

# Public Document Pack



**Cherwell**

DISTRICT COUNCIL  
NORTH OXFORDSHIRE

|                    |   |
|--------------------|---|
| <b>Committee:</b>  | <b>Planning Committee</b>   |
| <b>Date:</b>       | <b>Thursday 20 May 2021</b>   |
| <b>Time:</b>       | <b>4.00 pm</b>  |
| <b>Venue</b>       | <b>Bodicote House, Bodicote, Banbury, Oxon OX15 4AA</b>                           |
| <b>Membership</b>  | <b>Membership will be confirmed at the Annual Council Meeting on 19 May 2021</b>  |
| <b>Substitutes</b> | <b>Substitutes will be confirmed at the Annual Council Meeting on 19 May 2021</b> |

## 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.

Please note that the deadline for requests to address the meeting is noon on the working day before the meeting.

Currently Council meetings are taking place in person (not virtually) with social distancing measures at the meeting. Members of the public who wish to address the meeting can do so 'virtually' and are strongly encouraged to do so to minimise the risk of COVID-19 infection. Any person requesting to address the meeting will be advised of the arrangements for speaking, which are in addition to the usual public speaking rules for Planning Committee.

4. **Minutes** (Pages 5 - 18)

To confirm as a correct record the Minutes of the meeting of the Committee held on 15 April 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)**

Report of Assistant Director - Planning and Development

This will be circulated at the meeting.

### **Planning Applications**

8. **Phase 3 OS Parcel 5863 Adjacent Briar Close And East Of Warwick Road Banbury** (Pages 22 - 56) **19/02126/F**
9. **Tesco Bicester CR, Lake view Drive, Bicester. OX26 1DE** (Pages 57 - 75) **20/00059/F**
10. **Land north of Hempton Road and west of Wimborn Close, Deddington** (Pages 76 - 104) **20/02083/OUT**
11. **Tuthill Park, Banbury Road through Wardington, Wardington** (Pages 105 - 115) **20/03556/F**
12. **16 - 18 Sheep Street, Bicester, OX26 6TB** (Pages 116 - 141) **20/03693/F**
13. **3 The Green Barn, Stoke Lyne Road, Stratton Audley, Bicester OX27 9AT** (Pages 142 - 155) **21/00519/F**
14. **Cherwell District Council Car Park, Upper Windsor Street, Banbury, OX16 5DH** (Pages 156 - 163) **21/00949/F**
15. **Coach Park, Compton Road, Banbury** (Pages 164 - 171) **21/00950/F**
16. **Kidlington Centre Car Park, High Street, Kidlington** (Pages 172 - 178) **21/00957/F**
17. **Cattle Market Car Park, Victoria Road, Bicester, OX26 6QB** (Pages 179 - 185) **21/00969/F**

18. **Claremont Car Park Public Conveniences Victoria Road Bicester OX26 6RD**  
(Pages 186 - 192) **21/00986/F**
19. **4 Water Eaton Lane, Gosford, Kidlington, OX5 2PP** (Pages 193 - 197)  
**21/00763/CLUP**

## **Review and Monitoring Reports**

20. **Appeals Progress Report** (Pages 198 - 206)

Report of Assistant Director Planning and Development

### **Purpose of report**

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

### **Recommendations**

The meeting is recommended:

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

**Councillors are requested to collect any post from their pigeon hole in the Members Room at the end of the meeting.**

## **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.

### **Evacuation Procedure**

When the continuous alarm sounds you must evacuate the building by the nearest available fire exit. Members and visitors should proceed to the car park as directed by Democratic Services staff and await further instructions.

### **Watching Meetings**

Please note that Council meetings are currently taking place in person (not virtually) with social distancing at the meeting. Meetings will continue to be webcast and individuals who wish to view meetings are strongly encouraged to watch the webcast to minimise the risk

of COVID-19 infection.

Places to watch meetings in person are very limited due to social distancing requirements. If you wish to attend the meeting in person, you must contact the Democratic and Elections Team [democracy@cherwell-dc.gov.uk](mailto:democracy@cherwell-dc.gov.uk) who will advise if your request can be accommodated and of the detailed COVID-19 safety requirements for all attendees.

Please note that in line with Government guidance, all meeting attendees are strongly encouraged to take a lateral flow test in advance of the meeting.

### **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 12 May 2021



## **Cherwell District Council**

### **Planning Committee**

Minutes of a meeting of the Planning Committee held as a virtual meeting, on 15 April 2021 at 4.00 pm

Present:

Councillor James Macnamara (Chairman)

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

Substitute Members:

Councillor Barry Wood (In place of Councillor Maurice Billington)

Apologies for absence:

Councillor Maurice Billington

Officers:

Alex Chrusciak, Senior Manager - Development Management  
Wayne Campbell, Principal Planning Officer  
Matt Chadwick, Senior Planning Officer  
John Gale, Planning Officer  
David Lowin, Principal Planning Officer (Major Projects Team)  
Nat Stock, Minors Team Leader  
Karen Jordan, Deputy Principal Solicitor  
Matthew Barrett, Solicitor  
Lesley Farrell, Democratic and Elections Officer

145 **Declarations of Interest**

There were no declarations of interest.

146 **Requests to Address the Meeting**

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

147 **Minutes**

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

148 **Chairman's Announcements**

**Passing of Prince Philip, Duke of Edinburgh**

The Chairman referred to the current period of national mourning following the passing of Prince Philip, Duke of Edinburgh on 9 April 2021 and explained it would be appropriate for the Committee to observe a minute's silence to reflect on his life of service to our country and our sovereign.

The Committee duly observed a minutes silence.

**Councillor Macnamara, Chairman of Planning Committee**

At the discretion of the Chairman, Councillor Colin Clarke – Lead Member for Planning, addressed the Committee and reported that as Councillor James Macnamara, Chairman of Planning Committee was not re-standing for election, his term of office would end in May and, by consequence, his Chairmanship of Planning Committee. Members and Officers paid tribute and thanks to Councillor Macnamara for his expertise and valuable contributions to the Committee.

Councillor Barry Wood, Leader of the Council, thanked Councillor James Macnamara for his 20 years' service to the council, commended him for his public service and wished him well.

Councillor Barry Wood also noted that Councillor Chris Heath was not standing for re-election and thanked her for 11 years' service to the council and contribution to the Planning Committee.

149 **Urgent Business**

There were no items of business.

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

There were no pre-Committee Site visits proposed.

151 **Land West of Cotefield Business Park, Oxford Road, Bodicote**

The Committee considered application 20/03353/OUT an outline application for a food store, including access and scale (resubmission of 20/00123/OUT) at Land West of Cotefield Business Park, Oxford Road, Bodicote for Cotefield Holdings Limited.

Sebastian Tibenham of Pegasus Consultants addressed the meeting in support of the application.

It was proposed by Councillor Chris Heath and seconded by Councillor Lynn Pratt that application 20/03353/OUT be refused contrary to the officer recommendation, due to the impact it would have on local small shops, the possibility of no shop opening on Longford Park and the possible closure of local post office facilities.

On being put to the vote the proposal was lost and the motion subsequently fell.

It was proposed by Councillor Colin Clarke and seconded by Councillor Phil Chapman that application 20/03353/OUT be approved in line with the officers' recommendation.

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

**Resolved**

- (1) That authority be delegated to the Assistant Director Planning and Development to grant permission for application 20/03353/OUT subject to:
  - 1) 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.
  - 2) The following conditions (and any amendments to those conditions

as deemed necessary:

## 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.

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.

152

**Plot 37 Land adj to 7 Henge Close, Adderbury, OX17 3GA**

The Committee considered application 20/03687/F for the erection of a three-bedroom house, with 2no parking spaces at Plot 37 Land adjacent to 7 Henge Close, Adderbury, OX17 3GA for Nicholas King Homes.

Councillor Andrew McHugh, local ward member, addressed the meeting in objection to the application.

Anthony Hartwell, local resident, addressed the meeting in objection to the application.

Wesley McCarthy, agent for the applicant, addressed the meeting in support of the application.

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

**Resolved**

- (1) That authority be delegated to the Assistant Director Planning and Development to grant permission for application 20/03687/F subject to:

1. 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

2. The following conditions (and any amendments to those conditions as deemed necessary):

#### 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.

153

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

The Committee considered application 21/00767/F for replacement roof dormers and replacement cladding at Amare Cottage, Roundhill Road, Mollington, OX17 1AY for Mr & Mrs Kaye.

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

**Resolved**

- (1) That permission be granted for application 21/00767/F subject to 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: 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.

154 **Appeals Progress Report**

The Assistant Director Planning and Development submitted a report which informed Members on applications which had been determined by the Council, where new appeals have been lodged, public inquiries/hearings scheduled or appeal results achieved.

**Resolved**

- (1) That the position statement be accepted.

155 **Planning Enforcement Report**

The Assistant Director Planning and Development submitted a report which updated Members on current planning enforcement activity following the last report in January 2021.

**Resolved**

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

156 **Exclusion of Public and Press**

**Resolved**

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 of Schedule 12A of that Act.

157

### **Planning Inquiry Options Appraisal**

The Committee considered an exempt report of the Assistant Director Planning and Development in relation to a planning inquiry options appraisal.

#### **Resolved**

- (1) As set out in the exempt minutes.
- (2) As set out in the exempt minutes.

The meeting ended at 7.15 pm

Chairman:

Date:

Document is Restricted

## CHERWELL DISTRICT COUNCIL

Planning Committee - 20 May 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               | Phase 3 OS Parcel<br>5863 Adjacent<br>Briar Close And<br>East Of Warwick<br>Road Banbury | 19/02126/F                | Banbury<br>Hardwick                    | *Grant Permission     | Nat Stock              |
| 9               | Tesco Bicester<br>CR, Lake view<br>Drive, Bicester.<br>OX26 1DE                          | 20/00059/F                | Bicester<br>South and<br>Ambrosden     | *Grant Permission     | Linda Griffiths        |
| 10              | Land north of<br>Hempton Road<br>and west of<br>Wimborn Close,<br>Deddington             | 20/02083/OUT              | Deddington                             | *Grant Permission     | Bob Neville            |
| 11              | Tuthill Park,<br>Banbury Road<br>through<br>Wardington,<br>Wardington                    | 20/03556/F                | Cropredy<br>Sibfords<br>and<br>Wroxton | *Grant Permission     | George Smith           |
| 12              | 16 - 18 Sheep<br>Street, Bicester,<br>OX26 6TB   | 20/03693/F                | Bicester<br>East                       | Refusal               | Wayne<br>Campbell      |
| 13              | 3 The Green Barn,<br>Stoke Lyne Road,<br>Stratton Audley,<br>Bicester OX27<br>9AT        | 21/00519/F                | Fringford<br>and<br>Heyfords           | *Grant Permission     | Matt<br>Chadwick       |
| 14              | Cherwell District<br>Council Car Park,<br>Upper Windsor<br>Street, Banbury,<br>OX16 5DH  | 21/00949/F                | Banbury<br>Cross and<br>Neithrop       | *Grant Permission     | Caroline Ford          |
| 15              | Coach Park,<br>Compton Road,<br>Banbury  | 21/00950/F                | Banbury<br>Cross and<br>Neithrop       | *Grant Permission     | Caroline Ford          |
| 16              | Kidlington Centre<br>Car Park, High<br>Street, Kidlington                                | 21/00957/F                | Kidlington<br>West                     | *Grant Permission     | Caroline Ford          |

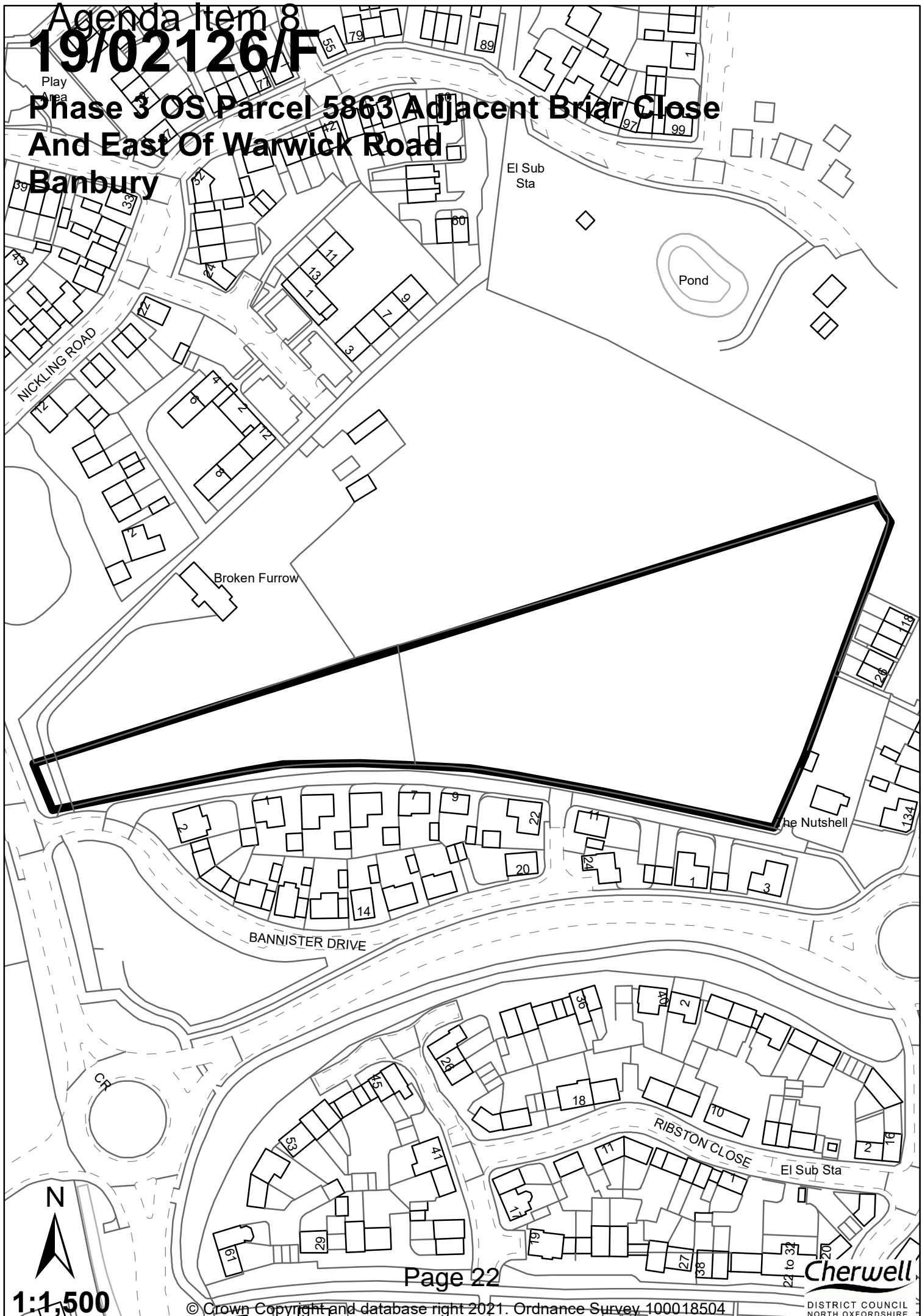


|    |  |               |                 |                   |                |
|----|--|---------------|-----------------|-------------------|----------------|
| 17 | Cattle Market Car Park, Victoria Road, Bicester, OX26 6QB              | 21/00969/F    | Bicester East   | *Grant Permission | Caroline Ford  |
| 18 | Claremont Car Park Public Conveniences Victoria Road Bicester OX26 6RD | 21/00986/F    | Bicester East   | *Grant Permission | Caroline Ford  |
| 19 | 4 Water Eaton Lane, Gosford, Kidlington, OX5 2PP                       | 21/00763/CLUP | Kidlington East | Issue Certificate | Michael Sackey |

\*Subject to conditions

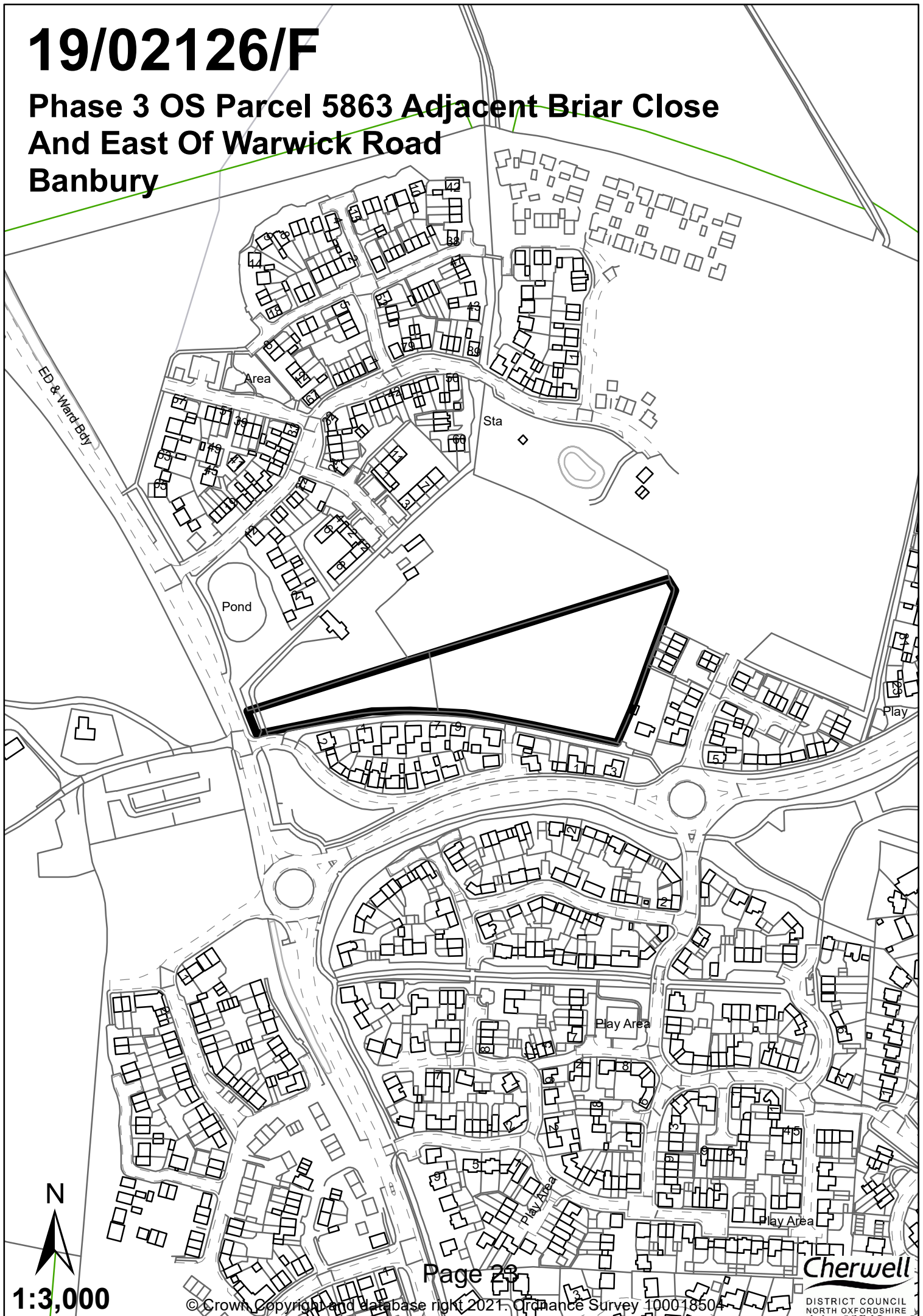
Agenda Item 8  
**19/02126/F**

**Phase 3 OS Parcel 5863 Adjacent Briar Close  
And East Of Warwick Road  
Banbury**



# 19/02126/F

## Phase 3 OS Parcel 5863 Adjacent Briar Close And East Of Warwick Road Banbury



**Phase 3 OS Parcel 5863 Adjacent Briar Close And  
East Of Warwick Road Banbury**

**19/02126/F**

**Case Officer:** Nathanael Stock

**Applicant:** Persimmon Homes Ltd

**Proposal:** Erection of 36 dwellings with associated infrastructure and public open space

**Ward:** Banbury Hardwick

**Councillors:** Councillor Bignell, Councillor Donaldson and Councillor Ilott

**Reason for Referral:** Major development

**Expiry Date:** 22 January 2020

**Committee Date:** 11 March 2021

---

**1. APPLICATION SITE AND LOCALITY**

- 1.1 The application relates to a site now allocated for development within Banbury 5, to which Policy Banbury 5 of the Cherwell Local Plan 2011-2031 applies. The site as a whole (including the land within the blue line on the submitted application) covers an area of some 20.2ha and forms the greater part of the approx. 26ha allocated site to the north of Dukes Meadow Drive and to the east of Warwick Road.
- 1.2 The larger site gently undulates across the two agricultural fields from the Warwick Road to lower points in the south west and north east corners and to higher points to the north between the two fields and to the south east.
- 1.3 The current proposal relates to one part of the allocated site, specifically between Broken Furrow to the north (which has planning permission ref. 18/01206/F) and the Davidsons development to the site (refs. 14/00066/OUT and 15/01115/REM). To the east / north-east of the site is Phase 2 of the Persimmon development (15/01589/REM), from which access to this site would be taken.
- 1.4 The site, which is relatively level, is currently occupied by a detached dwelling in mature gardens and a field to the east of this. The site contains multiple mature trees which are predominantly located on the boundaries of the site and on the boundary between the existing dwelling and the field to the north east.
- 1.5 The site's surroundings consist of the Hanwell Fields development to the south, amenity space, which is not public, to the east (and which falls within the site allocation), agricultural fields to the north which separate the site from Hanwell and agricultural fields to the west, west of Warwick Road.

**2. CONSTRAINTS**

- 2.1. There are two public footpaths that run across the site, one across the western side of the western field from the Warwick Road towards Hanwell and one which runs along the northern boundary of the eastern field for a short distance before turning towards Hanwell. There are records of bats and badgers on the site and there are also notable habitats including lowland mixed deciduous woodland and a

broadleaved woodland plantation. Other site constraints include naturally occurring contaminants, a minor aquifer and known records of minerals.

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

- 3.1. The current application seeks approval for a development of 36 dwellings on a site measuring 1.3 ha which forms part of the 26 hectare strategic housing allocation known as 'Banbury 5: North of Hanwell Fields' to the north west of Banbury. The site also forms part of a site that had outline permission for 350 dwellings (ref. 12/01789/OUT), though that permission has since expired.
- 3.2. During the course of the application the layout has been amended to increase the number of dwellings proposed from 34 to 36 dwellings, and to show improved linkages to surrounding land, to improve amenity relationships with neighbouring development and between dwellings proposed, and to address the proposals' impacts on TPO protected trees to the boundaries of the site.

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

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

12/01789/OUT Outline application for up to 350 dwellings, together with new vehicular access from Warwick Road and associated open space

14/00341/DISC Clearance of condition 5 of 12/01789/OUT

15/00065/DISC Discharge of Condition 7 (energy strategy) of 12/01789/OUT

15/00097/DISC Clearance of condition 35 of 12/01789/OUT - access construction

15/00462/REM Reserved Matters to outline application 12/01789/OUT - 118 dwellings together with new vehicular access from Warwick Road and associated open space (Phase 1)

15/00024/SO SCREENING OPINION - Reserved Matters to outline application 12/01789/OUT - 118 dwellings together with new vehicular access from Warwick Road and associated open space (Phase 1)

15/00187/DISC Discharge of Conditions 6 (phasing plan), 9 - 13 (land contamination), 14 (landscaping), 16 (scheme for the protection of retained trees), 20 (levels, boundary treatments and means of enclosure), 21 (earthworks), 22 (tree pits), 23 (LAPs/LEAPs), 24 (archaeology), 26 (update to badger mitigation strategy), 27 (bat mitigation works), 28 (Landscape and Ecology Management Plan (LEMP)), 29 (mitigation for other protected species), 31 (recent ecology survey), 32 (drainage strategy), 33 (water supply infrastructure impact studies), 34 (foul drainage), 38 (Travel Plan), 42 (Construction Environment Management Plan), 44 (car park to public open space area), 45 (full design details of LAPs and LEAPs) and 46 (footpath design details) of 12/01789/OUT

15/00257/DISC Discharge of Conditions 17 (method of supervision and programme of works for the landscaping), 37 (Construction Management Travel Plan) and 43 (Construction Environment Management Plan (CEMP)) of 12/01789/OUT

15/01298/F Variation of Condition 2 of 12/01789/OUT - extension of time of six months

15/00336/DISC Discharge of Condition 39 (lighting) of 12/01789/OUT

15/01589/REM Reserved Matters application for 210 dwellings dealing with appearance, landscaping, layout and scale (this development forming the 2nd phase of development which received Outline permission under 12/01789/OUT)

15/00082/SO Screening Opinion to - Reserved matters application for 232 dwelling dealing with appearance, landscaping, layout and scale. This application will form the 2nd phase of our proposals for the site pursuant to outline approval 12/01789/OUT.

15/00495/DISC Discharge of Conditions 2 (stone sample panel), 4 (slate sample), 10 (landscaping), 12 (LAPs/LEAPs) and 13 (levels) - Application 15/00462/REM

16/00371/REM Reserved Matter to 12/01789/OUT - Demolition of the Bat House located within Briars Close and erection of replacement Bat House

16/00504/CDC Erection of single storey buildings to provide 6 one bed flats for adults with learning difficulties and autistic spectrum condition, associated parking area, shared landscaped gardens, secured courtyard area, and staff and communal accommodation in an additional unit (seven units in total)

16/00515/CDC Erection of single storey building to provide 5 one bed flats for adults with acquired brain injury, associated parking area, secured courtyard area, and staff and communal accommodation in an additional unit (six units in total)

16/00017/NMA Handing of Plots 67 and 68, and handing of Plots 72 and 73 (proposed non-material amendments to application 15/00462/REM)

16/00029/NMA Erection of a semi-submerged gas governor (proposed non-material amendment to 15/00462REM)

16/01095/OUT Variation of Condition 2 of 12/01789/OUT

16/00046/SO Variation of Condition 2 of 12/01789/OUT

16/01210/F Erection of 20 No. dwellings, associated highways access and parking

16/00050/SO Reserved matters for erection of 21 no. houses, associated highways access and parking.

16/01484/CDC Erection of single storey building to provide 5 one bed flats for adults with acquired brain injury, associated parking area, secured courtyard area, and staff and communal accommodation in an additional unit (six units in total) (revised scheme of 16/00515/CDC)

16/01485/CDC Erection of single storey buildings to provide 6 one bed flats for adults with learning difficulties and autistic spectrum condition, associated parking area, shared landscaped gardens, secured courtyard area, and staff and communal accommodation in an additional unit (seven units in total) (revised scheme of 16/00504/CDC)

16/01722/M106 Modification of Section 106 - Application 12/01789/OUT

16/00498/DISC Discharge of Condition 3 (energy strategy), 4 (brick sample) and 5 (roof tile sample) of 16/01485/CDC

16/00499/DISC Discharge of Conditions 3 (energy strategy), 4 (brick sample) and 5 (roof tile) of 16/01484/CDC

16/00511/DISC Discharge of Conditions 8 (specification of parking and manoeuvring), 12 (details of ground and finished floor levels) and 18 (cycle store /parking facilities) and Partial Discharge of Condition 9 (landscaping scheme) of 16/01484/CDC

16/00512/DISC Discharge of Conditions 8 (specification of parking and manoeuvring), 12 (details of ground and finished floor levels) and 18 (cycle facilities) and partial discharge of Condition 9 (landscaping scheme) of 16/01485/CDC

17/00300/M106 Modification of Section 106 - Application 12/01789/OUT

17/00071/DISC Discharge of condition 6 (Amended elevation design details) of 16/01484/CDC

17/00076/DISC Discharge of Condition 6 (Amended Elevation Design Details) of 16/01485/CDC

17/00708/F Erection of 20 No. dwellings, associated highways access and parking set in the wider context of 12/01789/OUT and 15/00462/REM

17/00284/DISC Discharge of Conditions 13 (mitigation badger protection strategy), 15 (Biodiversity enhancements) and 16 (External light scheme) of 16/01485/CDC

17/00286/DISC Discharge of Conditions 13 (update to the mitigation strategy for badgers), 15 (biodiversity enhancements) and 16 (external light scheme) of 16/01484/CDC

17/01879/CDC Variation of Condition 2 (list of approved plans) of 16/01484/CDC to include additional land build up and tree planting, and an additional condition to prohibit access to the area of the site beyond (west and south of) the 1.8m high fence indicated by a solid brown line on drawing "LS-09 F" by anyone other than from time to time for grounds maintenance purposes in accordance with a management agreement or plan

17/00558/DISC Partial Discharge of Condition 9 (landscaping scheme) of 16/01484/CDC

17/00559/DISC Partial Discharge of Condition 9 (landscaping scheme) of 16/01485/CDC

18/01304/M106 Modification of Section 106 - Application 12/01789/OUT

18/00492/DISC Discharge of conditions 7 (Energy Statement), 16 (Tree Protection), 21 (Services), 23 (Play Area Design), 30 (Biodiversity Enhancements, 37 (Construction Management Travel Plan), 39 (Street Lighting) and 43 (CEMP) of 12/01789/OUT

18/00497/DISC Discharge of Conditions 3 (architectural details), 5 (landscaping scheme), 6 (connectivity), 8 (bin collection points) and 15 (vehicle tracking) of 15/01589/REM

19/00030/DISC Discharge of Condition 18 (Cycle Parking) of 17/00708/F

19/00058/DISC Discharge of Conditions 17 (programme of works for landscape) and 26 (ecology and biodiversity) of 12/01789/OUT



## 5. PRE-APPLICATION DISCUSSIONS

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

5.2. 19/00051/PREAPP – Erection of 35 dwellings

## 6. RESPONSE TO PUBLICITY

6.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records (amend as appropriate). The final date for comments was **4 February 2021**, although comments received after this date and before finalising this report have also been taken into account.

6.2. Comments raised by seven households; the comments raised by third parties are summarised as follows:

6.3. Objections to the footpath proposed to connect the proposed development to the Davidsons development to the south – several respondents comment that this is a private access way owned by the residents of the current development ('Bannister Drive') (albeit allowing access to the occupiers of The Nutshell at the eastern end of the road); impact of the footpath on hedgerows, foliage and animals; it is unlit, with no footpaths and so there are safety concerns for pedestrians and cyclists; impact on privacy of occupiers on Bannister Drive

6.4. Objections to the proposed cyclepath that crosses onto the Davidsons development close to the Warwick Road; onto privately land; the path is unlit and concealed giving a potential accident risk; no mention in residents' deeds re proposed cycleway, that only access for other Bannister Drive homes is permitted

6.5. Trees – Concerns regarding the loss of mature trees along the southern boundary; requests for planting screening trees, e.g. holmoak or similar evergreen, fast growing. Some comments that houses on Bannister Drive adjacent to the site were sold to the homeowners by Davidsons on the understanding that the tree line and hedgerow on the site's southern boundary would be maintained; this tree / hedgerow line provides natural screening as well as a haven for wildlife; objections to the proposal to replace it with fencing

6.6. Impact on ecology – Two young deer spotted running down Bannister Drive; impact on birds in particular swifts; supports the recommendation of the Council's ecologist that provision for birds should be incorporated within the structure of the buildings; bird boxes should be installed in groups of 2, 3 or 4 rather than single boxes on different buildings; swift bricks should be incorporated into the structure of buildings – would also be used by House Sparrows (Red-listed) and several other hole-nesting birds – and are more aesthetically pleasing than nest boxes

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

## 7. RESPONSE TO CONSULTATION

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



## PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

- 7.2. BANBURY TOWN COUNCIL: **No objections** but seeks (i) Clarity on the arrangements for the maintenance of the areas of open space (ii) Confirmation of the Section 106 heads of terms and comment that (iii) Concur with the strategic housing officer that the affordable housing should be less clustered (iv) Concerned about the adequacy of emergency access and turning facilities for the waste freighter.

### OTHER CONSULTEES

- 7.3. OCC HIGHWAYS:

**(Feb 2020) Objection for the following reasons:** Insufficient visitor parking provision, and lack of cycle storage provision

If permission is granted than a Section 106 agreement is required, including an obligation to enter into a S278 agreement to mitigate the impact of the development, and planning conditions relating to car parking provision and cycle parking provision

Legal agreement required to secure those obligations secured under 12/01789/OUT, and a supplementary agreement (applied pro rata) towards public transport requiring a further contribution of £1,429 per dwelling.

**(Feb 2021) No objection:** "I have reviewed the revised drawing (P-3-02 Rev G Scheme Proposal) which now shows inclusion of four additional visitor parking spaces in layby's along the estate drive. The revision duly addresses the LHA's objection [in this regard].

"...while I cannot find any issues worthy of objecting to, the outstanding issue remains with regard to cycle parking detail. This has not been addressed. In the event that permission is given, could you kindly impose a cycle parking detail condition."

- 7.4. OCC DRAINAGE:

**(Feb 2020) Objection:** (1) Insufficient information provided to enable full technical assessment of the drainage proposals, flood risk and SuDS usage on site. (2) Site area as indicated in FRA is not reflected in returned pro-forma calculations. This needs to be verified and validated.

- 7.5. OCC EDUCATION: **No objection** subject to S106 Contributions for nursery, primary and secondary education provision.

- 7.6. OCC ARCHAEOLOGY: **No objection** – The site is located in an area of archaeological interest and has been subject to an archaeological geophysical survey, trenched evaluation and a programme of archaeological mitigation as part of the archaeological mitigation for a larger site. All the archaeological works have been completed and reported and no further investigations will be required. There are therefore no archaeological constraints to this scheme.

- 7.7. CDC ECOLOGY: **No objection** subject to S106 contributions to provide a 10% net gain for biodiversity. **Comments** that the submitted ecological appraisal report makes good recommendations for avoidance of harm (method statements) which should be required by condition, along with a pre-commencement CEMP for biodiversity. The recommendations for enhancements on site are fair, including bat/bird provision integrated into each new dwelling. Further measures would be

needed such as hedgehog highways between fenced/walled properties to ensure permeability; plus sparrow terraces, swift bricks, etc.

- 7.8. CDC ENVIRONMENTAL PROTECTION: **No objection** subject to conditions for (1) the recommendations of the noise impact report to be followed; (2) contaminated land investigation; (3) a Construction Environment Management Plan (CEMP), to include details of the measures to be taken to ensure construction works do not adversely affect residential properties on, adjacent to or surrounding the site together with details of the consultation and communication to be carried out with local residents; (4) provision of footpaths and cycle paths to encourage active travel; (5) provision of Electric Vehicle (EV) charging infrastructure.
- 7.9. CDC STRATEGIC HOUSING: **No objections subject to the provision of 30% affordable housing.** Provides an indicative mix and recommended standards.
- 7.10. CDC RECREATION AND LEISURE: **No objection** subject to financial contributions to offsite outdoor sports facilities (new/extended clubhouse at North Oxfordshire academy), off-site indoor sports facilities (floodlighting of tennis courts) and community halls (towards the improvement/enhancements of Hanwell Fields Community Centre.
- 7.11. CDC BUILDING CONTROL: Development would require a building regulations application.
- 7.12. HIGHWAYS ENGLAND: **No objection**
- 7.13. THAMES WATER: **No objection**

## **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 4: Improved transport connections
- BSC 1: District Wide Housing Distribution
- BSC 2: Effective and efficient use of land
- BSC 3: Affordable Housing
- BSC 4: Housing Mix
- BSC 7: Meeting education needs
- BSC 10: Open Space, Outdoor Sport and Recreation Provision
- BSC 11: Local Standards of Provision – Outdoor Recreation
- BSC12: Indoor Sport, Recreation and Community Facilities
- ESD 1: Mitigating and Adapting to Climate Change
- ESD 2: Energy hierarchy
- ESD 3: Sustainable Construction

- ESD 6: Sustainable Flood Risk Management
- 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
- ESD 17: Green Infrastructure
- BAN 5: Land North of Hanwell Fields
- INF 1: Infrastructure

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

- C28: Layout, design and external appearance of new development
- C30: Design of new residential development
- ENV1: Development likely to cause detrimental levels of pollution
- ENV12: Development on contaminated land
- TR1: Transportation funding

#### 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)
- Human Rights Act 1998 ("HRA")
- Equalities Act 2010 ("EA")
- Cherwell Design Guide Supplementary Planning Document (SPD) – 2018
- Cherwell Developer Contributions SPD 2018
- Cherwell District Council: Home Extensions and Alterations Design Guide (2007)
- Local Transport Plan 4
- Infrastructure Delivery Plan (IDP) Update December 2017

## 9. APPRAISAL

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

- Principle of development
- Design, and impact on the character of the area
- Flood risk and drainage
- Residential amenity
- Ecology
- Archaeology
- Highway safety
- Infrastructure including Affordable Housing
- Other matters

#### Principle of Development

##### *Policy Context*

- 9.1. Planning law requires that planning decisions are made in accordance with the Development Plan unless material considerations indicate otherwise. Paragraph 2 of the National Planning Policy Framework (NPPF) makes clear that it does not

change the statutory status of the development plan as the starting point for decision making. However, the NPPF is a significant material consideration.

- 9.2. Paragraph 11 of the NPPF explains the Government's presumption in favour of sustainable development. For decision-taking this means approving proposals that accord with an up to date development plan and in cases where there are either no relevant development plan policies or those policies important for determining the application are out of date; granting permission unless the NPPF policies provide a clear reason for refusal or any adverse impacts significantly and demonstrably outweigh the benefits.
- 9.3. The Development Plan comprises the saved policies of the 1996 adopted Cherwell Local Plan and the 2015 adopted Cherwell Local Plan (2011-2031) Part 1 ("CLP 2015"). The policies important for determining this application are referenced above in Section 8.
- 9.4. The CLP 2015 seeks to guide new housing development in the district in the most sustainable manner through Policies ESD1 and BSC1. The site is located within 'Policy Banbury 5: North of Hanwell Fields', which is a strategic residential allocation situated to the northern edge of Banbury allowing for approximately 544 dwellings with associated facilities and infrastructure.

#### *Assessment*

- 9.5. The site forms part of a larger site that has previously been subject of outline planning permission, but that permission has now lapsed. Nevertheless, given the proposed development lies within the housing allocation identified by Policy Banbury 5, the principle of developing the site for residential purposes accords with the Development Plan.
- 9.6. Planning permission has already been granted on the surrounding land for residential development with the majority of the land also now benefiting from reserved matters approval. To date, detailed planning consent has been granted for a total of 515 dwellings (344 for Persimmon, 160 for Davidsons and 11 for Build!), and outline planning permission for up to 46 dwellings on Broken Furrow, the land to the north of the site. For reasons set out in the officer's report to Committee for that application, it would seem unlikely that 46 dwellings could in practice be delivered on that site, unless the development includes a different housing mix to that shown on the indicative layout which accompanied the application. Indeed, a Reserved Matters application has recently been submitted for 40 dwellings on that site.
- 9.7. The current proposal is for 36 dwellings and this would mean that a total of 597 dwellings would have planning consent on the site (albeit the new Reserved Matters application for Broken Furrow, if approved, would bring the figure down to 591). The proposal would therefore exceed the approximate number of dwellings referenced in the Local Plan allocation Banbury 5 (544 dwellings). However, it is noted that approximately 20 dwellings on the Davidsons site are not situated within the allocation site (as shown on the Local Plan Proposals map) and therefore it could be argued these should be excluded from the calculation. Furthermore, the Council would consider "approximately" in Policy Banbury 5 to allow for a 5% exceedance (i.e. a total of c. 570 dwellings).
- 9.8. It is therefore considered that the proposal would not lead to a material increase in housing numbers on the site above the policy to warrant the proposal representing a departure from the Development Plan.

- 9.9. Whilst it is clear that the allocated site is likely to deliver in excess of the number of dwellings in the allocation, one also bears in mind that all development approved and proposed falls within the boundary of the site allocation and that the existing development within the wider Banbury 5 site can be said to have made an efficient use of land. Overall, therefore, the quantum of development on the site is considered acceptable subject to it complying with the other policies in the development plan and other material considerations, discussed below.

#### *Conclusion*

- 9.10. The proposed development is part of an allocated local plan site where the principle of residential development is acceptable. Whilst it is highly likely that the approximate housing number in the Local Plan allocation is likely to be exceeded it is not considered that the current proposal would result in a material increase above this. Subject to other material considerations the quantum of development is considered to be acceptable.

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

#### *Policy Context*

- 9.11. Policy ESD15 of the CLP 2015 states that: *“New development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design. All new development will be required to meet high design standards.”* The Cherwell Residential Design Guide SPD also encourages development which is locally distinctive and the use of appropriate materials and detailing, but states that new development should avoid the creation of ‘anywhere places’ which do not respond to local context.
- 9.12. Policy BSC2 states that housing development should be efficient use of land and should be provided on net developable areas at a density of at least 30 dwelling per hectare unless there are justifiable planning reasons for lower density development.
- 9.13. Policies BSC10 and BSC11 of the CLP 2015 requires the provision of open space and recreation provision commensurate with the need generated by the proposals.
- 9.14. Policy Banbury 5 of the CLP 2015 sets out some key site specific plan shaping principles in relation to the matters of landscape and visual impact, as well as the impact upon the character of the area. This includes retaining and enhancing landscape features such as trees and hedgerows.
- 9.15. Saved Policy C28 of the CLP 1996 exercises control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context as well as compatible with existing buildings.
- 9.16. Government guidance contained within the NPPF towards achieving well-designed places states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. The NPPF goes on to note that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
- 9.17. Paragraph 127 of the NPPF states that planning decisions should ensure that development will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; and

create places that are safe, inclusive and accessible with a high standard of amenity for existing and future users. Paragraph 130 of the NPPF states that: *“Permission should be refused for development that fails to take the opportunities available for improving the character and appearance of an area and the way it functions.”*

#### *Assessment*

- 9.18. The landscape and visual impacts of the development would be relatively localised given that the site is surrounded by the wide housing allocation. Therefore, the impact on the broad landscape is not considered to be significant and the main issues to consider are the site specific matters.
- 9.19. The submitted layout plan shows the vehicular access to the site taken from Phase 2 of the Persimmon development to the east of the site. To the southern side of the road would be a 3 metre cycleway (in accord with the agreed Design Code for the development) which would connect through to Warwick Road to the west. There would be 2 metre footpath to the other side of the road, and a footpath connection to the Davidsons development to the south.
- 9.20. Officers note the concerns of the residents of this development relating to this proposed footpath connection. However, it is shown in the masterplan / Design Code for the site approved under 12/01789/OUT (its non-provision would conflict with the objectives for the development) and is also shown on the plans approved for the Davidsons development ref. 14/00066/OUT, and it would be to the great benefit of the connectivity and permeability of the development, enabling residents of the proposed development and other developments to the north to get to the Hanwell Fields estate to the south, including its local centre, more readily.
- 9.21. Objections were also received to the originally proposed route of the cycleway, connecting to the Davidsons development close to the western edge of the site. Although this is where / how the existing dwelling on the site accesses Warwick Road and would therefore have been acceptable, the applicant has sought to address this concern by amending the route of the cycleway to connect directly up to Warwick Road. In principle this is acceptable, provided that trees to the Warwick Road frontage are not harmed and subject to full details to ensure connectivity to / alignment with the footpath on Warwick Road.
- 9.22. Comments are also made by third parties in relation to the trees and hedgerow on the southern boundary of the site. It would be important for this green infrastructure to be retained in any permission given, not least to provide screening to neighbours (see below), but also for the benefit of ecology and biodiversity and because it is a requirement of Policy Banbury 5, the policy which permits the principle of development on the site.
- 9.23. Finally, officers would wish to clarify that access to Bannister Drive is not proposed from the roundabout to the east. There have been some reports from residents of reckless driving over the verge / landscaped area from roundabout to lane but such link is not proposed.
- 9.24. The proposal for 36 dwellings on a site of 1.3ha results in a density of c. 27 dwellings per hectare, which is slightly below the 30 dph expected by Policy BSC2. However, given the site's relatively awkward shape, the constraints presented by trees, and the need to provide for acceptable plot to plot relationships as well as an acceptable quantum of public open space and land for biodiversity gain, it would be difficult to accommodate more than 36 dwellings on the site. In addition, the Design Code for the development expects a density of under 30 dph for the site (whereas a higher density was expected for much of the rest of the Persimmon development).

In coming to this conclusion it is also borne in mind that a good range of dwelling sizes is proposed, i.e. 4no 1 beds, 17no 2 beds, 8no 3 beds and 7no 4 beds.

