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Cherwell

DISTRICT COUNCIL
NORTH OXFORDSHIRE

Committee:	Planning Committee
Date:	Thursday 19 May 2022
Time:	4.00 pm
Venue	Bodicote House, Bodicote, Banbury, Oxon OX15 4AA
Membership	Membership will be confirmed at the Annual Council Meeting on 18 May 2022
Substitutes	Substitutes will be confirmed at the Annual Council Meeting on 18 May 2022

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. Addresses can be made virtually or in person.

4. Minutes (Pages 4 - 22)

To confirm as a correct record the Minutes of the meetings of the Committee held on 7 April 2022 and the Minutes of the meeting of the meeting of the Committee held on 18 May 2022 (to follow).

5. **Chairman's Announcements**

To receive communications from the Chairman.

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

The Committee to consider requests for and proposed pre-committee site visits.

Any requests or recommendations for site visits will be published with the written update.

7. **Urgent Business**

The Chairman to advise whether they have agreed to any item of urgent business being admitted to the agenda.

Planning Applications

8. **Land West of Foxden Way, Great Bourton, OX17 1QY** (Pages 25 - 59)
21/00922/OUT
9. **Land North West of Launton Road Roundabout Adjoining Skimmingdish Lane, Caversfield** (Pages 60 - 91)
21/02286/F
10. **Os Parcels 6741 and 5426, West Cricket Field North, Wykham Lane, Bodicote**
(Pages 92 - 118)
21/03639/F
11. **Unit 5B, Oxford Technology Park, Langford Lane, Kidlington** (Pages 119 - 137)
21/03913/F
12. **Former Buzz Bingo, Bolton Road, Banbury, OX16 5UL** (Pages 138 - 160)
21/04202/F
13. **HM Prison Bullingdon, Patrick Haugh Road, Upper Arcott, Bicester, OX25 1PZ** (Pages 161 - 182)
21/04216/F
14. **94 The Moors, Kidlington, Oxfordshire, OX5 2AG** (Pages 183 - 198)
22/00539/F
15. **2, 4 and 6 Priory Mews, Old Place Yard, Bicester, OX26 6AU** (Pages 199 - 206)
22/00601/CDC

Review and Monitoring Reports

16. **Appeals Progress Report** (Pages 207 - 217)

Report of Assistant Director Planning and Development

Purpose of report

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

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 or 01295 221534 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.

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 / Aaron Hetherington, Democratic and Elections
democracy@cherwell-dc.gov.uk, 01295 221534

Yvonne Rees
Chief Executive

Published on Wednesday 11 May 2022

Agenda Item 4

Cherwell District Council

Planning Committee

Minutes of a meeting of the Planning Committee held at Bodicote House, Bodicote, Banbury, Oxon OX15 4AA, on 7 April 2022 at 4.00 pm

Present:

Councillor George Reynolds (Chairman)
Councillor David Hughes (Vice-Chairman)
Councillor Maurice Billington
Councillor Andrew Beere
Councillor John Broad
Councillor Hugo Brown
Councillor Colin Clarke
Councillor Patrick Clarke
Councillor Sandy Dallimore
Councillor Mike Kerford-Byrnes
Councillor Tony Mephram
Councillor Cassi Perry
Councillor Lynn Pratt
Councillor Les Sibley
Councillor Dorothy Walker

Substitute Members:

Councillor Richard Mould (In place of Councillor Simon Holland)
Councillor Barry Richards (In place of Councillor Sean Woodcock)
Councillor Barry Wood (In place of Councillor Ian Corkin)

Apologies for absence:

Councillor Ian Corkin
Councillor Simon Holland
Councillor Sean Woodcock

Officers:

Alex Chrusciak, Senior Manager - Development Management
Wayne Campbell, Principal Planning Officer
Andy Bateson, Team Leader – Major Developments
Nat Stock, Minors Team Leader
Rebekah Morgan, Principal Planning Officer
Sarah Greenall, Planning Officer – Householder Plus Team
Iain Osenton, Arboricultural Officer
David Mytton, Solicitor
Natasha Clark, Governance and Elections Manager
Aaron Hetherington, Democratic and Elections Team Leader

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Declarations of Interest

8. Hatch End, Old Poultry Farm, Steeple Aston Road, Middle Aston, Bicester, OX25 5QL.

Councillor Hugo Brown, Declaration, as the applicant was known to him and would leave the chamber for the duration of the item.

Councillor Mike Kerford-Byrnes, Declaration, as he has been advising the Parish Council and residents of Steeple Aston on process and procedure.

9. Land Opposite Hanwell Fields Recreation, Adj To Dukes Meadow Drive, Banbury.

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

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

10. OS Parcel 2778, Grange Farm, North West Of Station Cottage, Station Road, Launton.

Councillor Lynn Pratt, Declaration, as a trustee of the hummingbird centre in Launton and would leave the meeting for the duration of the item.

13. 7 Churchill Road, Kidlington, Oxfordshire, OX5 1BN.

Councillor Maurice Billington, Declaration, as he was an acquaintance of a neighbour to the application.

14. 137-153 The Fairway, Banbury, OX16 0QZ.

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

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

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

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

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

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Requests to Address the Meeting

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

156 **Minutes**

The Minutes of the meeting held on 10 March 2022 were agreed as a correct record and signed by the Chairman.

157 **Chairman's Announcements**

The Chairman made the following announcements:

1. The Chairman thanked the planning committee members and planning officers for their work during the year.
2. The Chairman advised that application 11, 21/04271/F, Land South of Faraday House, Woodway Road, Sibford Ferris would be moved to first in the agenda.
3. The Chairman read out the following statement in relation to the pre-election period.

We are currently in the pre-election period until the close of polls on 5 May 2022. During this time rules are in place to ensure that Council's do not publish information or take decisions that could appear to affect support for a political party or candidate. Whilst we can progress with matters that are 'business as usual', we need ensure that discussion at Council meetings is balanced and accurate.

Councillors on the Committee, and any Councillors addressing this meeting, are reminded that they should limit themselves in their comments only to the planning merits of the specific proposal under consideration. Officers may interject and pause proceedings if they are concerned that any comments are wider than material planning considerations related to the matter under discussion.

In the normal way, officers will also seek to support the Committee by correcting any inaccuracies that become clear within the committee debate”

158 **Urgent Business**

There were no items of urgent business.

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

It was proposed by Councillor Reynolds and seconded by Councillor Clarke that a site visit take place at Land west of Foxden Way, Great Bourton, OX17 1QY.

Resolved

- (1) That a site visit take place prior to the meeting at which application 21/00922/OUT, Land west of Foxden Way, Great Bourton, OX17 1QY would be considered by the Planning Committee.

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Land South of Faraday House, Woodway Road, Sibford Ferris

The Committee considered application 21/04271/F for the erection of 6no single storey age restricted dwellings (55 years) for older people with access, landscaping and associated infrastructure at Land South of Faraday House Woodway Road Sibford Ferris for Blue Cedar Homes Limited.

Councillor Chapman, addressed the committee as Ward member.

Stewart Roussel, Secretary of Sibford Action Group and Simon Rayner, Chairman of Sibford Ferris Parish Council addressed the committee in objection to the application.

Des Dunlop, agent for the applicant, addressed the committee in support of the application.

It was proposed by Councillor Reynolds and seconded by Councillor Patrick Clarke that application 21/04271/F be refused by reason of its siting outside of the built limits of the settlement and by reason of its scale, layout and design, the proposal would be out of keeping with the form and pattern of development in the local area. The proposal was contrary to the officer recommendation.

In reaching its decision the committee considered the officers' report and presentation, the written updates and address of the ward member and public speakers.

Resolved

- (1) That application 21/04271/F be refused contrary to officer recommendation due to:
 1. By reason of its siting outside of the built limits of the settlement, and having regard to the number of dwellings delivered in the rural areas (770 dwellings completed at 31st March 2021), the proposal represents development in an unsustainable location, remote from key amenities, especially for elderly residents. Notwithstanding the Council's present lack of a five year housing land supply the proposal conflicts with Policy BSC1 of the Cherwell Local Plan 2011-2031 and saved Policy H18 of the Cherwell Local Plan 1996 and Government guidance in the National Planning Policy Framework. This identified harm significantly and demonstrably outweighs the proposal's benefits of providing additional housing.
 2. By reason of its scale, layout and design, the proposal would be out of keeping with the form and pattern of development in the local area,

resulting in significant and demonstrable harm to the character and appearance of the area. The proposal therefore conflicts with Policy ESD15 of the Cherwell Local Plan 2011-2031, saved Policy C28 of the Cherwell Local Plan 1996, the Cherwell Residential Design Guide, National Design Guide, and Government guidance in the National Planning Policy Framework.

161 **Hatch End, Old Poultry Farm, Steeple Aston Road, Middle Aston, Bicester, OX25 5QL**

The Committee considered application 21/01123/F for the demolition of existing buildings. Construction of replacement business units (buildings 2,3, 4,5 and 6 as use classes E(g) (i), E(g) ii and E (g) iii and Building 1 under Class B8) and associated external works at Hatch End Old Poultry Farm Steeple Aston Road Middle Aston Bicester OX25 5QL for Middle Aston Limited. This was a re-submission of application 20/01127/F.

Councillor Kerford-Byrnes proposed that application 21/01123/F be refused as the application was contrary to Policy SLE4 of the Cherwell Local Plan 2011-2031, saved Policy TR7 of the Cherwell Local Plan 1996 and the National Planning Policy Framework 2021. Councillor Reynolds seconded the proposal. The proposal was contrary to the officer recommendation.

In reaching its decision, the committee considered the officers' report and presentation.

Resolved

That application 21/01123/F be refused for the following reason:

1. The proposed development would create additional trips over the existing permitted use of the site. The proposed development would regularly attract large commercial vehicles and large numbers of cars onto the local minor roads which are unsuitable to serve the proposed development, and would have a severe traffic impact. The proposal is therefore contrary to Policy SLE4 of the Cherwell Local Plan 2011-2031, saved Policy TR7 of the Cherwell Local Plan 1996 and the National Planning Policy Framework 2021.

162 **Land Opposite Hanwell Fields Recreation, Adj To Dukes Meadow Drive, Banbury**

The Committee considered application 21/03426/OUT, an outline planning application for up to 78 dwellings and associated open space with all matters reserved other than access at Land opposite Hanwell Fields Recreation, adjacent to Dukes Meadow Drive, Banbury for Mr P M Donger, Mrs S M Donger and Manor Oak Homes.

Tom Sadler, Local Resident, addressed the committee in objection of the application.

Geoff Armstrong, agent for the applicant, addressed the committee in support to the application.

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

Resolved

That authority be delegated 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) The statutory determination period for this application expires on 6 May 2022. If the section 106 agreement/undertaking is not completed and the permission is not able to be issued by this date, and no extension of time has been agreed between the parties, it is further recommended that the assistant director for planning and development is given delegated authority to refuse the application for the following reason (and any amendments as deemed necessary):
- b) 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 highway mitigation works required as a result of the development and necessary to make the impacts of the development acceptable in planning terms, contrary to Government Guidance contained with the National Planning Policy Framework.

S106 HEADS OF TERMS

As set out in the table set out at the Annex to the Minutes (as set out in the Minute Book)

CONDITIONS

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 18 calendar months beginning with the date of this permission.

Reason: This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004. The time period for submission has been reduced from the standard period. The application has been submitted to address the Council's 5 year housing land supply position and is in accordance with the applicant's planning statement.

3. Application for approval of all the reserved matters shall be made to the Local Planning Authority before the expiration of 18 months from the date of this permission and the development hereby permitted shall be begun either before the expiration of 40 calendar months 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). The time period for submission has been reduced from the standard period. The application has been submitted to address the Council's 5 year housing land supply position and is in accordance with the applicant's planning statement.

4. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the application form and the following plans and documents: Drawing numbers SLP-02 Rev P4 (Site Location Plan), LUPP-01 Rev P4 (Land Use Parameter Plan) and 340-TA114 Rev A (Proposed Access: Option 2 without layout).

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

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

Reason: To secure an acceptable standard of development that safeguards the visual amenities of the area and the living conditions of existing and future occupiers and to ensure compliance with Policy

ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and government guidance within Section 12 of the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

6. In accordance with the recommendations of the Phase 1 report submitted with the application, 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.

7. If remedial works have been identified in condition 6, the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 7. A verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that 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.

8. As part of any application for reserved matters relating to layout, a 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, 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. It shall thereafter be managed in accordance with the approved details. The scheme shall also include:
 - Discharge rates based on 1:1 year greenfield run off rate

- Discharge Volumes
- SUDS

- 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)
- A detailed maintenance regime for all proposed drainage features and SuDS features
- A detailed surface water catchment 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 6 and 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.

9. As part of any reserved matters application including layout, a noise assessment shall be submitted and approved in writing by the Local Planning Authority demonstrate how acceptable internal and external noise levels will be achieved for the proposed dwellings and amenity spaces. If the proposal includes the use of background ventilation, then a ventilation and overheating assessment should be carried out and submitted to be approved. The development shall thereafter be carried out in accordance with the approved details and any mitigation retained thereafter.

Reason: To ensure the development provides a good standard of amenity for future residents in accordance with Policy ESD15 of the Cherwell Local Plan Part 1 (2015) and Government guidance in the National Planning Policy Framework.

10. Prior to the commencement of the development, a Construction Environment Management Plan (CEMP), which shall include details of the measures to be taken to ensure construction works do not adversely affect residential properties on, adjacent to or surrounding the site together with details of the consultation and communication to be carried out with local residents shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with approved CEMP.

Reason: To ensure the environment is protected during construction in accordance with Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement

of the development as it is fundamental to the acceptability of the scheme.

11. Prior to the commencement of the development hereby permitted 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. The assessment should include damage cost calculations where applicable along with a proposal for abatement measures that will be undertaken in addition to those already required from the developer. 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: To ensure the creation of a satisfactory environment for future residents in accordance with Government Guidance contained in the NPPF.

12. As part of any reserved matters for layout, an updated Arboricultural Impact Assessment, Tree Protection Plan and 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 protect the existing trees and hedgerows on site and to accord with Policy ESD15 of the Cherwell Local Plan Part 1 (2015) and Government guidance in the National Planning Policy Framework.

13. a) No 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 matters (a) and (b) shall have effect until the expiration of five years from the date of the approval of the final reserved matters.

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.

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

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

15. 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, lighting and drainage, shall be submitted to and approved in writing by the Local Planning Authority. The access, driveways and turning areas shall be constructed in accordance with the approved details prior to the first occupation of any of the dwellings and shall be retained as such thereafter.

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.

16. 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.

17. No development shall commence above slab level unless and until a scheme for electric vehicle infrastructure to serve each dwelling has been submitted and approved in writing by the Local Planning Authority. The approved electrical vehicle charging infrastructure shall be provide in accordance with the approved details prior to the first occupation of the dwelling it serves.

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

18. Prior to occupation of any part of the development hereby approved, a revised Residential Travel Plan Statement meeting the requirements

set out in the Oxfordshire County Council guidance document, "Transport for New Developments; Transport Assessments and Travel Plans" shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried on in accordance with the approved details.

Reason: To encourage occupiers to use sustainable modes of transport in line with the NPPF.

19. Prior to first occupation a Travel Information Pack shall be submitted to Local Planning Authority for approval. The first residents of each dwelling shall be provided with a copy of the approved Travel Information Pack.

Reason: To encourage occupiers to use sustainable modes of transport in line with the NPPF.

20. 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.

21. No development shall commence including any demolition, and any works of site clearance, unless and until a method statement and scheme for enhancing biodiversity 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, has been submitted to and approved in writing by the Local

Planning Authority, which shall accompany any reserved matters application for layout and landscaping. This shall also include a timetable for provision. Thereafter, the biodiversity enhancement measures shall be carried out in accordance with the approved details and shall be retained as such thereafter 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.

22. No development shall commence unless and until a Landscape and Ecology Management Plan (LEMP), which shall also cover the construction phase of the development, has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out or managed 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.

23. 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 in relation to ecological impact, 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.

24. As part of any submission for reserved matters, full details of a renewable energy strategy for the site in accordance with Policy ESD5 of the Cherwell Local Plan, shall be submitted and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details prior to the first occupation of any building the renewable energy serves.

Reason: To encourage the use of renewable and low carbon energy in accordance with Policy ESD5 of the Cherwell Local Plan Part 1.

25. 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.

26. 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.

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OS Parcel 2778, Grange Farm, North West Of Station Cottage, Station Road, Launton

The Committee considered application 21/04112/OUT, an outline application for the erection of up to 65 dwellings, including up to 8 live-work dwellings (use class sui generis), public open space, access, infrastructure and demolition of existing buildings (all matters reserved except principle means of access from Station Road) at OS Parcel 2778, Grange Farm, North West of Station Cottage, Station Road, Launton for Richborough Estates.

Richard Lodge, Launton Action Group, addressed the committee in objection to the application.

Richard Lomas, Agent for the applicant, addressed the committee in support of the application.

It was proposed by Councillor Hughes and seconded by Councillor Wood that application 21/04112/OUT be refused as it was contrary to policies Villages 2 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved policy C28 of the Cherwell Local Plan 1996 and Government guidance within the National Planning Policy Framework, the lack of connectivity within the existing settlement would result in an isolated form of unsustainable development which would be contrary to policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and that it cannot be demonstrated that the necessary infrastructure directly required both on and off site as a result of the development can be provided in the interests of safeguarding public infrastructure. The proposal was contrary to the officer recommendation.

Resolved

- (1) That application 21/04112/OUT be refused contrary to the officer's recommendation for the following reasons:
1. Notwithstanding the Council's inability to demonstrate a 5 year land supply the proposals would result in the development of greenfield land forming part of the open countryside which would result in an

unacceptable extension of the village and which would harm the character and rural setting of the village to the detriment of the built, natural and historic environment. The proposal is therefore contrary to policies Villages 2 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved policy C28 of the Cherwell Local Plan 1996 and Government guidance within the National Planning Policy Framework.

2. The application site is located some distance from the centre of the village; the proposal would create a new community isolated from existing services in the village and would place heavy reliance on car use to reach even local services within the village such as the school and shop. This lack of connectivity within the existing settlement would result in an isolated form of unsustainable development which would be contrary to policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 as well as Government guidance within the National Planning Policy Framework.
3. In the absence of the completion of a satisfactory Planning Obligation, it cannot be demonstrated that the necessary infrastructure directly required both on and off site as a result of the development can be provided in the interests of safeguarding public infrastructure, delivering mixed and balanced communities through the provision of affordable housing and securing on site future maintenance arrangements. The development is therefore contrary to policies INF1, BSC3, BSC4, BSC9, BSC10, BSC11 and BSC12 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance within the National Planning Policy Framework.

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Grass Verge Adj To North Lane, Weston On The Green, OX25 3RG

The Committee considered application 22/00124/TPO for the Crown lift south west limb only to 2m. Crown lift through a combination of light selective reduction and small branch removal, with no cuts exceeding 50mm - Subject to TPO 04/2018 at Grass Verge Adj To North Lane, Weston On The Green, OX25 3RG for Oxfordshire County Council.

Prior to the officers' report and presentation and the public speaking, it was proposed by Councillor Hughes and seconded by Councillor Reynolds that consideration of application 22/00124/TPO be deferred due to the expectation that the footpath affected by the canopy of the tree may soon be removed and a replacement path provided that would not necessitate pruning works to the tree

Resolved

- (1) That consideration of application 22/00124/TPO be deferred due to the expectation that the footpath affected by the canopy of the tree may soon be removed and a replacement path provided that would not necessitate pruning works to the tree.

7 Churchill Road, Kidlington, Oxfordshire, OX5 1BN

The Committee considered application 22/00425/F for the demolition of existing single level dwelling - Class C3(a) - and erection of 4no flats in a single, 1.5 storey building - Class C3(a) at 7 Churchill Road, Kidlington, Oxfordshire OX5 1BN for Mr Jack Piccaver.

Jack Piccaver, the applicant, addressed the committee in support of the application.

In reaching its decision, the committee considered the officers' report and presentation, the written updates and the address of the public speaker.

Resolved

That application 22/00425/F be approved, subject to the following 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 application form and the following plans and documents:

- Proposed Floor Plans
- Proposed Roof Plan
- Proposed Main Elevations
- Proposed Side Elevations
- Proposed Site Plan
- Proposed Block & Location Plan
- Proposed Drainage Plan
- Proposed Landscape Plan
- 3.1 - Local Amenities Plan
- 3.2 - Parking Survey Spaces
- Accompanying Information Revision B dated 31st January 2022

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. A schedule of materials and finishes to be used in the external walls and roof(s) of the building shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of those works. The

development shall not be carried out other than in accordance with the approved details and shall be retained as such thereafter.

Reason: 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. Prior to the first occupation of the development hereby approved, the parking and manoeuvring areas shall be provided in accordance with the plan approved (Drawing No. 2.5 Proposed Site Plan) demarcated and constructed from porous materials or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the site. Thereafter, the parking and manoeuvring areas shall be retained in accordance with this condition and shall be unobstructed except for the parking and manoeuvring of vehicles at all times.

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

5. No dwelling shall be occupied until cycle parking has been provided on site in accordance with Drawing No. 2.5 Proposed Site Plan for 2 bicycles spaces per unit, and those spaces shall thereafter be kept available for the parking of bicycles.

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.

6. Prior to the first occupation of the development the bin storage shall be provided on site in accordance with the approved drawing No. 2.5 Proposed Site Plan and shall be retained as such thereafter.

