.

Councillor Ian Corkin, Non Statutory Interest, as a member of the Executive and would leave the meeting for the duration of the item.

Councillor Lynn Pratt, Non Statutory Interest, as a member of the Executive and would leave the meeting for the duration of the item.

Councillor Richard Mould, Non Statutory Interest, as a member of the Executive and would leave the meeting for the duration of the item.

135 **Requests to Address the Meeting**

There were no requests to address the Committee.

136 **Minutes**

The Minutes of the meeting held on 11 February 2021 were agreed as a correct record and would be signed by the Chairman in due course.

137 **Chairman's Announcements**

There were no Chairman's announcements.

138 **Urgent Business**

There were no items of urgent business.

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

There were no proposed Pre-Committee site visits.

140 **Bicester Gateway Business Park, Wendlebury Road, Chesterton**

The Committee considered application 20/00293/OUT an outline application for (Phase 1B) including access (all other matters reserved) for up to 4,413 sqm B1 office space (47,502 sqft) GIA, up to 273 residential units (Use Class C3) including ancillary gym, approximately 177 sqm GIA of café space (Use Class A3), with an ancillary, mixed use co-working hub (794 sqm/ 8,550 sqft GIA), multi-storey car park, multi-use games area (MUGA), amenity space, associated infrastructure, parking and marketing boards at Bicester Gateway Business Park, Wendlebury Road, Chesterton for Bicester Gateway Limited.

In reaching its decision the Committee considered the officers report and presentation and the written updates.

**Resolved**

- (1) That authority be delegated to the Assistant Director Planning and Development to grant permission for application 20/00293/OUT subject to:
  - a) the completion of a planning obligation under Section 106 of the Town and Country Planning Act 1990, as substituted by the Planning and Compensation Act 1991, to secure the mitigation as set out in paragraph 2.45 of the 8 October Planning Committee report (as amended by the report submitted to the 11 March 2021 Planning Committee including supporting the officer position on the matters

currently in dispute (RP Liability and Affordable Housing) giving a final list of Heads of Terms as follows:

- *The provision of 30% Affordable Housing on site with the mix made up of 70% affordable rent and 30% intermediate tenures.*
- *Contribution towards outdoor sport – towards a project for increased tennis court provision at Whitelands Farm Sports Ground based upon a per unit contribution of £922.81 per 1 bed unit and £1,333.75 per 2 bed unit, all figures index linked from 2Q17. These figures are discounted to account for the proposed MUGA on site. If no MUGA is provided on site, then the figures per unit applicable would be: £1,036.87 per 1 bed unit and £1498.60 per 2 bed unit, all figures index linked from 2Q17.*
- *Contribution towards indoor sport – the expansion/ enhancement of indoor sport facilities at Bicester Leisure Centre based upon a per unit contribution of £429.21 per 1 bed unit and £620.34 per 2 bed unit, all figures index linked from 2Q17 if no ancillary gym is proposed on site. If an ancillary gym of no less than 27m<sup>2</sup> in area is provided, then contributions of £273.61 per 1 bed unit and £395.45 per 2 bed unit index linked from 2Q17 towards additional swimming pool capacity at Bicester Leisure Centre. The ancillary space to be retained for health and wellbeing purposes.*
- *The provision of a combined LEAP/LAP on site.*
- *Commutated sums for the management and maintenance of open spaces, mature trees/ hedgerows, SUDs features within open space, play facilities and the MUGA if these areas were to be transferred to the District Council or secure arrangements for a Management Company to carry out the long term management and maintenance in the event a transfer to the District Council does not take place with secure arrangements for the financing of the management and maintenance including monitoring by CDC.*
- *Contribution towards local primary health care – to contribute to existing expansion plans for additional primary care infrastructure at Bicester based upon a per unit contribution of £504 per 1 bed unit and £720 per 2 bed unit, all figures index linked from 2Q17.*
- *Biodiversity contribution of £6000 towards the offsite biodiversity mitigation works planned at Bicester Wetland Reserve.*
- *Contribution of £24,195.90 towards highway safety improvement measures on the A41, index linked from December 2019.*
- *Contribution of £289,578.66 towards improvements to the surrounding local and strategic road network – namely towards the western section of the South East Perimeter Route or to an alternative scheme or schemes which are expected to deliver similar or greater mitigation of*



*the potential transport impacts of cumulative development at the site and elsewhere in Bicester index linked from October 2019*

- *Contribution of £3,120 (index linked from January 2020) towards the cost of administering a Traffic Regulation Order to enable the relocation of the existing 40mph/ national speed limit signage to a point south of the development's southern access for road safety reasons.*
  - *Contribution of £4,691.28 (index linked from December 2019) towards the monitoring of the Travel Plans.*
  - *The requirement to agree to enter into a S278 agreement with the Local Highway Authority to deliver safe and suitable access to the development as approved by this application as well as the offsite measures identified:*
    - o *Two bellmouth accesses off of Wendlebury Road with associated pedestrian and cycle facilities to link into existing infrastructure*
    - o *A 3m shared use footway/ cycleway linking Vendee Drive link road and the Chesterton slip road to the site along the A41 including works to enable a crossing at the western end of Charles Shouler Way.*
    - o *Relocation of the speed limit signage on Wendlebury Road.*
    - o *Arrangements for a northbound pedestrian/ cycle link along the Wendlebury Road west side north including a crossing to the eastern end of Charles Shouler Way IF Phase 1b were to progress in advance of development on Phase 2.*
  - *Contribution of £308,592 (index linked) towards the expansion of primary education capacity at Chesterton Church of England Primary School (with a matrix arrangement to be introduced to account for changes in the size of units that may result at the reserved matters stage should that final mix result in a change in pupil generation).*
  - *Contribution of £326,110 (index linked from 3Q19) towards secondary education – towards the cost of new secondary schools in the locality (with a matrix arrangement to be introduced to account for changes in the size of units that may result at the reserved matters stage should that final mix result in a change in pupil generation).*
  - *Contribution of £5000 to CDC to administer and monitor the development and a contribution to OCC for the same purpose, the amount for which is to be confirmed.*
- b) The following conditions (and any amendments to those conditions as deemed necessary):

CONDITIONS

## TIME LIMITS AND GENERAL IMPLEMENTATION CONDITIONS

1. No more than 4,413sqm (GIA) of floorspace for uses falling within Class B1a and B1b of the Town and Country Planning (Use Classes) Order 1987 (or their equivalent in subsequent enactments or re-enactments), shall be constructed on the site and the floorspace shall be used for no other purposes whatsoever. For the avoidance of doubt and with reference to the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020, from the 01 September 2020, Use Classes B1a and B1b are now part of Class E, specifically Class E(g)(i) and E(g)(ii). The floorspace hereby approved, shall be used for no other uses covered by the other Categories of Class E.

Reason – In order to retain planning control over the use of the site and to ensure that the impacts of the development are no greater than those considered under this application in accordance with Policies SLE1 and Bicester 10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

2. No more than 177sqm (GIA) of floorspace for uses falling within Class A3 of the Town and Country Planning (Use Classes) Order 1987 (or their equivalent in subsequent enactments or re-enactments) shall be constructed on the site and the floorspace shall be used for no other purposes whatsoever. For the avoidance of doubt and with reference to the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020, from the 01 September 2020, Use Class A3 is now part of Class E, specifically Class E(b). The floorspace hereby approved, shall be used for no other uses covered by the other Categories of Class E.

Reason – In order to ensure that the facility is ancillary and supports the primary use of the site for business uses and to retain planning control over the use of the site in accordance with Policies SLE4 and Bicester 10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

3. No more than 794sqm (GIA) of floorspace shall be used as a mixed use co-working hub, a scheme for which, to include details of how the space shall be used by multiple, unconnected users in a way which is compatible and does not prejudice office type activities, shall be submitted to and approved in writing by the Local Planning Authority prior to the first use of the mixed use co-working hub. The mixed use co-working hub shall be used in accordance with the agreed scheme thereafter.

Reason: To ensure that the final use of the facility is approved and to ensure that the proposal complies with Policies SLE1, SLE4 and

Bicester 10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

4. No development shall commence on a phase identified within an approved phasing plan until full details of access (in so far as not approved by this decision), layout, scale, appearance and landscaping (hereafter referred to as reserved matters) of the development proposed to take place within that approved phase have been submitted to and approved in writing by the Local Planning Authority.

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

5. Application for approval of all the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission and the development hereby permitted shall be begun either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved whichever is the later.

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

6. Except where otherwise stipulated by conditions attached to the Reserved Matters Permission(s), the development shall be carried out strictly in accordance with the following plans and documents:

PL03C – Regulating Plan

PL05 – Reserved Land

46463/5501/001 Rev C – Wendlebury Road Vehicle Access and Pedestrian Improvements

46463/5501/002 Rev A – Wendlebury Road Proposed Improvements (if required)

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 and Planning Practice Guidance.

7. All site clearance (including the removal of any vegetation or works to hedgerows) shall be timed so as to avoid the bird nesting season, this being during the months of March until July inclusive unless the Local Planning Authority has confirmed in writing that such works can

proceed, based on submission of a survey (no more than 48hrs before works commence) undertaken by a competent ecologist to assess the nesting bird activity on site, together with details of measures to protect the nesting bird interest on the site as required.

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

8. Except to allow for the creation of means of access with associated vision splays hereby approved, the existing hedgerows along the western (A41), southern and eastern (Wendlebury Road) boundaries of the site shall be retained and properly maintained from the date of this planning permission (unless otherwise approved as part of the approval of reserved matters submitted in requirement of Condition 2), and if any hedgerow plant/tree 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, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

9. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building(s) or on the completion of the development, whichever is the sooner, and shall be maintained for a period of 5 years from the completion of the 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 ensure that the agreed landscaping scheme is maintained over a reasonable period that will permit its establishment in the interests of visual amenity and to accord with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

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

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

11. All applications for approval of reserved matters relating to an approved phase shall be accompanied by details of the existing ground levels together with proposed finished floor levels of all buildings within that phase (with the level no less than 65.30m AOD as set out in the plans accompanying the LLFA Response reference number JAG//43386/Lt004). Development in that phase shall thereafter be undertaken in accordance with the ground/floor levels approved as part of the grant of reserved matters approval.

Reason - To ensure that the proposed development is in scale and harmony with its neighbours and surroundings and to comply with Policy ESD 15 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.

12. All applications for approval of reserved matters relating to an approved phase shall be accompanied by details of the proposed ecological enhancement measures to be incorporated within that phase in line with the recommendations at paragraph 18 of the Ecology Briefing Note prepared by Ecology Solutions Limited. All proposed ecological enhancement measures shall thereafter be installed in accordance with the details approved as part of the grant of reserved matters approval.

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

13. All applications for approval of reserved matters relating to an approved phase shall be accompanied by an Energy Statement based upon Revision P02 of the Energy Statement prepared by Kyoob that demonstrates which sustainable design measures, including the provision of on-site renewable energy technologies, will be incorporated into that phase. The sustainable design measures shall thereafter be fully incorporated into the development of each phase and no occupation of development within the relevant phase shall take place until the approved sustainable design measures have been provided and, for on-site renewable energy provision, until such measures are fully installed and operational.

Reason – To ensure energy and resource efficiency practices are incorporated into the development in accordance with Policies Bicester 10, ESD3, ESD4 and ESD5 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

14. The non-residential floorspace hereby permitted shall be constructed to at least a BREEAM 'Very Good' Standard.

Reason – To ensure energy and resource efficiency practices are incorporated into the development in accordance with Policies Bicester 10, ESD3, ESD4 and ESD5 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

15. Notwithstanding any provisions contained within the Town and Country Planning (General Permitted Development) (England) Order 2015 (and any Order or Statutory Instrument amending, revoking or re-enacting that order), all water supply, foul water, energy, power (except any approved renewable energy infrastructure) and communication infrastructure to serve the development shall be provided underground and retained as such thereafter except where specifically approved otherwise as part of a grant of reserved matters approval for a phase.

Reason - In the interests of ensuring that such above ground infrastructure is not constructed in unsuitable locations on the site where it would be harmful to visual amenity and to comply with Policy ESD 15 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.

#### PRE COMMENCEMENT CONDITIONS

16. No development shall take place until a phasing plan covering the entire application site has been submitted to and approved in writing by the Local Planning Authority identifying the phases by which development will take place. The phasing plan shall demonstrate the delivery of the approximately 794sqm (GIA) mixed-use co-working hub to be delivered as part of the first residential phase. Thereafter the development shall be carried out in accordance with the approved phasing plan and applications for approval of reserved matters shall be submitted in accordance with the terms of the approved phasing plan and refer to the phase (or phases) to which they relate.

Reason: To ensure the proper phased implementation of the development and associated infrastructure in accordance with Policies ESD15, Bicester 10 and INF1 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of any development on the appropriate phase as it is fundamental to the acceptability of the scheme.

17. No development shall take place on any phase, including any works of demolition until a Construction Method Statement has been submitted to, and approved in writing by the Local Planning Authority. The statement shall be appropriately titled (site and planning permission number) and shall provide for at a minimum:

- The parking of vehicles of site operatives and visitors;
- The routing of HGVs to and from the site;
- Loading and unloading of plant and materials;
- Storage of plant and materials used in constructing the development;
- The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- Wheel washing facilities including type of operation (automated, water recycling etc) and road sweeping;
- Measures to control the emission of dust and dirt during construction;
- A scheme for recycling/ disposing of waste resulting from demolition and construction works;
- Delivery, demolition and construction working hours;
- Spoil locations
- Water management

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 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.

18. No development shall take place on any phase (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP: Biodiversity shall include as a minimum:

- a) Arrangements for a site walkover survey undertaken by a suitably qualified Ecologist to ensure that no protected species, which could be harmed by the development have moved onto the site since the previous surveys were carried out. If any protected species are found, details of mitigation measures to prevent their harm shall be required to be submitted;
- b) Risk assessment of potentially damaging construction activities;
- c) Identification of 'Biodiversity Protection Zones';

- d) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
- e) The location and timing of sensitive works to avoid harm to biodiversity features;
- f) The times during construction when specialist ecologists need to be present on site to oversee works;
- g) Responsible persons and lines of communication;
- h) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
- i) Best practice with regard to wildlife including use of protective fences, exclusion barriers and warning signs

The approved CEMP: Biodiversity shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

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

19. No development shall take place on any phase until an Arboricultural Method Statement for that phase, undertaken in accordance with BS:5837:2012 and all subsequent amendments and revisions to include a plan identifying which trees are to be retained and details of how they will be protected, is 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 and any tree protection measures shall be erected before any equipment, machinery or materials are brought onto the site for the purposes of development and shall be maintained until all equipment, machinery and surplus material has been removed from the site.

Reason: To ensure the continued health of retained trees/hedges and to ensure that they are not adversely affected by the construction works, in the interests of the visual amenity of the area, to ensure the integration of the development into the existing built environment and to comply with Policy C28 of the adopted 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.

20. No construction shall take place until a Training and Employment Plan for the development has been submitted to and approved in writing by the Local Planning Authority. As a minimum this Plan shall include the arrangements by which the applicant (or other specified persons) will provide construction (and related trades) apprenticeship starts during



construction of the development hereby approved. Construction shall take place in accordance with the agreed Plan.

Reason: Paragraphs 80 and 81 of the National Planning Policy Framework support and encourage sustainable economic growth. Para B14 of the adopted Cherwell Local Plan 2011- 2031 recognises that it is important to ensure the population is sufficiently skilled to attract companies and investment to Cherwell and supports proposals to strengthen the skills base of the local economy. Strategic Objective 3 of the adopted Cherwell Local Plan seeks to support an increase in skills.

21.No development shall take place until a Detailed Design, Surface Water Management Strategy, Drainage Strategy (including calculations, ground levels and plans), associated management and maintenance plan of surface water drainage for the site using sustainable drainage methods and details of the phasing of its provision has been submitted to and approved in writing by the Local Planning Authority. The detailed drainage will follow the Outline Design principles set out in the following documents:

- 43386 Lt004 LLFA Response (JAG) COMPLETE

The approved Sustainable Drainage System shall be implemented in accordance with the approved Detailed Design and prior to the first occupation of the development in that phase. The Sustainable Drainage Scheme shall be managed and maintained thereafter in perpetuity in accordance with the agreed management and maintenance plan.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal in accordance with Policy ESD8 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.

22.No development shall take place on any phase until full details of the means of vehicular access between the land and the highway on Wendlebury Road including position, layout, and vision splays shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first occupation of any of the development, the means of access shall be constructed and retained 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. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

23. No development shall take place until full details of the combined footway/cycleways serving the site along the A41, Wendlebury Road, and accesses to the south onto the disused slip road including details of the pedestrian/cycle feature linking the site (over the culvert/ditch) to the A41, have been submitted to and approved in writing by the Local Planning Authority. The approved pedestrian and cycle facilities shall thereafter be provided prior to the first occupation any phase of the development.

Reason - In the interests of ensuring that suitable access is provided to the development that prioritises sustainable travel in accordance with the requirements of Policies Bicester 10 and SLE4 of the Cherwell Local Plan 2011-2031 Part 1 and to comply with Government guidance contained within the National Planning Policy Framework. This information is required prior to the commencement of the development as it is fundamental to the acceptability of the scheme.

24. No development shall take place (including any demolition) until and prior to the submission of the first reserved matters application, a professional archaeological organisation acceptable to the Local Planning Authority, has undertaken an archaeological evaluation of the site. This evaluation will need to be undertaken in accordance with a Written Scheme of Investigation, which has first been agreed with the Local Planning Authority. The Archaeological Evaluation of the site shall be submitted to and approved in writing by the Local Planning Authority. The conclusions of the Archaeological Evaluation shall be taken into account in the future layout of the application site.

Reason - To identify areas of significant archaeological interest not included in the previous evaluation to comply with Government advice in the National Planning Policy Framework (NPPF) (Section 16). This information is required prior to the commencement of the development as it is fundamental to the acceptability of the scheme.

25. No development shall take place (including any demolition) until the results of the archaeological evaluation required by condition 24 have been agreed and full details of archaeological protection measures have been approved in writing by the Local Planning Authority in a Construction Environmental Management Plan (CEMP) or equivalent document as set out in the Archaeological Mitigation Strategy (rev2 June 2020) submitted with this application.

Reason - To safeguard the physical preservation of significant archaeological deposits within the site to comply with Government advice in the National Planning Policy Framework (NPPF) (Section 16). This information is required prior to the commencement of the development as it is fundamental to the acceptability of the scheme.

26. Following the approval of the archaeological protection measures required by condition 25, and prior to any demolition on the site and the

commencement of the development (other than in accordance with the archaeological protection measures required by condition 25), a second stage Written Scheme of Investigation, including a programme of methodology, site investigation and recording, shall be submitted to and agreed in writing by the Local Planning Authority.

Reason: To secure the provision of archaeological investigation and the subsequent recording of the remains, to comply with Government advice in the National Planning Policy Framework (NPPF) (Section 16). This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

27. Following the approval of the second stage Written Scheme of Investigation referred to in condition 26, and prior to the commencement of the development (other than in accordance with the Written Scheme of Investigation), the programme of archaeological mitigation shall be carried out and fully completed in accordance with the approved second stage Written Scheme of Investigation. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the Local Planning Authority within two years of the completion of the archaeological fieldwork.

Reason: To safeguard the identification, recording, analysis and archiving of heritage assets before they are lost and to advance understanding of the heritage assets in their wider context through publication and dissemination of the evidence in accordance with the NPPF (2019). This information is required prior to the commencement of the development as it is fundamental to the acceptability of the scheme

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

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

29. If a potential risk from contamination is identified as a result of the work carried out under condition 28, prior to the commencement of the development hereby permitted, a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals shall be documented as a report undertaken by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place unless the Local Planning Authority has given its written approval that it is satisfied that the risk from contamination has been adequately characterised as required by this condition.

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

30. If contamination is found by undertaking the work carried out under condition 28, prior to the commencement of the development hereby permitted, a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval of the scheme of remediation and/or monitoring required by this condition.

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

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

31. No piling shall take place until a Piling Method Statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling shall be carried out, including measures to prevent and minimise the potential for damage to subsurface water infrastructure, and the programme for the works) has been submitted to and approved in writing by the Local Planning Authority (in consultation

with Thames Water). Any piling must be undertaken in accordance with the terms of the approved Piling Method Statement.

Reason: In order to protect groundwater and to achieve sustainable development in accordance with Section 15 of the National Planning Policy Framework.

32. No development above slab level on any building proposed to contain residential units shall take place until a scheme for protecting the proposed dwellings from noise has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall achieve internal levels that shall not normally exceed 30dB LAeq (8 hour) and 45dB LAmaxF in all sleeping areas between 2300 hours and 0700 hours. An internal level of 40dB LAeq 1 hour shall be achieved in all other areas of the building. An external level of 55dB LAeq (16 hours) shall be achieved in garden areas and balconies unless a higher level has been demonstrated as being acceptable through noise modelling. Any works which form part of the scheme shall be completed in accordance with the approved details before any of the permitted dwellings to which the scheme relates are occupied.

Reason - To avoid noise giving rise to significant adverse impacts on health and quality of life and to comply with Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance within the National Planning Policy Framework.

#### CONDITIONS REQUIRING APPROVAL OR COMPLIANCE BEFORE OCCUPATION

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

Reason - Network reinforcement works are anticipated to be necessary to ensure that sufficient capacity is made available to accommodate additional demand anticipated from the new development. Any necessary reinforcement works will be necessary in order to avoid low / no water pressure issues. In order to comply with Policy ESD8 of the Cherwell Local Plan 2011 - 2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

34. If remedial works have been identified in condition 30, the relevant part of the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under

condition 30. A verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.

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

35. Prior to the occupation of any phase of the development hereby approved, an updated Framework Travel Plan, prepared in accordance with the Department of Transport's Best Practice Guidance Note "Using the Planning Process to Secure Travel Plans" and its subsequent amendments, shall be submitted to and approved in writing by the Local Planning Authority for that phase. This Framework Travel Plan shall be based on the draft document 46463 dated January 2020. The travel plan for each phase shall be implemented in accordance with the details approved.

Reason - In the interests of sustainability and to ensure a satisfactory form of development, in accordance with Government guidance contained within the National Planning Policy Framework.

36. Prior to first occupation of the development hereby approved, a Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the LEMP shall be carried out in accordance with the approved details.

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

37. The development hereby permitted shall not be occupied until it has been provided with a system of electrical vehicle charging to serve the development. In addition, ducting should be in place to allow for the easy expansion of the EV charging system as demand increases towards the planned phase out of ICE vehicles (ideally ducting should be provided to every parking space to future proof the development).

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 Government guidance within the National Planning Policy Framework.