- 9.25. In the approved Design Code the site is described as CA3 – The Triangle ‘character area’, i.e. one homogenous area and no variety in density or character. Particular design requirements for the site are the use of black stained timber cladding to the first floor of every fifth dwelling across the development, and approx. every third garage to be wrapped in black stained timber cladding; large, casement windows, to be larger and more linear than the areas of the development; no headers; tiled sills; vertical panelled entranced doors; lean to canopies on brackets; black painted barge boards where used; a strong landscaped feel to link in with the surrounding mature vegetation of the site; primarily semi-detached and detached units (although terraced units are also mentioned so are presumed to be permissible); and dwellings designed to ensure no blank walls fronting onto the public realm.
- 9.26. Many of these details can be secured by conditions of any permission given. The semi-detached dwellings in the scheme are not wide-fronted, but in other respects the proposals accord with what is required by the Design Code. In terms of facing materials the Design Code does not require the use of natural stone (walls) or slate (roofs) for this site though their use for the western most dwelling (fronting Warwick Road) would be of great benefit to the development. The Design Code does expect 50% of the dwellings to be rendered. It is notable that render and black stained timber both appear to be missing from the application submission, but these materials can be secured by condition.
- 9.27. The submitted layout includes shows the provision of public open space including semi-natural green space in accordance with BSC11 of the CLP 2015. This scale of development necessitates the provision of a Local Area of Play (LAP) – normally this would be provided on site but it may be preferred here for an off-site financial contribution to be made i.e. to improve existing LAPs in the vicinity of the site and the provision of general green space. Comments have not been received at this time from the Council’s landscape officer.
- 9.28. The proposed housetypes (7no Elmbridge, 6no Leicester, 6no Hanbury, 9no Alnwick, plus HQI types 50, 73 and 83) have all been approved for use in the earlier phases of the Persimmon development to the north and north-east of the site and are all considered acceptable.
- 9.29. Earlier in 2021, i.e. since the submission of the application, several trees on the boundaries of the site and those of the adjacent site to the north have been given a Tree Preservation Order. The proposals have been amended during the course of the application to better respect these trees, in particular a Sycamore tree on the site’s northern boundary. Another TPO-protected tree, a Pine, is considered not to be in good health or to have long term potential and so is considered acceptable for removal.
- 9.30. There were some minor discrepancies in the original submission between the submitted tree survey and site layout plan, i.e. trees from the former which are not in the same position in the latter plan, and these have now been corrected. There are also discrepancies apparent between those plans are the equivalent information submitted for a current Reserved Matters application for development of the site called Broken Furrow (‘BF’), immediately to the north of the site. Specifically, there are some trees shown on the latter which are not shown in the BF plans. The applicant confirms these trees remain in situ.

### *Conclusion*

- 9.31. The proposed development is considered acceptable with regard to its design and its landscape and visual impacts, and to accord with Policies ESD13, ESD15 and BAN5 in this regard, as well as Government guidance within the NPPF.

### Flooding Risk and Drainage

#### *Policy Context*

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

#### *Assessment*

- 9.34. The application is accompanied by a Flood Risk Assessment (Waterman, September 2019) which includes a drainage assessment.
- 9.35. The site is in Flood Zone 1 and there is minimal flood risk posed by surface water flooding at the site.
- 9.36. In terms of drainage, there are no watercourses or ditches present immediately adjacent to the site, and the nearest watercourse is a tributary to the Sor Brook, rising from the lake at Drayton Lodge before flowing (via a secondary lake) into the Sor Brook. The FRA states that,
- “further infiltration testing is required as Thames Water are unlikely to agree to a connection without the potential for infiltration testing being further explored, nonetheless based on previous testing infiltration would appear to offer a discharge solution”* and that, *“should infiltration testing at the Site display positive results, an ‘infiltration based’ SuDS strategy is proposed comprising an infiltration device in open space to the west for highway runoff and individual soakaways for private dwellings”*.
- 9.37. The report concludes that discharge solutions are available for both foul and surface water drainage. Further reports have been submitted in relation to infiltration testing which show that, unlike elsewhere on the BAN5 parcel, infiltration does not work.
- 9.38. The submitted drainage strategy involves a large attenuation tank under several TPO trees near to the site’s Warwick Road frontage, which is not acceptable. Officers are not yet content that the matter can be addressed through condition, although we are conscious that the site is allocated for development, and for a similar number to that currently proposed.
- 9.39. The County Council as Lead Local Flood Authority has objected on this basis and the applicant is seeking to address that objection.
- 9.40. Discussion with the LLFA indicates that, in line with other developments on BAN5 including Broken Furrow immediately to the north, the drainage strategy for the site would likely need to include a connection to public drains, the use of permeable paving and soakaway tanks to manage surface water from the development.



- 9.41. Thames Water states that the foul water sewage network and surface water network have capacity to accommodate the proposed development. Following initial investigations, Thames Water has identified an inability of the existing water network infrastructure to accommodate the needs of this development and recommends a condition is imposed on any permission given to prevent occupation of any dwelling on the site until appropriate mitigation is in place.

#### Impact on Residential Amenity

##### *Policy Context*

- 9.42. Policy ESD15 of the CLP 2015 states that new development proposals should consider the amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation, and indoor and outdoor space. Saved Policy C30 of the CLP 1996 states that design control will be exercised so that new housing development provides standards of amenity and privacy acceptable to the Local Planning Authority.

##### *Assessment*

- 9.43. The proposals have been amended during the course of the application to seek to resolve issues officers had with the original submission in this regard.
- 9.44. There remain some concerns, e.g. the separation distance between Plot 2 and Davidsons dwellings to the east of the site is 20 metres (where the Council's supplementary planning guidance seeks 22m) and the distance between Plots 11/12 and the neighbouring Davidsons dwelling to the south is 21 metres. In both cases there is an intervening field boundary with either existing tree screening or where tree screening may reasonably be required to mitigate the impact through overlooking.
- 9.45. In addition, Plots 32-35 are within 22 metres of Davidsons dwellings to the south but here the relationship is between two front elevations and over highway, again with an intervening field boundary comprising tree or hedgerow.
- 9.46. Lastly, there would be some impacts through overlooking between plots within the development, but these have largely been addressed through changes secured during the application to the proposed house types and any remaining issues can be satisfactorily resolved through conditions attached to any permission given.

##### *Conclusion*

- 9.47. Subject to conditions for landscaping and obscure glazing of certain windows, the proposals are considered to safeguard the living conditions of existing and future residential occupiers and to accord with Policy ESD15 of the CLP 2015, saved Policy C28 of the CLP 1996 and Government guidance in the NPPF in this regard.

#### Ecology Impact

##### *Legislative context*

- 9.48. 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.

- 9.49. 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.
- 9.50. 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.
- 9.51. 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.
- 9.52. The Regulations require competent authorities to consider or review planning permission, applied for or granted, affecting a European site, and, subject to certain exceptions, restrict or revoke permission where the integrity of the site would be adversely affected. Equivalent consideration and review provisions are made with respects to highways and roads, electricity, pipelines, transport and works, and environmental controls (including discharge consents under water pollution legislation).

#### *Policy Context*

- 9.53. 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.
- 9.54. 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.

- 9.55. 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.
- 9.56. 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.
- 9.57. 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.
- 9.58. 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.
- 9.59. The Planning Practice Guidance dated 2014 post-dates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that LPAs should only require ecological surveys where clearly justified, for example if there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.

#### *Assessment*

- 9.60. In order for the LPA to discharge its legal duty under the Conservation of Habitats and Species Regulations 2017 when considering a planning application where EPS are likely or found to be present at the site or surrounding area, local planning authorities must firstly assess whether an offence under the Regulations is likely to be committed. If so, the LPA should then consider whether Natural England (NE) would be likely to grant a licence for the development. In so doing the authority has to consider itself whether the development meets the 3 derogation tests listed above.
- 9.61. In respect of planning applications and the Council discharging of its legal duties, case law has shown that if it is clear/ very likely that NE will not grant a licence then the Council should refuse planning permission; if it is likely or unclear whether NE will grant the licence then the Council may grant planning permission.
- 9.62. The site is not subject to any statutory or non-statutory ecological designation. The application is supported by a detailed ecological report which the Council's Ecologist (CE) has reviewed. The CE advises that the said report makes good recommendations for avoidance of harm which would need to be required by condition, including integrated bat/bird provision, along with a pre-commencement condition requiring a Construction Environment Management Plan, plus hedgehog

highways and sparrow terraces. It is also considered that a lighting strategy would be needed which is sympathetic to the use of the boundary vegetation by nocturnal wildlife.

- 9.63. The CE advised, however, that a biodiversity net gain metric had not been submitted, nor had the Autumn 2019 reptile survey been submitted with the application. The applicant has since submitted these. The biodiversity net gain metric showed a net loss on site and a requirement for biodiversity offsetting, i.e. contribution to ecological provision off-site, in the vicinity. Officers have agreed that the biodiversity offsetting compensation will be put towards the Banbury Country Park. Three habitat units will be delivered in order to achieve 10% biodiversity net gain.
- 9.64. Officers are satisfied, on the basis of the advice from the Council's Ecologist and the absence of any objection from Natural England, and subject to conditions and planning obligations, that the welfare of any European Protected Species found to be present at the site and surrounding land would continue and be safeguarded notwithstanding the proposed development and that the Council's statutory obligations in relation to protected species and habitats under the Conservation of Habitats & Species Regulations 2017, have been met and discharged.

### Archaeology

#### *Policy Context*

- 9.65. Policy ESD15 of the CLP 2015 states that new development proposals should: *"Conserve, sustain and enhance designated 'heritage assets' (as defined in the NPPF) including buildings, features, archaeology, conservation areas and their settings, and ensure new development is sensitively sited and integrated in accordance with advice in the NPPF and NPPG."*
- 9.66. Paragraph 189 of the NPPF states that: *"In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance."*
- 9.67. Paragraph 193 of the NPPF states that: *"When considering the impacts 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."* Paragraph 194 of the NPPF goes on to state that: *"Any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification."*
- 9.68. Paragraph 196 of the NPPF states that: *"Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use."*

#### *Assessment*

- 9.69. The application site is not within a designated conservation area or within the setting of any listed buildings within the immediate vicinity of the site. However, the site is within an area of archaeological interest.

- 9.70. The County Council's Archaeologist advises that the proposals are acceptable in this regard, presenting no further archaeological constraint, and officers agree with this assessment.

#### Impact on highway safety

##### *Policy Context*

- 9.71. Policy Banbury 5 states that that access to the wider site should be taken off the existing roundabout and Warwick Road. It goes on to state that the layout should allow a high degree of integration and connectivity to new and existing communities including footpaths and cycle links and create walkable neighbourhoods. Policy SLE4 of the Cherwell Local Plan Part 1 requires that new development provides financial and/or in-kind contributions to mitigate the transport impacts of development. It also states that development which is not suitable for the roads that serve the development and which would have a severe traffic impact will not be supported and that new development should facilitate the use of sustainable modes of transport such as public transport, walking and cycling.
- 9.72. The NPPF has similar themes requiring opportunities to promote walking, cycling and public transport to be identified and pursued, and ensuring that patterns of movement are integral to the design of schemes. It also requires that safe and suitable access to the site can be achieved for all users and that development would only be refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

##### *Assessment*

- 9.73. The proposed development would, along with the Broken Furrow development immediately to the north, complete the wider development of Hanwell Chase, under planning ref 12/01789/OUT. Vehicular access to this parcel of development would be taken from the Hanwell Chase development spine road via a priority-controlled junction. The spine road has been constructed running between Warwick Road and Dukes Meadow Drive.
- 9.74. Access to Phase 3 runs from east to west and has been designed as a 5.5m wide carriageway extension from the spine road, with 3m and 2m wide footways on the south and northern sides of the carriageway respectively. The carriageway terminates as a private drive serving about 5 properties. A 3m wide pedestrian provision continues westwards to link the development to Warwick Road.
- 9.75. At the time of the local highway authority's consultation response, no tracking had been provided, particularly for refuse vehicles, but the LHA advises it is "confident that owing to the simple layout presented by the development, such vehicles would not struggle in manoeuvring around the development".
- 9.76. The proposals show an acceptable level of parking provision for proposed dwellings but there were a lack of visitor parking across the development under the plans submitted with the application. Amended plans have been received which add 4no additional visitor spaces along the spine road through the development and the LHA is now content with the level of visitor parking provision.
- 9.77. In addition, in light of the LHA's advice, any permission given would need to be subject of a condition requiring additional cycle parking provision across the development.

- 9.78. In relation to the wider transport infrastructure, the LHA has requested contributions to accommodate the increased demand on highway infrastructure arising from proposed development. Without this, the severe congestion impacts of cumulative development would not be appropriately mitigated. The proposed development would contribute directly to the congestion impact on Warwick Road and therefore a financial contribution is sought to east-west strategic movement improvements on the Warwick Road corridor (covering the roundabout junctions with Ruscote Avenue and Orchard Way) in accordance with the Local Transport Plan. This contribution is based on the strategic transport contribution formula outlined in the Cherwell Developer Contributions SPD (2018).
- 9.79. A financial contribution is also sought to sustain and improve the local bus service which offers connectivity with Banbury Town Centre. A contribution of £1,429 per dwelling is required which is the same amount per dwelling as has been secured on the wider site. This is considered to be required in accordance with the Local Plan policy and Government guidance in the NPPF.

#### *Conclusion*

- 9.80. Overall, subject to conditions and legal agreement, the highway impacts of the development are considered acceptable and comply with the relevant local and national planning policy.

#### Affordable Housing and Housing Mix

##### *Policy context*

- 9.81. Policy BSC3 of the CLP 2015 states that all proposals that include 11 or more dwellings in Banbury will be expected to provide at least 30% of new housing as affordable. It goes on to state that this should be a mix of affordable rent (70%) and intermediate tenure (30%).
- 9.82. Policy BSC4 requires that new development provide a mix of homes to meet current and expected future requirements in the interests of meeting housing need and creating socially mixed and inclusive community.

##### *Assessment*

- 9.83. The proposal incorporates a mix of 1, 2, 3 and 4 bedroom properties in accordance with Policy BSC4 of the Cherwell Local Plan. The development necessitates the provision of 11no Affordable Houses and these are included in the proposals, in accordance with Policy BSC3, and the Council's housing officers are content with the proposals in this regard. This would need to be secured through a legal agreement.

#### Impact on Local Infrastructure

##### *Policy Context*

- 9.84. Policy INF1 of the CLP 2015 states that: "*Development proposals will be required to demonstrate that infrastructure requirements can be met including the provision of transport, education, health, social and community facilities.*" Policy Banbury 5 also requires contributions towards additional school places, extension and improvement of bus service and community facilities.
- 9.85. Policy BSC11 of the CLP 2015 states that: "*Development proposals will be required to contribute to the provision of open space, sport and recreation, together with*

*secure arrangements for its management and maintenance. The amount, type and form of open space will be determined having regard to the nature and size of development proposed and the community needs generated by it. Provision should usually be made on site in accordance with the minimum standards of provision set out in 'Local Standards of Provision – Outdoor Recreation'. Where this is not possible or appropriate, a financial contribution towards suitable new provision or enhancement of existing facilities off site will be sought, secured through a legal agreement."* Policy BSD12 requires new development to contribute to indoor sport, recreation and community facilities.

- 9.86. The Developer Contributions Supplementary Planning Document (SPD) sets out the position in respect of requiring financial and on site contributions from new development towards ensuring the necessary infrastructure or service requirements are provided to meet the needs of development, and to ensure the additional pressure placed on existing services and infrastructure is mitigated. This is the starting point for negotiations in respect of completing S106 Agreements.

#### *Assessment*

- 9.87. Where on and off site infrastructure/measures need to be secured through a planning obligation (i.e. legal agreement) they must meet statutory tests set out in regulation 122 of the Community Infrastructure Ley (CIL) Regulations 2010 (as amended). These tests are that each obligation must be:

- a) Necessary to make the development acceptable in planning terms;
- b) Directly related to the development;
- c) Fairly and reasonably related in scale and kind to the development.

- 9.88. Where planning obligations do not meet the above statutory tests, they cannot be taken into account in reaching a decision. In short, these tests exist to ensure that local planning authorities do not seek disproportionate and/or unjustified infrastructure or financial contributions as part of deciding to grant planning permission. Officers have had regard to the statutory tests of planning obligations in considering the application and Members must also have regard to them to ensure that any decision reached is lawful.

- 9.89. Having regard to the above, in the event that Members were to resolve to grant planning permission, the following items would in officers' view need to be secured via a legal agreement with both Cherwell District Council and Oxfordshire County Council in order to secure an appropriate quality of development as well as adequately mitigate its adverse impacts:

#### *Cherwell District Council*

- Provision of and commuted sum for maintenance of open space including open space, hedgerows, trees and attenuation features
- Provision of and commuted sum for maintenance of equipped Local Area of Play (100sqm activity zone – 400sqm including buffer) or off-site contribution towards the improvement of a LAP in the vicinity of the site;
- Off-site outdoor sports facilities provision – financial contribution towards the extension/new clubhouse at North Oxfordshire Academy.
- Off-site indoor sports facilities – financial contribution towards improvements and enhancements to Banbury West End Tennis Club or similar local facility
- Community hall facilities – financial contribution towards the improvement/enhancement of Hanwell Fields Community Hall or similar local facility
- £106 per dwelling for bins

- Provision of at least 30% affordable housing (70% affordable/social rent and 30% as other intermediate affordable)
- Provision of 2 new pedestrian accesses up to the boundary of the site and allow public access through these points

Oxfordshire County Council

- £1,428.57 per dwelling to sustain and enhance the local bus service
- £1,869 per dwelling towards 'east west strategic movements – Warwick Road corridor'
- Obligation to enter into a S278 agreement to secure the new access and improvements.
- £44,932 contribution (indexed, and based on 34 dwellings) towards nursery provision for expansion of provision at Harriers Banbury Academy
- £276,831 contribution (based on 34 dwellings) towards the primary school at Southam Road
- £176,492 contribution (based on 34 dwellings) towards secondary (incl. sixth form) provision in the local area

9.90. CDC's Developer Contributions SPD states that new residential development will be expected to contribute towards the provision of additional health care infrastructure generated by its population growth where there is insufficient existing capacity, well located to serve the development. Whilst the Oxfordshire Clinical Commission Group has been consulted, they have not provided further information to understand where any contribution would be spent. Thus, officers do not consider that they can request contributions towards health care infrastructure.

*Conclusion*

9.91. A number of items would need to be secured via a legal agreement with both Cherwell District Council and Oxfordshire County Council in order to secure an appropriate quality of development as well as adequately mitigate its adverse impacts and local infrastructure.

Other matters

9.92. Saved Policy ENV12 of the CLP 1996 sets out that development on land which is known or suspect to be contaminated will only be permitted if

- (i) Adequate measures can be taken to remove any threat of contamination to future occupiers of the site.
- (ii) The development is not likely to result in contamination of surface or underground water resources
- (iii) The proposed use does not conflict with other policies in the plan.

9.93. The site is on land which is potentially contaminated and the Council's Environmental Protection Officer (EPO) therefore recommends that phased contaminated land conditions need to be attached should permission be granted. Officers agree with this assessment.

9.94. Regarding air quality, the Council's EPO requests that ducting is provided for the future installation of Electric Vehicle charging infrastructure in order to make resident parking places EV ready for future demand. The NPPF and Policies SLE4 and ESD1 of the CLP 2015 encourage and support the incorporation of measures into new development that promote more sustainable forms of transport. The provision of EV charging infrastructure is also reflected in the Council's Infrastructure Delivery



Plan. It is considered reasonable and necessary for this to be secured through a condition of any permission given.

- 9.95. Policy ESD1 of the CLP 2015 states that measures should be taken to mitigate the impact of development within the District on climate change, and Policy ESD2 of the CLP 2015 seeks to achieve carbon emission reductions. Policy ESD3 of the CLP 2015 encourages sustainable construction methods. The reference to allowable solution in Policy ESD2 and 'zero carbon' are no longer being pursued by the government so are no longer relevant. However, the water usage requirements of ESD3 are still required to be met. In regard to energy efficiency the Council now seeks to secure in excess of that required under the 2013 Building Regulations. These could be controlled through a condition.

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

- 10.1. The proposal is located on a strategic housing allocation where the principle of new residential development is considered acceptable. Whilst the proposal would lead to the number of dwellings in the policy being exceeded, this is not considered to be a material increase and the policy allows for some flexibility. On balance, and taking into account the density of the scheme and its compliance with the Design Code for the site, and the need to preserve most of the key natural features of the site and contribute to diversity, it is considered that the proposal for 36 dwellings is acceptable. Subject to the concerns of the drainage engineer being addressed and the applicant demonstrating that a satisfactory drainage strategy can be delivered for the site, the proposal is considered to be acceptable.
- 10.2. The scheme would provide the social and economic benefits associated with the provision of new housing and would also provide additional affordable housing in the district.
- 10.3. Overall, subject to conditions and a legal agreement and resolution of drainage matters, the development is considered to comply with the Development Plan when read as a whole and it is recommended that planning permission be granted.

## **11. RECOMMENDATION**

**RECOMMENDATION – DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT TO GRANT PERMISSION SUBJECT TO RECEIPT OF SATISFACTORY AMENDED PLANS / INFORMATION AND NO OBJECTIONS TO THAT ADDITIONAL INFORMATION FROM THE LEAD LOCAL FLOOD AUTHORITY AND SUBJECT TO THE CONDITIONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY) AND THE COMPLETION OF A PLANNING OBLIGATION UNDER SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990, AS SUBSTITUTED BY THE PLANNING AND COMPENSATION ACT 1991, TO SECURE THE FOLLOWING (AND ANY AMENDMENTS AS DEEMED NECESSARY):**

- a) Provision of at least 30% affordable housing on site
- b) Provision of and commuted sum for maintenance of open space including open space, hedgerows, trees and attenuation features
- c) Provision of and commuted sum for maintenance of equipped Local Area of Play, or off-site contribution towards the improvement of a LAP in the vicinity of the site;
- d) contribution towards Off-site outdoor sports facilities provision
- e) contribution towards Off-site indoor sports facilities
- f) contribution towards Community hall facilities
- g) £106 per dwelling for bins

- h) Provision of 2 new pedestrian accesses up to the boundary of the site and allow public access through these points
- i) £1,428.57 per dwelling to sustain and enhance the local bus service
- j) £1,869 per dwelling towards 'east west strategic movements – Warwick Road corridor'
- k) Obligation to enter into a S278 agreement to secure the new access and improvements.
- l) contribution towards nursery provision
- m) contribution towards the primary school provision
- n) contribution towards secondary (incl. sixth form) provision
- o) contribution towards provision of biodiversity habitats at Banbury Country Park

FURTHER RECOMMENDATION: IF THE SECTION 106 AGREEMENT / UNDERTAKING IS NOT COMPLETED AND THE PERMISSION IS NOT ABLE TO BE ISSUED WITHIN SIX MONTHS OF THIS PLANNING COMMITTEE AND NO EXTENSION OF TIME HAS BEEN AGREED BETWEEN THE PARTIES, IT IS FURTHER RECOMMENDED THAT THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT IS GIVEN DELEGATED AUTHORITY TO REFUSE THE APPLICATION FOR THE FOLLOWING REASON:

1. The applicant has failed to demonstrate an appropriate drainage strategy for the site that would avoid harm to trees subject of a Tree Preservation Order and/or to the local area or existing or future occupiers through increased flood risk. The proposed development would be contrary to Policies ESD6, ESD7 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.
2. In the absence of the completion of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement, the Local Planning Authority is not satisfied that the necessary infrastructure directly required both on and off site as a result of this development, in the interests of: safeguarding public infrastructure, education provision, community facilities and indoor and outdoor sports/recreation facilities; mitigating highway safety concerns; encouraging use of sustainable modes of transportation; delivering mixed and balanced communities by the provision of affordable housing; and securing on site future maintenance arrangements will be provided. This would be contrary to Policy INF1, PSD1, SLE4, BSC3, BSC4, BSC9, BSC10, BSC11, BSC12, Banbury 5, ESD1 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

## CONDITIONS

### **Time Limit**

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

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

### **Compliance with Plans**

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

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

3. No development shall commence unless and until a plan showing car parking provision for unallocated provision to be accommodated within the site, has been submitted to and approved in writing by the Local Planning Authority. The approved parking spaces shall be laid out, surfaced, drained and completed in accordance with the approved details prior to the first occupation of the development and shall be retained for the parking of vehicles at all times thereafter.
4. No development shall commence unless and until a Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved Construction Traffic Management Plan shall be implemented and operated in accordance with the approved details.

Reason - In the interests of highway safety and the residential amenities of neighbouring occupiers 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.

5. Prior to the commencement of the development hereby approved, full specification details of the vehicular accesses, driveways and turning areas to serve the dwellings, which shall include construction, layout, surfacing and drainage, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the first occupation of any of the dwellings, the access, driveways and turning areas shall be constructed in accordance with the approved details.

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

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

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

7. Notwithstanding the plans hereby approved, and prior to any construction of the dwelling above slab level, a revised schedule of externally facing materials for the 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 details and retained as such thereafter.

Reason - To ensure the satisfactory appearance of the completed development

and to safeguard the character and appearance of the area and to comply with Policy ESD15 of the Cherwell Local Plan Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

8. Notwithstanding the plans hereby approved, no development shall proceed above slab level on any dwelling until a stone sample panel (minimum 1 sq m in size) has been constructed on site and inspected and approved in writing by the Local Planning Authority. Thereafter, all of the external walls of those dwellings approved to be in stone pursuant to the requirements of Condition 4 of this permission, and the means of enclosure to those dwellings approved to be in stone pursuant to the requirements of Condition x of this permission, shall be laid, dressed, coursed and pointed in strict accordance with the approved stone sample panel.

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

9. Notwithstanding the details submitted, and prior to the construction of any dwelling above slab level, full details of the architectural details of the dwelling(s), including windows, doors, heads, cills, lintels, eaves and verges (at a scale of 1:10), shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be implemented fully in accordance with the approved details and shall be retained as such thereafter.

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

10. Prior to any landscaping of the site and prior to the first occupation of the development hereby approved, and notwithstanding the submitted details, a revised and fully detailed landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme for landscaping the site shall include:-

- (a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas,
- (b) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,
- (c) details of the hard surface areas, including pavements, pedestrian areas, reduced-dig areas, crossing points and steps,
- (d) means of enclosure and boundary treatments.

The hard landscape elements shall be implemented prior to the first use or occupation of the parts of the development they are intended to serve and shall be retained as such thereafter.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031, saved Policy C28 of the

Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

11. 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.

12. 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 be firstly submitted to and approved in writing by the Local Planning Authority. Thereafter, the covered cycle parking facilities shall be permanently retained and maintained for the parking of cycles in connection with the development.

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

13. Prior to the first occupation of the development, a refuse collection strategy shall be submitted for approval of the Local Planning Authority. The refuse collection strategy shall identify the location and dimensions of bin collection points which shall not be located so as not to cause obstruction.

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

14. Before each respective dwelling is first occupied all first floor openings identified on the plans listed in Condition 1 of this permission to be obscurely glazed, that is all bathrooms and en suite bathrooms, shall be glazed with obscure glass (at least Level 3) only and, unless fixed shut, fixed with a ventilation stay restricting the opening of the window to no more than 30 degrees from the elevation in question, and must be permanently maintained as such at all times thereafter.

Reason - To safeguard the living conditions of neighbouring residents and future occupiers of the development 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.

15. Before each respective dwelling is first occupied the south east facing first floor openings and south west facing first floor window in the rear gable projection serving Plot 1, the side facing first floor openings to Plot 10, the south facing first floor window to Plot 13, the west (rear) facing first floor windows to Plot 14, the west facing first floor openings to Plot 32 and the side facing first floor openings to Plot 33 shall be glazed with obscure glass (at least Level 3) only and fixed

with a ventilation stay restricting the opening of the window to no more than 30 degrees from the elevation in question, and must be permanently maintained as such at all times thereafter.

Reason - To safeguard the living conditions of neighbouring residents and future occupiers of 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.

16. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting or amending those Orders with or without modification), and with the exception of the rear elevations to Plots 15-19, and 24-35 inclusive, no additional windows, doors or any other openings shall be inserted at first floor level or above in the development hereby permitted, or, in the case of the west elevations of Plot 15 and 20, at ground floor level, without the grant of further specific planning permission from the Local Planning Authority.

Reason - To safeguard the living conditions of neighbouring residents and future occupiers of 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. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting or amending those Orders with or without modification), and with the exception of Plots 10, 30, 31, 32, 33, 34, 35 and 36 in respect of Class A development, no development within Schedule 2, Part 1, Classes A - E (inclusive) shall take place on the dwellinghouses hereby permitted or within their curtilage without the grant of further specific planning permission from the Local Planning Authority.

Reason - To ensure and retain the satisfactory appearance of the completed development and to safeguard the character and appearance of the area and to ensure a satisfactory living environment for future occupiers, to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

18. In the case of those plots to be externally faced in brick as amended by the conditions of this permission, the brick headers to those plots shall be constructed only using the same brick as the main walls to that respective plot.

Reason - To ensure and retain the satisfactory appearance of the completed development and to safeguard the living conditions of neighbouring residents and future occupiers of 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.

19. Notwithstanding the provisions of Part 2, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting or amending those Orders with or without modification), no walls, gates, fences or planting shall be erected or allowed to grow on or adjacent to the highway boundary exceeding 0.9 metres in height above the

level of the adjacent carriageway.

Reason: To afford adequate visibility at the access/junction and to cater for the expected volume of traffic joining the existing highway network and in the interests of highway safety, 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.

20. Development shall not begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall not be implemented other than in accordance with the approved details and shall be implemented before the development is completed. The scheme shall also include:

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

Reason: To ensure that sufficient capacity is made available to accommodate the new development and in order to avoid adverse environmental impact upon the community and to ensure compliance with Policy ESD 7 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and maintained thereafter and to comply with Policy ESD7 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

21. The parking provision shown on the plans hereby approved shall be constructed and made available for use before the development is brought into use and other than in the case of garages shall be retained and maintained for the purposes of car parking at all times.

Reason: To safeguard the character and appearance of the area and the amenities of occupiers of the development and in the interests of highway safety 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.

22. Prior to the commencement of the development hereby approved, and notwithstanding the submitted details, full details, locations, specifications and construction methods for all purpose built tree pits and associated above ground features, to include specifications for the installation of below ground, load-bearing 'cell structured' root trenches, root barriers, irrigation systems and a

stated volume of a suitable growing medium to facilitate and promote the healthy development of the proposed trees, 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 details and specifications.

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

23. Prior to the commencement of the development hereby approved, and notwithstanding the submitted details, full details, locations, specifications and construction methods for all tree pits located within soft landscaped areas, to include specifications for the dimensions of the pit, suitable irrigation and support systems and an appropriate method of mulching, 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 details and specifications. 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.

24. 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 ESD15 of the Cherwell Local Plan Part 1 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996, Policy PD5 of the Mid-Cherwell Neighbourhood Plan (2017-2031) and Government guidance contained within the National Planning Policy Framework.

25. a) No retained tree shall be cut down, uprooted, damaged or destroyed, nor shall any retained tree be pruned in any manner, be it branches, stems or roots, other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority. All tree works shall be carried out in accordance with BS3998:Recommendations for Tree Works.  
b) If any retained tree is cut down, uprooted, destroyed or dies, another tree shall be planted in the same place in the next planting season following the removal of that tree, full details of which shall be firstly submitted to and approved in writing by the Local Planning Authority.

In this condition a "retained tree" is an existing tree which shall be retained in accordance with the approved plans and particulars; and paragraphs (a) and (b) shall have effect until the expiration of five years from the date of this reserved matters permission.

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.

26. If any retained tree is identified as being or having the potential to be a 'veteran tree' [as defined in BS:3998 section 3 - 'Terms & Definitions'], it shall be the subject of a specific management plan devised by a qualified and competent arboriculturalist. No work to the veteran tree, or within its vicinity, which might compromise the environs of the tree shall be carried out without the written approval of the Local Planning Authority.

Reason - To ensure the retention and protection of veteran trees which are important ecological habitats for a wide range of wildlife including Red Data Book species as identified in the UK Biodiversity Action Plan (BAP) and are of significant cultural value and to comply with the adopted Cherwell BAP and Government guidance contained within the National Planning Policy Framework.

27. Prior to the commencement of the development hereby approved including any demolition, and any works of site clearance, a method statement and scheme for enhancing biodiversity on site such that an overall net gain for biodiversity is achieved, to include details of enhancement features and habitats both within green spaces and integrated within the built environment, shall be submitted to and approved in writing by the Local Planning Authority. This shall also include a timetable for provision. Thereafter, the biodiversity enhancement measures shall be carried out and retained in accordance with the approved details.

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

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

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

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

29. Prior to the installation of any external lighting a full lighting strategy to include illustration of proposed light spill and which adheres to best practice guidance, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved document.

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

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

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

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

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

32. If a potential risk from contamination is identified as a result of the work carried out under condition 31, prior to the commencement of the development hereby permitted, a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals shall be documented as a report undertaken by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place unless the Local Planning Authority has given its written approval that it is satisfied that the risk from contamination has been adequately characterised as required by this condition.

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

33. If contamination is found by undertaking the work carried out under condition 32, 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 that it is satisfied that the risk from contamination has been adequately characterised as required by this condition.

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

34. If remedial works have been identified in condition 33, the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 33. A verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.

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

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

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

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

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

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

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

CASE

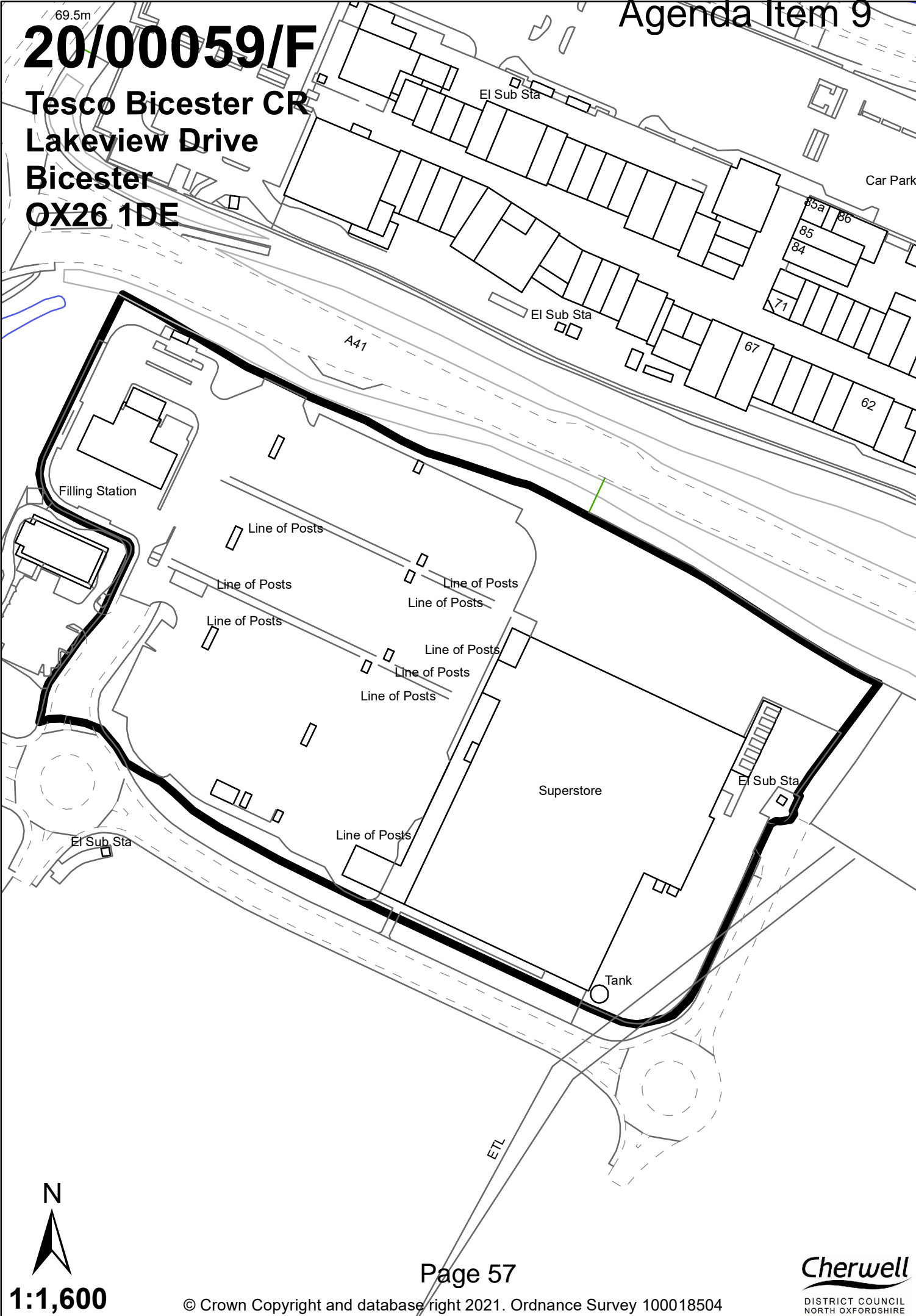
OFFICER:

Nathanael

Stock

69.5m  
**20/00059/F**

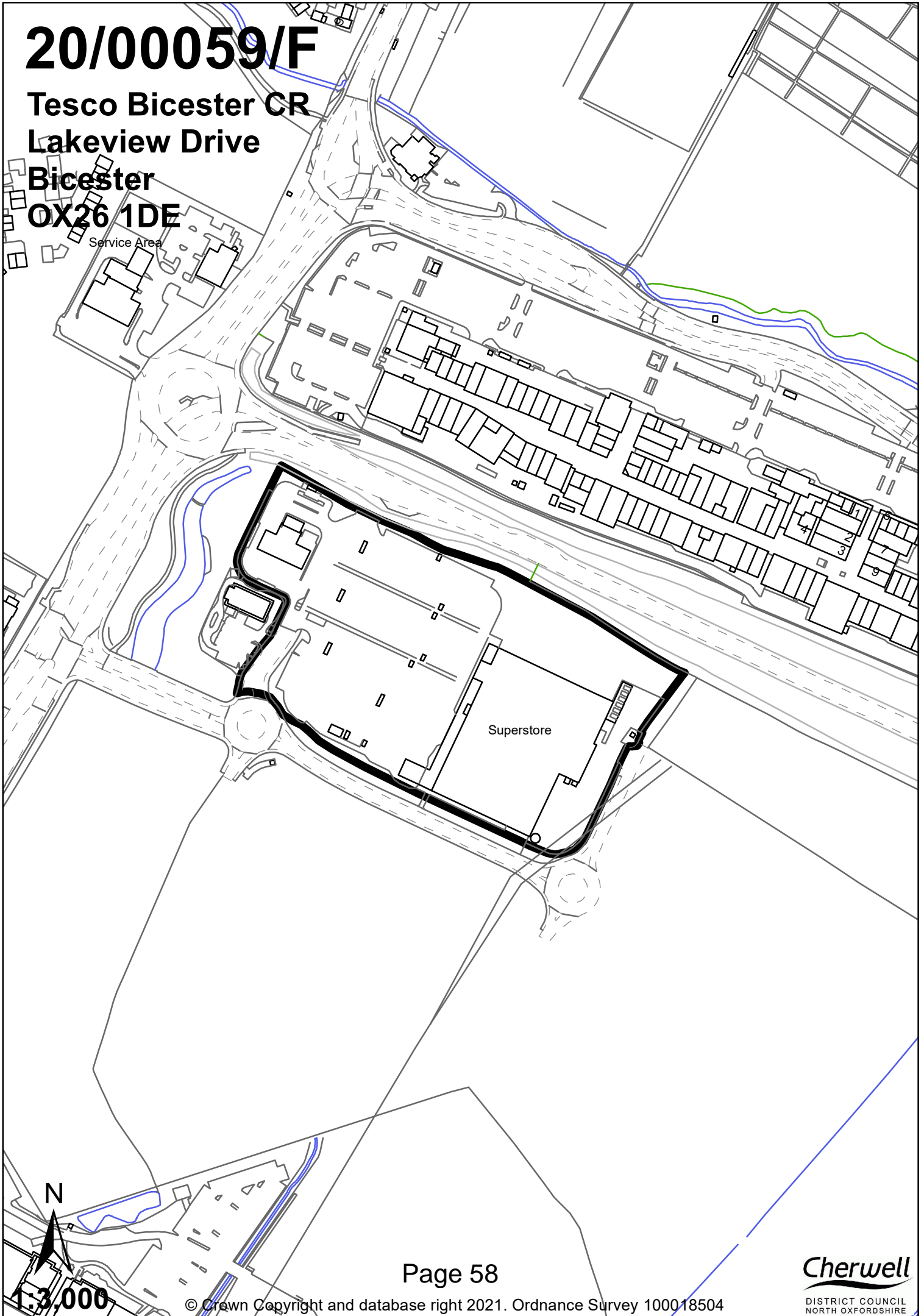
**Tesco Bicester CR**  
**Lakeview Drive**  
**Bicester**  
**OX26 1DE**



# 20/00059/F

Tesco Bicester CR  
Lakeview Drive  
Bicester  
OX26 1DE

Service Area



**Case Officer:** Linda Griffiths

**Applicant:** Tesco Stores Ltd

**Proposal:** Removal of existing spoil and erection of two units for non-food retail

**Ward:** Bicester South and Ambrosden

**Councillors:** Councillor Cotter, Councillor Sames, Councillor Wing

**Reason for Referral:** Major development

**Referral:**

**Expiry Date:** 9 October 2020

**Committee Date:** 20 May 2021

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

- 1.1. The application site is located to the south of the A41, opposite the Bicester Village shopping outlet and approximately 1km from Bicester town centre. It extends to approximately 0.58ha and is situated to the immediate north of the Tesco superstore. It is part of an approved development site within the recent Tesco superstore, petrol filling station and car park. The main highway works of the consented application, together with the landscaped buffer area separating the Tesco site from the A41 have been completed. The construction of the Tesco store, car park and petrol filling station was completed in early 2016, and is now fully trading.
- 1.2. The land comprises a large spoil heap following land levelling works related to the food superstore's construction. To the west lies Tesco's car park and beyond this, its petrol filling station. To the south are open fields for which there is a permission for offices (Bicester Business Park) and beyond this, a retail park comprising a garden centre and a range of non-food outlets. To the northwest, beyond Oxford Road, is an Esso petrol filling station and related services.
- 1.3. The application site is an out of centre location, although situated alongside other existing food and non-food retail outlets and separated from the town centre by the A41 and the Bicester Village development.

## **2. CONSTRAINTS**

- 2.1. The application site is allocated for development through Policy Bicester 4 of the adopted Cherwell Local Plan 2011-2031. Lapwing, an Oxon Notable and Protected Species may be present within the vicinity of the site. The site is a minor aquifer, is within an archaeological alert area and the land could potentially be contaminated.

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

- 3.1. The proposed development involves the removal of existing spoil and the erection of two non-food retail units (both with full cover mezzanines), creating a retail development of 3,710m<sup>2</sup> (gross internal area). The proposed units would sit alongside the Tesco superstore on its northern side, adjacent to the boundary with the A41.

- 3.2. The units will comprise a detached unit adjacent to the Tesco store of similar height and depth. The units will have independent customer entrances from the car park with mezzanines accessed via internal stairs. The design and appearance of the new units will also be similar to the existing Tesco store with projecting front canopy. It is proposed that servicing will take place from the rear of the units. An additional 15 car parking spaces will be provided to the existing parking provision adjacent to the new units.
- 3.3. Access to the new units is proposed off the existing Tesco access road, which leads from the roundabout off Lakeview Drive. A pedestrian path will be provided along the southern boundary of the application site. Several existing Tesco parking spaces would need to be relocated, although the car park will fundamentally remain intact.

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

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

12/01193/F Permission for new Tesco store with associated parking and petrol filling station

15/01651/F Minor amendments to above permission granted consent

17/00889/F Permission granted for McDonalds drive-thru on land to south of PFS

20/00108/SO EIA not required

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

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

18/00182/PREAPP – Removal of existing spoil and erection of two units for non-food retail with full cover mezzanines.

- 5.2. The principle of the provision of two new retail units on the site will depend on the outcome of the sequential test and retail impact assessment. It is considered that the scope of these matters needs to be considered flexibly given the speculative nature of the proposal. The proposed site is also complex in terms of the highway constraints given the amount of committed and proposed development in the locality. Opportunities should be looked at to improve the pedestrian and cyclist connectivity of the site to the surrounding uses and the town centre. In respect of the design of the proposal it is considered that a strong landscaping scheme will be required to mitigate the visual impacts of the development in accordance with Policy Bicester 4.

#### **6. RESPONSE TO PUBLICITY**

- 6.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments on supplementary and amended details and information was **18 March 2021**. Only one email representation was received as a result of this consultation process.
- 6.2. The Regional Director of Motion commented that the application originally lacked a Planning and Retail Statement to assess retail impacts. No further comment was



received following the submission of the necessary Retail Impact Assessment and Addendum report carried out on behalf of Tesco by MRPP.