Reason: To encourage sustainable modes of transport, to ensure the satisfactory appearance of the completed development and to comply with Policies ESD1 and ESD 15 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. The development hereby approved shall not be occupied unless the appropriate number of refuse bins required in relation to the dwellings have been provided and the said refuse bin provision shall remain available for use as such thereafter.

Reason – In the interests of visual and residential amenity 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.

8. Prior to the first occupation of the flats hereby permitted the electric vehicle charging shall be provided on site in accordance with the approved plan Drawing No. 2.5 Proposed Site Plan and shall be retained as such thereafter.

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

9. 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.

166 **137-153 The Fairway, Banbury, OX16 0QZ**

The Committee considered application 21/03912/F for external and internal refurbishment to the flats at 137-153 The Fairway Banbury OX16 0QZ for the Build Team.

In reaching its decision, the committee considered the officers' report and presentation.

Resolved

That application 21/03912/F be approved, subject to the following 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 Title: Measured Survey Drawing Number: 001
- Drawing Title: Proposed Plans and Elevations Drawing Number: 002A
- Drawing Title: Site and Location Plan Drawing Number: 003A
- Drawing Title: 3D Visuals Drawing Number: 004

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.

167 **Appeals Progress Report**

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

Resolved

- (1) That the position statement be accepted.

The meeting ended at 7.45 pm

Chairman:

Date:

CHERWELL DISTRICT COUNCIL

Planning Committee - 19 May 2022

PLANNING APPLICATIONS INDEX

The Officer's recommendations are given at the end of the report on each application.

Members should get in touch with staff as soon as possible after receiving this agenda if they wish to have any further information on the applications.

Any responses to consultations, or information which has been received after the application report was finalised, will be reported at the meeting.

The individual reports normally only refer to the main topic policies in the Cherwell Local Plan that are appropriate to the proposal. However, there may be other policies in the Development Plan, or the Local Plan, or other national and local planning guidance that are material to the proposal but are not specifically referred to.

The reports also only include a summary of the planning issues received in consultee representations and statements submitted on an application. Full copies of the comments received are available for inspection by Members in advance of the meeting.

Legal, Health and Safety, Crime and Disorder, Sustainability and Equalities Implications

Any relevant matters pertaining to the specific applications are as set out in the individual reports.

Human Rights Implications

The recommendations in the reports may, if accepted, affect the human rights of individuals under Article 8 and Article 1 of the First Protocol of the European Convention on Human Rights. However, in all the circumstances relating to the development proposals, it is concluded that the recommendations are in accordance with the law and are necessary in a democratic society for the protection of the rights and freedom of others and are also necessary to control the use of property in the interest of the public.

Background Papers

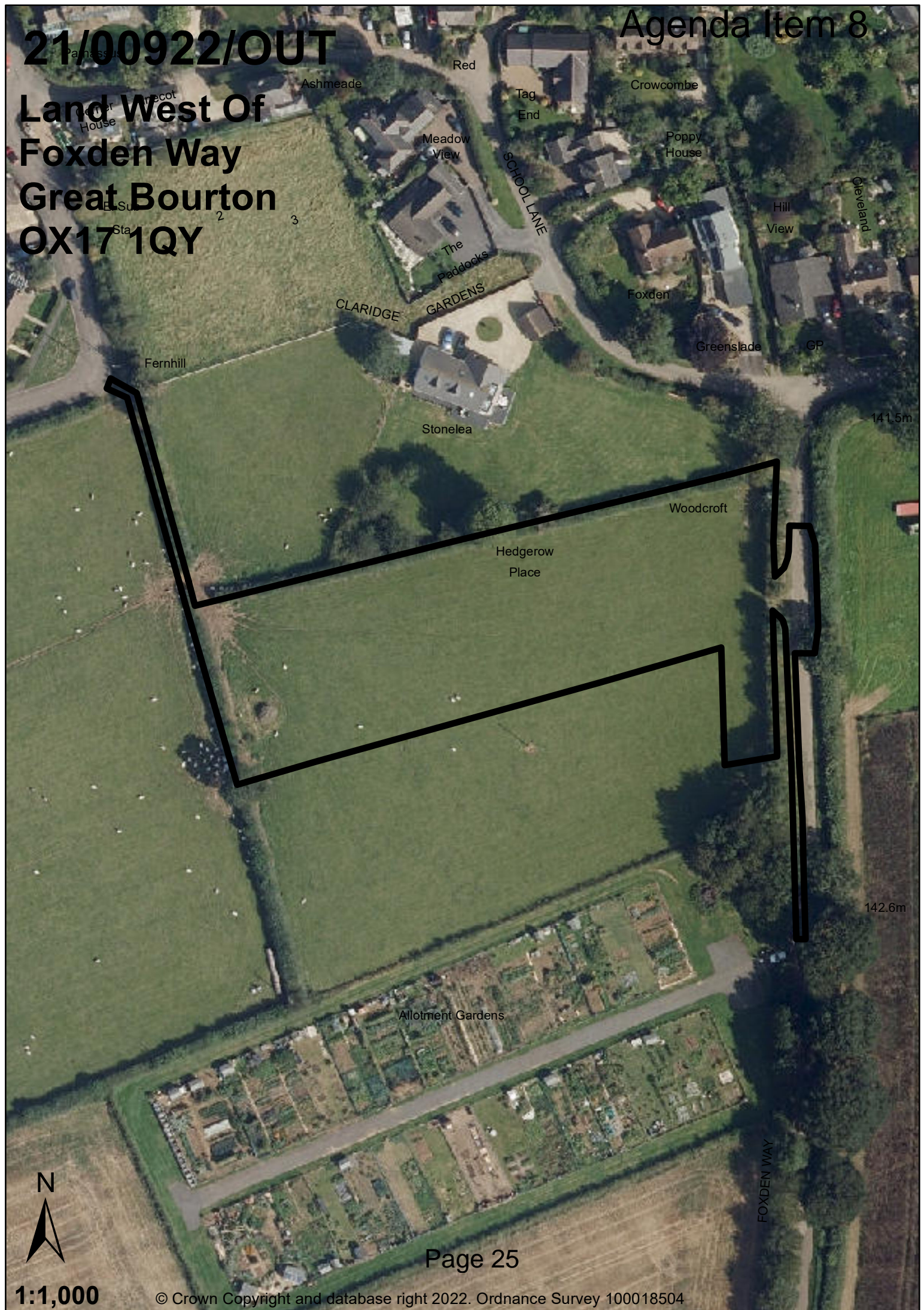
For each of the applications listed are: the application form; the accompanying certificates and plans and any other information provided by the applicant/agent; representations made by bodies or persons consulted on the application; any submissions supporting or objecting to the application; any decision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

Item No.	Site	Application Number	Ward	Recommendation	Contact Officer
8	Land West Of Foxden Way Great Bourton OX17 1QY	21/00922/OUT	Cropredy, Sibfords and Wroxton	*Grant Permission	James Kirkham
9	Land North West of Launton Road Roundabout Adjoining Skimmingdish Lane, Caversfield	21/02286/F	Launton and Otmoor	*Grant Permission	Rebekah Morgan
10	Os Parcels 6741 and 5426, West Cricket Field North, Wykham Lane, Bodicote	21/03639/F	Adderbury, Bloxham and Bodicote	*Grant Permission	Linda Griffiths
11	Unit 5B, Oxford Technology Park, Langford Lane, Kidlington	21/03913/F	Kidlington West	*Grant Permission	Andy Bateson
12	Former Buzz Bingo, Bolton Road, Banbury, OX16 5UL	21/04202/F	Banbury Cross and Neithrop	Refusal	Linda Griffiths
13	HM Prison Bullingdon, Patrick Haugh Road, Upper Arncott, Bicester, OX25 1PZ	21/04216/F	Launton and Otmoor	*Grant Permission	Wayne Campbell
14	94 The Moors, Kidlington, Oxfordshire, OX5 2AG	22/00539/F	Kidlington West	*Grant Permission	Sarah Greenall
15	2, 4 and 6 Priory Mews, Old Place Yard, Bicester, OX26 6AU	22/00601/CDC	Bicester South and Ambrosden	*Grant Permission	Emma Whitley

*Subject to conditions

21/00922/OUT

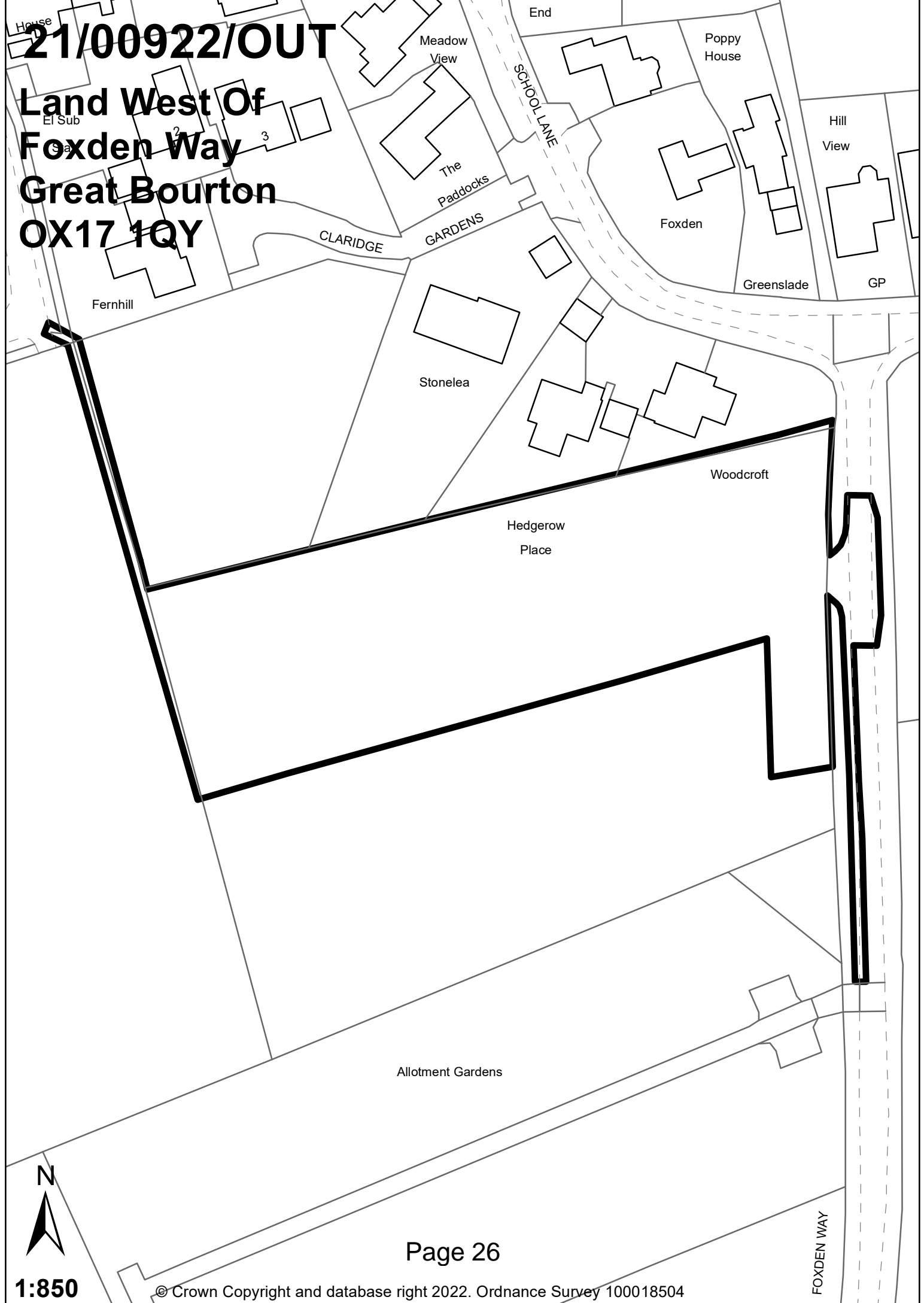
Land West Of
Foxden Way
Great Bourton
OX17 1QY



1:1,000

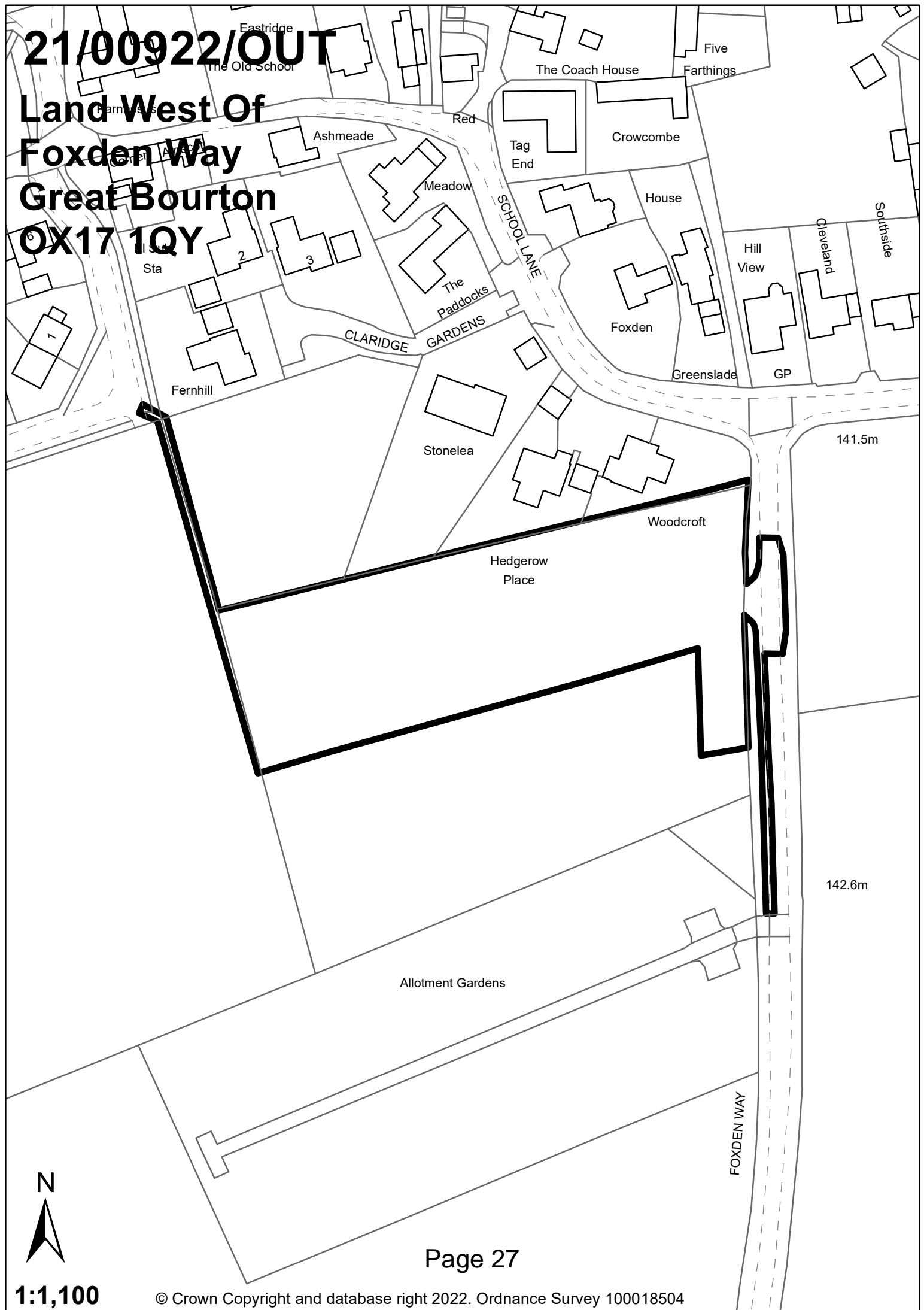
21/00922/OUT

Land West Of
Foxden Way
Great Bourton
OX17 1QY



21/00922/OUT

Land West Of
Foxden Way
Great Bourton
OX17 1QY



Eastridge
The Old School
Barn
Ashmeade
Meadow
The Paddocks
CLARIDGE GARDENS
Fernhill
Sta
2
3
6

The Coach House
Five Farthings
Crowcombe
Tag End
House
Foxden
Hill View
Cleveland
Southside
GP
Greenslade

SCHOL LANE
CLARIDGE GARDENS

Stonelea

Hedgerow Place

Woodcroft

Allotment Gardens

FOXDEN WAY

141.5m

142.6m



1:1,100

Case Officer: James Kirkham

Applicant: Mr Russell Crow

Proposal: OUTLINE Planning Application with all matters reserved save for access for up to 9 First Homes

Ward: Cropredy, Sibfords and Wroxton

Councillors: Councillor Chapman, Councillor Reynolds and Councillor Webb

Reason for Referral: Called in by Councillor Reynolds for the following reasons:

- Public interest – The level of objection
- The site is clearly beyond the boundaries of the village yet is not an exception site but a site for entry level housing. This will drive a coach and horses through our present policies and open up all villages to speculative applications.

Expiry Date: 31 May 2022

Committee Date: 19 May 2022

SUMMARY OF RECOMMENDATION: DELEGATE POWERS TO GRANT PERMISSION, SUBJECT TO CONDITIONS AND SECTION 106 AGREEMENT TO RESTRICT DEVELOPMENT TO FIRST HOMES

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site is the northern part of an undeveloped field, currently laid to grass, to the south of Great Bourton. It is bounded to the north by the properties accessed from School Lane which includes a number of new dwellings that have been permitted in recent years (some of which have not yet been constructed). To the south of the site, beyond the southern part of the current field is the village allotments. To the west is Foxden Way which is a rural lane without any footpath provision.
- 1.2. The site is relatively level and has hedgerow boundaries to the north, west and east. A field access exists to the eastern boundary of the site onto Foxden Way.

2. CONSTRAINTS

- 2.1. The application site is located in an area of elevated radon levels. The site is not located in a Conservation Area or within the setting of any listed buildings. There are records of swifts in the locality.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. When the application was originally submitted it was proposed to be developed for an 'Entry Level Exception Site' for 9 dwellings and included the larger field parcel. During the course of the application new national planning guidance and a Written Ministerial Statement (as outlined elsewhere in this report) have been issued, which effectively replace Entry Level Exception Sites with First Homes Exception sites. Given this change in national policy the proposal has been amended to now propose a First Homes Exception site for 9 dwellings. The site area has also been amended to reduce the size of the site and include land for a footpath connection to South View.

- 3.2. The current application is made in outline with all matters reserved except details of the main access to the site from Foxden Way. All other matters such as appearance, scale, layout and landscaping are reserved for future applications. Permission is sought for up to 9 dwellings on the site. These are proposed to be provided as 'First Homes' which are a new form of affordable housing product and should be considered within the definition of 'affordable housing' for planning purposes. They would be secured through a legal agreement. They are a specific tenure of discounted market sale housing. First Homes are discounted market sale units which:
- a. must be discounted by a minimum of 30% against the market value;
 - b. are sold to a person or persons meeting the First Homes eligibility criteria (see 3.3 below);
 - c. on their first sale, will have a restriction registered on the title at HM Land Registry to ensure this discount (as a percentage of current market value) and certain other restrictions are passed on at each subsequent title transfer; and
 - d. after the discount has been applied, the first sale must be at a price no higher than £250,000.
- 3.3. To be eligible to purchase a First Home a purchaser (or, if a joint purchase, all the purchasers) should be a first-time buyer (as defined in paragraph 6 of schedule 6ZA of the Finance Act 2003 for the purposes of Stamp Duty Relief for first-time buyers). Purchasers of First Homes, whether individuals, couples or group purchasers, should have a combined annual household income not exceeding £80,000 and should have a mortgage or home purchase plan (if required to comply with Islamic law) to fund a minimum of 50% of the discounted purchase price. These national standard eligibility criteria would also apply at all future sales of a First Home as would the 30% market discount. Full details of the siting, size and appearance of the dwellings would be secured at reserved matters stage.
- 3.4. In terms of the access, the main access to the site would be from Foxden Way in a similar position to the existing field access. This would be in the form of a priority junction. A new footpath is also proposed along the western side of Foxden Way to link the proposed site access to the allotments further to the south. It is also proposed to create a new 1.5m wide footpath link to the north west of the site to link the site with the existing footpath in South View.
- 3.5. An indicative site layout has been provided. This shows the provision of 9no. detached dwellings in a linear arrangement facing south over an access road through the site. An attenuation feature is shown to the south of the access. Landscaping is shown further to the south of the access road.

4. RELEVANT PLANNING HISTORY

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

Land to the west of South Lea (to the north of the development site)

20/01110/F – Erection of two dwellings – Approved (under construction). There are also a number of further applications relating to this site which relate to variations of this consent.

Land to adjoining north west of application site

21/02336/OUT - Outline planning application with all matters reserved except for access and scale for 2 no 1.5 storey dwellings – Approved. Not commenced.

Land to the north of 21/02336/OUT

19/01806/F – Erection of 3 no dwellings and associated garages – Approved and built. There are also a number of further applications relating to this site which relate to variations of this consent.