38. Prior to the first occupation of any development within a phase, a car park management plan relating to that phase shall be submitted to and approved in writing by the Local Planning Authority. The car park management plan shall include measures to ensure that the car

parking areas within the phase are made available solely for use in connection with the use of the development hereby approved and for no other purpose whatsoever. Thereafter, the entirety of the development on Phase 1B shall operate in accordance with the approved car park management plan.

Reason - To ensure that car travel is not unduly encouraged as a means of accessing surrounding development and to comply with Policy SLE4 of the Cherwell Local Plan 2011-2031 Part 1 as well as Government guidance contained in the National Planning Policy Framework.

39. Details of external lighting including the design, position, orientation and any screening of the lighting shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of those works. The lighting shall be installed prior to the first occupation of the development and operated in accordance with the approved details at all times thereafter.

Reason: In order to safeguard the visual amenities of the area and to achieve a suitable lighting scheme which would minimise the impact to ecology and biodiversity in accordance with Policy ESD10 and 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.

40. No development shall be occupied until a scheme for the commissioning and provision of public art to be accommodated within the site has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall thereafter be implemented in accordance with the approved details prior to the occupation of any B1a floorspace or 150 residential units whichever is sooner.

Reason - To create an attractive and distinctive development in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Policy C28 of the adopted Cherwell Local Plan and Government guidance within the National Planning Policy Framework.

41. The dwelling(s) hereby approved shall not be occupied until bins for the purposes of refuse, food waste, recycling and green waste have been provided for use by each of the approved dwellings, in accordance with the Council's current bin specifications and requirements.

Reason - To provide appropriate and essential infrastructure for domestic waste management in accordance with the provisions of Policy INF1 of the Cherwell Local Plan 2011 - 2031.

42. The development shall be constructed so as to meet as a minimum the higher Building Regulation standard for water consumption limited to 110 litres per person per day.

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.

**It was further resolved:**

- (2) That if the applicant continued to refuse to agree to sign a S106, following officer advice, by 31 March 2021 (or alternative date as agreed in writing with the LPA), then authority be delegated to the Assistant Director Planning and Development to refuse application 20/00293/OUT based on the lack of a completed S106 agreement required to secure the necessary infrastructure to mitigate the impacts of the development (with reference to policy that requires mitigation to be secured)

141

**Blessed George Napier Roman Catholic School, Addison Road, Banbury, OX16 9DQ**

The Committee considered application 20/02745/F for a school expansion to include the erection of a new teaching block and main assembly hall and the relocation of an artificial sports pitch at Blessed George Napier Roman Catholic School, Addison Road, Banbury, OX16 9DQ for Mr Fraser Long.

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

**Resolved**

- (1) That authority be delegated to the Assistant Director for Planning and Development to grant permission for application 20/02745/F subject to:
  - a) the payment of a Travel Plan monitoring fee of £1,426
  - b) the following conditions:

**CONDITIONS:**

**Time Limit**

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

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

**Compliance with Plans**



2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: Design and Access Statement, Environmental Sustainability Statement and Energy Statement prepared by 'Integratedenergy' Building Services, Flood Risk Assessment (FRA) prepared by Flo Consult UK Ltd, Surface Water Management Report prepared by Moran Structural Consultants Drawings labelled: 18020-CBP-Z0-00-M2-A-0001 Rev. P04, 18020-CBP-Z0-DR- A-2000 Rev. P05, 18020-CBP-Z0-00-M2-A-2001 Rev. P01, 18020-CBP-Z1-00-DR-A-3000 Rev. P04, 18020-CBP-Z1-00-DR-A-3001 Rev.P04, 18020-CBP-Z1-DR-A-2001 Rev. P02, 18020-CBP-Z1-XX-DR-A-4001 Rev.P05, 18020-CBP-Z1-XX-DR-A-4002 Rev. P05, 18020-CBP-Z2-00-DR-A-3010 Rev. P06, 18020-CBP-Z2-XX-DR-A-4020 Rev. P04, 18020-CBP-Z2-XX-DR-A-4021 Rev. P04, D1, D2, D3, D4, D5, C20026-M-150 Rev. C, C20026-M-160 Rev. C, 2020-78-DR01 Rev. T2, 2020-78-DR02 Rev. T1, 2020-78-DR03 Rev. T1, 2020-78-DR04 Rev. T1, 2020-78-DR05 Rev. T1 and 2020-78-DR10 Rev. T1.

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

### **Transport**

3. Notwithstanding the details submitted, a Travel Plan prepared in accordance with Oxfordshire County Council's Guidance on Transport Assessments and Travel Plans shall be submitted to and approved in writing by the Local Planning Authority prior to the first use or occupation of the development hereby permitted. The approved Travel Plan shall thereafter be implemented and operated in accordance with the approved details.

Reason: In the interests of sustainability and to ensure a satisfactory form of development, in accordance with Policies SLE4 and ESD1 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

4. A School Bus Management Plan for the use of Springfield Avenue by buses carrying pupils to and from Blessed George Napier School shall be submitted to and approved in writing by the Local Planning Authority prior to the first use or occupation of the development hereby permitted. The approved management plan shall thereafter be implemented and operated in accordance with the approved details.

Reason: In the interests of highway safety and to mitigate the impact of school buses on the surrounding highway network, road infrastructure and local residents.

5. Prior to the first use or occupation of the development hereby

permitted, additional covered cycle parking facilities shall be provided on the site, and land within the site shall be allocated and reserved for future additional cycle parking, in accordance with details which shall have first been submitted to and approved in writing by the Local Planning Authority. The covered cycle parking facilities so provided and the land allocated for future cycle parking shall thereafter be permanently retained and maintained for the parking of cycles in connection with the development.

Reason: In the interests of promoting sustainable transport modes in accordance with Policies SLE4 and ESD1 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

6. Prior to the first use or occupation of the development hereby permitted, an access path suitable for pedestrians and ridden or pushed bicycles shall be provided between the school buildings and the existing path along Salt Way, in accordance with details which shall have first been submitted to and approved in writing by the Local Planning Authority. The path so provided shall thereafter be permanently retained and maintained and be open and available for pupils and staff access to and from the school at the normal arrival and departure times at the beginning and end of the school day.

Reason: In the interests of promoting sustainable transport modes in accordance with Policies SLE4 and ESD1 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

7. Prior to commencement of the development hereby approved a Construction Traffic Management Plan (CTMP) shall be submitted to and approved by the Local Planning Authority. The CTMP will need to incorporate the following in detail and throughout development the approved plan must be adhered to.
  - The CTMP must be appropriately titled, include the site and planning permission number.
  - Routing of construction traffic and delivery vehicles is required to be shown and signed appropriately to the necessary standards/requirements. This includes means of access into the site.
  - Details of and approval of any road closures needed during construction.
  - Details of and approval of any traffic management needed during construction.
  - Details of wheel cleaning/wash facilities – to prevent mud etc, in vehicle tyres/wheels, from migrating onto adjacent highway.
  - Details of appropriate signing, to accord with the necessary standards/requirements, for pedestrians during construction

works, including any footpath diversions.

- The erection and maintenance of security hoarding / scaffolding if required.
- A regime to inspect and maintain all signing, barriers etc.
- Contact details of the Project Manager and Site Supervisor responsible for on-site works to be provided.
- The use of appropriately trained, qualified and certificated banksmen for guiding vehicles/unloading etc.
- No unnecessary parking of site related vehicles (worker transport etc) in the vicinity – details of where these will be parked and occupiers transported to/from site to be submitted for consideration and approval. Areas to be shown on a plan not less than 1:500.
- Layout plan of the site that shows structures, roads, site storage, compound, pedestrian routes etc.
- A before-work commencement highway condition survey and agreement with a representative of the Highways Depot – contact 0845 310 1111. Final correspondence is required to be submitted.
- Local residents to be kept informed of significant deliveries and liaised with through the project. Contact details for person to whom issues should be raised with in first instance to be provided and a record kept of these and subsequent resolution.
- Any temporary access arrangements to be agreed with and approved by Highways Depot.
- Details of times for construction traffic and delivery vehicles, which must be outside network peak and school peak hours.

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

8. No development shall commence above slab level until a scheme for a system of ducting to allow for the future installation of electrical vehicle charging infrastructure to serve the dwelling has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details prior to the first occupation of the dwelling.

Reason: To comply with Policies SLE 4, ESD 1, ESD 3 and ESD 5 of the Cherwell Local Plan 2011-2031 Part 1 and to maximise opportunities for sustainable transport modes in accordance with paragraph 110(e) of the National Planning Policy Framework.

### **Drainage**

9. Notwithstanding the information submitted, no development shall commence until a detailed surface water drainage scheme for the site, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall 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 and appropriate flood prevention and to comply Policy ESD 7 of the Cherwell Local Plan 2011-2031 Part 1 and with Government guidance contained within the National Planning Policy Framework.

10. Prior to occupation of the development hereby approved, a record of the installed SuDS and the site wide drainage scheme shall be submitted to and approved in writing by the Local Planning Authority for deposit with the Lead Local Flood Authority Asset Register. The details shall include:
- i). As built plans in both .pdf and .shp file format;
  - ii). Photographs to document each key stage of the drainage system when installed on site;
  - iii). Photographs to document the completed installation of the drainage structures on site;
  - iv). The name and contact details of any appointed management company information.

Reason: To ensure satisfactory drainage of the site and appropriate flood prevention and to comply Policy ESD 7 of the Cherwell Local Plan 2011-2031 Part 1 and with Government guidance contained within the National Planning Policy Framework.

11. No development shall be occupied until confirmation has been provided that either:- all water network upgrades required to

accommodate the additional flows to serve the development have been completed; or - a development and infrastructure phasing plan has been agreed with Thames Water to allow development to be occupied. Where a development and infrastructure phasing plan is agreed no occupation shall take place other than in accordance with the agreed infrastructure phasing plan.

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

### **Sports Facilities Provision**

12. No development shall commence until details of the design and layout of the Artificial Grass Pitch and Multi Use Games Area have been submitted to and approved in writing by the Local Planning Authority . The Artificial Grass Pitch and Multi-Use Games Area shall not be constructed other than in accordance with the approved details.

Reason: To ensure the development is fit for purpose and sustainable and to accord with Policy BSC 10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

13. a) The buildings shall not be occupied until the following documents have been submitted to and approved in writing by the Local Planning Authority:
- i. A detailed assessment of ground conditions (including drainage and topography) of the land proposed for the playing field which identifies constraints which could adversely affect playing field quality; and
  - ii. Where the results of the assessment to be carried out pursuant to (i) above identify constraints which could adversely affect playing field quality, a detailed scheme to address any such constraints. The scheme shall include a written specification of the proposed soils structure, proposed drainage, cultivation and other operations associated with grass and sports turf establishment and a programme of implementation.
- b) The approved scheme shall be carried out in full and in accordance with the approved programme of implementation. Thereafter the land shall be maintained in accordance with the scheme and made available for playing field use in accordance with the scheme.

Reason: To ensure that the playing field is prepared to an adequate standard and is fit for purpose and to accord with Policy BSC 10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance

contained within the National Planning Policy Framework.

14. Within 12 months of development starting on site, a community use agreement prepared in consultation with Sport England shall be submitted to and approved in writing by the Local Planning Authority. The agreement shall set out the facilities to which it relates and include details of pricing policy, hours of use, access by non-educational establishment users, management responsibilities and a mechanism for review. The development shall not be used otherwise than in strict compliance with the approved agreement.

Reason: To secure well managed safe community access to the sports facility/facilities, to ensure sufficient benefit to the development of sport and to accord with Policy BSC 10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

15. Before the Artificial Grass Pitch is brought into use, a Management and Maintenance Scheme for the facility including management responsibilities, a maintenance schedule and a mechanism for review shall be submitted to and approved in writing by the Local Planning Authority after consultation with Sport England. This should include measures to ensure the replacement of the Artificial Grass Pitch within the manufacturer's specified time period. The measures set out in the approved scheme shall be complied with in full, with effect from commencement of use of the Artificial Grass Pitch.

Reason: To ensure that a new Artificial Grass Pitch is capable of being managed and maintained to deliver Artificial Grass Pitch which is fit for purpose, sustainable and to ensure sufficient benefit of the development to sport and to accord with Policy BSC 10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

### **Ecology and Biodiversity**

16. Notwithstanding the details submitted prior to the commencement of the development hereby approved above slab level, a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme for landscaping the site shall include:-
- (a) details of any 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.

Thereafter, the development shall be carried out in strict accordance with the approved landscaping scheme and the hard landscape elements shall be carried out prior to the first use or occupation of the development and shall be retained as such thereafter.

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.

17. Prior to the commencement of the development hereby approved, including any demolition, and any works of site clearance, a method statement for enhancing biodiversity at the site, including bat and bird nesting opportunities, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the biodiversity enhancement measures shall be carried out and retained in accordance with the approved details.

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

18. Notwithstanding the details submitted, prior to the commencement of the development hereby approved an Arboricultural Method Statement (AMS), undertaken in accordance with BS:5837:2012 and all subsequent amendments and revisions shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, all works on site shall be carried out in accordance with the approved AMS.

Reason: To ensure the continued health of retained trees/hedges and to ensure that they are not adversely affected by the construction works, in the interests of the visual amenity of the area, to ensure the integration of the development into the existing built environment and

to comply with Policy C28 of the Cherwell Local Plan 1996, Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

**Other**

19. No development shall commence until details of how the applicants will incorporate 'Secured by Design' principles and/or standards into the development have been submitted to and approved in writing by the authority. The development shall be carried out in accordance with the approved details and shall not be occupied or used until written confirmation of conformity is received by the authority.

Reason: In order to achieve a satisfactory form of development, to ensure that the development remains safe, inclusive and accessible and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

142

**Land at Railway Line at Blackthorn and Piddington, Marsh Gibbon Road, Piddington**

The Committee considered application 20/02936/F for phase 2 of the Blackthorn & Piddington rail embankment stabilisation scheme (installation of sheet piles to provide stabilisation to the railway embankments) at land at Railway Line at Blackthorn and Piddington, Marsh Gibbon Road, Piddington for Network Rail Infrastructure Limited.

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

**Resolved**

- (1) That authority be delegated to the Assistant Director Planning and Development to grant permission for application 20/02936/F subject to the following conditions (and any amendment to those conditions deemed necessary):

**SCHEDULE OF CONDITIONS**

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

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



2. The development shall not be carried out otherwise than in complete accordance with the approved plans: Construction Traffic Management Plan (CTMP), dated February 2021 Reference 21387/01; Environmental Statement and Appendix; Noise Impact Assessment Addendum, dated February 2021; Habitat Creation and Restoration Scheme; Biodiversity calculations; Biodiversity Monitoring and Maintenance Strategy; Landscape Visual Impact Appraisal; Flood Risk Assessment, dated May 2020; and the following drawings: R167 05 5000, 5002, 5003 5004, 5005, 5006, 5007, 5008, 5009, 5010, 5011, 5012, 5013, 5014, 5015, 5016, 5017, 5018, 5019, 5020, 5021, 5022, 5023, 5024 and 7549; 198 1 Rev B, 198 2, 198 Rev C & 198 3 Rev B; SJG/109/100454/02/1006; SJG/109/100454/02/1006/01 Rev B; SJG/109/100454/02/1006/02 Rev B; SJG/109/100454/02/1006/03 Rev B and SJG/109/100454/02/1006/04 Rev B; unless a non-material or minor material amendment is approved by the Local Planning Authority under the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).

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

3. 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.

Reason: To ensure the public right of way remains available and convenient for use.

4. The development should be designed and implemented to fit with the existing public rights of way network. No changes to the public rights of way's legally recorded direction or width must be made without first securing appropriate temporary or permanent diversion through separate legal process. Alterations to surface, signing or structures shall not be made without prior permission by Oxfordshire County Council.

Reason: To ensure the legal public right of way remains available and convenient for public use.

5. 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.

Reason: To ensure the public right of way remains available and convenient for use.

6. The water quality management protection measures detailed in Appendix E to the approved Construction Environmental Management

Plan (CEMP) prepared by Murphy, dated 16 July 2020 shall be adhered to throughout the construction.

Reason: To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution in accordance with Government guidance within the National Planning Policy Framework.

7. Prior to the commencement of the development hereby approved, a full assessment of the impact of noise and vibration resulting from the development on 1 and 2 Cowleys Cottages shall be carried out and the report submitted to the Local Planning Authority for approval in writing. The development shall thereafter be carried out in accordance with the recommendations and any mitigation measures set out in the report.

Reason: In the interests of the residential amenities of 1 and 2 Cowleys Cottages and to comply with Government guidance within the National Planning Policy Framework.

8. The development hereby approved shall be carried out in accordance with the Construction Traffic Management Plan (CTMP) Reference 21387/01, dated February 2021 and produced by Turner Jomas and Associates.

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

9. The development shall be implemented in accordance with the Ecological Management Plan and the on and off-site ecological mitigation measures set out in the Environmental Statement.

Reason: In the interests of protecting wildlife and supporting habitat and creating ecological enhancements in accordance with Policy ESD10 of the adopted Cherwell Local Plan 2011-2031 and Government guidance within the National Planning Policy Framework.

10. Prior to the commencement of the development hereby approved, a report on the hydrological impact of the drainage works on Meadow Farm Local Wildlife Site shall be submitted to and approved in writing by the Local Planning Authority. The report is to detail appropriate mitigation measures should they be considered necessary, including any amendments to the approved scheme. Thereafter the development shall be carried out in accordance with the approved details.

Reason: In the interests of protecting wildlife and supporting habitat and creating ecological enhancements in accordance with policy ESD10 of the adopted Cherwell Local Plan 2011-2031 and Government guidance within the NPPF.

11. The development shall be carried out in accordance with the submitted Flood Risk Assessment (Ref: P2451J1890 Version 3.0, dated 10/12/2020) and the following mitigation measures it details: Compensatory storage and flood risk mitigation should be provided in accordance with Section 7. These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the schemes timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided, in accordance with Policy ESD6 of the adopted Cherwell Local Plan 2011-2031 and Government guidance within the National Planning Policy Framework.

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

The Committee considered application 20/03692/DISC for the discharge of Condition 9 (Car Park Payment Strategy) for Block B of application 17/00284/REM at Land adjacent to the Oxford Canal, Spiceball Park Road, Banbury for Ian Wallace.

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

**Resolved**

- (1) That permission be granted for application 20/03692/DISC subject to the following conditions

Condition 9 – Car Parking Payment Strategy  
Skidata Car Parking System Tech Sub Proposal, dated 23.10.20

144 **Appeals Progress Report**

The Assistant Director Planning and Development submitted a report which kept Members informed about planning appeal progress including the scheduling of public inquiries and hearings and decisions received.

**Resolved**

- (1) That the position on planning appeals contained within the report be noted.

The meeting ended at 6.17 pm

Chairman:

Date:

# Agenda Annex

## CHERWELL DISTRICT COUNCIL

Planning Committee - 15 April 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**

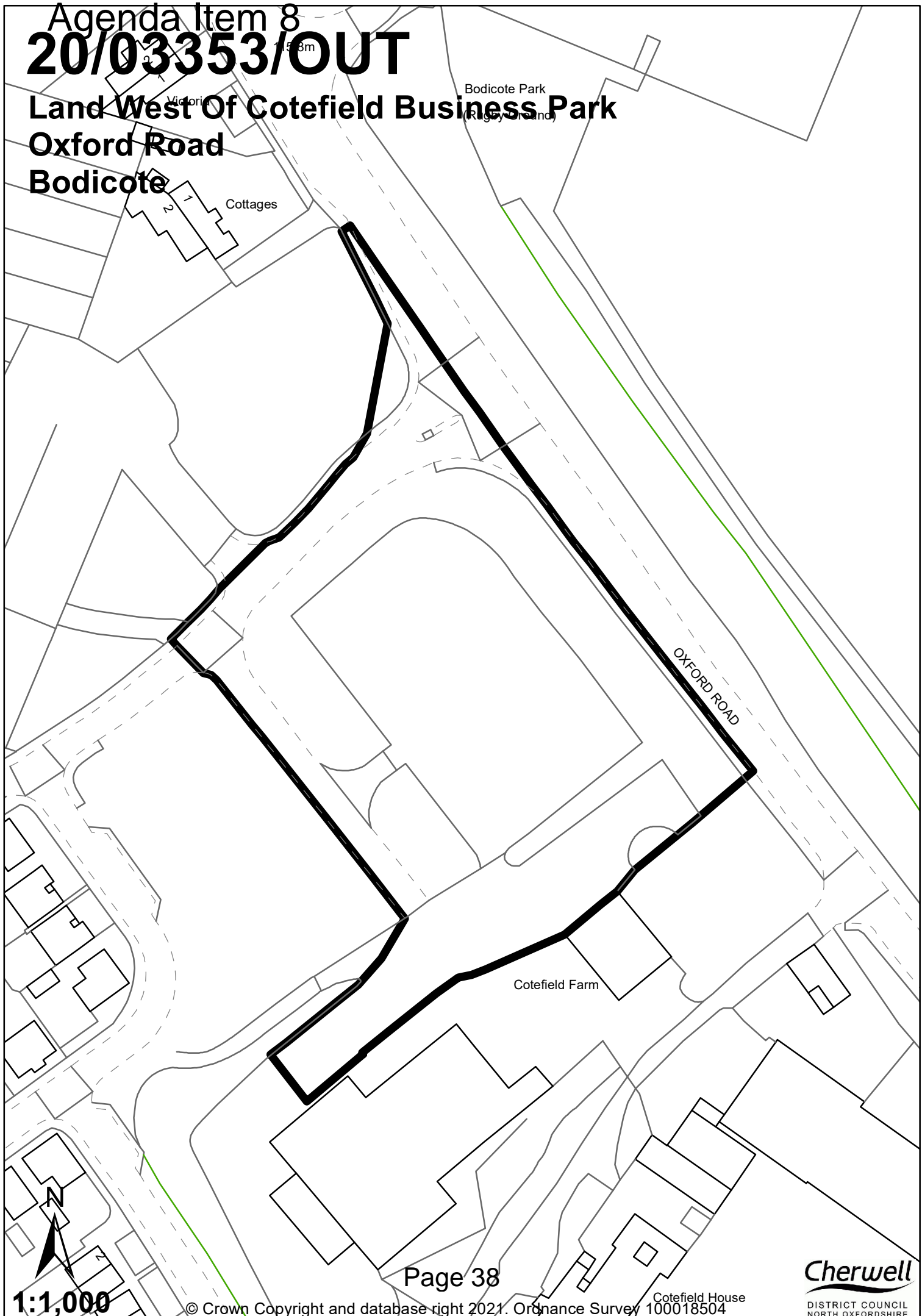
For each of the applications listed are: the application form; the accompanying certificates and plans and any other information provided by the applicant/agent; representations made by bodies or persons consulted on the application; any submissions supporting or objecting to the application; any decision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