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

## 7. RESPONSE TO CONSULTATION

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

### PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

- 7.2. BICESTER TOWN COUNCIL: **No comments received**

### CONSULTEES

- 7.3. OCC HIGHWAYS: **Objections** - the TA has not been robust in its estimation of trip rate and this has not been satisfactory to lead to an accurate assessment of the impact on the network. This development shall cumulatively exacerbate the situation to a severity that has not been demonstrated to be adequately mitigated. Pedestrian activity must be revised to provide a layout that enables a high degree of integration and connectivity between the site and existing development in accordance with the local plan.

**Update 14 August 2020:** Following submission of further details **No objection** subject to conditions and S.106 obligations relating to strategic highway infrastructure of £71,738.52, Bus services £43,170 and Travel Plan monitoring £2,040 and conditions relating to construction traffic management plan, electric charging points and travel plan.

- 7.4. OCC LEAD FLOOD AUTHORITY: **Objection** further information required to enable a full technical assessment and audit of the proposed surface water management strategy, flood risk and SuDS usage.

**Update 13 August 2020: Objection** the drainage strategy is not in line with local and national standards and the FRA and Drainage Strategy do not cover the full application boundary.

**Update 3 September 2020: Objection** as the proposed design does not offer a sustainable drainage and surface water management system in accordance with OCC local standards.

**Update 8 December 2020: Objection** the attenuation storage provided is not adequate.

**Update 19 January 2021: Objection** comments raised previously have not been addressed and the run-off from the site is being discharged unrestricted into the public sewer, this is not in line with local and national standards.

**Update 29 March 2021:** Following submission of further details **No objection** subject to a drainage condition.

- 7.5. PLANNING POLICY: **No comments received**

- 7.6. CDC RETAIL CONSULTANT DPDS Consulting: The site is an out of centre location and the sequential and impact tests are the main material considerations in terms of

retail planning policy. The sequential test requires consideration to be given to the availability of suitable town centre sites and edge of centre sites. Only if there are no suitable edge of centre sites available should out of centre sites be considered and these should be accessible and well connected to the town centre. There are two aspects to the impact test, the impact on the vitality and viability of the town centre including local consumer choice and trade in the town centre and wider catchment area; and the impact of the proposal on existing, committed and planned public and private investment. Originally an **Objection** was raised on the grounds that the level of detail supplied in relation to the sequential test is very limited and falls far below that generally submitted for sequential site assessments. The sites are not identified on plans and are rejected in single paragraphs. There is a need to assess the M&S unit in Sheep Street. The impact test does not present a reliable assessment of the likely impact. In the absence of further analysis, the proposal is contrary to the development plan and the NPPF on retail planning matters.

**Update September 2020:** Following revised assessment submission by the applicants, overall it is advised that the application **should not be refused** on retail impact grounds.

**Update January 2021:** Following further sequential test assessment by the applicant, it is concluded that the vacant M&S unit could not be considered suitable as a sequentially preferable alternative to the application proposal and the **sequential test is now passed**.

- 7.7. CDC ENVIRONMENTAL PROTECTION: **No objection** subject to the imposition of conditions regarding noise levels from plant no greater than tesco adjacent but this condition has not been included as it is imprecise, air quality impact assessment, contamination and electric vehicle charging points.
- 7.8. CDC ARBORICULTURAL OFFICER: **No objection** the tree removals are of smaller trees internal to the site which appear appropriately mitigated with replacement planting forming a new visual barrier from the A41. Boundary vegetation to be retained appears to have been afforded appropriate protection in line with BS5837.
- 7.9. CDC LANDSCAPE OFFICER: **Supports** this application, the landscape visual appraisal and the proposed scheme are acceptable.
- 7.10. CDC ECOLOGY OFFICER: **No objection** subject to a condition requiring the development to accord with the ecological survey.
- 7.11. CDC BUILDING CONTROL: **Comments** that the proposal will require building regulation approval, fire engineers design statement and disabled access statement.
- 7.12. ECONOMIC DEVELOPMENT: **No comments received**
- 7.13. THAMES WATER: **No objection**
- 7.14. THAMES VALLEY POLICE: **No comments received**
- 7.15. BICESTER DELIVERY TEAM: **No comments received**

## **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
- PSD1 – Presumption in favour of sustainable development
- SLE1 – Employment generating development
- SLE2 – Securing dynamic town centres
- SLE4 – Improved transport and connections
- ESD1 – Mitigating and adapting to climate change
- ESD2 – Energy hierarchy and allowable solutions
- ESD3 – Sustainable construction
- ESD4 – Decentralised Energy Systems
- ESD5 – Renewable Energy
- ESD7 – Sustainable drainage systems
- ESD10 – Protection and enhancement of biodiversity and natural environment
- ESD13 – Local landscape protection and enhancement
- Policy Bicester 5 – Strengthening Bicester Town Centre
- INF1 - Infrastructure

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

- C28 – Layout, design and external appearance of new development
- ENV12 – Contaminated land
- TR1 – Transportation Funding

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)
- Human Rights Act 1998 (“HRA”)
- Equalities Act 2010 (“EA”)

8.4. Council Corporate Priorities

Cherwell District Council’s Business Plan for 2019-20 sets out the Council’s three strategic priorities which form our overarching business strategy. Below these are the key actions for the year 2019–20. This is a strategy which looks to the future taking into account the priorities and aspirations of the communities who live and work in the district.

The three corporate priorities are to ensure the District is “Clean, Green and Safe”, that it supports “Thriving Communities & Wellbeing”, and is a District of “Opportunity & Growth”. All three priorities are of significance to the determination of planning

applications and appeals. Below these priorities, the key actions which are of most relevance to planning applications and appeals are: (1) deliver the Local Plan; (2) increase tourism and increase employment at strategic sites; (3) develop our town centres; (4) protect our built heritage; (5) protect our natural environment; (6) promote environmental sustainability; (7) promote healthy place shaping; (8) deliver the Growth Deal; (9) delivery innovative and effective housing schemes; and (10) deliver affordable housing.

The remaining key actions may also be of significance to the determination of planning applications and appeals depending on the issues raised.

The above corporate priorities are considered to be fully compliant with the policy and guidance contained within the National Planning Policy Framework and National Planning Practice Guidance.

## **9. APPRAISAL**

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

- Principle of development
- Sequential test and retail impact
- Transport impact
- Flood Risk and Drainage
- Design and Layout
- Sustainability
- Human Rights and Equalities
- Other Matters
- Planning Obligation

### Principle of Development

- 9.2. The Development Plan for Cherwell District and this particular site comprises the saved policies in the adopted Cherwell Local Plan 1996 and the adopted Cherwell Local Plan Part 1 2011-2031. Section 70(2) of the Town and Country Planning Act 1990 provides that in dealing with applications for planning permission, the local planning authority shall have regard to the provisions of the development plan, so far as is material to the application, and to any other material considerations. Section 38 of the Planning and Compulsory Purchase Act 2004 requires that if regard is to be had to the development plan for the purpose of any determination to be made under the planning acts, the determination must be in accordance with the development plan unless material considerations indicate otherwise. This is also reflected in the National Planning Policy Framework (NPPF).
- 9.3. Policy Bicester 5 of the adopted Cherwell Local Plan 2011-2031 seeks to strengthen the existing town centre and identifies the extent of the town centre accordingly. The application site is not within Bicester town centre as defined by this policy.
- 9.4. The application site relates to part of the Policy Bicester 4 strategic allocation in the adopted Cherwell Local Plan 2011-2031. In accordance with Policy Bicester 4, outline planning permission was granted for 6,000sqm of business employment development to generate up to 6,000 new jobs, primarily in B1a office use across the entire allocated site (07/01106/OUT) refers. Subsequently planning permission was granted on part of this allocation for the erection of the current Tesco superstore (12/01193/F) refers which was previously situated adjacent to Bicester Village in order to facilitate an expansion of Bicester village whilst retaining an enhanced food superstore sufficient to meet identified retail needs without

substantively compromising the employment aspirations of the remainder of the Policy Bicester 4 employment allocation. This application site relates to an area of land that was not developed by Tesco at that time.

#### Sequential Test and Retail Impact

- 9.5. The NPPF advises that local planning authorities should plan positively, to support the role that town centres play at the heart of local communities. It also advises that where suitable and viable town centre sites are not available for main town centre uses, local authorities should allocate appropriate edge of centre sites that are well connected to the town centre. The NPPF sets out two key tests that should be applied for town centre uses which are not in an existing town centre and which are not in accordance with an up to date plan – the sequential test and the impact test.
- 9.6. The NPPF requires a town centre first approach that directs retail and other town centre uses towards town centres and encourages the growth of centres. The adopted Cherwell Local Plan 2011-2031 is consistent with this approach and aims to support Bicester town centre's vitality and viability, its policies are therefore up to date in this respect. Policy SLE2 directs retail and other town centre uses towards the District's town centres and states that only if suitable sites are not available in edge of centre locations should out of centre locations be considered. Policy SLE2 sets the local threshold for the requirement of an impact assessment in Bicester at 1,500sqm. The proposal as submitted would allow a total net floorspace of 2,598sqm of non-food retail floorspace, which is above the Bicester threshold and triggers a requirement for an impact assessment. An area of search for the expansion of Bicester town centre has been identified but the redefinition of the centre will be considered through Part 2 of the Local Plan. It is a material consideration in considering the sequential test.
- 9.7. The sequential test should be considered first as this may identify that there are preferable sites in town centres for accommodating main town centre uses. The sequential test will identify development that cannot be located in town centres, and which then would be subject to the impact test. The impact test determines whether there would be likely significant adverse impacts of locating main town centre development outside of existing town centres.
- 9.8. The application submission is supported by a Planning and Retail Assessment prepared by Martin Robeson Planning Practice on behalf of the applicant dated June 2020. In considering the sequential test the applicant must demonstrate that there are no sites within the town centre that are suitable and available and upon which the proposed development would be viable. The application proposes the erection of 2 non-food retail units, although there is no known occupier, with a total of 3716sqm net tradable floorspace on two floors.
- 9.9. The sequential test seeks to rely on those also carried out in respect of recent retail applications within the vicinity of the site and sets out in some detail the Council's conclusions on the sequential test in relation to these developments and argues that it cannot come to a different conclusion in relation to this application. There is some force in this argument, however the sequential test is proposal specific and the Council must consider the test in relation to the application proposal and circumstances pertaining now. For example, the Bicester Service Station proposal was for a coffee shop and drive through restaurant and the suitability of available sites was considered for those uses.

- 9.10. In terms of the evidence submitted relating to alternative sites with this application, it is quite brief and only provides minimal information. However, having regard to this and other potential sites such as Claremont and Cattle Market Car parks, these are in active use and unlikely to come forward at this point in time. An assessment of vacant units within the town centre itself was undertaken by the Council's Retail consultant who did not identify any suitable units of sufficient floorspace to accommodate the application proposal or a flexible interpretation of the, with the exception of the M&S Simply Food Unit which has now relocated to the retail units at Kingsmere. The applicant was therefore requested to include this within the sequential test assessment.
- 9.11. A further sequential assessment was submitted in January 2021 and has been assessed by the Council's retail consultant. We are advised that the additional sequential report submitted on behalf of the applicant which sets out the main legislative and policy background, correctly identifies that 'suitable' in this context means suitable for the development proposed by the applicant rather than 'suitable for meeting identified deficiencies in the retail provision in the area'. The judgement also noted the in-built tension in the test between the suitability of sites and the need for flexibility. The applicant argues that disaggregation is not a requirement of the sequential test, however, this is not necessarily the case as a number of appeal decisions have made it clear that if two separate retail units are proposed with no functional link between them, that disaggregation can be relevant. The former M&S unit is now on the market and available, however it only has a floorspace of 603sqm.
- 9.12. Having regard to the above, it is considered that the difference in size establishes that the M&S unit could not be considered suitable as a sequentially preferable alternative to the application proposal and the sequential test is now passed.
- 9.13. Turning to retail impact, the NPPF at paragraph 86 advises that main town centre uses should be located in town centres, then in edge of centre locations and only if suitable sites are not available or expected to come available within a reasonable period, should out of centre sites be considered. At paragraph 89 it advises that when assessing applications for retail development outside town centres, which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment if the development more than 2,500m<sup>2</sup> of floorspace (such as the application proposal). This should include assessment of the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area, and, the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider retail catchment.
- 9.14. Paragraph 90 of the NPPF advises 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.
- 9.15. The retail impact assessment which has been prepared by Martin Robeson Planning Practice (MRPP) on behalf of Tesco and submitted with the application documentation has been assessed by the Council's retail consultant. It was concluded that it did not present a reliable assessment of the likely impact, raising a number of concerns; these being, the use of housing led population forecasts, likely underestimation of the turnover of the proposal and the existing commitment, the limited information submitted on shopping patterns in the study area and the likely trade draw of the proposal and commitments, together with a failure to set out the calculations in full. It was therefore concluded that the applicant had failed to demonstrate compliance with the impact test and the proposal was therefore not in accordance with the NPPF or the Development Plan in this respect.

- 9.16. Consequently, a further impact assessment report was submitted which sought to address and respond to the above-mentioned issues was received in August 2020. This has also been independently assessed by the Council's retail consultant who agrees that impact on the town centre as a consequence of this proposal would not be significantly adverse on its own. When taking cumulative impact with the Bicester Shopping Park opposite, it is more balanced, however, on balance, he concludes that refusal on significant impact on the town centre cannot be justified and sustained at appeal.
- 9.17. Having regard to the above, it is therefore accepted that it cannot be demonstrated that the development would have a significant adverse impact on the vitality and viability of Bicester town centre and the proposal is therefore in accordance with the adopted Cherwell Local Plan Part 1 2011-2031 and the NPPF in this respect.

#### Transport Impact

- 9.18. Strategic Objective 13 of the adopted Cherwell Local Plan 2011-2031 aims to reduce the dependency on the private car as a mode of transport and increase opportunities for travelling by other modes. Policy ESD1 sets out an aim to mitigate the impact of development on climate change by delivering development that seeks to reduce the need to travel and which encourages sustainable travel options, including walking, cycling and public transport to reduce the dependence on private cars. Policy SLE4 also has similar objectives. The transport impacts of the development must be considered against these policies and the requirements in Section 9 'Promoting sustainable transport' of the NPPF.
- 9.19. The application is accompanied by a Transport Assessment (TA) prepared by Waterman Infrastructure and Environmental Ltd on behalf of the applicant. The TA has been assessed by OCC as Highway Authority. In respect of the original submission OCC objected on the grounds that they did not consider that the TA had been robust in its estimation of trip rate and therefore it did not provide an accurate assessment of the impact of the development on the network. The TA forecasts that additional weekday peak hour vehicle movements, particularly in the AM peak are relatively low. Further detailed information in this respect can be read in the OCC consultation response dated 24 February 2020.
- 9.20. An improvement to Monday to Friday bus services in the vicinity of the site has been secured by adjacent developments, however, the TA notes that Saturdays are likely to be a day of high demand, and the previously secured improvement does not cover additional bus services at this time. A contribution is therefore requested for public transport improvements. The contribution has now been agreed.
- 9.21. In terms of the strategic highway infrastructure, the cumulative impact of growth development in Bicester will be severe if appropriate contributions are not secured from all development sites towards the strategic transport infrastructure required to mitigate the increase in transport movements, for example the South East Perimeter Road which will help reduce the ever-increasing traffic congestion along the A41 and it is therefore requested that appropriate contributions are made towards this new link road by this development. The contribution has now been agreed.
- 9.22. Vehicular access to the development will be taken from the existing signalised junction access from A41 which currently serves Tesco and McDonalds. This access will also eventually serve Bicester Business Park which also has access from Lakeview Drive. The submitted layout shows the units will be serviced from the rear access road, will have rear service yards which can accommodate manoeuvring of articulated lorries. Whilst the swept path analysis of a 16.5m articulated truck accessing and egressing the service yard is appended to the TA,

OCC requested tracking to show that the site can also be safely accessed by a 13.3m rigid lorry. This has since been addressed and is now acceptable.

- 9.23. Following the initial objections raised by OCC Transport, additional information was provided and presented by the submission of a Technical Note Ref: WCR10002-105-TN-9-1-3 dated 03/08/2020 which has been assessed by OCC. The Technical Note revised the calculation of trip rates where the TRICS dataset presented now excludes regional site selection. The resultant estimation is now considered acceptable.
- 9.24. Having regard to the above, the proposal is now considered acceptable in highway terms and in respect of pedestrian safety and is therefore in accordance with the development plan policies and advice within the NPPF in this respect.

#### Flood Risk and Drainage

- 9.25. The application is accompanied by both a Flood Risk Assessment and Drainage Strategy Report which was assessed by OCC who raised objections on the grounds that the drainage strategy was not in line with local and national standards and the FRA and Drainage Strategy did not cover the full application boundary. Neither did the strategy demonstrate how water quality is to be managed during and after construction.
- 9.26. The flood risk to the development site is very low as the site lies within Flood Zone 1. The FRA for the existing wider site dated June 2007 confirms that the site is not suitable for infiltration and there is no watercourse within reasonable proximity to the proposed site. It is therefore proposed to discharge the surface and foul water flows into the existing on-site networks.
- 9.27. The surface water runoff from the proposed development will be collected via rainwater downpipes and drainage channel and conveyed through a gravity pipe network. The surface water run-off from the service yard will be collected via drainage channels and conveyed through a petrol interceptor to capture any hydrocarbons/oil concentration. These flows will then enter the proposed attenuation tank via a porous pipe surrounded by the granular fill before discharging back into the existing private surface water network.
- 9.28. The foul water run-off from the development is proposed to be discharged to the existing private sewer in the south west corner of the proposed development site. Thames Water have confirmed no objections.
- 9.29. Following lengthy discussions between the applicant's drainage consultants and OCC, the final drainage strategy report (Version 6) was submitted for consideration in March 2021 which has been assessed by OCC and the previous objections have now been removed. Drainage conditions which require the development to be carried out in accordance with the surface water drainage report version 6 and details of the SuDS as built together with maintenance details to be submitted and agreed will be included.
- 9.30. Having regard to the above, the application proposal is now considered acceptable in drainage terms and therefore in accordance with the development plan and the NPPF in this respect.

#### Design and Layout

- 9.31. Section 12 of the NPPF – 'Achieving well designed places' advises that the creation of high quality buildings and places is fundamental to what planning and the



development process should achieve. At paragraph 127 it further advises that planning decisions should ensure that *'developments are visually attractive as a result of good architecture, layout, and appropriate and effective landscaping'*.

- 9.32. Policy ESD15 of the adopted Cherwell Local Plan 2011-2031 advises that design standards for new development, whether housing or commercial development are equally important, and seeks to ensure that we achieve locally distinctive design which reflects and respects the urban or rural landscape and built context within which it sits. The adopted Cherwell Local Plan 1996 contains saved Policy C28 which states that 'control will be exercised over all new development to ensure that the standards of design and layout and external appearance, including choice of materials are sympathetic to the character of the urban or rural context of the development'.
- 9.33. The application is accompanied by a Design and Access Statement (DAS). Policy ESD15 advises that the design of all new development will need to be informed by an analysis of the context, together with an explanation and justification of the principles that have informed the design rationale which should be demonstrated in the design and access statement that accompanies the application.
- 9.34. The DAS has identified the opportunities and constraints relating to the site and proposes that the new development should be a building of its time that positively responds to the quality of the context and creates an interesting and vibrant frontage that is also integrated within its surroundings. The elevational appearance of the proposed units is a continuation of the existing Tesco store design. A projecting canopy is proposed to assist in providing solar protection whilst also providing protection from the elements for customers entering the building. The building has a glazed customer entrance which has been orientated to address the main frontage and car park. The entrances will be clearly defined with signage. Materials such as the powder coated aluminium frame curtain wall glazing, powder coated aluminium double-glazed doors and infill panels and timber canopy support columns have been designed to replicate the existing Tesco store and to create vertical and horizontal emphasis to the building, creating a contemporary, clean front façade. The roof will be Kingspan Topdek in colour light grey.
- 9.35. The mechanical plant required will be located in the rear service yard where it will be screened from public view.
- 9.36. It is considered that the development as proposed in design terms and in respect of its relationship with the existing Tesco building is acceptable and is therefore in accordance with Policy ESD15 of the adopted Cherwell Local Plan 2011-2031 and advice within the NPPF.

#### Sustainability

- 9.37. Sustainability is one of the key issues at the heart of the NPPF and the proposal must therefore demonstrate how it achieves sustainable objectives, including the need to show how it promotes sustainable transport bearing in mind that this is an out of centre location. The sequential test however, does demonstrate that there are no sequentially preferable sites for a development of this nature and so access by other means than the private car must be explored. A Framework Travel Plan will therefore be required setting out the overall objectives to the promotion of sustainable travel, and each of the units will need to produce a supplementary plan that is linked to the objectives in the framework travel plan. This requirement can be dealt with by condition.

- 9.38. In terms of sustainable travel, the site benefits from close proximity to a number of attractions within Bicester such as McDonalds restaurant, Bicester Village retail, Bicester Village train station, Bicester Park and Ride and Bicester Avenue garden centre which are all within walking distance from the site. Whilst the original TA stated that the existing pedestrian infrastructure was of an acceptable standard, OCC raised concerns in terms of accessibility of the site on foot, by cycle and public transport.
- 9.39. With a shared pedestrian and cycle path along Middleton Stoney Road currently in the planning stage it is considered that the applicant should contribute towards this sustainable transport facility. It is anticipated that a high proportion of staff and customers of the retail units will travel from the surrounding local area, notably the north-western side of Bicester. The ability for people to walk and cycle to the development will also aid in reducing the reliance on motor vehicle, thereby helping to reduce congestion and air pollution around the site.
- 9.40. There is currently a pedestrian desire line connecting the site from the Esso roundabout on the A41 which has been used previously for people to access the existing services within the site. Via this informal route, pedestrians have found it significantly shorter than using Lakeview Drive. However, this informal route has recently been blocked due to the erection of fencing. The applicants were asked to look at re-opening this access point and formalised as a key pedestrian and cycle connection in line with the provisions of Policy Bicester 4. Whilst desirable, following the submission of the Technical Note OCC have since removed this request as there are a number of issues that make it impossible for this to be provided, notably, the land is not within the applicant's ownership, land gradient and previously pedestrians using this informal link have walked across the petrol forecourt which is considered a danger to pedestrian safety.
- 9.41. Guided by the NPPF, the principles of sustainable development are in three dimensions. The economic role that can be demonstrated by ensuring that the development is of the right type and in the right place, in this case it is a sequentially acceptable site and the proposal will provide jobs during construction and subsequently through the provision of retail jobs. Socially, the development should be of a high quality design and be accessible, reflecting the community's needs. In this case, the development has been designed to reflect the adjacent Tesco Store and is relatively easily accessible from the town centre and adjacent housing development. In terms of the environment, the development should contribute to protecting and enhancing the environment. These aspects are all considered elsewhere in the report.
- 9.42. Policy ESD3 of the adopted Cherwell local Plan 2011-2031 requires that all new non-residential development will be expected to meet at least BREEAM 'very good' and therefore should the application be approved, it is considered that a condition requiring this should be included.

#### Other Matters

- 9.43. The application is accompanied by an ecological survey which has been assessed by the Ecology Officer. The current ecological status of the site is low and the presence of protected species is also unlikely to be a constraint if recommendations with regard to reptiles and nesting birds are followed. There will be some loss of amenity planting and it states within the ecological report that this will be replaced. There is a strip of new native tree and shrub planting proposed to the north which will help to mitigate this also. There is unlikely to be a significant gain for biodiversity on this site as the area of proposed planting is small and there is little scope on site for wildflower provision, but it may be beneficial to exchange any proposed amenity

grassland areas for more wildlife friendly wildflower mix, this could be dealt with by condition.

9.44. The application is also accompanied by a landscape visual appraisal and landscape scheme which have been assessed by both the Landscape and Arboriculture Officers who raise no objections to the proposals as the tree removals are of smaller trees internal to the site which are appropriately mitigated with replacement planting forming a new visual barrier from the A41 and the existing boundary vegetation is generally to be retained.

#### 9.45. Planning Obligation

9.46. The proposal generates a need for infrastructure contributions to be secured through a planning obligation to mitigate the impacts of the development and to enable the development to proceed. These contributions relate to the provision of:

- Strategic highway infrastructure/offsite highway works – SE Perimeter road - £71,738.52
- Bus services - £43,170
- Travel Plan Monitoring - £2,040

9.47. In respect of the planning obligations, the NPPF advises that they should only be sought where they meet all of the following tests:

- Necessary to make the development acceptable in planning terms
- Directly related to the development, and
- Fairly and reasonably related in kind and scale to the development

9.48. It is considered that without the requirements above that there would be a detrimental effect on local amenity and the quality of the environment and the need to ensure that all new development is sustainable as required by the development Plan and Government guidance within the NPPF.

## 10. PLANNING BALANCE AND CONCLUSION

10.1. Having regard to the assessment above the proposal will provide for economic growth and jobs in retailing, it satisfies the sequential test and it is accepted that sufficient evidence has been provided to show that the proposal would not adversely affect the vitality and viability of Bicester town centre and is acceptable in terms of its scale and design and relationship with the existing Tesco development.

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

## 11. RECOMMENDATION

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. Payment of a financial contribution towards off-site highway works of

£71,738.52

- b. Payment of a financial contribution towards bus services of £43,170
- c. Payment of a financial contribution towards travel plan monitoring of £2,040

## 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 ref:163045 dated April 2019; Transport Assessment and Appendices and further Transport Note Document ref: WCR10002-105-TN-9-1-3 dated 3<sup>rd</sup> August 2020; FRA dated July 2020; Drainage Strategy Report dated 10<sup>th</sup> March 2021 Version 6; Ecological Survey Report Ref: 1002878 BN 02 UEA Ap dv1; Tree survey by Aspect Arboricultural; Ground Investigation Report; Site Location Plan AP01; Existing Site Layout AP02; Site Layout Plan AP03C; ground Floor Plan AP04B; Proposed Mezzanine AP05B; Existing Elevations AP06; Proposed Elevations AP07A; Sections AA AP08; Sections BB AP09; Drainage Plan SLP1; Tree Constraints Plan 9994 TCP01 and Proposed Tree Protection Plan 9994 TPP 01.

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. Prior to the commencement of development, a Construction Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The CTMP shall include the following:
  - The CTMP must be appropriately titled, include the site and planning permission number
  - Routing of construction traffic and delivery vehicles is required to be shown, including means of access to the site
  - Details and approval of any road closures needed during construction
  - Details of and approval of any traffic management needed during construction
  - Details of wheel cleaning/wash facilities to prevent mud etc from migrating onto the 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 lighting and barriers
  - Contact details of the Project Manager and Site Supervisor responsible for on site works to be provided
  - The use of appropriately trained, qualified and certified 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 of 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 the 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 hours
- Hours of work on site
- The approved CTMP shall be adhered to throughout the construction.

Reason: in the interests of highway safety and the protection of the environment in accordance with Government guidance within the NPPF.

4. Prior to the building being first brought into use, electric vehicle charging points shall be installed for use by the businesses, staff and customers, the number, location and details of which shall first be agreed in writing by the Local Planning Authority. The electric charging points shall thereafter be retained and maintained in accordance with the approved scheme.

Reason: In the interests of sustainability and to comply with Policy ESD1 of the adopted Cherwell Local Plan 2011-2031 and in accordance with Government guidance within the NPPF

5. Prior to the first occupation of the development hereby approved, a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The development thereafter shall accord with the approved Travel Plan.

Reason: In the interests of sustainability and to ensure a satisfactory form of development in accordance with Government guidance within the NPPF.

6. The development hereby approved shall be carried out in accordance with the Pinnacle Surface Water Drainage Report Version 6 dated 12 March 2021.

Reason: To ensure satisfactory drainage of the site in the interests of achieving sustainable development and to comply with Policy ESD6 of the adopted Cherwell Local Plan 2011-2031 and Government guidance within the NPPF.

7. Prior to first occupation, a record of 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 Flood Authority Asset Register. The details shall include:
  - As built plans in both .pdf and .shp file format
  - Photographs to document each key stage of the drainage system when installed on site
  - Photographs to document the completed installation of the drainage structures on site
  - The name and contact details of any appointed management company information

Reason: To ensure that the development is served by sustainable arrangements for the disposal of surface water and to comply with Policy ESD6 of the adopted Cherwell Local Plan 2011-2031 and Government guidance within the NPPF.

8. 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 adopted Cherwell Local Plan 1996 and Government guidance within the NPPF.

9. The retail units hereby approved shall not be subdivided.

Reason: In order to safeguard the vitality and viability of Bicester Town Centre and to comply with Government guidance within the NPPF.

10. Prior to the commencement of the development hereby approved, a detailed air quality impact assessment to identify the impact of the development on local air quality shall be submitted to and approved in writing by the Local Planning Authority. This shall have regard to the Cherwell District Council Air Quality Action Plan and no development shall take place until the Local Planning Authority has given its written approval that it is satisfied that the impact of the development on air quality has been adequately quantified.

Reason: In the interests of protecting the environment in accordance with Government guidance within the NPPF.

11. Prior to the commencement of the development hereby approved, where an adverse impact has been identified during works in condition 9 above, an air quality mitigation strategy shall be submitted to and approved in writing by the Local Planning Authority. Once approved, the measures within this strategy shall be implemented as agreed. No development shall take place until the Local Planning Authority has given its written approval that measures are in place which mitigate the impact of the development on local air quality.

Reason: In the interests of protecting the environment in accordance with Government guidance within the NPPF.

12. 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 units, or on 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 5 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 variation.

Reason: To ensure 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 adopted Cherwell Local Plan 2011-2031 and Government guidance in the NPPF.

13. The development hereby permitted shall be carried out in accordance with the recommendations set out in sections 4.23 and 4.26 of the Update Ecological Survey Report by Aspect Ecology dated February 2019 unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect habitats and/or species of importance to nature conservation from significant harm in accordance with Government guidance within the NPPF.

14. The buildings hereby approved shall be constructed to at least BREEAM 'very good' standards

Reason: To ensure sustainable construction and reduce carbon emissions in accordance with Policy ESD3 of the adopted Cherwell Local Plan 2011-2031 and Government guidance contained within the NPPF.

CASE

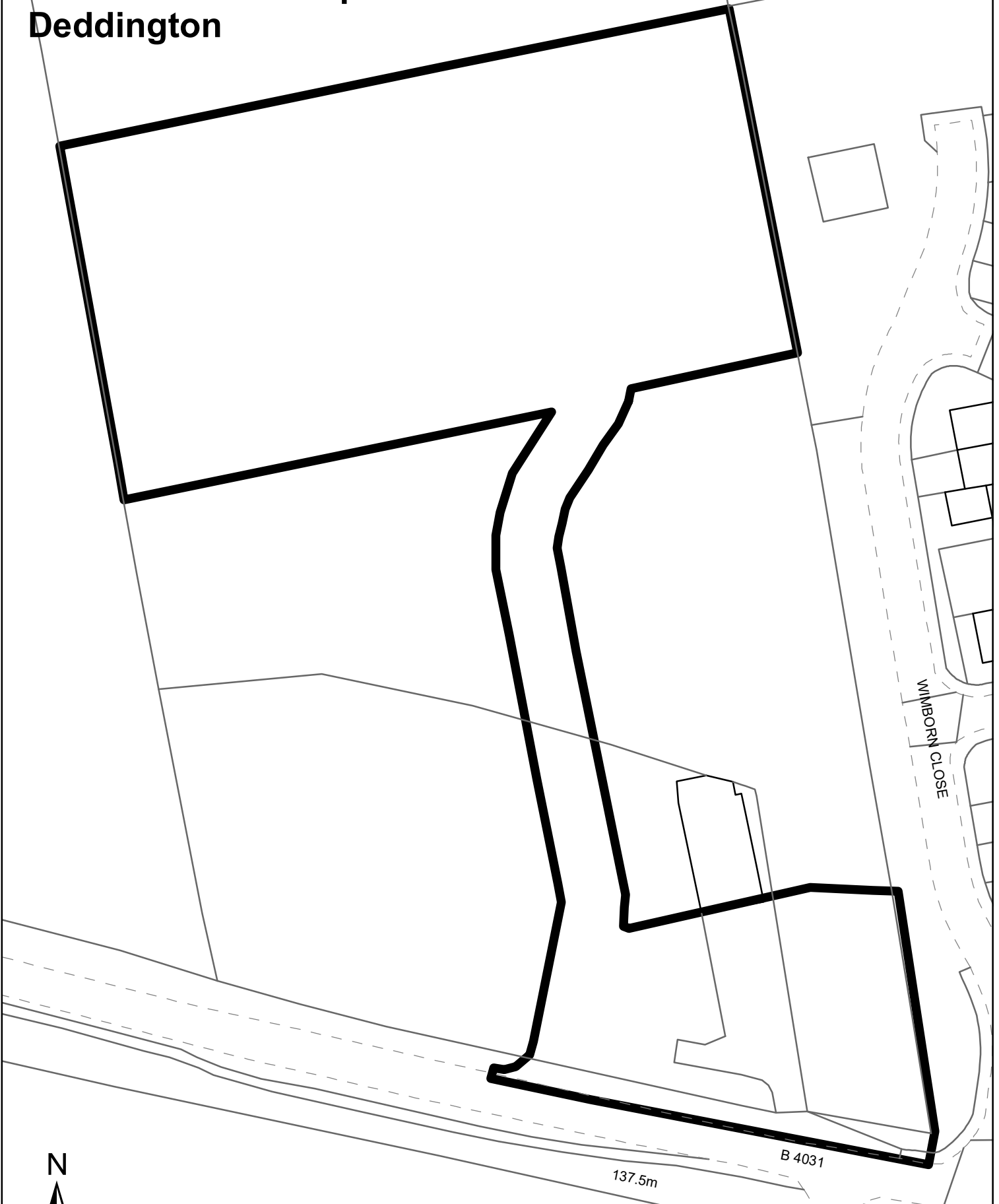
OFFICER:

Linda

Griffiths

Agenda Item 10  
**20/02083/OUT**

**Land north of Hempton Road and west of Wimborn Close  
Deddington**

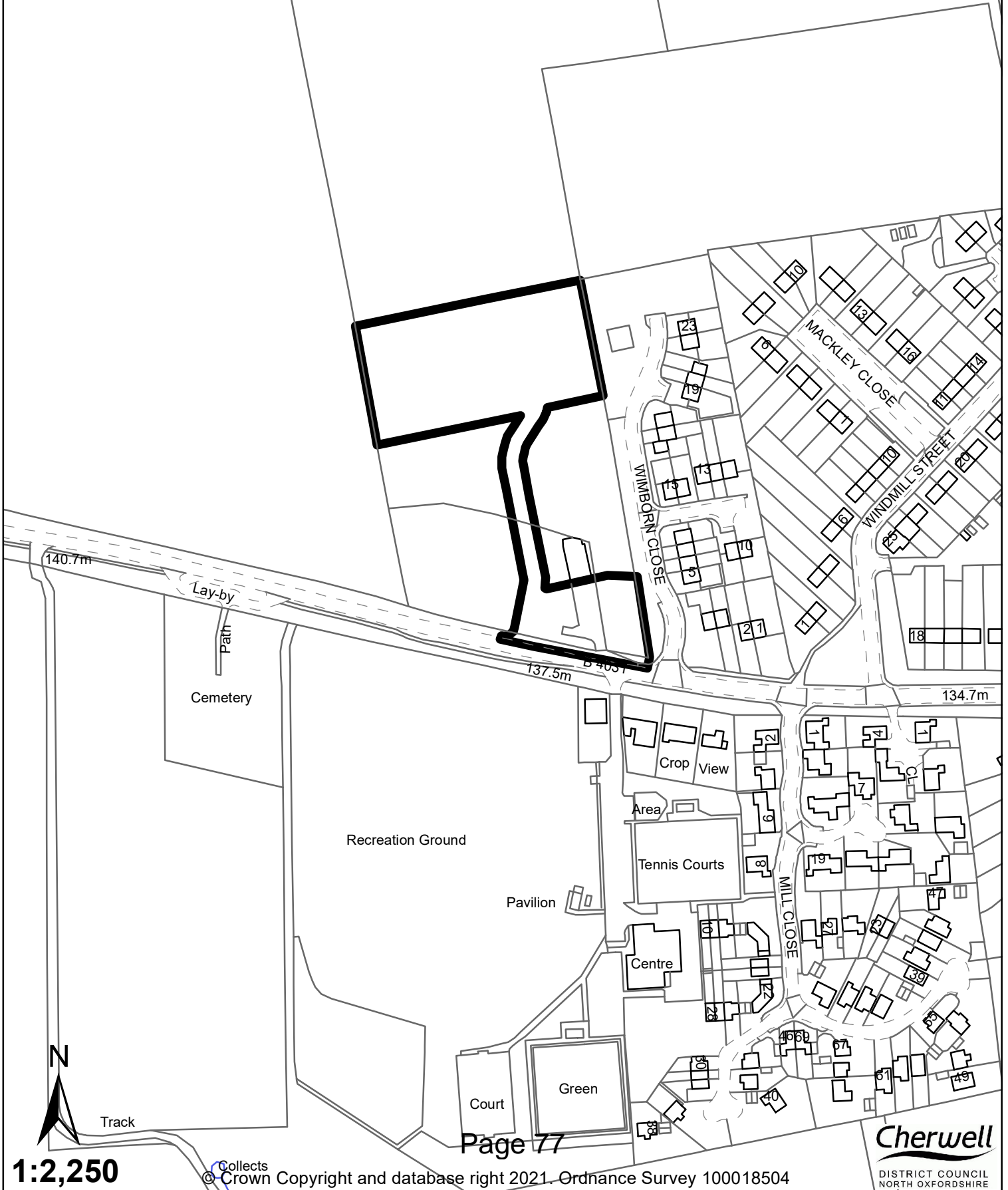


N  
1:750



# 20/02083/OUT

Land north of Hempton Road and west of Wimborn Close  
Deddington



**Case Officer:** Bob Neville

**Applicant:** Pembury Estates Ltd.

**Proposal:** Outline - Erection of 14 two-storey dwellings

**Ward:** Deddington

**Councillors** Cllr Brown, Cllr Kerford-Byrnes, Cllr Williams

**Reason for Referral:** Development of 10 or more dwellings

**Expiry Date:** 4 June 2021

**Committee Date:** 20 May 2021

---

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

- 1.1. The application site is part of an agricultural field located to the west of Deddington to the north of the Hempton Road. The site is relatively flat, but the land beyond the northern boundary of the site falls away into a wide valley. To the east of the site is Wimborn Close which consists of a mix of relatively modern two storey properties and has a landscaping belt adjacent to the site. Agricultural field boundaries exist to the west of the site beyond which lies further agricultural fields.
- 1.2. Deddington nursery, The Windmill Centre, recreation ground and sporting facilities exist to the south of the site beyond Hempton Road.

## **2. CONSTRAINTS**

- 2.1. In terms of site constraints, there are records of swifts within 200m of the site and the site. The site is within an area of naturally elevated Arsenic and Radon, and also lies within an area of potentially contaminated land.

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

- 3.1. The application seeks outline planning permission for the erection of 14no two storey dwellings with access being taken off the Hempton Road to the south of the site. The application leaves all matters reserved for future consideration.
- 3.2. Whilst all matters are reserved the applicant has submitted a Site Layout drawing (drawing number: 201-304 Rev. E) and Design and Access Statement that outlines one way in which the site could be developed; with a cul-de-sac coming off the main access road.
- 3.3. The application comes following an approval outline consent 18/02147/OUT for development of 21 dwellings on the adjacent parcel of land to the south of the site. The indicative proposed layout also shows an indicative layout of proposed development approved under 18/02147/OUT, through which access would be taken via a central spine road with cul-de-sacs being taken from it. It must be highlighted that this layout is only indicative, and that further work is being undertaken on developing an acceptable layout for the earlier outline consent under its associated reserve matters application 20/03660/REM currently with the Council for

consideration. Officers have been advised that, if approved, this proposal would be brought forward by the same developers currently bringing forward the development approved under the earlier application. For ease of reference officers will refer to the development approved under 18/02147/OUT as Phase 1.

- 3.4. The site area of the application has been amended during the course of the application - expanded to include an area of land necessary to provide a drainage infiltration basin forming part of the drainage strategy for the site. This area of land and drainage feature also formed part of the site of the earlier approval.

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

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

**Application: 18/02147/OUT** Permitted 6 May 2020

Outline planning application for up to 21 dwellings comprising 1, 2, 3 and 4 bedroom dwellings together with access, garaging and landscaping (all matters reserved except the principal means of access from Hempton Road)

**Application: 20/03660/REM** Under consideration

Reserved matters application to 18/02147/OUT - Erection of 21 dwellings (consideration of Appearance, Landscaping, Layout and Scale)

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

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

#### **6. RESPONSE TO PUBLICITY**

- 6.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was **25 November 2020**, although comments received after this date and before finalising this report have also been taken into account.

- 6.2. A letter on behalf of residents (4 households) within Wimborn Close in objection to the proposals and a further email of comment on behalf of 'Cherwell Swifts' has been received during. The comments raised by third parties are summarised as follows:

- Wimborn Close should remain as a close with no access through to the proposed development.
- Comments made in relation to the upkeep of the play area and potential for anti-social behaviour.

- 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. DEDDINGTON PARISH COUNCIL: **No objection**, subject to appropriate provision of open space within the development area.

### OTHER CONSULTEES

- 7.3. ARBORICULTURAL OFFICER: **No objections subject to conditions**, securing an appropriate tree condition survey, Arboricultural impact assessment, and Arboricultural method statement all to BS5837 standard.
- 7.4. BUILDING CONTROL: Proposals will require a Building Regulations approval at a later stage.
- 7.5. CDC LAND DRAINAGE: **No comments** to make.
- 7.6. ECOLOGY: No comments received.
- 7.7. ENVIRONMENT AGENCY: **No comments** to make on the application.
- 7.8. ENVIRONMENTAL HEALTH: **No objections subject to conditions**, securing: appropriate assessment of potential land contamination; an appropriate Construction Environment Management Plan (CEMP), to ensure the amenities of local residents is not adversely affected during construction; and details of infrastructure for electrical vehicle (EV) charging to be included.
- 7.9. LANDSCAPE SERVICES: **No objections subject to condition** securing an appropriate landscaping scheme, and further a financial contribution for its to improve off-site play area facilities.
- 7.10. LEAD LOCAL FLOOD AUTHORITY (LLFA): **No objections subject to conditions**, securing specific details of the proposed drainage scheme and confirmation of implementation.
- 7.11. LOCAL HIGHWAYS AUTHORITY (OCC): **No objections** subject to standard conditions in respect of securing a Construction Traffic Management Plan (CTMP) and details of Travel Information Packs for potential future occupants, and financial contributions in respect highway works and public transport services.
- 7.12. PLANNING POLICY: **No objection** to the principle of residential development on this site. However, detailed consideration of design, layout and other technical matters is required.
- 7.13. PUBLIC ART: No comments received.
- 7.14. RECREATION AND LEISURE: **No objections**. Request contributions towards off-site outdoor and indoor sports facilities and community facilities.
- 7.15. STRATEGIC HOUSING: **No objection**. There is a requirement for 5 units to be affordable. Suggests the following mix:  
Affordable rented units:

- x 2 bed 4-person house of 850sqft each
- x 3 bed 5-person house of 1,001sqft each

Shared ownership:

- 1 x 3 bed 5-person house of 1,001sqft

Parking should be provided and 50% of dwellings should meet the Regulations Requirement M4(2) Category 2: Accessible and Adaptable Dwellings requirement. Additionally, dwellings **must** comply with the DCLG Technical housing standards – nationally described space standard.

7.16. THAMES WATER: **No objections.**

7.17. WASTE & RECYCLING: No comments received.

## **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
- BSC2: The Effective and Efficient Use of Land – Brownfield land and Housing Density
- BSC4: Housing Mix
- BSC10: Open Space, Outdoor Sport and Recreation Provision
- BSC11: Local Standards of Provision – Outdoor Recreation
- BSC12: Indoor Sport, Recreation and Community Facilities
- ESD1: Mitigating and Adapting to Climate Change
- ESD2: Energy Hierarchy and Allowable Solutions
- ESD3: Sustainable Construction
- ESD6: Sustainable Flood Risk Management
- ESD7: Sustainable Drainage Systems (SuDs)
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13: Local Landscape Protection and Enhancement
- ESD15: The Character of the Built and Historic Environment
- Villages 1: Village Categorisation
- Villages 2: Distribution Growth Across the Rural Areas
- INF1: Infrastructure

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

- H18: New dwellings in the countryside
- C28: Layout, design and external appearance of new development
- C30: Design of new residential development
- ENV1: Environmental pollution
- ENV12: Potentially contaminated land

### 8.3. Other Material Planning Considerations:

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Annual Monitoring Report (AMR) 2020

## **9. APPRAISAL**

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

- Principle of development
- Landscape and visual impact
- Site layout and design principles
- Highways
- Residential amenity
- Flood Risk and drainage
- Ecology
- Infrastructure
- Other matters

### Principle of Development

#### *Policy Context*

- 9.2. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the District comprises the adopted Cherwell Local Plan 2011-2031 and the saved policies of the Cherwell Local Plan 1996.
- 9.3. In determining the acceptability of the principle of new dwellings regard is paid to Government guidance contained within the NPPF. This explains that the purpose of the planning system is to contribute to the achievement of sustainable development. This is defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs.
- 9.4. Policy PSD1 contained within the CLP 2015 echoes the NPPF's requirements for 'sustainable development' and that planning applications that accord with the policies in the Local Plan (or other part of the statutory Development Plan) will be approved without delay unless material considerations indicate otherwise.
- 9.5. The CLP 2015 seeks to allocate sufficient land to meet District Wide Housing needs. The overall housing strategy is to focus strategic housing growth at the towns of Banbury and Bicester and a small number of strategic sites outside of these towns. With regards to villages, the Local Plan notes that the intention is to protect and enhance the services, facilities, landscapes and natural and historic built environments of the villages and rural areas. It does however advise that there is a need within the rural areas to meet local and Cherwell-wide needs.