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 **7 April 2022**. There were 147 objections, 18 submissions of support and 11 comments received.
- 6.2. The comments raised by third parties are summarised as follows:

Objections

- Principle of development – Development of a green field site outside of the village boundaries contrary to the Local Plan. The Development Plan, by law, should be the basis for decision making. The First Homes WMS and PPG are not law and do not displace the primacy of the Development Plan.
- Impact on the village - The village has already expanded significantly in recent years. The village has already taken its share of new development amounting to more than a 25% increase.
- Sustainability - No public transport and very limited services in the village. Residents will therefore be reliant on private cars contrary to the objectives of reducing the need to travel and carbon emissions. Not the right location for affordable housing given limited services and facilities and reliance on private car. Lack of footpaths to the village.
- Visual impact - Harm to the rural character and appearance of the area and the valued rural local landscape through the development of the site for housing and new footways. Harmful impact on character of lane and reduction of gap between villages. Harmful intrusion into open countryside. Agree with the landscape officers view that the proposal should be refused. The developer has complained regarding negative comments on the application including the Landscape Officers objections.
- Transport impacts – Additional traffic from the development will cause highway safety issues with other vehicles, pedestrians, cyclists and other road users on unsuitable roads which too narrow (single track in many places with limited passing places) and used by walkers. Increase traffic will be a hazard to recreational users of Foxden Way. Traffic calming and road improvements are required. Damage to highways and verges through construction and additional cars. Insufficient parking to serve the development'. The supporting Transport Note misleading and makes incorrect assumptions.

- Affordable housing – The type of housing proposed does not look ‘affordable’. No need for additional housing in the area. No demonstrated need to for more affordable housing in the village and it is being met elsewhere in the district. The Council’s housing officer questions the affordability of the dwellings and poor location. Already significant levels of affordable housing built or under development within 1.5m of the site. First Homes will not be affordable to many households. Cherwell’s affordability is currently 21st most affordable area out of 64 districts in the South East region and house prices are growing lower than the rest of Oxfordshire.
- Housing tenure – The site does not comply with Rural Exception site guidance. Not a suitable location for First Homes. The development will result in more new housing to the south in the future and set a precedent for this. The development will come forward as market housing.
- No need for pavement to allotments
- Loss of habitat and detrimental impact on wildlife.
- Loss of fertile agricultural land.
- Increase in flood risk and drainage problems. The drainage is inadequate and there is already flooding of the ditch. Additional run off will make flooding in Cropredy worse.
- Noise and disturbance during construction.
- Use of on-site treatment plan may result in harm through pollution and do not appear to work as well as is stated. Potential pollution to allotment and watercourses.
- Outline application is not sufficiently detailed. For example scale of houses, appearance, size of the dwellings
- Lack of infrastructure to serve the development including schools, doctors and roads.
- Confusion over the number of houses proposed.
- The developer has a poor track record within the village and has been involved in the adjacent site where development was not built in accordance with the approved plans
- Local opinion is overwhelmingly opposed to the development.
- The developer has promoted the wider site as part of the review of the Local Plan for 25 market dwellings which demonstrates their intentions. If planning consent is granted for the current development it make the wider development more likely.
- Queries regarding governments commitments to other planning reforms.
- Queries regarding the identity and financial standing of Fernhill Estates and the applicant.
- An orchard or play area would be more appropriate for the site which had previously been considered
- The findings of the YouGov survey submitted by the applicant are not robust.

Support

- Will help meet a need for someone on an average income to buy a house without moving out of the area. They will still be expensive but would be more accessible.
- People in affordable housing can afford a car.
- There is a housing crisis and affordable housing is even more scarce. The application should be supported

- This sort of proposal would allow people to move to the area/stay in the area where they cannot currently afford to buy and provide housing for young people to access the housing market in a rural area.
- Affordable housing would allow the community to thrive and should be encouraged. Not all affordable housing should be in urban areas and affordable housing in villages is also required.
- Cannot see any reason for the proposal not to go ahead.

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

7. RESPONSE TO CONSULTATION

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

PARISH COUNCIL AND LOCAL COUNCILLORS

- 7.1. THE BOURTONS PARISH COUNCIL: **Objects.** Great Bourton is not the optimum location for First Homes and believe the applicant has provided some misleading comments. The comments from the Parish Council are available in full on the Council's website but are summarised as follows:
- 7.2. Great Bourton is a Category B village with limited transport services with no essential amenities and is therefore not sustainable. The services in Cropredy are too far and the topography challenging so walking and cycling is unlikely. There is a lack of any meaningful public transport and the bookable service is part funded by the parish and so cannot be regarded as permanent. There is only free buses to primary school and limited secondary schools. If residents choose other schools they would need to pay for transport. The applicant's Transport Note refers to bus services which have been discontinued. The development is contrary to the Development Plan policies for new developments at Category B villages. Future residents would be highly reliant on private car. Therefore, the development would not meet either the carbon footprint optimum or amenities criteria nor would it support a sustainable feature. The proposal would be better placed in a Category A village.
- 7.3. First Homes would be available to applicants across the whole of the Cherwell District so are not necessarily for local residents or those with a connection to the village. It does not comply with Rural Exception Site Guidance. There is sufficient affordable housing already provided in the village. The Parish's housing survey found it would be difficult to find any local residents who would qualify for the housing.
- 7.4. The applicant's reference to a Yougov survey on the need for affordable housing represents less than 0.1% of Cherwell's population and is not robust and of no relevance to the application.
- 7.5. The traffic implications are far more serious than the applicant has reported; Foxden Way (the site entrance) is not a 'quiet lane' – it's a narrow lane single track lane with a 60mph speed limit. All other lanes leading to the site are narrow and vehicles have difficulty passing each other and they are unsuitable for any future traffic. The applicant's automatic traffic count (ATC) was undertaken on School Lane and underestimates current traffic flows. The parish have undertaken their own ATC on Foxden Way which shows 1,736 weekly traffic movements on Foxden Way compared to 799 per week on School Lane in the applicant's count. It also shows 3.7% of vehicles speeding in the 30mph. The applicant's forecast traffic movements also

underestimate the expected number of trips to and from the site and are drawn from more urban site. The original Highways response objected; however, this has now been withdrawn without adequate information. Construction traffic remains a considerable concern due to the nature of the routes to access the site.

- 7.6. This proposed development is a greenfield site and would seriously impact on the local landscape and intrude into the open countryside. The site is suitable for further agricultural use. The site is adjacent to the greenspace of the allotments. The parish were assured by CDC that the allotments would not be regarded as the boundary of the settlement. The submitted plans bear no relationship to the settlement and the footpath to South View is unlikely to be used by residents or allotment holders.
- 7.7. The provision for foul water and surface water excess is inadequate. The use of an onsite treatment plant would add to flooding in the area by discharging to the ditch. From experience, treatment plans are not effective at cleaning water and would attract vermin and the ditch is inadequate. The use of soakaways for surface water is not feasible.
- 7.8. The applicant's references to surveys and statistics are misleading and sometimes inaccurate. For example, the use of the ONS data regarding housing affordability. The applicant highlights that the ratio for Cherwell has moved from 9.4 in 2020 to 10.3 in 2021 which, allowing for rounding, is correct. However, the same ratio was 10.4 in 2019. In fact, the ratio in Cherwell is the second most affordable in Oxfordshire and in the top third of affordability in the South East.
- 7.9. Raise concerns that granting permission for this development could open up development on the rest of the field and possibly surrounding land. The site is being promoted through the Local Plan process. Also states that a higher density of housing may be proposed on the site or market housing.
- 7.10. Bourtons Parish does not currently have a neighbourhood plan in place because they are costly and take a considerable time to formulate. However, [the parish is] in the process of producing a Community Plan which will be devised from the comments from our Community Plan Questionnaire and our feedback from the open events which we are planning. This plan to be the basis on which we shall respond in future not only to the CDC Local Plan but also to respond to exceptional applications of this kind, which challenge the scope and shape of our community.
- 7.11. COUCILLOR GEORGE REYNOLDS: Requests that the application to be called in to committee for the following reasons
- Public interest. I understand over 50 letters of objection have been sent in and there is concern within the Parish Council.
- Planning reasons. The site is clearly beyond the boundaries of the village but is not, as I understand the applicant, being classed as an exception site but a site for entry level housing using new legislation about to be announced... This clearly will drive a coach and horses through our present policies and open up all villages to speculative applications that will lead to ordinary housing once the principles have been established.
- 7.12. COUNCILLOR PHIL CHAPMAN: Supports Councillor Reynolds' request and further requests a Members Site Visit for the following reasons:
- The access to this site is difficult. From either Little Bourton which is the closest entrance to Banbury town, via a very narrow road, which is designated 60 mph. The Great Bourton access is through very tight and narrow bends
 - The land seems to have been used successfully for agriculture

- The traffic survey data used is in dispute, 129 movements per week versus 1,763 movements
- There is a need for such housing. This application is the first of its kind for Cherwell so a full evaluation seems required.

CONSULTEES

- 7.13. CDC STRATEGIC HOUSING: Originally objected to the proposal as an Entry Level Exception site. This included lack of detail on the affordability of the houses proposed, lack of details on the type of affordable housing proposed, lack of detail on how it would meet a district need. It had not been demonstrating how the development would provide an 'entry level' housing option for residents in terms of affordability and therefore it was unclear how it would meet the definition of 'entry level' housing. Also raised a number of other concerns regarding access to services and facilities and design.
- 7.14. *Following the changes to national guidance including the formal introduction of First Homes through the Written Ministerial Statement and changes to the Planning Practice Guidance and the application being revised to constitute First Homes raises **no objections**.* The comments are copied in full below:
- 7.15. **No objection** *subject to the application meeting all other planning requirements and a S.106 Agreement that secures the developer obligations in terms of provision of First Homes (as defined in National Planning Guidance and local interim guidance) i.e., with the appropriate discount for first and subsequent sales, having regard to local incomes, house prices (affordability) and a capped sale price etc. In addition, we would expect to see the homes built to a quality standard that includes water and energy efficient measures, NDSS size standards for affordable homes, suitable parking provision and accessible standards where possible.*
- 7.16. *The number of dwellings proposed falls below the threshold for affordable housing to be provided under Local Plan Policy BSC3. This scheme is proposed as a First Homes Exception site which is not a Rural Exception Site and therefore, if the properties are developed as First Homes, they would be meeting a wider Cherwell need and not just a local Parish need. Currently, the local connection criteria would not apply to First Homes schemes because Cherwell DC does not have an adopted Local Plan Policy to prescribe this. The approved CDC Interim Policy Guidance Note: First Homes (December 2021) provides clarity on how the National Planning Practice Guidance would be applied in Cherwell District.*
- 7.17. *Although we do have affordable home ownership properties in Cherwell in the form of shared ownership and a limited number of discounted market sale properties (in rural and urban areas), we do not currently have a pipeline of First Homes (as defined in national planning policy and local guidance) in Cherwell. We do not hold a separate register of applications for First Homes but the Help to Buy agent for the area has provided data to show a continuing number of applications and sales under the Help to Buy equity loan scheme and also for shared ownership sales across the district.*

Background /previous objections

- 7.18. *I set out objections to the original planning application because the information in the application (in 2021) was not clear and it lacked detail to demonstrate how the proposed 'entry-level homes' would be affordable for first and subsequent purchasers having regard to local incomes and house prices or rents; or how they would be allocated, let or managed. There was no indicative affordable housing property type or tenure mix provided with the application and there was a suggestion that 'all types of affordable housing', as defined in NPPF, could be included in the Outline*

Application S.106 Head of Terms. As stated in my objections, this was very broad and did not help to set out what the scheme was actually going to deliver as part of any future Reserved Matters planning application.

- 7.19. *I also objected to the original application because, due to the lack of detail, the application did not adequately demonstrate how it would meet a district need that is not already being provided for across Cherwell, and therefore it was difficult to conclude how the proposals met with Para 71 of NPPF 2019.*
- 7.20. *The applicant has now provided further information and clarity that the proposal is to deliver 9no. First Homes on this site. In addition, national planning guidance has been issued and Cherwell DC has an approved interim guidance on First Homes. This information was not available previously and therefore the additional information has enabled me to review my earlier objections.*
- 7.21. *As you will be aware, First Homes were introduced in June 2021 following an update to the Planning Practice Guidance (PPG) published by the Ministry for Housing, Communities and Local Government (now the Department for Levelling Up, Communities and Local Government).*
- 7.22. *First Homes are a specific tenure of discounted market housing and should be considered within the definition of 'affordable housing'. Detailed definitions of First Homes and eligibility criteria are set out within the PPG and summarised in the Cherwell District Council 'Interim Policy Guidance Note: First Homes (December 2021)'. The note does not set policy per se, but simply provides clarity on how the PPG will be applied within Cherwell. As the note sets out, where First Homes are to be provided, this will meet the wider Cherwell needs (including Great Bourton and other areas across Cherwell) as we do not have an adopted Local Plan Policy which would prescribe a local connection criterion for First Homes. The Guidance Note also includes eligibility for First Homes.*
- 7.23. *As this is an Outline Planning application with matters deferred for consideration as part of a future Reserved Matters Planning application, it will be important to secure the necessary detail on any S.106 Agreement to ensure that the dwellings meet all the requirements of First Homes (including affordability, eligibility, price cap and mechanisms to secure discounts on first and subsequent sales) and affordable housing standards in general.*
- 7.24. *Most of my previous comments and general observations have been addressed by the additional information provided by the developer, in addition to the comments made by other stakeholder consultees, and by the issue of national planning practice guidance and local interim guidance.*
- 7.25. OCC HIGHWAYS: Originally objected to the proposal raising concerns about the delivery of the footpath connection to South View (not in the red line) and pedestrian connectivity, the reliability of the automatic traffic counts, concerns regarding the extent of the visibility splays, servicing arrangements for refuge vehicles, concerns over large construction vehicles using School Lane in Great Bourton and Spring Land in Little Bourton. Requested details to show that Crow Lane and Main Street will be able to accommodate construction vehicles. Also raised concerns regarding the locational sustainability of the village, access to services and facilities and lack of public transport option.
- 7.26. Further to the receipt of additional and amended information raises **no objections** subject to conditions. The vision splays are considered to be acceptable and the swept path analysis should that a refuse vehicle can access and egress the site. The vehicle overrun issue is resolved through the localised widening of Foxden Way at

the site access. Full details of the construction access can be provided in a Construction Traffic Management Plan. The previous plans made no provision for additional pedestrian infrastructure. The plans now show a 2m [this was corrected with OCC Highways to confirm proposal is for 1.5m] path along Foxden Way to the allotments and an additional pedestrian access to South View. If a 2m width is not achievable, further details should be provided demonstrating the new path isn't bordered by obstacles. Full details of this should be secure through condition and it should be a suitable width and material. The applicant will need to enter into a legal agreement with OCC prior to undertaking any works on the highway.

7.27. The proposals are unlikely to have any adverse impact upon the local highway network in traffic and safety terms, OCC therefore does not object to the granting of planning permission, subject to conditions.

7.28. CDC LANDSCAPE: **Objects.** The scale of the landscape assessment is suitable for the scale of the development. Object to the proposals on the following grounds:

1. The site is on the periphery of the village and outside the visual boundaries of settlement
2. Hedgerow cover is poor in winter and would result in the proposed development being visible from a number of viewpoints.
3. The layout of the proposal is not in keeping with the village. It is an isolated cluster of dwellings.
4. The houses appear to be executive detached dwellings and not affordable housing. There would therefore be no justification for this being a rural exception site
5. There appears to be no analysis of the site and its surroundings carried out and no attempt to locate properties with the existing village form or the landscape. The D&A statement is totally inadequate.

7.29. Continues to object to the amended proposal stating:

The LVA suggested a layout which provided an 'appropriate and sensitive transition between the proposed development and the wider landscape' 'with a positive outward looking approach to the east, south and west' A layout like this was proposed in the D&A statement but has now been abandoned.

The layout submitted allows for further dwellings to the south to be built at a later date. These dwellings will have rear gardens backing onto open countryside which is not a positive outward looking approach. Rear gardens with all their domestic additions do not provide for an attractive or sympathetic rural edge. There is nothing in the D&A statement which gives any indication of the design quality of the scheme.

7.30. CDC LAND DRAINAGE: **No objection** in principle. The surface water drainage strategy presented by MEC Consulting Development Engineers has been accepted on the basis of an attenuation discharge to an existing ditch in Foxden Way as the ground at the site is not sufficiently porous to allow containment of surface water on the site through soakaways.

7.31. CDC ENVIRONMENTAL PROTECTION: **No objections** subject to conditions on a Construction Environmental Management Plan (CEMP), ground investigation and provision of EV charging points.

7.32. CDC LEISURE AND RECREATION: **No objections**

7.33. OCC ARCHEOLOGY: **No objections.**

- 7.34. CDC ECOLOGY: **No objections.** The site has been surveyed as a poor semi-improved pasture and no protected species were identified on site. The site is likely to support priority species such as hedgehog and the hedgerows will be of value to nesting birds and invertebrates. Whilst the hedgerows would be retained on site they will necessarily be more disturbed which will impact their ecological function. The hedgerow to the North of the site appears to be part of the garden boundaries therefore this is likely to impact its management for wildlife.
- 7.35. A CEMP for biodiversity would need to be conditioned with any permission to ensure retained vegetation, priority species and nesting birds are protected during construction.
- 7.36. The illustrative masterplan shows some landscaping at the Southern edge of the site but this is likely to be used largely for amenity (rather than for biodiversity). The applicant has not submitted a biodiversity impact assessment (BIA) metric which is required to demonstrate that a measurable net gain for biodiversity can be achieved from the development. Whilst the site is relatively small a BIA would assist us in being confident that the development is acceptable in terms of achieving this. CDC currently seeks at least a 10% net gain in habitat units. Usually where a gain is unclear from illustrative plans we would require this up front; however, it appears that the applicant owns land to the south of the site which presumably could be used for habitat enhancement or creation in the event that net gain cannot be achieved on site? On this basis is content for the demonstration of a 10% net gain to be conditioned as part of an overall landscaping and enhancement scheme. If this is an unlikely use of the additional land then we would need this to be demonstrated up front even if in illustrative form to ensure it can be accommodated on site with the number of dwellings proposed.
- 7.37. In addition, we seek enhancements integrated into the buildings and design of the site for wildlife. The Preliminary Ecological Appraisal ('PEA') makes some good suggestions for integrated features and hedgehog highways; recommends, however, that, given local records and that this site is within a swift hotspot, enhancements should include integrated swift bricks (which are also often used by other birds).
- 7.38. CPRE: **Objects.** The village has already contributed its fair share of housing and development is not required. There is no proven or legal need, for entry level homes in the area and other developments are already providing these. Conflict with the Development Plan as outside the village boundary and the loss of agricultural land. Increase in highway safety concerns. The site is not a sustainable location for further housing. 50% of the village objects to the proposal.

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 in 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 development

- SLE4 – Improved Transport and Connections
- BSC1 – District Wide Housing Distribution
- BSC2 – The Effective and Efficient use of Land
- BSC3 – Affordable Housing
- BSC4 – Housing Mix
- BSC10 – Open Space, Outdoor Sport and Recreation Provision
- BSC11 – Local Standards of Provision – Outdoor Recreation
- ESD1 – Mitigating and Adapting to Climate Change
- 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
- Policy Villages 1 – Village Categorisation

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C8 – Sporadic development in the open countryside
- TR7 – Minor Roads
- H18 – New dwellings in the open countryside
- C28 – Layout, design and external appearance of new development
- C30 – Design control
- ENV1 – Environmental Pollution

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Written Ministerial Statement on First Homes 24th May 2021 (Statement UIN HLWS48)
- Cherwell Residential Design Guide SPD
- Cherwell First Homes Interim Policy Guidance Note

9. APPRAISAL

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

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

Principle of Development

Policy Context

- 9.2. Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. A key material consideration is the National Planning Policy Framework (NPPF) which sets out the Government's planning policy for England. The NPPF is

supported by Planning Practice Guidance (NPPG) and various Ministerial Statements.

- 9.3. The NPPF explains that the purpose of the planning system is to contribute to the achievement of sustainable development. This is defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs. So that sustainable development is pursued in a positive way, the NPPF includes a 'presumption in favour of sustainable development' (para. 10). Paragraph 11 states that applying the presumption to decision-making means:
- *approving development proposals that accord with an 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 (this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites), granting permission unless:*
 - i. the application of policies in this Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed;*
 - ii. or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*
- 9.4. The position in which the most important policies are considered to be out-of-date because of the absence of a five-year housing land supply is often referred to as the 'tilted balance'.
- 9.5. Paragraph 12 advises, '*The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. 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. Local planning authorities 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 5 of the NPPF covers the issue of delivering a sufficient supply of homes and states, '*To support the Government's objective of significantly boosting the supply of homes, 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.*'
- 9.7. Paragraph 74 highlights the need for Local Planning Authorities (LPAs) 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 (unless these strategic policies have been reviewed and found not to require updating as in Cherwell's case). The supply of specific deliverable sites should, in addition, include a buffer - 5% in Cherwell's current circumstances (moved forward from later in the plan period).
- 9.8. The Written Ministerial Statement on First Homes dated 24th May 2021 (Statement UIN HLWS48) ('WMS') effectively replaces paragraph 72 of the NPPF by replacing 'Entry Level exception sites' policy with a 'First Homes Exception site' policy. It states:

While the Government supports the mechanism of allowing land to come forward outside of the development plan to deliver much-needed homes via exception sites, the entry-level exception site policy has not delivered affordable housing to the extent originally envisaged. Following the consultation, the Government is replacing this policy with a 'First Homes exception sites' policy, in order to encourage First Homes-led developments on land that is not currently allocated for housing.