<b>Item No.</b>	<b>Site</b>	<b>Application Number</b>	<b>Ward</b>	<b>Recommendation</b>	<b>Contact Officer</b>
8	Land West of Cotefield Business Park, Oxford Road, Bodicote	20/03353/OUT	Adderbury, Bloxham and Bodicote	*Grant Permission	Wayne Campbell
9	Plot 37 Land adj to 7 Henge Close, Adderbury, OX17 3GA	20/03687/F	Adderbury, Bloxham and Bodicote	*Grant Permission	Matthew Chadwick
10	Amare Cottage, Roundhill Road, Mollington, OX17 1AY	21/00767/F	Cropredy, Sibfords and Wroxton	*Grant Permission	John Gale

\*Subject to conditions

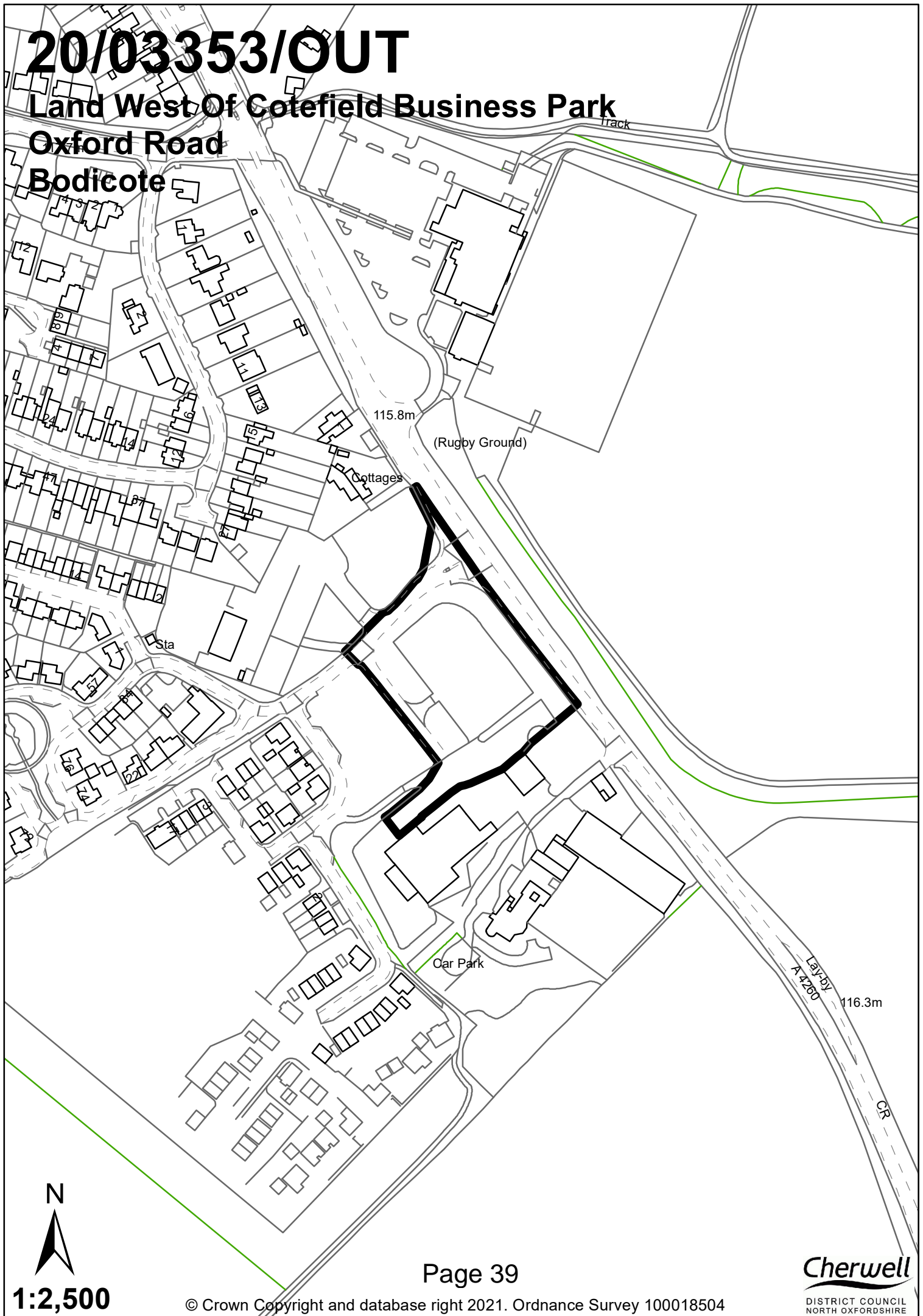
Agenda Item 8  
**20/03353/OUT**

**Land West Of Cotefield Business Park**  
**Oxford Road**  
**Bodicote**



# 20/03353/OUT

## Land West Of Cotefield Business Park Oxford Road Bodicote



**Case Officer:** Wayne Campbell

**Applicant:** Cotefield Holdings Limited

**Proposal:** Outline application for a food store, including access and scale (resubmission of 20/00123/OUT)

**Ward:** Adderbury, Bloxham And Bodicote

**Councillors:** Cllr Mike Bishop  
Cllr Chris Heath  
Cllr Andrew McHugh

**Reason for Referral:** Major development

**Expiry Date:** 19 March 2021                      **Committee Date:** 15 April 2021

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## **1. APPLICATION SITE AND LOCALITY**

- 1.1. The application relates to an existing area of hardstanding located on the edge of the village of Bodicote adjacent the main Oxford to Banbury Road (A4260). The site is currently being used as a car park and temporary constructor's compound in association with a residential development currently under construction. To the west of the site are Cotefield Nurseries Garden Centre (approx. 50m) and residential properties (nearest property approx. 70m); the A4260 lies to the east of the site; further residential properties to the north, with a number of other buildings encompassing B Class and Sui generis uses under the name Cotefield Farm to the south.
- 1.2. The site is bounded by hedgerow and tree planting. The site benefits from existing access points on the western and southern boundaries, via an existing access road which also serves units within an adjacent business park. The access road accesses onto the A4260 via an existing junction which also serves the residential properties and Garden Centre to the west of the site.

## **2. CONSTRAINTS**

- 2.1. In terms of site constraints, the site is not within a conservation area and there are no listed buildings within the vicinity of the site. A number of trees on land adjacent and south of the site are covered by a Tree Preservation Order (ref: 012/1994). The site sits within an area where the geology is known to contain natural occurring elevated levels of Arsenic, Nickel and Chromium; as seen across much of the district, and further, an area affected by Radon Gas.

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

- 3.1. The application seeks outline planning permission for the erection of a new food store with associated parking on the edge of the village of Bodicote. As the application is in outline form the applicant is seeking to establish the principle of the development on the site and the only matters for consideration under this application



are access and scale. Matters of layout, appearance and landscaping are reserved for future consideration.

- 3.2. In terms of submitted details, the proposal would be for a building providing 1235 sq m of gross internal floor space with a maximum building height of 10.5m above the internal finished floor level. The proposal will provide parking for 86no cars (Inc. 4no disability spaces). A vehicular access would be taken from the existing access to Cotefield Business Park, via the existing junction with the A4260 Oxford Road. A separate pedestrian access will be provided onto the A4260 Oxford Road for direct pedestrian access.
- 3.3. An appropriate extension of time to the determination period for the application has been agreed with the applicants, to allow for presentation to planning committee and preparation of any such decision following a resolution by the committee.

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

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

- B.362/56 - Site for houses and bungalows with access (Outline). Refused 29.11.1956
- CHN.35/93 - Erection of potato handling building, construction of new access and associated parking. Permitted 26.08.1993.
- 96/00945/F - Reposition proposed processing building. Permitted 23.08.1996.

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

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

**Application: 17/00017/PREAPP** Response sent: **02 March 2017**

732 sq m (gross) convenience store, which would have a net sales area of around 573 sq m and associated access, parking, delivery area and landscaping

Applicant advised of the level of detail that would be required to support an application going forward including a detailed retail sequential test and appropriate retail impact assessment and that the development be fully justified in this location.

The Highways Authority has also raised a number of issues that would need to be addressed before progression to a formal planning application stage.

Applicant also advised that once further work had been undertaken with regard to establishing the need for the proposed retail store and appropriate impact assessments completed and a potential design solution brought forward, that they should consider proceeding to stage 2 of the pre-application advice stage before submitting a formal planning application.

**Application: 18/00060/PREAPP** Response sent: **16 April 2018**

732 sq m (gross) convenience store, which would have a net sales area of around 573 sq m and associated access, parking, delivery area and landscaping

Follow-up pre-application enquiry, with advice being given on a Retail Impact Assessment (RIA) submitted with the enquiry. Applicant advised that there were significant deficiencies in the information submitted and further work was required, particularly in relation to assessing the impact of the proposal on smaller local convenience stores/smaller retail outlets in surrounding villages; planned development and also that a sequential test needed to be undertaken.

## 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 **5 January 2021**, although comments received after this date and before finalising this report have also been taken into account.
- 6.2. One letter of objection has been received from a local resident. The comments raised by third parties are summarised as follows:
- *Highway safety; increased numbers of vehicles will exacerbate existing difficulties getting in and out of the junction that will serve the development.*
  - *Residential amenity; early and late opening hours; timing of deliveries and noise levels created as a result, especially if refrigerated lorries keep engines running.*
  - *There are sufficient large supermarkets nearby, a smaller supermarket would be much more suitable.*
  - *Potential detrimental impacts on existing small Spar within walking distance, which could have an effect on our local post office provision.*
- 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. BODICOTE PARISH COUNCIL: **Objects** on the following grounds:
- Inappropriate opening hours for a supermarket in a residential area;
  - Noise and light pollution issues;
  - Loss of trees and appropriate replanting;
  - Impact on existing business (local village store which houses a 'much needed' post office);
  - Infrastructure concerns with traffic levels already high in the area;
  - Questions the need for another supermarket in the local area.

### OTHER CONSULTEES

- 7.3. ARBORICULTURE: **Objects**. Requested further information (full tree report) during the application and following its submission raised concerns with regard to the significant loss of trees at the site.

- 7.4. **BUILDING CONTROL:** Development would require a building regulations application
- 7.5. **ECOLOGY: Comments.** A Preliminary Ecological dated October 2018 but little appears to have changed on site in the interim so it is still valid. Would recommend however that there is an updated walkover survey carried out (and additional surveys if required with mitigation plans as needed) no more than 6 months before works commence on site. This should be included in a conditioned CEMP.
- The D & A statement states that the majority of hedgerow and trees will be retained and the PEA makes its assumptions on the relative impacts to wildlife (commuting bats, birds etc..) on this basis, however the current layout and arboricultural plan suggests that much of the remaining vegetation on site (except for the small group of trees to the SE) will be removed including all the trees to one side and the majority of the Priority hedgerow except that along the road. As the areas of habitat with wildlife value on site are not large it is important that what is on site is retained where possible and enhanced.
- The enhancements suggested within the PEA, whilst appropriate in terms of planting will, it seems, only be mitigation for habitat lost rather than providing a clear net gain for biodiversity as required by policy. It may be difficult with the current layout for a net gain to be achieved and I would recommend that they look at ways of altering it. Any LEMP would need to show a meaningful net gain is achievable on site and would recommend that even though the site is relatively small, given the projected loss of habitat, they show this with a Biodiversity Impact Assessment calculation using a metric. In addition, enhancements on site for bats and birds in the form of integrated features within the new building should be provided. Swift bricks in particular would be valuable here with some additional bird/bat boxes on retained trees also likely to be beneficial. A sensitive lighting scheme will be essential if the vegetation on site is to retain any value for bat commuting.
- 7.6. **ECONOMIC DEVELOPMNENTS:** No comments received
- 7.7. **ENVIRONMENTAL HEALTH: No objections subject to conditions.** Conditions required in relation to restricting collection and delivery hours at the site and assessment of potential operational noise arising from the development, including operation of plant and machinery and vehicular movements; in the interest of the amenities of residential properties. Further condition regarding securing Electrical Vehicle (EV) charging infrastructure, in the interests of sustainability.
- 7.8. **LEAD LOCAL FLOOD AUTHORITY (LLFA): No objections subject to conditions;** securing specific details of the proposed drainage scheme and confirmation of implementation.
- 7.9. **LOCAL HIGHWAYS AUTHORITY (LHA): No objections** subject to standard conditions in respect of securing: service vehicle turning details, vehicle and cycle parking, Travel Plan (TP) and Construction Traffic Management Plan (CTMP); S106 contributions in relation to highway works (upgrading of the A4260 footway to a cycle link between the site and Broad Gap) and travel plan monitoring and further an obligation to enter into a S278 agreement to secure mitigation/improvement works, including:
- 3.3m deep layby to accommodate a bus stop, located on the A4260 south of the Cotefield Drive junction
  - All associated lining and signing
  - Bus shelter, Premium Route pole and flag, suitable seating and Real Time Information display
  - 3.0m wide footway around layby to be incorporated into future shared-use cycle track
- 7.10. **NATURAL ENGLAND:** No comments to make on the application.

- 7.11. PLANNING POLICY: No comments received
- 7.12. THAMES VALLEY POLICE: **No objections subject to a condition** securing design details in relation to 'Secured by Design' principles and standards.
- 7.13. THAMES WATER: **No objections subject to conditions** in relation to securing appropriate wastewater infrastructure and that no construction shall take place within 5m of the existing water main.

## **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
- SLE 1: Employment Development
- SLE 2: Securing Dynamic Town Centres
- SLE 4: Improved Transport and Connections
- ESD 1: Mitigating and Adapting to Climate Change
- ESD 2: Energy Hierarchy and Allowable Solutions
- ESD 3: Sustainable Construction
- ESD 5: Renewable Energy
- ESD 7: Sustainable Drainage Systems (SuDS)
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD 13: Local Landscape Protection and Enhancement
- ESD 15: The Character of the built and historic environment

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

- S26: Small scale ancillary retail outlets in rural areas
  - S28: Proposals for small shops and extensions to existing shops outside Banbury, Bicester and Kidlington shopping centres
  - C28: Layout, design and external appearance of new development
  - C31: Compatibility of proposals in residential areas
  - ENV1: Development likely to cause detrimental levels of pollution
- 8.3. Other Material Planning Considerations
- National Planning Policy Framework (NPPF)
  - Planning Practice Guidance (PPG)
  - EU Habitats Directive
  - Natural Environment and Rural Communities Act 2006
  - Conservation of Habitats and Species Regulations 2017
  - Circular 06/2005 (Biodiversity and Geological Conservation)

## 9. APPRAISAL

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

- Principle of development
- Highway safety
- Residential amenity
- Visual amenity
- Drainage and flood-risk
- Ecology and biodiversity
- Sustainable Construction

### Principle of Development

#### *Policy Context*

#### *National Planning Policy Framework*

- 9.2. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Also, of a material consideration is the guidance provided in the National Planning Policy Framework (NPPF) which sets out the Governments planning policy for England and how these should be applied.
- 9.3. The purpose of the planning system is to contribute to the achievement of sustainable development and the NPPF defines this as having three dimensions: economic, social and environmental. Paragraph 10 states that so *sustainable development is pursued in a positive way, at the heart of the Framework is a **presumption in favour of sustainable development***. Paragraph 11 continues by stating that planning decisions should apply a presumption in favour of sustainable development which for decision making means *approving development proposals that accord with up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless: the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole*.
- 9.4. Paragraph 12 also advises, amongst other things that the *presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making* (my emphasis). *Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. The NPPF does accept that a Local Planning Authority may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.*
- 9.5. Under paragraph 80 the NPPF highlights that planning policies and decisions should *help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.*
- 9.6. Paragraph 83 seeks decisions to support a prosperous rural economy and appropriate and sustainable growth of rural businesses. The paragraph continues by stating that policies and decisions should enable *sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings*. The paragraph continues by stating that planning

decisions should enable, amongst other things, *the retention and development of accessible local services and community facilities, such as local shops.*

- 9.7. Paragraph 84 advises of the need to *recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and encourages the use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.*
- 9.8. Paragraph 89 advises of a need for an appropriate impact assessment when assessing applications for retail development located outside town centres, which are not in accordance with an up-to-date plan; and that such assessment should consider:
  - a) *the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and*
  - b) *the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).*
- 9.9. Paragraph 90 highlights that *where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the considerations in paragraph 89, it should be refused.*
- 9.10. Under paragraph 92 the NPPF further advises that in the interests of 'Promoting Healthy and Safe Communities' in order to provide the social, recreational and cultural facilities and services the community needs planning policies and decisions should:
  - a) *plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;*
  - b) *take into account and support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community;*
  - c) *guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs;*
  - d) *ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community; and*
  - e) *ensure an integrated approach to considering the location of housing, economic uses and community facilities and services.*

#### *Development Plan*

- 9.11. Policy SLE 2 of the CLP 2015 reflects the provisions of the NPPF and states that, the Council will require an impact assessment if the proposal is over 2000 sq. metres (gross) in Banbury, 1500 sq. metres (gross) in Bicester and 350 sq. metres (gross) elsewhere.
- 9.12. Whilst not solely an employment related development, Policy SLE 1 of the CLP 2015 is considered relevant to the proposals, in that the proposals will result in job opportunities, and as such the provisions of the policy are considered relevant. Policy SLE 1 seeks to protect existing employment sites whilst supporting sustainable economic growth. It states that: *'Employment development will be focused on existing employment sites. On existing operational or vacant employment sites at Banbury, Bicester, Kidlington and in the rural areas*

*employment development, including intensification, will be permitted subject to compliance with other policies in the Plan and other material considerations’.*

- 9.13. In respect of new employment development in rural areas on non-allocated sites SLE 1 further states: *‘Unless exceptional circumstances are demonstrated, employment development in the rural areas should be located within or on the edge of those villages in Category A’.*
- 9.14. Saved Policy S28 of the CLP 1996 indicates that favourable consideration will be given to proposals for small shops or extensions to existing shops required to serve local needs, subject to the other policies in the plan.
- 9.15. Saved Policy S29 of the CLP 1996 states that: *‘Proposals that will involve the loss of existing village services which serve the basic needs of the local community will not normally be permitted’.*

#### *Assessment*

- 9.16. The proposals are for a development, considered a main town centre use, at an edge of village location which is not an allocated site within the development plan. There are no policies which relate specifically to the site itself.
- 9.17. The proposals are for retail development, with a proposed gross internal floor area of some 1235 sq m and as such the applicant has undertaken a full retail impact assessment and Retail Assessment Report (RAR) prepared by Pegasus Group in support of the application.
- 9.18. The Council instructed an independent external consultant (DPDS) to provide specialist advice to determine whether the key inputs and conclusions are reasonable and robust, having regard to the particular nature of the development and the site.
- 9.19. A full copy of the applicant's viability assessment and DPDS' review of viability on behalf of the Council is available to view on the Council's website.
- 9.20. The RAR is drafted with the support of a household survey carried out by the applicant to assess the shopping trends of the local public which allows the applicant undertakes both a sequential assessment to assess a range of sites located within and on the edge of Banbury town centre. The RAR considers the impact over time of the proposal on the vitality/viability and investment of the town centre and surrounding retail units. DPDS have assessed the detail of the RAR and consider it largely appropriate in terms of its scope and detail. Their conclusions are re-produced below:

#### *The Sequential Test*

*We conclude that, on balance that there are no suitable sites that could be considered available in, or on the edge of the town centre. The most obvious opportunities are the former M & S and Debenhams units. While we consider, as a matter of planning judgement, that neither is suitable because of parking and trolley arrangements, it would not be unreasonable to require more flexibility from retailers. However, since we consider it unlikely that any potential occupier of the proposal would consider these as alternatives, the objective of the sequential test would not be furthered by a refusal of planning permission. If greater flexibility is sought the weight to be attached to the sequential test in the overall planning balance in this case ought to be reduced.*

#### *Retail Impact*

*We have concluded that there is a significant risk of the closure of the Spar in Bodicote if the proposal goes ahead. The Applicant argues that Local Plan policy S29 applies only to the loss of shops through changes of use or redevelopment and that retailers outside the town centre are not protected by planning policy. Whatever view is taken of the policy, the closure of the local shop is a material*

*consideration. The existing Spar in Bodicote provides an important service to local people, including a post office, in a convenient location which encourages journeys by foot. We also note that it might well be difficult to find an alternative operator for the post office.*

*However, it is not the purpose of planning policy to protect private interests; there must be a clear public interest. If the shop did close as a result of the proposal, there would still be a shop for groceries in the village and the proposed food-store could still provide a much greater range and choice of goods than currently available in the village. Although this is not expressed in any policy statement, this is a distinct public benefit which underlies retail planning policy and to which significant weight should be given.*

*The proposal would also provide economic benefits both through the construction activity and through the retail jobs it would provide. The advantages of job gains in the retail grocery sector should not be overestimated because, in a situation where expenditure is not increasing, they are likely to be largely offset by job losses elsewhere in the sector. There is, however, likely to be some overall increase in jobs which should attract moderate weight.*

*It is ultimately for the Council to decide how to strike the planning balance but in our view, particularly in the current economic conditions as the economy emerges from the effects of the Covid-19 lockdowns, the economic benefits of the proposal would be likely to be considered as overriding the adverse impact on the existing shop at any appeal.*

*If planning permission is to be granted, we recommend that conditions are imposed to limit the sales floorspace to that assessed in the RS and sales to food with an appropriate allowance for comparison goods.*

- 9.21. In considering the impact of the proposed development on other existing retail stores the advice from the Council's retail consultant is that for the larger food stores in Banbury town centre it is clear that the proposal would not have a significant impact on their vitality and viability or investment decisions. There is, however, a risk that the planned development at Longford Park local centre will not go ahead due to potential competition. There is also a significant risk of the closure of the Spar in Bodicote and this would have implications for the availability of services to local residents, including the loss of the post office contained within the Spar store. The impact on this Spar store and post office is a concern and forms the basis of Bodicote Parish Council's objection to the application.
- 9.22. Notwithstanding this point, it is accepted that it is difficult to assess the impacts on small shops because the numbers in the applicant's household surveys are very small and cannot be regarded as statistically robust. Furthermore, little is known about their commercial circumstances (leases/rent, ownership borrowing and even the age of the person running the business etc). The timescale in the event of a store closure is also another complication in that a closure can happen quite quickly, if for instance a break clause in a lease is coming up. However, a store closure could also be slower in the event that it is worthwhile carrying on if you liable for rent for a number of years.
- 9.23. The closure of smaller stores such as the Spar cannot be ruled out and is a risk which should not be ignored but is a matter which should go into the planning balance. Although it is accepted that the provision of a new food store is always likely to result in an impact on exiting retail units in the area this is an issue of competition and it is not the role of the planning system to protect individual retail units from the open market forces and competition unless there are material considerations to do so.
- 9.24. Notwithstanding this point however, local shops and post offices receive some policy protection from NPPF para 92 (c). As highlighted in the paragraphs above under



paragraph 92 it is stated, amongst other things, that *to provide the social, and as such policies and decisions should: c) guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs.* In a similar vein to this paragraph, Saved Policy S29 states that *proposals that will involve the loss of existing village services which serve the basic needs of the local community will not normally be permitted.* Local post offices in particular play an important role in providing services to the community. If a post office closes, it is generally not worthwhile multiple retailers taking post offices into their shops as it requires specialist staff and arrangements and the additional footfall generated is not considered to cover the costs. Where post office closures are planned, they have to be advertised. If the Spar closes there is a likelihood that it will not be replaced along with the post office facility and as such this is a material consideration in the determination of this application, to be weighed in the planning balance. In response to this point the applicant has advised that in their view, the Spar store is located *significantly closer and more conveniently to the residential estate that it serves. As such, for pure convenience in addition to the added attraction of the post office facility, it will continue to be used as a very small convenience store to pick up essentials.*

- 9.25. In considering this impact of the proposal on the Spar store, although it is accepted that the proposed food store is on a larger scale than the Spar. It is suggested by the applicant that the proposed food store market would cater for main food shopping trips in much the same way as the larger food stores do. This, the applicant states would be different to the Spar which mainly provides top up shopping rather than as a main shop destination. However, in considering this analysis it has to be accepted that shops are not one thing or another and while some people would choose to shop in the new store for the main food shopping, others would not. The distinction between main food and top-up shopping is never as clear cut as is often made out when looked at in aggregate because what respondents in the household surveys what is meant by main food shopping varies greatly; a main food shop for a single person without a car is going to be very different from that of family.
- 9.26. The proposed store is, however, significantly smaller than the stores now being built by Aldi and Lidl to accommodate their main food shopping offer which are about 1,800 sq m gross. Furthermore, in the local context, the nearby Sainsbury store is about a 4-minute drive from the site and has a floorspace of 6239 sq m gross. It draws 91% of its turnover from main food shopping trips according to the applicants retail assessment. The Morrisons store, about 2 miles from the site has a floorspace of 6745 sq m and about 92% of its turnover is estimated to come from main food shopping trips. It is accepted that the proposed store is not a convenience store solely for top up shopping and that the majority of the impact is likely to be experienced by the big food stores. However, due to the size of the proposed store it is considered that it would struggle to offer the same range of goods as the large stores and it is unlikely that people would alter their main food shopping patterns to a proportional extent. No details are offered as to the identity of a store operator, and it is the view of the Council's retail consultant that the proposed store is unlikely to be able to attract main food shopping trips on anything like that scale given the nearby competition.
- 9.27. Based on the points above it is considered that the greater competition could be on the smaller stores such as Spar and as outlined above it is the view of the Council's retail consultant that it is almost inevitable that the Spar on Molyneux Drive would lose a significant amount of trade. These smaller stores are not resilient to losses in that they do not have the resources to keep trading or to see out their leases that the larger grocery retailers can draw on. However, as outlined above the role of the planning system is not to stifle competition but to allow the free market to operate.