- 9.6. Cherwell's position on five year housing land supply is reported in the Council's 2020 Annual Monitoring Report (AMR). The 2020 AMR demonstrates that the District presently has a 4.7 year housing land supply for the period 2021-2026. An additional 509 homes would need to be shown to be deliverable within the five year period to achieve a five year supply as required by the NPPF.
- 9.7. Policy Villages 1 of the CLP 2015 provides a framework for housing growth in the rural areas of the district and groups villages into three separate categories (A, B and C), with Category A villages being considered the most sustainable settlements in the District's rural areas which have physical characteristics and a range of services within them to enable them to accommodate some limited extra housing growth. Deddington is a Category A village.
- 9.8. In order to meet the areas housing needs Policy Villages 2 of the CLP 2015 states that: *"A total of 750 homes will be delivered at Category A villages. This will be in addition to the rural allowance for small site 'windfalls' and planning permissions for 10 or more dwellings as at 31 March 2014"*. This Policy notes that sites will be identified through the preparation of the Local Plan Part 2, through the preparation of the Neighbourhood Plan where applicable, and through the determination of applications for planning permission.
- 9.9. Policy Villages 2 then sets out that when identifying and considering sites, particular regard will be given to the following criteria:
- *"Whether the land has been previously developed land or is of less environmental value;*
  - *Whether significant adverse impact on heritage and wildlife assets could be avoided;*
  - *Whether development would contribute in enhancing the built environment;*
  - *Whether best and most versatile agricultural land could be avoided;*
  - *Whether significant adverse landscape impacts could be avoided;*
  - *Whether satisfactory vehicular and pedestrian access/egress could be provided;*
  - *Whether the site is well located to services and facilities;*
  - *Whether necessary infrastructure could be provided;*
  - *Whether land considered for allocation is deliverable now or whether there is a reasonable prospect that it could be developed within the plan period;*
  - *Whether land the subject of an application for planning permission could be delivered within the next five years; and*
  - *Whether development would have an adverse impact on flood risk."*

#### *Assessment*

- 9.10. The site is not allocated for development in any adopted or emerging policy document forming part of the Development Plan and the site sits outside the built up limits of the village given its physical and visual relationship to the existing built form.
- 9.11. The Council's housing land supply position means that under paragraph 11d of the NPPF the policies in the development plan relating to housing provision are to be considered out of date. This includes Policy Villages 1 and saved Policy H18, and the weight to be afforded these policies is therefore reduced. Where policies are out-of-date, there is a presumption within the NPPF of granting permission for sustainable forms of development unless:

- i. 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
  - ii. 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.
- 9.12. Deddington is recognised as a 'Category A' village and is one of the larger villages in the District with a relatively wide range of services and facilities compared to other Category A settlements. It has a relatively regular bus service (S4 route – approximately hourly), which runs between Banbury and Oxford. Overall, it is therefore considered to be one of the more sustainable Category A villages.
- 9.13. The acceptability of the proposal therefore needs to be tested against Policy Villages 2 of the CLP 2015 (as set out above), as well as other material planning considerations. However, in the first instance it is important to consider the matter of scale and quantity of development, and in particular whether the proposal is in accordance with the overarching housing strategy of the CLP 2015.
- 9.14. The Council's AMR 2020 identifies that in the 12 months to 31 March 2020 there were 144 dwellings completed at Category A villages that contribute to the Policy Villages 2 requirement of 750 dwellings. There are also 193 dwellings under construction from the supply of permitted sites. Between 1 April 2014 and 31 March 2020 there were a total of 415 net housing completions on the above sites. This equates to 55.3% of the total requirement of 750 dwellings. These sites are fully committed to help deliver the Policy Villages 2 requirement.
- 9.15. Once those houses have been completed on which there were commencements at 31 March 2020 the Council will have delivered 81% of the PV2 target, and officers are aware that development has commenced at sites that would deliver a further 136 dwellings (66 at Launton, 40 at Milcombe, 20 at Weston on the Green, and 10 at the British Waterways site in Kidlington).
- 9.16. The Council is therefore well on the way to delivering the total of 750 dwellings set out at Policy Villages 2. Inspectors' decisions at Launton, Tappers Farm and Sibford Ferris have found that there could be demonstrable harm from exceeding delivery of 750 dwellings at Category A villages within the plan period.
- 9.17. However, that figure has not yet been delivered and so at this time the principle of development remains acceptable in policy terms. The proposals would assist in further meeting overall Policy Villages 2 housing requirements and could also contribute to the provision of affordable housing.
- 9.18. The NPPF places great importance on boosting the supply of homes – that it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay (NPPF, Para 59). And further, that: *'Small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly'* (NPPF, Para 59).
- 9.19. As noted during the assessment and approval of the outline consent on the adjacent parcel of land the site forms part of a larger site which has been considered as having potential for residential development within the Council's Housing & Economic Land Availability Assessment 2018 (HELAA). However, whilst this notes



that there is potential for residential development at the site this is not a formal allocation under the Development Plan and is only a factor given limited weight.

- 9.20. The HELAA concluded that the site is considered suitable, available and achievable for residential development for up to 31 dwellings at a density of 20dph to reflect the surrounding areas. It is noted in the report that: *The site is visually prominent on entering the village but there is neighbouring development with an established building line to the north. The visual impacts of the development could be mitigated against by a carefully considered landscaping, design and layout, and high quality build. There is existing access available.*
- 9.21. This application, along with the existing permission for 21 homes (18/02147/OUT) will result in 25 dph. In total the site would deliver 35 homes (21 plus 14). This density would need to be considered in relation to the surrounding properties and densities.
- 9.22. Policy Villages 2 also requires that regard be had to the access to services and facilities. The application site is located on the very western edge of the village, approximately 800 metres from the Market place where numerous services and facilities exist. The bus stops are also located a similar distance. Whilst it is recognised this distance is not ideal in regard to access to services and facilities, given that the site is located in a village with a relatively high level of service provision and relatively regular public transport, and the fact that walking routes to the village centre is good with street-lit footways, this is considered to be acceptable.

#### *Conclusion*

- 9.23. Overall, having regard to the factors above it is considered that the principle of this scale of growth could be acceptable on this site in Deddington in the context of the Council's housing strategy and the Local Plan. The development would provide a positive contribution towards the Council's housing land supply and provision of affordable housing, within a sustainable location where residential development has previously been accepted. This, however, is subject to the proposal being assessed against the other relevant criteria of Policy Villages 2 and the other relevant policies and guidance, which is discussed below.

#### Landscape and Visual Impact

##### *Policy context*

- 9.24. The Government attaches great importance to the design of the built environment within the NPPF. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.
- 9.25. These aims are also echoed within Policy ESD15 of the CLP 2015 which looks to promote and support development of a high standard which contributes positively to an area's character and identity by creating or reinforcing local distinctiveness, 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"*.
- 9.26. 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.

- 9.27. Policy ESD13 of the CLP 2015 states that development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided. Proposals will not normally be permitted if they would cause undue visual intrusion into the open countryside, cause undue harm to important natural landscape features and topography, be inconsistent with local character, or impact on areas judged to have a high level of tranquillity.
- 9.28. Further as noted above, Policy Villages 2 of CLP 2015 states that in identifying site, particular regard will be given to:
- Whether land has been previously developed land or is of less environmental value;
  - Whether development would contribute in enhancing the built environment
  - Whether significant adverse landscape and impacts could be avoided
- 9.29. The Cherwell Residential Guide SPD (2018) builds on the above policies and provides a framework to deliver high quality locally distinctive development.

#### *Assessment*

- 9.30. The application site is relatively flat and is separated from the adjacent development in Wimborn Close by a landscaping belt so that the existing development does not present a hard built edge to the village. The land further to the north of the site is agricultural and falls into a wide valley with the River Swere and is much more exposed in landscape terms than the application site, which is located to the south of the valley on the plateau. To the west of the site the land gently rises towards Hempton and is in agricultural use with medium to large sized fields. The landscape is relatively open with long ranging open views north.
- 9.31. The application is accompanied by a Landscape and Visual Impact Assessment prepared by Pegasus Group. This outlines the site is located within the Ironstone Hills and Villages character area within the Councils Landscape Character Assessment (1995) where the main features are the complex topography, the style of vernacular buildings and the iron age hill forts and sunken lands. Being predominantly agricultural land devoid of built form the application site itself has few features which are characteristic of the area and the site would be seen on the context of the built form of Deddington, and development to brought forward under Phase 1.
- 9.32. The proposed development would change the landscape character of the site from agricultural to residential; compounding the change that would result from the earlier approval. Given the topography of the site and the proposal would have a minor to moderate impact on the character area. Within the Oxfordshire Wildlife and Landscape Study (OWLS) the site is part of the Upstanding Village landscape type. Key characteristics are steep-sided undulating land form, well defined geometric patterns of fields with hedgerows and a strong settlement pattern of compact nucleated villages of varying size with little dispersal into the wider countryside. Overall, it is concluded the effect on this landscape type would be minor to moderate. The Landscape Officer concurs with the overall assessment and conclusions of the LVIA.

- 9.33. In terms of visual impact, the proposal would result in further development of a green field site and would extend the built up limits of Deddington. Deddington is an historic and attractive village. That said, the site is located on the western edge of Deddington where much of the more modern development in the village has taken place along Hempton Road, with further development coming forward under Phase 1. This includes Wimborn Close which also provides for some depth of development in the locality and the proposals would sit at a similar depth from the Hempton Road. As noted during the assessment of the Phase 1 this edge of the village is less sensitive to change than many of the more historic edges of the village where development is likely to be less appropriate given the more historic constraints of the existing settlement given previous more modern developments. In this respect the proposed development relates acceptably to the existing pattern of development in this part of Deddington.
- 9.34. Given the location of the site the visual impacts of the development would be relatively localised. The proposals would sit behind the Phase 1 and views of the site would be screened from the Hempton Road. An appropriate landscaping would further assist in helping to reduce the visual impacts and such details would be secured at the detailed application stage.

#### *Conclusion*

- 9.35. Officers consider that, whilst the proposals would result in the loss of part of the existing agricultural field and a greenfield site, any harm that would be caused to the wider landscape setting would not be so significant that it would warrant a reason to refuse the application and that such impacts could be largely be mitigated through the introduction of an acceptable landscaping scheme.

#### Site Layout and Design Principles

##### *Policy Context*

- 9.36. Policy ESD15 of the CLP 2015 provides guidance as to the assessment of development and its impact upon the character of the built and historic environment. It seeks to secure development that would complement and enhance the character of its context through sensitive siting, layout and high quality design meeting high design standards and complementing any nearby heritage assets. The National Planning Policy Framework is clear that good design is a fundamental to what the planning and development process should achieve.
- 9.37. BSC2 of the CLP 2015 states that new housing should be provided on net development areas at a density of at least 30 dwellings per hectare unless there are justifiable reasons to lower the density.
- 9.38. The Council's Design Guide seeks to ensure that new development responds to the traditional settlement pattern and character of a village. This includes the use of continuous building forms along principle routes and the use of traditional building materials and detailing and form that respond to the local vernacular.

##### *Assessment*

- 9.39. The application is in outline with all matters reserved for future consideration. The application is accompanied by an indicative layout within the Design and Access Statement, which indicates one way in which the site could be developed; showing a cul-de-sac arrangement coming off the main access road.

- 9.40. The submitted indicative layout shows 14no units. While some principles within the proposed indicative layout are considered to be appropriate for the site, there are concerns regarding other elements, which overall represents poor design that would be contrary to local and national planning policy; with particular concerns with regards to appropriate separation distances and potential overlooking issues. Further consideration will also need to be given as to how the proposals would integrate with the development to the south.
- 9.41. Overall, it is considered that the layout presented would result in an unacceptable form of development. However, it is recognised that the application is made in outline with all matters reserved. Therefore, the layout, scale and appearance of the development would be considered at a later stage. Given the relatively low density of the scheme and the not irregular shape of the site officers are satisfied that a revised layout could be negotiated at a reserved matters stage to ensure that the proposed development achieved a high quality and locally distinctive scheme. This is a similar position that was adopted on Phase 1 and such matters are currently being resolved through the reserve matters application 20/03660/REM. As with the earlier permission it is recommended that an informative be placed on any approval raising concerns regarding the layout.
- 9.42. The density of the scheme is lower than the 30 dwellings per hectare sought under Policy BSC3 of the CLP 2015. However, in this case, given the edge of settlement location of the development and the need for a robust landscape strategy to the western and northern boundaries of the site, the lower density is considered, on balance, to be justifiable.
- 9.43. The development is at a level that would trigger a need for a LAP feature to be included. There is no on-site play area as the 14no. dwellings would not allow enough space to achieved this. However, an existing play area east of the development requires refurbishment to improve its play potential for children of 2 -6 years. It is considered that local plan requirement for a local area of play can be provided off-site with a financial contribution with line with the Developer Contributions SPD.

### *Conclusion*

- 9.44. Officers have concerns over the proposed layout and design principles for the development as indicated within the current submission. However, officers are satisfied that given the context and arrangement of the site that an acceptable layout could be negotiated, and that such matters would be fully considered as part of any such reserved matters application.

### Highways

#### *Policy context*

- 9.45. The NPPF (Para. 108) states that the planning system should actively manage patterns of growth in support of the achievement of promoting sustainable transport. However, notes that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.
- 9.46. The NPPF (Para. 108) advises that in assessing specific applications for development, it should be ensured that:
- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;

- b) safe and suitable access to the site can be achieved for all users; and
- c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

Both Policies ESD15 and SLE4 of the CLP 2031 reflect the provision and aims of the NPPF. Policy ESD15 of the CLP 2031 states that: *“New development proposals should be designed to deliver high quality safe, attractive, durable and healthy places to live and work. Development of all scales should be designed to improve the quality and appearance of an area and the way it functions”*; whilst Policy SLE4 states that: *“All development where reasonable to do so, should facilitate the use of sustainable modes of transport (and) development which is not suitable for the roads that serve*

#### *Assessment*

- 9.47. Given that all matters are reserved for future consideration, including access and layout, it is only the principle of the development and associated potential transport related issues that can be considered at this stage. However, the applicants have submitted illustrative layout plans which shows an indicative access which allows for an appropriate assessment of these potential transport impacts.
- 9.48. The Local Highway Authority (LHA) raises no objections to the development subject to conditions and contributions to be secured through S106 Agreement.
- 9.49. The traffic impact generated by the proposed development is not considered to have a severe impact on the existing highway network given the scale of the development and the nature of the roads. The submission indicates that the development would be served by an access road taken from Hempton Road through the development approved under Phase 1, with the route being on the same alignment and utilising the access arrangements as this earlier approval. However, full details of the site layout, access and parking arrangements would be considered under future reserved matters applications.
- 9.50. The LHA has requested a contribution of £14,518 for enhancement to the bus service in the village which connects to Banbury and Oxford, to a half-hourly daytime frequency, which would help in the village being more accessible by a sustainable mode of transport as encouraged by the NPPF and this would be secured through a Section 106.

#### *Conclusion*

- 9.51. The LHA advises that the proposals are acceptable in terms of highways safety and potential impacts on the local road network and officers see no reason to disagree with the LHA’s assessment.

#### Impact on neighbouring amenity

- 9.52. Policy C30 of the CLP 1996 requires that a development must provide standards of amenity and privacy acceptable to the Local Planning Authority. These provisions are echoed in Policy ESD15 of the CLP 2015 which states that: *‘new development proposals should consider amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation and indoor and outdoor space’*.

#### *Assessment*

- 9.53. The application is in outline only. Any detailed proposals would need to have due regard to requirements of Section 6 of the Residential Design Guide SPD with regard to appropriate standards of amenity for both existing and future residents. Appropriate positioning and scale of dwellings, boundary treatments and the nature of such treatments could be given due consideration at reserved matters stage.
- 9.54. The proposed development would be located away from surrounding residential properties. The existing properties which would be most impacted upon by the proposed development would be the properties to the east of the site in Wimborn Close. These properties are separated by the application site by landscaping belt, play area and a road and would be in excess of 35 metres from the proposed development.

#### *Conclusion*

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

#### Affordable Housing and Housing Mix

#### *Policy*

- 9.56. Policy BSC3 of the CLP 2015 states that development on the site should make provision for 35% affordable housing with 70% of the affordable housing to be affordable rent and 30% as intermediate homes such as shared ownership. Policy BSC4 states that new development will be expected to provide a mix of home to meet current and expected future demand creating socially mixed and inclusive communities.

#### *Assessment*

- 9.57. The applicant has committed to providing 35% affordable housing on the site in line with Policy BSC3. The detailed housing mix would be determined at reserved matters stage and at the current time the plans are only indicative. The housing officer has raised no objection to this and has provided a suggested mix. Full details of the mix of the market and affordable housing would be determined at reserved matters stage. The affordable housing would need to be secured by a legal agreement.

#### Flooding Risk and Drainage

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

#### *Assessment*

- 9.60. The current is situated wholly within Flood Zone 1 which is land which has a less than 1 in 1,000 annual probability of river flooding.

- 9.61. The applicant has submitted a Technical Note: Drainage Statement report (ref.: 23933-01-TN-02 REV C) which outlines a potential drainage strategy for the site including an infiltration basin feature in the south east area of the site (also part of the approved scheme 18/02147/OUT) which would then be discharged into the underlying bedrock through infiltration. The Technical Note has been updated during the course of the application in response to comments made by the Lead Local Flood Authority (LLFA).
- 9.62. The report demonstrates the feasibility of a system with sufficient capacity for the 1 in 100 year storm event (plus a 40% allowance of climate change). The LLFA whilst originally objecting have subsequently withdrawn their objection in light of revised information received; considering that the general principles of the drainage strategy to be largely acceptable. As with Phase 1 the LLFA notes that the site lies over a secondary aquifer and the site may be subject to contamination which may impact on the use of infiltration.
- 9.63. As with the Phase 1 the Council's Environmental Protection Officer has again indicated that full ground investigation needs to be undertaken on the site as part of a planning condition. Officers again consider that if this is undertaken prior to the submission of the reserved matters there can be a greater understanding of the potential for contamination to impact on the drainage arrangement and considered as part of the reserved matter, whether that be through remediation of the contamination or through an alternative method of drainage.
- 9.64. Thames Water has raised no objection to the development in regard to foul water sewage or water network provision and the development is therefore considered to be acceptable in that regard.

#### *Conclusion*

- 9.65. Officers consider that, in light of there being no technical objections from the LLFA to the general principles of the proposed drainage strategy, and subject to appropriate conditions securing an appropriate detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development and an acceptable sewage drainage strategy, the proposals could be considered acceptable in terms of flood-risk and drainage.

#### Ecology

##### *Legislative context*

- 9.66. 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.
- 9.67. 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.

- 9.68. 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.
- 9.69. 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.
- 9.70. 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*

- 9.71. 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.
- 9.72. 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.
- 9.73. 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.



- 9.74. 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.
- 9.75. 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*

- 9.76. The current application has been accompanied by an Ecological Appraisal (EA) by Aspect Ecology dated June 2020. Whilst no formal comments have been received from the Council's Ecologist (CE) during the current application it is noted that no significant concerns were raised in respect of the proposals (18/02147/OUT) on the adjacent site.
- 9.77. The current site has similar characteristics to the Phase 1 site and is not subject to any statutory or non-statutory designations. The EA indicates that there are no significant protected species issues on this site and suggests a number of mitigation measures within the recommendations of the report. The recommendations largely reflect those considered acceptable by the CE during Phase 1. These are again all appropriate including those to avoid disturbance to mammals, reptiles and birds. A separate lighting strategy would be required which can be secured through condition.
- 9.78. The proposals would, however, result in the loss of some habitat and whilst there are a number of Biodiversity Enhancement measures recommended within the EA it is not clear whether there will be an overall net gain on site for biodiversity. It is therefore recommended that such matters be conditioned as part of any such approval.

#### *Conclusion*

- 9.79. Officers are satisfied that, on the basis of evidence within the submitted EA and there being no objection from the Council's Ecologist, and subject to conditions, the welfare of any European Protected Species found to be present at the site and surrounding land would continue and be safeguarded notwithstanding the proposed development and that the Council's statutory obligations in relation to protected species and habitats under the Conservation of Habitats & Species Regulations 2017, have been met and discharged and that proposals would accord with the Development Plan Policies identified above.

#### Impact on Local Infrastructure

##### *Policy Context*

- 9.80. Policy INF1 of the CLP 2015 states that: "*Development proposals will be required to demonstrate that infrastructure requirements can be met including the provision of transport, education, health, social and community facilities.*"
- 9.81. Policy BSC11 of the CLP 2015 states that: "*Development proposals will be required to contribute to the provision of open space, sport and recreation, together with*

*secure arrangements for its management and maintenance. The amount, type and form of open space will be determined having regard to the nature and size of development proposed and the community needs generated by it. Provision should usually be made on site in accordance with the minimum standards of provision set out in 'Local Standards of Provision – Outdoor Recreation'. Where this is not possible or appropriate, a financial contribution towards suitable new provision or enhancement of existing facilities off site will be sought, secured through a legal agreement."* Policy BSD12 requires new development to contribute to indoor sport, recreation and community facilities.

- 9.82. The Developer Contributions Supplementary Planning Document (SPD) setting out its position in respect of requiring financial and on site contributions towards ensuring the necessary infrastructure or service requirements are provided to meet the needs of development, and to ensure the additional pressure placed on existing services and infrastructure is mitigated. This is the starting point for negotiations in respect of completing S106 Agreements.

#### *Assessment*

- 9.83. Where on and off-site infrastructure/measures need to be secured through a planning obligation (i.e. legal agreement) they must meet statutory tests set out in regulation 122 of the Community Infrastructure Ley (CIL) Regulations 2010 (as amended). These tests are that each obligation must be:

- a) Necessary to make the development acceptable in planning terms;
- b) Directly related to the development;
- c) Fairly and reasonably related in scale and kind to the development.

- 9.84. Where planning obligations do not meet the above statutory tests, they cannot be taken into account in reaching a decision. In short, these tests exist to ensure that local planning authorities do not seek disproportionate and/or unjustified infrastructure or financial contributions as part of deciding to grant planning permission. Officers have had regard to the statutory tests of planning obligations in considering the application and Members must also have regard to them to ensure that any decision reached is lawful.

- 9.85. Having regard to the above, in the event that Members were to resolve to grant planning permission, the following items would in officers' view need to be secured via a legal agreement with both Cherwell District Council and Oxfordshire County Council in order to secure an appropriate quality of development as well as adequately mitigate its adverse impacts:

#### *Cherwell District Council*

- Provision of commuted sum of £19,973.10 in lieu of Open Space Provision
- Provision of a commuted sum of £32,296.04 to the upgrading of local play equipment at Wimborn Close.
- Off-site outdoor sports facilities capital provision – improvement of sports provision within Deddington - £33,568.50.
- Off-site indoor sports facilities – Towards the replacement of the main hall floor at The Windmill Centre and sports equipment - £13,895.66.
- Community hall facilities - £19,036.94 – To expand and/or enhance Windmill Community Centre.
- £106 per dwelling for bins
- Affordable housing provision – 35%

Oxfordshire County Council

- £14,518 – Public transport to upgrading of bus frequency to Oxford and Banbury
- £4,500 – Supply and installation of a solar-powered Vehicle Activated Sign

### *Conclusion*

- 9.86. A number of items would need to be secured via a legal agreement with both Cherwell District Council and Oxfordshire County Council in order to secure an appropriate quality of development as well as adequately mitigate its adverse impacts.

### Other Matters

- 9.87. Saved Policy ENV12 of the CLP 1996 sets out that development on land which is known or suspect to be contaminated will only be permitted if
- (i) Adequate measures can be taken to remove any threat of contamination to future occupiers of the site.
  - (ii) The development is not likely to result in contamination of surface or underground water resources
  - (iii) The proposed use does not conflict with other policies in the plan.
- 9.88. The site is on land which is potentially contaminated and the Council's Environmental Protection Officer has therefore recommended that phased contaminated land conditions need to be attached should permission be granted. Officers agree with this assessment.
- 9.89. Regarding air quality, the Council's EPO requests that ducting is provided for the future installation of Electric Vehicle charging infrastructure in order to make resident parking places EV ready for future demand. The NPPF and Policies SLE4 and ESD1 of the CLP 2015 encourage and support the incorporation of measures into new development that promote more sustainable forms of transport. The provision of EV charging infrastructure is also reflected in the Council's Infrastructure Delivery Plan. It is considered reasonable and necessary for this to be secured through a condition of any permission given.
- 9.90. Policy ESD1 of the CLP 2015 states that measures should be taken to mitigate the impact of development within the District on climate change, and Policy ESD2 of the CLP 2015 seeks to achieve carbon emission reductions. Policy ESD3 of the CLP 2015 encourages sustainable construction methods. The reference to allowable solutions in Policy ESD2 and 'zero carbon' are no longer being pursued by the government so are no longer relevant. However, the water usage requirements of ESD3 are still required to be met. In regard to energy efficiency the Council now seeks to secure in excess of that required under the 2013 Building Regulations. These could be controlled through a condition.
- 9.91. In relation to the best and most versatile agricultural land, the site falls within grade 3; therefore, it is considered to be the moderate quality agricultural land. The development would result in the loss of this land for agriculture but this harm is considered to be relatively limited given the quality of the land and size of the site.

## **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 advises that the three dimensions to sustainable development (economic, social and environmental), which are interdependent; need to be pursued in mutually supportive ways.

- 10.2. Government guidance within the NPPF supports the plan-led system and advises that applications that accord with an up-to-date plan should be approved without delay.
- 10.3. In reaching an informed decision on planning applications there is a need for the Local Planning Authority to undertake a balancing exercise to examine whether the adverse impacts of a development would be outweighed by the benefits such that, notwithstanding the harm, it could be considered sustainable development within the meaning given in the NPPF. In carrying out the balancing exercise it is, therefore, necessary to take into account policies in the development plan as well as those in the NPPF. It is also necessary to recognise that Section 38 of the 1990 Act continues to require decisions to be made in accordance with the development plan and the NPPF highlights the importance of the plan led system as a whole.
- 10.4. The site is unallocated in the adopted CLP 2015. Deddington is designated a Category A Village under Policy Villages 1 of the CLP 2015 and as such suitable for minor development within its built up limits. Policy Villages 2 supports development of sites for more than 10 homes at Category A villages in certain circumstances. 750 homes are to be delivered across these villages. The Council has yet to deliver 750 homes under PV2. When considering sites under this Policy several criteria apply relating to the site's environmental value and impact and deliverability. It is considered that the site would broadly comply with these criteria.
- 10.5. Having regard to the Council's current housing land supply position, i.e. less than a 5-year housing land supply, Paragraph 11d of the NPPF is engaged; with a presumption of granting planning permission unless such would cause conflict with other policies and would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.
- 10.6. The proposals are considered acceptable in terms of transport, and neighbour amenity. It is further considered that an acceptable drainage solution is achievable at the site that would ensure that flood-risk is not exacerbated. It is acknowledged that the proposals would result in the loss of a 'Greenfield' site and agricultural land, but that such impacts could be largely be mitigated through the introduction of an acceptable landscaping scheme.
- 10.7. The development would make a valuable contribution to housing delivery (including affordable housing) – significant weight should be attached to this benefit. There would also be some economic benefit in the support of construction jobs and spending in the area those future residents would bring about – this is afforded minor to moderate weight.
- 10.8. It is considered that the harm identified and the proposal's limited conflict with development plan policies would not outweigh these benefits. Given the above assessment and in light of current guiding national and local policy set out in the report, the officers consider that the proposal would amount to sustainable development for which Government policy sets a presumption in favour and is therefore recommended for approval.

## 11. RECOMMENDATION

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

COMPENSATION ACT 1991, TO SECURE THE FOLLOWING (AND ANY AMENDMENTS AS DEEMED NECESSARY):

- a. Provision of commuted sum of £19,973.10 in lieu of Open Space Provision
- b. Provision of a commuted sum of £32,296.04 to the upgrading of local play equipment at Wimborn Close.
- c. Off-site outdoor sports facilities capital provision – improvement of sports provision within Deddington - £33,568.50.
- d. Off-site indoor sports facilities – Towards the replacement of the main hall floor at The Windmill Centre and sports equipment - £13,895.66.
- e. Community hall facilities - £19,036.94 – To expand and/or enhance Windmill Community Centre.
- f. £106 per dwelling for bins
- g. Affordable housing provision – 35%
- h. £14,518 – Public transport to upgrading of bus frequency to Oxford and Banbury
- i. £4,500 – Supply and installation of a solar-powered Vehicle Activated Sign

FURTHER RECOMMENDATION: THE STATUTORY DETERMINATION PERIOD FOR THIS APPLICATION EXPIRES ON 04 JUNE 2021. IF THE SECTION 106 AGREEMENT/UNDERTAKING IS NOT COMPLETED AND THE PERMISSION IS NOT ABLE TO BE ISSUED BY THIS DATE AND NO EXTENSION OF TIME HAS BEEN AGREED BETWEEN THE PARTIES, IT IS FURTHER RECOMMENDED THAT THE ASSISTANT DIRECTOR FOR PLANNING AND ECONOMY IS GIVEN DELEGATED AUTHORITY TO REFUSE THE APPLICATION FOR THE FOLLOWING REASON:

1. In the absence of the completion of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement, the Local Planning Authority is not satisfied that the necessary infrastructure directly required both on and off site as a result of this development, in the interests of: safeguarding public infrastructure, education provision, community facilities and indoor and outdoor sports/recreation facilities; mitigating highway safety concerns; encouraging use of sustainable modes of transportation; delivering mixed and balanced communities by the provision of affordable housing; and securing on site future maintenance arrangements will be provided. This would be contrary to Policy INF1, PSD1, SLE4, BSC3, BSC4, BSC9, BSC10, BSC11, BSC12, VILLAGES 2, ESD1 and ESD15 of the Cherwell Local Plan (2011-2031) Part 1 and Government guidance contained within the National Planning Policy Framework.

**CONDITIONS**

**Time Limits**

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

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

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

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

3. 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 (General Development Procedure) Order 2015 (as amended).

### **Plans**

4. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out in broad accordance with the following plans and documents: Application form, Design and Access Statement by Pegasus Planning dated July 2020, Ecological Appraisal by Aspect Ecology dated June 2020 and drawing number: 201-305 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.

NOTE: The illustrative layout included within the Design and Access Statement accompanying the application is not considered to create an appropriate, locally distinctive or high quality development for the site. The applicant is advised to have regard to the Council's New Residential Development Design Guide and engage in pre-application discussions with the Council regarding the 'reserved matters'.

### **Finished floor levels**

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

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

### **Land Contamination Desk Study / Site Walkover**

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

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

#### **Land Contamination Intrusive Investigation**

7. If a potential risk from contamination is identified as a result of the work carried out under condition 6, prior to the commencement of the development hereby permitted, a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals shall be documented as a report undertaken by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place unless the Local Planning Authority has given its written approval that it is satisfied that the risk from contamination has been adequately characterised as required by this condition.

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

#### **Land Contamination Remediation Scheme**

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

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

#### **Land Contamination Remediation Works**

9. If remedial works have been identified in condition 8, the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 8. A verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.

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

#### **Drainage**



10. Notwithstanding the information submitted, development 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;
- 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.

11. 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.

#### **Construction Traffic Management Plan**

12. 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. Thereafter, the development shall not be carried out other than in accordance with the approved CTMP.

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

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

13. No development shall take until a Construction Environmental Management Plan

(CEMP) has been submitted to, and approved in writing by the Local Planning Authority. The statement shall provide for at a minimum:

- a. The parking of vehicles of site operatives and visitors;
- b. The routing of HGVs to and from the site;
- c. Storage of plant and materials used in constructing the development;
- d. Wheel washing facilities/ road sweeping;
- e. Measures to control the emission of dust and dirt during construction;
- f. Delivery and construction working hours;

The approved CEMP shall be adhered to throughout the construction period for the development.

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

### **Energy Statement**

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

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

### **Biodiversity enhancement**

15. Prior to the commencement of the development hereby approved including any demolition, and any works of site clearance, and as part of any reserved matters for layout and landscaping, a method statement and scheme for enhancing biodiversity on site such that an overall net gain for biodiversity is achieved, to include details of enhancement features and habitats both within green spaces and integrated within the built environment, shall be submitted to and approved in writing by the Local Planning Authority. This shall also include a timetable for provision. Thereafter, the biodiversity enhancement measures shall be carried out and retained in accordance with the approved details.

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

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

### **Landscape and Ecological Management Plan (LEMP)**

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

Reason -To protect habitats of importance to biodiversity conservation from any

loss or damage in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

#### **Lighting strategy**

17. Prior to the installation of any external lighting a full lighting strategy to include illustration of proposed light spill and which adheres to the recommendations set out in Section 6 - Mitigation Measures and Biodiversity Net Gains (MM2) of the Ecological Appraisal carried out by Aspect Ecology dated June 2020, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved document.

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

#### **Travel information packs**

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

Reason: To ensure all residents and employees are aware from the outset of the travel choices available to them, and to comply with Government guidance contained within the National Planning Policy Framework.

#### **Water usage**

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

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

#### **Compliance with ecological appraisal**

20. The development hereby approved shall be carried out strictly in accordance with the recommendations set out in Section 6 - Mitigation Measures and Biodiversity Net Gains of the Ecological Appraisal carried out by Aspect Ecology dated June 2020.

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

#### **Electrical Vehicle Infrastructure**

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

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

#### **Planning Notes:**

1. Planning permission only means that in planning terms a proposal is acceptable to the Local Planning Authority. Just because you have obtained planning permission, this does not mean you always have the right to carry out the

development. Planning permission gives no additional rights to carry out the work, where that work is on someone else's land, or the work will affect someone else's rights in respect of the land. For example there may be a leaseholder or tenant, or someone who has a right of way over the land, or another owner. Their rights are still valid and you are therefore advised that you should seek legal advice before carrying out the planning permission where any other person's rights are involved.

2. 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.
3. 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.
4. Birds and their nests are fully protected under the Wildlife and Countryside Act 1981 (as amended), which makes it an offence to intentionally take, damage or destroy the eggs, young or nest of a bird whilst it is being built or in use. Disturbance to nesting birds can be avoided by carrying out vegetation removal or building work outside the breeding season, which is March to August inclusive.
5. Thames Water will aim to provide customers with a minimum pressure of 10m head (approx. 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.

CASE

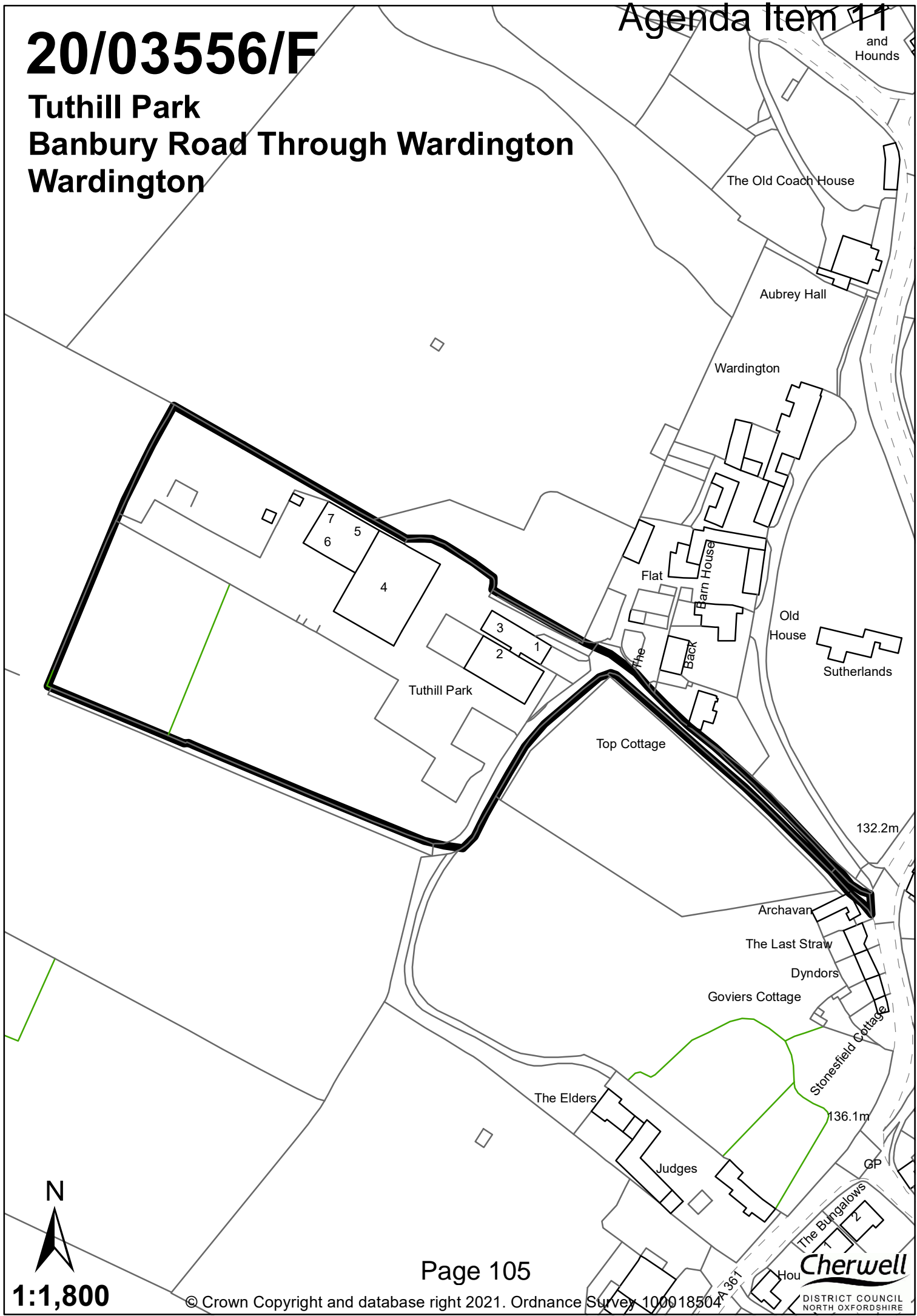
OFFICER:

Bob

Neville

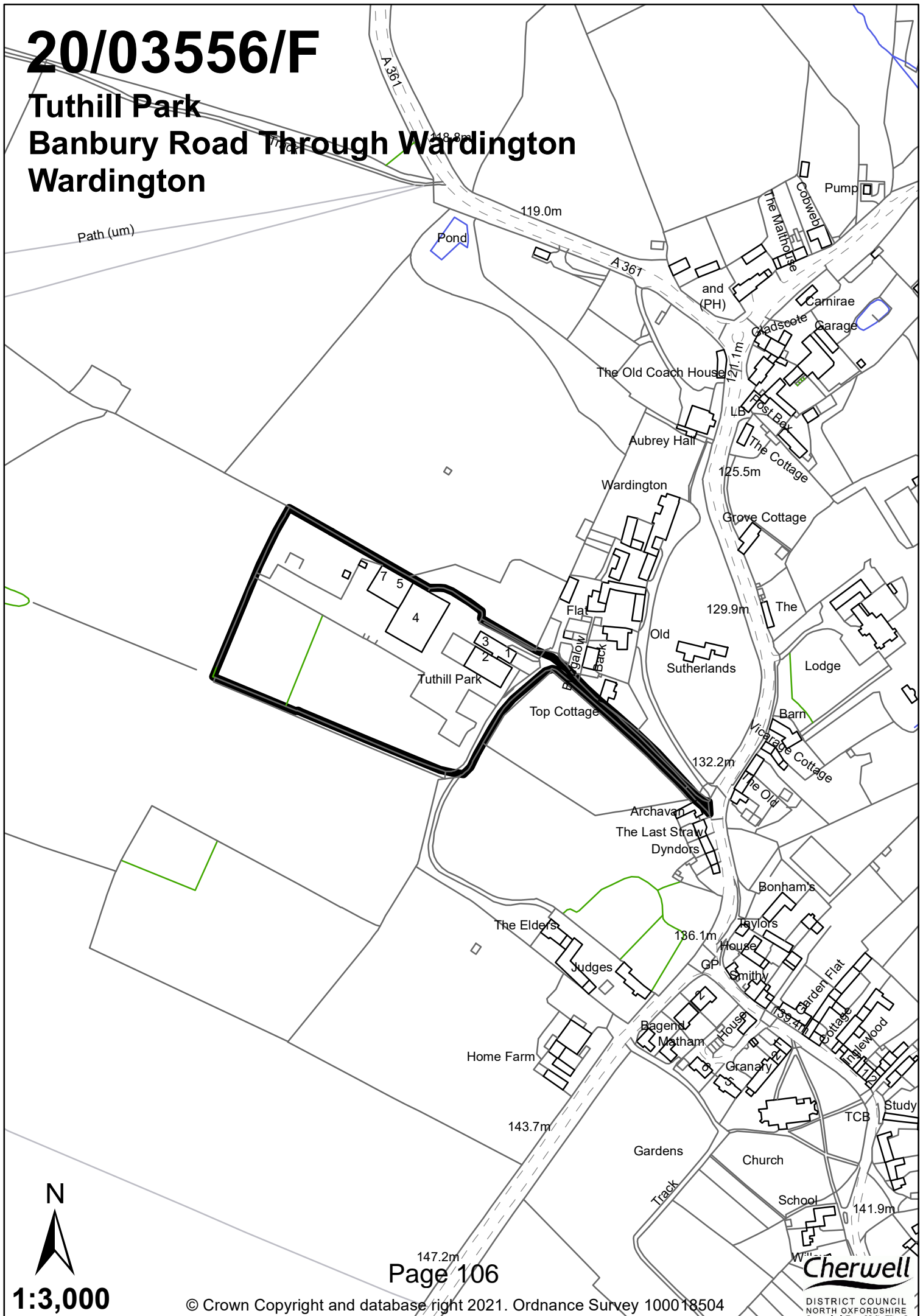
# 20/03556/F

## Tuthill Park Banbury Road Through Wardington Wardington



# 20/03556/F

## Tuthill Park Banbury Road Through Wardington Wardington



1:3,000

**Case Officer:** George Smith

**Applicant:** Francis Tuthill Ltd

**Proposal:** Erection of new building and associated car parking

**Ward:** Cropredy, Sibfords And Wroxton

**Councillors:** Councillor Chapman, Councillor Reynolds, Councillor Webb

**Reason for Referral:** Floor space created (over 1,000 sqm)

**Expiry Date:** 26 May 2021

**Committee Date:** 20 May 2021

---

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

- 1.1. This application relates to a site on the south-western side of Wardington. It is reached by a long access road off the main Daventry to Banbury A361 road. The access is partially shared with Wardington House Nursing Home, four neighbouring cottages and several Tuthill family properties.
- 1.2. The site is contained within a larger well-screened site with large mature trees forming all boundaries. The application site is on relatively flat land but sits close to the top of a plateau. The land slopes downwards to the west and north. The site currently comprises a range of buildings of varying size and height, which have evolved since the 1970's when Francis Tuthill Ltd established a rally car business.

## **2. CONSTRAINTS**

- 2.1. The majority of the site is outside the Wardington Conservation Area, but the access road is within it. A Grade II listed building (Old Farm House) is in close proximity and a public footpath runs along the access road and continues in a westerly direction to the north of the site.

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

- 3.1. The application seeks planning permission for a new building with associated car parking. The building would have a footprint of c.817sqm (43m x 19m). The ridge height would be c.8m and the eaves height c.6m. The walls would be constructed in a mix of steel and larch cladding, with the roof wholly in steel. Windows and doors would be grey aluminium.
- 3.2. The application also seeks consent for a car parking area to the south of the building, comprising 36 vehicular spaces.
- 3.3. A minor amendment was received during application process, to move the building so that it is not within 1.5m of the footpath.

#### 4. RELEVANT PLANNING HISTORY

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

**14/01671/F** - Proposed extension and alterations. Demolish existing greenhouse stores and construct new workshop and ancillary office/administration accommodation; refurbish existing industrial buildings and construct new administration/research and development block. Upgrade and reshape existing hard-standings to form new car parking areas – APPROVED

**15/01947/F** - Removal of Condition 10 of 14/01671/F – APPROVED

#### 5. PRE-APPLICATION DISCUSSIONS

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

#### 6. RESPONSE TO PUBLICITY

6.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was **1 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.