- 9.9. It then goes on to outline the policy on First Homes Exception sites which states:

Local authorities should support the development of these First Homes exception sites, suitable for first-time buyers, unless the need for such homes is already being met within the local authority's area. Local connection criteria may be set where these can be supported by evidence of necessity and will not compromise site viability. First Homes exception sites should be on land which is not already allocated for housing and should:

a) comprise First Homes (as defined in this Written Ministerial Statement)

b) be adjacent to existing settlements, proportionate in size to them, not compromise the protection given to areas or assets of particular importance in the National Planning Policy Framework (i.e. the areas referred to in footnote 6 of the National Planning Policy Framework. First Homes exception sites should not be permitted in National Parks (or within the Broads Authority), Areas of Outstanding Natural Beauty, land designated as Green Belt, or areas designated as rural under s. 157 of the Housing Act 1985), and comply with any local design policies and standards.

A small proportion of market homes may be allowed on the site at the local authority's discretion, for example where essential to enable the delivery of First Homes without grant funding. Also, a small proportion of other affordable homes may be allowed on the sites where there is significant identified local need.

Development Plan

- 9.10. The Development Plan for this area comprises the adopted Cherwell Local Plan 2011-2031 ('CLP 2015') and the saved policies of the Cherwell Local Plan 1996 ('CLP 1996').
- 9.11. The CLP 2015 seeks to allocate sufficient land to meet district-wide housing needs. The Plan states, '*The most sustainable locations for growth in the District are considered to be Banbury, Bicester and the larger villages as identified in Policies Villages 1 and Villages 2 as these settlements have a range of services and facilities, reducing the need to travel by car.*'
- 9.12. Policy BSC1 states that Cherwell District will deliver a wide choice of high quality homes by providing for 22,840 additional dwellings between 1 April 2011 and 31 March 2031. Paragraph E.10 of the Plan states, '*Housing delivery will be monitored to ensure that the projected housing delivery is achieved. The District is required by the NPPF and the NPPG (to maintain a continuous five year supply of deliverable (available, suitable and achievable) sites as well as meeting its overall housing requirement.*'
- 9.13. Cherwell's five-year housing land supply position was reviewed in the 2021 Annual Monitoring Report (AMR). Despite a strong record of delivery since 2015, the AMR presents a 3.5 years supply position for the period 2022-2027. An additional 2,255 homes would need to be shown to be deliverable within the current 2022-2027 five-year period to achieve a five-year supply as required by the NPPF.

- 9.14. Paragraph E.19 of the Local Plan states, “*If the supply of deliverable housing land drops to five years or below and where the Council is unable to rectify this within the next monitoring year there may be a need for the early release of sites identified within this strategy or the release of additional land. This will be informed by annual reviews of the Strategic Housing Land Availability*”.
- 9.15. The Council’s latest assessment of housing land availability is its ‘HELAA’ published in 2018. This is a technical rather than a policy document but provides assessments of potentially deliverable or developable sites; principally to inform plan-making. The application site forms part of a larger site (site HELAA102) which was not considered to be suitable or achievable for housing and states:
- Greenfield site outside the built-up limits. Great Bourton is a Category B village in the adopted Local Plan Part 1 (satellite village). The adopted Cherwell Local Plan does not direct additional development (10 or more dwellings or small scale employment) at Category B villages other than extensions to existing employment sites. The northernmost part of the site lies within an Archaeological Constraint Priority Area. The site is considered to be unsuitable for development as it would extend development into the countryside impacting on the rural approach to the village. With regard to assisting Oxford with its unmet housing need, Great Bourton lies outside Areas of Search A and B. (2018 HELAA, Appendix 4)*
- 9.16. Policy Villages 1 of the CLP 2015 provides a framework for housing development in the rural areas of the district and groups villages into three separate categories (A, B and C). The categorisation of villages was informed by a defined range of sustainability criteria (CLP 2015 para C.255). Great Bourton is a Category B village and is therefore considered to be a ‘satellite village’ and is located close to Cropredy which has a wider range of services and facilities and is a Category A settlement.
- 9.17. Policy Villages 3 relates to Rural Exception Sites. It provides support for a different form of Exception Site to what is being proposed under the current application and therefore Policy Villages 3 is not directly relevant to the assessment of this application. First Home Exception sites were not within national policy when the current Development Plan was adopted.
- 9.18. Saved Policy H18 of the CLP 1996 seeks to restrict new dwellings outside the built up limits of villages except in a specific number of cases none of which are relevant to the current application.

Assessment

- 9.19. As outlined above the site is located at Great Bourton, which is a Category B village. In these villages Policy Villages 1 seeks to limit the amount of development and allows for infill, conversion and ‘acceptable minor development’ within the built up limits of the village. When considering whether minor development (normally below 10 dwellings) would be acceptable paragraph C.262 states that regard will be given to the following criteria:
- the size of the village and the level of service provision
 - the site’s context within the existing built environment
 - whether it is in keeping with the character and form of the village
 - its local landscape setting
 - careful consideration of the appropriate scale of development, particularly
- 9.20. Given its undeveloped nature and its relationship with the existing built form of the village, the site is not considered to be located ‘within the built up limits’ of the village and instead to be in the open countryside for planning purposes.

- 9.21. The proposal would therefore not be in accordance with the distribution of housing the Development Plan seeks to achieve under the aforementioned policies and is therefore considered to be contrary to Development Plan when considered as a whole.
- 9.22. The law requires planning applications to be determined in accordance with the Development Plan unless material considerations indicate otherwise.
- 9.23. It is therefore necessary to consider whether there are other material considerations which outweigh the conflict with the Development Plan. In this case it is important to have regards to the fact that the Council cannot demonstrate a 5 year land supply so the policies guiding the provision of new housing are considered to be out of date and carry reduced weight in assessing planning applications – however, that is not to say they are irrelevant. Given the absence of the 5 year land supply the ‘tilted balance’ is engaged under paragraph 11 of the NPPF which states that planning should be granted unless 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.
- 9.24. A very significant further material consideration in this case is that the site is being proposed as a First Homes Exception Site. The WMS provides clear support for these and states that local planning authorities should support First Homes Exception sites, unless the need for such homes is already being met within the local authority’s area, to support the government’s objective of widening opportunities for home ownership. This matter therefore is considered to carry significant weight in favour of the proposal.
- 9.25. It is important to note that when looking at First Homes Exception Sites the WMS makes it clear that it relates to the needs across the whole of the local authority’s geographical area (i.e. the whole of Cherwell). It does not relate to the needs of the parish in which it is located or neighbouring parishes as may be the case when looking at other types of exception site such as ‘Rural Exception sites’ where there is a requirement to demonstrate a need at a more local level. The Parish Council has independently undertaken its own housing needs survey for the parish; however, this is of limited relevance to a First Homes Exception site where the needs are considered across the *whole district* not just at a parish level.
- 9.26. In relation to the needs for this type of housing, the Council’s Strategic Housing Officer has stated that although the Council does have affordable home ownership properties in Cherwell in the form of shared ownership and a limited number of discounted market sale properties (in rural and urban areas), there is currently no pipeline of First Homes (as defined in national planning policy and local guidance) in Cherwell. The First Homes product is new and the Council does not hold a separate register of applications for First Homes but the Strategic Housing Officer has stated that the Help to Buy agent for the area has provided data to show a continuing number of applications and sales under the Help to Buy equity loan scheme and also for shared ownership sales across the district which indicates there is a continuing need for this type of housing across the district. The applicant has also referred to the latest released information on Housing Affordability from the Office of National Statistics which shows the average (median) house price (£330,000) to average earnings (£32,086) ratio for Cherwell District has risen from 9.4 in 2020 to 10.28 in 2021 which does demonstrate that housing affordability is challenging in Cherwell.
- 9.27. Whilst the parish and other residents’ comments are noted that this may be lower than some of other local authorities in the locality and wider south east, this reflects problems in housing affordability across the south-east. Overall, based on the limited information available at the current time, it is considered there is a need for lower cost market housing in the district.

- 9.28. Furthermore, in order to qualify to be considered as a First Homes Exception the application site must not be allocated for housing in the Development Plan and must be located adjacent to an existing settlement. Both of these criteria are met in this case with the site not being allocated and adjoining the built form of the village. The site must also not compromise the protection given to assets of particular importance as defined by the NPPF (Footnote 7 of the NPPF), none of which are relevant in the current case.
- 9.29. The WMS also states that development of First Homes Exception sites should be proportionate to the size of the existing settlement. The WMS and the PPG do not provide a definition of 'proportionate' and state this will vary depending on local circumstances and is therefore essentially down to planning judgement. However, it is noted that prior to the issuing of the WMS the NPPF used to define 'proportionate' (in relation to the former entry level exception site policy) as being no larger than one hectare in size or exceeding 5% of the size of the existing settlement. In this case the site is approximately 0.6ha in size and there are approximately 200 properties in Great Bourton for which the 9 dwellings would account for an approximate 5% of the size of the existing settlement. It would therefore comply with the earlier definition contained within the NPPF. It is also relevant to consider that Policy Villages 1 allows for minor development in Category B villages which may include developments of up to 10 dwellings albeit this is subject to the considerations outlined above.
- 9.30. The sustainability of the settlement itself is also an important consideration. In this case the village has a public house, community hall, childrens play area and church. It has a very limited bus service (1 bus on a Saturday and an agility bookable service available on Tuesdays and Thursdays) which would be of very limited use to residents for day to day needs. Cropredy is located approximately 1km to the east and there is a footpath adjacent to the road linking the villages. Cropredy includes a wider range of services including a school, small shop and a GP surgery. Banbury is also approximately 2 miles to the south of the site which has a wider range of services, facilities and employment opportunities and this proximity would likely reduce the length of car journeys to access services and facilities. Overall, it is considered that whilst some limited services would be available to residents on foot, given the distance and nature of routes, residents of the site are likely to be highly dependent on private cars to meet their day to day needs, which weigh against the proposal albeit the village is more conveniently located than many villages in the rural areas.
- 9.31. The WMS also makes it clear that First Homes Exception Sites must also comply with any local design policies and standards an assessment of which is outlined elsewhere in this report

Conclusion

- 9.32. Overall, exception sites by their very nature are an 'exception' to normal planning policy and therefore are highly likely to be in some conflict with the Council's housing strategy and this must be borne in mind when assessing the application. Subject to other material considerations, taking all these matters together, Officers consider that in the absence of a 5 year land supply, the support offered by the WMS to First Homes Exception sites, the scale of the development in proportion to the village and having regard to the villages relatively close relationship with Cropredy and Banbury, that the conflict with the Development Plan and the reliance of private car in this case is outweighed by other material considerations and the provision of up to 9 First Homes can be supported at Great Bourton.

Impact on character and appearance of the area

Policy context

- 9.33. 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. It goes onto note that planning decisions should contribute to and enhance the local environment by recognising the intrinsic character and beauty of the countryside. It also states that development should function well and add to the overall quality of the area and by sympathetic to local character and history, including the surrounding built environment and landscape setting. It goes onto state that planning decisions should recognise the intrinsic character and beauty of the countryside.
- 9.34. Saved Policy C8 seeks to resist new sporadic development in the open countryside. 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*. Furthermore, 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*.
- 9.35. 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*. It goes onto state that 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, be inconsistent with local character, or harm the setting of settlements or buildings.
- 9.36. Policy ESD15 of the CLP 2015 highlights the importance of the character of the built and historic environment. This Policy states, amongst other things, that *successful design is founded upon an understanding and respect for an area's unique built, natural and cultural context. New development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design*. The Policy continues by stating that new development proposals should, amongst other things, *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*. Development should also *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*.
- 9.37. The WMS also makes it clear that First Homes Exception Sites must also comply with any local design policies and standards.

Assessment

- 9.38. The site is located to the south of the village of Great Bourton. To the north of the site are a number of dwellings accessed from School Lane and a number of dwellings under construction or with planning consent. To the south of the site, beyond the remainder of the existing field parcel, which is not included in the application site, is an allotment serving the village with associated paraphernalia.
- 9.39. Foxden Way currently has a strong rural character and appearance with no footpaths or residential development facing onto it. The hedgerow boundary between the site

and Foxden Way is relatively well established and screens some views of the site from Foxden Way. In terms of land levels, the application site is relatively level with the existing development of the village. To the east of Foxden Way the land falls away into a valley and is much more exposed than the application site however given the topography and screening the application site has a stronger relationship to the village and surrounding open fields to the south and west rather than the valley landscape to the east.

- 9.40. The proposed development would be visible from Foxden Way and would result in some harmful urbanisation to the character and appearance of the lane by virtue of the new site access, built development on the site and the introduction of a new footpath from the site access to the allotments. Foxden Way appears to be well used by locals for recreational walks which heightens its sensitivity, and it is clearly an area that is valued by local people. However, the visual impacts and encroachment into the wider open countryside setting of the village would be somewhat reduced by the fact that the site would be located between housing development to the north and the allotments to the south which do impact on the character of the countryside to some extent. Views of the site from the east would largely be screened by the existing hedgerow along Foxden Way which could be retained and strengthened when landscaping is considered in a future reserved matters submission.
- 9.41. Users of the allotments would experience a significant level of change in terms of visual impacts as the presence of development would be much more apparent for these users with an urbanised context. The plans indicate that new planting could be provided to the southern boundary which would help reduce these impacts over time.
- 9.42. A public bridleway exists further to the south of the allotments, approximately 250 metres to the south of the site. Users of this right of way would also experience some degree of visual harm; however, this would be mitigated to some degree given the distance and the fact that the development would be viewed in the context of the allotments and the existing built edge of the village.
- 9.43. In terms of the relationship of the development with the existing settlement pattern, Great Bourton is a nucleated village. The proposal would extend the form of the village further to the south and would not have the same degree of intimacy and connectivity with the village core as many of the established parts of the village. However, the application does include a new footpath link from the north-west corner of the site to South View which would provide a degree of integration to the village and provide residents with convenient and safe access to the services within the village.
- 9.44. The Council's Landscape Officer has objected to the scheme and considers the scheme would be visible from a number of viewpoints and not in keeping with the village and result in an isolated cluster of dwellings at the edge of the village. Comments have also been made that the proposal would lead to future applications for development on the area of land to the south of the site which would have a poor relationship with the surrounding countryside with properties backing onto it. However, this does not form part of the current application and any application on that area of land would need to be assessed on its own merits.
- 9.45. Overall, it is considered that the proposed development would result in some harm to the rural character and appearance of the area and rural setting of the village particular in views from Foxden Way and to the south. However, the extent of the harm is reduced by the fact that many views would be in the context of the existing built form of the village and also the presence of the allotments which adds to the village fringe character of the site. Therefore, officers consider there would be a

degree of conflict with Policy ESD13 and ESD15 and the NPPF in this respect. This harm needs to be considered in the 'planning balance'.

- 9.46. In considering this harm the fact that the site is being forwarded as a First Homes Exception Site needs to be taken into account which, by its very nature, requires the development of sites outside the built up limits of settlements not allocated for housing (as that is one of the qualifying criteria). In this respect the applicant has referred to a recent court case concerning Entry Level Exception sites (which have now been replaced by First Homes Exception sites). In *Wiltshire Council v Secretary of State for Housing, Communities and Local Government* [2022] EWHC 36 (Admin) the judge stated that given the nature and criteria of the policy First Homes Exception sites will almost always, if not always, not be in accordance with the development plan. It was also outlined that in supporting exception sites outside of settlement boundaries a degree of landscape harm would be likely to be acceptable. That does not mean that landscape and visual harm should not be taken into account in the 'planning balance' but that it must be considered in the context of the support for First Homes exception sites provided by national policy.

Design and illustrative layout

Policy Context

- 9.47. 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 NPPF is clear that good design is a fundamental to what the planning and development process should achieve. Saved Policy C28 and C30 echo this. 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. Policy BSC10 and BSC11 outline the requirements for open space provision on sites of this scale.
- 9.48. The Council's Design Guide SPD 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 principal routes and the use of traditional building materials and detailing and form that respond to the local vernacular.

Assessment

- 9.49. The application is in outline with matters relating to layout, scale, landscape and appearance reserved for later consideration. The application is, however, accompanied by an illustrative layout which shows the provision of a linear row of dwellings facing south over an access road and with planting further to the south of this and an attenuation feature to the south of the access point.
- 9.50. The general arrangement of the proposed dwellings, forming a back to back relationship with the dwellings to the north and facing over the undeveloped land to the south with a landscape buffer is considered to be an acceptable approach. The indicative proposal shows one way the site could be developed with the hedgerows being maintained and links to the village and allotments provided which could be secured by way of condition.
- 9.51. The detailed, scale and appearance of the dwellings would be subject to future applications to ensure they were appropriate to the edge of village location. Officers have a number of concerns regarding the layout and form of the development including the use of all detached properties, deep plan depths and use of wide

projecting gables and the rather suburban rhythm of the development. However, officers consider that the plans demonstrate that 9 dwellings could be provided on site, albeit they are likely to require considerable alteration which would be controlled through a future reserved matters submission.

- 9.52. The proposals represent a proposed density of approximately 16 dwellings per hectare. This is based on a gross density rather than net density (as outlined in policy BSC2) but, given the constraints of the site and edge of village location, this is considered to be justified in this case.
- 9.53. The proposal would also require the provision of general green space in accordance with Policy BSC10 and BSC11 as the threshold in the rural areas is 6 dwellings. Based on 9 dwellings a requirement of approximately 0.06ha would be required and the plans demonstrate how this could be provided.
- 9.54. Whilst there are a number of concerns regarding the illustrative layout, in the context of this being an outline planning application with many matters reserved officers are satisfied that the quantum of development proposed on the site could be successfully accommodated and the detailed matters of layout, design, appearance and form could be negotiated at a future reserved matters stage.

Highways

Policy Context

- 9.55. Policy ESD15 of the CLP 2015 states that: “*New development proposals should be designed to deliver high quality safe, attractive, durable and healthy places to live and work. Development of all scales should be designed to improve the quality and appearance of an area and the way it functions.*” Policy SLE4 states that: “*All development where reasonable to do so, should facilitate the use of sustainable modes of transport (and) development which is not suitable for the roads that serve the development and which have a severe traffic impact will not be supported.*”
- 9.56. The NPPF advises that development should provide safe and suitable access for all and development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or where the residual cumulative impacts are severe. Saved Policy TR7 states that development that would attract large numbers of cars onto unsuitable minor roads will not normally be permitted.

Assessment

- 9.57. The application is accompanied by a Transport Technical Note which has been considered by the Local Highway Authority (LHA) who provide technical advice to the district council on highway matters relating to planning applications. During the course of the application considerable concerns have been raised by local residents regarding the suitability of the existing road network to accommodate the additional traffic from the development. This includes concerns regarding the width of Foxden Way itself; School Lane and Crow Lane to the north and Spring Lane in Little Bourton to the south all of which are narrow lanes.
- 9.58. The development would be accessed via a new priority T-junction onto Foxden Way which will also include the minor localised widening of Foxden Way to provide a passing place and facilitate larger refuse vehicle being able to enter and leave the site. The visibility splays available from the new junctions shown on the plans are considered to be acceptable to the LHA and officers agree with this assessment.

- 9.59. The LHA also raises no objection to the application on the basis of traffic generation or highway safety grounds having given full consideration to the scale of the development and the nature of the surrounding roads.
- 9.60. The Parish Council has undertaken an Automatic Traffic Count (ATC) of Foxden Lane which indicates that the amount of traffic using Foxden Lane is higher than the applicants traffic counts which occurred on School Lane (218 movements a day compared to an average of 114 a day). The LHA has considered this information and remains of the view that the proposed development would not result in severe highway impacts in terms of the existing highway network or significant additional highway safety concerns having regard to the scale of the development.
- 9.61. The Transport Note (TN) includes use of the TRICS database, which is industry standard, to assess the traffic impact of the development. This forecasts that based on 9 dwellings there will potentially be 6 additional movements on the adjacent highway network in both the AM Peak (8:00-9:00) and PM peak (17:00-18:00). Whilst residents have stated this underestimates the traffic impact, the LHA raises no objection in this respect. The TN also considers the impact on School Lane, which is a narrow single width rural lane through the village to the north of the application site and concludes that given the low likely traffic generation the impact of the development would not significantly increase conflict between vehicles along this route and furthermore vehicle speeds would be low. They therefore conclude the proposal would not result in severe highway impacts (which is the test outlined in the NPPF) or unacceptable highway safety concern.
- 9.62. It is noted that existing residents use the highways around the site for recreational purposes and they would be impacted by the additional traffic generated by the proposal. Whilst the proposal will undoubtedly increase traffic on the surrounding roads given the relatively small scale of the development (in traffic terms) this traffic impact will be relatively limited, and the LHA does not consider that it would lead to a severe impact on the operation of the highway or significantly increase highways safety concerns. They therefore raise no objection on this basis and Officers agree with this assessment.
- 9.63. There are currently no footways along Foxden Way, School Lane or Crow Lane and as noted above it is evident that current residents walk in the carriageway in these areas with associated vehicle and pedestrian movements being managed on an informal basis. The proposed development provides a new footpath link from the site to South View and also a footpath to the west of Foxden Way between the site access and the allotments. These would provide future residents with the opportunity to access the services and facilities in Great Bourton via a segregated footpath route and also provide access to the existing footpath linking Great Bourton to Cropredy. Whilst the footpath would not be the 2m width, requested by the Highway Authority, it would be 1.5m in width and officers consider this would provide a safe and suitable use given the scale of the development and the nature of the surrounding footways. The footpath link would also have the additional benefit of providing existing residents an off-carriageway pedestrian route between the village and the allotments if they wished to use it and not walk in the carriageway. It is also proposed to relocate the 30mph speed limit further to the south along Foxden Way. These matters would need to be secured through a Grampian condition.
- 9.64. The impacts of construction traffic have also been raised given the width of some of the surrounding roads. However, the LHA now raises no objection in this respect subject to a detailed Construction Traffic Management Plan (CTMP) being conditioned and officers consider this to be appropriate and do not consider that the construction traffic impacts would justify a reason to withhold outline planning consent and can be a matter that is dealt with in detail through a CTMP.