- 9.28. Notwithstanding this point it is accepted that in this case the Spar store also provides a community facility in the form of the post office and therefore is not the 'run-of-the-mill' retail store. It has been outlined above that there is policy protection for local community facilities which would include a post office and as such the impact of the closure of the post office and whether there is any alternative facilities close by is a material consideration in the assessment of this application.
- 9.29. In this instance there are several other post offices located close to the Spar store with the closest being Chatsworth Drive Post Office to the immediate north and approximately 6 minutes' drive or around 26 minute walk. Further alternative post offices are located at Easington Post Office, Horton View also to the immediate north and also 6 minutes' drive or around 35 minute walk as well as Adderbury post office to the immediate south also 6 minutes' drive and around 38 minute walk followed by the Banbury Post Office to the north of Bodicote and 11 minutes' drive and around 46 minute walk. There are others located further afield but these are the closest existing post offices to the Spar store. It is therefore clear that although not in the immediate location to the Spar store there are alternative post office facilities within a relatively short drive from the Spar post office and therefore the community will still be served one way or another by this community facility.
- 9.30. The Parish Council in its objection to the scheme raises the issue of need for a further food store bearing in mind that the existing Spar in Bodicote provides an important service to local people, in a convenient location which encourages journeys by foot. It is accepted that in the event that the Spar store did close as a result of the proposal, there would still be a shop for groceries in the village, albeit in a less convenient location for walking trips. There is no evidence of a need for the proposal arising from the housing development in the area and no need case is put forward by the applicant. Irrespective of the lack of need, the proposed food store could still provide a much greater range and choice of goods. Although this is not expressed in any policy statement, and to a certain degree it is not the role of planning to assess the market need but to assess potential harm, the provision of further choice is a distinct public benefit which underlies retail planning policy and to which significant weight should be given.
- 9.31. Along with providing additional choice the proposal would also provide economic benefits both through the construction activity and through the retail jobs it would provide. The advantages of job gains in the retail grocery sector should not be overestimated because, in a situation where expenditure is not increasing, they are likely to be largely offset by job losses elsewhere in the sector. There is, however, likely to some overall increase in jobs which should attract moderate weight in the consideration of this application.

#### *Conclusion*

- 9.32. The applicant's RAR has highlighted that the development is unlikely to result in any significant vitality / viability issues to the larger food stores located in Banbury town centre. It is almost inevitable that the Spar on Molyneux Drive would lose a significant amount of trade and depending upon the circumstances of the trading of this store it cannot be guaranteed that the store would not close.
- 9.33. The role of the planning system is not to protect individual retail units but to assess the potential harm to local / community facilities which would include the local post office contained in the Spar store. Paragraph 92 of the NPPF highlights this point and to a certain degree Saved Policy S29 of the CLP 1996 does a similar thing.
- 9.34. The loss of the Spar / post office would be a loss to the community facility as well as a convenience store within walking distance of many residents. Many residents would use the new store and with a greater floor area than the Spar would be provided with a greater choice of products and as such the new store would provide a benefit to the local community. The new store would also provide further economic

benefits in the form of new jobs both during construction and in the operation of the store.

- 9.35. The post office is unlikely to be replaced in the new store due to the cost and need to provide specialist facilities. It has been shown in the report above that there are alternative post offices within 6 – 11 minute drive and at the most a 46 minute walk from the existing post office in the Spar. However, it is the amount of weight to be provided in assessing the loss of this facility which needs to be weighed against the benefits of the new store.
- 9.36. In conclusion it is accepted that there is policy protection to small stores but that in this instance the key facility is the Post Office of which alternative facilities are located close by. As such it is considered that the principle of this new retail store is acceptable.

#### Highway safety

##### *Policy Context*

##### *NPPF*

- 9.37. The NPPF (Paragraph 108) advises that in assessing specific applications for development, it should be ensured that:

- *appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;*
- *safe and suitable access to the site can be achieved for all users; and*
- *any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.*

- 9.38. Paragraph 109: *‘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 Plan*

- 9.39. Both Policies ESD15 and SLE4 of the CLP 2015 reflect the provisions and aims of the NPPF. Policy ESD15 of the CLP 2015 states that: *“New development proposals should be designed to deliver high quality safe, attractive, durable and healthy places to live and work. Development of all scales should be designed to improve the quality and appearance of an area and the way it functions”*; whilst Policy SLE4 states that: *“All development where reasonable to do so, should facilitate the use of sustainable modes of transport (and) development which is not suitable for the roads that serve the development and which have a severe traffic impact will not be supported”*.

##### *Assessment*

- 9.40. The Local Highways Authority (LHA) has assessed the application and raises no objections to the principle of the proposed development and that suitable access for pedestrians and vehicles can be achieved, subject to a number of conditions securing specific details and the completion of appropriate legal agreements securing S106 obligations towards highway improvements (£153,780) (including conversion of the existing footway to shared use for pedestrians and cyclists, along the western side of the A4260 between Cotefield Drive and Broad Gap) and Travel Plan monitoring (£1,426).

- 9.41. Further highway improvements to be secured by way of S278 agreement:

- 3.3m deep layby to accommodate a bus stop, located on the A4260 south of the Cotefield Drive junction

- All associated lining and signing
  - Bus shelter, Premium Route pole and flag, suitable seating and Real Time Information display
  - 3.0m wide footway around layby to be incorporated into future shared-use cycle track
- 9.42. Whilst layout is for future consideration a site layout plan (drawing no. 39042-05) has been submitted in support of the application. The development site is located on the edge of a Category A (most sustainable) villages within the district and is conveniently located for residents of the new residential housing estates to the west and the business park, with pedestrian routes providing links through into Bodicote and footpath connection to Adderbury to the south.
- 9.43. Concerns have been raised by third parties and Bodicote Parish Council in relation to potential impacts on highway safety as a result of increased traffic movements.
- 9.44. Access to the site would be taken via the existing junction of Cotefield Drive and the A4260. The LHA Officer notes that the junction is sometimes affected by southbound slow or queuing traffic in the morning peak, and regularly blocked by northbound traffic queuing back from the Weeping Cross signals in the evening. This can make right turns out of Cotefield Drive slightly problematic, although queuing vehicles tend to leave gaps for the exiting vehicles to use. The LHA notes that there is no accident history at this junction, and the LHA Officer did not witness any significant queuing or delay to vehicles leaving Cotefield Drive during his morning and evening visits.
- 9.45. The LHA advises that the development at the site would result in a large increase of vehicles using Cotefield Drive, but there is unlikely to be any noticeable change to flows on the A4260 as the number of peak hour vehicles is limited by the traffic signals at Weeping Cross and Adderbury. The proposed new junction for the Longford Park Phase 2 spine road would introduce another set of traffic signals approximately 430m to the south of Cotefield Drive. This would result in bunches of vehicles passing through northwards, with long gaps caused by the red phases. The presence of these extended gaps should ease the right turn manoeuvre. Further introducing traffic signals at Cotefield Drive is not considered to be reasonable as there is no history of accidents and it would result in four signalised junctions within 780m when Longford Park Phase 2 is built.
- 9.46. The site layout plan shows both pedestrian and vehicular access arrangements and a parking layout that would provide 86 spaces. The level of parking proposed is considered appropriate for the amount of floor space proposed and would meet the LHA's standards. Pedestrian routes show links to the existing footpath network and would allow for appropriate safe pedestrian access to the site. Full details of the site layout and parking arrangements would be considered under future reserved matters applications.
- 9.47. Providing safe access for cyclists is crucial for encouraging this form of transport, which in turn will help to reduce the number of vehicle trips. Whilst not included within the submission it is considered that appropriate levels of cycle parking can be secured going forward either at the detailed application stage or by way of condition attached to such permission.
- 9.48. The LHA highlights that there is great potential for cycling from Bodicote and the existing and future dwellings in the Longford Park development, which may be slightly too far to reach on foot, particularly when carrying shopping. In response to the Longford Park Phase 2 application (19/01047/OUT), OCC has requested that a 3m wide shared use footway/cycleway is provided along the west side of the A4260 from the new signalised junction northwards to Cotefield Drive. It is reasonable to request that this proposed food-store development contributes towards a similar

facility that will link up the cycleways between Cotefield Drive and Broad Gap. A contribution has already been secured for this purpose from the neighbouring housing development. This link would create a safe cycling route from the new properties accessed from Longford Park Road, just north of Weeping Cross.

- 9.49. Paragraph 110(e) of the NPPF states that development should be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations. These aims are echoed within Policies SLE 4, ESD 1, ESD 3 and ESD 5 of the CLP 2015, which look to maximise opportunities for sustainable transport modes. Whilst no consideration appears to have been given with regards to the future need for Electrical Vehicle (EV) charging at the site, it is considered that appropriate infrastructure details could be secured through an appropriate condition; to ensure that potential future needs could be met and to comply with both local and national policy requirements.

#### *Conclusion*

- 9.50. In light of the LHA's advice, and subject to conditions and S106 contributions, it is concluded that the proposal would not have a significant adverse impact upon the safe and efficient operation of the highway network, and therefore complies with Policies SLE4, ESD1, ESD3 and ESD 5 of CLP 2015 in this regard and government guidance within the NPPF.

#### Residential amenity

##### *NPPF*

- 9.51. Paragraph 180 of the NPPF advises of the need Planning policies and 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.

##### *Development Plan*

- 9.52. Saved Policy C31 of the CLP 1996 requires that in existing residential areas any development which is not compatible with the residential character of the area, should not cause an unacceptable level of nuisance or visual intrusion. These provisions are echoed in Policy ESD15 of the CLP 2015 which states that: 'new development proposals should consider amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation and indoor and outdoor space'.
- 9.53. 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 noise and light pollution and traffic generation

##### *Assessment*

- 9.54. The application site is located at the junction with Cotefield Drive and the Oxford Road (A4260). In terms of residential amenity, the closest residential properties are the new dwellings being built on the Cotefield Drive development approximately 70m to the west / south west of the application site.
- 9.55. This application is in outline form and as such the applicant is seeking to establish the principle of the development along with access and scale and as such the full details of the design / appearance and layout of the development will be the subject of a further application for reserved matters approval. Notwithstanding this point the application is supported by indicative details of the potential location of the building in the site along with potential elevation details. These plans show a single storey building to a maximum height of 10.5m located towards the southern boundary and

the building in a north east – south west orientation with the main customer car park located to the north of the site.

- 9.56. Members will see from the consultee section that an objection to this application has been received from Bodicote Parish Council, which includes concern over inappropriate opening hours for a supermarket in a residential area as well as concern over noise and light pollution issues.
- 9.57. As highlighted above this is an outline application and therefore although indicative plans for position of the building on the site and potential elevation details have been provided these details are just that indicative. Notwithstanding this point it is accepted that the development of a food store on this site would have some impact on the closest residential to the site in Cotefield Drive purely on the basis that this would be a new build on this site. This impact is not necessarily to the detriment of the occupiers of these properties.
- 9.58. On the issue of inappropriate opening hours in a residential area the applicant has stated on the application form that the opening hours are 07:00 – 23:00 Monday – Saturday and 10:00 – 16:00 on Sundays / Bank Holidays. Although these hours are longer than the Garden centre located to the north of the application site the hours are not considered to be out of step with other retail food stores. Furthermore, the position of the store at the main entrance of Cotefield Drive it is not considered that the hours would result in any adverse impact on the neighbouring properties due to shoppers visiting the store.
- 9.59. Of potential concern, however, would be the location of the service yard which in the current indicative details is shown as to the rear of the building along the far southern boundary of the site. The position of the loading bay access is shown on the elevation plans as facing towards the residential properties although again it has to be remembered that the elevation plans are indicative and are not subject to any approval. In considering this particular issue it is accepted that the detail of the access to the loading bays could be designed in a better way to reduce any potential noise disturbance to the residential properties opposite the site. Furthermore, a restriction in terms of deliveries hours would also reduce the potential issue of noise disturbance on the residential properties.
- 9.60. With regards to the issue of lighting again as this is an outline application there is no information on the position / number of lighting columns as part of this development. It is accepted that there would be a need for a certain level of external lighting around the site particularly to the main building, the car park and the loading bay area. This lighting, dependant upon the number and orientation of the lights, could have an adverse impact on the residential properties opposite the site. However, this is a detailed matter which can be covered at the reserved matters stage and with careful positioning of the lighting and angle of light spread the impact of this on the neighbouring properties could be reduced.

#### *Conclusion*

- 9.61. The position of the site from the nearest residential properties is in the region of 50m. Notwithstanding the objection raised from the Parish Council it is considered that the development can be made acceptable in residential amenity terms as part of the reserved matters applications. As such it is considered that proposals comply with the Development Plan policies identified and are therefore acceptable in this regard.

#### Visual amenity

#### *Policy Context*

#### *NPPF*

- 9.62. The Government attaches great importance to the design of the built environment within the NPPF. Paragraph 124 Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

#### *Development Plan*

- 9.63. The aims of the NPPF are also echoed within Policy ESD15 of the CLP 2015 which looks to promote and support development of a high standard which contributes positively to an area's character and identity by creating or reinforcing local distinctiveness, stating that: *"New development proposals should respect the traditional pattern of routes, spaces, blocks, plots, enclosures and the form, scale and massing of buildings. Development should be designed to integrate with existing streets and public spaces, and buildings configured to create clearly designed active public frontages"*.
- 9.64. Saved Policy C28 of the CLP 1996 states that control will be exercised over all new development to ensure that standards of layout, design and external appearance are sympathetic to the character of the context of that development. Further, saved Policy C30 of CLP 1996 states control will be exercised to ensure that all new housing development is compatible with the appearance, character, layout, scale and density of existing dwellings in the vicinity.
- 9.65. Policy ESD13 of the CLP 2015 states that development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided.

#### *Assessment*

- 9.66. The site is currently utilised for car parking for the nearby commercial uses as well, as a developer's compound and is covered by a hard standing with established planting around the boundaries. The location of the site is in a very prominent position at the junction with Cotefield Drive and Oxford Road (A4260) and as such the impact of the development upon the street scene will be high. As highlighted throughout this report this application is in outline form and hence the final details in terms of appearance will be the subject of the reserved matters application. Notwithstanding this point the applicant has however, provided indicative details of a potential design of building on this site. Policy ESD15 of the CLP 2015 highlights the importance of a high-quality design which contributes positively to an area's character and identity by creating or reinforcing local distinctiveness.
- 9.67. The applicant has highlighted that the proposed external materials would be generally derived from the local vernacular. Ironstone, brick and natural slate are all found within the local area, whilst the proposed timber cladding compliments these traditional materials. The indicative plans show the use of ironstone for the walls and slate for the roof all of which would highlight that a high-quality design building on this site would enhance the appearance and character of this part of the street scene. In terms of the position of the building on the site it is accepted that the plans submitted show the main entrance to the building facing into the site rather than addressing the main highway of Oxford Road as would be required by Policy ESD15 would encourage. The suggested orientation would be part of the reserved matters application, however, it is considered that the suggested orientation would make sense in that the entrance positioned where it is would encourage shoppers to drive into the site and park within the car park rather than park along Oxford Road.
- 9.68. In considering the visual impact of the proposed development it is accepted that the current situation is that the site is open space being used as the constructors' compound by the house builders in association with the new build of dwellings. The mature hedgerow along the Oxford Road frontage is set to be retained as part of the development which together with a single storey build height will ensure that a building on this site will not appear to the detriment of the street scene. This is,

however, dependent upon the final design and in the event that a taller building or a different type of material is used this could result in a significant change in character.

#### *Conclusion*

- 9.69. The prominent position of this site requires a high quality of design of building to ensure that the development does not result in any adverse impact on the street scene. This is an application which seeks the principle of a development on the site and the final design will form part of the reserved matters applications. The indicative plans submitted with the application demonstrate that a suitable design of building can be provided on the site. As such it is considered that development of the site for a retail unit would comply with Policies C28 of the CLP and ESD15 of the CLP 2015 as well as Government guidance contained in the NPPF.

#### Drainage and flood-risk

##### *Policy Context*

##### *NPPF*

- 9.70. In respect of meeting the challenge of climate change and flooding, Paragraph 163 of the NPPF advises that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere by proposed development; and where appropriate, applications should be supported by a site-specific flood-risk assessment. Further at Paragraph 165 Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate.

##### *Development Plan*

- 9.71. Policy ESD6 of the CLP 2015 essentially replicates national policy contained in the NPPF with respect to assessing and managing flood risk. In short, this policy resists development where it would increase the risk of flooding and seeks to guide vulnerable developments (such as residential) towards areas at lower risk of flooding and further, that development should be safe and remain operational in the event of flooding. The provisions of Policy ESD6 require site specific flood risk assessments to accompany development proposals of 1 hectare or more located in flood zone 1.
- 9.72. Policy ESD7 of the CLP 2015 requires the use of Sustainable Drainage Systems (SuDS) to manage surface water drainage systems. This is with the aim to manage and reduce flood risk in the District. Proposals should include a surface water drainage strategy. The County Council as Lead Local Flood Authority (LLFA) would be consulted on application going forward.

##### *Assessment*

- 9.73. The applicant highlights the point that the site is less than 1 hectare in size, is located within Flood Zone 1, and as such a detailed FRA is not required for this development. However, in support of the application the applicant has provided a Sustainable Drainage Assessment (SDA) for the site. This SDA reviews the existing surface water and foul water drainage arrangements at the site and presents a strategy for managing surface water and foul water from the proposed site when completed. The details highlight that all surface water will drain from the building roofs via drainage pipes and will discharge to the sub-base of the car park on the site. The permeable surface will remove the soils and provide a water treatment to the surface water.



9.74. In considering the details submitted following an initial query over the quality of the water drainage the comments from the Flood Risk Engineer of Oxfordshire County Council is that the drainage system on the site is acceptable. As such it is considered that subject to the use of conditions, there is no drainage objections to the proposal.

*Conclusion*

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

Ecology Impact

*Legislative context*

9.76. 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.

9.77. 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.

9.78. The Regulations provide for the control of potentially damaging operations, whereby consent from the country agency may only be granted once it has been shown through appropriate assessment that the proposed operation will not adversely affect the integrity of the site. In instances where damage could occur, the appropriate Minister may, if necessary, make special nature conservation orders, prohibiting any person from carrying out the operation. However, an operation may proceed where it is or forms part of a plan or project with no alternative solutions, which must be carried out for reasons of overriding public interest.

9.79. 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.

9.80. 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*

- 9.81. 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.
- 9.82. 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.
- 9.83. 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.
- 9.84. 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.
- 9.85. 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.
- 9.86. 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.
- 9.87. The Planning Practice Guidance dated 2014 post-dates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that Local Planning Authorities should only require ecological surveys where clearly justified, for example if there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.