#### 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. WARDINGTON PARISH COUNCIL: **No objections** – subject to the footpath adjacent to the site being maintained and accessible.

##### CONSULTEES

7.3. OCC HIGHWAYS: **No objections** – as existing access is more than adequate to accommodate the development and is wide enough to allow vehicles to pass each other. The Highway Authority conclude that the proposals are unlikely to have a detrimental impact on the local highway network in traffic and safety terms, subject to conditions for parking and manoeuvring areas to be retained and for a CTMP (Construction Traffic Management Plan) to be submitted pre-commencement.

7.4. OCC DRAINAGE: **Objects** – due to the failure to submit a detailed surface water management strategy.

7.5. OCC RIGHTS OF WAY: **No objections** – following amendment to relocate the building further from the footpath.

7.6. OCC ARCHAEOLOGY: **No objections**



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

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

### CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2015)

- PSD1: Presumption in Favour of Sustainable Development
- SLE1: Employment Development
- ESD1: Mitigation and Adapting to Climate Change
- ESD6: Sustainable Flood Risk Management
- ESD7: Sustainable Drainage Systems
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13: Local Landscape Protection and Enhancement
- ESD15: The Character of the Built and Historic Environment

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

- C28: Layout, design and external appearance of new development
- ENV1: Environmental pollution

### 8.3. Other Material Planning Considerations

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

## **9. APPRAISAL**

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

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

#### Principle of Development

#### *Policy context*

- 9.2 Policy PSD 1 of the CLP 2015 states that wherever possible, development should improve the economic, social and environmental conditions in the area.
- 9.3 With regards to the rural context of this site, Paragraph 83 of the NPPF states that amongst other matters planning policies and decisions should enable the sustainable growth and expansion of all types of business in rural areas both through conversion of existing buildings and well-designed new buildings;

- 9.4 Policy SLE 1 of the CLP 2015 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.*” It continues that employment development in the rural areas should be located within or on the edge of Category A villages.

#### *Assessment*

- 9.5 The proposed building would be for an employment use, associated with Tuthill Porsche. The business currently operates building and restoring classic Porsche models. This proposed building would provide a facility for car storage, workshops, offices and car parking. It would support an existing business in its undertakings, with the applicant stating that storage facilities are currently rented around the country in order to cover this need.
- 9.6 The proposal is within the built-up limits of Wardington, which is a Category A village, but it would be located at an existing employment site; is outside of the Green Belt; makes efficient use of the site; has good access and can be easily accessed by public transport; does not significantly affect the design or character of the area; and does not have a significant adverse effect on surrounding uses. Officers consider that the applicant has satisfactorily justified the need for this additional building.

#### *Conclusion*

- 9.7 The principle of development therefore accords with Policy SLE 1 of the CLP 2015.

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

##### *Policy context*

- 9.8 The Government attaches great importance to the design of the built environment within the Framework. Good design is a key aspect of sustainable development creating better places in which to live and work and helps make development acceptable to communities.
- 9.9 Policy ESD15 of the CLP 2015 states that: “*New development will be expected to complement and enhance the character of its context through sensitive siting, layout and high-quality design. All new development will be required to meet high design standards.*”
- 9.10. Saved Policy C28 of the CLP 1996 exercises control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context.

##### *Assessment*

- 9.11. The site is physically contained within existing hedgerows and trees, with a public right of way running west to east alongside a line of mature Lime trees. The existing and proposed buildings will not be readily visible from the A361 approach road from the Banbury direction only seen in glimpsed views when travelling southbound, at a distance of c.350m. However, the existing and proposed buildings would be visible from the public right of way.

- 9.12. A previous consent granted a building in the same general location of the building currently proposed, albeit the building now proposed is over double the footprint, (an increase from 360sqm to 817sqm). The height of the building would be approximately the same, at c.8m to ridge.
- 9.13. The previous consent has commenced and therefore the approved building could be constructed at any point in the future.
- 9.14. Whilst it is acknowledged that the proposed building would have some impact on the character and appearance of the site, being clearly visible within the site and from the adjacent footpath in particular, the site is already industrial in its nature, whilst the proposed building being of a similar appearance to that of the nearby building. The building is therefore considered appropriate in this context. It is also noted that the wider landscape impact is limited, due to its setting within an existing employment site and the physically contained nature of the site.
- 9.15. The materials proposed are considered appropriate to this context, being similar to those built out under approval 15/01947/F.

### *Conclusion*

- 9.16. The building is considered to be of an acceptable design and scale compatible with the adjacent built development and the development would not cause significant or demonstrable harm to the character and appearance of the area. The proposals therefore accord with Policy ESD15 of the CLP 2015, saved Policy C28 of the CLP 1996 and relevant paragraphs of the NPPF in this regard.

### Heritage Impact

#### *Legislative and policy context*

- 9.17. The site is abutting the Wardington Conservation Area, whilst the access road falls within this designation. The access road also passes a Grade II Listed Building.
- 9.18. 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.*
- 9.19. Likewise Section 66 of the same Act states that: *In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority...shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.* Therefore, significant weight must be given to these matters in the assessment of this planning application.
- 9.20. Conservation Areas and Listed Buildings are designated heritage assets, and Paragraph 193 of the NPPF states that: *when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.* Policy ESD15 of the CLP 2015 echoes this guidance.
- 9.21. The site is contained, being well screened by the mature trees around the boundaries. The proposed development will have no detriment to the significance of the designated heritage assets or their settings and therefore accords with

government guidance on conserving and enhancing the historic environment contained within the National Planning Policy Framework.

#### Residential amenity

- 9.22. Both the NPPF and Policy ESD15 of the CLP 2015 seek to ensure development proposals provide a good standard of amenity for both existing and proposed occupants of land and buildings relating to privacy, outlook, natural light and indoor and outdoor space.
- 9.23. The site is an existing employment generating use. Whilst the wider site is located nearby to residential dwellings, the proposed building itself is located c.150m from the nearest residential dwelling. Officers consider that the new building will not give rise to loss of amenity, nor that the increase in traffic to and from the site will not cause serious harm to residential amenity. Furthermore the site is an existing acceptable employment generating site, the activities of which have not given rise to any amenity issues in the past. The proposal therefore complies with Policy ESD15 of the CLP 2031 and relevant paragraphs of the National Planning Policy Framework.

#### Highway safety

##### *Policy Context*

- 9.24. Policy ESD15 of the CLP 2015 states, amongst other matters, that new development proposals should: be designed to deliver high quality safe...places to live and work in. This is consistent with Paragraph 110 of the NPPF which states that: developments should create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles.

##### *Assessment*

- 9.25. OCC Highways have raised no objections to the scheme, citing that the site access is capable of accommodating the development, and is wide enough to allow vehicles to pass each other. OCC Highways conclude that the development is unlikely to have a detrimental impact on the local highways network in traffic and safety terms, subject to conditions. The conditions relate to specification details of parking areas being submitted, alongside a Construction Traffic Management Plan. Officers see no reason to disagree with this assessment or those recommended conditions, which are necessary and reasonable for this scale of development.
- 9.26. During the course of the application, the OCC Countryside Access Officer raised concerns with the proximity of the development to the drawn path of the public right of way. The applicant amended the siting of the building, so that it was offset from the footpath by the same distance as the previously approved barn (also accounting for the opening of the fire door proposed). Thus, given that the previously approved building could be built out at any time in the future, officers are satisfied that this new building would not cause additional harm to users of this public right of way. The OCC Countryside Access Officer has confirmed that this amended plan is acceptable in respect of the public right of way.

### *Conclusion*

- 9.27. For these reasons, it is therefore considered that the development proposal would be acceptable in terms of highway safety and parking provision, thus complying with Government guidance contained within the NPPF and Policy ESD15 of the CLP 2015.

### Flood risk and drainage

- 9.28. A Flood Risk Assessment and drainage strategy is submitted with the application in line with the requirements of Policy ESD6 of the CLP 2015 and the NPPF. Policy ESD7 of the CLP 2015 requires the use of Sustainable Urban Drainage Systems to manage surface water drainage systems. This is all with the aim to manage and reduce flood risk in the District.
- 9.29. The site is located in Flood Zone 1, which has the lowest probability of flooding and is considered to be appropriate for such a use.
- 9.30. Officers note that OCC Drainage have objected to the application as it stands, as a result of a lack of surface water drainage strategy. However, officers note that the previous application was not found to be unacceptable on these grounds. That development has commenced, so the approved building could be built out at any point in the future. This, together with the development being located in Flood Zone 1, not near a watercourse and on elevated land, means that officers do not consider that a refusal on these grounds would be reasonable and could not be maintained at appeal.

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

- 10.1. Planning applications are required to be determined in accordance with the Development Plan unless material considerations indicate otherwise. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development and need to achieve the economic, social and environmental objectives in mutually supportive ways.
- 10.2. For the reasons set out in this report the proposal is considered to accord with Policies SLE1 and Government guidance contained within the NPPF. Furthermore, subject to conditions, there would not be a detrimental impact on visual amenity, residential amenity, flooding/drainage or highway safety, and the proposal therefore constitutes sustainable development that accords with the relevant policies of the Development Plan, and in accordance with Paragraph 11 of the NPPF permission should be granted.

## **11. RECOMMENDATION**

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

### CONDITIONS/REASONS FOR REFUSAL

#### **Time Limit**

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

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

Purchase Act 2004.

### **Compliance with Plans**

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents:
  - Site Location Plan – WG1013-001
  - Proposed Site Layout (1) – WG1013-003 C
  - Proposed Floor Plans – WG1013-004 B
  - Proposed Elevations – WG1013-005 B
  - Proposed Site Layout (2) – WG1013-006

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.

### **Details of materials and finishes**

3. No development shall commence above slab level unless and until a schedule of materials and finishes for the external walls and roof(s) of the development hereby approved has been submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out other than in accordance with the approved schedule and shall be retained as such thereafter.

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

### **Parking and manoeuvring areas retained**

4. Prior to the commencement of the development hereby approved, full specification details (including construction, layout, surfacing and drainage) of the parking and manoeuvring areas shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first occupation of the development, the parking and manoeuvring areas shall be provided on the site in accordance with the approved details and shall be retained unobstructed except for the parking and manoeuvring of vehicles at all times thereafter.

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

### **Construction Traffic Management Plan**

5. 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.

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.

### **Informative:**

1. The approved CTMP shall be implemented and operated in accordance with the

approved details:

- 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.

CASE

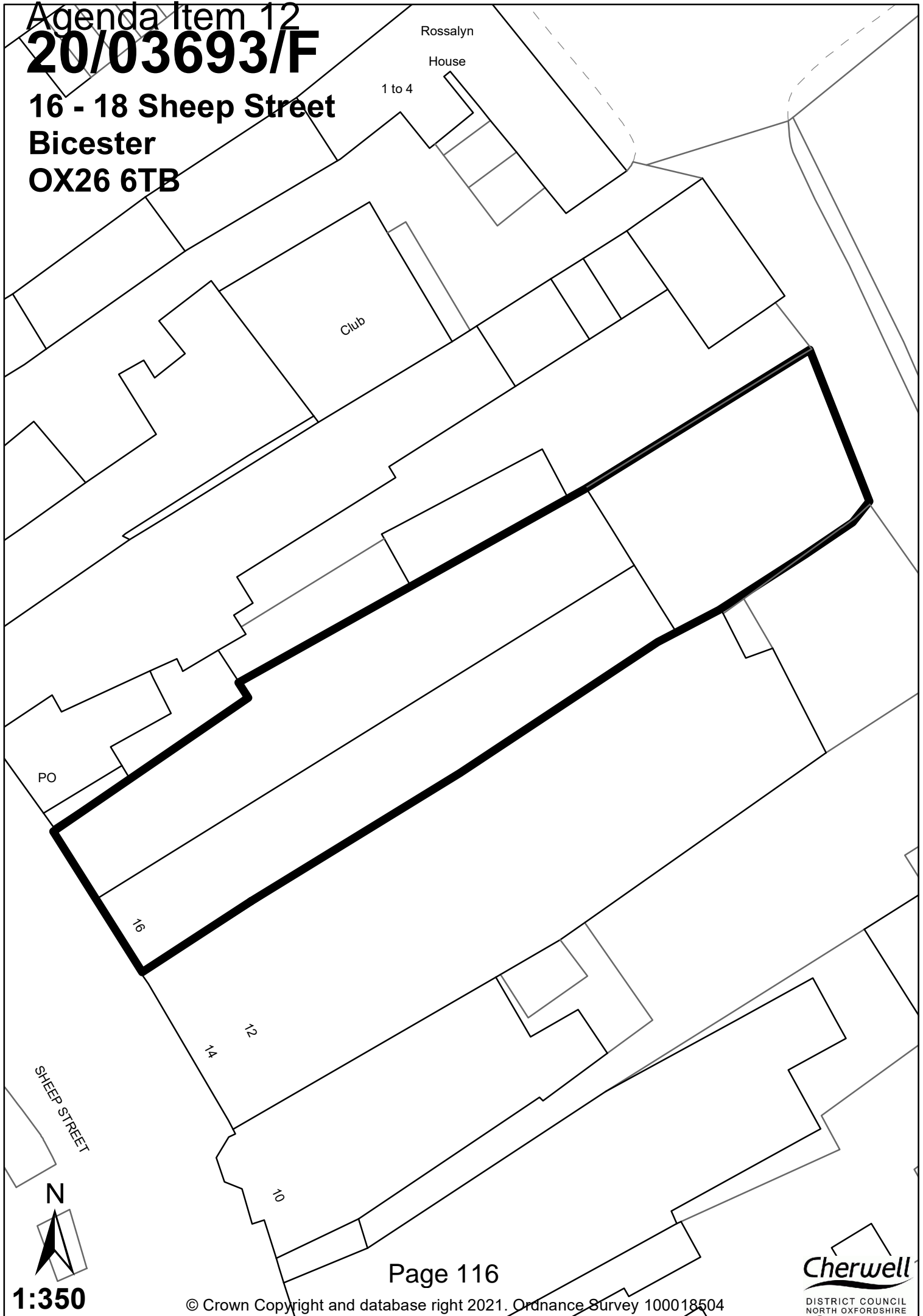
OFFICER:

George

Smith

Agenda Item 12  
**20/03693/F**

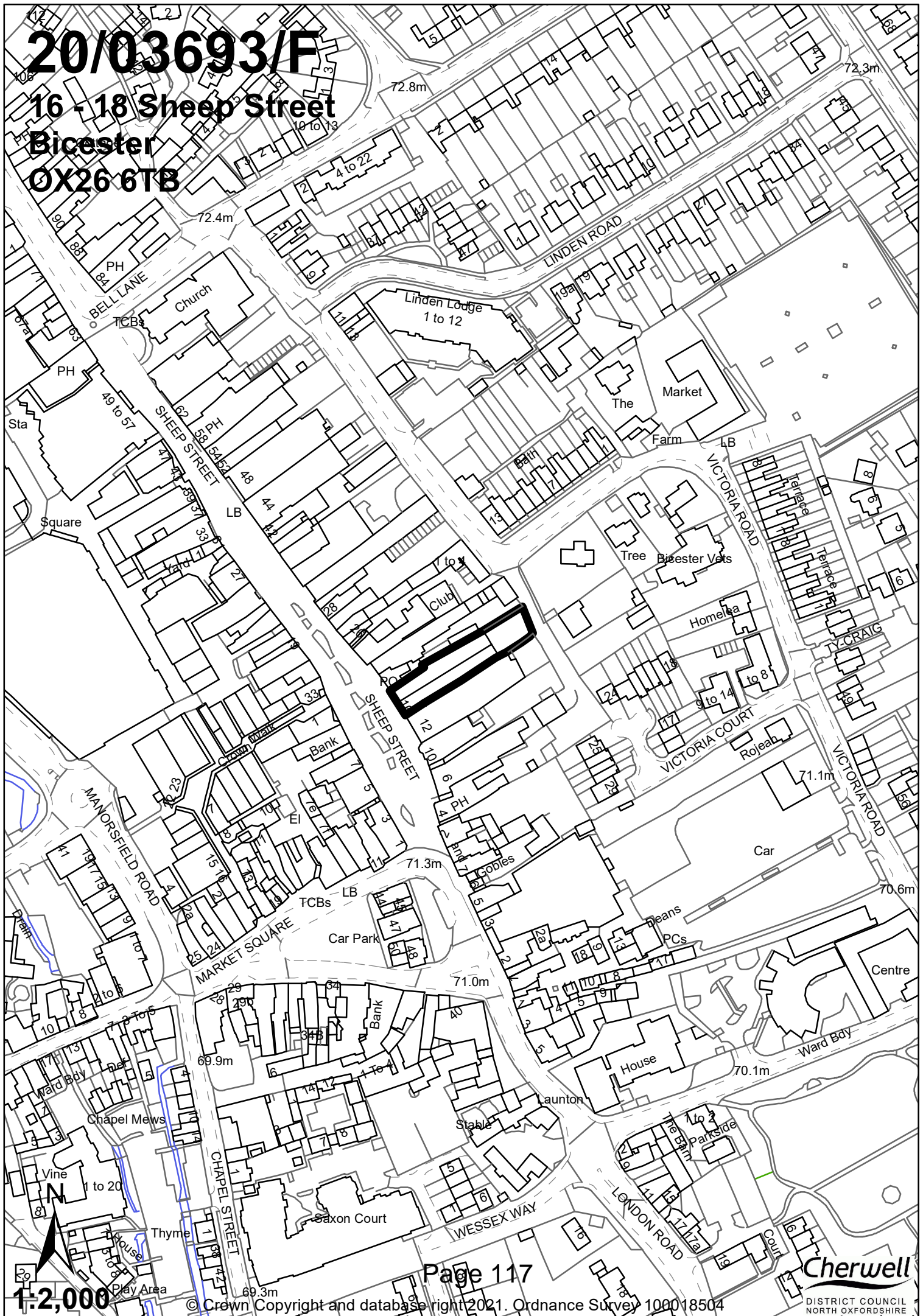
**16 - 18 Sheep Street  
Bicester  
OX26 6TB**





# 20/03693/F

## 16 - 18 Sheep Street Bicester OX26 6TB



**Case Officer:** Wayne Campbell

**Applicant:** W E Black Ltd

**Proposal:** Demolition of the existing building containing two shops and the erection of two 4 storey blocks containing 28 small flats

**Ward:** Bicester East

**Councillors:** Councillor Dallimore, Councillor Mould, Councillor Wallis

**Reason for Referral:** Major development

**Expiry Date:** 24 March 2021

**Committee Date:** 20 May 2021

---

## 1. APPLICATION SITE AND LOCALITY

- 1.1. The application site is two adjoined retail units located fronting onto the pedestrian area of Sheep Street in the centre of Bicester Town Centre. The rear of the site backs onto the cul-de-sac known as Backway Road which serves a limited number of residential properties but mainly the rear service yards of the retail units numbered 4 – 22 Sheep Street.
- 1.2. The buildings are two storey in height and maintain a retail frontage on the ground floor with a pale brick first floor accommodation and a flat roof design. Both units are vacant and had previously been occupied by Dorothy Perkins for unit number 16 Sheep Street and Clinton Cards for unit number 18 Sheep Street.
- 1.3. This part of Sheep Street is a primary retail area and the surrounding uses are all in commercial use of a mix of retail and business uses normally found in a Town centre location.

## 2. CONSTRAINTS

- 2.1. The application site is within the Bicester Conservation Area, as well being located within an Archaeological Alert Area. The site is located within the Bicester Town Centre as well as an area of Primary Shopping Frontage.

## 3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. This application seeks planning permission for the demolition of the existing two storey retail buildings in the site and the redevelopment of the site with two separate four storey blocks. The re-development of the site would provide a total of 28 residential apartments in the form of 4 x 1 bed studio apartments, 21 x 1 bed apartments and 5 x 2 bedroom apartments.
- 3.2. One block would front onto Sheep Street with a small set back at ground floor to allow a small area of private space while the second block would front onto Backway Road. The second block would also allow for the provision of 3 parking spaces all of which would be allocated as disabled parking spaces. The area between the two blocks in the centre of the site would be allocated as private / communal amenity

space for the residents of the apartments and an area of soft landscaping. This area would also provide an area of cycle storage.

- 3.3. *Timescales for Delivery*: No indication from the applicant has been provided in terms of timescale to provide the development as proposed.

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

- 4.1. The following planning history is considered relevant to the current proposal:
- 00/01789/ADV - Part illuminated fascia sign (18 Sheep Street) Permitted
  - 01/00824/F - Installation of new shopfront (18 Sheep Street), Permitted
  - 14/00881/ADV - 1.no illuminated fascia sign and 1.no hanging sign (18 Sheep Street) Permitted

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

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

#### **6. RESPONSE TO PUBLICITY**

- 6.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records (amend as appropriate). The final date for comments was **22 March 2021**, although comments received after this date and before finalising this report have also been taken into account.

- 6.2. Ten letters of objection have been received from local residents. The comments raised by third parties are summarised as follows:

- Parking congestion in Victoria Road, and Backway Road;
- Will result in the loss of a reasonable sized retail/leisure area in the town centre further decline in retail units in Sheep Street
- Development contrary to adopted Policy to protect retail;
- Should only consider residential above and behind retail units with artisan retails on the ground floor;
- Backway Road is a private road which requires maintenance therefore any permission should be conditioned that new residents contribute;
- Concern over pedestrian safety along Sheep Street during construction phase, plus poor dangerous access for commercial vehicles along Victoria Road during build phase;
- Congestion of delivery and service vehicles serving 28 flats;
- Highly unlikely residents will only have a bicycle and therefore would block the private road known as Backway Road causing considerable trouble for the businesses which need rear access to their premises for deliveries;
- How will the 'no-car' ownership of the new residents be policed?
- Impact of design and size, would have a detrimental effect on the neighbouring period buildings and on the Conservation Area;
- Loss of trees on the site;

- No information on how development will to the highest available energy efficiency standards;
- The height of the development would impact on afternoon sun to neighbouring residential properties and allow unrestricted view in and down through the front bedroom window, especially from the proposed balcony;

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

## 7. RESPONSE TO CONSULTATION

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

### PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

7.2. BICESTER TOWN COUNCIL: **Comments** that is in favour of increasing habitation into the town centre but request the ground floor is retained for retail, specifically for the provision of smaller units suitable for retail in accordance with NPPF 7 Ensuring the Viability of Town Centres being as this application is in Bicester's primary shopping area.

### OTHER CONSULTEES

7.3. OCC HIGHWAYS: **No objections** subject to standard conditions in respect of cycle parking, parking permits, Construction Traffic Management Plan, Fire Tender Plan, and a Delivery and Service Management Plan.

7.4. OCC Drainage: **Objection**. As the site lies within Groundwater Vulnerability zone and includes parking spaces, water quality standards must be met. Proposed development needs a water quality assessment in accordance with Section 4 and Section 26 of SuDS Manual.

7.5. CDC Planning Policy: **Objection**. Proposed development resulting in a loss of retail in the Bicester town centre and conflicting Policy Bicester 5. Evidence is needed to demonstrate if the proposal contributes significantly to the regeneration of the town centre. Residential on the ground floor in the primary shopping frontage will not be supported. Provision of affordable housing should also be sought unless evidence demonstrate otherwise.

7.6. CDC Conservation Officer: **Objection**. Although the existing building is not of any historic merit and therefore there is no objection in principle to the demolition of the building its replacement is significantly out of scale with the streetscape on Sheep Street where the buildings tend to be of two or three storeys. The Sheep Street frontage should be re-designed to show greater sympathy to its immediate, historic context. This will need to involve a significant reduction in scale.

7.7. CDC Housing Strategy & Development Team: **No objection** subject to provision of affordable housing provision as part of the scheme.

7.8. CDC Housing Standards: **No objections**

7.9. CDC Building Control: **No objections**.

7.10. CDC Recreation & Leisure Officer: **No objections** subject to S106 agreement

- 7.11. CDC Environmental Protection Officer: **No objections** subject to conditions
- 7.12. Thames Water: **No objections** subject to conditions.
- 7.13. Crime Prevention Design Advisor, Thames Valley Police: **No objection** subject to minor design changes and conditions
- 7.14. Bicester Local History Society: No comments received
- 7.15. CDC Ecology: No comments received
- 7.16. CDC Economic Development: No comments received
- 7.17. CDC Health protection: No comments received
- 7.18. CDC Landscape Officer: No comments received
- 7.19. CDC Urban Design Officer: No comments received
- 7.20. CDC Public Art Officer: No comments received
- 7.21. CDC Waste & Recycling Officer: No comments received
- 7.22. Bicester Bike Users Group: No comments received

## **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)

- Policy PSD1: Presumption in Favour of Sustainable Development
- Policy SLE2: Securing Dynamic Town Centres
- Policy SLE4: Improving Transport and Connections
- Policy BSC1: District Wide Housing Distribution
- Policy BSC2: The Effective and Efficient Use of Land – Brownfield Land and Housing Density
- Policy BSC3: Affordable Housing
- Policy BSC4: Housing Mix
- Policy BSC10: Open Space, Outdoor Sport and Recreation Provision
- Policy BSC11: Local Standards of Provision – Outdoor Recreation
- Policy BSC12: Indoor Sport, Recreation and Community Facilities
- Policy ESD1: Mitigating and Adapting to Climate Change
- Policy ESD2: Energy Hierarchy and Allowable Solutions
- Policy ESD3: Sustainable Construction
- Policy ESD6: Sustainable Flood Risk Management
- Policy ESD7: Sustainable Drainage Systems (SuDS)

- Policy ESD10: Protection and Enhancement of Biodiversity and Natural Environment.
- Policy ESD15: The Character of the Built and Historic Environment
- Policy Bicester 5: Strengthening Bicester Town Centre

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

- Policy C23: Features in conservation areas
- Policy C28: Layout, design and external appearance of new development
- Policy C30: Design of new residential development
- Policy ENV1: Environmental pollution
- Policy S12: Development proposals in Bicester town centre
- Policy S13: Primary shopping frontages, Bicester

#### 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
- Conservation of Habitats and Species Regulations 2017
- Circular 06/2005 (Biodiversity and Geological Conservation)
- Human Rights Act 1998 (“HRA”)
- Equalities Act 2010 (“EA”)

### 9. APPRAISAL

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

- Principle of development
- Design, and impact on the character of the area including Heritage impact
- Highway / Parking implications
- Drainage implications
- Residential amenity
- Sustainable construction / measures
- Infrastructure / S106

#### Principle of Development

9.2 The application site is located within Bicester Town Centre within an area allocated as primary retail frontage. The proposal seeks to re-development of the site from retail / commercial to residential use.

#### *Policy Context*

#### *National Planning Policy Framework*

9.3 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 recently revised National Planning Policy Framework (NPPF) which sets out the Governments planning policy for England and how these should be applied.

9.4 The purpose of the planning system is to contribute to the achievement of sustainable development and the NPPF defines this as having three dimensions: economic, social and environmental. 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.*

- 9.5 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.*
- 9.6 Section 7 of the NPPF highlights the importance of ensuring the vitality of town centres. Paragraph 85 states, amongst other things, that *planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation.* This paragraph continues by stating that *planning policies should:*
- a) *define a network and hierarchy of town centres and promote their long-term vitality and viability – by allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries, allows a suitable mix of uses (including housing) and reflects their distinctive characters;*
  - b) *define the extent of town centres and primary shopping areas, and make clear the range of uses permitted in such locations, as part of a positive strategy for the future of each centre;* (my emphasis)
  - c) *retain and enhance existing markets and, where appropriate, re-introduce or create new ones;*
  - d) *allocate a range of suitable sites in town centres to meet the scale and type of development likely to be needed, looking at least ten years ahead. Meeting anticipated needs for retail, leisure, office and other main town centre uses over this period should not be compromised by limited site availability, so town centre boundaries should be kept under review where necessary;*
  - e) *where suitable and viable town centre sites are not available for main town centre uses, allocate appropriate edge of centre sites that are well connected to the town centre. If sufficient edge of centre sites cannot be identified, policies should explain how identified needs can be met in other accessible locations that are well connected to the town centre; and*
  - f) *recognise that residential development often plays an important role in ensuring the vitality of centres and encourage residential development on appropriate sites.* (my emphasis).
- 9.7 Section 5 covers the issue of delivering a sufficient supply of housing and paragraph 64 of which states, amongst other things that *where major development involving*

*the provision of housing is proposed, planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership.*

9.8 Paragraph 73 highlights the need for *Local Planning Authorities to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old. The supply of specific deliverable sites should in addition include a buffer (moved forward from later in the plan period).* Paragraph 74 continues by stating that *a five year supply of deliverable housing sites, with the appropriate buffer, can be demonstrated where it has been established in a recently adopted plan, or in a subsequent annual position statement which:*

*a) has been produced through engagement with developers and others who have an impact on delivery, and been considered by the Secretary of State; and*

*b) incorporates the recommendation of the Secretary of State, where the position on specific sites could not be agreed during the engagement process.*

#### *Development Plan*

9.9 Saved Policy S12 of CLP 2015 covers the issue of development in Bicester Town Centre and states that *proposals for new developments in the town centre as defined on the proposals map will normally be approved provided they do not conflict with the other policies in the plan.* Policy S13 continues by stating that *within the primary shopping frontages of the town centre, as defined on the proposals map, changes of use at ground-floor level to non-retail uses will not normally be permitted.*

9.10 Policy BCS2 of the CLP 2015 covers the issue of new housing and highlights the need to ensure that proposals make the most effective and efficient use of land – with reference to brownfield land and housing density. For new housing development in Cherwell will be expected to make effective and efficient use of land. The Council will *encourage the re-use of previously developed land in sustainable locations. New housing should be provided on net developable areas at a density of at least 30 dwellings per hectare unless there are justifiable planning reasons for lower density development.* It is estimated that this development of 28 dwellings on a 0.09 hectare site which equates to 311 dwellings per hectare. This density will need to be considered in relation to the surrounding properties and densities.

9.11 BSC3 of the CLP 2015 states that sites of 11 or more dwellings will be required to provide affordable housing. In Bicester, the policy requirement is that 30% of the new housing should be for affordable housing. The proposed development does not include provision for affordable housing.

9.12 On 12 September 2018 the Secretary of State for Ministry of Housing, Communities and Local Government issued a written statement containing a 'temporary change to housing land supply policies as they apply in Oxfordshire'. It set out that the Oxfordshire authorities will only need to demonstrate a 3 year housing land supply and not 5 years so that the authorities can focus their efforts on the Joint Statutory Spatial Plan. In March this year it was confirmed that this temporary change to housing land supply would not be continuing in 2021.

9.13 The 2020 AMR demonstrates that the District presently has a 4.7 year supply. The requirement under the NPPF is for Local Planning Authorities to demonstrate a 5 year land supply and as such the Council is just under this requirement. Notwithstanding this point Paragraph 11(d) of the NPPF tilts the decision making balance towards granting planning permission for sustainable development (subject



to other environmental, social and economic considerations) where Development Plan policies are out-of-date provided the balance of benefits derived from boosting the supply of housing is not materially outweighed by identifiable harmful impact(s). As such in the consideration of any application for new housing other Policies will need to be taken into account and whether or not the harm would outweigh the benefits of the addition a housing.

- 9.14 Policy Bicester 5 'Strengthening Bicester Town Centres' highlights that *Shopping, leisure and other 'Main Town Centre Uses' will be supported within Bicester town centre. Residential development will be supported in appropriate locations in Bicester town centre except where it will lead to a loss of retail or other main town centre uses. The Policy continues by stating *that the change of use of sites used for main town centre uses in the town centre for residential development will normally be permitted if proposals contribute significantly to the regeneration of the town centre. Mixed use schemes will be encouraged.* However, the Policy further advises that only A1 and A3 uses will be permitted on the ground floor in the primary shopping frontage. Residential development will be encouraged within the primary shopping frontage above ground floor level. This site is located within the primary shopping frontage of Bicester Town centre.*

#### *Assessment*

- 9.15 This application seeks planning permission for the re-development of these two vacant retail units to form two separate residential blocks to provide 28 apartments. The existing / current use of the units is for retail / commercial use although it is accepted that the two units are currently vacant. It is not clear how long these units have been vacant as no information history of the trading of these units has been provided with this application.
- 9.16 As highlighted in paragraph 9.14 Policy Bicester 5 seeks to protect main town centre uses within the Bicester town centre and does not support a proposal which results in a loss of retail or other main town centre uses. However, it is also accepted that consideration will be given if the proposal contributes significantly to the regeneration of the town centre. In addition, the policy states that only A1 and A3 uses will be permitted on the ground floor in the primary shopping frontage, and that residential will be encouraged above ground floor.
- 9.17 The proposal is for the use of the site for residential use only and, although the provision of residential accommodation on the upper floors would be considered appropriate, the loss of the retail on the ground floor would conflict with Development Policy that seeks to retain the A1 retail use on the ground floor.
- 9.18 The applicant is of the view *that in the 10 years since the Local Plan was adopted far from being strengthened the town centre retail in Bicester has all but collapsed.* The applicant continues by stating that *the idea that policies dating back to 2011 and even 1996 can have any relevance is nonsense as the retail world is fast-moving and the market changes on a monthly basis.*
- 9.19 Officers note that Bicester Town Centre benefits from numerous retail and commercial units providing a vast array of shopping facilities for visitors to the town centre. It is accepted that there are some vacant units in the town centre, but this is normal and when compared to the overall number of retail / commercial units in the town centre the vacant number are of a few and limited number. This would not therefore suggest that the town centre has collapsed as suggested by the applicant as justification to redevelop the site.

- 9.20 Discussions with the applicant over the vacant nature of the site included a request for the applicant to demonstrate the marketing of the vacant units in this application. The purpose of this request is to establish what interest had been generated in the units to assess the continued retail use of the site.
- 9.21 The applicant responded by stating that their *Bicester units have been marketed through local agents and two London specialist retail agents KLM and Colliers who are in touch with the market on a daily basis*. It was also suggested that *the fact is that there are currently no retail enquires for Bicester and approaching individual companies has been unsuccessful and this dates back to long before the present pandemic*. The applicant continued by suggesting that *there is no demand for retail units in Bicester as we can prove by the fact that we have a number on the market without any interest. Number 24 has been fully refurbished since 2015 and we have others that have been empty for a very long time*. The applicant was requested to demonstrate the marketing of the units and provide evidence of the marketing exercise, but this has not been provided.
- 9.22 Notwithstanding the lack of evidence being provided, officers checked online to establish whether the details of the applicant units were being listed for sale / rent and also to see what other units were being advertised. From this exercise it was found that neither of the units were being advertised including on the two agents suggested by the applicant. It was also found that in Bicester Town centre there were only 9 retail units being advertised and hence the reason why it is suggested by officers that the retail market in Bicester has not collapsed. It is suggested by the applicant that *providing details of marketing of a property is not the way the retail world works and that agents will in turn make contact with other retail agents, who will be retained by prospective tenants who will have given them a list of their requirements*.
- 9.23 It is disappointing that the applicant has failed to address the issue of retail need on the ground floor of these two units. The lack of marketing information does not assist in assessing whether or not there is any retail need in these units and as such the Policy Bicester 5 is the current Policy to consider this type of development.

#### *Conclusion*

- 9.24 As highlighted above the policy states that A1 and A3 are the only uses permitted on the ground floor in the primary shopping frontage. The re-development of the site with all residential would therefore result in the loss of the retail use on the ground floor to the detriment of the retail function of this part of the primary retail frontage.
- 9.25 Section 7 of the NPPF underlines the importance of the High Street in terms of ensuring the vitality of town centres with paragraph 85 highlighting that *planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation*. This proposal would simply reduce the primary frontage in this section of Sheep Street to reduce the role of this part of the Town Centre. It is accepted that there is a need to provide residential accommodation within the Town Centre however, this should not be on the ground floor which should be retained for retail use to allow the Town Centre to function as a retail / commercial centre of the Town.
- 9.26 The proposal is therefore contrary to policy Bicester 5 and section 7 of the NPPF and with no information to warrant an exception the principle of the development is not considered acceptable.

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

- 9.27 The application site is located in a prominent position within Bicester Town Centre in the heart of the retail / commercial area of the town. The site is also located within the Bicester Conservation Area and although of a post war / modern style of building the site makes a contribution towards the character of the area.

### *Policy Context*

#### *National Planning Policy Framework*

- 9.28 Section 12 of the NPPF covers the issue of design, paragraph 127 states that planning policies and decisions should *ensure that developments: a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities); d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit; e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks.*
- 9.29 Paragraph 130 continues by stating, amongst other things, that *permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents.*
- 9.30 Due to the Conservation Area designation of the site of further relevance is Section 16 within which paragraph 200 states that *local planning authorities should look for opportunities for new development within Conservation Areas, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.* In addition to this Section 72(1) of The Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that, *the Local Planning Authority has a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of a Conservation Area.*

### *Development Plan*

- 9.31 Saved Policy C28 states that *control will be exercised over all new development, including conversions and extensions, to ensure that the standards of layout, design and external appearance, including the choice of external-finish materials, are sympathetic to the character of the urban or rural context of that development. in sensitive areas such as conservation areas, the area of outstanding natural beauty and areas of high landscape value, development will be required to be of a high standard and the use of traditional local building materials will normally be required.* Saved Policy C30 continues by stating that *design control will be exercised to ensure: (i) that new housing development is compatible with the appearance, character, layout, scale and density of existing dwellings in the vicinity.*
- 9.32 Particular regard to enhancing the character of the Conservation Area and the surrounding listed should be given and the application needs to be assessed against

the criteria set out in Policy ESD15 of the CLP 2015. Policy ESD15 highlights, amongst other things, that new development proposals should:

- *Be designed to deliver high quality safe, attractive, durable and healthy places to live and work in. Development of all scales should be designed to improve the quality and appearance of an area and the way it functions*
- *Support the efficient use of land and infrastructure, through appropriate land uses, mix and density/development intensity*
- *Contribute positively to an area's character and identity by creating or reinforcing local distinctiveness and respecting local topography and landscape features, including skylines, valley floors, significant trees, historic boundaries, landmarks, features or views, in particular within designated landscapes, within the Cherwell Valley and within conservation areas and their setting*
- *Conserve, sustain and enhance designated and non designated 'heritage assets' (as defined in the NPPF) including buildings, features, archaeology, conservation areas and their settings, and ensure new development is sensitively sited and integrated in accordance with advice in the NPPF and NPPG.....*
- *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 defined active public frontages*
- *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*
- *Be compatible with up to date urban design principles, including Building for Life, and achieve Secured by Design accreditation*
- *Consider sustainable design and layout at the master planning stage of design, where building orientation and the impact of microclimate can be considered within the layout*
- *Incorporate energy efficient design and sustainable construction techniques, whilst ensuring that the aesthetic implications of green technology are appropriate to the context (also see Policies ESD 1 - 5 on climate change and renewable energy)*

#### *Assessment*

9.33 The application site contains a pair of two-storey buildings with flat roof design. The ground floor is occupied with two retail units with modern shop fronts while the first floor is constructed from buff brick with a stepped relief and a pair of metal framed windows in each unit. The application property adjoins a further post war / modern flat roofed retail building on one side with a height of three storeys and a more traditional three storey building with a restaurant on the ground floor and a pitched slate roof on the other side.

9.34 It is considered that the current building, although not of any historic significance, has been built to respect the scale and building line of the surrounding townscape.

As such it is considered that although the existing building is of no significant historic merit in this part of the Conservation Area. The principle of its demolition and replacement with a new building is considered acceptable.

- 9.35 In terms of design the proposal is for a pair of all brick-built four storey blocks with one fronting onto Sheep Street and the second to front Backway Road. On the ground floor elevations to Sheep Street would be maintained with patio doors set back by approximately 1.5m to provide a small front amenity space behind a low railing fence with the first and second floors in line with the main building and the upper floor set back a similar depth to that on the ground floor. The design would emphasise the long fenestration details on the front elevation some of which would be doors with Juliet balconies. A similar design on the second block although on the ground floor the elevation treatment would not contain the patio doors, nor any amenity space / set back.
- 9.36 In considering the overall design officers are concerned over the impact of the block on the character and appearance of the Conservation Area and that the proposal fails to enhance or make a positive contribution towards this part of Sheep Street. The Bicester Conservation Area Appraisal states *'Bicester is remarkable in that its central area retains intact the medieval street pattern and the relationship of urban spaces associated with a small market town despite its extensive 20th century growth. The Conservation Area covers the centre of Bicester where the postmediaeval development of the settlement is still discernible. The building lines within the town centre are continuous and very strongly define the public realm contrasting with the jagged irregular form of the rear, generally private areas. This is particularly noticeable on the eastern side of Sheep Street.'*
- 9.37 Due to the height of the development the proposal is out of scale with the streetscape on Sheep Street where the buildings tend to be of two or three storeys. The Sheep Street frontage fails to show a sympathetic design to its immediate neighbouring properties and to the historic context of the site resulting in a substantial level of harm to the character of this part of the Conservation area.
- 9.38 The use of the ground floor element as residential on Sheep Street with the patio doors set back behind a domestic style railing would create a semi-private area for the residents of these ground floor apartments. The applicant is of the view that this use would add vibrancy to the town centre as the re-development of the ground floor for retail would remain empty. However, in considering this approach it also has to be accepted that the residents of these apartments are likely to want some form of privacy in the rooms fronting onto Sheep Street particularly as 2 of the rooms are bedrooms and although it is accept that the ground floor element is set back slightly these windows are likely to be screened with blinds / curtains etc. and as such the appearance could still be viewed as a dead frontage on a primary retail area in the town centre. Although it is acknowledged that residential the upper floors would be acceptable and to a degree encouraged, the loss of the retail on the ground floor to residential would do little to add to the vibrancy of the town centre but would appear more as a dead frontage within this row of retail / commercial units.
- 9.39 With regards to the Backway Road frontage the Bicester Conservation Area Appraisal also refers to the significance of the rear lanes and yards *'Service buildings such as stables, privies and barns remain, for example, in rear yards off Sheep Street, Causeway and Market Square. Other building types such as slaughterhouses and dairies also survive to the rear of Sheep Street. However, often, these ancillary structures have been swept away by more modern development'* and *'Rear courts and yards, accessed through archways off Sheep Street (e.g. Wesley Lane, Evans Yard, Deans Court), have been brought back into productive use and add significantly to the special character of the town'* The

Backway Road area of the town has a mixture of modern developments (attached to the rear of the Sheep Street frontage and set back from the Backway Road building line) and reasonably proportioned developments set along the building. The proposed four storey development would be significantly out of character and proportion with the surrounding streetscape and would do nothing to enhance the historic character of the area.

#### *Conclusion*

- 9.40 It is accepted that the existing units on this site are of little historic interest but the scale of the buildings is in keeping with the surrounding area. Whereas, the design of the replacement buildings at four storeys high would appear out of place and character within this part of the Conservation Area resulting in significant and demonstrable harm to the character and appearance of the area.
- 9.41 The change in use on the ground floor to residential would result in a significant change in character on this part of Sheep Street. This primary retail frontage is retained as an area of retail use as outlined in the Policy and the change to the domestic character / appearance would be out of place and character to the detriment of the Conservation area.
- 9.42 With regards to Backway Road the character is of the rear of the commercial buildings and service yards. There are some limited residential uses on this part of Backway Road, but the scale of existing development is limited to either 2 or 3 storeys. The proposed four storey development would appear as an over dominant feature in the street scene to the detriment of the character of this part of the Conservation Area.
- 9.43 For these reasons the design and character of the proposal is considered to conflict with Policy ESD15 of the CLP 2015, Section 72(1) of The Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) as well as the advice contained in Sections 12 and 16 of the NPPF.

#### Highway / Parking implications

- 9.44 This application is located within the heart of Bicester Town Centre with access to footpaths, cycle routes and public transport links. The proposal to redevelop the site with 28 apartments includes the provision of 3 parking spaces allocated as disabled use and located on the second block fronting onto Backway road. In addition to this the proposal also includes the provision of 28 cycle parking spaces split between the centre of the site and the two blocks and within the one of the blocks.