- 9.65. The wider sustainability credentials of the village and access to services and facilities weigh against the development and these matters are discussed elsewhere in the report and must be considered in the planning balance.
- 9.66. Concerns have been raised by third parties regarding the adequacy of parking on the site however the final layout of the site and the level of associated parking provision would be determined at a future reserved matters stage.

Conclusion

- 9.67. Overall, whilst the concerns from residents are noted regarding the adequacy of the surrounding highway infrastructure and the potential for further conflict to arise the LHA raises no objections to the application given the relatively limited scale of the development and associated traffic generation. Access to the village for future residents is provided in a safe manner via new footpath routes. The proposal is therefore considered acceptable in highway terms and would not result in unacceptable highway safety impacts or severe traffic impacts which are the tests outlined within the NPPF.

Flood Risk and Drainage

- 9.68. Policy ESD6 of the Local Plan and the NPPF and Policy ESD7 of the CLP 2015 requires the use of Sustainable Urban Drainage Systems to manage surface water.
- 9.69. The site is located in Flood Zone 1 in relation to river flooding (the lowest risk of flooding) on the Environment Agency Flood Risk Maps where residential development is considered to be appropriate. The Environment Agency Surface Water Flood Risk Maps also indicate that the site is not at risk of surface water flooding.
- 9.70. The application is accompanied by a Drainage Strategy which provides an outline strategy of how surface water will be managed. The drainage strategy indicates that soakaways are unlikely to be feasible given the local geology and therefore the outline drainage strategy proposes to provide an attenuation basin on site to accommodate flows generated by the impermeable areas of the site prior to discharging to the ditch adjacent to Foxden Way at a restricted rate. This has been designed to take into account climate change and would ensure the development did not increase flood risk elsewhere by attenuating surface water on the site.
- 9.71. The Council's Drainage Officer has raised no objection to the principle of the strategy and full details of this would need to be secured when details of the layout etc are considered at reserved matters. Whilst the concerns of local people are noted, including past flooding events in the local area such as on Foxden Way, it is considered that the development can be delivered on the site without increasing flood risk elsewhere and the proposals would not exacerbate these issues. It is important to note that it is beyond the scope of a planning application to address existing flooding issues which may occur off site.
- 9.72. The applicant has also proposed that they will collect and treat foul water drainage via an onsite Sewage Treatment Plant or similar rather than connect to a main sewer. Whilst these systems can be effective and efficient if adequately managed and maintained and are often subject to additional environmental permits, the Planning Practice Guidance makes it clear that there should be a presumption in favour of discharging foul drainage into the public sewer in the first instance and that septic tanks or package sewage treatment plants may only be considered acceptable if it can be clearly demonstrated by the applicant that discharging into a public sewer is not feasible (taking into account cost and/or practicability).

9.73. In this case the applicant has not provided sufficient evidence to demonstrate that the use of a public sewer is not feasible or practical. However, this matter does not go to the heart of whether outline planning consent should be granted and has been raised with the applicant who has agreed to a condition in this respect. It considered that full details of the foul drainage could be adequately controlled through the use of planning conditions requiring connection to the public sewer unless it is adequately justified that this is not feasible.

Ecological Implications

Policy Context

9.74. 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.

9.75. It goes on to state 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.

9.76. 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.

9.77. 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.

9.78. 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 ecological assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.

Assessment

9.79. The current application is accompanied by a Preliminary Ecological Appraisal (PEA) prepared by a qualified ecologist. The site is not located in any designated area and the site currently consists of improved grassland bounded by species poor field hedgerows to the north, east and west. There were no signs of protected species at the site and the habitats on site provide little suitability for protected species, limited to the hedgerow boundaries for nesting birds. The Council's Ecologist (CE) has raised no objection to the proposal however has noted that the ecological function of some

of the hedgerows may be reduced given the residential development and therefore this needs to be mitigated

- 9.80. The planning application is in outline so the details of the biodiversity enhancements are limited at the stage. The CE has stated that a net gain in biodiversity will need to be demonstrated and this may include the use of some of the land to the south of the site in the applicant's ownership. The biodiversity enhancement can be secured by a condition in this case given the relatively limited size of the proposal.
- 9.81. The PEA does also indicate that measures such as additional native planting and integrated bird and bat boxes could be used to secure a net gain in biodiversity across the site and the CE has also recommended the use of swift bricks given records in the area.

Housing Mix/Affordable Housing

- 9.82. The NPPF advises that in order to create sustainable, inclusive and mixed communities, Local Planning Authorities should plan for a mix of housing, reflect local demand and set policies for meeting affordable housing need. Policy BSC4 of the CLP 2015 requires new residential development to provide a mix of homes in the interests of meeting housing need and creating socially mixed and inclusive communities.
- 9.83. The mix of dwellings that would be provided on the site would be considered as part of a reserved matters application. All the dwellings would be secured as First Homes (which is now within the definition of 'affordable housing' for planning purposes) by virtue of a legal agreement. The first sale of each property would not be able to exceed £250,000 and subsequent sales would need to be made to First Time buyers and sold at a 30% discount against the market value.
- 9.84. The WMS does state that in addition to the national criteria controlling the price/discount and eligibility for First Homes (such as the income cap etc), local authorities can set additional local criteria such as increasing the level of discount, reducing the income cap and setting local connection/key worker criteria. However, the guidance generally indicates that these additional criteria should be considered through the plan making process or through Supplementary Planning Documents or interim policy statements. The Council's recent Interim Policy Guidance note on First Homes confirms this approach and it is therefore not considered to be suitable to done on a site-specific basis. Therefore, in this case it is considered the national criteria should be used.

Effect on Neighbouring Amenity

- 9.85. Policy ESD15 advises of the need for new development to consider the amenity of both existing and future development and this reflects the NPPF which requires a good standard of amenity for all existing and future occupants of land and buildings
- 9.86. The properties that would be most significantly impacted upon by the development would be residential properties (both existing and consented) accessed from School Lane to the north of the site. Whilst there are some concerns regarding the relationship of the proposed dwellings close to the entrance to the site with the dwellings currently under construction at Stone Lea, given the outline nature of the application it is considered that the detailed design, scale and position of the proposed dwellings and internal arrangements of the site could be controlled at a reserved matters to ensure that the inter-relationship between these properties did not lead to unacceptable levels of overlooking and loss of privacy. This is also true of the other

dwellings to the north. The site is considered to be a sufficient distance from the other properties in the village not to cause undue impacts on their residential amenity.

Other matters

- 9.87. 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 and the County Council's Electric Vehicle Infrastructure Strategy (2021). It is considered reasonable and necessary for provision of these to be secured through a condition of any permission given
- 9.88. Saved Policy ENV1 seeks to ensure development is appropriate in terms of contamination and does not give rise to unacceptable levels of pollution. The Council's Environmental Protection Officer has requested that ground investigation be undertaken at the site and any remediation undertaken if required and this can be secured through condition.
- 9.89. The NPPF states that planning decisions should contribute and enhance the natural and local environment by considering the economic and other benefits of the best and most versatile agricultural land. The proposal would lead to the loss of approximately 0.5ha of agricultural land which is currently laid to grass. No detailed assessment has been provided with the application; however, from the Natural England maps it would appear that the site may constitute Best and Most Versatile Agricultural Land (very good). Whilst this weighs against the development, it is not considered to constitute a reason for refusal given the limited size of the site.
- 9.90. A number of public comments raise concerns regarding the identity and motives of the applicant and also state that if the current planning application were to be approved proposals for further development to the south and west of the site would occur. They also state that this application will be followed by a proposal for market housing on the site. It has also been stated that the future intentions of the applicant are clear as they have put forward the application site and the adjacent land in the 'Call for Sites' for residential development in the review of the Local Plan.
- 9.91. However, the application must be assessed on the basis of the information provided and the individual planning merits of the case before the Council at the current time. Whilst the applicant may have aspirations of further development, if development were to come forward for different proposals on this site or for development of further land for residential purposes the Council would need to assess them on their own merits based on the relevant planning policies at that time. Likewise the motives or identity of the applicant are not material planning considerations to be taken into account in this planning application.
- 9.92. Concerns have also been raised that the current applicant has links to developments in the village which have not been constructed in accordance with approved details. These matters are, however, separate to the current application and are not material in the consideration of this application.
- 9.93. It has also been stated that the development needs to be assessed in the context of the new development to the north which consists of 7 new dwellings on 3 different plots some of which had the applicant's involvement. Whilst the new developments themselves are material considerations that can be considered in terms of the level of growth that has occurred in the village during the plan period, the fact that the current applicant may have been involved in some of these is not a relevant consideration. It should be noted that these new dwellings were considered to comply with the Development Plan and were not part of a First Homes exception site as is

proposed under the current application so are materially different to the current proposal.

10. PLANNING BALANCE AND CONCLUSION

- 10.1. Planning law requires that development proposals be determined in accordance with the Development Plan unless material considerations indicate otherwise.
- 10.2. In this case the proposal conflicts with the Development Plan in that it would result in additional housing outside the built up limits of a Category B village for which there is no provision in the Development Plan. There would also be a relatively high reliance on private car to access a range of facilities to meet the day to day needs of residents. In addition, the proposal would result in harm to the character and appearance of the area especially from Foxden Way and views to the south although these would be relatively localised. There would also be some limited harm through the loss of best and most versatile agricultural land.
- 10.3. It is therefore necessary to consider whether there are other material considerations to outweigh this conflict with the Development Plan and other planning harm.
- 10.4. The Council is unable to demonstrate a 5 year land supply so the housing policies are considered to be out of date and can only carry reduced weight in the consideration of planning applications. It also means the 'tilted balance' outlined in paragraph 11d of the NPPF is engaged, which tilts the balance in favour of approving development and means that planning permission should be granted unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits of the scheme when assessed against the NPPF as a whole.
- 10.5. In this case a significant material consideration is the fact that the site is being proposed as a First Homes exception site, which the WMS outlines LPAs should support where the relevant requirements are met. It is important to note that by their very nature 'exception sites' are likely to conflict with the Development Plan and whilst this does not mean that the sustainability of settlements or associated planning harms associated with Development are not relevant considerations, they need to be considered in the context of this be an exception to the 'normal' planning requirements.
- 10.6. As outlined above the scheme is considered to meet the requirements to qualify as a First Homes exception site and the provision of additional affordable homes to help First Time buyers access the housing market is considered to carry significant weight in favour of the proposal. It is also considered that the size of the development would be proportionate to the village of Great Bourton. The provision of housing more generally would contribute to meeting the clear needs for additional housing in the district in the absence of a 5 year land supply. The proposal would also lead to some modest economic impacts associated with the construction and additional spending in the area, and there would be a modest public benefit in providing a new footpath to the allotments for existing as well as proposed residents.
- 10.7. Other matters relating to biodiversity net gain, highways, flood risk and residential amenity are considered to comply with relevant planning policy and weigh neutrally in the planning balance.
- 10.8. Overall, taken as a whole, the harm arising from the development is not considered to clearly and demonstrably outweigh the benefits of the scheme and in this case officers considered there are material considerations which outweigh the conflict with the Development Plan. It is therefore recommended that planning permission 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):

S106 Heads of Terms

- a) Secure the dwellings as First Homes

Conditions

Time Limit

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

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

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

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

3. 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).

4. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the application form and drawings numbered 333 L01 A, T21512.001 E and T21512.003 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.

5. No development shall commence until details of all finished floor levels in relation to existing and proposed site levels and to the adjacent buildings have been submitted

to and approved in writing by the Local Planning Authority. The development hereby permitted shall be constructed strictly in accordance with the approved levels.

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

6. 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.

7. If contamination is found by undertaking the work carried out under condition 6, 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.

8. If remedial works have been identified in condition 7, the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 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.

9. As part of any application for reserved matters relating to layout, a 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, has

been submitted to and approved in writing by the local planning authority. The scheme shall also include management and maintenance provisions. The scheme shall not be implemented other than in accordance with the approved details and shall be implemented before the development is completed. It shall thereafter be managed in accordance with the approved details.

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 6 and 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.

10. As part of any application for reserved matters relating to layout, full details of the foul drainage to serve the site shall be submitted and approved in writing by the local planning authority. The scheme shall include details of a connection to the mains foul drainage system unless adequate justification has been provided to demonstrate that this is not feasible or practical. If the development requires the use of an onsite treatment full details of this shall be provided including management and maintenance provisions and the requirement for any permit. The scheme shall not be implemented other than in accordance with the approved details and shall be implemented before the development is completed. It shall thereafter be managed in accordance with the approved details.

Reason: To ensure risk of pollution to the environment is reduced in accordance with Government guidance within the National Planning Policy Framework and Planning Practice Guidance.

11. a) No tree or hedgerow 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/hedgerow 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/hedgerow" is an existing tree/hedgerow 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 the approval of the final reserved matters.

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. No development shall commence unless and until full specification details of the vehicular accesses, driveways and turning areas to serve the dwellings, which shall include construction, layout, surfacing and lighting have been submitted to and approved in writing by the Local planning Authority. The access, driveways and turning areas and lighting shall be constructed in accordance with the approved details prior to the first occupation of any of the dwellings and shall be retained as such thereafter.

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.

13. The development authorised by this permission shall not begin until the local planning authority has approved in writing a full scheme of works for:
- (i) The access from Foxden Way site and visibility splays
 - (ii) Localised widening of Foxden Way
 - (iii) New footpath provision to the west of Foxden Way linking the site to the allotments
 - (iv) New footpath connection linking the site to the South View (including details of future management and maintenance and public access of this)
 - (v) The relocation of 30mph speed limit and ancillary works to facilitate speed limit change

The development shall not be occupied unless and until those works have been completed in accordance with the local planning authority's approval. They shall thereafter be retained and available for public use unless otherwise agreed in writing by the local planning authority.

Reason – To ensure the development provides safe and suitable access and to maximise opportunities for sustainable transport in accordance with Government guidance contained within the National Planning Policy Framework

14. 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.

15. No development shall commence above slab level unless and until a scheme for electric vehicle infrastructure to serve each dwelling has been submitted and approved in writing by the Local Planning Authority. The approved electrical vehicle charging infrastructure shall be provide in accordance with the approved details prior to the first occupation of the dwelling it serves.

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

16. No development shall commence (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP: Biodiversity shall include:

- Risk assessment of potentially damaging construction activities;
- Identification of 'Biodiversity Protection Zones';
- Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
- The location and timing of sensitive works to avoid harm to biodiversity features;
- The times during construction when specialist ecologists need to be present on site to oversee works;
- The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
- Use of protective fences, exclusion barriers and warning signs

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

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

17. No development shall commence including any demolition, and any works of site clearance, unless and until 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, has been submitted to and approved in writing by the Local Planning Authority, which shall accompany any reserved matters application for layout and landscaping. This shall also include a timetable for provision. Thereafter, the biodiversity enhancement measures shall be carried out in accordance with the approved details and shall be retained and managed as such thereafter 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 metric to show how a clear net gain for biodiversity will be achieved and may include use of the land to the south of the site within the blue line.

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

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

19. No 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.

20. As part of any application for reserved matters including layout, full details of the general greenspace serving the development and its future arrangements for management and maintenance shall be submitted and approved in writing. The open space shall be provided in accordance with the approved details in accordance with a timetable outlined in the approved details and shall thereafter be managed and maintained in accordance with the approved details.

Reason: To ensure adequate provision is made for general green space in the development in accordance with Policy BSC10 and BSC11 of the Cherwell Local Plan

2011-2031 Part 1 and Government guidance within the National Planning Policy Framework.

Land North West Of Launton Road Roundabout Adjoining Skimmingdish Lane Caversfield

Care Home

L1 to L5

69.2m

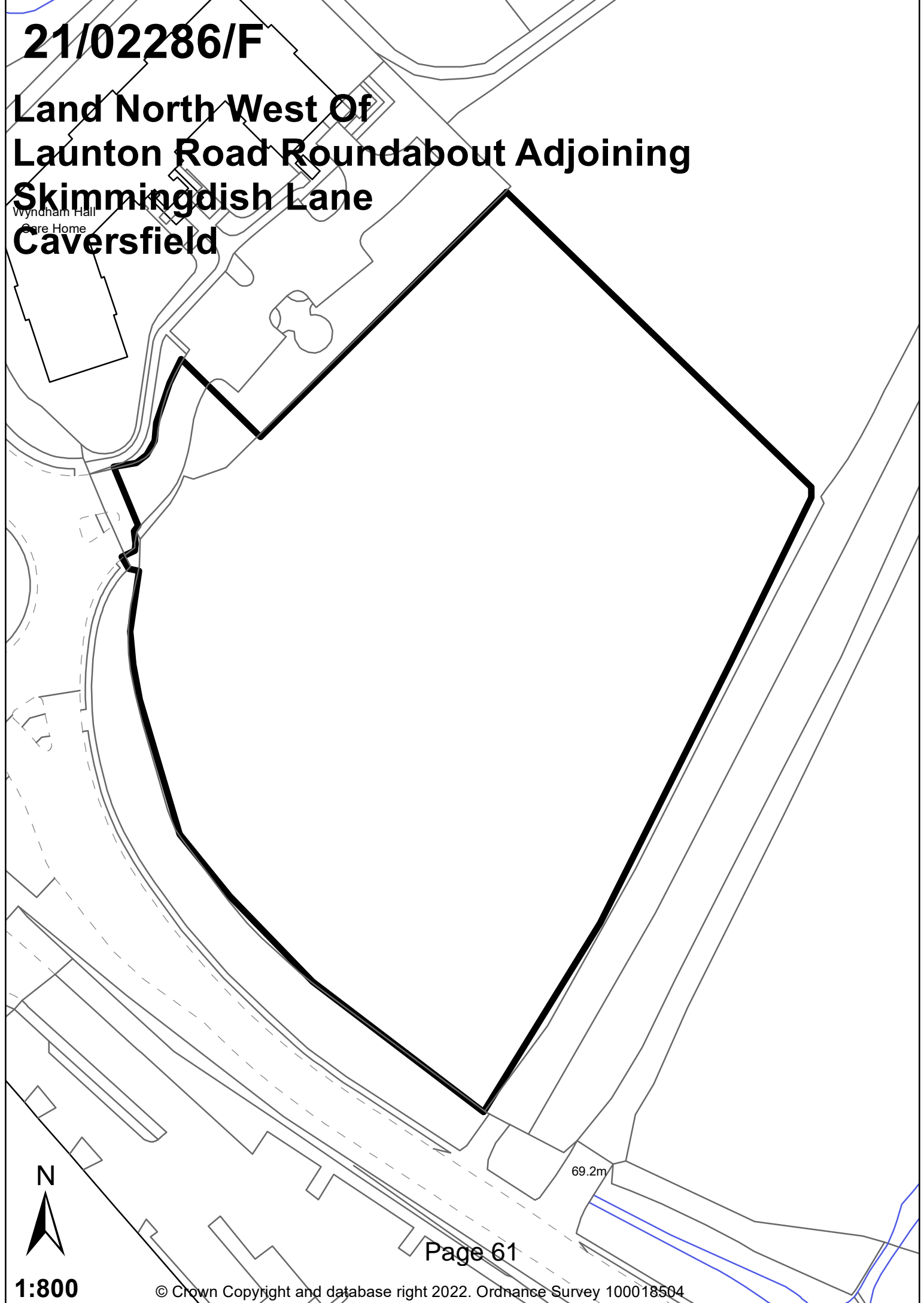
FB



21/02286/F

**Land North West Of
Launton Road Roundabout Adjoining
Skimmingdish Lane
Caversfield**

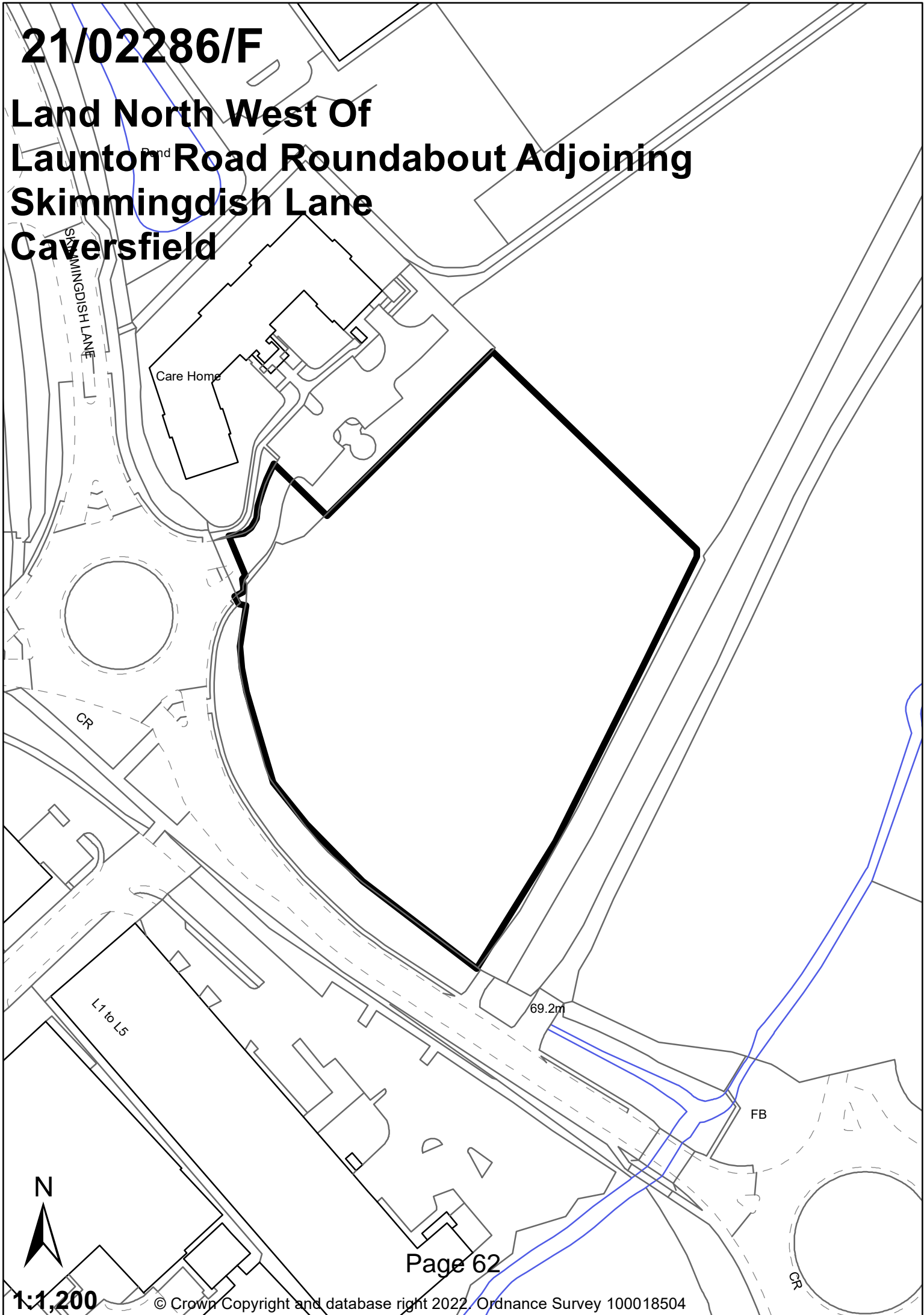
Wyndham Hall
Care Home



1:800

21/02286/F

**Land North West Of
Launton Road Roundabout Adjoining
Skimmingdish Lane
Caversfield**



Case Officer: Rebekah Morgan

Applicant: Created Life Three (Bicester) Ltd

Proposal: Construction of a coffee unit with drive-thru facility and indoor seating with associated access, car parking, landscaping and servicing parking

Ward: Launton and Otmoor

Councillors: Councillor Coton, Councillor Holland and Councillor Patrick

Reason for Referral: Referred by the Assistant Director, Planning and Development, for the following reasons: Public Interest

Expiry Date: 23 May 2022

Committee Date: 19 May 2022

SUMMARY OF RECOMMENDATION: DELEGATE POWERS TO GRANT PERMISSION SUBJECT TO: REMOVAL OF ENVIRONMENT AGENCY OBJECTION; CONDITIONS; AND A S106 PLANNING OBLIGATION. POWERS ALSO SOUGHT TO ALLOW REFUSAL OF THE APPLICATION IF THE PLANNING OBLIGATION, OR AN EXTENSION OF TIME, NOT SECURED BEFORE THE STATUTORY DETERMINATION DATE.