#### *Assessment*

- 9.88. 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')
- 9.89. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site contains hedgerow and semi-mature trees along the main access road are likely to be of good value for foraging and commuting bats and nesting birds. There are a further number of trees close by and in the boundary of the site which would not be affected by proposals. There are no buildings to be removed or altered due to the proposed development.
- 9.90. Formal comments have been received from the Council's Ecologist (CE) and concerns have been raised over the fact that the current layout and arboricultural plan suggests that much of the remaining vegetation on site (except for the small group of trees to the SE) will be removed including all the trees to one side and the majority of the Priority hedgerow except that along the road. This conflicts with the evidence in the D&A statement which suggests that the majority of the existing landscaping is to remain and is the basis of the Preliminary Ecological Appraisal (PEA) makes its assumptions on the relative impacts to wildlife (commuting bats, birds etc..).
- 9.91. The detailed PEA prepared by RPS Consulting Services Ltd submitted in support of the application concludes that the proposals are unlikely to have any significant impacts on any protected species, but recommends appropriate timings for any works to avoid bird nesting season and also recommended enhancements, including bat and bird nesting opportunities, to provide biodiversity enhancements for the site. The submitted PEA is just over two years old, that would be usually be considered limit for appropriate assessments. However, during the registration of the application the CE confirmed that: *"I think given the nature of what was found on site and the likelihood that little has changed in terms of habitats in the interim I would be happy to accept the current submitted PEA even though it is just past the usual two years. If necessary, I will recommend an update walkover check prior to works commencing"*.
- 9.92. Concern has been expressed over the loss of several existing trees on the site which would have a knock-on effect upon the ecology value of the site, which is accepted to be low in its current state. A group tree preservation order (TPO) has been placed across the site to prevent the loss of any trees prior to any permission being granted and any reserved matters application being submitted. With the TPO in place the reserved matters application will need to take this into account as a material consideration in the final design / layout of the food store on the site.
- 9.93. As the areas of habitat with wildlife value on site are not large it is important that what is on site is retained where possible and enhanced. The enhancements suggested within the PEA, whilst appropriate in terms of planting will, it seems, only be mitigation for habitat lost rather than providing a clear net gain for biodiversity as required by policy. Officers are satisfied, on the basis of the findings of the PEA and the absence of any objection from Natural England, and subject to conditions, that the welfare of any European Protected Species found to be present at the site and surrounding land will continue and be safeguarded notwithstanding the proposed development and that the Council's statutory obligations in relation to protected species and habitats under the Conservation of Habitats & Species Regulations 2017, have been met and discharged.

#### *Conclusion*

- 9.94. As noted above both national and local policy guidance requires new development to look to provide net gains for biodiversity. Whilst not included within the detail of the current application, officers consider that there is potential for the proposals to include biodiversity enhancements, such as appropriate landscaping, bat and bird nesting opportunities could be appropriately secured at any detailed application

stage; to ensure that that the proposed development would provide a net gain in biodiversity, in accordance with the provisions of Policy ESD10 of the CLP 2015 and Government guidance within the NPPF, regarding the importance of conserving and enhancing the natural environment.

### Sustainable Construction

#### *Policy Context*

#### *NPPF*

- 9.95. Section 14 of the NPPF covers the issue of meeting the challenge of climate change, flooding and coastal change. Paragraph 150 states that new development should be planned for in ways that: a) *avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaptation measures, including through the planning of green infrastructure; and b) can help to reduce greenhouse gas emissions, such as through its location, orientation and design. Any local requirements for the sustainability of buildings should reflect the Government's policy for national technical standards.* Paragraph 151 continues by stating, amongst other things, that *in order to help increase the use and supply of renewable and low carbon energy and heat, plans should: c) identify opportunities for development to draw its energy supply from decentralised, renewable or low carbon energy supply systems and for co-locating potential heat customers and suppliers.*

#### *Development Plan*

- 9.96. Policy ESD1 in the adopted Cherwell Local Plan covers the issue of Mitigating and Adapting to Climate Change and includes a criteria under which application for new development will be considered. Included in the criteria is the requirement that development will incorporate suitable adaptation measures to ensure that development is more resilient to climate change impacts. These requirements will include the consideration of, *taking into account the known physical and environmental constraints when identifying locations for development. Demonstration of design approaches that are resilient to climate change impacts including the use of passive solar design for heating and cooling. Minimising the risk of flooding and making use of sustainable drainage methods and reducing the effects of development on the microclimate (through the provision of green infrastructure including open space and water, planting, and green roofs).*
- 9.97. With regards to Policy Policy ESD 2, this covers the area of Energy Hierarchy and Allowable Solutions. This policy seeks to achieve carbon emissions reductions, where the Council will promote an 'energy hierarchy' as follows: *Reducing energy use, in particular by the use of sustainable design and construction measures. Supplying energy efficiently and giving priority to decentralised energy supply. Making use of renewable energy Making use of allowable solutions.* Any new development will be expected to take these points into account and address the energy needs of the development.
- 9.98. Policy ESD 3 covers the issue of Sustainable Construction and states amongst other things that *all new non-residential development will be expected to meet at least BREEAM 'Very Good' with immediate effect, subject to review over the plan period to ensure the target remains relevant. The demonstration of the achievement of this standard should be set out in the Energy Statement.* The Policy continues by stating that *all development proposals will be encouraged to reflect high quality design and high environmental standards, demonstrating sustainable construction methods including but not limited to: Minimising both energy demands and energy loss. Maximising passive solar lighting and natural ventilation. Maximising resource efficiency Incorporating the use of recycled and energy efficient materials.*

*Incorporating the use of locally sourced building materials. Reducing waste and pollution and making adequate provision for the recycling of waste. Making use of sustainable drainage methods. Reducing the impact on the external environment and maximising opportunities for cooling and shading (by the provision of open space and water, planting, and green roofs, for example); and making use of the embodied energy within buildings wherever possible and re-using materials where proposals involve demolition or redevelopment.*

#### *Assessment*

- 9.99. This application seeks outline planning permission for a new food store on the site. As such the final design of the building is not provided as this will be the subject of a reserved matters application. At that stage it is considered that the full details of the sustainability measure to be incorporated into the design will be provided and agreed. A condition is attached to this outline permission which highlights the need to ensure that the final design of the building complies with Policies ESD1, ESD2 and ESD3 as well as the requirements of Section 14 of the NPPF. The Agent has agreed to the principle of this matter being dealt with by way of a prior to commencement condition in this way.

#### *Conclusion*

- 9.100. Although it is accepted that at this stage no information is provided with regards to the final design and hence sustainability measures to be used on this site. However, it is considered that the imposition of a condition to secure the sustainability credentials of the development would comply with the aspirations of these policies.

## **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. This application seeks outline permission for the construction of a new food store on this currently vacant site. The site is a prominent location at the junction of Oxford road and Cotefield Drive. The application is supported by a retail assessment which has been assessed by the Council's retail consultant DPDS who conclude that in terms of the Sequential Test on balance that there are no suitable sites that could be considered available in, or on the edge of the town centre. With regards to the Retail Impact DPDS conclude that although there is no evidence to support the adverse impact on the viability / vitality of the larger food stores in and around the town centre there is a significant risk of the closure of the Spa in Bodicote if the proposal goes ahead. The closure of the local shop is a material consideration. The existing Spar in Bodicote provides an important service to local people, including a post office, in a convenient location which encourages journeys by foot. We also note that it might well be difficult to find an alternative operator for the post office.
- 10.3. However, it is not the purpose of planning policy to protect private interests; there must be a clear public interest. If the shop did close as a result of the proposal, there would still be a shop for groceries in the village and the proposed food-store could provide a much greater range and choice of goods than currently available in the village. Although this is not expressed in any policy statement, this is a distinct public benefit which underlies retail planning policy and to which significant weight should be given. Notwithstanding this point there are other post offices close to the Spar post office with the closest two within 6 minutes' drive followed by a third within 8 minutes' drive. The loss of the Spar post office would make Bodicote a slightly less sustainable location as those wishing to visit a post office could not walk to one and would instead need to cycle or go by public or private transport.

- 10.4. In assessing this aspect, it is important to weigh the benefits of the development against the harm of the proposal and in this instance, it would be the harm in terms of the potential closure of the Spar store and post office. It is clear that there are alternative post offices nearby plus the fact that the provision of the new store would for a greater range of goods to be provide to the customer and hence a wider choice. In addition to this it is also the case the development would have other economic benefits both through the construction activity and through the retail jobs it would provide. The advantages of job gains in the retail grocery sector should not be overestimated because, in a situation where expenditure is not increasing, they are likely to be largely offset by job losses elsewhere in the sector. There is, however, likely to some overall increase in jobs which should attract moderate weight.
- 10.5. The Local Highway Authority has assessed the application and raises no objections to the principle of the proposed development and that suitable access for pedestrians and vehicles can be achieved. This is, however, subject to a number of conditions securing specific details and the completion of appropriate legal agreements securing S106 obligations. The applicant has confirmed that they are prepared to enter into an agreement.
- 10.6. As the application is in outline the final details of design / appearance / layout / landscape are subject to reserved matters. For this reason, no finer details are provided with this application. The applicant has, however, provided indicative elevation details and a layout for a store on the site. These details demonstrate that an acceptable form of building could be provided on the site which would not result in any adverse impact on the street scene nor upon the amenities of the local residents.
- 10.7. On the issue of landscape and ecology there is concern that the proposal would result in a significant loss of trees on the site to the detriment of the ecology and character of the area. A group TPO has been placed on the existing trees on the site which will be a material consideration in the reserved matters application for the layout of the store on the site. Subject to conditions covering the issue of biodiversity enhancements as part of the final design it is considered that the proposal is acceptable from an ecology point of view.
- 10.8. This is a finely balanced application with several benefits to the scheme but also the potential to result in harm to an existing local facility. It is ultimately for the Council to decide how to strike the planning balance but in view of the current economic conditions as the economy emerges from the effects of the Covid-19 lockdowns, the economic benefits of the proposal are considered not to be outweighed by the adverse impact on the existing shop.

## 11. RECOMMENDATION

RECOMMENDATION – DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT TO **GRANT PERMISSION, SUBJECT TO THE CONDITIONS SET OUT BELOW** (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY) **AND THE COMPLETION OF A PLANNING OBLIGATION UNDER SECTION 106** OF THE TOWN AND COUNTRY PLANNING ACT 1990, AS SUBSTITUTED BY THE PLANNING AND COMPENSATION ACT 1991, TO SECURE THE FOLLOWING (AND ANY AMENDMENTS AS DEEMED NECESSARY):

- a) £153,780 - Highway Works Contribution towards conversion of the existing footway to shared use for pedestrians and cyclists, along the western side of the A4260 between Cotefield Drive and Broad Gap.
- b) £1,426 - Travel Plan Monitoring Fee

- c) S278 Agreement will be required to secure mitigation/improvement works.

## **CONDITIONS**

### **Time Limit**

1. Application for approval of all the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission and the development hereby permitted shall be begun either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved whichever is the later.

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

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

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

### **Compliance with Plans**

3. The development shall not be carried out otherwise than in complete accordance with the approved plans 01 Rev C, 700, and 15 received 24/11/2020 and plan 0001 Rev P02 received 28/11/2020 and other details Tree survey Methodology & TCP Interpretation, Tree Survey Data, Archaeology report, Cotefield Farm Transport Assessment, Cotefield Farm Land Contamination Phase 1 Parts 1, 2, 3. Retail Statement with Appendices, Drainage Strategy, Preliminary Ecology Assessment all received 24/11/2020 unless a non-material or minor material amendment is approved by the Local Planning Authority under the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).

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

### **Floor Area**

4. The floor area of the proposed store shall not exceed 1235 sq m net as determined by internal measurement.

Reason: In order to avoid overdevelopment, to achieve a satisfactory form 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 Section 12 of the National Planning Policy Framework.

### **Restrictions on sales**

5. No more than 90% of the nett internal area of the retail unit shall be used for the sale of convenience goods.

Reason: In order to safeguard the vitality and viability of the Town Centre and to comply with Government guidance contained within the National Planning Policy Framework.

## **Transport**

6. Prior to the first occupation of the development hereby approved, a Travel Plan, prepared in accordance with the Department of Transport's Best Practice Guidance Note "Using the Planning Process to Secure Travel Plans", shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved Travel Plan shall be implemented and operated in accordance with the approved details.

Reason: In the interests of sustainability and to ensure a satisfactory form of development, in accordance with Government guidance contained within the National Planning Policy Framework.

7. No development shall take place in respect of the development until a Construction Traffic Management Plan (CTMP) has been submitted to and approved by the Local Planning Authority. The development shall not be carried out other than in accordance with the CTMP.

The CTMP shall provide for:

- i). The routing of construction vehicles and Construction Plan Directional signage (on and off site)
- ii). The parking of vehicles of site operatives and visitors
- iii). Loading and unloading of plant and materials
- iv). Storage of plant and materials used in constructing the development
- v). Operating hours and details of deliveries
- vi). The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- vii). Wheel washing facilities
- viii). Measures to control the emission of dust and dirt during construction
- ix). A scheme for recycling/disposing of waste resulting from demolition and construction works
- x). Overall strategy for managing environmental impacts which arise during construction
- xi). Procedures for maintaining good public relations including complaint management, public consultation and liaison
- xii). Control of noise emanating from the site during the construction period
- xiii). Details of construction access(s)
- xiv). Provision for emergency vehicles

Reason: In the interests of highway safety, convenience of highway users and to protect the amenities of residents and safeguard the visual amenities of the locality and to comply with Government guidance contained within the National Planning Policy Framework.

## **Drainage**

8. Construction shall not begin until a detailed surface water drainage scheme for the site, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall 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;
- Comprehensive infiltration testing across the site to BRE DG 365;
- 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;

Reason: To ensure satisfactory drainage of the site and appropriate flood prevention and to comply Policy ESD 7 of the Cherwell Local Plan 2011-2031 Part 1 and with Government guidance contained within the National Planning Policy Framework.

9. Prior to first occupation, a record of the installed SuDS and site wide drainage scheme shall be submitted to and approved in writing by the Local Planning Authority for deposit with the Lead Local Flood Authority Asset Register. The details shall include:
- a) As built plans in both .pdf and .shp file format;
  - b) Photographs to document each key stage of the drainage system when installed on site;
  - c) Photographs to document the completed installation of the drainage structures on site;
  - d) The name and contact details of any appointed management company information.

Reason: To ensure satisfactory drainage of the site and appropriate flood prevention and to comply Policy ESD 7 of the Cherwell Local Plan 2011-2031 Part 1 and with Government guidance contained within the National Planning Policy Framework.

10. No construction shall take place within 5m of the water main. Information detailing how the developer intends to divert the asset / align the development, so as to prevent the potential for damage to subsurface potable water infrastructure, must be submitted to and approved in writing by the local planning authority in consultation with Thames Water. Any construction must be undertaken in accordance with the terms of the approved information. Unrestricted access must be available at all times for the maintenance and repair of the asset during and after the construction works.

Reason: The proposed works will be in close proximity to underground strategic water main, utility infrastructure. The works has the potential to impact on local underground water utility infrastructure.

11. No development shall be occupied until confirmation has been provided that either:-  
 1. Capacity exists off site to serve the development, or 2. A development and infrastructure phasing plan has been agreed with the Local Authority in consultation with Thames Water. Where a development and infrastructure phasing plan is agreed, no occupation shall take place other than in accordance with the agreed development and infrastructure phasing plan, or 3. All wastewater network upgrades required to accommodate the additional flows from the development have been completed.

Reason: Network reinforcement works may be required to accommodate the proposed development. Any reinforcement works identified will be necessary in order to avoid sewage flooding and/or potential pollution incidents.

## **Sustainability**

- 12.** Prior to the commencement of development above slab level, a design stage BREEAM certificate confirming that the development shall be constructed to at least a BREEAM very good standard or equivalent shall be submitted to and approved in writing by the Local Planning Authority. Within 6 months of the occupation of the development hereby permitted, a final BREEAM certificate shall be submitted confirming that the development has achieved BREEAM very good or equivalent standard.

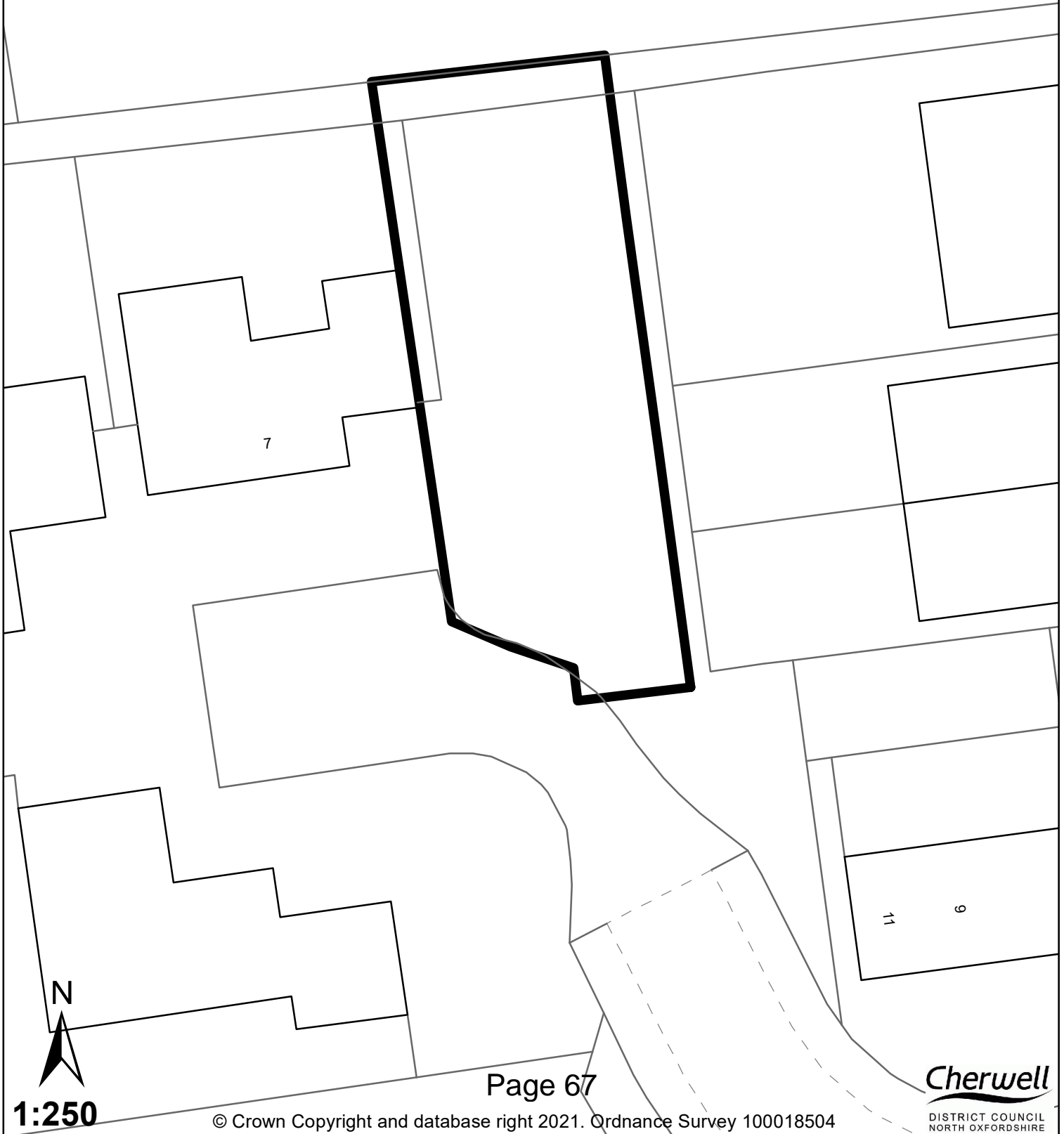
Reason: To ensure energy and resource efficiency practices are incorporated into the development in accordance with Policy ESD1, ESD2 and ESD3 of the Cherwell Local Plan 2011-2031 Part 1, and the Government's aim to achieve sustainable development as set out in the National Planning Policy Framework.

CASE OFFICER: Wayne Campbell

TEL: 01295 221875

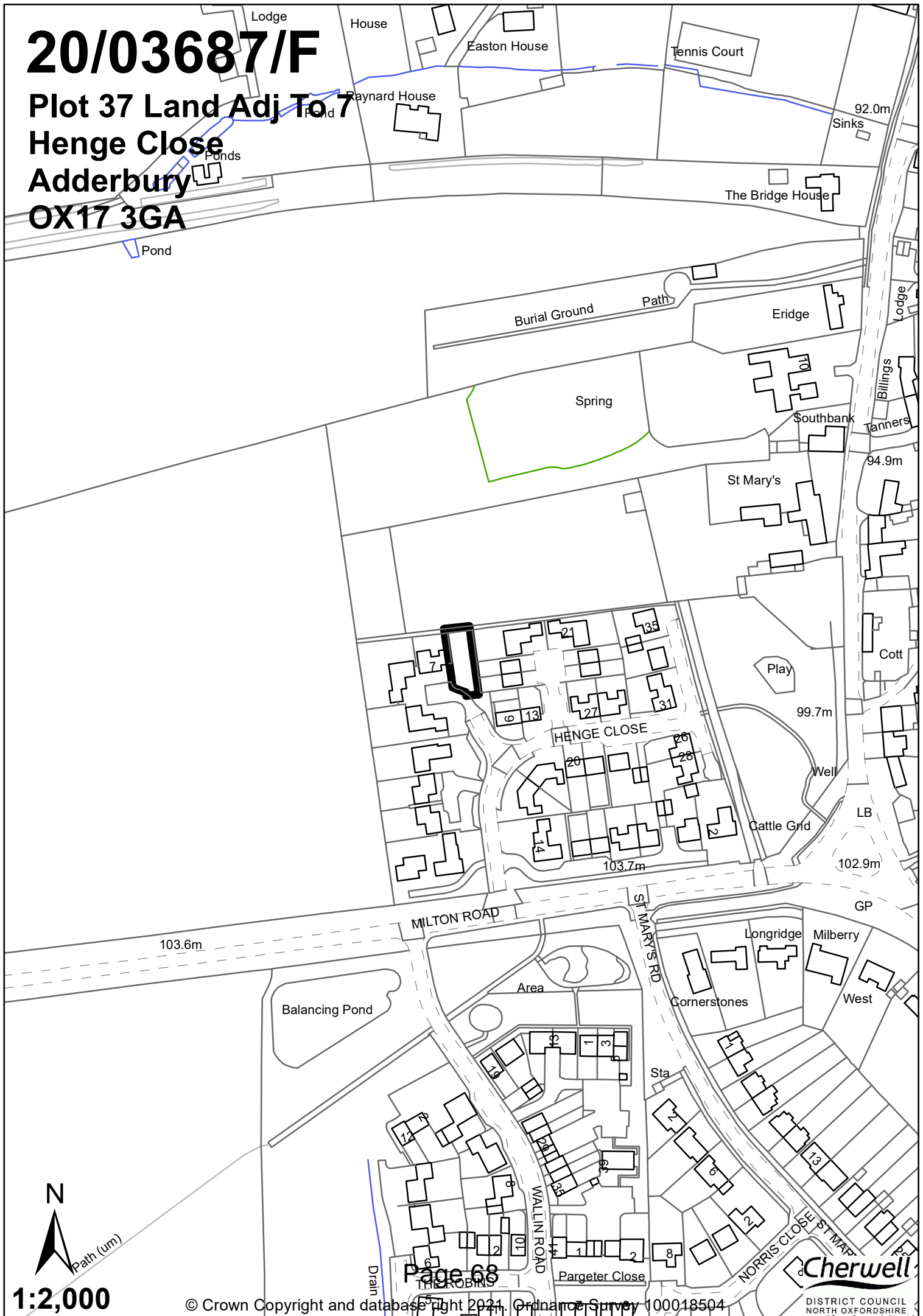
# 20/03687/F

Plot 37 Land Adj To 7  
Henge Close  
Adderbury  
OX17 3GA



# 20/03687/F

## Plot 37 Land Adj To 7 Henge Close Adderbury OX17 3GA



1:2,000

**Case Officer:** Matthew Chadwick

**Applicant:** Nicholas King Homes

**Proposal:** Erection of a three-bedroom house, with 2no parking spaces.

**Ward:** Adderbury, Bloxham And Bodicote

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

**Reason for Referral:** Called in by Councillor McHugh due to the level of public interest in the application

**Expiry Date:** 10 March 2021

**Committee Date:** 15 April 2021

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## **1. APPLICATION SITE AND LOCALITY**

1.1. The application site is located on the north side of the Milton Road in the west of the village of Adderbury, in a new development constructed by Nicholas King Homes. The plot of land is an area of soft landscaping to the east of 7 Henge Close and to the west of 17 and 19 Henge Close. To the north of the site is an undeveloped field.