#### *Policy Context*

##### *National Planning Policy Framework*

- 9.45 Paragraph 102 of the NPPF states, amongst other things, that *transport issues should be considered from the earliest stages of plan-making and development proposals, so that: a) the potential impacts of development on transport networks can be addressed; b) opportunities from existing or proposed transport infrastructure, and changing transport technology and usage, are realised – for example in relation to the scale, location or density of development that can be accommodated; c) opportunities to promote walking, cycling and public transport use are identified and pursued; and e) patterns of movement, streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places.*

9.46 Paragraph 109 highlights that *development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.* In addition, paragraph 110 outlines that within this context, applications for development should: *a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use; b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport; c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards; d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.*

#### *Development Plan*

9.47 Policy ESD 15 states amongst other things that New development proposals should:

- *Be designed to deliver high quality safe, attractive, durable and healthy places to live and work in. Development of all scales should be designed to improve the quality and appearance of an area and the way it functions*
- *Support the efficient use of land and infrastructure, through appropriate land uses, mix and density/development intensity*
- *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 defined active public frontages,*
- *Promote permeable, accessible and easily understandable places by creating spaces that connect with each other, are easy to move through and have recognisable landmark features*
- *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. The principles set out in The Manual for Streets should be followed.*

#### *Assessment*

9.48 This application seeks the re-development of this vacant retail site to provide two blocks of 14no apartments in each to provide an overall development of 28no apartments comprising 4no studio Flats, 21no one bedroom Flats. and 3no two bedroom Flats. In terms of parking the proposal allocates 3no disabled parking spaces to the rear block fronting into Backway Road. In addition to these three parking spaces the development will also be provided with 28 cycle parking spaces with 14 No. provided in the amenity space between the two blocks and the remaining 14 shown within a space within the ground floor area of the block fronting onto Backway Road.

9.49 It is accepted that the application site lies in the heart of the commercial / retail area of Bicester Town Centre with excellent links via footpaths, cycleways and public transport within easy walking distance of community amenities such as shops, offices, bars and restaurants, places of worship etc. and the main transport hubs in

the town. The main frontage of the block onto Sheep Street is pedestrianised between Market Square and Bell Lane and as such vehicle access to the frontage of this block would not be possible. Given its highly sustainable location, the applicant proposes to make the development essentially a car-free development other than the 3 No. proposed residents disabled parking bays with access off Backway Road.

- 9.50 It is noted that concerns and objections to the proposal have been raised by some residents expressing a concern over the lack of parking allocated to the site and that this would result in an increased vehicle congestion along Backway Road with residents looking for a place to park. Although these concerns are understood the local highway authority is content with this approach and has no objections from a highway safety point of view. Concern is, however, raised over the level of cycle parking allocated at the development in that the 28 spaces would fail to comply with the Council's Standards, for example no visitor cycle spaces have been proposed.

#### *Conclusion*

- 9.51 The site is located within the heart of the commercial / retail area of Bicester Town Centre which with its easy access to public transport links and town centre facilities would make it a very sustainable location. Furthermore, it is also accepted that the position of the site is an ideal location for either a car-free development or a development with a significant reduction in parking provision. Occupiers of the apartment would move in with the knowledge that there was no allocated parking on the site and no opportunity to parking close by and as such an informed decision to move to the site would be made.
- 9.52 Paragraph 109 of the NPPF makes it clear that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. With no objections being received from the local highway authority it is considered that although only 3no disabled parking bays are allocated in this development the lack of parking is justified as an exception to Policy.

#### Drainage implications

- 9.53 The application site is not located within a flood risk area. However, as the site lies within Groundwater Vulnerability zone and includes parking spaces, water quality standards must be met. Proposed development needs a water quality assessment in accordance with Section 4 and Section 26 of SuDS Manual.

#### *Policy Context*

##### *National Planning Policy Framework*

- 9.54 Paragraph 155 states; *Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere. Paragraph 163 states that, when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment.*
- 9.55 From a local point of view paragraph 165 states that *major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should: a) take account of advice from the lead local flood authority; b) have appropriate proposed minimum operational*



standards; c) have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and d) where possible, provide multifunctional benefits.

#### *Development Plans*

- 9.56 Policy ESD 1 of the CLP 2015 states, amongst other things that *the incorporation of suitable adaptation measures in new development to ensure that development is more resilient to climate change impacts will include consideration of the following: Minimising the risk of flooding and making use of sustainable drainage methods.*
- 9.57 Policy ESD3 also adds 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: Making use of sustainable drainage methods.*
- 9.58 The issue of sustainable flood risk management is covered under Policy ESD 6 which states that *site specific flood risk assessments will be required to accompany development proposals in the following situations: All development proposals located in flood zones 2 or 3.* The Policy continues by stating that *flood risk assessments should assess all sources of flood risk and demonstrate that:*
- *There will be no increase in surface water discharge rates or volumes during storm events up to and including the 1 in 100 year storm event with an allowance for climate change (the design storm event).*
  - *Developments will not flood from surface water up to and including the design storm event or any surface water flooding beyond the 1 in 30 year storm event, up to and including the design storm event will be safely contained on site.*

#### *Assessment*

- 9.59 This application seeks the redevelopment of this town centre site to form 28no residential apartments. As highlight in paragraph 9.48 above as the site lies within Groundwater Vulnerability zone and includes parking spaces, water quality standards must be met. Proposed development needs a water quality assessment in accordance with Section 4 and Section 26 of SuDS Manual. The proposed development must meet local standards, L19, *“At least one surface feature should be deployed within the drainage system for water quality purposes, or more features for runoff which may contain higher levels of pollutants in accordance with the CIRIA SuDS Manual C753. Only if surface features are demonstrated as not viable, then approved proprietary engineered pollution control features such as vortex separators, serviceable/ replaceable filter screens, or pollution interceptors may be used”.*
- 9.60 The applicant has not provided any information in relation to SuDs of the site once completed. In line with the SuDs guidance manual, surface water management must be considered from the beginning of the development planning process and throughout – influencing site layout and design. The proposed drainage solution should not be limited by the proposed site layout and design. The lack of this information fails to allow assessment as to whether or not the runoff would be managed at source (i.e. close to where it falls) with residual flows then conveyed downstream to further storage or treatment components, where required. As such it's not clear how / whether the development will address the issue of SuDs and therefore it is not clear whether the development will lead to a risk of flooding to the adjoining sites. Members will see that due to the failure to provide this information

an objection to the proposal is raised by the Lead Local Flood Authority. It may be that a suitable SuDs scheme could or would be provided however, with a lack of information it's not clear how or if this would work on the site.

#### *Conclusion*

- 9.61 There is no information within the application submission in relation to the issue of surface water drainage. For this reason, the application fails to comply with Policies ESD1, ESD3 and ESD6 of the CLP 2015 as well as paragraphs 163 and 165 of the NPPF.

#### Residential amenity

- 9.62 This development would result in the intensive use of this site with additional areas of windows facing towards existing residential properties as well as an increase in terms of bulk in the built form. As such the impact of the development upon these existing residential properties will need to be considered. In addition to this it is also considered that the living environments of the occupiers of these apartments also needs to be considered.

#### *Policy Context*

##### *National Planning Policy Framework*

- 9.63 Paragraph 180 of the NPPF advises of the need for planning policies and decisions should to *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*

- 9.64 Saved Policy C31 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.*
- 9.65. 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*

- 9.66 The application is located in the heart of Bicester Town Centre with one block fronting onto the pedestrian area of Sheep Street and the second block fronting Backway Road which contains a limited number of existing residential properties.
- 9.67 In considering the impact of the development upon Sheep Street there is no existing residential properties in Sheep Street which would be adversely impacted by the development in terms of any loss of light, outlook or privacy. However, with regards to Backway Road the block would be positioned approximately 18m from the boundary with the existing residential property known as White House as well as the property known as Waybec. The elevation details of this block maintain a series of windows on all floors which serve lounge and bedrooms in the rear facing

apartments. The upper floor apartments at a height of 10m would allow direct views into the rear garden of the White House property as well as the front garden and rooms of Waybec. The result of which would be a significant loss of privacy to the occupiers of the White House which is also a concern / objection raised by local residents.

- 9.68 With regards to the amenity of the occupiers of these apartments it is accepted that the development includes an area of private amenity space located between and to the rear of the two blocks. The idea of such a space is considered acceptable in that the residents are provided with a private space in the heart of the Town Centre. However, it is also the case that due to the distance between the two blocks and the height of the blocks that this area of amenity space would become a very over shadowed area which would be less inviting than if the blocks were further apart and / or of a lower height. The result of this is that then amenity space, although welcomed, would become an area of little use.
- 9.69 In addition to the amenity aspect, the proposal is for all the block to be used as residential including the ground floor area fronting onto Sheep Street. The proposal includes a single 2 x bedroom apartment on the Sheep Street frontage with an area of set back by approximately 1.5m and the provision of an enclosed space with patio doors leading into the ground floor accommodation including both bedrooms. As highlighted throughout this report the site is located within then heart of Bicester Town Centre close to Town Centre facilities such as retail and restaurants. The result of this is that the potential for noise disturbance to the occupiers of this apartment is likely to be significant. Furthermore, due to the position of the patio doors and all main rooms being served from the front of the block would result in the occupiers having alack of privacy from pedestrians using Sheep Street during both daytime and night-time. The result of which is that the occupiers of this ground floor apartment would have a poor aspect in terms of privacy and possible noise disturbance.

#### *Conclusion*

- 9.70 The position of the site from the nearest residential properties is in the region of 20m. Due to the height of the block fronting Backway Road and the array of main windows facing towards the existing residential properties the development is likely to result in a significant loss privacy to these existing properties.
- 9.71 Due to the scale and close position of the proposed blocks the private amenity space provided for the occupiers of these apartments the level of over shadowing is likely to result in a poor environment and a less inviting place to use. The amenity space would therefore become a dead space with limited use.
- 9.72 The position of the ground floor apartment fronting Sheep Street is likely to suffer poor amenities in terms of a lack of privacy and potential noise disturbance.
- 9.73 For the above reasons it is considered that the proposed development would be contrary to Saved Policies C31 and ENV1, Policy ESD15 and the advice contained in paragraph 180 NPPF.

#### Sustainable construction / measures

- 9.74 The proposal is for the redevelopment of the site from a retail use to a residential use. The development would create a development of 28 apartments all of which would have a significant impact on the environment in terms of both construction and on-going use by the occupiers of the apartments. The details of the build and use of the building in terms of sustainable construction needs to be assessed.

## National Policy Context

### National Planning Policy Framework

9.75 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

9.76 Policy ESD1 in the CLP 2015 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).*

9.77 With regards to 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.*

9.78 Policy ESD 3 covers the issue of Sustainable Construction and states, amongst other things, that *new residential development will be expected to incorporate sustainable design and construction technology to achieve zero carbon development through a combination of fabric energy efficiency, carbon compliance and allowable solutions in line with Government policy.* 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*
- *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.*

*Should the promoters of development consider that individual proposals would be unviable with the above requirements, 'open-book' financial analysis of proposed developments will be expected so that an independent economic viability assessment can be undertaken. Where it is agreed that an economic viability assessment is required, the cost shall be met by the promoter.*

#### *Assessment*

- 9.79 This application seeks full planning permission for the redevelopment of the site for 28no apartments of a mix of sizes. As highlighted above Policy ESD1 requires that all new development should incorporate suitable adaptation measures to ensure that development is more resilient to climate change impacts. Furthermore, Policy ESD 2 highlights that the Council expect that all new development will make 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.
- 9.80 The applicant has failed to provide any information relating to sustainable construction nor any evidence of the use of renewable energy or other measures to be incorporated into the built form. As such it is not clear how the development will aim to reduce its impact on the environment.

#### *Conclusion*

- 9.81 The applicant has not provided any information to demonstrate the use of sustainable construction nor details of any mitigation measure to reduce the impact of the development upon the environment. As such the development fails to comply with Policies ESD1, ESD2 and ESD3 of the CLP 2015 as well as paragraphs 150 and 151 of the NPPF.

#### Infrastructure / S106

- 9.82. Due to the level of development on the site the issue of S106 contributions along with an element of affordable housing should be taken into account. A number of contributions are sought by Cherwell District Council, via the adopted Developers Contributions Supplementary Planning Document February 2018, which follows the tests of the National Planning Policy Framework and is therefore relevant to this planning application.

## National Policy Context

### National Planning Policy Framework

9.83 Paragraph 54 of the NPPF states that *local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.* Paragraph 56 continues by stating that *planning obligations must only be sought where they meet all of the following tests:*

- a) *necessary to make the development acceptable in planning terms;*
- b) *directly related to the development; and*
- c) *fairly and reasonably related in scale and kind to the development.*

### Development Plan

9.84 Policy INF 1 of the CLP 2015 covers the issue of Infrastructure. This Policy states, amongst other things that the *Council's approach to infrastructure planning in the District will identify the infrastructure required to meet the District's growth, to support the strategic site allocations and to ensure delivery by:*

- *Development proposals will be required to demonstrate that infrastructure requirements can be met including the provision of transport, education, health, social and community facilities.*

9.85 The Council also has an adopted Developer Contributions SPD in place which was adopted in February 2018. Under the SPD it is outlined that Although the scope for securing S106 planning obligations has been reduced since April 2015 due to the pooling restrictions, it is expected that planning obligations will still be sought for:

- Affordable housing; and
- Infrastructure which is required to mitigate the direct impact of a development.

It should, however, be noted that this is a general guide and development proposals will continue to be assessed on a case by case basis with the individual circumstances of each site being taken into consideration when identifying infrastructure requirements.

### Assessment

9.86 Due to the level of development on the site the issue of affordable housing should be taken into account. Paragraph 64 of the NPPF states that *where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership, unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups.* This application is for 28 apartments which would represent a major application in terms of definition. As such the application should provide an element of affordable housing as part of the proposal. In addition, this it is also considered that the development should contribute towards community hall facilities, Indoor and outdoor sports provision and a contribution towards Public Art.

- 9.87 In considering the issue of affordable housing the advice from the Strategic Housing Officer is that the total number of affordable dwellings, calculated to be at least 30%, is therefore 9 units. Saved Policy H5 highlights that where *there is a demonstrable lack of affordable housing to meet local needs, the district council will negotiate with developers to secure an element of affordable housing in substantial new residential development schemes*. In terms of this proposal the view is that an element of affordable housing should be provided with tenure proportions split 70/30 between rented units/shared ownership units with 6 rented units and 3 shared ownership units. It is also highlighted that there is an identified need for 1 and 2 bed properties although it is accepted that 2-bed flats for rented accommodation is not suitable for families. Notwithstanding this point it is considered that 2 bed flats for shared ownership are acceptable. The studio flats are not a property type this Council would request, although there are affordable rented properties of this type in the district and as such in the event that permission were to be granted the provision of affordable housing should be 6 x 1-bed flats for rent and 3 x 2-bed flats for shared ownership.
- 9.88 The applicant has failed to provide any heads of terms and made no reference to the need for any contributions as part of the application. In discussions with the applicant in the issue of a S106 agreement it has been suggested that the whole scheme could be provided as social housing and it could be that the front block could be used as a form of hostel as developed elsewhere in Oxford City. In considering this suggestion it is clear that this would conflict with the details of the application as initially submitted and is a completely different type of application than considered under the current details. The initial application was for 100% market housing with no social units or any off-site contribution. The applicant in suggesting the social use of the site provided no detail to this suggestion. On further pressure to provide details on the social housing the applicant failed to submit further information on the provision of this type of housing. No information nor commitment on the other S106 requires was provided by the applicant.

### *Conclusion*

- 9.89 The application is not supported by any draft heads of terms for a S106 nor is there any commitment that any contributions would be offered. As noted above this approach is not considered appropriate and that the details of any S106 need to be agreed as part of this application and therefore this application is contrary to Policy INF1 of the CLP 2015 as well as guidance outlined in paragraph 54 of the NPPF.

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

- 10.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined against the provisions of the development plan unless material considerations indicate otherwise. The NPPF supports this position and adds that proposals that accord with an up-to-date development plan should be approved and those which do not should normally be refused unless outweighed by other material considerations.
- 10.2 The loss of the retail units in this primary retail frontage area of Sheep Street would result in a decline in the retail function of this the Bicester Town Centre to the detriment of the town and contrary to Policy Bicester 5 of the CLP 2015 as well as Saved Policy S13 and guidance in the NPPF.
- 10.3 In terms of design and appearance the increase in height over and above that of the neighbouring properties would appear out of place to the detriment of the street scene and character of this part of the Conservation Area. Although it is accepted that the design of the existing building is not of a high quality, the proposed design

of the replacement residential blocks is not of a design / style which makes the most of enhancing the appearance and character of this part of the Conservation Area. For this reason, the design of the residential block particularly along Sheep Street is considered to conflict with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 as well as the advice contained in Sections 12 and 16 of the NPPF.

- 10.4 It is recognised that the proposed development would provide investment and increase the supply of housing. However, these benefits are not considered to outweigh the harmful impacts represented by the proposals.

## 11. RECOMMENDATION

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

1. The application site is located within the primary retail frontage of Bicester Town Centre and surrounded by other retail and commercial properties. The conversion of the ground floor element from retail to residential would result in the loss of retail floor space in this town centre location to the detriment of the main function of the town centre. No retail marketing assessment has been provided to demonstrate that the retail / commercial use of the ground floor is not suitable or viable for commercial use to warrant an exception to the Policy. The application therefore fails to comply with the requirements of Policy Bicester 5 of the Cherwell Local Plan 2011 – 2031 Part1, Saved Policy S13 of the Cherwell Local Plan 1996 and guidance in paragraph 85 of the National Planning Policy Framework.
2. The development proposed, by virtue of its considerable size, scale and massing along with its incongruous design, will cause significant and unacceptable harm to the character and appearance of the Conservation Area. The proposal is therefore contrary to Policies ESD13 and ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Section 72(1) of The Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) as well as the advice contained in paragraphs 127, 130 and 200 of the National Planning Policy Framework.
3. All major applications should be supported by a sustainable drainage system unless there is clear evidence that this would be inappropriate. No information has been provided with the application to demonstrate any such system nor any evidence shown to demonstrate that the proposal will not result in any surface water flooding to the neighbouring properties or the surrounding area. The proposal is therefore contrary to Policies ESD1, ESD3 and ESD6 of the Cherwell Local Plan 2011-2031 Part 1 as well as paragraphs 163 and 165 of the National Planning Policy Framework.
4. Due to the overall height, scale and position of windows along the eastern elevation of the block fronting Backway Road will result in a loss of privacy to the rear garden area and rooms of the existing residential property known as White House. The development is therefore contrary to For the above reasons it is considered that the proposed development would be contrary to Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policies C31 and ENV1 of the Cherwell Local Plan 1996 and paragraph 180 of the National Planning Policy Framework.
5. No information is provided to demonstrate that the construction and future use of



the new apartment blocks will incorporate suitable adaptation measures to ensure that the development is resilient to climate change impacts. The development is therefore contrary to Policies ESD1, ESD2 and ESD3 of the Cherwell Local Plan 2011-2031 Part 1 as well as paragraphs 150 and 151 of the National Planning Policy Framework.

6. In the absence of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement the Local Planning Authority is not satisfied that the proposed development provides for appropriate infrastructure, including Affordable housing, directly required as a result of the development and necessary to make the impacts of the development acceptable in planning terms. The development proposed is therefore contrary to Policy INF1, of the Cherwell Local Plan 2011-2031 Part 1, Developers Contribution SPD 2018 and Government Guidance contained within paragraph 54 the National Planning Policy Framework.

CASE

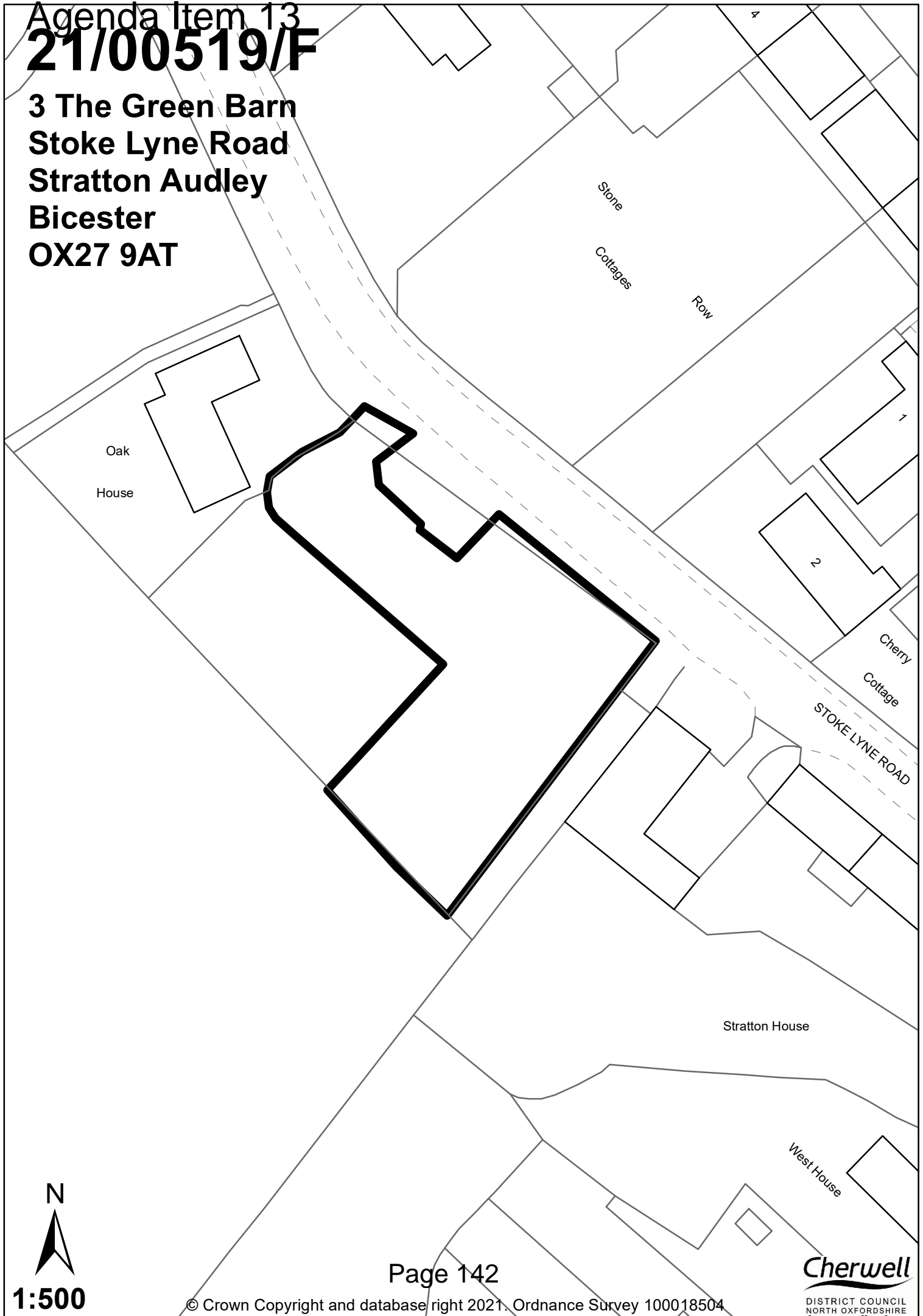
OFFICER:

Wayne

Campbell

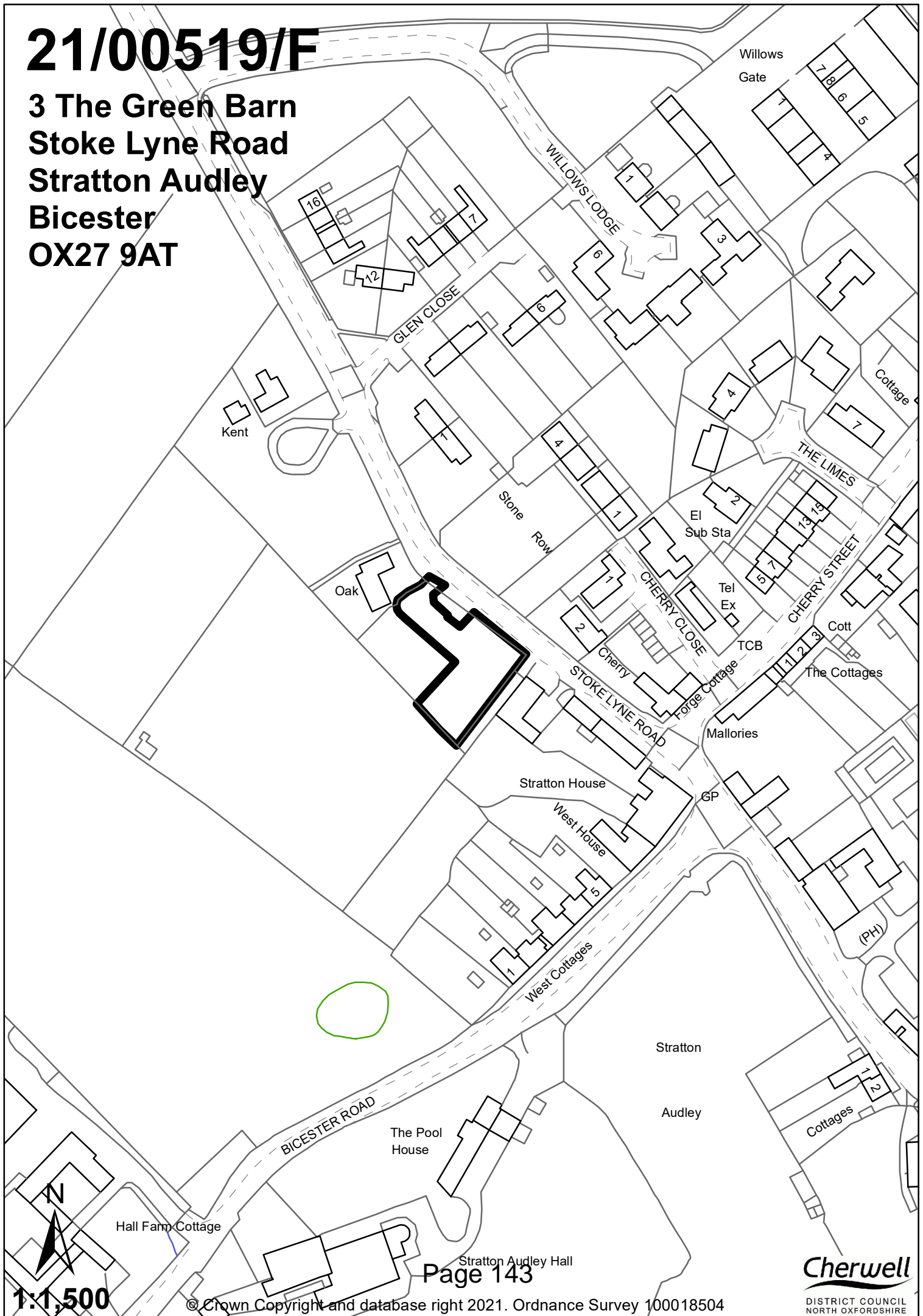
Agenda Item 13  
**21/00519/F**

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



# 21/00519/F

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



1:1,500

**Case Officer:** Matthew Chadwick

**Applicant:** Mobley Ltd

**Proposal:** RETROSPECTIVE - Erection of new detached dwelling house - this application seeks to amend the original dwelling design from 16/00366/REM and Appeal APP/C3105/W/16/3154107 - revised scheme of 20/03426/F

**Ward:** Fringford and Heyfords

**Councillors:** Councillor Patrick Clarke, Councillor Corkin, Councillor Wood

**Reason for Referral:** Public interest and the history of the site

**Expiry Date:** 13 April 2021

**Committee Date:** 20 May 2021

---

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

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

## **2. CONSTRAINTS**

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

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

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

- On the southwest elevation a porch has been added, along with a window at first floor level and three dormers in the roof slope and the ridge height of the single storey element has been reduced.
- On the northwest elevation, a window has been removed at first floor level.
- On the northeast elevation (facing the road), a window has been added at ground floor level and a window has been added at first floor level. Alterations are proposed to the approved windows and a window serving the utility room has been removed.

- On the southeast elevation, at first floor level a window serving an en-suite have been added and two rooflights have been added over the single storey element.
- 3.2. The proposals have been amended in design from the recently refused application (20/03426/F). These changes involve the removal of windows on the southeast elevation. Two windows would be removed from the ground floor, one window removed from the first floor and one window removed from the second floor. The remaining window at first floor level would be reduced in size.
- 3.3. Internally, a second floor has been added, which would accommodate a bedroom and a study in the roof space above the double garage. A gap between the garage of the dwelling and the garage for plot 2b would be infilled with a 1.8m stone boundary wall.
- 3.4. Planning consent is required for the alterations because the dwelling is being constructed not in accordance with the approved plans. Permitted development rights have not yet taken effect because the dwelling is not completed; in any event some of the changes would not constitute permitted development.

#### 4. RELEVANT PLANNING HISTORY

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

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

|              |  |                     |
|--------------|--|---------------------|
| 15/02321/OUT | Demolition of existing dutch barn and erection of 4 No dwellings and formation of new access; siting, layout and massing (Resubmission of 15/00640/OUT)                    | Application Refused |
| 16/00366/REM | Reserved matters on application 15/00640/OUT Layout, scale, appearance and access  | Application Refused |
| 20/03426/F   | RETROSPECTIVE - Erection of new detached dwelling house - this application seeks to amend the original dwelling design from 16/00366/REM and Appeal APP/C3105/W/16/3154107 | Application Refused |

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

1. *The proposed development, by virtue of the scale and prominence of the main part of the dwelling on Plot 3 and the siting, layout, form and scale of the dwelling on Plot 1, would fail to preserve or enhance the character and appearance of the Stratton Audley Conservation Area and would cause harm to the rural character, quality and appearance of the area. There are not considered to be any public benefits which would outweigh this harm. The proposed development would therefore be contrary to Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1; Saved Policies C28 and C30 of the Cherwell Local Plan 1996 and Government guidance contained in the National Planning Policy Framework on design and heritage matters.*

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

4.3. Application 20/03426/F was refused for the following reasons:

1. *By virtue of its design, in particular the amount of fenestration facing onto the public domain, the development would appear contrived and incongruous and would not relate well to the existing development in the area. The proposal would thus detrimentally impact on the character and appearance of the locality and the setting of the adjacent Stratton Audley Conservation Area contrary to Saved Policies C28 and C30 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 which seeks to secure high quality design.*
2. *By virtue of the positioning of the fenestration, the proposed development would result in a detrimental impact on the amenity of the neighbouring properties. The proposal is therefore contrary to Saved Policy C30 of the Cherwell Local Plan 1996, Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained with the National Planning Policy Framework.*

## 5. PRE-APPLICATION DISCUSSIONS

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

## 6. RESPONSE TO PUBLICITY

- 6.1. This application has been publicised by way of a site notice displayed near the site 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 **29 March 2021**, although comments received after this date and before finalising this report have also been taken into account.
- 6.2. The comments raised by third parties are summarised as follows:
- In support of the design of the development.
  - The development would cause harm to the character and appearance of the area.
  - The windows should be altered to match Cherry Cottage.
  - The window facing Mattingley Barn would cause harm to the amenities of this building.
- 6.3. The comments received can be viewed in full on the Council's website, via the online Planning Register.

## 7. RESPONSE TO CONSULTATION

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

### PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

- 7.2. STRATTON AUDLEY PARISH COUNCIL: **Expresses concerns** regarding the additional windows.

### OTHER CONSULTEES

- 7.3. OCC ARCHAEOLOGY: **No objections**.
- 7.4. CDC ECOLOGY: No comments received.
- 7.5. CDC ENVIRONMENTAL HEALTH: **No objections**, subject to a condition requiring the provision of EV charging infrastructure.
- 7.6. OCC HIGHWAYS: No comments received.

## 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
- ESD1: Mitigating and Adapting to Climate Change
- ESD13: Local Landscape Protection and Enhancement
- ESD15: The Character of the Built and Historic Environment
- Villages 1: Village Categorisation

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

- H18: New dwellings in the countryside
- C28: Layout, design and external appearance of new development
- C30: Design control

### 8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- Cherwell Residential Design Guide Supplementary Planning Document (2018)

## 9. APPRAISAL

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

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

#### Principle of Development

9.2. Policy Villages 1 of the CLP 2015 provides a framework for housing growth in the rural areas of the district and groups villages into three separate categories (A, B and C). Stratton Audley is a Category C settlement, which means that it is one of the least sustainable rural settlements in the district. Within the limits of Stratton Audley, only infilling and conversions are considered acceptable in principle.

9.3. Saved Policy H18 of the CLP 1996 states that planning permission will only be granted for the construction of new dwellings beyond the built-up limits when it is essential for agriculture or other existing undertakings.

9.4. The application site has an extensive planning history as set out earlier in this report. The development as proposed would fail to comply with Policy Villages 1, as the proposals do not constitute infilling or conversion of an existing building.

9.5. That said, planning consent for four dwellings exists across the wider site and applications 15/00640/OUT and 16/00366/REM have been lawfully implemented with conditions 2, 3 and 5 discharged. Development of the dwelling in question has been commenced and therefore there is consent for a dwelling on this site. Whilst this application proposes a new dwelling which is not supported by policy, significant weight has to be given to the fallback position that exists and the extant permission



for a dwelling on this plot. There has been no material change in circumstances since the previous grants of planning consent on this site.

- 9.6. In addition, the nature of the changes proposed between this new dwelling and that previous consented are not significant. Given this planning history, the broad principle of the proposed development is considered to be acceptable, subject to the other material considerations discussed below.

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

##### *Legislative and policy context*

- 9.7. Government guidance contained within the NPPF requiring good design states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Further, permission should be refused for development of poor design that fails to take the opportunities for improving the character and quality of an area and the way it functions.
- 9.8. Saved Policies C28 and C30 of the 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.
- 9.9. Policy ESD15 of the CLP 2015 states that new development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design. All new development will be required to meet high design standards and should respect the historic environment including Conservation Areas and listed buildings.
- 9.10. Paragraph 127 of the NPPF states that planning decisions should ensure that developments
- will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
  - are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
  - are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change

##### *Assessment*

- 9.11. The scope of the design changes proposed in this application from that approved under 16/00366/REM are set out in the introduction to this report. Many of these changes face inwards into the site and have little or no impact on the character and appearance of the area.
- 9.12. Concerns have been raised by third parties during the consultation process regarding the impact of the new windows on the elevations facing the public domain. The recent application was refused at planning committee in February 2021 due to the impact that the fenestration would have on character and appearance of the area.
- 9.13. More windows are proposed on the north-east elevation facing the road than were previously approved. Three windows are proposed at ground floor level and three

windows at first floor level. This would result in a more uniform appearance to the dwelling, as there is now more rhythm with regards to the location of the fenestration. There would be a net increase of one window on this elevation when compared to that approved under 16/00366/REM but officers consider that this would not cause harm to the character and appearance of the area.

- 9.14. On the approved scheme, there were no windows on the south-east elevation whereas in the proposed scheme there is a single window at first floor level and two rooflights on this elevation. This number has been significantly reduced from the recently refused scheme. It is considered that the provision of these windows would not adversely affect the appearance of the building or the wider character and appearance of the area.
- 9.15. The development proposes to infill the existing gap between the garage for Plot 3 and the garage for Plot 2b with a stone wall 1.8m in height. Any permission given would need to be subject of a condition to require that this element of the scheme is constructed externally in stonework to match the sample panel previously approved for the dwelling on the site in order to achieve a well-designed form of development and to safeguard the character and appearance of the area.
- 9.16. Three dormer windows are proposed within the southwest roof slope. These would face into the site are not considered to cause harm to the character and appearance of the area. The ridge height for the dwelling would be the same as the dwelling approved under 16/00366/REM.
- 9.17. For these reasons, it is considered that the development would not cause harm to the character and appearance of the area or the significance of the Stratton Audley Conservation Area through change to its setting. The form and scale of the dwelling would not change from the previously approved scheme and the main visual alterations relate to the introduction of new windows, which have been significantly reduced in number from the recently refused scheme. Whilst the introduction of windows on the northeast and southeast elevations would result in a visual difference from the previously approved scheme, it is not considered that this would result in any material harm to heritage assets.

### *Conclusion*

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

### Residential amenity

#### *Policy Context*

- 9.19. Policy ESD15 of the CLP 2015 states that new development proposals should consider the amenity of both existing and future development, including matters of privacy outlook, natural lighting, ventilation, and indoor and outdoor space.
- 9.20. The Cherwell Residential Design Guide (2017) states that a minimum distance of 22m back to back, between properties must be maintained and a minimum of 14m distance is required from rear elevation to two storey side gable. First floor habitable room windows must not be within 7m of neighbouring property.

#### *Assessment*

- 9.21. Concerns have been raised by third parties regarding the impact that the development would have on neighbours in terms of overlooking. The recent application was refused at February 2021 planning committee due to the impact that the new windows would have on the amenity of neighbours.
- 9.22. There would be ground and first floor windows in the elevation of plot 3 facing 2 Cherry Close to the north east of the site. This dwelling has a number of windows in the rear elevation facing towards the application site. The Council would normally expect a back to back distance of 22 metres to be retained between properties to ensure adequate levels of privacy are provided.
- 9.23. However, in this case this is not a traditional back to back relationship as the properties are separated by a road and it is the front elevation of plot 3 that faces towards this neighbour. The presence of the road and footpath reduces the level of privacy and tranquillity to the rear of 2 Cherry Close.
- 9.24. The distance maintained between the first-floor windows on plot 3 and the rear elevation of 2 Cherry Close would be just in excess of 17 metres. This relationship would not be ideal as there would be some overlooking between Plot 3 and the rear elevation of 2 Cherry Close. However, given the unconventional relationship between these properties, the presence of the road and the relatively small size of the bedroom window on plot 3 facing 2 Cherry Close, it is considered on balance that the proposal would not result in an unacceptable loss of privacy or overlooking to 2 Cherry Close which would justify refusal. Furthermore, this is the same relationship as was approved under 16/00366/REM and the changes proposed in the current application do not make the impact any more harmful.
- 9.25. Concerns have been raised in the consultation period regarding the impact that the proposed windows would have on Mattingley Barn to the southeast of the site. The number of windows on this elevation have been significantly reduced from the recently refused scheme. A single window is proposed at first floor level to serve an en-suite and such windows would ordinarily be obscurely glazed. A condition shall be included to ensure that this is the case. The rooflights would be at a height which would not provide any overlooking of neighbouring properties.
- 9.26. A condition removing permitted development rights of Classes A to E (inc.) of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 was included on the wider site. Given that the dwelling could be extended or altered in a way that the amenities of neighbours could be negatively affected, this is a reasonable and necessary condition to impose.
- 9.27. A condition has also been included to remove permitted development rights to introduce new openings into the dwelling. This is considered to be particularly important given the relationship between the site and Mattingley Barn and the reason for refusal included on the previous application.

#### *Conclusion*

- 9.28. It is considered that subject to conditions the development would not cause harm to the amenities of neighbours and that the proposals would comply with Policy ESD15 of the CLP 2015 and Government guidance contained within the NPPF.

#### Highway safety

- 9.29. The Local Highway Authority has not commented on the application. The proposed dwelling would not have an extra bedroom than the previously approved scheme, going from three bedrooms to four. The level of proposed parking remains the same,

with a double garage and sufficient parking and turning area. It is therefore considered that the development would not cause harm to the safety of the local highway network.

#### Other matters

- 9.30. Policy ESD3 of the CLP 2015 states that Cherwell District is in an area of water stress and as such the Council will seek a higher level of water efficiency than required in the Building Regulations, with developments achieving a limit of 110 litres/person/day. A condition shall be included in this regard.

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

- 10.1. The principle of development for residential development on the site is considered to be acceptable given the planning history on the site and the implementation of 15/00640/OUT and 16/00366/REM.
- 10.2. Following the reduction in proposed windows from the recently refused application, four being removed from the south east facing elevation, it is considered that the development would not cause harm to the character and appearance of the area or the setting of the conservation area. Subject to conditions, the development would not cause harm to the amenities of neighbours or the safety of the local highway network.

### **11. RECOMMENDATION**

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

#### CONDITIONS

1. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: Site Location Plan (PU1905/19) and Plot 3 Proposals (PU1905/26).

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

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

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

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

Reason - To ensure the satisfactory appearance of the completed development and to safeguard the character and appearance of the area and to comply with

Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

4. Within one month of the date of this consent, full details of the doors and windows hereby approved, at a scale of 1:20 including a cross section, cill, lintel and recess detail and colour/finish, shall be submitted to and approved in writing by the Local Planning Authority. The doors and windows shall be installed within the building in accordance with the approved details and shall be retained as such thereafter.

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

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

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

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

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

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

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

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

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

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

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

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

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

Reason - To enable the Local Planning Authority to retain planning control over the development of this site in order to safeguard the amenities of the occupants of the adjoining buildings in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policies C28 and C30 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

11. Notwithstanding the provisions of Classes A, B and C of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 and its subsequent amendments, no new windows or other openings, other than those shown on the approved plans, shall be inserted in the walls or roof of the dwelling without the prior express planning consent of the Local Planning Authority.

Reason - To enable the Local Planning Authority to retain planning control over the development of this site in order to safeguard the amenities of the occupants of the adjoining dwellings in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policies C28 and C30 of the Cherwell Local Plan 1996 and Government guidance contained within the National

Planning Policy Framework.

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.

CASE

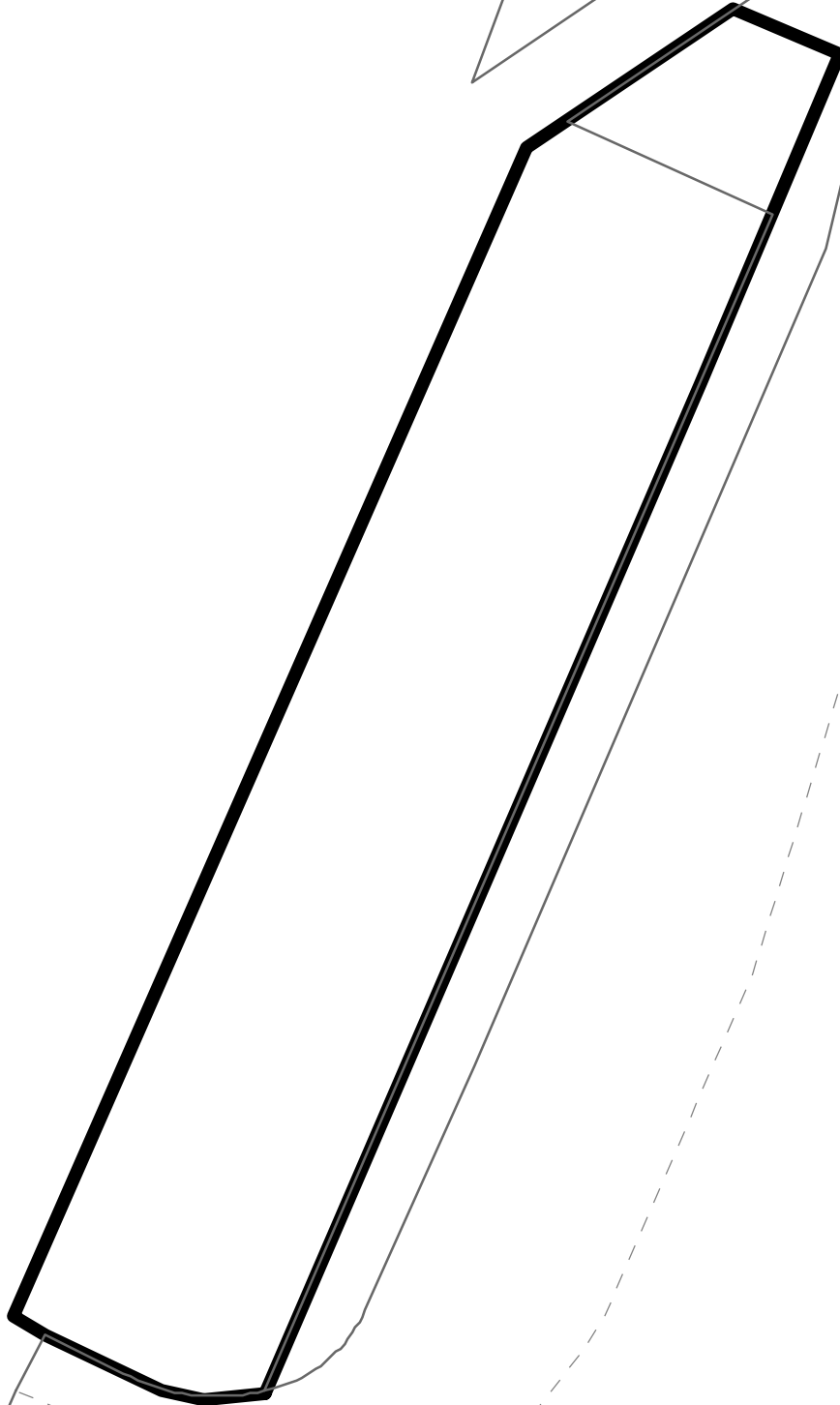
OFFICER:

Matthew

Chadwick

Agenda Item 14  
**21/00949/F**

**Cherwell District Council  
Car Park  
Upper Windsor Street  
Banbury  
OX16 5DH**

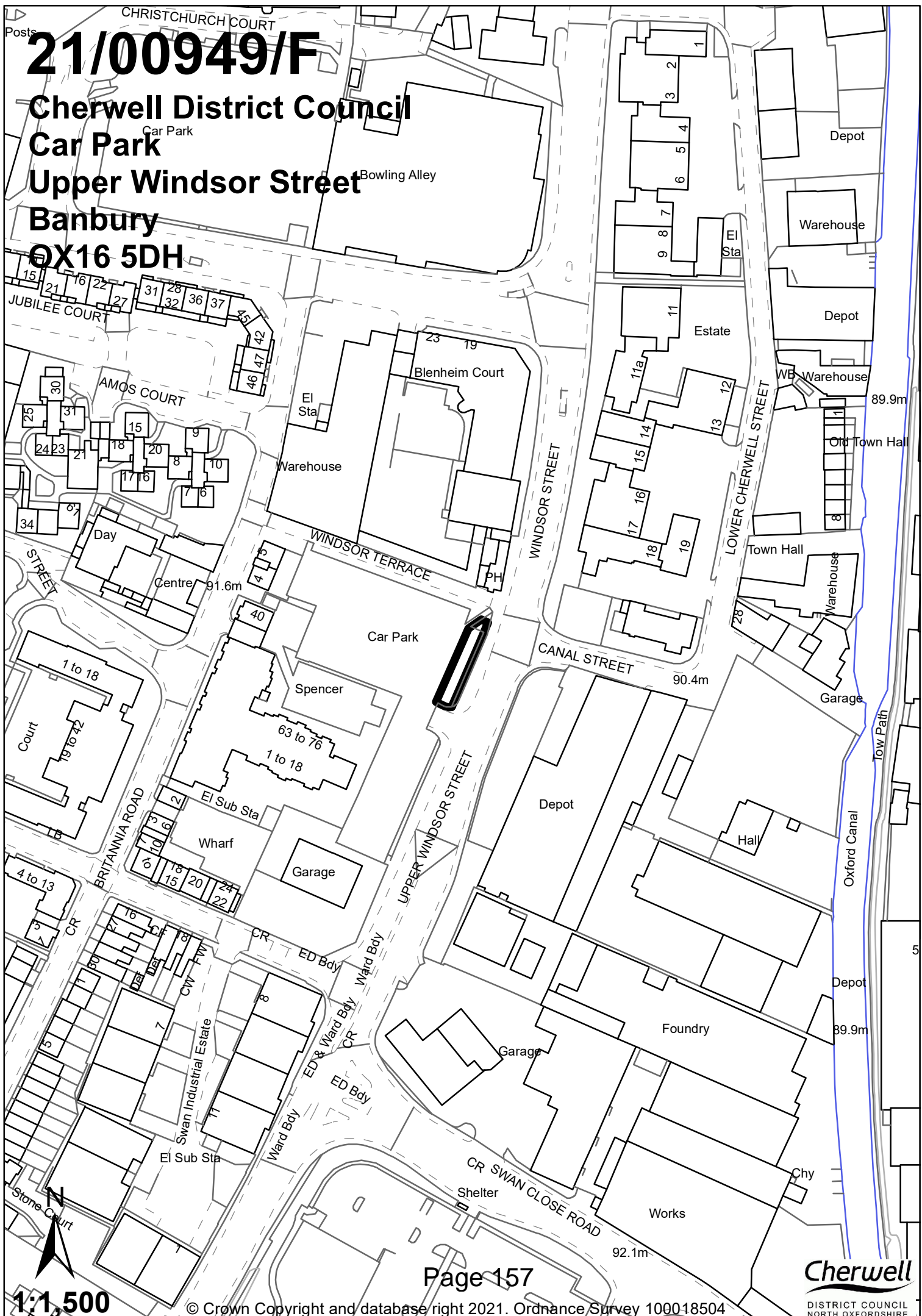


**1:150**



# 21/00949/F

**Cherwell District Council**  
**Car Park**  
**Upper Windsor Street**  
**Banbury**  
**OX16 5DH**



**Case Officer:** Caroline Ford

**Applicant:** EZ Charge Ltd

**Proposal:** Electricity kiosk and 5 no. charging stations for Electric Vehicle Charging

**Ward:** Banbury Cross and Neithrop

**Councillors:** Councillor Banfield, Councillor Hodgson, Councillor Perry

**Reason for Referral:** Application affects Council's own land

**Expiry Date:** 27 May 2021

**Committee Date:** 20 May 2021

---

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

- 1.1. The application site is located centrally within Banbury, just to the south of the Town Centre and forms part of a public car park accessed from Upper Windsor Street. The application site is a small part of the car park to its eastern side closest to the road forming 10 car parking spaces and a landscaped area to the north.