This application was previously considered by members of the Planning Committee on 10 February 2022. The committee resolved to defer the application to allow officers to have further discussions with Oxfordshire County Council Highways regarding options for pedestrian and cycle connections to the site.

This report provides an update on the outstanding matters only. A copy of the original committee is attached at Appendix B and the Written Update presented to the Committee on the 10 February 2022 is included as Appendix A.

UPDATE REPORT

1. DESCRIPTION OF AMENDED DETAILS

1.1 The applicant has submitted amended drawings which make changes to the proposed layout of the development. The amendments include:

- Re-location of cycle parking (closer to building) and increase in the number of cycle parking spaces to ten.
- Accessible parking spaces re-located
- EV charging bays re-located and increase in number to provide 5 spaces
- Internal footway increased in width to 3m
- Off-site highway works providing a 3m wide shared use path providing for cycle access and the retention of the 0.5m verge buffer to the carriageway

1.2 The applicant also submitted a 'Road Safety Audit' (April 2022) with respect to the proposed highway improvement works (detailed in drawing number 4364-SK-06 Rev D).

2. ADDITIONAL CONSULTATION RESPONSES

- 2.1 OCC TRANSPORT: **No objection**, subject to an obligation to enter into a Section 278 agreement and recommended condition.

Since the previous consultation response from the Highway Authority discussions have been held with CDC (Cherwell District Council) and the applicant to address the comments and queries raised at the last consideration by the Planning Committee.

The previous submitted drawing 4364-SK-05 has been revised to provide for a 3m wide shared use path providing for cycle access and the retention of the 0.5m verge buffer to the carriageway, this is now shown on drawing 4364-SK-06 D.

Shared use or segregated paths

It has been raised that the cycle provision accessing the site from the existing cycle provision on the west side of the A4421. It is well understood that the guidance in LTN 1/20 has a preference for segregated facilities in urban areas where the number of pedestrians is relatively high.

OCC have considered this matter carefully and had the opportunity to discuss with one of the authors of the national guidance and with representatives of Active Travel England which will become a statutory consultee on major planning applications. The consensus was that the type of provision is specific to the context and specifically the number of pedestrians and the number of cross movements along the length of the route. In the case of pedestrian movements, the numbers are likely to be low even allowing for a general upshift in this mode and there are no cross movements as the lengths are very short, also reducing the speed of cyclists. The Highway Authority are satisfied that the proposed provision is suitable for this location and development type.

Crossing provision

In addition to the above, the national guidance suggests that a controlled crossing of the southern arm of the roundabout may be required due to the level of traffic flow (there is an existing Toucan crossing on the northern arm) however this would be a significant piece of infrastructure for a relatively small development. In order to provide further information on this matter the applicant has commissioned an independent Road Safety Audit of the scheme to consider this issue and the general highway safety of the proposals. This audit process has not identified any safety concerns with the scheme and the Highway Authority are satisfied following this process that safe and suitable access to the site for all modes will be provided.

Future highway schemes – Eastern corridor

I understand that concerns have been raised on the sites impact on any future highway scheme that may make use of the existing 'stub' on the north side of the Charbridge Road roundabout with reference made to the emerging LTCP5.

The site is allocated for development within the Local Plan and therefore consideration for any potential conflict with highway schemes has been undertaken through that process.

The LTCP outlines the County Council's long-term vision for transport in the county and the policies required to deliver this. The LTCP does not address specific area-based issues or include scheme proposals at this stage. The document is also currently in draft form for consultation. Furthermore, detailed work will be undertaken on area transport strategies and for Bicester the Eastern Corridor is an area that is likely to seek additional highway capacity. Any future schemes are however likely to

focus on additional capacity for all modes in line with LTCP objectives rather than new road building.

In summary OCC are satisfied that the development of the site would not unduly impact on future transport schemes for the area.

Summary

Subsequent to the previous consultation response OCC have carefully considered the proposed access arrangement for non-motorised users and sought the views of experts in that field in forming a consultation response. In addition, a Road Safety Audit has been undertaken for the proposed highway works which has not identified any concerns. Therefore, the Highway Authority have no objection subject to the following planning conditions and S106 agreement.

3. APPRAISAL

Highway Safety

- 3.1 The Bicester Bike User Group (BBUG) have raised several objections through their written consultation response and via their representative who spoke at the last planning committee meeting. The County Council (Highways team) have engaged with BBUG following the committee. BBUG were also re-consulted following the submission of the amended information.
- 3.2 The determinations of planning permission are based on the Development Plan unless material considerations indicate otherwise. In this case documents such as the Bicester LCWIP (Local Cycling and Walking Infrastructure Plan) and LTN 1/20 are material considerations and the weight to be attached to them as a whole or in part needs to be considered on an individual basis for that development.
- 3.3 OCC Highways officers have carefully considered the amended proposals in relation to the guidance contained in LTN 1/20. One of the issues previously raised was the potential requirement for segregated cycle provision. With regards to this application, it has been concluded that due to the specific context of this proposal (number of pedestrians and the number of cross movements along the length of the route), a segregated cycle provision is not required and would not meet the CIL regulation 122 tests as it would not be “*fairly and reasonably related in scale and kind to the development*” and therefore cannot be sought as an obligation for this development.
- 3.4 Additionally, consideration has been given to the requirement for a controlled crossing on the southern arm of the Launton Road roundabout (there is an existing Toucan crossing on the northern arm) however, this would be a significant piece of infrastructure for a relatively small development. The applicants have submitted an independent Safety Audit which has not identified any safety concerns with the scheme and the Highway Authority are satisfied following this process that safe and suitable access to the site for all modes will be provided.
- 3.5 Members also raised questions regarding potential future highway improvement schemes that could potentially utilise the Launton Road roundabout (and the access arm to the proposed development). In their response (in full above), OCC Officers have explained how the LTCP has been considered and concluded that the development of this site would not unduly impact on future transport schemes in the area.
- 3.6 The proposed access arrangement and highway infrastructure improvements are considered to be suitable for the proposed development. These will be appropriately secured through a Section 106 agreement.

Flood Risk and drainage

- 3.7 Comments are still awaited from the Environment Agency. Officers have chased for these on several occasions.

Other Matters

- 3.8 Prior to the last planning committee, the applicant provided additional information in relation to the requirement to meet BREEAM standards. The matter was dealt with in the written updates to committee which are set out in Appendix A.

4. PLANNING BALANCE AND CONCLUSION

- 4.1 Achieving sustainable development comprises of three objectives: an economic objective, a social objective, and an environmental objective. The objectives need to be balanced to ensure they can be pursued in a mutual supportive way.
- 4.2 The application proposes the provision of a small coffee shop/drive-thru facility development that would support the local economy and create additional jobs, providing an economic benefit thereby meeting the economic objective. It is anticipated that the development would create a well-designed and safe place for employees and customers. It would offer a facility on this side of town for local people to meet socially and some additional offering for workers in the local area, thereby meeting the social objective. The building can be designed to ensure it is energy efficient, and the proposal would respect the natural environmental context of the site, providing mitigation and enhancement (where required) thereby meeting the environmental objective. Therefore, the development is considered to constitute 'sustainable development'.
- 4.3 Whilst it is acknowledged that the proposed use doesn't entirely match the uses set out in Policy Bicester 11 of the Cherwell Local Plan 2015, it does provide an appropriate employment generating use on the site. Furthermore, due to the extent of development that has already occurred within the allocation, this limited variation would not undermine the Plan's strategic requirement for employment sites.
- 4.4 As set out in the assessment included in the original committee report (see appendix A), the proposal would not cause harm to residential amenity, visual amenity, ecology or contaminated land. The amended plans submitted do not alter the conclusions reached on these matters.
- 4.5 The amended information has demonstrated that the site can be developed with a safe and suitable access arrangements (subject to infrastructure works and financial contribution).
- 4.6 The proposal is therefore considered to comply with relevant policies of the Development Plan set out in the report and the National Planning Policy Framework, and permission should be granted.

5. RECOMMENDATION

RECOMMENDATION – DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT TO GRANT PERMISSION SUBJECT TO;

(i) THE ENVIRONMENT AGENCY REMOVING THEIR OBJECTION

(ii) THE CONDITIONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY)

(iii) 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):

- Off-site Highway Works (a to provide footway/cycleway access to the development from the existing facilities on the A4421 as shown on drawing 4364-SK-06 D) – TBC
- OCC S106 Monitoring fee – TBC

(iv) THE APPLICANT ENTERING INTO A SECTION 278 AGREEMENT WITH THE LOCAL HIGHWAY AUTHORITY TO SECURE IMPLEMENTATION OF THE REQUIRED HIGHWAY WORKS SPECIFIED WITHIN THE S106

FURTHER RECOMMENDATION: THE STATUTORY DETERMINATION PERIOD FOR THIS APPLICATION EXPIRES ON 15/02/2022. IF THE SECTION 106 AGREEMENT/UNDERTAKING IS NOT COMPLETED AND THE PERMISSION IS NOT ABLE TO BE ISSUED BY THE 14/02/2022, AND NO EXTENSION OF TIME HAS BEEN AGREED BETWEEN THE PARTIES, IT IS FURTHER RECOMMENDED THAT THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT IS GIVEN DELEGATED AUTHORITY TO REFUSE THE APPLICATION FOR THE FOLLOWING REASON:

1. In the absence of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement the Local Planning Authority is not satisfied that the proposed development provides for appropriate highway mitigation works required as a result of the development and necessary to make the impacts of the development acceptable in planning terms, contrary to Government Guidance contained with 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:
 - Application form
 - Planning Statement
 - Design and Access Statement
 - Transport Statement
 - Travel Plan
 - Flood risk assessment and additional supporting information
 - Drainage Strategy
 - Ecological report and additional supporting information
 - Archaeological and heritage assessment
 - Noise assessment
 - Site investigation report and non-intrusive desk study
 - Climate Change and Sustainability Policy Matrix, and Bicester Greggs Drive Thru – Commentary on Energy Policy Prepared by Martin Thornley - Thornley & Lumb Partnership Ltd Issue 01 – 04.11.21

- Drawing number 15987-100 Rev C – Location Plan
- Drawing number 15987-101 Rev A – Existing Site Plan
- Drawing number 15987-105 Rev P – Proposed Site Plan
- Drawing number 15987-106 Rev C – Proposed Elevations, GA & Roof Plans
- Drawing number 15987-107 – Proposed Cycle Details
- Drawing number 15987-108 – Proposed Refuse Details
- Drawing number 15987-109 Rev C – Proposed Master Plan
- Drawing number 15987-VL-L01 Rev C – Landscape Plan
- Drawing number 15987-VL-L02 – Landscape and Ecological Enhancement Plan

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. Full details of the refuse/recycling bin storage for the site, including location and compound enclosure details, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of that work. Thereafter and prior to the first occupation of the development, the refuse/recycling bin storage area(s) shall be provided in accordance with the approved details and retained unobstructed except for the storage of refuse/recycling bins.

Reason – To ensure the satisfactory appearance of the completed development and to comply with Policy ESD 15 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. Details of all external lighting including the design, position, orientation, illumination and its intensity together with any screening of the lighting shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of those works. The lighting shall be installed, operated, and retained in accordance with the approved scheme at all times thereafter. No other external lighting shall be erected within the site without the prior written consent of the Local Planning Authority.

Reason – In the interests of visual amenity, to ensure it has no adverse impact on ecology and to comply with Policy ESD10 and ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policies C18, C28 and C30 of the Cherwell Local Plan 1996 and Government advice in The National Planning Policy Framework.

5. Prior to first occupation of the development hereby approved, a Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the LEMP shall be carried out in accordance with the approved details. A schedule of landscape maintenance for a minimum period of 10 years starting from first occupation or completion of the development (whichever is sooner) shall be submitted to and approved in writing by the Local Planning Authority prior to first occupation of the development. Thereafter the approved landscaping shall be maintained in accordance with the approved schedule.

Reason – To ensure that the agreed landscaping scheme is maintained over a reasonable period that will permit its establishment in the interests of visual amenity and to accord with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

6. No development shall take place until a Construction Travel Management Plan (CTMP) has been 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 and signed appropriately to the necessary standards/requirements. This includes means of access into the site.
- Details of and approval of any road closures needed during construction.
- Details of and approval of any traffic management needed during construction.
- Details of wheel cleaning/wash facilities – to prevent mud etc, in vehicle tyres/wheels, from migrating onto adjacent highway.
- Details of appropriate signing, to accord with the necessary standards/requirements, for pedestrians during construction works, including any footpath diversions.
- The erection and maintenance of security hoarding / scaffolding if required.
- A regime to inspect and maintain all signing, barriers etc.
- Contact details of the Project Manager and Site Supervisor responsible for onsite works to be provided.
- The use of appropriately trained, qualified and certificated banksmen for guiding vehicles/unloading etc.
- No unnecessary parking of site related vehicles (worker transport etc) in the vicinity – details of where these will be parked and occupiers transported to/from site to be submitted for consideration and approval. Areas to be shown on a plan not less than 1:500.
- Layout plan of the site that shows structures, roads, site storage, compound, pedestrian routes etc.
- A before-work commencement highway condition survey and agreement with a representative of the Highways Depot – contact 0845 310 1111. Final correspondence is required to be submitted.
- Local residents to be kept informed of significant deliveries and liaised with through the project. Contact details for person to whom issues should be raised with in first instance to be provided and a record kept of these and subsequent resolution.
- Any temporary access arrangements to be agreed with and approved by Highways Depot.
- Details of times for construction traffic and delivery vehicles, which must be outside network peak and school peak hours.

Reason – In the interests of highway safety and to mitigate the impact of construction vehicles on the surrounding network, road infrastructure and local residents, particularly at peak traffic times, in accordance with guidance contained in 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. 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 and to ensure a satisfactory form of development, in accordance with the Government guidance contained within the National Planning Policy Framework.

8. Prior to the development being brought in to use the cycle and vehicle parking facilities as shown on drawing 15987-105 Rev P shall be completed in all respects and thereafter maintained available for use for the duration of the development.

Reason – In the interests of highway safety and to encourage sustainable transport modes.

9. The development shall be operated in accordance with the submitted Travel Plan unless otherwise agreed in writing by the Local Planning Authority.

Reason – In order to promote sustainable modes of travel.

10. The approved drainage system shall be implemented in accordance with the approved detailed design prior to the first use of the building commencing. Reference: Design Strategy, DS/01, Issue: Rev P7, Revision: P7, Date: 09/11/2021.

Reason – To ensure that the principles of sustainable drainage are incorporated into this proposal.

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 ley 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 that the principles of sustainable drainage are incorporated into this proposal.

12. No development shall take place until a Landscape and Ecology Management Plan (LEMP) including a timetable for its implementation has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the LEMP shall be carried out in accordance with the approved details.

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

13. Prior to, and within two months of, the commencement of the development, the site shall be thoroughly checked by a suitably qualified ecologist to ensure that no protected species, which could be harmed by the development, have moved on to the site since the previous surveys were carried out. Should any protected species be found during this check, full details of mitigation measures to prevent their harm 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 mitigation scheme.

Reason – To ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

14. All site clearance (including the removal of any vegetation or works to hedgerows) should be timed so as to avoid the bird nesting season, this being during the months

of March until July inclusive unless alternative provisions have been previously agreed in writing by the Local Planning Authority.

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

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

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

Planning Notes

1. Condition 12 – In respect of condition 12 above, the LEMP will be expected to clearly demonstrate a minimum 10% net biodiversity gain for the site.

Public Right of Way (PROW) link – If a walked 'desire line' emerges after occupation of the development, the site owner is encouraged to contact the PROW officer at Oxfordshire County Council to formalise that access route in the form of a footpath creation agreement.

APPENDIX A: Written Update presented to 10 February 2022 Planning Committee

Agenda Item 9

21/02286/F

Land North West of Launton Road Roundabout adjoining Skimmingdish Lane, Caversfield

Additional information received

The applicant has provided a detailed note explaining why the scheme cannot achieve BREEAM accreditation, but it then goes on to explain that they have gone above and beyond a more balanced range of sustainability and climate change objectives to deliver a better environmental solution for the site.

The applicant has explored the scope to achieve a BREEAM rating, but it is simply not possible to secure the required number of BREEAM credits. There are many reasons for this, but most fundamentally the limited scale of the building and developable area, its location, and the fact that the site has not been previously developed.

The applicant has submitted a Matrix and Energy Statement that sets out proposed 'sustainability measures' against relevant policy and guidance, which highlights the extent to which the applicants have taken this point seriously and balanced out competing considerations; e.g. more BREEAM credits could be achieved if the entire site was covered with PV panels, but this would be hugely detrimental to the biodiversity and amenity value of the site. The applicant points out that BREEAM is only one measure against which the sustainability of development can be assessed, and is not sophisticated enough to account for a balanced approach being adopted to reflect the particular circumstances of a site or scheme, as is the case here. The applicant's development provides:

- The location of development has been carefully selected by the proposed operator due to its proximity to a range of local businesses, which will reduce the need for these customers to travel further afield, and as a means by which to reduce car borne journeys to drive-thru facilities beyond this local area;
- The proposals incorporate 8 electric car vehicle charging points, customer and staff cycle parking, direct linkages to the local pedestrian and cycle network, and a commitment to funding enhancements to the adjacent pedestrian/cycle network in a manner commensurate to the nature and scale of the proposed development;
- Air source heat pumps are to be installed at fit out stage as a renewable energy sources and these will be complemented by 100sqm of roof mounted PV panels to maximise the renewable and low carbon energy generating credentials of the development;
- The use of LED lighting, mechanical ventilation with heat recovery and electric powered heating and cooling systems (using electric rather than a gas powered system, is beneficial as the grid is being de-carbonised) represent further efficiencies;
- The risk of flooding has been comprehensively mitigated through the layout, design and drainage solution proposed for the site, which also take the opportunities available to generate material benefits associated with flood risk reduction and biodiversity enhancement;
- The sustainable drainage solution includes both a pond and swale, significantly reducing rates of discharge into the nearby watercourse, whilst also improving water quality;
- A biodiversity net gain of over 18% will be achieved on the site, almost doubling the Council's and the Environment Act's target of 10%;
- The proposals will safeguard a greater proportion of undeveloped land than was previously envisaged through the allocation. The proposals only occupy a

developable area of 0.28ha meaning almost 1ha will be retained for ecological and amenity benefit; and

- The proposals will add to the wider attractiveness of the area as a significant employment location on the edge of Bicester and deliver flexible local employment opportunities and investment in its own right.