## **2. CONSTRAINTS**

2.1. The application site is not located within a conservation area and there are no listed buildings within the immediate vicinity of the site. The Adderbury Conservation Area is located approximately 85m to the east of the site and the closest listed building is St Marys House, which is 145m to the northeast of the site.

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

3.1. Planning consent is sought for a single new dwelling on an area of grassed land. The house would be constructed from ironstone under a natural slate roof and would have two parking spaces to the front of the site. The dwelling would be constructed on the same building line as 7 Henge Close and the applicant proposes that the dwelling would have a similar design to some of the existing dwellings on the site.

3.2. This application is identical in its design to the dwelling approved under 18/00691/F.

## **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>
14/00250/F	Demolition of existing agricultural buildings and erection of 20 private houses and 11 affordable dwellings, provision of public	Application Permitted

open space and land for a possible community use

17/00813/F	Erection of 5 No private market sale dwellings on land previously allocated for possible community use	Application Permitted
18/00691/F	Erection of a three-bedroom house, with 2no. parking spaces.	Application Permitted

- 4.2. This application is identical in design to that approved under 18/00691/F. The land on which the application site is located was approved as a soft landscaping area as part of a wider Landscape and Ecological Management Plan, which secured ecological improvements across the site under condition 19 of 14/00250/F. This shall be covered in more detail later in this report.

## 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 **23 February 2021**, although comments received after this date and before finalising this report have also been taken into account.
- 6.2. There has been particular interest raised locally with concern about how the original application was handled, in particular its impact upon ecology due to the loss of soft landscaping and planting. Sixty-eight comments have been received on the application. The comments raised by third parties are summarised as follows:
- The development would cause harm to biodiversity.
  - Residents have a right of way across the land.
  - It would set a precedent for the development of similar parcels on other estates.
  - The loss of undeveloped land would cause harm to the character and appearance of the area.
  - The application documentation does not consider the Adderbury Neighbourhood Plan
  - The developer plans to develop the field to the north and this application only seeks to keep the route to the north open.
  - The development would result in sound pollution and construction movements would cause harm to the amenity of neighbours.
  - The development would cause harm to highway safety.

- The development would result in the loss of light and privacy of four adjacent properties.
- The approval of this application would be unlawful.
- The application should be accompanied by an ecological appraisal.
- The plot is smaller than surrounding plots and would cause harm to the character and appearance of the area for this reason.
- The development would cause harm to great crested newts in the area.
- The development would be in breach of a number of conditions of 14/00250/F.

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. **ADDERBURY PARISH COUNCIL: Objects.** In the granting of planning application 18/00691/F, planning officers overlooked condition 19 of 18/00691/F which required for the land to be landscaped for the development and retained as such. The granting of this consent would be in breach of this and would be unlawful.

### CONSULTEES

7.3. **OCC HIGHWAYS: No objections**, subject to conditions relating to car parking details, cycle parking details and a construction traffic management plan.

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

7.5. **CDC LANDSCAPE SERVICES:** 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 2015)

- PSD1 – Presumption in Favour of Sustainable Development
- SLE4 – Improved Transport and Connections
- BSC1 – District Wide Housing Distribution
- BSC7 – Meeting Education Needs
- BSC10 – Open Space, Outdoor Sport and Recreation Provision
- BSC11 – Local Standards of Provision – Outdoor Recreation
- ESD3 – Sustainable construction
- ESD10 – Biodiversity And The Natural Environment
- ESD15 - The Character of the Built and Historic Environment
- INF1 – Infrastructure

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

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

8.3. Under Section 38 of the Planning and Compulsory Purchase Act 2004, a Neighbourhood Plan that has been approved at referendum also forms part of the statutory development plan for the area. In this case, the application site falls within the Adderbury Neighbourhood Plan (ANP) which was made in 2018 and the following Policies of the Neighbourhood Plan are considered relevant:

- AD1 – Adderbury Settlement Boundary

8.4. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Cherwell Residential Design Guide (2018)
- EU Habitats Directive
- Natural Environment and Rural Communities Act 2006
- Conservation of Habitats and Species Regulations 2017
- Circular 06/2005 (Biodiversity and Geological Conservation)

## **9. APPRAISAL**

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

- Planning history
- Principle of development
- Design, and impact on the character of the area
- Residential amenity
- Highway safety
- Ecology impact
- Planning obligations
- Other matters



### Planning history

- 9.2. 14/00250/F - Demolition of existing agricultural buildings and erection of 20 private houses and 11 affordable dwellings, provision of public open space and land for a possible community use – This application permitted the existing houses in Henge Close.
- 9.3. 15/00228/DISC - Discharge of Conditions 5, 7, 8, 11, 13, 16, 17, 18, 19, 20, 22, 23, 28 and 29 of 14/00250/F – Condition 19 of this application related to a Landscape and Ecological Management Plan. The application site was identified as a soft landscaping area which formed part of the wider Landscape and Ecological Management Plan,
- 9.4. 18/00691/F - Erection of a three-bedroom house, with 2no. parking spaces. This application was approved under delegated powers in November 2018 and was identical in design to the dwelling under consideration in this application.

### Principle of Development

#### *Policy Context*

- 9.5. The National Planning Policy Framework ('NPPF') explains that the purpose of the planning system is to contribute to the achievement of sustainable development. This is defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs.
- 9.6. Paragraph 11 of the NPPF states that a presumption of sustainable development should be seen as a golden thread running through decision taking, which means approving development proposals that accord with an up-to-date development plan without delay. The NPPF goes on to say that, to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system.
- 9.7. The principle of residential development in Adderbury is assessed against Policy Villages 1 in the CLP2015 and within this policy Adderbury is recognised as a Category A village. Category A villages are service villages that are considered to be most sustainable rural settlements within the district. Within Category A villages, residential development will be restricted to the conversion of non-residential buildings, infilling and minor development comprising small groups of dwellings on sites within the built up area of the settlement. The site is within the built limits of the village and it is considered that the proposal would constitute infilling. Policy AD1 of the Adderbury Neighbourhood Plan is consistent with this and states that proposals for infill development within the boundaries of the village will be acceptable.
- 9.8. The Written Ministerial Statement of 12 September 2018 provided flexibility to the Oxfordshire Local Planning Authorities so that they only had to demonstrate a 3-year land supply whilst the Oxfordshire Plan was being produced. This flexibility expired on 31 March 2021. Cherwell District Council's position on five-year housing land supply is set out in the 2020 Annual Monitoring Report. For the period 2021-2026, the Council has a 4.7-year housing land supply. Paragraph 11(d) of the NPPF tilts the decision-making balance towards granting planning permission for development (subject to other considerations) where Development Plan policies are out-of-date. This includes where a five-year supply of deliverable housing sites cannot be demonstrated.

### *Assessment*

- 9.9. The site is within the built limits of the village and it is considered that the proposal would constitute infilling. The development would therefore comply with both Policy Villages 1 of the CLP2015 and AD1 of the ANP 2018. The development would provide additional housing which would support housing delivery which is a material consideration weighing in its favour. However, this would not be a not significant boost because infilling is acceptable in principle under Policy Villages 1 and the proposal is for a single dwelling.
- 9.10. However, concerns have been raised during the consultation process that the approval of a dwelling this location would be in breach of conditions 19, 24 and 25 of 14/00250/F. Details for condition 19 were approved under 15/00228/DISC in April 2017. This condition related to the ecological enhancement scheme for the site, which established this land as soft landscaping for the development and the condition states that the ecological enhancement measures shall be carried out and retained in accordance with the approved details. Condition 24 required the landscaping scheme to be carried out with approved drawings and condition 25 required for the landscaping to be retained for at least five years.
- 9.11. Condition 18 secured swift boxes and bat tubes on some of the dwellings for the development. On the application site, a number of trees are shown on the approved plan and these would be removed as part of the proposed development. It is clear from this that its main purpose was an area of landscaping within the built environment. The initial ecological report concluded that there was little ecological value in the site and the area of land was designed in a way to not significantly increase biodiversity potential. The ecological impact of the application will be covered in more detail later in this report.
- 9.12. The provisions of this condition do not prohibit the submission of this application and that given its siting within the built limits of the village, the principle of development remains acceptable, but this has to weighed against other relevant factors.

### *Conclusion*

- 9.13. The principle of development is acceptable and would comply with Policy Villages 1 of the CLP2015, Policy AD1 of the ANP 2018 and Government guidance contained within the NPPF.

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

#### *Policy context*

- 9.14. 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.
- 9.15. Saved Policies C28 and C30 of the CLP 1996 exercise control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context. New housing development should be compatible with the appearance, character, layout, scale and density of existing dwellings in the vicinity.

- 9.16. Policy ESD15 of the CLP2015 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.

#### *Assessment*

- 9.17. The dwelling would be located on an area which was previously approved as a soft landscaping area as part of a wider Landscape and Ecological Management Plan, which secured ecological improvements across the site under condition 19 of 14/00250/F. The site is located between two dwellings and it is proposed to erect a 3 bedroom two storey dwelling with parking to the front of the site. The dwelling is proposed to be constructed from ironstone under a natural slate roof, materials which are used elsewhere on the site and in the local area.
- 9.18. The plot is slightly smaller than some of the neighbouring plots; however the dwelling would still sit comfortably, with a sufficient spacious front garden and parking area and rear garden. An obscurely glazed window on the front elevation of a dwelling is not a desirable arrangement, however given the context of the development within a modern housing estate, the harm caused by this element this could not constitute a reason for refusal in its own right and on balance this is considered to be acceptable. Furthermore, the design of the dwelling is identical to that approved under 18/00691/F, a scheme which is still extant.
- 9.19. The development would result in the loss of a soft landscaping area as part of a wider Landscape and Ecological Management Plan, which secured ecological improvements across the site under condition 19 of 14/00250/F. This would result in a limited level of harm to the character and appearance of the area due to the loss of an area of landscaping and a partial breach of condition 25 of 14/00250/F. However, the site is located between two existing dwellings and the contribution that the soft landscaped area makes to the character and appearance of the area is not significant. This visual harm is therefore considered to be minor. The proposed scheme would retain a grassed area to the front of the property and two trees, and a hedgerow are proposed. Further details of this can be secured by condition.
- 9.20. A condition removing permitted development rights for the erection of new walls, gates and fences has been included. This is to retain the open character of the area as the erection of enclosures to the front of the property would cause harm to this.

#### *Conclusion*

- 9.21. On balance, it is considered that the development would successfully integrate into the existing housing estate and would sit comfortably in this context. The development would not cause significant visual harm to the character and appearance of the area and is acceptable in this regard. This limited level of harm needs to be weighed in the planning balance. The development would comply with Policy ESD15 of the CLP 2015, Saved Policy C28 of the CLP 1996 and Government guidance contained within the NPPF.

#### Residential amenity

- 9.22. Policy ESD15 of the CLP2015 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. Saved Policy C30 is consistent with this policy.

- 9.23. The proposed dwelling would be located in close proximity to a number of existing dwellings. A bathroom window is included at first floor level on the front elevation and given that this window is the closest to neighbouring dwellings and that there would be potential for a loss of privacy and overlooking, it could be conditioned that this window is obscurely glazed and a condition is recommended on this basis. Subject to this condition, it is considered that the development would not cause harm to the privacy of neighbours.
- 9.24. Concerns have been raised regarding overshadowing of 7, 17 and 19 Henge Close. The development would result in a small level of overshadowing of these properties and in particular their gardens, however given the siting and orientation of the dwellings, this level of harm would not be significant and would not cause demonstrable harm to the amenities of neighbours.
- 9.25. The development would therefore comply with Policy ESD15 of the CLP 2015, Saved Policy C30 of the CLP 1996 and Government guidance contained within the NPPF.

#### Highway safety

- 9.26. Policy ESD15 of the CLP 2015 states that development should demonstrate a holistic approach to the design of the public realm to create high quality and multi-functional streets and places that promotes pedestrian movement and integrates different modes of transport, parking and servicing.
- 9.27. The Highways Liaison Officer offered no objections, subject to conditions relating to parking provision, cycle parking provision and a construction traffic management plan. Two parking spaces would be provided to the front of the dwelling, which is a sufficient amount of parking provision for a 3 bedroom dwelling in this location.
- 9.28. A construction traffic management plan would not often be conditioned for a single dwelling. However, the site is located in close proximity to a number of dwellings and in an area where there is limited off-road parking and construction vehicles would not be able to park within the site. This condition is therefore considered to meet the tests as set out in paragraph 55 of the NPPF.
- 9.29. The requested conditions are considered to be reasonable and necessary, as further detail is required for these areas of the application and the conditions shall be imposed. Subject to these conditions, it is considered that the development would not cause harm to the safety of the local highway network and would comply with Policy ESD15 of the CLP 2015 and Government guidance contained within the NPPF in this regard.

#### Ecology Impact

##### *Legislative context*

- 9.30. 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.

- 9.31. 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.

The Regulations provide for the control of potentially damaging operations, whereby consent from the country agency may only be granted once it has been shown through appropriate assessment that the proposed operation will not adversely affect the integrity of the site.

#### *Policy Context*

- 9.32. Paragraph 170 of the NPPF states that Planning policies and decisions should contribute to and enhance the natural and local environment by (amongst others): a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils; and d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 9.33. Paragraph 175 states that when determining planning applications, local planning authorities should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.
- 9.34. Paragraph 180 of the NPPF states that planning decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should (amongst others) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.
- 9.35. Policy ESD10 of the Cherwell Local Plan 2011-2031 lists measures to ensure the protection and enhancement of biodiversity and the natural environment, including a requirement for relevant habitat and species surveys and associated reports to accompany planning applications which may affect a site, habitat or species of known ecological value.
- 9.36. 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.
- 9.37. The Planning Practice Guidance dated 2014 post dates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that Local Planning Authorities should only require ecological surveys where clearly justified, for example if there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.

## *Assessment*

- 9.38. There are no European protected sites in close proximity of the site.
- 9.39. As set out in the previous sections of this report, the application site formed part of soft landscaping area as part of a wider Landscape and Ecological Management Plan, which secured ecological improvements across the site under condition 19 of 14/00250/F. The site currently has a number of young trees, plants and a grassed area. There is a current planning enforcement investigation as to whether landscaping scheme as shown in the approved plan (BAN 18703 13C) from the 2014 permission has been implemented in full. Any assessment of the ecological value of this land will be based on this previously approved plan.
- 9.40. Whilst no ecological appraisal has been submitted alongside this application, the Council has no records of protected species on the site and the site at present is unlikely to accommodate any such species.
- 9.41. Policy ESD10 of the CLP 2015 requires for development proposals to provide a net gain in biodiversity. In this instance, the redline area of the application is the relevant parcel of land upon which to undertake this assessment. The submitted site plan shows the provision of trees, hedges and grassed areas of land.
- 9.42. No comments have been received from the Council's Ecology Officer on the application. Officers consider that subject to appropriate landscaping and ecological enhancement schemes, a net gain in biodiversity could be achieved on the site. The existing site does contribute to biodiversity but given that it is a grassed area with a number of young trees on it, it is considered that achieving a net gain in biodiversity is realistic and achievable and that the ecological enhancement condition would meet the tests.
- 9.43. The applicant has agreed to the imposition of a planning condition requiring an ecological enhancement scheme on the site and are confident that a net gain in biodiversity on the site can be achieved. As the issue of the ability for the site to provide for ecological enhancements goes to the heart to the planning merits for this development proposal, the condition has a 'prior to commencement' trigger. This provides the safeguard that the scheme has to be submitted to and approved in writing by the Council prior to the commencement of development giving maximum protection.
- 9.44. The Landscape and Environmental Management Plan (LEMP) for 14/00250/F found no evidence of protected species on the site and this was when the field was an open agricultural field. The report did recommend a precautionary method statement for great crested newts given that they have been found in the wider area and this should be included in the ecological enhancement scheme.
- 9.45. If the application were to be approved and the consent were to be implemented, there would be a partial breach with condition 19 of 14/00250/F, as the condition required for the ecological enhancement measures to be retained in accordance with the approved details. The same would also be true if a resident decided to remove a tree within their rear garden that was shown on the approved plan for condition 19. Recognising this overlap, by approving this proposal the Council would not be able to take formal action against a breach of condition 19 of the 2014 permission. The protection afforded to the land by the 2014 permission was to ensure that the development did not cause harm to any protected species or their habitats. The restrictive conditions recommended should this current application be

found acceptable would continue to ensure ecological protection and enhancement. A planning note is included in this regard.

- 9.46. Having considered the planning history, consultation responses and the Council's ecological records, it is clear that whilst the development would result in the loss of the soft landscaping area approved as part of a wider Landscape and Ecological Management Plan, which secured ecological improvements across the site under condition 19 of 14/00250/F. However, in the absence of any records of protected species and subject to the conditions set out in this report, it is considered that the development would not cause unacceptable harm to protected species and that the development could still provide a biodiversity net gain.
- 9.47. To conclude, on balance and subject to conditions, it is considered that the development would comply with ESD10 of the CLP 2015 and Government guidance contained within the NPPF.

#### Planning obligations

- 9.48. A Deed of Variation was agreed between the Council and the developer on the previous application (18/00691/F) and the developer agreed to contributions relating to refuse bins, indoor sports facilities, outdoor sports facilities, primary and secondary education and transport contributions, with pro-rata contributions being provided in line with original legal agreement. This was considered to be acceptable and that the development would provide acceptable levels of financial contributions.
- 9.49. The developer has submitted a draft legal agreement with this application. The Council would look to secure contributions for the same matters and negotiations are underway between the two parties on this matter. The recommendation of this application is subject to a legal agreement on these matters.

#### Other matters

- 9.50. The issues of residents having easements over the application site has been raised during the consultation process. This is a legal matter between the developer and the residents of Henge Close and is not a material planning consideration for this application.

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

- 10.1. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 requires that the three dimensions to sustainable development (economic, social and environmental) are not undertaken in isolation, but are sought jointly and simultaneously.
- 10.2. The principle of development is considered to be acceptable, given that the development would constitute infilling within an existing residential site within the built limits of the village of Adderbury. The development would provide additional housing which would support housing delivery however this would not be a not significant boost.
- 10.3. The approval of this application would result in the loss of a soft landscaping area approved as part of a wider Landscape and Ecological Management Plan, which secured ecological improvements across the site under condition 19 of 14/00250/F, which would result in a partial breach to condition 19 of 14/00250/F but this would not cause a significant level of harm to either the character and appearance of the area and a net gain in biodiversity could be achieved at the site, subject to conditions.

10.4. The design of the dwelling would not cause unacceptable harm to the character and appearance of the area and would sit comfortably in this context. The development would not cause unacceptable harm to the amenities of neighbouring occupiers subject to conditions and would not cause harm to the safety of the local highway network. On balance, the development is therefore considered to be acceptable.

## 11. RECOMMENDATION

RECOMMENDATION – DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT TO **GRANT PERMISSION, SUBJECT TO THE CONDITIONS SET OUT BELOW** (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY) **AND THE COMPLETION OF A PLANNING OBLIGATION UNDER SECTION 106** OF THE TOWN AND COUNTRY PLANNING ACT 1990, AS SUBSTITUTED BY THE PLANNING AND COMPENSATION ACT 1991, TO SECURE THE FOLLOWING (AND ANY AMENDMENTS AS DEEMED NECESSARY):

- a) Refuse bins contribution
- b) Indoor sports contribution
- c) Outdoor sports contribution
- d) Primary education contribution
- e) Secondary education contribution
- f) Public transport contribution
- g) Transport contribution

### 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 application forms and the following plans and documents: NK - PLOT 37 B; MDL-1271-PL21 and MDL-1271-PL22.

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 development hereby approved shall be constructed in accordance with the stone and slate samples approved under 17/00543/DISC.

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

4. Prior to the commencement of the development hereby approved above slab level, a plan showing full details of the finished floor levels in relation to existing ground levels on the site for the proposed development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved finished floor



levels plan.

Reason - To ensure that the proposed development is in scale and harmony with its neighbours and surrounding 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. Notwithstanding the details submitted, no development shall commence above slab level until and unless a plan detailing the proposed parking provision for vehicles to be accommodated within the site (including details of the proposed surfacing and drainage of the provision), has been submitted to and approved in writing by the Local Planning Authority. The approved parking facilities shall be laid out and completed in accordance with the approved details before the first occupation of the dwellings. The car parking spaces shall be retained for the parking [turning/loading/unloading] of vehicles at all times thereafter.

Reason: In the interests of highway safety, to ensure the provision of adequate off-street car parking 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.

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

Reason: In the interests of promoting sustainable transport modes in accordance with Policy ESD1 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

7. Prior to commencement of the development hereby approved, a Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the Local Planning Authority. The CTMP shall include a commitment to deliveries only arriving at or leaving the site outside local peak traffic periods and that no construction related parking (temporary or otherwise) shall occur within the adopted public highway. Thereafter, the approved CTMP shall be implemented and operated in accordance with the approved details.

Reason - In the interests of highway safety and to mitigate the impact of construction vehicles on the surrounding highway network, road infrastructure and local residents, particularly at morning and afternoon peak traffic times.

8. Prior to the commencement of the development hereby approved, a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme for landscaping the site shall include:-

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

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

(c) details of the hard landscaping.

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.

9. A method statement for enhancing biodiversity on the site shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. This scheme should include a baseline assessment of the land, a scheme to show how the biodiversity net gain would be achieved and an implementation plan. Thereafter, the biodiversity enhancement measures approved shall be carried out prior to occupation and retained in accordance with the approved details.

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

10. Notwithstanding the provisions of Class A of Part 2, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 and its subsequent amendments, no gate, fence, wall or other means of enclosure shall be erected, constructed or placed between the dwelling and the highway, within the curtilage or forward of the principle elevation/on the site without the prior express planning consent of the Local Planning Authority.

Reason - To retain the open character of the development and the area in accordance 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.