## **2. CONSTRAINTS**

- 2.1. The application site is within proximity to the Oxford Canal Conservation Area (which is on the opposite side of Upper Windsor Street), the land is potentially contaminated, has some potential for archaeology and it sits within Flood Zone 2.

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

- 3.1. The application seeks planning permission for the provision of an electrical kiosk to facilitate charging stations for electric vehicles to be positioned on the landscaped area at the north of the 10 parking spaces. 5 no. charging posts are proposed (serving the 10 spaces that sit within the application red line area).
- 3.2. The electrical kiosk is proposed to be 2.25m high, 2.7m wide and 0.6m deep with a black finish. The charging posts are proposed to be 1.74m high by 0.65m by 0.44m. The units are a light colour with black detailing.
- 3.3. The application submission indicates that planning permission is not required for the charging points themselves, however as those proposed exceed 1.6m above the level of the surface used for the parking of vehicles, it has been concluded that planning permission is required and the application description altered accordingly. The application documentation included an image of the charging points and their position is shown on the plans so Officers are satisfied that this change is for clarity and that no interested parties would be prejudiced by this change without a further period of consultation.

#### 4. RELEVANT PLANNING HISTORY

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

#### 5. PRE-APPLICATION DISCUSSIONS

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

#### 6. RESPONSE TO PUBLICITY

6.1. This application has been publicised by way of a site notice displayed near the site and by advertisement in the local newspaper. The final date for comments was **07 May 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.

#### 7. RESPONSE TO CONSULTATION

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

##### PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

7.2. BANBURY TOWN COUNCIL: **Support** as BTC is pleased to see this needed facility coming forward.

##### CONSULTEES

7.3. OCC HIGHWAYS: **No objections** as the proposals are unlikely to have any adverse impact upon the local highway network from a traffic and safety point of view. Whilst the proposal will result in the net loss of 10 unrestricted parking bays, as ownership rates of EVs increase, the effect of this initial reduction in space will diminish over time and the proposal is to enable a rapid roll out of EV infrastructure that will be required to transition from combustion powered vehicles to EVs and plug in Hybrid vehicles. The LHA would advise the inclusion of a Vehicular Restraint System to prevent accidental damage to the apparatus (kiosk and charging points) as they could be vulnerable to damage.

#### 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)

- SLE4 – Improved Transport and Connections

- ESD1 – Mitigating and Adapting to Climate Change
- ESD6 – Sustainable Flood Risk Management
- ESD15 - The Character of the Built and Historic Environment
- Banbury 1 – Banbury Canalside
- Banbury 7 – Strengthening Banbury Town Centre

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

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

#### 8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Cherwell District Council's 2020 Climate Action Framework

### **9. APPRAISAL**

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

- Principle of development
- Design, and impact on the character of the area including conservation area setting
- Transport impact
- Residential amenity
- Flood risk

#### Principle of Development

9.2. The application relates to the provision of an electrical kiosk and EV Charging points. The application documentation provides the background to this proposal describing that the Government has accelerated the transition to electric vehicles to 2030 and by 2025, it is estimated that there will be 25,000 battery electric vehicles driven on the roads of Oxfordshire. As part of Cherwell District Council's Climate Emergency declaration, it has prepared a Climate Action Framework which, amongst other measures shows support for electric and active travel as the new normal as a measure to contribute towards the District achieving net zero emissions by 2050.

9.3. Park and Charge Oxfordshire is a partnership project between Oxfordshire County Council, SSE, Zeta, Urban Integrated and the University of Oxford who are leading the way to help local District Council's across Oxfordshire provide electric charging hubs to accommodate this growth. The project is funded by Innovate UK and is proposed to provide hubs to meet demand as take up grows. The location of the initial car parks for the hubs have been chosen so that the charging points are close to residential areas with little off-street parking. The charging points are bookable overnight so they can be used by local residents who might otherwise have difficulties charging their electric vehicle and which are available to visitors otherwise.

9.4. This particular site is within Banbury Town Centre and on the policy maps for Policies Banbury 1 and 7 is shown as being within the Town Centre Commercial Area and an area for potential strategic mixed use. It is part of an existing car park and the plan is to set aside 10 parking spaces for EV use, with a kiosk to link to the charging points.

- 9.5. The principle of providing EV charging points in existing car parks is considered to be acceptable as it would facilitate infrastructure to support visitors and residents move to a more sustainable form of transport and this would contribute to mitigating the impacts of climate change, reducing air pollution and to help the Council achieve its targets for a net zero carbon District by 2050. The proposal would therefore comply with Policies SLE4 and ESD1 of the Cherwell Local Plan Part 1 2011-2031.

#### Design and Impact upon the character of the area including conservation area setting

- 9.6. Policy ESD15 sets out the expectation that development should complement and enhance the character of its context and meet high design standards.
- 9.7. The kiosk is to be positioned adjacent to existing car parking spaces which would be upgraded and advertised appropriately as being for EV use. The position of the EV Charging points would be accessible centrally to the 10 spaces. The proposal would result in the loss of a small area of landscaping and would be visible within the car park and surrounding area but this would be within the context of an existing town centre car park and surrounding urban area. The infrastructure items proposed are modest in size and would therefore not appear prominent or out of keeping with its context.
- 9.8. The site is opposite to the edge of the Oxford Canal Conservation area, however given the context for the development and the predominant character of the conservation area (i.e. in relation to the Canal), the proposal would conserve the character of the Conservation area.
- 9.9. On this basis, Officers consider that the proposal would be acceptable in design terms and would therefore comply with Policy ESD15 of the Cherwell Local Plan Part 1 2011-2031.

#### Transport Impact

- 9.10. The proposal would remove 10 parking spaces from general use and dedicate them for EV vehicles, however as ownership rates of EV vehicles increase, the demand for them will increase. The Highway Authority do not consider that the proposal will have any adverse impact upon the local highway network from a traffic and safety point of view and raise no objection.
- 9.11. The Highway Authority offer some advice regarding a Vehicular Restraint System to protect the kiosk and charging points from accidental damage and a planning note is suggested in this respect as it is unlikely that such a system would require planning permission and this may be a matter considered unnecessary by the applicant.

#### Residential amenity

- 9.12. Policy ESD15 sets out that development should consider the amenity of both existing and future development. In this case, the planning history of the Blarney Stone public house to the north of the site shows that residential uses have been permitted above ground floor. It is understood that the kiosks and charging points do not create noise nuisance and the use of the parking spaces by electric vehicles is unlikely to be anymore disruptive than their use by non-electric vehicles. The kiosk or charging points are also unlikely to cause impacts to residential amenity otherwise. As such, the proposal complies with Policy ESD15 in this respect.

#### Flood Risk

- 9.13. The supporting statement provides a paragraph relating to flood risk and sets out that the site is within flood zone 2, that the footprint of the electrical unit is less than 1.7sqm and that the electrical points within the kiosk would be set higher than ground level to protect it should there be a flood event. The submitted information does not form a full FRA but, Officers are content with the information provided and are satisfied that the development itself would be resilient to flooding and that the development would not increase flood risk elsewhere. On this basis, Officers are comfortable that the proposal would be acceptable in flood risk terms and comply with Policy ESD6 which requires a sequential approach to development within flood zones and for proposals to remain safe and not increase flood risk elsewhere.

#### Other matters

- 9.14. The site is in an area with the potential for contamination and archaeology, however given the minor scale of the development and the fact it is unlikely to be significantly intrusive, Officers do not consider that the development would cause unacceptable impacts upon these constraints.

### **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: drawing number OPAC-SSE-WI-XX-DR-E-0002 titled 'Windsor Street Car Park EV Boundary' and images showing the 'EZC-CPC1\_SYSTEM\_SPECIFICATION'.

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.

#### Planning Note

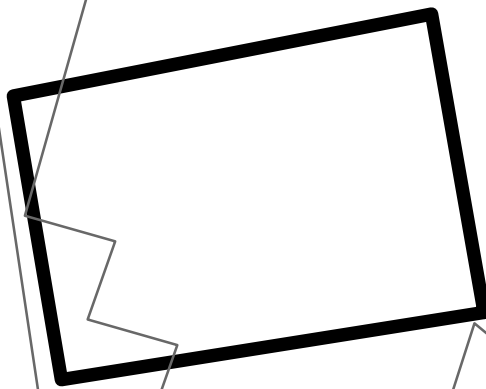
Oxfordshire County Council Highways Team have advised that you may wish to consider the inclusion of a Vehicular Restraint System to prevent accidental damage to the apparatus (kiosk and charging points) as they could be vulnerable to damage.

CASE OFFICER: Caroline Ford

Agenda Item 15  
**21/00950/F**

Centre  
**Coach Park**  
**Compton Road**  
**Banbury**

Coach Park (public)

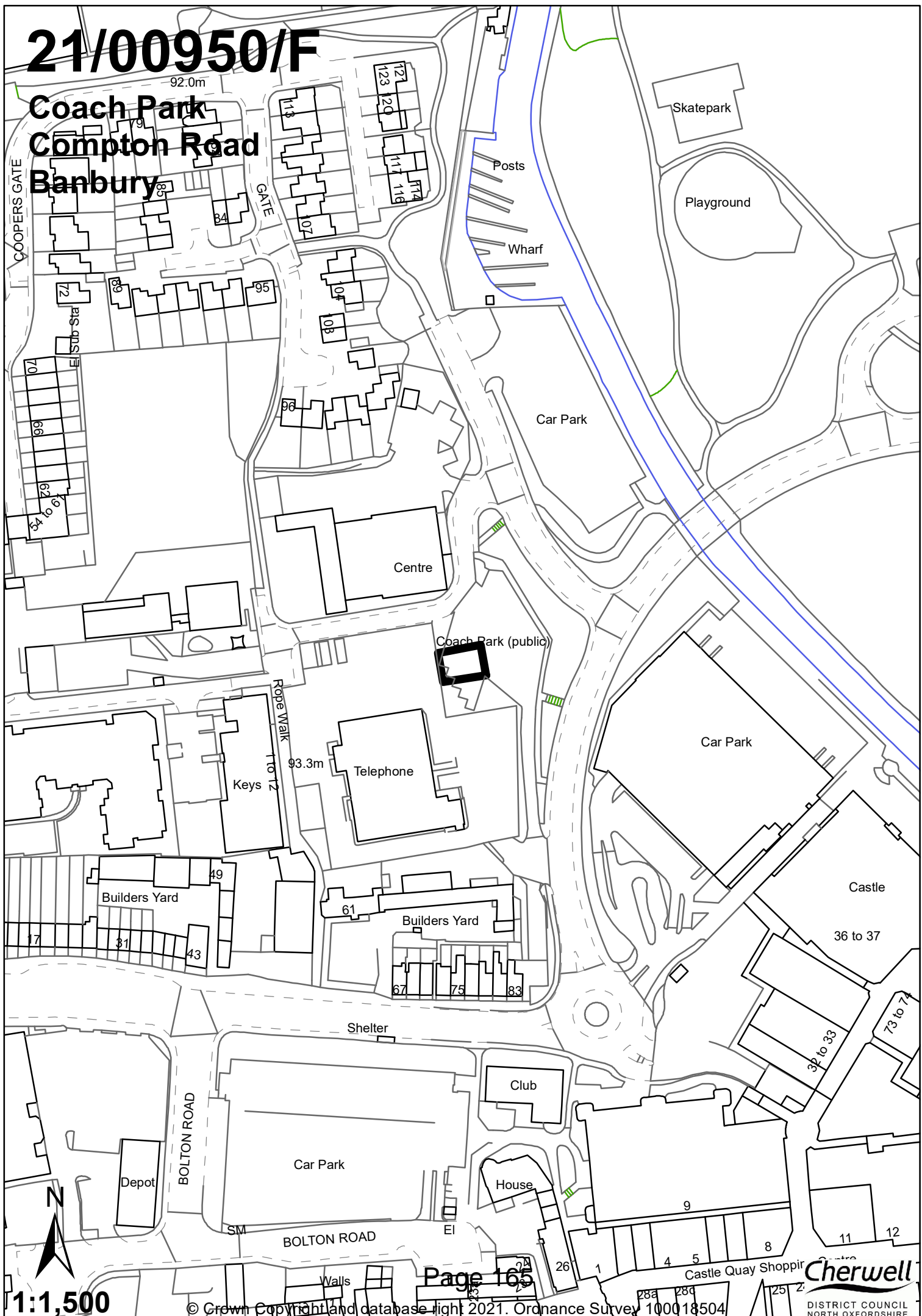


**1:250**



# 21/00950/F

## Coach Park Compton Road Banbury



1:1,500

© Crown Copyright and database right 2021. Ordnance Survey 100018504

Page 165

Cherwell  
DISTRICT COUNCIL  
NORTH OXFORDSHIRE

**Case Officer:** Caroline Ford

**Applicant:** EZ Charge Ltd

**Proposal:** Electricity kiosk and 5 no. charging stations for Electric Vehicle Charging

**Ward:** Banbury Cross and Neithrop

**Councillors:** Councillor Banfield, Councillor Hodgson, Councillor Perry

**Reason for Referral:** Application affects Council's own land

**Referral:**

**Expiry Date:** 27 May 2021

**Committee Date:** 20 May 2021

---

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

1.1. The application site is located centrally within Banbury, just to the north of the Town Centre and forms part of what is currently a coach park accessed from Cherwell Drive and which exits onto Compton Road. The wider Coach Park site is part of a current application to change its use to a car park including some modifications to it, which is awaiting the completion of a S106 before permission can be issued (it benefits from a resolution for approval from Planning Committee made in August 2020). The application site is a small part of what will become the public car park to its western side to serve 10 parking spaces.

## **2. CONSTRAINTS**

2.1. The application site has the potential to be contaminated, has some potential for archaeology and it sits within Flood Zone 2.

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

3.1 The application seeks planning permission for the provision of an electrical kiosk to facilitate charging stations for electric vehicles to be positioned midway on the western side of the site serving 10 of the car parking spaces due to be laid out within the car park once planning permission is granted. 5 no. charging posts are proposed (serving the 10 spaces that sit within the application red line area).

3.2 The electrical kiosk is proposed to be 2.25m high, 2.7m wide and 0.6m deep with a black finish. The charging posts are proposed to be 1.74m high by 0.65m by 0.44m. The units are a light colour with black detailing.

3.3 The application submission indicates that planning permission is not required for the charging points themselves, however as those proposed exceed 1.6m above the level of the surface used for the parking of vehicles, it has been concluded that planning permission is required and the application description altered accordingly. The application documentation included an image of the charging points and their position is shown on the plans so Officers are satisfied that this change is for clarity and that no interested parties would be prejudiced by this change without a further period of consultation.

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

- 4.1. 20/00329/CDC – Change of use from coach parking to car parking modifications to layout of hardstanding and landscaping. The application showed the site being laid out to accommodate 40 parking spaces, 1 disabled space and 4 motor cycle spaces – Resolution for approval awaiting the completion of a S106 agreement.

#### **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. The final date for comments was **29 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.

#### **7. RESPONSE TO CONSULTATION**

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

##### PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

- 7.2. BANBURY TOWN COUNCIL: **Support** as BTC is pleased to see this needed facility coming forward.

##### CONSULTEES

- 7.3. OCC HIGHWAYS: **No objections** as the proposals are unlikely to have any adverse impact upon the local highway network from a traffic and safety point of view. Whilst the proposal will result in the net loss of 10 unrestricted parking bays, as ownership rates of EVs increase, the effect of this initial reduction in space will diminish over time and the proposal is to enable a rapid roll out of EV infrastructure that will be required to transition from combustion powered vehicles to EVs and plug in Hybrid vehicles. The LHA would advise the inclusion of a Vehicular Restraint System to prevent accidental damage to the apparatus (kiosk and charging points) as they could be vulnerable to damage.

#### **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)

- SLE4 – Improved Transport and Connections
- ESD1 – Mitigating and Adapting to Climate Change
- ESD6 – Sustainable Flood Risk Management
- 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

### 8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Cherwell District Council's 2020 Climate Action Framework

## **9. APPRAISAL**

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

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

#### Principle of Development

9.2. The application relates to the provision of an electrical kiosk and EV Charging points. The application documentation provides the background to this proposal describing that the Government has accelerated the transition to electric vehicles to 2030 and by 2025, it is estimated that there will be 25,000 battery electric vehicles driven on the roads of Oxfordshire. As part of Cherwell District Council's Climate Emergency declaration, it has prepared a Climate Action Framework which, amongst other measures shows support for electric and active travel as the new normal as a measure to contribute towards the District achieving net zero emissions by 2050.

9.3. Park and Charge Oxfordshire is a partnership project between Oxfordshire County Council, SSE, Zeta, Urban Integrated and the University of Oxford who are leading the way to help local District Council's across Oxfordshire provide electric charging hubs to accommodate this growth. The project is funded by Innovate UK and is proposed to provide hubs to meet demand as take up grows. The location of the initial car parks for the hubs have been chosen so that the charging points are close to residential areas with little off-street parking. The charging points are bookable overnight so they can be used by local residents who might otherwise have difficulties charging their electric vehicle and which are available to visitors otherwise.

9.4. This particular site is due to become a public car park once planning permission is granted to change its use. That permission was recommended to include a condition to secure details of EV charging infrastructure but this application has been submitted separately and plans to set aside 10 parking spaces for EV use, with a kiosk to link to the charging points. On the basis that the car park does not yet benefit from permission to be used as a public car park, a condition is recommended

to restrict the use of the EV charging infrastructure until such time that permission for its use as a public car park is implemented and available for public use.

- 9.5. The principle of providing EV charging points in public car parks is considered to be acceptable as it would facilitate infrastructure to support visitors and residents move to a more sustainable form of transport and this would contribute to mitigating the impacts of climate change, reducing air pollution and to help the Council achieve its targets for a net zero carbon District by 2050. The proposal would therefore comply with Policies SLE4 and ESD1 of the Cherwell Local Plan Part 1 2011-2031.

#### Design and Impact upon the character of the area

- 9.6. Policy ESD15 sets out the expectation that development should complement and enhance the character of its context and meet high design standards.
- 9.7. The kiosk is to be positioned adjacent to the planned location of 10 car parking spaces which would then need to be advertised appropriately as being for EV use. The position of the EV charging points would be accessible centrally to the 10 spaces. This particular car parking area is not widely visible other than from within it and the kiosk and charging points would be viewed within the context of an existing urban environment. The infrastructure items proposed are modest in size and would therefore not appear prominent or out of keeping with its context.
- 9.8. On this basis, Officers consider that the proposal would be acceptable in design terms and would therefore comply with Policy ESD15 of the Cherwell Local Plan Part 1 2011-2031.

#### Transport Impact

- 9.9. The proposal would remove 10 parking spaces that were planned for general use (albeit on a site where a condition was to be recommended to secure details of EV charging infrastructure) and dedicate them for EV vehicles, however as ownership rates of EV vehicles increase, the demand for them will increase. The Highway Authority do not consider that the proposal will have any adverse impact upon the local highway network from a traffic and safety point of view and raise no objection.
- 9.10. The Highway Authority offer some advice regarding a Vehicular Restraint System to protect the kiosk and charging points from accidental damage and a planning note is suggested in this respect as it is unlikely that such a system would require planning permission and this may be a matter considered unnecessary by the applicant.

#### Residential amenity

- 9.11. Policy ESD15 sets out that development should consider the amenity of both existing and future development. In this case, there are no residential properties within the immediate vicinity that would experience impact to their residential amenity. As such, the proposal complies with Policy ESD15 in this respect.

#### Flood Risk

- 9.12. The supporting statement provides a paragraph relating to flood risk and sets out that the site is within flood zone 2, that the footprint of the electrical unit is less than 1.7sqm and that the electrical points within the kiosk would be set higher than ground level to protect it should there be a flood event. The submitted information does not form a full FRA but, Officers are content with the information provided and are satisfied that the development itself would be resilient to flooding and that the development would not increase flood risk elsewhere. On this basis, Officers are

comfortable that the proposal would be acceptable in flood risk terms and comply with Policy ESD6 which requires a sequential approach to development within flood zones and for proposals to remain safe and not increase flood risk elsewhere.

#### Other matters

- 9.13. The site is in an area with the potential for contamination and archaeology, however given the minor scale of the development and the fact it is unlikely to be significantly intrusive, Officers do not consider that the development would cause unacceptable impacts upon these constraints.

### **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: drawing number OPAC-SSE-CR-XX-DR-E-0002 titled 'Compton Road Car Park EV Boundary' and image showing the 'EZC\_CPC1\_SYSTEM\_SPECIFICATION'.

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.

##### **Restriction on use until the car park is available for public use**

3. No part of the Electric Vehicle Charging Infrastructure shall be used until change of use for the wider Coach Park to public car parking has been implemented and the car park made available for public use.

Reason – To ensure that the EV infrastructure can be accessed within a lawfully permitted public car park and in the interests of highway safety in accordance with Policy ESD15 of the Cherwell Local Plan Part 1 2011-2031 and Government guidance contained within the National Planning Policy Framework.

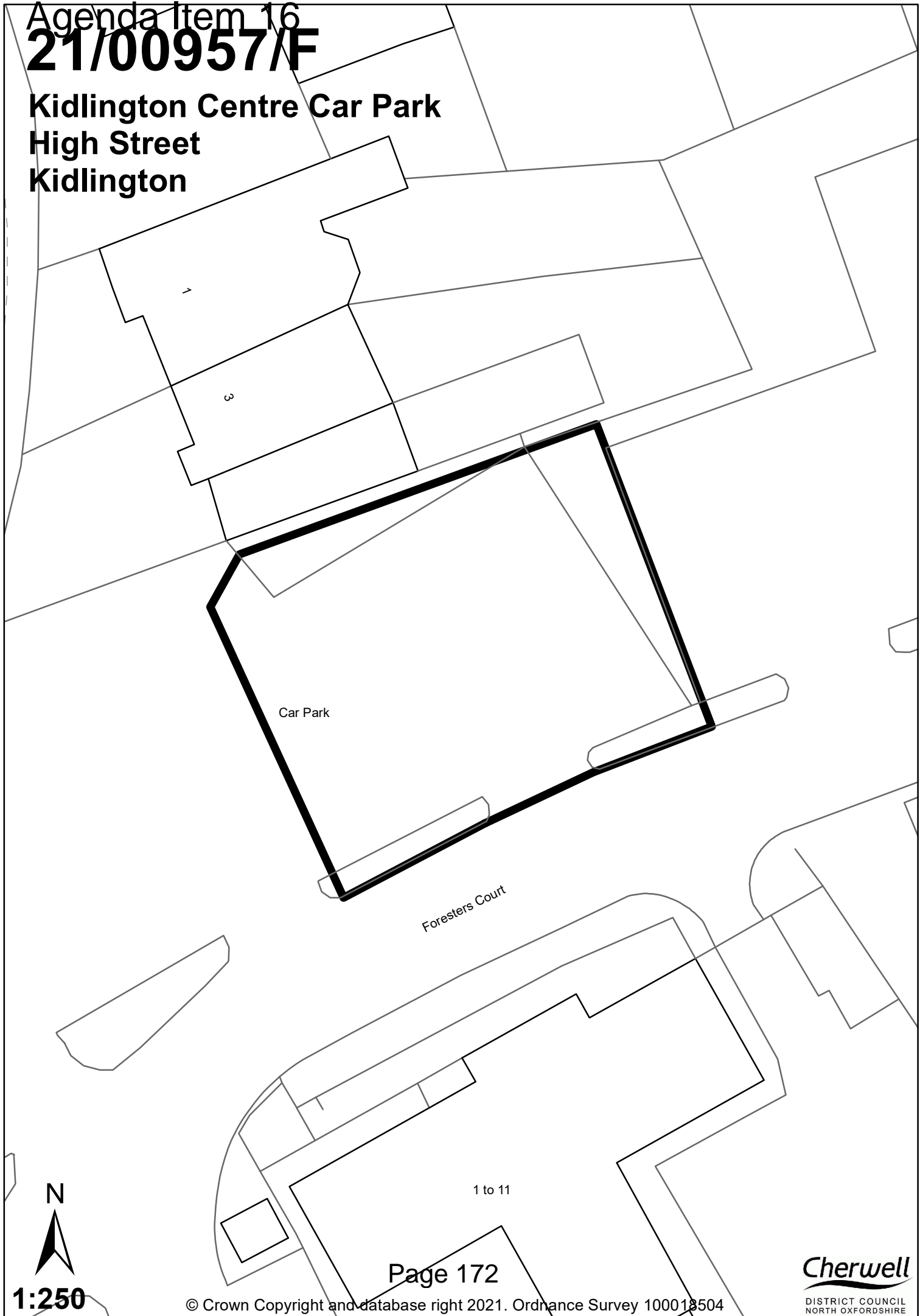
Planning Note

Oxfordshire County Council Highways Team have advised that you may wish to consider the inclusion of a Vehicular Restraint System to prevent accidental damage to the apparatus (kiosk and charging points) as they could be vulnerable to damage.

CASE OFFICER: Caroline Ford

Agenda Item 16  
**21/00957/F**

**Kidlington Centre Car Park  
High Street  
Kidlington**



Car Park

Foresters Court

1 to 11



# 21/00957/F

an Mill Recreation

Ground

## Kidlington Centre Car Park High Street Kidlington

Sports Court



1:1,500

**Case Officer:** Caroline Ford

**Applicant:** EZ Charge Ltd

**Proposal:** Electricity kiosk and 6 no. charging stations for Electric Vehicle Charging

**Ward:** Kidlington West

**Councillors:** Councillor Copeland, Councillor Tyson, Councillor Walker,

**Reason for Referral:** Application affects Council's own land

**Expiry Date:** 25 May 2021

**Committee Date:** 20 May 2021

---

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

1.1. The application site is located centrally within Kidlington, to the north of the Village Centre and forms part of a public car park accessed from the High Street. The application site is a small part of the car park mid-way along the northern boundary of the car park forming 12 car parking spaces.

## **2. CONSTRAINTS**

2.1. The application site has some potential for archaeology and ecologically important sites are recorded within the area but the site is otherwise relatively unconstrained.

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

3.1. The application seeks planning permission for the provision of an electrical kiosk to facilitate charging stations for electric vehicles to be positioned to the south east of the 12 parking spaces. 6 no. charging posts are proposed (serving the 12 spaces that sit within the application red line area).

3.2. The electrical kiosk is proposed to be 2.25m high, 2.7m wide and 0.6m deep with a black finish. The charging posts are proposed to be 1.74m high by 0.65m by 0.44m. The units are a light colour with black detailing.

3.3. The application submission indicates that planning permission is not required for the charging points themselves, however as those proposed exceed 1.6m above the level of the surface used for the parking of vehicles, it has been concluded that planning permission is required and the application description altered accordingly. The application documentation included an image of the charging points and their position is shown on the plans so Officers are satisfied that this change is for clarity and that no interested parties would be prejudiced by this change without a further period of consultation.

## **4. RELEVANT PLANNING HISTORY**

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

## 5. PRE-APPLICATION DISCUSSIONS

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

## 6. RESPONSE TO PUBLICITY

6.1. This application has been publicised by way of a site notice displayed near the site and by letter to nearby residential properties. The final date for comments was **29 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.

## 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. KIDLINGTON PARISH COUNCIL: **No comments received**

### CONSULTEES

7.3. OCC HIGHWAYS: **No objections** as the proposals are unlikely to have any adverse impact upon the local highway network from a traffic and safety point of view. Whilst the proposal will result in the net loss of 12 unrestricted parking bays, as ownership rates of EVs increase, the effect of this initial reduction in space will diminish over time and the proposal is to enable a rapid roll out of EV infrastructure that will be required to transition from combustion powered vehicles to EVs and plug in Hybrid vehicles. The LHA would advise the inclusion of a Vehicular Restraint System to prevent accidental damage to the apparatus (kiosk and charging points) as they could be vulnerable to damage.

## 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)

- SLE4 – Improved Transport and Connections
- ESD1 – Mitigating and Adapting to Climate Change
- ESD15 - The Character of the Built and Historic Environment
- Kidlington 2 – Strengthening Kidlington Village Centre

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

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

### 8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Cherwell District Council's 2020 Climate Action Framework

## 9. APPRAISAL

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

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

#### Principle of Development

- 9.2. The application relates to the provision of an electrical kiosk and EV Charging points. The application documentation provides the background to this proposal describing that the Government has accelerated the transition to electric vehicles to 2030 and by 2025, it is estimated that there will be 25,000 battery electric vehicles driven on the roads of Oxfordshire. As part of Cherwell District Council's Climate Emergency declaration, it has prepared a Climate Action Framework which, amongst other measures shows support for electric and active travel as the new normal as a measure to contribute towards the District achieving net zero emissions by 2050.
- 9.3. Park and Charge Oxfordshire is a partnership project between Oxfordshire County Council, SSE, Zeta, Urban Integrated and the University of Oxford who are leading the way to help local District Council's across Oxfordshire provide electric charging hubs to accommodate this growth. The project is funded by Innovate UK and is proposed to provide hubs to meet demand as take up grows. The location of the initial car parks for the hubs have been chosen so that the charging points are close to residential areas with little off-street parking. The charging points are bookable overnight so they can be used by local residents who might otherwise have difficulties charging their electric vehicle and which are available to visitors otherwise.
- 9.4. This particular site is within Kidlington Village Centre covered by Policy Kidlington 2. The Policy aims to strengthen the town centre by supporting shopping, leisure and other main town centre uses and as a core centre for the village. The application site is part of an existing car park and the plan is to set aside 12 parking spaces for EV use, with a kiosk to link to the charging points.
- 9.5. The principle of providing EV charging points in existing car parks is considered to be acceptable as it would facilitate infrastructure to support visitors and residents move to a more sustainable form of transport and this would contribute to mitigating the impacts of climate change, reducing air pollution and to help the Council achieve its targets for a net zero carbon District by 2050. The proposal would therefore comply with Policies SLE4 and ESD1 of the Cherwell Local Plan Part 1 2011-2031.

#### Design and Impact upon the character of the area including conservation area setting

- 9.6. Policy ESD15 sets out the expectation that development should complement and enhance the character of its context and meet high design standards.
- 9.7. The kiosk and charging points are to be positioned adjacent to existing car parking spaces which would be upgraded and advertised appropriately as being for EV use. The proposal would be visible within the car park and this would be within the context of an existing public car park and the surrounding urban environment. The infrastructure items proposed are modest in size and would therefore not appear prominent or out of keeping with its context.
- 9.8. On this basis, Officers consider that the proposal would be acceptable in design terms and would therefore comply with Policy ESD15 of the Cherwell Local Plan Part 1 2011-2031.

#### Transport Impact

- 9.9. The proposal would remove 12 parking spaces from general use and dedicate them for EV vehicles, however as ownership rates of EV vehicles increase, the demand for them will increase. The Highway Authority do not consider that the proposal will have any adverse impact upon the local highway network from a traffic and safety point of view and raise no objection.
- 9.10. The Highway Authority offer some advice regarding a Vehicular Restraint System to protect the kiosk and charging points from accidental damage and a planning note is suggested in this respect as it is unlikely that such a system would require planning permission and this may be a matter considered unnecessary by the applicant.

#### Residential amenity

- 9.11. Policy ESD15 sets out that development should consider the amenity of both existing and future development. In this case, there are residential properties to the north and south of the position of the infrastructure. It is understood that the kiosks and charging points do not create noise nuisance and the use of the parking spaces by electric vehicles is unlikely to be any more disruptive than their use by non-electric vehicles. The kiosk and charging points are also unlikely to cause impacts to residential amenity otherwise. As such, the proposal complies with Policy ESD15 in this respect.

#### Other matters

- 9.12. The site is in an area with the potential for archaeology and ecology, however given the minor scale and urban environment of the development and the fact it is unlikely to be significantly intrusive, Officers do not consider that the development would cause unacceptable impacts upon these constraints.

### **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: drawing number OPAC-SSE-CP-XX-DR-E-0002 titled 'Curtis Place Car Park EV Boundary' and image showing the 'EZC-CPC1\_SYSTEM\_SPECIFICATION'.

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.

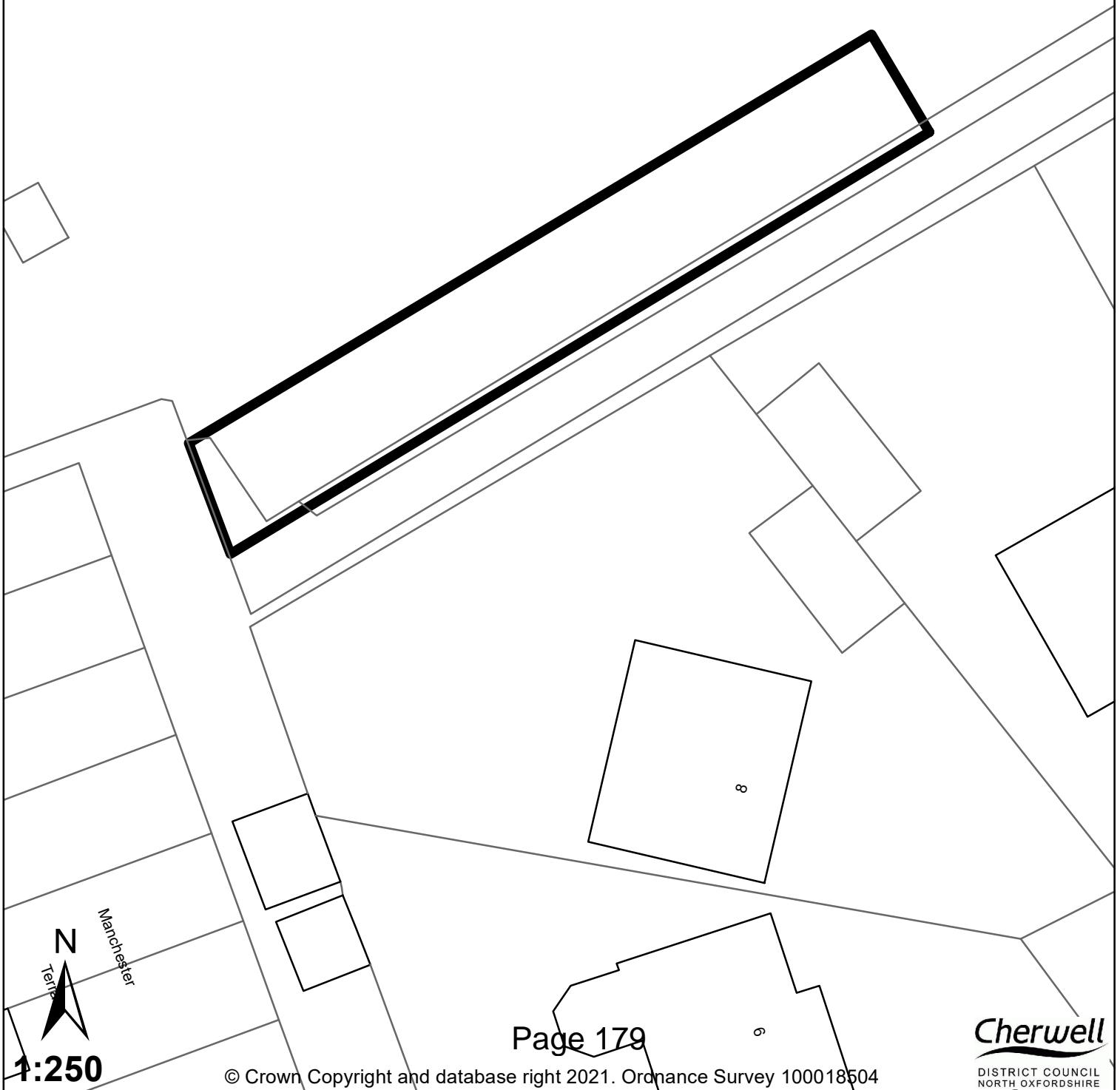
### Planning Note

Oxfordshire County Council Highways Team have advised that you may wish to consider the inclusion of a Vehicular Restraint System to prevent accidental damage to the apparatus (kiosk and charging points) as they could be vulnerable to damage.

CASE OFFICER: Caroline Ford

**21/00969/F**

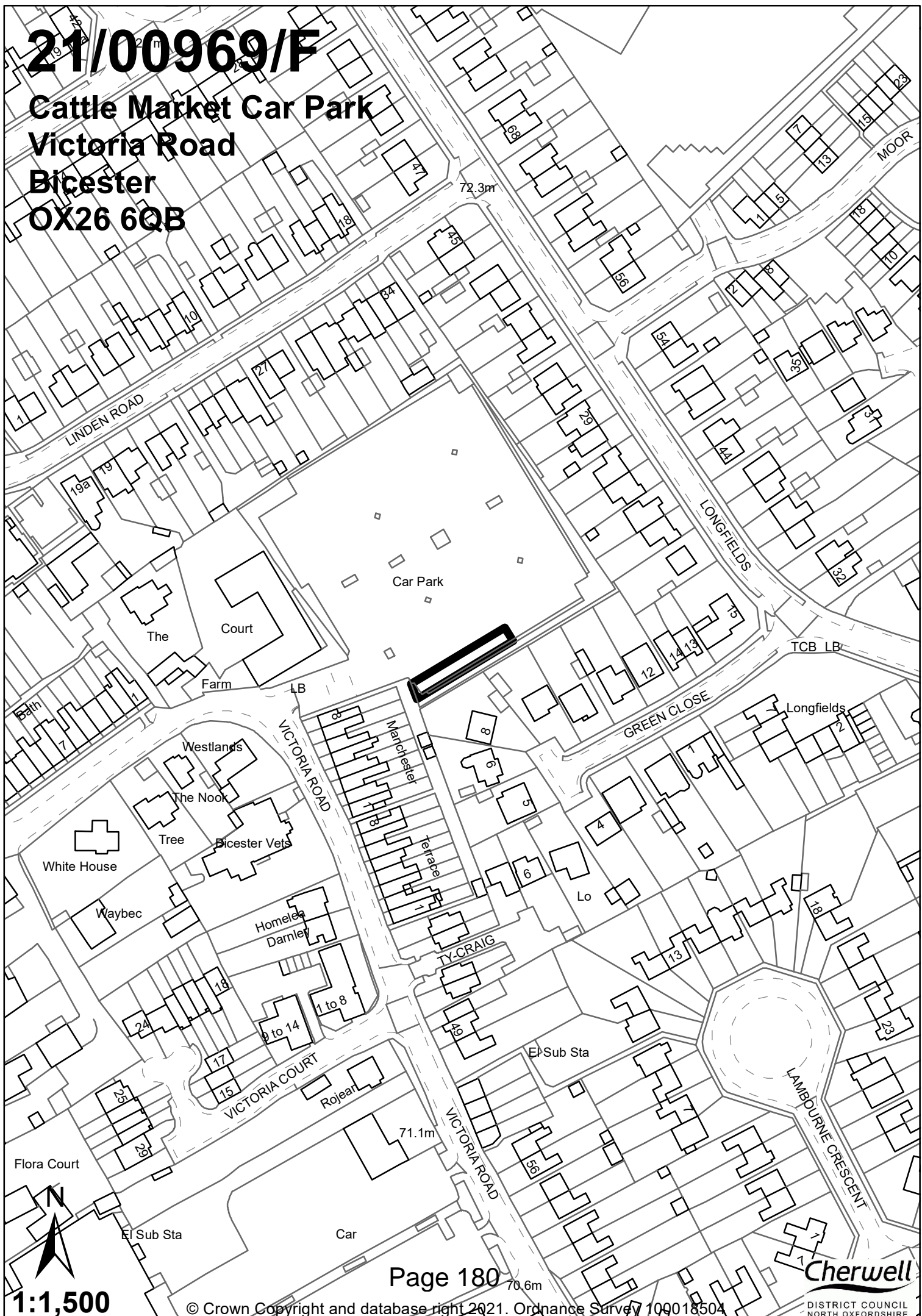
**Cattle Market Car Park**  
**Victoria Road**  
**Bicester** Car Park  
**OX26 6QB**





# 21/00969/F

## Cattle Market Car Park Victoria Road Bicester OX26 6QB



1:1,500



**Case Officer:** Caroline Ford

**Applicant:** EZ Charging Ltd

**Proposal:** RETROSPECTIVE: Electricity kiosk and 6 no. charging stations for Electric Vehicle Charging

**Ward:** Bicester East

**Councillors:** Councillor Dallimore, Councillor Mould, Councillor Wallis

**Reason for Referral:** Application affects Council's own land

**Expiry Date:** 25 May 2021

**Committee Date:** 20 May 2021

---

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

1.1. The application site is located to the east of Bicester Town Centre and forms part of a public car park accessed from Victoria Road. The application site is a small part of the car park to its southern boundary close to the entrance to the car park forming 12 car parking spaces.

## **2. CONSTRAINTS**

2.1. The site has no relevant recorded site constraints.

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

3.1. The application seeks planning permission for the provision of an electrical kiosk to facilitate charging stations for electric vehicles to be positioned to the west of the 12 parking spaces (two of which were previously larger disability accessible spaces). 6 no. charging posts are proposed (serving the 12 spaces that sit within the application red line area).