Officer comments:

Details of the assorted enhancements are provided in the original application documents and plans and have been supplemented by new plans showing the EV charging and solar PV roof panels. On this basis it is recommended that the BREEAM condition (condition 11 in the published agenda report) can be removed subject to the plans condition (condition 2) being update to reflect the additional information and the amended plan received.

Additional Representations received

Bicester Bike Users' Group:

OCC have conceded that the highways officer made a mistake in indicating that a 2m wide footway only with no horizontal separation was compliant with LTN1/20.

OCC have not offered their highways assessment and the 'reasons for the consultee's views' as required by the guidance on Consultation and Pre-decision Matters (2014, latest amendment 2021) as explained by Mrs Justice Lang DBE in Swainsthorpe Parish Council v Norfolk County Council [2021] EWHC 1014 (Admin). What they have instead done is to purport make the decision by saying that a shared path is acceptable, when this is a decision that is for the CDC planning committee.

Our view is that, from a highways perspective, either a shared or a segregated path would be acceptable, but the final decision should rest with the planning committee. What OCC should have done is to offer their views of the considerations that are relevant to the issue of a shared or segregated path. For example:

- That the majority of the existing provision approaching this roundabout on the A4421 and Skimmingdish lane is segregated provision.
- That there is no width restriction that would preclude segregated provision.
- That shared provision is generally significantly less supportive of active travel than shared provision.
- That OCC is moving away from legacy shared provision and encouraging segregated provision.
- That this path will be used by very vulnerable users who are residents of the Wyndham Hall care home, and who will be very unwilling to share space with cyclists.
- OCC have not explained their views of these considerations, which makes it very difficult for the committee to be confident that a shared path is acceptable. For this reason, OCC need to provide their reasons before the committee can decide on access. It may be appropriate to leave the issue of compliance with LTN1/20 to an officer to make after the committee hearing.

Officer response:

The OCC Highways Officer has provided a consultation response on this application which is summarised in the published report and avail in full on the Council's website. It is this response that has informed the officer recommendation for the approval of the application.

Recommendation

Remains as per the published agenda report subject to:

- i. Amendments to Condition 2 (Plans):

- Drawing number 15987-106 Rev B to be substituted for Drawing number 15987-106 Rev C;
 - Addition of: Climate Change and Sustainability Policy Matrix;
 - and Bicester Greggs Drive Thru – Commentary on Energy Policy Prepared by Martin Thornley - Thornley & Lumb Partnership Ltd Issue 01 – 04.11.21
- ii. Delete condition 11 (BREEAM)

APPENDIX B: Copy of report included in Planning Committee Agenda 10 February 2022

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site is located on the northeast side of Bicester adjacent to the Launton Road roundabout (Skimmingdish Lane/Launton Road/Charbridge Lane junction). The site is currently a vacant greenfield site; it is relatively flat with mature trees/hedgerows along the southeast and southwest boundaries.
- 1.2. Adjacent to the northwest boundary of the site is a residential care home, with commercial development to the north beyond the care home. To the west of the site is residential development and commercial development to the south. The east of the site is bounded by open fields.

2. CONSTRAINTS

- 2.1. The following constraints apply to the site:
 - The majority of the site lies within Flood Zone 3 with the exception of a small area in the north corner which falls within Flood Zone 2.
 - There are Public Rights of Way to the east and west of the site. Neither of these cross the application site.
 - The site is identified for potentially contaminated land
 - The site is within 2km of a SSSI (Stratton Audley Quarries)
 - The site is within 2km of a Local Wildlife Site
 - The development site is close to the RAF Bicester Conservation Area

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The application seeks consent for a drive-thru restaurant facility (Use Class E (a/b)) with associated access, parking and landscaping. The overall site area is 1.18 hectares.
- 3.2. The proposed building would be single storey with a gross external area of 187.8 sqm (162.7 sqm internal floor area). The design of the building is a mono-pitch portal frame with a parapet wall. The building would be predominantly clad in grey metal sheeting with glazing on the southwest and north west elevations to create the shop front area. The height of the building has been dictated by the future occupiers internal height requirements, with a maximum external height of 5.3m.
- 3.3. The proposal includes car parking provision – 2 no. accessible spaces and 28 no. standard spaces (inc. 4no. spaces with electric vehicle charging points. The proposal includes 6 no. secure cycle spaces in a covered shelter.
- 3.4. The proposed access would join the existing access to Wyndham Care Home which in turn is served from the Launton Road roundabout. The site layout is designed with a drive-thru lane wrapping around the building to provide an area for queuing.

4. RELEVANT PLANNING HISTORY

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

21/02345/SO

Screening opinion to 21/02286/F - Construction of a coffee unit with drive-thru facility and indoor seating with associated access, car parking, landscaping and servicing parking.

08 July 2021 – Screening Opinion not requesting EIA

13/00372/OUT

Construction of 61 bed care home (Use Class C2) together with ancillary accommodation including café, hair salon and shop and associated development including car parking and servicing arrangements

17 June 2013 – Approved

10/00324/OUT

Erection of 5857 sqm of B1 Office development with associated parking, turning and landscaping areas (renewal of 05/01563/OUT)

25 August 2011 – Application withdrawn

09/01659/REM

Reserved Matters (Ref: Outline 05/01563/OUT) B1 Office development with associated parking, turning and landscaping areas - (As amended by plans received 9 December 2010)

20 May 2011 – Approved

05/01563/OUT

Outline - B1 Office development with associated parking, turning and landscaping areas (as supported by additional information received 14/10/05)

19 March 2007 – Appeal allowed.

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 **30 August 2021**.

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

Comments in support:

- Convenient location for trades people and workers using the nearby industrial areas/estates of the town
- Good location as nothing similar on this side of town
- Different food offering to other similar drive-thru restaurants in the town
- The EV charging points provided are much needed
- Creation of jobs
- Reduce pollution if people don't need to drive into the town centre
- Alleviate some traffic in the town centre area

Comments of objection:

- Traffic in this area is already busy and would be made worse by this development
- Traffic calming would be required, speed limit reduction and traffic lights for Vulcan View

- Cyclists are a secondary thought – would like to be able to access the drive thru on a bike
- This should be located on the High Street or in an existing industrial area – lots of empty units available
- Should be located near the A41 or the motorway, not on this side of town
- Impact from construction – noise and traffic • Loss of green space • Loss of habitats for wildlife
- Impact on ecology
- Does not fit with the Bicester Healthy Town initiatives
- Promotes unhealthy food
- Climate change concerns – a drive thru would contribute to climate change issues
- Traffic pollution would impact on air quality
- Impact on care home residents – noise disturbance and loss of view
- Likely to cause littering
- Drainage and flooding issues on the site
- Development rates in Bicester are faster than infrastructure provision
- Unnecessary – already a significant number of coffee shops, drive-thru's etc., to meet need

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. LAUNTON PARISH COUNCIL: **object** on the following grounds:

- The ecological loss of a green field site, particularly when there are many appropriate brown field sites in the area
- Inappropriate materials and no promotion of renewable energy
- Sitting of an urban requirement in a semi-rural setting
- Potential traffic congestion
- Effect on visitors, residents, staff and emergency services at the neighbouring care home

7.3. BICESTER TOWN COUNCIL: **object** on the following grounds:

- OCC Highways as part of their Local Transport Plans (LTCP) had shown a loop for the ring road to be constructed and that before anyone makes a decision OCC Highways need to be consulted as to whether their plan is still valid
- Concerned with the speed limit of the road
- Impact on residents and their families from the neighbouring care home due to noise impact

CONSULTEES

7.4. ENVIRONMENT AGENCY: **Object**

These revised details have reduced the underground storage tank requirement to 36.5m³. While this is less than previously proposed, it is still substantially more than we agreed with the applicant during pre-application discussions and we are not

satisfied that this method in this volume is acceptable. In addition, we note that the excavation required to provide the proposed floodplain compensation area is detailed only on cross sections. Without a plan it is hard to establish whether the information shown on the sections is practical and achievable. It will be necessary for the applicant to submit a plan showing the floodplain compensation storage area and detail the ground levels required for the area, consistent with the sections.

The submitted detail is not sufficient to address our earlier concerns. We therefore maintain our objection.

- 7.5. OCC TRANSPORT: **No objection** subject to conditions relating to cycle parking, cycle and pedestrian connectivity and PROW, and a Construction Traffic Management Plan.
- 7.6. OCC ARCHAEOLOGY: **No objection** subject to conditions requiring an archaeological written scheme of investigation to be agreed and a staged program of archaeological mitigation to be carried out.
- 7.7. OCC – LEAD LOCAL FLOOD AUTHORITY: **No objection** subject to a condition requiring details of the SuDS and site wide drainage scheme to be recorded.
- 7.8. CDC CONSERVATION: **No objection**, do not consider this development will impact on the setting of RAF Bicester. The proposed development will be screened by the recent large warehouses adjacent.
- 7.9. CDC ENVIRONMENTAL PROTECTION: **No objection** subject to a condition for a Construction Environmental Management Plan (CEMP).
- 7.10. CDC HEALTH PROTECTION AND COMPLIANCE: **No objection.**
- 7.11. CDC ECOLOGY: **No objection.** The additional submitted information takes into account much of my previous comment. They have retracted the proposal to gain a moderate condition for the grassland outside the main development area and the management proposals now seem more realistic with what will undoubtedly be an area of land which will be used for amenity purposes also.

The BIA suggests a good level of net gain is achievable. This will need to be clearly demonstrated within a LEMP. This should also contain a schedule of review periods to ensure that should management not achieve the desired habitat conditions the methods can be altered. Where necessary there should be the option to restrict public access to some parts of the site.

A CEMP will also need to be conditioned with any permission which should include pre-works badger checks as well as nesting bird season restrictions and a working methodology for avoiding harm to reptiles.

A lighting scheme which limits light spill into the retained and created habitats should also be conditioned.

- 7.12. BICESTER BIKE USER GROUP (BBUG): **Objects.** BicesterBUG objects to the proposal in its current form. The provision for active travel is insufficient and only token effort has been given to enabling customers to access and use the site without a vehicle. In particular, pedestrian and cycle friendly crossings to the development over the arms of the roundabout should be provided. These could include parallel crossings which are economical and demand-sensitive. Parallel crossings could be provided on all arms to create a so-called 'Dutch' roundabout. Segregated paths should be

provided on all desire lines to the development that comply with Department for Transport Local Transport Note ('LTN') 1/20.

We note the incongruity of a vehicle centred drive thru coffee outlet being proposed in Bicester when the Council has declared a climate emergency, ambitious targets for active travel and while traffic issues are increasing. This context makes the provision of high-quality walking and cycling access more, not less, important in this case to ensure high walking and cycling customer numbers.

Further engagement by BicesterBUG with the developers and planning authority would be appreciated to enable the plans to develop as recommended under LTN1/20.

Further detailed comments have been provided in the consultation responses expanding on the points raised in the summary set out above.

7.13. CAMPAIGN TO PROTECT RURAL ENGLAND (CPRE): **Object** on the following grounds:

- Set within the context of a climate change emergency, a drive-thru coffee unit is ill conceived
- Principle purpose of a drive-thru is to provide a service for transient vehicles which would not reduce the number of vehicle journeys in line with the CDC climate change framework
- Goes against the NPPF which promotes sustainable travel modes that limit future car use
- Approval would demonstrate that CDC is not serious about the climate change agenda
- Policy Bicester 11 states that the area should be focussing on maximising access by means other than private car. However, the developers have confirmed in their transport assessment that vehicle movements will increase
- A significant reduction in car journeys and vehicle emissions will only be achieved if all new development is planned around active travel modes
- Impact on the environment including noise and light pollution
- Traffic congestion and highway safety concerns
- The scheme should achieve a BREEAM very good rating which developers suggest cannot be achieved
- Impact on resident including neighbouring care home
- Loss of greenspace and impact on ecology
- Proposal falls short of the 10% net biodiversity gain required
- Site comprises of fertile land and should be assessed to ascertain if the site contains 'the best and most versatile agricultural land' in line with NPPF para 174.

8. RELEVANT PLANNING POLICY AND GUIDANCE

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

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

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

- PSD1 – Presumption in Favour of Sustainable Development
- SLE2 – Employment Development
- SLE3 – Securing a Dynamic Town Centre
- ESD1 – Mitigating and Adapting to Climate Change
- ESD2 – Energy Hierarchy and Allowable Solutions
- ESD3 – Sustainable Construction
- ESD4 – Decentralised Energy Systems
- ESD5 – Renewable Energy
- ESD6 – Sustainable Flood Risk Management
- ESD7 – Sustainable Drainage Systems (SuDS)
- ESD10 – Protection and Enhancement of Biodiversity and the Natural Environment
- ESD15 – The Character of the Built and Historic Environment
- BICESTER11 – Employment Land at North East Bicester

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- EMP1 – Allocation of sites for employment generating development
- TR20 – Reservation of land for road scheme at Bicester
- C28 – Layout, design and external appearance of new development

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- EU Habitats Directive
- Natural Environment and Rural Communities Act 2006
- Conservation of Habitats and Species Regulations 2017
- Circular 06/2005 (Biodiversity and Geological Conservation)

9. APPRAISAL

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

- Principle of development
- Design and impact on the character of the area
- Heritage impact
- Residential amenity
- Ecology impact
- Flood risk and drainage
- Ecology impact
- Energy efficiency
- Environmental impacts

Principle of Development

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

9.3. Paragraph 11 of the National Planning Policy Framework sets out a presumption in favour of sustainable development and states for decision taking, this means *'approving development proposals that accord with an up-to-date development plan*

without delay'. The presumption is favour of sustainable development is reiterated in Policy PSD1 of the Cherwell Local Plan 2015.

- 9.4. The application site is allocated in the Cherwell Local Plan 2015 under Policy Bicester 11 for 'employment development' in the form of the Use Classes B1, B2 and B8. Policy SLE1 supports employment development on new allocated sites within the plan; this is one of the sites allocations which allow for employment development (B Use classes) within the plan.
- 9.5. The Town and Country Planning (Use Classes) (Amendment) (England) Regulation 2020 came into force on 1 September 2020 and made amendments to the classification of uses within the Use Class Order. Relevant to the Policy Bicester 11 allocation, the changes include the re-classification of Use Class B1 within Class E (Commercial, business and service).
- 9.6. The application forms part of the Bicester 11 policy allocation within the Cherwell Local Plan 2015. The overall allocation comprises of a larger parcel of land totaling 15 hectares. The northern part of the allocation has been developed in the form of large commercial buildings. The application site forms approximately 1/3 of the remaining land within the allocation. The allocation allowed for development falling within Use Classes B1, B2 and B8. With the change to the use class order set out above, some of those uses (B1) now fall within Use Class E.
- 9.7. The proposal is for a drive-thru coffee shop/restaurant which allows for the consumption of food on and off the premises. Use Class E(b) provides for 'the sale of food and drink for consumption (mostly) on the premises' whilst 'hot food takeaways (for the sale of hot food where consumption of that food is mostly undertaken off the premises)' is considered to be Sui Generis (in a class of its own). Given the identified end user (Gregg's) the proposal is not limited to the sale of hot food and is more of a coffee shop type establishment selling a range of hot and cold baked goods. Notwithstanding this and the provisions of the new Class E classification, the Policy Bicester 11 allocation anticipated the provision of commercial, industrial and office uses rather than food establishments. Therefore, the proposal cannot be considered to be a use supported by the policy allocation.
- 9.8. The majority of the Policy Bicester 11 allocation has now been developed and the policy prohibits development in Flood Zone 3b, which the majority of the remaining land falls within. Therefore, there is realistically only a small proportion of remaining land that could be delivered under the allocation. Given the size of this, it is unlikely to come forward under one of the uses originally envisaged for the site.
- 9.9. The proposal represents a beneficial economic use that could be delivered on the site and it would be an employment generating use. The proposal would only represent a very small proportion of the overall policy allocation and given the majority of the site is already developed, this proposal would not undermine the overall strategy for the allocation which was to seek employment uses on the site.
- 9.10. With regards to the sustainability requirements of the NPPF and Policy PSD1 of the Cherwell Local Plan 2015, the proposal is considered to be located in a sustainable location. It is located on the edge of one of the District's largest settlements, it is located on an allocated development site and is accessed by the existing highway network, including active travel modes: cycle paths run close to the site, it is accessible by pedestrians and there is a bus stop close to the site.
- 9.11. In terms of the economic and social elements of sustainability, the proposal will create additional jobs in the area and bring economic benefits. The site also has the potential

to offer a place for local residents to socialise on this side of town. It also provides an additional offering for workers on the nearby industrial developments.

- 9.12. Third party representations have questioned the type of food offering, in terms of health and wellbeing. It is not for the Local Planning Authority to determine the type of food that establishments sell and therefore the proposal cannot be refused on the basis that the offering is perceived as unhealthy.
- 9.13. Developments of this type are normally best located within the town centres. The National Planning Policy Framework requires compliance with the sequential assessment for main town centre uses that are not in an existing town centre or in accordance with an up-to-date Development Plan (Section 7, Paras 86-91). Policy SLE 2 of the Cherwell Local Plan 2015 broadly reflects the approach of the NPPF. Policy SLE2 requires an impact assessment when the proposed development exceeds 1500 sq. metres (gross) in Bicester, so that would not apply to this proposal.
- 9.14. The proposal comprises of a small coffee shop type use but is specifically designed with a drive-thru provision which limits suitable locations. The identified end user also has an existing presence in the centre of Bicester. Given the scale, type and nature of the proposal it is not considered to have a significant adverse impact on the town centre.
- 9.15. In conclusion, the proposal is considered to represent sustainable development meeting environmental, social and economic elements of sustainability. Due to the scale, type and nature of the proposal, the development would not have a significant adverse impact on the town centre and it would not undermine the aims of the Policy Bicester 11 in delivering employment uses, as most of the allocation is developed. Therefore, the principle of development is considered to be acceptable on this site.

Design and Character of the Area

- 9.16. Policy ESD15 of the Cherwell Local Plan 2015 states: 'Successful design is founded upon an understanding and respect for an area's unique built, natural and cultural context. New development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design. All new developments will be required to meet high design standards. Where development is in the vicinity of any of the District's distinctive natural or historic assets, delivering high quality design that compliments the asset will be essential'.
- 9.17. The proposed building would have a gross external area of 187.8sqm and a maximum height of 5.3m. The buildings design is a relatively simple box design which would be predominantly clad in anthracite grey panels with limited area of cornflower blue cladding details (to match the corporate colours of the end user). Sections of glazing and a small canopy are designed to denote the shop front area of the building.
- 9.18. The proposal includes an external seating area on the southwest side of the building and a car parking area. Existing, mature landscaping fronting Charbridge Lane would be retained and new soft landscaping would be installed around the edges of the car park and around the perimeter of the drive-thru lane.
- 9.19. The proposal would result in the reduction of greenspace, however, as an allocated site within the Cherwell Local Plan 2015, it was expected that development would occur on the site.
- 9.20. The proposed building would be relatively small and would not appear out of keeping in the location. In terms of scale, it would be smaller than the neighbouring car home building and other commercial buildings within the locality. The design of the building

and the proposed palette of materials reflects the context of commercial development in this area.

- 9.21. The retention of the existing hedgerows and mature landscaping adjacent to Charbridge Lane will help to soften the development when viewed from the main roads.
- 9.22. Due to the location, there would be limited longer distance views of the site. However, any views would be within the context of the neighbouring care home and commercial development beyond it. Therefore, this proposal would not appear at odds with its surroundings.
- 9.23. Overall, the design of the building and the site is considered to be acceptable and in accordance with government guidance contained within the National Planning Policy Framework and Policy ESD15 of the Cherwell Local Plan 2015.

Heritage Impact

- 9.24. Conservation Areas and Listed Buildings are designated heritage assets, and Paragraph 199 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 Part 1 echoes this guidance.
- 9.25. The site is close to the boundary of the RAF Bicester Conservation Area, however the intervening land is developed (care home and commercial development) and the proposed site would not be viewed within the context of the Conservation Area.
- 9.26. The Council's Conservation Officer has not raised an objection to the proposal and has advised the development would not impact on the setting of the RAF Bicester Conservation Area as the proposed development would be screened by the large warehouse development which sit between the site and the Conservation Area.
- 9.27. The proposal is not considered to have a detrimental impact on the setting of the Conservation Area. In this regard, the proposal complies with government guidance contained within the NPPF and Policy ESD15 of the Cherwell Local Plan 2015.

Residential Amenity

- 9.28. The proposed development would be located adjacent to a care home and there are also residential properties to the southwest of the site on the opposite side of Launton Road roundabout.
- 9.29. Paragraph 185 of the National Planning Policy Framework states: *'Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:*

a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life;

b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and

c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation’.

9.30. The National Planning Practice Guidance (NPPG) on Noise states: *‘Plan-making and decision making need to take account of the acoustic environment and in doing so consider:*

- Whether or not a significant adverse effect is occurring or likely to occur;*
- Whether or not an adverse effect is occurring or likely to occur; and*
- Whether or not a good standard of amenity can be achieved’.*

9.31. The application submission included a noise assessment of the proposal. The report included an environmental noise survey, assessment of noise from fixed plant equipment, noise from ‘drive-thru’ activity and noise from car parking activity. The report concluded that *‘noise from the operation of the proposed restaurant and ‘drivethru’ at land off A4421, Bicester would not adversely affect the amenity of the existing residents’.* The report also recommends a condition to ensure fixed plant/machinery does not exceed the existing background noise climate.