11. Prior to the first occupation of the development hereby approved, the first floor bathroom window in the south elevation of the dwelling 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.

12. 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.

#### PLANNING NOTE

1. Attention is drawn to a Legal Agreement related to this development or land which has been made pursuant to Section 106 of the Town and Country

Planning Act 1990, Sections 111 and 139 of the Local Government Act 1972 and/or other enabling powers.

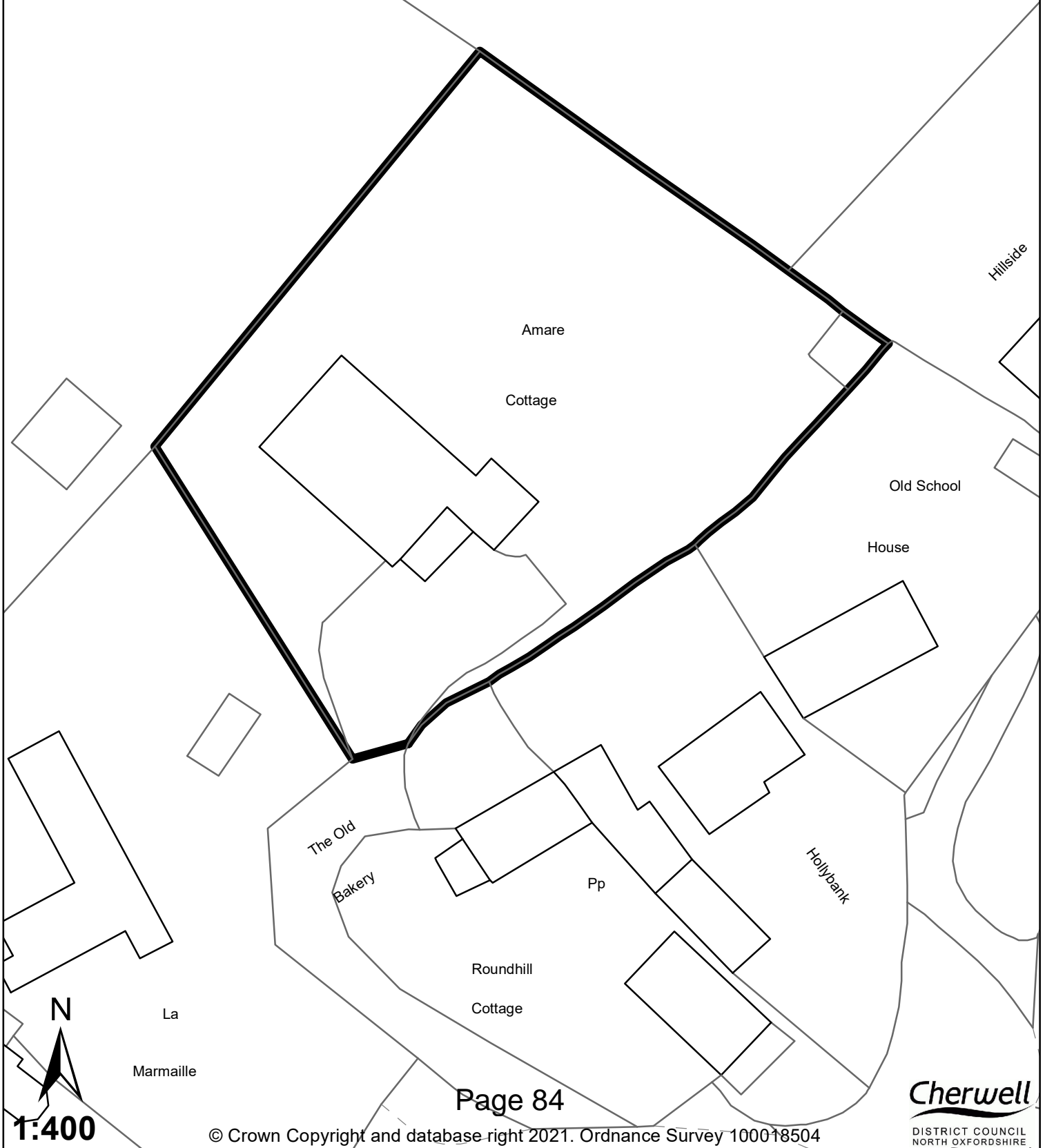
2. Implementation of this planning permission supersedes any control on the application site of Condition 19 of 14/00250/F, with specific regard to this application site only as defined by the red line site location plan.

CASE OFFICER: Matthew Chadwick

TEL: 01295 753754

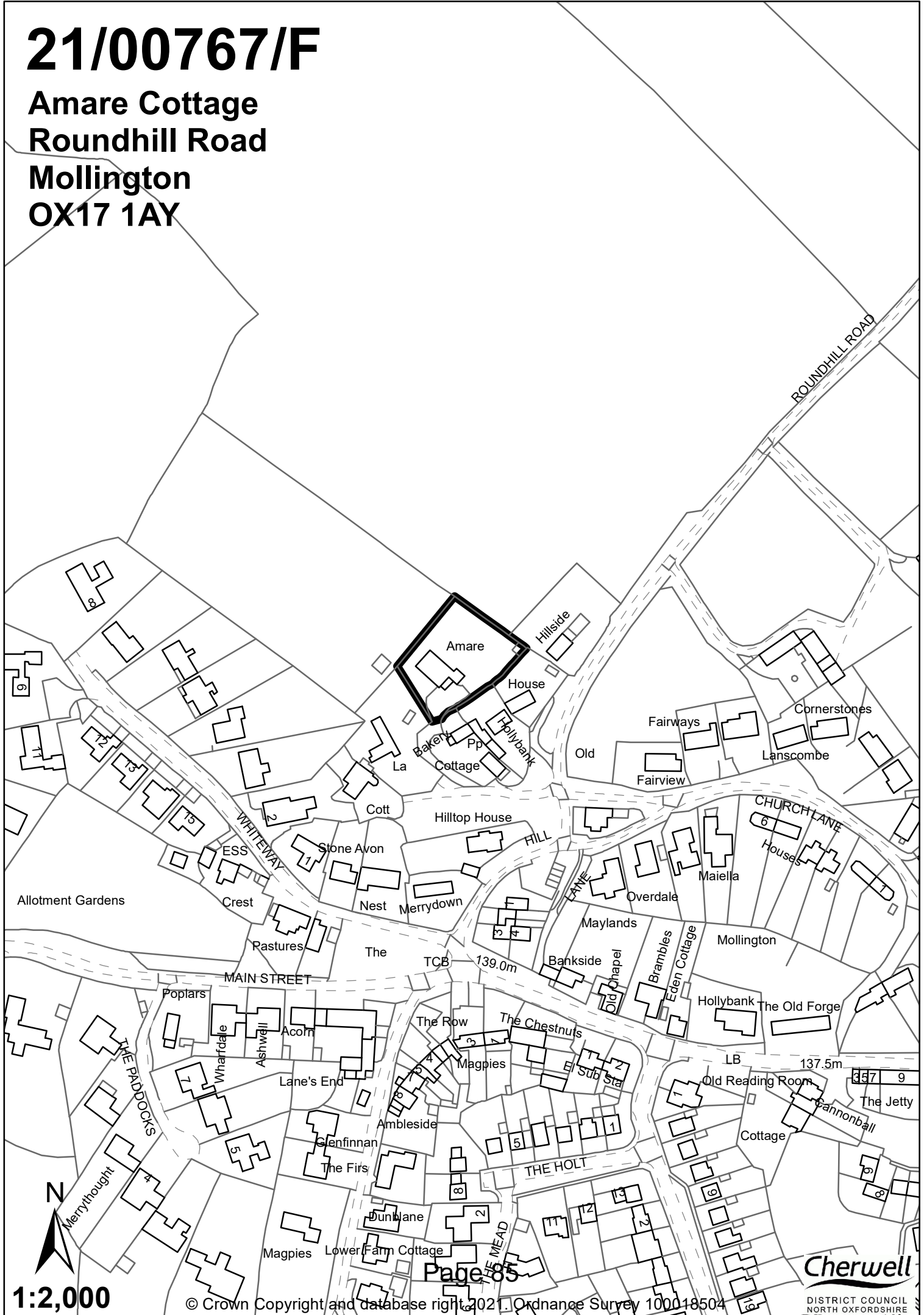
Agenda Item 10  
**21/00767/F**

**Amare Cottage**  
**Roundhill Road**  
**Mollington**  
**OX17 1AY**



# 21/00767/F

**Amare Cottage  
Roundhill Road  
Mollington  
OX17 1AY**



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**Cherwell**  
DISTRICT COUNCIL  
NORTH OXFORDSHIRE

**Case Officer:** John Gale

**Applicant:** Mr & Mrs Kaye

**Proposal:** Replacement roof dormers and replacement cladding

**Ward:** Cropredy, Sibfords and Wroxton

**Councillors:** Cllr D. Webb, Cllr G. Reynolds and Cllr P. Chapman

**Reason for Referral:** Application submitted by a member of staff with management responsibility

**Expiry Date:** 30 April 2021

**Committee Date:** 15 April 2021

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## **1. APPLICATION SITE AND LOCALITY**

- 1.1. The application site is a chalet bungalow style dwelling on the northern edge of Mollington village access from a track off Roundhill Road. The boundaries to the north and west of the site are with open fields and a paddock respectively. The building itself appears to have been constructed in the 1960s following a 1962 application for development of the land. The building is constructed from reconstituted stone with a plain tile roof. The building is part-clad in waney edged timber – on the gable ends and the cheeks and headers of the 7 existing dormers. Fenestrations are in white uPVC.
- 1.2. The building is located to the rear of several dwellings which front Roundhill Road and it is not prominent in the street scene until the approach along the access to the dwelling.

## **2. CONSTRAINTS**

- 2.1. The application site is within the Mollington Conservation Area and falls within an archaeological alert area for village's historic core.
- 2.2. There are no other constraints situated on the property or the land which would need to be taken into consideration in the assessment of the application.

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

- 3.1. Replacement of 2 roof dormers with two larger dormers joined by a short bridging element and replacement timber cladding throughout the site.
- 3.2. The proposals are to increase the living accommodation on the first floor of the dwelling, with the modest enlargement of two of the existing dormers, with a bridging element strung between them.

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

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

**Application: 62/00116/B                      Approved**

Site for bungalow and garage with access

#### **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 **8 April 2021**, although comments received after this date and before finalising this report have also been taken into account.

6.2. No comments have been raised by third parties at the time of writing.

#### **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. Mollington Parish Council: No comments received at time of writing

##### CONSULTEES

7.3. CDC Building Control: No comments received at time of writing

#### **8. RELEVANT PLANNING POLICY AND GUIDANCE**

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

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

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

- ESD15 - The Character of the Built and Historic Environment

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

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

## 9. APPRAISAL

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

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

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

9.2. 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. Furthermore, 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.

9.3. Saved Policies C28 and C30 of the adopted 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 as well as compatible with the existing dwelling. Proposals to extend an existing dwelling should be compatible with the scale of the existing dwelling, its curtilage and the character of the streetscape.

9.4. Policy ESD 15 of the CLP 2031 states that development should '*Reflect or, in a contemporary design response, re-interpret local distinctiveness, including elements of construction, elevational detailing, windows and doors, building and surfacing materials, mass, scale and colour palette*'.

#### *Assessment*

9.5. The area is made up of a mixture of house types and ages and there is not strict building line or clear pattern of development that would be disrupted by the proposals.

9.6. The development would largely keep the existing form of the building intact, with only minor enlargement of the two dormers and the bridging element between them. This modest enlargement would be proportionate to the original dwelling.

9.7. The change in proposed cladding from the present horizontal waney edged board to vertical timber cladding is somewhat regrettable given the fact that timber is not a



traditional building material in the district. However, given that the building is already part-clad in timber, a permitted development fallback would support its continued use.

- 9.8. Although a very different type of timber cladding is sought, given the fallback position noted above, the use of a different form of timber is considered to be acceptable in this instance.
- 9.9. The proposed design would result in a more contemporary and cohesive built form – with the vertical timber boarding better reflecting the 1960s design of the building. It is considered to represent a visual improvement over the existing waney edged boarding.

#### *Conclusion*

- 9.10. The proposal is considered to be acceptable in design terms.

#### Heritage Impact

##### *Legislative and policy context*

- 9.11. The site is within the designated Mollington Conservation Area. There are no nearby listed buildings and so the assessment below is made upon the impact to the Conservation Area alone.
- 9.12. 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.*
- 9.13. Conservation Areas and Listed Buildings are designated heritage assets, and Paragraph 193 of the NPPF states that: *when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.* Policy ESD15 of the CLP 2031 Part 1 echoes this guidance.

##### *Assessment*

- 9.14. Amare Cottage is set back and to the rear of several dwellings fronting Roundhill Road. As such few views of the building existing in the public realm and it is not readily apparent in the street scene until the final approaches to the building itself along the access lane.
- 9.15. The changes to the layout of the existing dormers is of minimal impact to the character of the Conservation Area and would not impact negatively upon it. The bridging element would not be widely seen from anything but the most distant and acute angles from the public realm.
- 9.16. The use of waney edged timber boarding on the existing dwelling is regrettable given the lack of historic precedence for the use of this material on domestic buildings in the area. However, given that there is existing timber boarding, and this could be replaced like for like, the proposed change to another form of timber cladding would be hard to resist.
- 9.17. The reconstituted stone construction is very much of its time and equally the use of waney edged boards against this backdrop leaves the building with a very mixed

architectural form. The proposed use of vertical timber boards would better suit the reconstituted stone elements and give the building a more contemporary and cohesive design.

- 9.18. It is therefore considered that the changes to the dwelling would have a neutral impact on the character and appearance of the Mollington Conservation Area, particularly given the property's back land siting.

#### *Conclusion*

- 9.19. The proposal is considered to be acceptable as it would not harm the character of the Mollington Conservation Area.

#### Neighbouring amenity

#### *Legislative and policy context*

- 9.20. Policy C30 of the CLP 1996 requires that a development must provide standards of amenity and privacy acceptable to the Local Planning Authority. These provisions are echoed in Policy ESD15 of the CLP 2031 which states that new development proposals should consider amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation and indoor and outdoor space.

#### *Assessment*

- 9.21. The proposals would not result in a material change in the level of overlooking on the neighbouring properties as the dormers both face north towards open fields and would both serve bathrooms.

#### *Conclusion*

- 9.22. The proposals would be acceptable in neighbouring amenity terms.

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

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

## **11. RECOMMENDATION**

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

### CONDITIONS

#### **Time Limit**

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

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

## **Compliance with Plans**

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: WG1036 001; WG1036 002; WG1036 003; WG1036 004; WG1036 005 Rev A & WG1036 006 Rev B.

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

## INFORMATIVES

### **Biodiversity/Protected Species**

Your attention is drawn to the need to have regard to the requirements of UK and European legislation relating to the protection of certain wild plants and animals. Approval under that legislation will be required and a licence may be necessary if protected species or habitats are affected by the development. If protected species are discovered you must be aware that to proceed with the development without seeking advice from Natural England could result in prosecution. For further information or to obtain approval contact Natural England on 0300 060 3900.

### **Bats**

Bats are a highly mobile species which move between a number of roosts throughout the year. Therefore, all works must proceed with caution and should any bats be found during the course of works all activity in that area must cease until a bat consultant has been contacted for advice on how to proceed. Under the Wildlife & Countryside Act 1981 (as amended) and the Habitat and Species Regulations 2010 it is illegal to intentionally or recklessly disturb, harm or kill bats or destroy their resting places.

CASE OFFICER: John Gale

TEL: 01295 221857

# Agenda Item 11

## Cherwell District Council Planning Committee

15 April 2021

### Appeal Progress Report

This report is public

#### 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.

##### 1. Recommendations

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

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

**Officer recommendation** – Refusal (Committee)

**Method of determination:** Public Inquiry

**Start Date of Inquiry** – Tuesday 29<sup>th</sup> June – TBC

**Start Date:** 31.03.2021      **Statement Due:** 07.05.2021      **Decision:** Awaited

**Appeal reference** – 21/00012/REF

**20/00763/F - Manor Farm Bungalow, Northampton Road, Weston On The Green, Bicester, OX25 3QL** - Removal of condition 9 (occupation of site by caravan, motor caravan or tent) of 00/01162/F

**Officer recommendation** – Refused (Delegated)

**Method of determination:** Written Representations

**Start Date:** 02.03.2021      **Statement Due:** 06.04.2021      **Decision:** Awaited

**Appeal reference** – 21/00009/REF

**20/01643/OUT - Land North And West Of Bretch Hill Reservoir Adj To, Balmoral Avenue, Banbury** - Erection of up to 49 homes, public open space and other infrastructure, with all matters reserved except access - revised scheme of 19/01811/OUT

**Officer recommendation** – Approval (Committee)

**Method of determination:** Public Inquiry

**Start Date of Inquiry** – Tuesday 20<sup>th</sup> July – TBC

**Start Date:** 29.03.2021      **Statement Due:** 04.05.2021      **Decision:** Awaited  
**Appeal reference** – 21/00011/REF

**20/01650/TPO - Pendula House, 9 Old School End, Hook Norton, OX15 5QU** – Application for works to a Tree Preservation Order - T1-3 (Silver Birch) - Removal of trees to prevent damage to drains running under the property and to the property itself - Subject to TPO 07/1991

**Officer recommendation** – Refusal (Delegated)

**Method of determination:** Fast Track

**Key Dates:**

**Start Date:** 16.03.2021      **LPA Questionnaire Due:** 30.03.2021      **Decision:** Awaited

**Appeal reference** – 21/00010/REF

### 3.2 New Enforcement Appeals

None.

### 3.3 Appeals in Progress

**19/00963/OUT - OS Parcel 9100 Adjoining And East Of Last House Adjoining And North Of Berry Hill Road Adderbury** - Resubmission of application 17/02394/OUT – Outline application for permission for up to 40 dwellings with associated landscaping, open space and vehicular access off Berry Hill Road (all matters reserved other than access)

**Officer recommendation** – Refused (Committee)

**Method of determination:** Hearing

**Start Date:** 12.02.2021      **Statement Due:** 19.03.2021      **Decision:** Awaited

**Hearing date** – Wednesday 5<sup>th</sup> May 2021

**Appeal reference** – 21/00004/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

**20/00841/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

**Officer recommendation** – Refusal (Delegated)

**Method of determination:** Written Representations

**Key Dates:**

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

**Appeal reference** – 20/00039/REF

**20/00871/F - OS Parcel 3300 North Of Railway Line Adjoining, Palmer Avenue, Lower Arcott -**  
Erection of a free range egg production unit, gatehouse and agricultural workers dwelling including all associated works - re-submission of 19/00644/F

**Officer recommendation** – Refused (Committee)

**Method of determination:** Written Representations

**Start Date:** 26.02.2021      **Statement Due:** 02.04.2021      **Decision:** Awaited

**Appeal reference** – 21/00007/REF

**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

**Officer recommendation** – Refusal (Delegated)

**Method of determination:** Written Representations

**Key Dates:**

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

**Appeal reference** – 20/00037/REF

**20/01747/F - Land South Side Of, Widnell Lane, Piddington -**  
Change of Use of land to a 6no pitch Gypsy and Traveller site to include 6no mobiles, 6no tourers and associated operational development including hardstanding and fencing.

**Officer recommendation** – Refused (Committee)

**Method of determination:** Written Representations

**Start Date:** 12.02.2021      **Statement Due:** 19.03.2021      **Decision:** Awaited

**Appeal reference** – 21/00003/REF

**20/01905/F - 110 Lyneham Road, Bicester, OX26 4FD -**  
Formation of access and associated dropped kerb

**Officer recommendation** – Refused (Delegated)

**Method of determination:** Householder (Fast Track)

**Start Date:** 15.02.2021      **Statement Due:** N/A      **Decision:** Awaited

**Appeal reference** – 21/00005/REF

**20/02592/F - 28 The Moors, Kidlington, OX5 2AJ -**  
Variation of Condition 2 (plans) of 20/01170/F to allow for amendments to the layout of bin and cycle stores, the relocation of the second parking space to Plot 1, amendments to landscaping, alterations to fenestration, and alterations to the externally facing materials of the dwellings.

**Reason for Appeal** - Appeal made against conditions imposed on the approval decision notice.

**Officer recommendation** – Approved (Delegated)

**Method of determination:** Written Representations

**Start Date:** 11.02.2021      **Statement Due:** 18.03.2021      **Decision:** Awaited

**Appeal reference** – 21/00002/CON

**20/03191/F - Keepers Cover, Weston-On-The-Green, BICESTER, OX25 3QU -**  
Single storey residential extension - re-submission of 20/01265/F.

**Officer recommendation** – Refused (Delegated)

**Method of determination:** Householder (Fast Track)

**Start Date:** 23.02.2021      **Statement Due:** N/A      **Decision:** Awaited

**Appeal reference** – 21/00006/REF

3.4 Enforcement Appeals in Progress

**18/00059/ENFB - Land at The Digs and The Studio, Heathfield, OX5 3DX** – Appeal against the enforcement notice served for Without the benefit of planning permission the erection of two units of residential accommodation with associated residential curtilages.

**Method of determination:** Written Representations

**Key Dates:**

**Start Date:** 01.02.2021                      **Statement Due:** 15.03.2021

**Decision:** Awaited

**Appeal reference:** 21/00001/ENF

**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:** Tuesday 20<sup>th</sup> April 2021, 10:00 start

**Decision:** Awaited

**Appeal reference:** 20/00019/ENF

**20/00419/ENF - The Stables, at OS Parcel 3873, Main Street, Great Bourton, Cropredy, Oxfordshire, OX17 1QU**

Appeal against the enforcement notice served for without planning permission the change of use of the land to use as a caravan site currently accommodating one mobile home type caravan designed and used for human habitation together with associated parking and storage of motor vehicles and trailer, storage of touring caravans and associated domestic paraphernalia.

**Method of determination:** Hearing

**Key Dates:**

**Start Date:** 24.02.2021                      **Statement Due:** 07.04.2021

**Hearing date:** TBC

**Decision:** Awaited

**Appeal reference:** 21/00008/ENF

3.5 Forthcoming Public Inquires and Hearings between 16 April 2021 and 20 May 2021

**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

**Appeal reference:** 20/00019/ENF

**Method of determination:** Hearing

**Virtual Hearing date:** Tuesday 20<sup>th</sup> April 2021, 10:00 start

Details on how to attend the Hearing can be viewed on the Council's online planning register.

**19/00963/OUT - OS Parcel 9100 Adjoining And East Of Last House Adjoining And**

**North Of Berry Hill Road Adderbury -** Resubmission of application 17/02394/OUT – Outline application for permission for up to 40 dwellings with associated landscaping, open space and vehicular access off Berry Hill Road (all matters reserved other than access)

**Appeal reference** – 21/00004/REF

**Method of determination:** Hearing

**Virtual Hearing date:** Wednesday 5<sup>th</sup> May 2021

Details on how to attend the Hearing can be viewed on the Council's online planning register.