3.2. The electrical kiosk is proposed to be 2.25m high, 2.7m wide and 0.6m deep with a black finish. The charging posts are proposed to be 1.74m high by 0.65m by 0.44m. The units are a light colour with black detailing.

3.3. The application submission indicates that planning permission is not required for the charging points themselves, however as those proposed exceed 1.6m above the level of the surface used for the parking of vehicles, it has been concluded that planning permission is required and the application description altered accordingly. The application documentation included an image of the charging points and their position is shown on the plans so Officers are satisfied that this change is for clarity and that no interested parties would be prejudiced by this change without a further period of consultation.

3.4. The application is retrospective as, at the time of the site visit the kiosk was already in place and the spaces were being marked out for EV use.

#### 4. RELEVANT PLANNING HISTORY

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

#### 5. PRE-APPLICATION DISCUSSIONS

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

#### 6. RESPONSE TO PUBLICITY

6.1. This application has been publicised by way of a site notice displayed near the site and by letters to nearby properties. The final date for comments was **29 April 2021**, although comments received after this date and before finalising this report have also been taken into account.

6.2. 1 letter of concern has been received from the resident whose garden backs directly onto the application site. The concerns are:

- Why is the position of the kiosk the best one for all parties concerned?
- The kiosk is visible from nearby residents homes due to its height.
- What other options were considered as to where best to position the development? Why were other positions not considered that are further away from residential properties? It is regrettable a decision was made to place it as close to the gardens of residents as it possibly could be.

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

##### CONSULTEES

7.3. OCC HIGHWAYS: **No objections** as the proposals are unlikely to have any adverse impact upon the local highway network from a traffic and safety point of view. Whilst the proposal will result in the net loss of 12 unrestricted parking bays, as ownership rates of EVs increase, the effect of this initial reduction in space will diminish over time and the proposal is to enable a rapid roll out of EV infrastructure that will be required to transition from combustion powered vehicles to EVs and plug in Hybrid vehicles. The LHA would advise the inclusion of a Vehicular Restraint System to prevent accidental damage to the apparatus (kiosk and charging points) as they could be vulnerable to damage.

#### 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)

- SLE4 – Improved Transport and Connections
- ESD1 – Mitigating and Adapting to Climate Change
- 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

### 8.3. Other Material Planning Consideration

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Cherwell District Council’s 2020 Climate Action Framework

## 9. APPRAISAL

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

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

#### Principle of Development

9.2. The application relates to the provision of an electrical kiosk and 6 no. EV Charging points. The application documentation provides the background to this proposal describing that the Government has accelerated the transition to electric vehicles to 2030 and by 2025, it is estimated that there will be 25,000 battery electric vehicles driven on the roads of Oxfordshire. As part of Cherwell District Council’s Climate Emergency declaration, it has prepared a Climate Action Framework which, amongst other measures shows support for electric and active travel as the new normal as a measure to contribute towards the District achieving net zero emissions by 2050.

9.3. Park and Charge Oxfordshire is a partnership project between Oxfordshire County Council, SSE, Zeta, Urban Integrated and the University of Oxford who are leading the way to help local District Council’s across Oxfordshire provide electric charging hubs to accommodate this growth. The project is funded by Innovate UK and is proposed to provide hubs to meet demand as take up grows. The location of the initial car parks for the hubs have been chosen so that the charging points are close to residential areas with little off-street parking. The charging points are bookable overnight so they can be used by local residents who might otherwise have difficulties charging their electric vehicle and which are available to visitors otherwise.

9.4. This particular site is within Bicester Town Centre forming part of an existing car park and the plan is to set aside 12 parking spaces for EV use, with a kiosk to link to the charging points.

- 9.5. The principle of providing EV charging points in existing car parks is considered to be acceptable as it would facilitate infrastructure to support visitors and residents move to a more sustainable form of transport and this would contribute to mitigating the impacts of climate change, reducing air pollution and to help the Council achieve its targets for a net zero carbon District by 2050. The proposal would therefore comply with Policies SLE4 and ESD1 of the Cherwell Local Plan Part 1 2011-2031.

Design and Impact upon the character of the area including conservation area setting

- 9.6. Policy ESD15 sets out the expectation that development should complement and enhance the character of its context and meet high design standards.
- 9.7. The kiosk is positioned adjacent to existing car parking spaces which have been upgraded and advertised appropriately as being for EV use. The position of the EV charging points would be accessible centrally to the 12 spaces. The proposal would be viewed within the context of an existing town centre car park and surrounding urban area. The infrastructure items are modest in size and would therefore not appear prominent or out of keeping with its context.
- 9.8. On this basis, Officers consider that the proposal would be acceptable in design terms and would therefore comply with Policy ESD15 of the Cherwell Local Plan Part 1 2011-2031.

Transport Impact

- 9.9. The proposal would remove 12 parking spaces from general use and dedicate them for EV vehicles (2 of which are larger disability accessible spaces), however as ownership rates of EV vehicles increase, the demand for them will increase. The Highway Authority do not consider that the proposal will have any adverse impact upon the local highway network from a traffic and safety point of view and raise no objection.
- 9.10. The Highway Authority offer some advice regarding a Vehicular Restraint System to protect the kiosk and charging points from accidental damage and a planning note is suggested in this respect as it is unlikely that such a system would require planning permission and this may be a matter considered unnecessary by the applicant.

Residential amenity

- 9.11. Policy ESD15 sets out that development should consider the amenity of both existing and future development. In this case, the development is positioned close to the rear boundary of a number of nearby residential properties, one of whom has raised concerns with the positioning proposed.
- 9.12. The applicant has confirmed that the position was chosen due to the proximity to the point of connection to the electrical network and the chosen position was therefore the most cost-effective option. It is understood that the kiosks and charging points do not create noise nuisance and the use of the parking spaces by electric vehicles is unlikely to be anymore disruptive than their use by non-electric vehicles.
- 9.13. The kiosk is also unlikely to cause impacts to residential amenity by way of over dominance, loss of light or loss of privacy as the tallest item proposed being the kiosk, at 2.2m high is only just taller than a fence which could be provided under permitted development and the fact that it is visible is not a reason to resist a proposal. As such, the proposal complies with Policy ESD15 in this respect.

## 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: drawing number OPAC-SSE-CB-XX-DR-E-0004 titled 'Cattle Market Bicester Car Park EV Boundary' and image showing the 'EZC\_CPC1\_SYSTEM\_SPECIFICATION'.

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.

### Planning Note

Oxfordshire County Council Highways Team have advised that you may wish to consider the inclusion of a Vehicular Restraint System to prevent accidental damage to the apparatus (kiosk and charging points) as they could be vulnerable to damage.

CASE OFFICER: Caroline Ford

Agenda Item 18  
**21/00986/F**

**Claremont Car Park  
Public Conveniences  
Victoria Road  
Bicester  
OX26 6RD**

Car  
Park

Deans  
Court

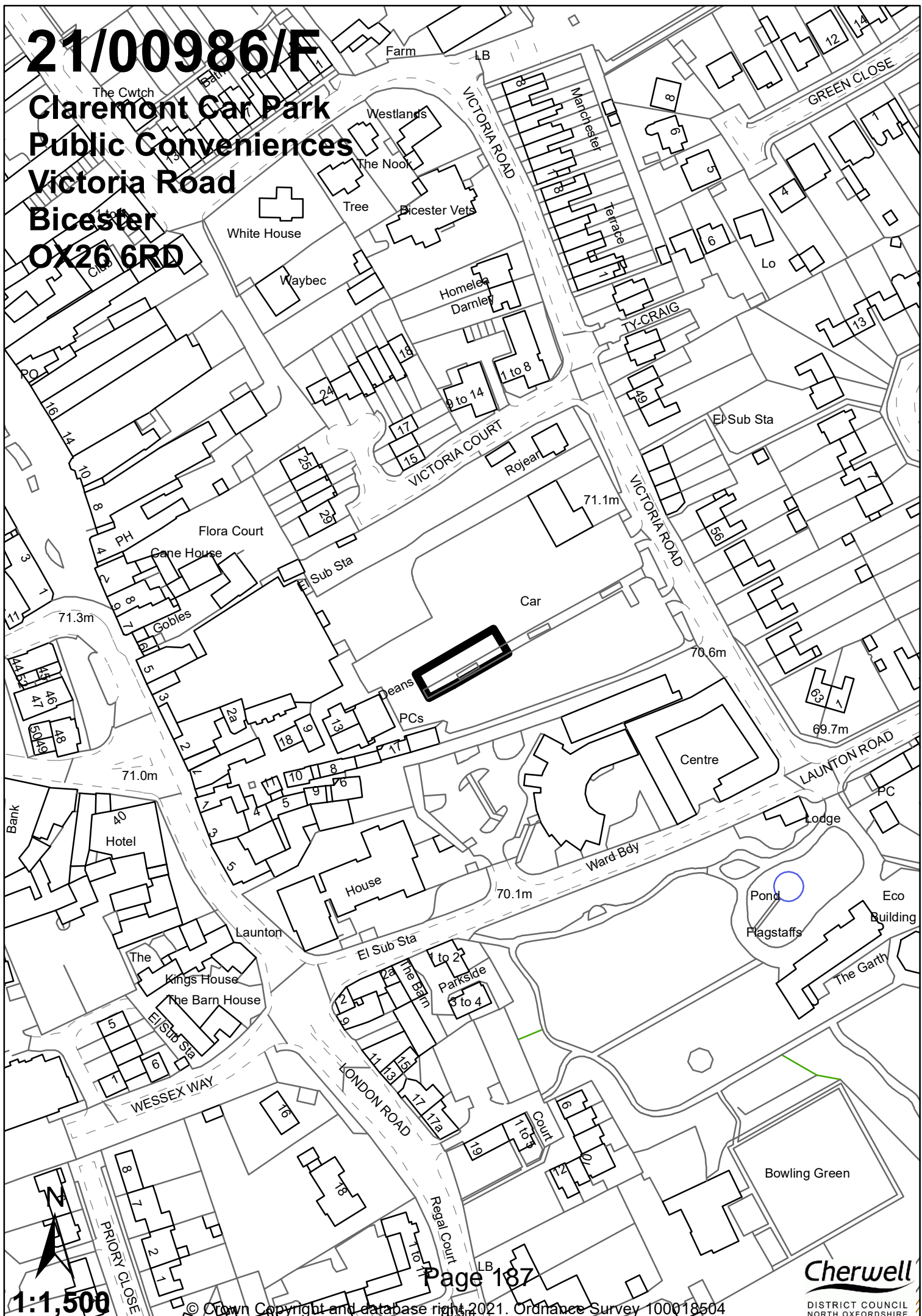
PCs



**1:250**

# 21/00986/F

The Cwtch  
**Claremont Car Park**  
**Public Conveniences**  
**Victoria Road**  
**Bicester**  
**OX26 6RD**



1:1,500

**Case Officer:** Caroline Ford

**Applicant:** EZ Charging Ltd

**Proposal:** Electricity kiosk and 6 no. charging stations for Electric Vehicle Charging

**Ward:** Bicester East

**Councillors:** Councillor Dallimore, Councillor Mould, Councillor Wallis

**Reason for Referral:** Application affects Council's own land

**Expiry Date:** 25 May 2021

**Committee Date:** 20 May 2021

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

1.1. The application site is located centrally within Bicester, just to the east of the Town Centre and forms part of a public car park accessed from Victoria Road. The application site is a small part of the car park to its western side closest to the entrance to the town centre forming 12 car parking spaces.

## **2. CONSTRAINTS**

2.1. The application site is within proximity to the Bicester Conservation Area which is to the west.

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

3.1. The application seeks planning permission for the provision of an electrical kiosk to facilitate charging stations for electric vehicles to be positioned on the central kerb'd feature within the car park (separating spaces). 6 no. charging posts are proposed (serving the 12 spaces that sit within the application red line area).

3.2. The electrical kiosk is proposed to be 2.25m high, 2.7m wide and 0.6m deep with a black finish. The charging posts are proposed to be 1.74m high by 0.65m by 0.44m. The units are a light colour with black detailing.

3.1 The application submission indicates that planning permission is not required for the charging points themselves, however as those proposed exceed 1.6m above the level of the surface used for the parking of vehicles, it has been concluded that planning permission is required and the application description altered accordingly. The application documentation included an image of the charging points and their position is shown on the plans so Officers are satisfied that this change is for clarity and that no interested parties would be prejudiced by this change without a further period of consultation.

## **4. RELEVANT PLANNING HISTORY**

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



## 5. PRE-APPLICATION DISCUSSIONS

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

## 6. RESPONSE TO PUBLICITY

6.1. This application has been publicised by way of a site notice displayed near the site, by way of letters to nearby properties and by advertisement in the local newspaper. The final date for comments was **29 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.

## 7. RESPONSE TO CONSULTATION

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

### PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

7.2. BICESTER TOWN COUNCIL: **No comments received.**

### CONSULTEES

7.3. OCC HIGHWAYS: **No objections** as the proposals are unlikely to have any adverse impact upon the local highway network from a traffic and safety point of view. Whilst the proposal will result in the net loss of 12 unrestricted parking bays, as ownership rates of EVs increase, the effect of this initial reduction in space will diminish over time and the proposal is to enable a rapid roll out of EV infrastructure that will be required to transition from combustion powered vehicles to EVs and plug in Hybrid vehicles. The LHA would advise the inclusion of a Vehicular Restraint System to prevent accidental damage to the apparatus (kiosk and charging points) as they could be vulnerable to damage.

## 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)

- SLE4 – Improved Transport and Connections
- ESD1 – Mitigating and Adapting to Climate Change
- ESD15 - The Character of the Built and Historic Environment
- Bicester 5 – Strengthening Bicester Town Centre

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

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

### 8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Cherwell District Council's 2020 Climate Action Framework

## 9. APPRAISAL

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

- Principle of development
- Design, and impact on the character of the area including conservation area setting
- Transport impact
- Residential amenity

#### Principle of Development

- 9.2. The application relates to the provision of an electrical kiosk and EV Charging points. The application documentation provides the background to this proposal describing that the Government has accelerated the transition to electric vehicles to 2030 and by 2025, it is estimated that there will be 25,000 battery electric vehicles driven on the roads of Oxfordshire. As part of Cherwell District Council's Climate Emergency declaration, it has prepared a Climate Action Framework which, amongst other measures shows support for electric and active travel as the new normal as a measure to contribute towards the District achieving net zero emissions by 2050.
- 9.3. Park and Charge Oxfordshire is a partnership project between Oxfordshire County Council, SSE, Zeta, Urban Integrated and the University of Oxford who are leading the way to help local District Council's across Oxfordshire provide electric charging hubs to accommodate this growth. The project is funded by Innovate UK and is proposed to provide hubs to meet demand as take up grows. The location of the initial car parks for the hubs have been chosen so that the charging points are close to residential areas with little off-street parking. The charging points are bookable overnight so they can be used by local residents who might otherwise have difficulties charging their electric vehicle and which are available to visitors otherwise.
- 9.4. This particular site is within Bicester Town Centre which aims to strengthen the town centre by supporting shopping, leisure and main town centre uses. It is part of an existing car park and the plan is to set aside 12 parking spaces for EV use, with a kiosk to link to the charging points.
- 9.5. The principle of providing EV charging points in existing car parks is considered to be acceptable as it would facilitate infrastructure to support visitors and residents move to a more sustainable form of transport and this would contribute to mitigating the impacts of climate change, reducing air pollution and to help the Council achieve its targets for a net zero carbon District by 2050. The proposal would therefore comply with Policies SLE4 and ESD1 of the Cherwell Local Plan Part 1 2011-2031.

#### Design and Impact upon the character of the area including conservation area setting

- 9.6. Policy ESD15 sets out the expectation that development should complement and enhance the character of its context and meet high design standards.
- 9.7. The kiosk is to be positioned adjacent to existing car parking spaces which would be upgraded and advertised appropriately as being for EV use. The position of the EV charging points would be accessible centrally to the 12 spaces. The proposals would be visible within the context of an existing town centre car park and surrounding urban area. The infrastructure items proposed are modest in size and would therefore not appear prominent or out of keeping with its context.
- 9.8. The site is close to the boundary of the Bicester Conservation area, however given the context for the development, the proposal would conserve the character of the Conservation area.
- 9.9. On this basis, Officers consider that the proposal would be acceptable in design terms and would therefore comply with Policy ESD15 of the Cherwell Local Plan Part 1 2011-2031.

#### Transport Impact

- 9.10. The proposal would remove 12 parking spaces from general use and dedicate them for EV vehicles, however as ownership rates of EV vehicles increase, the demand for them will increase. The Highway Authority do not consider that the proposal will have any adverse impact upon the local highway network from a traffic and safety point of view and raise no objection.
- 9.11. The Highway Authority offer some advice regarding a Vehicular Restraint System to protect the kiosk and charging points from accidental damage and a planning note is suggested in this respect as it is unlikely that such a system would require planning permission and this may be a matter considered unnecessary by the applicant.

#### Residential amenity

- 9.12. Policy ESD15 sets out that development should consider the amenity of both existing and future development. In this case, there is some distance to residential properties and so the proposals are unlikely to cause impacts to residential amenity. As such, the proposal complies with Policy ESD15 in this respect.

### **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: drawing number OPAC-SSE-CM-XX-DR-E-0003 titled 'Claremont Car Park EV Boundary' and image showing the 'EZC\_CPC1\_SYSTEM\_SPECIFICATION'.

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.

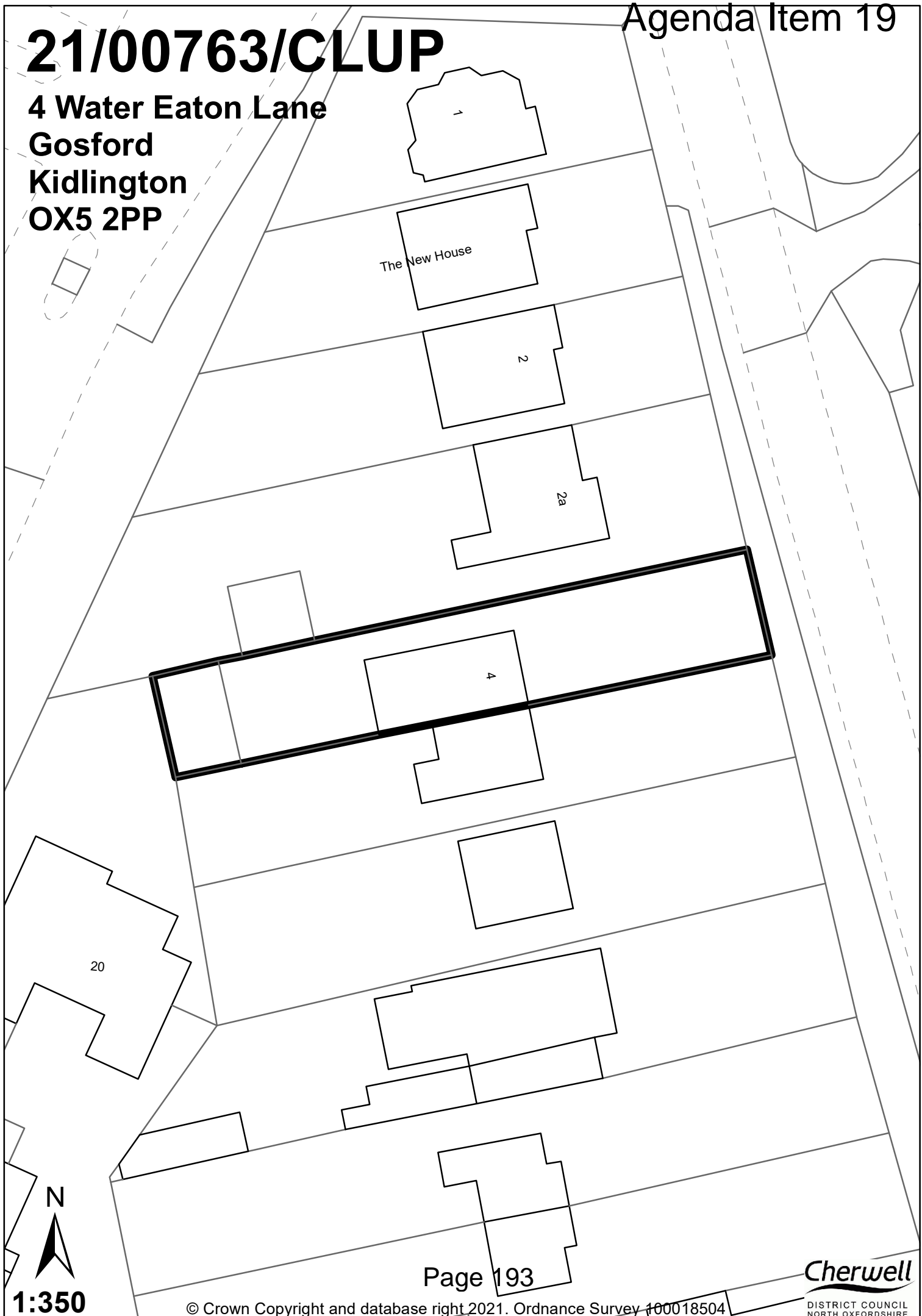
Planning Note

Oxfordshire County Council Highways Team have advised that you may wish to consider the inclusion of a Vehicular Restraint System to prevent accidental damage to the apparatus (kiosk and charging points) as they could be vulnerable to damage.

CASE OFFICER: Caroline Ford

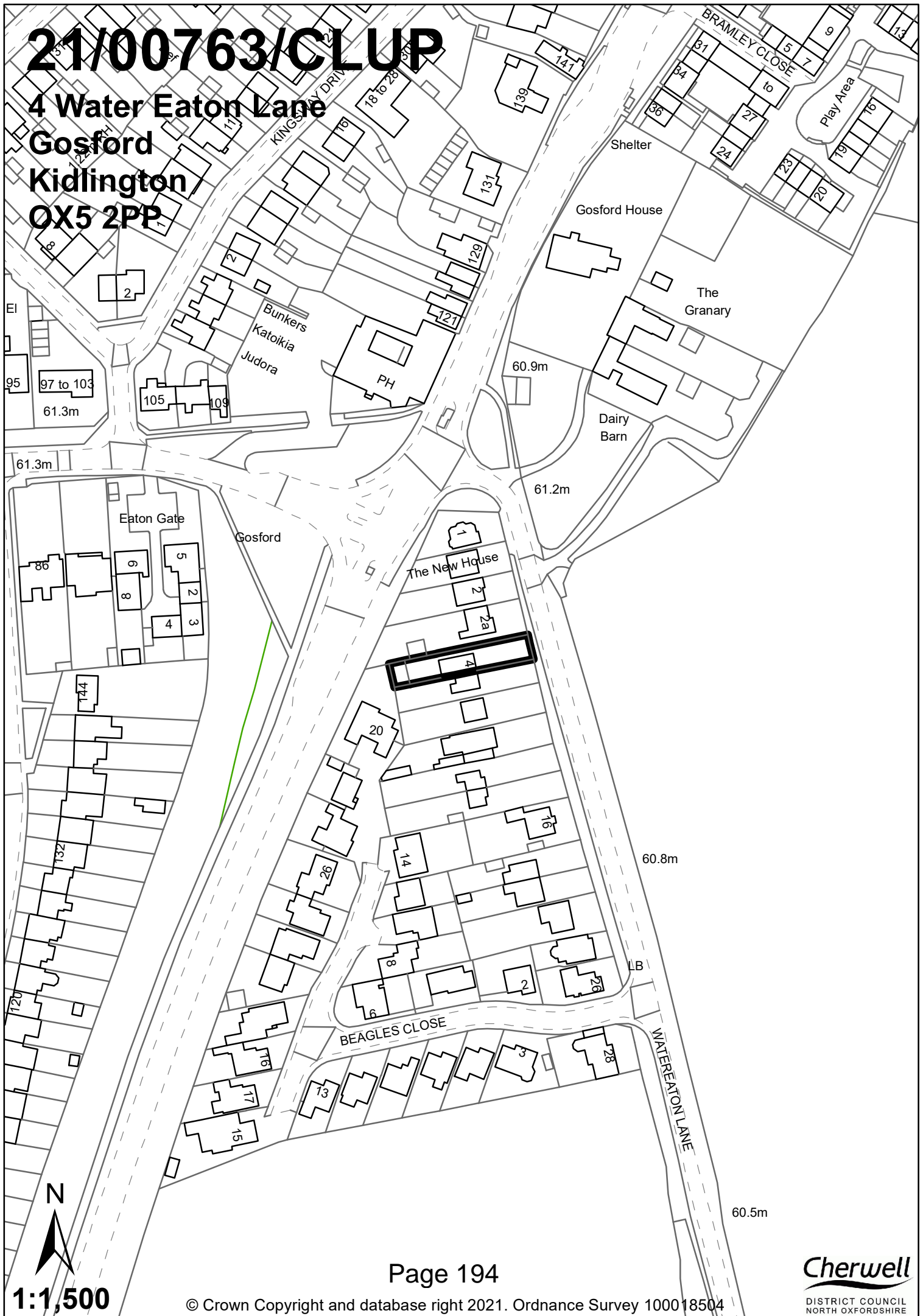
# 21/00763/CLUP

4 Water Eaton Lane  
Gosford  
Kidlington  
OX5 2PP



# 21/00763/CLUP

4 Water Eaton Lane  
Gosford  
Kidlington  
OX5 2PP



**Case Officer:** Michael Sackey

**Applicant:** Mr Jordan Otwell

**Proposal:** Certificate of Lawfulness of Proposed Development for the conversion of loft space to habitable accommodation

**Ward:** Kidlington East

**Councillors:** Councillor Billington, Councillor Griffiths and Councillor Middleton

**Reason for Referral:** Application submitted by a member of staff acting as Agent

**Expiry Date:** 11 May 2021

**Committee Date:** 20.05.2021

---

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

1.1. The application site relates to a semi-detached, two-storey dwelling externally of white painted render with a tiled roof and facing north-east on to Water Eaton Lane. The site, which lies in the built form of Kidlington, is bounded by residential properties to the north and west and south. The application building is not listed nor is the site located within a designated Conservation Area.

## **2. CONSTRAINTS**

2.1. N/A

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

3.1. The applicant seeks a Lawful Development Certificate for a hip to gable roof extension, addition of a rear facing flat roof dormer and roof lights to the front roof slope to facilitate a loft conversion. The proposed rear facing flat roof dormer would measure approximately 2.9m in depth, 4.6m width and a height of 2.9m with an overall flat roof height of 8.2m resulting in a volume of approximately 18.68m<sup>3</sup>. The proposed hip to gable roof extension measures approximately 7.3m in depth, 3.8m width and a height of 3.5m resulting in a volume of approximately 16.48m<sup>3</sup>. The overall cubic content of the resulting roof space would therefore be 35.16 cubic metres and within the 50 cubic metre limit.

## **4. RELEVANT PLANNING HISTORY**

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

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

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

## **6. RESPONSE TO PUBLICITY**

6.1. Due to the nature of this application, it has not been publicised.

## **7. RESPONSE TO CONSULTATION**

- 7.1. The nature of this application means that consultations have not been required. That said, Building Control commented to advise that the proposed works would require a building regulations application.

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

- 8.1. Schedule 2, Part 1, Class A and Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO 2015).
- 8.2. Planning Practice Guidance (PPG).

## **9. APPRAISAL**

- 9.1. The permitted development rights for the dwelling remain intact. Therefore, the proposal has been assessed against the relevant parts of the GPDO (Part 1, Class A, B and C) which relate to the enlargement, improvement or other alteration of a dwellinghouse, additions etc to the roof of a dwellinghouse and other alterations to the roof of a dwellinghouse.

### Proposed hip to gable roof extension and rear dormer to dwellinghouse

- 9.2. Assessing the proposals against the relevant part of the GPDO (Part 1, Class A (enlargement, improvement or other alteration of a dwellinghouse) and Class B, (additions etc to the roof of a dwellinghouse)):
- 9.3. No part of the dwellinghouse would, as a result of the works, exceed the height of the highest part of the existing roof;
- 9.4. No part of the dwellinghouse would, as a result of the works, extend beyond the plane of any existing roof slope which forms the principal elevation of the dwellinghouse and fronts a highway;
- 9.5. The application dwelling is semi-detached, and the cubic content of the resulting roof space would not exceed the cubic content of the original roof space by more than 50 cubic metres;
- 9.6. The proposed would not consist of the construction or provision of a verandah, balcony or raised platform, or the installation, alteration or replacement of a chimney, flue or soil and vent pipe; and,
- 9.7. The dwellinghouse is not on Article 2(3) land. Article 2(3) land being defined as land within: (a) an area designated as a conservation area; (b) an area of outstanding natural beauty; (c) an area specified by the Secretary of State for the purposes of section 41(3) of the Wildlife and Countryside Act 1981 (enhancement and protection of the natural beauty and amenity of the countryside); (d) the Broads; (e) a National Park; or (f) a World Heritage Site.

### Proposed roof lights

- 9.8. Assessing the proposals against the relevant part of the GPDO (Part 1, Class C, (other alterations to the roof of a dwellinghouse)):



- 9.9. The rooflights would not protrude more than 0.15 metres beyond the plane of the slope of the original roof when measured from the perpendicular with the external surface of the original roof.
- 9.10. They would not result in the highest part of the alteration being higher than the highest part of the original roof.
- 9.11. The proposed rooflights would not consist of the construction or provision of a verandah, balcony or raised platform, or the installation, alteration or replacement of a chimney or the installation, alteration or replacement of solar photovoltaics or solar thermal equipment.

## **10. CONCLUSION**

- 10.1. The proposal, as detailed in the information submitted with the application is considered to be permitted development under Part 1, Classes A, B and C (as outlined above) as the proposal complies with the restrictions set out in Classes A, B and C. In addition, there are no permitted development restrictions by condition related to the proposal and no other restrictive designations affecting the property.

## **11. RECOMMENDATION**

**RECOMMENDATION – ISSUE THE CERTIFICATE IN ACCORDANCE WITH THE SCHEDULES BELOW**

### **FIRST SCHEDULE**

1. Hip to gable roof extension, addition of a rear facing flat roof dormer and roof lights to the front roof slope to facilitate the conversion of loft space to habitable accommodation in accordance with drawings numbered "017/03 REVISION C", "017/04 REVISION C" and "017/07"

### **SECOND SCHEDULE**

2. 4 Water Eaton Lane Gosford Kidlington OX5 2PP

### **THIRD SCHEDULE**

3. The proposal is permitted development under Schedule 2, Part 1, Class A, B and C of the Town and Country Planning (General Permitted Development) (England) Order 2015.

CASE

OFFICER:

Michael

Sackey

# Agenda Item 20

## Cherwell District Council

### Planning Committee

20 May 2021

### Appeal Progress Report

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

This report is public

#### Purpose of report

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

#### 1. Recommendations

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

#### 2. Introduction

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

#### 3. Report Details

##### 3.1 New Appeals

**20/01891/F - Land North East Of Fringford Study Centre Adjoining, Rectory Lane, Fringford, OX27 8DD** - Erection of a 4 bedroom detached dwelling with garage and access.

**Officer recommendation** – Refusal (Delegated)

**Method of determination:** Written Representations

**Start Date:** 21.04.2021      **Statement Due:** 26.05.2021      **Decision:** Awaited

**Appeal reference** – 21/00015/REF

**20/02504/F – 11 The Holt, Mollington, OX17 1BE** - Single storey front extension.

**Officer recommendation** – Refusal (Delegated)

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

**Start Date:** 23.04.2021      **Statement Due:** N/A      **Decision:** Awaited

**Appeal reference** – 21/00016/REF

**20/02669/F - Moorlands Farm, Murcott, OX5 2RE** - Demolition of existing agricultural buildings and erection of three dwellings.

**Officer recommendation** – Refusal (Delegated)

**Method of determination:** Written Representations

**Start Date:** 06.04.2021      **Statement Due:** 11.05.2021      **Decision:** Awaited

**Appeal reference** – 21/00013/REF

**20/02717/HPA - 4 Summer Ley, Barford St Michael, Banbury, OX15 0RG** - Demolition of existing conservatory and erection of lounge dining room extension, kitchen extension to form utility room - length 4.2m, height to eaves 2.7m, overall height 3.8m.

**Officer recommendation** – Refusal (Delegated)

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

**Start Date:** 06.04.2021      **Statement Due:** N/A      **Decision:** Awaited

**Appeal reference – 21/00014/REF**

3.2 New Enforcement Appeals

None.

3.3 Appeals in Progress

**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 – Estimated to last 4 days

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

**Appeal reference – 21/00012/REF**

**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 –** Tuesday 22<sup>nd</sup> June 2021

Hearing originally scheduled for 5<sup>th</sup> May was postponed by the Planning Inspectorate.

**Appeal reference – 21/00004/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

**20/01643/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

**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

**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

**20/02592/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

**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 21 May 2021 and 17 June 2021*

None

3.6 *Results*

Inspectors appointed by the Secretary of State have:

1. **20/01905/F – Dismissed the appeal by Mr N Satchell against the refusal of planning permission for Formation of access and associated dropped kerb. 110 Lyneham Road, Bicester, OX26 4FD.**  
**Officer recommendation – Refusal (Delegated)**  
**Appeal reference – 21/00005/REF**

The Inspector considered the main issue to be the proposal's effect on the safe use of the highway for pedestrians.

The Inspector noted that there was a dropped kerb to some of the frontage adjacent to the footway and that a hedge to the front of the driveway had been removed. He also noted that the neighbour had a dropped kerb to which the appellant's existing dropped kerb connected and formed one continuous dropped kerb.

The Inspector concluded that, “would result in a very wide expanse of dropped kerb, increasing the area of footway that vehicles could traverse. This would unduly hinder the ability of pedestrians to move to a safe place and be clear of vehicles coming and going from both the appeal site and its neighbours. The effect would be particularly dangerous for pedestrians with mobility problems, the elderly and children.”

The Inspector considered the benefits to the applicant to be mainly of a private nature which therefore attracted limited weight, and noted that the provision of this benefit would result in harm to the safe use of the highway. Accordingly he dismissed the appeal.

**2. 20/03191/F – Dismissed the appeal by Ms R Maxted against the refusal of planning permission for Single storey residential extension - re-submission of 20/01265/F. Keepers Cover, Church Lane, Weston On Th Green, OX25 3QU  
Officer recommendation – Refusal (Delegated)  
Appeal reference – 21/00006/REF**

The Inspector for this case identified the key considerations to be the impact on the Oxford Green Belt and the weight that should be given to a legal agreement

In making their initial assessment the Inspector concluded that the present building represents ‘the original building’ and that the modest proposals would be acceptable under the exception in NPPF paragraph 14. c) which allows for proportionate extension of the original dwellinghouse.

However, the site is subject to an earlier legal obligation prohibiting any development to enlarge the property. This obligation relates to a planning permission for a replacement dwelling which is 75% larger than the original.

The Inspector found that ‘there has been no fundamental change in Green Belt policy, either locally or nationally, since the obligation was entered into’ and that the original legal agreement therefore continues to serve a useful purpose in limiting extensions to the dwelling in an area of Green Belt. Reiterating the conclusions of earlier decisions, the appeal to extend the property was dismissed on this basis.

**3. 20/00763/F – Dismissed the appeal by Mrs L Godwin against the refusal of planning permission for Removal of condition 9 (occupation of site by caravan, motor caravan or tent) of 00/01162/F. Manor Farm Bungalow, Northampton Road, Weston On The Green, Bicester, OX25 3QL  
Officer recommendation – Refusal (Delegated)  
Appeal reference – 21/00009/REF**

The Inspector considered the main issues to be whether the disputed condition is necessary having regard to (i) Green Belt policy and (ii) the effect on the character and appearance of the area.

The Inspector noted that the use itself was capable of being appropriate development in the Green Belt if it preserved openness and did not conflict with the purposes of Green Belt policy.

He observed that the touring caravan park involves the stationing of caravans and pitching of tents, which reduce spatial openness by reason of their bulk and volume. He noted that caravans on the site were seen across fields from parts of Northampton Road and through gaps in the boundary vegetation, and that there are views through adjoining fields and nearby public rights of way. He held that there would be a loss of spatial openness.

The Inspector found no clear explanation as to why the Council had granted the original planning permission and held that the Council’s previous determination did not a precedent

that he was bound to follow, but concluded that the proposal would be more harmful to Green Belt openness than the development allowed under the existing planning permission, and therefore that the condition serves a useful purpose having regard to Green Belt policy.

The Inspector considered that, by virtue of its size and siting, the caravan park stands out as a significant encroachment into the surrounding field area rather than part of the building complex. He noted that caravan sites often lie outside urban areas but in this instance the park detracts from the views of fields and so fails to respect the agricultural feel of the area.

The Inspector held that the disputed condition serves to avoid caravans and tents being unduly visible and detrimental to the character and appearance of the area during times when the site is most exposed to view, and was unconvinced that additional planting would address the visual harm of the park from November to February.

The Inspector concluded that the condition was reasonable and necessary, and that the harm that would result from its removal would outweigh the economic benefit to which he afforded positive weight, and therefore dismissed the appeal.

**4. 19/02550/F - Allowed the appeal by Great Lakes UK Ltd against the refusal of planning permission for 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. Land to the east of M40 and south of A4095, Chesterton, Bicester  
Officer recommendation – Refusal (Committee)  
Appeal reference – 20/00030/REF**

The appeal has been allowed and planning permission granted.

During the Inquiry a drainage statement of common ground was agreed between OCC & Appellant, so Reason for Refusal 5 was not pursued. The Appellant offered a signed s106 Deed for: a financial bond; the payment of fees; financial contributions for cultural wellbeing, public transport and cycle improvements; traffic calming in Middleton Stoney; off-site provision of footpaths and cycleways; a shuttle bus service for staff and guests; day passes for local residents; travel, training and employment plans; and a golf mitigation scheme, so Reason for Refusal 6 was also not pursued.

This left the following key issues:

1. effect on the safety and free flow of traffic on the highway network, with particular reference to the Middleton Stoney junction;
2. landscape and visual impact;
3. implications for golf provision;
4. locational sustainability of the appeal site;
5. whether the proposal conflicts with the development plan and, if so, whether there are any material considerations that would outweigh that conflict.

**Issue 1 – Highway Safety** – Other than the effect on the Middleton Stoney junction, OCC confirmed that the development would not have a severe effect on the network. Insofar as the junction was concerned, the Inspector concluded that development would not make a material difference to its operation and capacity. With regard to other roads, the Inspector commented that the level of traffic likely to use these roads was not a matter of concern for OCC as Highway Authority and he considered that he saw nothing to suggest that the impact would unacceptably affect the safety and free flow of traffic. Whilst the route from the A41 through Little Chesterton to the A4095 is poor and an entirely unsuitable route to access the development the Inspector considered that through a comprehensive signage strategy, as proposed by the Appellant, and the potential to reinforce the message during the visitor booking process, the effect on this route could be acceptably mitigated. Insofar as car parking was concerned, the Inspector deemed the proposed 902-space car parking of sufficient size to cater for the facility and would not have an unacceptable impact on the safety and free flow of traffic on the highway network.

**Issue 2 – Landscape and Visual Impact** – The site lies within open countryside but with no national or local landscape designations. The Inspector concluded that the site would not fall to be considered as parkland. Rather, given the heavily managed and manicured appearance of the golf course, the most that can be said is that it has some limited parkland characteristics and did not constitute a ‘valued landscape’ in NPPF Para.170 terms. He noted that traffic noise from the M40, has a material impact and found that the site had a medium landscape value. Notwithstanding the substantial mass and scale of the proposed building, the Inspector considered the scheme’s architects and landscape architects had produced a building that was neither institutional nor monolithic in its appearance in this rural setting. He noted that the landscaping proposed would be substantial and he recognised strong cues to the grand country house characteristic of the Cotswolds. Thus, he concluded that the scheme would contribute positively, by creating its own local distinctiveness. The appeal site itself would experience significant change and permanent transformation. However, given the scale of physical enclosure, the site and its landscape setting have a low susceptibility to change in his opinion. Therefore, the change to landscape character would not be significant and at Year 15 would be negligible. He deemed that visual impact of the development would be localised. Insofar as the A4095 was concerned, he found that the proposed footpath works were relatively minor features and no more than is found on many rural roads and the proposed footway/cycleway works would have no material impact on this element. With the addition of proposed planting and the setback of the building from the boundary (between 98m-202m) there would, apart from the main access be no views of the building from the A4095. With respect to the access, he considered that type of access proposed was not unusual on a rural A Class road. In his opinion, the combination of the setback of the building, the design of the front façade and the landscaping within the car park and to the front of the hotel entrance would acceptably mitigate its visual impact. With respect to other public landscape views, the Inspector concluded they would either be insignificant or of no more than minor-moderate adverse impact.

**Issue 3 – Sport & Recreation** – Although development would involve loss of the back 9-holes, the front 9-holes of the Golf Course would be reconfigured by inserting a second tee at each hole, the driving range would be upgraded, the outfield of which would be shared with a 9-hole Par 3 Academy Course for beginners and family play and a short-game practice area. The Inspector was not convinced by the LPA evidence with respect to supply/demand for golf provision, which he deemed at odds with the findings of England Golf. On balance, the Inspector concluded that the proposals as modified by the mitigation proposed and included within the s.106 would be sufficient to satisfy the tests in NPPF Para.97.

**Issue 4 – Locational Sustainability** – Recognising the value of tourism to the local economy through increasing overnight stays and visitor numbers, LP Policy SLE 3 indicates that new tourist proposals, in sustainable locations, will be supported. In terms of the sequential approach, it was common ground that there are no town centre sites or edge-of-centre sites within Cherwell that are suitable and available for such a use. NPPF para.103 indicates that significant development should be focused on locations that are or can be made sustainable through limiting the need to travel and offering a genuine choice of transport modes. In this instance, a package of measures is proposed including: provision of footpath and cycleway links to Chesterton; a financial contribution to upgrade cycle links between Chesterton and Bicester; a financial contribution for 10 years for a public bus service between Bicester and the site, where no service currently exists, offering a half-hourly service; plus a dedicated Shuttle Bus service for visitors and staff, linking the resort with the 2 railway stations; and the car park would provide a material number of spaces dedicated for electric vehicle charging. Taken in the round, with the package of transport measures proposed, the Inspector concluded that the proposed development would, given its nature, be in a location that could be made locationally sustainable and would not therefore conflict with the objectives of Policy SLE 3 or the NPPF.



**Issue 5 – The Development Plan** – In undertaking the balance of harmful and beneficial impacts and the relationship to Development plan policy and NPPF guidance, the Inspector concluded that economic benefits included up to 945 construction jobs over the 2-year build period, contributing £1.3m to the local economy. The half million annual visitors to the resort would significantly stimulate local tourism and enhance the attractiveness of this part of Oxfordshire as a tourist destination. During the operational phase, development would provide up to 600 jobs (460 FTE) contributing up to £1.57m to the local economy and the potential to support some 700 additional jobs (540 FTE) in the wider Oxfordshire economy. Overall, estimated that development would contribute up to £23m per annum to the local economy. Whilst the proposal is a, “everything under one roof” offer, there is potential for some £4.9m per year on spin-off expenditure from those coming to and going from the resort whilst in the area. On social benefits, the resort offer would focus on families with children aged 2 to 12. The concept provides for families and extended families to undertake short breaks where a variety of activities is provided on-tap. Whilst it might appear trite, the value of this, should not be underestimated. Moreover, whilst several of the benefits listed by the appellant arise out of the need for the development to mitigate its effect, these would provide wider benefits to the local community. Based on the above, the proposal would provide alternative recreational provision, the benefits of which would clearly outweigh the loss of 9 golf holes in the Inspector’s opinion.

### **Conclusion**

Overall, the Inspector found that the proposal would not conflict with LP Policies SLE 5, BSC 10, ESD 13, ESD 15, SLE 2, or SLE 3 and Saved LP Policy TR7. The impact on the PROW and residents would be significantly and materially outweighed by the acknowledged benefits of the development, particularly the economic and social benefits that would accrue in the local area. For these reasons, the proposal would accord with the development plan when read as a whole.

Appeal decision summary to follow in next month’s appeal progress report.

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

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

## **5. Consultation**

None.

## **6. Alternative Options and Reasons for Rejection**

- 6.1 None. The report is presented for information.

## **7. Implications**

### **Financial and Resource Implications**

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

Comments checked by:

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

### **Legal Implications**

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

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

### **Risk Implications**

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

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

### **Equality & Diversity Implications**

- 7.4 The recommendation does not raise equality implications.

Comments checked by:  
Emily Schofield, Project Manager  
[Emily.Schofield@oxfordshire.gov.uk](mailto:Emily.Schofield@oxfordshire.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**

Matthew Swinford, Appeals Administrator  
Matthew.Swinford@Cherwell-DC.gov.uk  
Alex Chrusciak, Interim Senior Manager, Development Management  
Alex.Chrusciak@cherwell-dc.gov.uk