### 3.5 Results

Inspectors appointed by the Secretary of State have:

- 1. 20/01517/F - Dismissed the appeal by Messrs Calcutt against the refusal of planning permission for Erection of a one-bedroom studio dwelling and conversion of existing outbuilding; associated works (Resubmission of 20/00311/F). Manor Farm Cottage, Church Lane, Charlton On Otmoor, OX5 2UA.  
Officer recommendation – Refusal (Delegated)  
Appeal reference – 20/00033/REF**

The Inspector considered the main issues to be the proposal's effect on the character and appearance of the area and the conservation area, and its effect on the living conditions of the occupiers of two neighbours having particular regard to outlook within their rear gardens.

The Inspector noted the site is highly visible from the public realm, on approach from the south along Church Lane and from the churchyard. He found that, despite the dilapidated nature of the application building, the site positively contributes to the character and appearance of the Conservation Area.

The Inspector held that the proposal would occupy a large proportion of the area between Manor Farm Cottage and the surrounding buildings and that while it would make efficient use of land, it would not be appropriate to its context, would appear cramped, would significantly erode the spaciousness at this point and would harm the character and appearance of the Conservation Area. The Inspector concluded this harm would "more than outweigh" the proposal's benefits. The Inspector afforded limited weight to the lawful development certificate at the site for a different development.

In relation to amenity, the Inspector found that the proposal would result in an overbearing effect on 6 Manor Farm Barns, and that the garden of Manor Farm Cottage would be dominated by the built form proposed and therefore the proposal was harmful to the outlook of any occupiers.

Accordingly the Inspector dismissed the appeal.

- 2. 19/01715/F - Allowed the appeal by Mr C Coles against the refusal of planning permission for Restoration of building to be used for storing ground maintenance equipment. Land To East Of Webbs Way, Mill Street, Kidlington  
Officer recommendation – Refused (Delegated)  
Appeal reference – 20/00032/REF**

The Inspector considered the main issue the principle of development in the Green Belt, and the proposal's effect on the character and appearance of the Church Street Conservation Area having particular regard to trees.

The Inspector disagreed with the appellant that the proposal involved the re-use of a building of permanent and substantial construction – the structure has no roof – and as such he was "drawn to the Council's argument that the proposal would involve a new building" but the Inspector concluded that the proposal would serve recreation land and so would in principle constitute one of the exceptions set out in para 145 of the NPPF for new buildings in the Green Belt, and therefore would not be inappropriate development, as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.



On the question of openness, the Inspector noted the proposal would increase the height of the structure by introducing a roof, and that it would enclose a small section along one length and add doors to an opening on one end, the most notable of these being the roof. However, he noted that the roof would have a shallow pitch and would be hipped at both ends, and therefore that the increase in height and mass would be limited. He found the proposal would not conflict with the purposes of Green Belt as set out at para 133 of the NPPF. The Inspector therefore concluded the proposal was appropriate development in the Green Belt.

In light of the appellant's arboricultural report, only submitted during appeal i.e. after the planning application had been refused, the Council withdrew a second refusal reason on the grounds of impact on trees and the Conservation Area. The Inspector placed significant weight on the Council's comments on the tree report. The Inspector noted the Sycamore was proposed for retention, would be appropriately managed, and that the White Willow contributed little to the significance of the Conservation Area, overall concluding there would no harm to the character and appearance of the Conservation Area.

The Inspector noted the third party objections regarding the proposal's effect on living conditions but concluded the impact did not merit refusal.

The Inspector concluded the appeal should be allowed, subject to conditions to agree samples of the roof tiles and to require the development be carried out strictly in accord with the appellant's tree method statement and tree protection plan.

- 3. 19/00290/F - Dismissed the appeal by Mr W Hebborn against refusal of planning permission for 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). Hebborns Yard, Bicester Road, Kidlington, OX5 2LD.  
Officer recommendation – Refused (Delegated)  
Appeal reference – 20/00031/REF**

The Inspector considered the main issue to be the proposal's effect on flood risk.

The majority of the site is located within Flood Zone 3b. The Inspector noted that the appellant did not seek to challenge this classification.

The proposal was for the use of land for the storage of (non-residential) portable fairground rides and equipment in connection with, and ancillary to, the authorised use of Hebborn's Yard, Kidlington as Showmen's Permanent Quarters. The application had been refused on the grounds that the proposed development would be at direct risk of flooding and that it had not been demonstrated that the development would not increase flood risk elsewhere or where possible reduce flood risk overall. The application proposal had therefore been refused as contrary to Policy ESD6 of the Cherwell Local Plan 2011-2031 and the provisions of the NPPF and the PPG.

The Inspector agreed that, under table 3 within the relevant section of the PPG, the proposal should not be permitted, and the Inspector noted the Environment Agency's objection, on which he placed significant weight.

The Inspector noted that the Council had not identified any other sites for travelling show people that were not in a Flood Zone, which weighed in favour of the appellant, but also that the site is located in the Green Belt, which weighed against this.

The appellant had stated that it was necessary for insurance and safety reasons that their equipment be located adjacent to their existing site, and had also stated that the use of the site for storage was necessary to enable them to stay at their permanent base at Hebborn's Yard. However, while the Inspector recognised that the proposal would have commercial

benefits for the appellant and that finding an alternative storage location may be challenging for them, the Inspector found that this was not sufficient justification for allowing development in the floodplain, and that dismissing the appeal would not necessarily mean the appellant's family having to leave their settled base.

The Inspector found that the submitted Flood Evacuation Plan would only partially address the EA's concerns and provided little detail to factor in climate change, and no evidence the proposed evacuation sites identified in the evacuation plan would be genuinely available and capable of accommodating the fairground rides and equipment that would be stored on the appeal site. The Inspector concluded that there was insufficient information to ensure that the appellant's Flood Evacuation Plan would mitigate the flood risk on the site for the lifetime of the development.

Overall, the Inspector concluded the benefits of the scheme did not outweigh the high probability of flood risk, and accordingly dismissed the appeal.

**4. 20/00878/F - Dismissed the appeal by Mr J Dyer against refusal of planning permission for Detached Dwelling (Re-submission of Planning Application 19/00550/F). Ashfield House, Alkerton Road, Balscote, OX15 6JR.  
Officer recommendation – Refused (Delegated)  
Appeal reference – 20/00038/REF**

The appeal relates to the erection of a new detached dwelling, within the confines of Balscote.

The Inspector considered that the main issues were:

- whether the proposal would preserve or enhance the character and appearance of the Balscote Conservation Area; and
- the effect of the proposal on the living conditions of occupiers of Ash Hollow and Ash Barn, with particular respect to privacy and outlook.

The Inspector notes that the appeal proposal would appear out of scale with many local dwellings, sitting taller and further forward than Ash Hollow. The Inspector viewed that the scale and siting of the dwelling, in combination with the current open character of the plot, would result in a building that would be clearly visible from the street. Furthermore, he considered that the prominence of the development would erode the open views through the site and consequently, that the proposal would not relate well to adjacent dwellings and would be a disharmonious addition to the street scene. The use of stone/slate and its inclusion of design features which reduce some of its overall scale and bearing were not considered aspects that offset the overall harmful impact of development.

Furthermore, the Inspector noted that the appeal proposal would be of a similar scale as Ashfield House, but would have a greater mass than Ash Hollow. Moreover, its main bulk would be sited closer to the highway than Ashfield House. As a result, he concluded that proposed dwelling would be a dominant and disharmonious feature in the street and consequently be harmful to the character and appearance of the surrounding area, including the significance of the designated Balscote Conservation Area. The Inspector found conflict with Policies ESD15 and Villages 1 of the CLP 2031 and saved Policies C23, C28, C30 and C33 of the CLP 1996.

The Inspector also found that the appeal proposal would result in substantial harm to the living conditions of occupiers of Ash Hollow due to a loss of outlook and to occupiers of Ash Barn through a loss of privacy. This was resulting from proposed dwelling appearing cramped and obtrusive to this neighbouring dwelling due to the proposal's proximity to the adjacent plot's boundary and windows. It was however considered by the Inspector that overlooking towards this property would be limited due to the location and orientation of proposed rear windows. Nevertheless, as a consequence of local topography and the relationship between the dwelling's, the Inspector considered that the proposal would

demonstrably harm the outlook for occupiers of Ash Hollow. The Inspector again found conflict with Policy ESD15 of the CLP 2031 and saved Policy C30 of the CLP 1996 on grounds of harm to living conditions.

Accordingly, this appeal was dismissed.

- 5. 19/01542/F - Dismissed the appeal by Mr D Munnings against refusal of planning permission for 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. Aviyal, Station Road, Ardley, OX27 7PQ.  
Officer recommendation – Refused (Delegated)  
Appeal reference – 20/00026/REF**

The Inspector considered the main issue to the proposal's effect on highway safety.

The appellant's dog agility training business would result in more traffic being attracted to the site than the current situation. There was no dispute that the general location was appropriate for the business. The access to the site exists and its geometry would be improved as part of the proposal. The Inspector agreed with the Council that the issue was the increase in movements over and above the existing use of the site, even taking into account that employees at the business may be resident at the site, reducing peak-time movements.

The Inspector gave limited weight to the new residential development further along Station Road, which was further within the 40mph speed limit and had a better relationship to the village, and he gave limited weight to a fallback position of use of the fields for 28 days per year for a similar purpose.

The Inspector also disagreed with the appellant's suggestion that, to accompany a reduction in the speed limit, a build-out could be constructed to secure priority or shuttle working along a small stretch of highway. Such has been installed elsewhere in Oxfordshire. He found that, even if traffic could negotiate the build-out without causing severe delay to traffic, the road alignment would restrict forward visibility of the obstruction. Forward visibility would be further reduced if a queue were to form, so the build-out could result in a risk of nose-to-tail or failure to give way collisions. A further Road Safety Audit recommended that adequate forward visibility should be provided to address this concern but, even assuming lower speeds from a reduced speed limit, the Inspector was not persuaded that this could be achieved.

Accordingly, the appeal was dismissed. The Inspector also refused the appellant costs award application. The local highway authority had advised as part of the Council's pre-app enquiry response that it was unlikely to raise an objection and, while the Inspector acknowledged the frustration caused by a different view at application, he found this did not amount to unreasonable behaviour.

- 6. 20/01230/TPO - Dismissed the appeal by Mr P Noble against refusal of the application for works to Tree Preservation Order tree at The Brambles, Somerton Road, Upper Heyford, Bicester, OX25 5LB. 20/01230/TPO  
Officer recommendation – Refused (Delegated)  
Appeal reference – 20/00040/REF**

The Inspector identified main issues in this case to be the effect of the proposed felling of the horse chestnut tree on the character and appearance of the area and whether sufficient justification had been demonstrated for its proposed felling.

The Inspector concluded that the tree, one of the largest on this part of Somerton Road, has a positive impact on the Rousham, Lower Heyford and Upper Heyford Conservation Areas. The Inspector concluded that it has high amenity value and therefore any justification to remove it should be compelling.

Whilst the Inspector noted that the tree suffered from bleeding canker, he agreed with the findings of one of the two reports submitted by the appellant '*that the structure of the tree not to be significantly compromised*'. Notwithstanding the appellant's willingness to plant a replacement tree, the Inspector therefore dismissed the appeal.

#### **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](mailto: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:

Jennifer Crouch, Principal Solicitor  
[jennifer.crouch@oxfordshire.gov.uk](mailto:jennifer.crouch@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](mailto: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](mailto:Robin.Rogers@Cherwell-DC.gov.uk)

## 8. Decision Information

### Key Decision:

Financial Threshold Met No

Community Impact Threshold Met No

### Wards Affected

All

### Links to Corporate Plan and Policy Framework

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

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

### Lead Councillor

Councillor Colin Clarke, Lead Member for Planning

### Document Information

None

### Background papers

None

### Report Author and contact details

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# Agenda Item 12

## **Cherwell District Council**

### **Planning Committee**

**15 April 2021**

### **Planning Enforcement Report**

### **Report of Assistant Director - Planning and Development**

This report is public

#### **Purpose of Report**

To update Members on current planning enforcement activity following the last report in January 2021.

#### **1. Recommendation**

The meeting is recommended:

- 1.1 to note the contents of the report.

#### **2. Introduction**

- 2.1 This report provides a quarterly overview of planning enforcement work and updates Members following the last report in January 2021.
- 2.2 It provides an update on enforcement cases where formal notices have been served.

#### **3. Report Details**

##### *Active enforcement and monitoring cases*

- 3.1 There are currently 358 active enforcement cases and 234 active development monitoring cases (compared to 334 and 239 respectively as last reported in January). At the time of writing, the Council has received a total of 84 new planning enforcement cases and 13 new monitoring cases since January 2021.
- 3.2 The number of open cases had been steadily reducing before the pandemic. During the early stages of the pandemic there was a rapid increase in the number of cases received and it was more challenging for enforcement investigations to progress. This situation stabilised but remains challenging

as national and local circumstances change. Site visits / access to sites continue to be less straight forward than would otherwise be the case and monthly case numbers remain relatively high.

3.3 Officers have continued to overcome these issues despite the challenges of the most recent lockdown.

*Notices issued and prosecutions*

3.4 Formal enforcement action still continues despite the third lockdown, albeit with regard to Government guidance and temporary changes to legislation designed to assist local businesses.

3.5 Prosecutions:

- **Jacks Barn, Launton** – Non-compliance with an Enforcement Notice.  
The Council pursued a prosecution in this case over the continued operation of sheet metal business from an agricultural barn.

The case was heard at Oxford Magistrates Court on 22 March 2021 at which the owner pleaded guilty and was fined £6000 with an award of £6000 costs.

- **Land Parcel 2783 between Great Bourton and Cropredy** – Storage of a mobile home.

The case was heard at Oxford District Court and adjourned until 9 July 2021. Both defendants have pleaded not guilty.

3.6 As Members are aware, officers have been dealing with a very serious breach of planning control at Manor Park, Kidlington and have sought to pursue an injunction. Further detail is provided below.

*Updates on significant ongoing cases*

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

**Pre-2020 Notices**

Ref Number	Address	Type of Notice	Date Served	Breach	Commentary
17/00201/ PROS	Field Farm, Stratton Audley Road, Stoke Lyne	EN	24/05/16	Eco-Pod, structures and hard standing	Owners have now largely complied with enforcement notice.

Ref Number	Address	Type of Notice	Date Served	Breach	Commentary
					<p>Since the last report, planning permission has been granted for the retention of the track to support the on-going agricultural use at the site.</p> <p>The breach has now been resolved and the Notice complied with as such the case has been closed.</p>
12/00020/ ECOU	The Pheasant Pluckers Inn, Burdrop, Banbury	EN	09/02/12	Change of use from a public house to a dwelling	<p>Latest planning appeal refused for change of use from pub to C3 residential use.</p> <p>Pub had reopened and work was underway to establish if this constituted compliance with the enforcement notice.</p> <p>Presently on hold due to the pandemic and associated uncertainty affecting public houses.</p>
17/00237/ ENFC	Land Parcel 2783 Street From Cropredy To Great Bourton Cropredy	EN	15/03/18	Mobile Home sited in field	Court hearing now 09/07/2021.
18/00057/ ENFB	The Kings Head 92 East Street Fritwell OX27 7QF	EN	14/03/19	Unauthorised change of use from public house to independent dwelling house	<p>Appeal dismissed. Compliance due 1 July 2020.</p> <p>Presently on hold due to the pandemic and associated uncertainty affecting public houses.</p>
17/00241/ ENFC	OS Parcel 4400 South of Manor Farm House and East of North Aston Hall Farm Somerton Road North Aston	EN	14/03/19	Change of use from agricultural land to a caravan site	<p>Compliance date for removal of caravan was January 2020.</p> <p>Notice not yet complied with but working with owners and closely with housing colleagues to ensure the housing needs of the</p>



Ref Number	Address	Type of Notice	Date Served	Breach	Commentary
					occupants are met.

### Notices Jan - March 2020

Ref Number	Address	Type of Notice	Date Served	Breach	Commentary
19/00128/ ENF	Spruce Meadows Cropredy Lane Williamscot	EN	13/02/20	Caravan on land used for residential, storage of shipping containers and other structures	Appeal being heard at Informal Hearing scheduled for 25 January 2021.  This has been rescheduled and will now be heard on 21 April 2021
19/00172/ ENF	65 Calthorpe Street, Banbury.	BCN	10/02/20	Breach of condition regarding hours of opening	No right of appeal  09/03/20  Site being monitored to check compliance.
19/00171/ ENF	64 Calthorpe Street, Banbury.	BCN	10/02/20	Breach of condition regarding hours of opening	No right of appeal  09/03/20  Site being monitored to check compliance.  Planning application received 20/3551/F - Change to operating hours and insertion of door between the two units – Retrospective – currently being determined.
18/00309/ ENF	84 Green Road, Kidlington.	EN	13/02/20	Change of use of dwellinghouse to guesthouse	Notice now complied with and case closed.
19/00099/ ENF	Land to rear of 9-11 The Garth, Yarnton	EN	12/03/20	Change of use of land for storage of builders & Plumbing materials	Not appealed  Compliance was required by 26/04/20. Prosecution now being considered.  In the hands of receivers who are being made aware

					of need to comply with the notice.
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### Notices March - October 2020

Ref Number	Address	Type of Notice	Date Served	Breach	Commentary
19/00225/ ENFC	40 The Daedings, Deddington, Banbury, OX15 0RT	EN	21/08/20	Siting of a shipping container on front driveway	Notice complied with – case closed.
19/00233/ ENFC	Horse and Groom Inn Main Road Milcombe OX15 4RS	EN	21/08/20	Installation of a kitchen extraction and air input system	Not appealed.  Compliance period was set for 21 October 2020.  Pub has ceased use of extraction system and is seeking to find a resolution to the noise and smell issues with view to regularise.  A further planning application has been received and is awaiting determination.
18/00232/ ENFC	47 Easington Road Banbury OX16 9HJ	EN	14/09/20	Use of outbuilding as self-contained dwellinghouse	Notice was not appealed.  Owner has advised that the notice has been complied with. Site visit required to confirm and case can be closed.  Compliance due by 14/04/2021

**Notices October 2020 - January 2021**

<b>Ref Number</b>	<b>Address</b>	<b>Type of Notice</b>	<b>Date Served</b>	<b>Breach</b>	<b>Commentary</b>
19/00161/ ENFC	The White House, Heathfield, Kidlington, OX17 1QL	EN	01/10/20	Erection of two units of residential accommodation with associated residential curtilages.	Appeal has been lodged, official 'start date' received from Planning Inspectorate but no date for Hearing yet set.
19/00161/ ENFC	Sharawle Main Street Great Bourton OX17 1QL	EN	19/10/20	Failure to comply with Condition 3 of Planning Permission 19/01217/F, Regarding Screens.	No appeal received.  Compliance with notice to provide correct screening by 19 February 2021.  A site visit is to be conducted and Members updated at the next meeting
19/00161/ ENFC	Sharawle Main Street Great Bourton OX17 1QL	EN	19/10/20	Erection of a steel staircase leading down from balcony.	No appeal received.  Compliance with notice to remove rear staircase from balcony by 19 February 2021.  As above.
18/00162/ ENFC	Lince Lane Copse, Lince Lane, Kidlington	EN	30/10/20	Change of use of the land for the siting of a mobile home being used as residential accommodation	No appeal received.  The Notice has now been complied with and the case closed.

EN – Enforcement Notice  
BCN – Breach of Condition Notice

### *Injunction at Manor Park, Kidlington*

- 3.8 At the beginning of October, officers were made aware that a licenced and permitted Gypsy and Traveller site known as 'Manor Park' was not being used for its authorised use. The site has planning permission to be used as a Gypsy and Traveller site for no more than 11 pitches, each pitch consisting of 1 mobile home, one touring caravan and one utility day room. The site is strictly for the use of those from the Gypsy and Traveller community. The site lies within the Oxford Green Belt where there is a presumption against development unless very special circumstances apply.
- 3.9 Officers visited the site and found the site to have almost 50 mobile homes being advertised for rent on the open market. Authority was given to pursue immediate enforcement action to resolve this issue and prevent serious and irreversible harm being caused. The Council sought to obtain an injunction to prevent any further mobile homes being brought onto the site and to prevent any further occupation of those mobile homes that were on the site but not yet occupied.
- 3.10 On 14 October 2020 the first hearing was held virtually and an interim injunction was granted by the judge in the High Court, Birmingham. The owners were not given notice of the proceedings due to the speed at which injunction was needed. Papers were then served at the site, including a date for a further hearing on 28 October 2020.
- 3.11 Defendants did not attend court on 28 October 2020 and the Judge granted a further interim order preventing any further occupation of vacant mobile homes and further mobile homes being brought onto the site. Papers were again served on defendants at the site with a new Order and new court date of 8 December 2020.
- 3.12 On 8 December 2020, officers again attended Court in order to seek a final injunction to secure that all but the authorised mobile homes on the site to be removed and for the site to be vacated by non-members of the Gypsy and Traveller community. Two of the defendants attended to plead their case. The Judge was not satisfied that a final injunction could be granted as all defendants had not attended and mitigation was put forward by the defendants that did attend. A further interim injunction was granted, however this added a requirement for all additional electrical hook-up pipes and all vacant mobile homes to be fully disconnected on the site.
- 3.13 At the further hearing in March 2021 a full injunction was awarded by the Court together with an interim award of £20,000 costs. The full Order has been served and the site is regularly monitored to ensure compliance. Officers will return to Court in June 2021.
- 3.14 During the latest visit to the site, when the latest interim injunction papers were served, it was observed that some of the vacant mobile homes were being removed from the site.

- 3.15 A planning application has now been submitted (currently invalid) for the change of use of the land to a 50 unit mobile home park.
- 3.16 This has been a challenging and time-consuming piece of work by the Planning Enforcement team but provides illustration that the Council is prepared to take swift action where required in dealing with serious breaches of planning control.

#### **4. Conclusions and Reasons for Recommendations**

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

#### **5. Consultation**

- 5.1 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 planning enforcement is met from existing budgets other than in extraordinary circumstances.

Comments checked by: Karen Dickson, Strategic Business Partner, 01295 221900, [karen.dickson@cherwell-dc.gov.uk](mailto:karen.dickson@cherwell-dc.gov.uk)

##### **Legal Implications**

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

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

##### **Risk Implications**

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

Comments checked by: Louise Tustian, Head of Insight and Corporate

Programmes, 01295 221786, [louise.tustian@cherwell-dc.gov.uk](mailto: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](mailto: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**

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- Housing that meets your needs
- Leading on environmental sustainability
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- 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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