9.32. With regards to potential opening hours, the report concludes that *‘noise from ‘drivethru’ and car parking activity would comply with both the daytime and night time WHO guideline values and be well below the existing daytime ambient noise climate’,* and therefore, the proposed restaurant/drive-thru facility *‘could trade on an unrestricted basis without associated noise causing significant adverse impact’.*

9.33. The Council’s Environmental Protection Officer has considered the details of the proposal and the submitted noise assessment; they are satisfied with the methodology and conclusions presented in the report. The proposal is not considered to have a detrimental impact in terms of noise creation on neighbouring residential properties.

9.34. With regards to potential impact on outlook/views, residents of the care home are most likely to have sight of the proposed development. The proposed building would be located on the northwest side of the site adjacent to the boundary with the care home. The building would be single storey with a maximum height of 5.3m and would be located over 35m away from the closest point of the care home.

9.35. Whilst the view from some rooms at the care home would change, the proposal does not include the removal of all the existing mature vegetation and green space. The building is relatively small and would not appear overbearing or overly dominant when viewed from neighbouring properties. Furthermore, it has to be noted that the application site is within an allocated employment site (Policy Bicester 11) of the Cherwell Local Plan 2015 and therefore, the land was not anticipated to remain undeveloped.

9.36. Given the scale of the proposed built development and its distance from the neighbouring care home, the proposal is not considered to cause harm to residential amenity and accords with government guidance contained within the National Planning Policy Framework.

Highway Safety

- 9.37. The vehicle access to the site is from the A4421/Launton Road roundabout via its eastern arm which currently serves the neighbouring care home. The site includes the provision of car parking (including accessible spaces and electric vehicle charging points). The proposal is designed with a drive-thru lane that wraps around the building to provide room for queuing vehicles.
- 9.38. The application is accompanied by a Transport Statement and Travel plan which sets out the anticipated number of vehicular movements that are anticipated and details of how the site can be accessed via active travel modes.
- 9.39. The Bicester Bike User Group has raised concerns regarding the proposals. Their concerns relate to insufficient provision for active travel. In particular, concerns are raised regarding pedestrian and cycle provision crossing the arms of the Launton Road roundabout. They suggest that crossing could be provided to create a so-called 'Dutch' style roundabout. They also suggest that segregated paths should be provided on all desire lines to the development.
- 9.40. The Local Highway Authority has raised no objection to the proposal and have not raised any concerns with the information set out in the supporting documents. They raise no concerns regarding access or highway safety implications of the proposal. The response has recommended the following conditions:
- Cycle parking provision
 - Cycle and pedestrian connectivity and PROW
 - Construction Traffic Management Plan
- 9.41. The recommended conditions for cycle parking and a Construction Traffic Management Plan are standard requirements for this type of development.
- 9.42. The applicant responded following the Local Highway Authority comments and those made by the Bicester Bike User Group. They do not consider that the suggested conversion of the adjoining roundabout to a Dutch style roundabout would be commensurate with the nature and scale of the development. They acknowledged the justification for improvements to the footway, in the form of widening it to a minimum width of 2m (along the stretch immediately adjoining the vehicular egress from the site frontage) and a drawing was submitted to show this. The applicant has suggested the most efficient means of securing these works would be via a financial contribution secured through a Section 106 agreement.
- 9.43. Planning officers agree that given the scale of the proposal, works to convert the Launton Road roundabout to a Dutch style roundabout could not be justified and would not be CIL Reg 122 compliant.
- 9.44. With regards to the footpath widening proposal, the Local Highway Authority has confirmed that the works are necessary to make the development acceptable in planning terms and the details set out in drawing number 4364-SK-05 are acceptable. Therefore, the requirement for the applicant to enter into a Section 278 agreement with the Local Highway Authority and Section 106 agreement to secure the required financial contribution is set out in the recommendation.
- 9.45. The applicant has disputed the request to provide a link to the Public Right of Way (PROW). They do not feel it is justified as they feel the footfall is likely to be limited from this route. They also advise that the link would not be desirable because the works to create the link, and the associated footfall and activity would be in an area that is better preserved to enhance biodiversity of the site.

- 9.46. . In response the Local Highway Officer commented that ‘Given the lack of recorded PRoW across the site and the alternative provision on the footway with the nearby footpaths 272/17 and 272/15, I tend to agree about the need to preserve and protect as much undisturbed area as possible. I don’t think we can insist on this and justify it at appeal as there isn’t a significant need that can’t be met in other ways. I would however suggest to the District Council/Applicant to consider, if a walked ‘desire line’ emerges (and the application is approved and the site is occupied), the site owner will commit to work with OCC to formalise that access route in the form of a footpath creation agreement’.
- 9.47. Given the latest comments provided, it is considered that the initially suggested PROW link cannot be insisted upon and therefore the condition will be included but amended to exclude the reference the PROW. A planning note will be included regarding the future potential for a formal link should a clear desire line emerge once the development is occupied.

Flood Risk and Drainage

- 9.48. Section 14 of the NPPF covers the issue of meeting the challenge of climate change, flooding and coastal change. Paragraph 167 of which 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. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:
- a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;
 - b) the development is appropriately flood resistant and resilient;
 - c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
 - d) any residual risk can be safely managed; and
 - e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.
- 9.49. Paragraph 169 of the NPPF continues by stating 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.
- 9.50. Policy ESD 7 of the CLP 2015 highlights that all development will be required to use sustainable drainage systems (SuDS) for the management of surface water run-off.
- 9.51. The application site is mainly located within Flood Zone 3 with small parts of the site located in Flood Zones 1 and 2. The flood zones are defined as follows:

Flood zone 1

Land assessed as having a less than 1 in 1,000 annual probability of river or sea flooding (<0.1%).

Flood zone 2

Land assessed as having between a 1 in 100 and 1 in 1,000 annual probability of river flooding (1% - 0.1%), or between a 1 in 200 and 1 in 1,000 annual probability of sea flooding (0.5% - 0.1%) in any year.

Flood zone 3

Land assessed as having a 1 in 100 or greater annual probability of river flooding (>1%), or a 1 in 200 or greater annual probability of flooding from the sea (>0.5%) in any year.

Flood zone 3b

Land having the potential to flood for storm events up to the 1 in 20 year return period (>5% annual probability of flooding occurring). It is classified as 'functional floodplain'.

9.52. The proposed development has been designed to ensure the building is located in an area of the site with the lowest risk of flooding. The application has also been submitted with a flood risk assessment and drainage strategy for the site. Following the initial comments from the Environment Agency and the Local Lead Flood Authority (OCC), the applicant has submitted additional information in response to concerns raised.

9.53. The Local Lead Flood Authority (OCC) have confirmed they are content with the additional information and proposed drainage strategy for the site. They raised no objection to the proposal subject to conditions requiring the drainage scheme to be implemented and maintained in accordance with the submitted details.

9.54. The Environment Agency are currently maintaining an objection to the proposed scheme. They have provided two detailed responses which clearly set out their concerns. The latest comments state *'These revised details have reduced the underground storage tank requirement to 36.5m³. While this is less than previously proposed, it is still substantially more than we agreed with the applicant during preapplication discussions and we are not satisfied that this method in this volume is acceptable.'*

In addition, we note that the excavation required to provide the proposed floodplain compensation area is detailed only on cross sections. Without a plan it is hard to establish whether the information shown on the sections is practical and achievable. It will be necessary for the applicant to submit a plan showing the floodplain compensation storage area and detail the ground levels required for the area, consistent with the sections'.

9.55. The applicant has provided a detailed response to the current objection including additional flood risk information and revised drawings. The letter sets out their approach and why they are confident that the Environment Agency objection can be addressed.

9.56. The Environment Agency has been re-consulted on the additional information and members will be provided with an update.

9.57. Considering the issues set out in the current objection and the available land within the application site, it is considered that there is a realistic possibility that the Environment Agency will withdraw their objection and an acceptable proposal can be agreed.

- 9.58. Subject to the Environment Agency withdrawing their objection, the proposal is considered to be acceptable with regards to drainage and flood risk and would be in accordance with government guidance contained within the National Planning Policy Framework and Policy ESD 7 of the Cherwell Local Plan 2015.

Ecology Impact

- 9.59. Paragraph 174 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.
- 9.60. Paragraph 180 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.
- 9.61. Paragraph 185 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.
- 9.62. Policy ESD10 of the Cherwell Local Plan 2011-2031 lists measures to ensure the protection and enhancement of biodiversity and the natural environment, including a requirement for relevant habitat and species surveys and associated reports to accompany planning applications which may affect a site, habitat or species of known ecological value.
- 9.63. 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.
- 9.64. 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.
- 9.65. 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.
- 9.66. Natural England's Standing Advice states that an LPA only needs to ask an applicant to carry out a survey if it's likely that protected species are:

- present on or near the proposed site, such as protected bats at a proposed barn conversion affected by the development

It also states that LPA's can also ask for:

- a scoping survey to be carried out (often called an 'extended phase 1 survey'), which is useful for assessing whether a species-specific survey is needed, in cases where it's not clear which species is present, if at all
- an extra survey to be done, as a condition of the planning permission for outline plans or multi-phased developments, to make sure protected species aren't affected at each stage (this is known as a 'condition survey')

9.67. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site is close to a stream and there are a number of mature trees and hedgerows within and adjacent the site, and therefore has the potential to be suitable habitat for bats, breeding birds, badgers, reptiles, great crested newts, water voles and invertebrates.

9.68. In order for the local planning authority 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 local planning authority should then consider whether Natural England 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.

9.69. In respect of planning applications and the Council discharging of its legal duties, case law has shown that if it is clear/ very likely that Natural England will not grant a licence then the Council should refuse planning permission; if it is likely or unclear whether Natural England will grant the licence then the Council may grant planning permission.

9.70. The application was supported by a protected species survey and supporting ecological information. Following initial comments from the Council's Ecologist, additional information including a revised biodiversity assessment and a revised Biodiversity Metric calculator were submitted.

9.71. Officers are satisfied, on the basis of the advice from the Council's Ecologist and the absence of any objection from Natural England, and subject to conditions, that the welfare of any European Protected Species found to be present at the site and surrounding land will continue and be safeguarded 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.

9.72. With regards to biodiversity net gain (BNG), the revised Biodiversity Metric 2.0 now demonstrates a biodiversity net gain of approximately 18% can be achieved on the site and this exceeds the Council's corporate target of 10% as set out in the 2020-2022 Community Nature Plan. Conditions including a Landscape and Ecological Management Plan (LEMP) have been recommended to ensure the BNG is achieved and managed on the site.

Energy Efficiency and sustainable construction

9.73. Section 14 of the NPPF covers the issue of meeting the challenge of climate change, flooding and coastal change. Paragraph 154 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 155 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.

- 9.74. Policies ESD 1-5 of the Cherwell Local Plan 2015 cover a range of climate change topics including: mitigating and adapting to climate change, energy hierarchy and allowable solutions, sustainable construction, decentralised energy systems and renewable energy.
- 9.75. Policy ESD 1 of the Cherwell Local Plan 2015 states 'Measure will be taken to mitigate the impact of development within the District on climate change'. It advises that strategically this means locating growth in the most sustainable locations, delivering developments that reduce the need to travel and include active travel option, designing development to reduce carbon emissions (in line with Policy ESD 3) and promoting the use of decentralised systems or renewable energy (Policies ESD 4 and 5).
- 9.76. The application site is located within a strategic allocation in the Local Plan which is identified as a sustainable location for employment generating development. The site is on the edge of a large town within the district and can be accessed via active travel modes (pedestrian, cycle and bus links exist close to the site). While it is acknowledged that a 'drive-thru' by definition is aimed at motor vehicle users, it is anticipated that many of the customers will make a stop as part of a 'shared' journey en-route to another destination rather than just to visit the development.
- 9.77. With regards to sustainable construction and energy efficiency during operation, the applicant has confirmed that the building 'is designed to use less energy and manage demand during operation through fabric and servicing improvement and the incorporation of flexibility measures. This also includes using highly efficient LED lighting and high efficiency heat recovery for ventilation systems'. Furthermore, the heating and cooling of the building will be provided by air source heat pumps and it is proposed to install approximately 100m² of photovoltaic panels on the roof of the building.
- 9.78. The proposed building is small in scale with a gross external area of only 187.8m² however, the applicant is proposing energy efficiency measures include PV panels to ensure the building is sustainable.
- 9.79. Subject to the imposition of suitable conditions requiring the submission and approval of an energy statement, planning officers are satisfied that the proposed development will achieve sustainability through construction, be energy efficient and utilise renewable energy in accordance with the requirements of Policy ESD 1-5 of the Cherwell Local Plan 2015.

Environmental Impacts

- 9.80. A Phase 1, non-invasive, desk study has been submitted which comprised of a site walkover, an Environmental Disclosure Report and a Historical Map search. A site

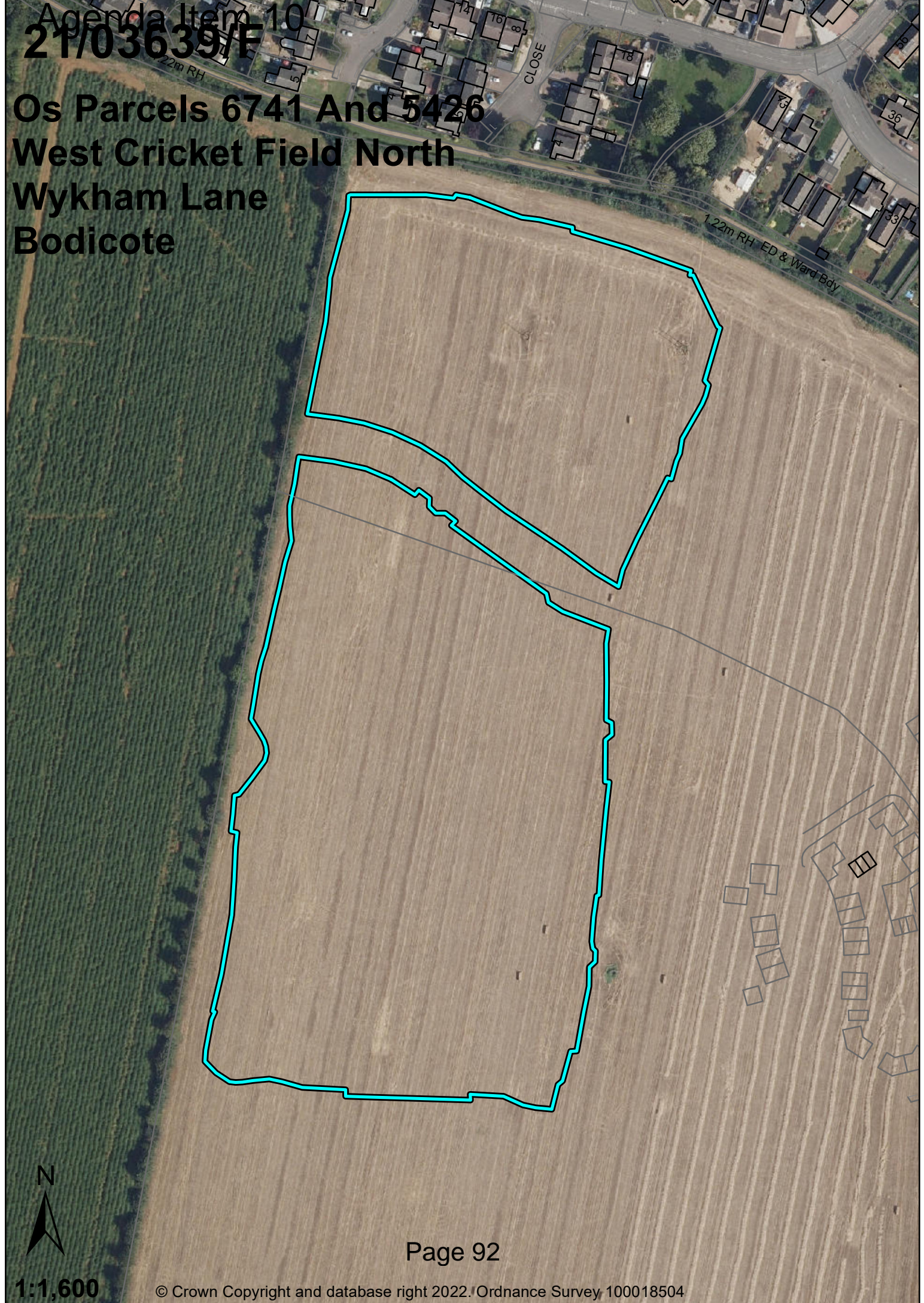
investigation report has also been submitted. The reports conclude the site is suitable for the proposed development set out in the application and set out required mitigation.

- 9.81. With regards to potentially contaminated land, the Council's Environmental Protection Officer had advised that both reports have been considered and no further comments or observations are made.
- 9.82. Conditions have been recommended to ensure the development is carried out in accordance with the details in the report and a condition is included to deal with any unexpected contamination, if found during the construction works.

10. PLANNING BALANCE AND CONCLUSION

- 10.1. Achieving sustainable development comprises of three objectives; an economic objective, a social objective and an environmental objective. The objectives need to be balanced to ensure they can be pursued in a mutual supportive way.
- 10.2. The application proposes the provision of a small coffee shop/drive-thru facility development that would support the local economy and create additional jobs, providing an economic benefit thereby meeting the economic objective. It is anticipated that the development would create a well-designed and safe place for employees and customers. It would offer a facility on this side of town for local people to meet socially and some additional offering for workers in the local area, thereby meeting the social objective. The building can be designed to ensure they meet the required energy efficiency standard, and the proposal would respect the natural environmental context of the site, providing mitigation and enhancement where required thereby meeting the environmental objective. Therefore, the development is considered to constitute 'sustainable development'.
- 10.3. Whilst it is acknowledged that the proposed use doesn't entirely match the uses set out in Policy Bicester 11 of the Cherwell Local Plan 2015, it does provide an appropriate employment generating use on the site. Furthermore, due to the extent of development that has already occurred within the allocation, this limited variation would not undermine the Plan's strategic requirement for employment sites.
- 10.4. As set out in the assessment above, the proposal would not cause harm to residential amenity, highway safety (subject to infrastructure works and financial contribution), visual amenity, ecology or contaminated land.
- 10.5. The proposal is therefore considered to comply with relevant policies of the Development Plan set out in the report and the National Planning Policy Framework, and permission should be granted.

**Os Parcels 6741 And 5426
West Cricket Field North
Wykham Lane
Bodicote**



1.22m RH

CLOSE

1.22m RH ED & Ward Bdy

21/03639/F

**Os Parcels 6741 And 5426
West Cricket Field North
Wykham Lane
Bodicote**



1:1,500

21/03639/F

Os Parcels 6741 And 5426
West Cricket Field North
Wykham Lane
Bodicote



1:2,000

Case Officer: Linda Griffiths

Applicant: Miss Olivia Morris - Agent

Proposal: Replan of the western part of the residential development permitted through Reserved Matters application 19/00895/REM for the delivery of 107 dwellings

Ward: Adderbury, Bloxham and Bodicote

Councillors: Councillor Bishop, Councillor Hingley, and Councillor Nell

Reason for Referral: Major development

Expiry Date: 3 February 2022

Committee Date: 19 May 2022

SUMMARY OF RECOMMENDATION: DELEGATE POWERS TO GRANT PERMISSION SUBJECT TO CONDITIONS AND A S106 LEGAL AGREEMENT

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site is located to the south of the existing built-up area of Banbury and within the Parish of Bodicote. The site is bounded by established hedgerows and to its northern boundary by Salt Way, a historic trade route that is also a public right of way. A public footpath also runs north to south through the centre of the site from Salt Way onto Wykham Lane.
- 1.2. The application site is part of a wider area that was allocated for development under Banbury Policy 17 of the adopted Cherwell Local Plan. Outline planning consent for this part of that allocation was subsequently granted in 2016 (15/01326/OUT refers) and reserved matters consent for 280 dwellings in July 2020 (19/00895/REM refers). The application site, which is relatively flat, relates to the western part of that consent. All pre-commencement conditions relating to the original outline and reserved matters consents have been discharged and the development has commenced on site with numerous dwellings now occupied.

2. CONSTRAINTS

- 2.1. The application site has several public rights of way which pass through the main development site, Salt Way to the north is a District Wildlife Site and the development site is a minor aquifer.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The proposals seek a re-plan of the western part of the residential development permitted through reserved matters application 18/00895/REM for the delivery of 107 dwellings, that is an additional 23 dwellings from the 84 already consented for this part of the site under the above-mentioned reserved matters approval. The increased number of dwellings has resulted in fewer larger detached properties and a greater number of smaller units. The dwellings will be constructed in a mix of red/cream bricks, natural ironstone and white render, to fit in with the materials already approved for the remainder of the development.

- 3.2. *Timescales for Delivery:* The application site is part of an existing site with full planning consent where construction has already begun, and several dwellings are now sold and occupied. The proposed additional dwellings will be constructed alongside the remainder of the development.

4. RELEVANT PLANNING HISTORY

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

15/01326/OUT – Outline planning permission granted on appeal against non-determination for up to 280 dwellings, structural planting, landscaping, open space, children’s play areas, surface water flood mitigation and attenuation and new vehicular access from White Post Road

19/00895/REM – Reserved Matters granted relating to the above outline for 280 dwellings and a 34-space car park to serve Bishop Loveday School.

5. PRE-APPLICATION DISCUSSIONS

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

21/02027/PREAPP – Replan of 304 dwellings

Response: The proposed increase in number of dwellings is not unacceptable in principle. In terms of the revised layout, it should be consistent with the original approval in terms of the provision of open space, landscaping and the proximity to the western boundary hedge line as too must the set-back be from Salt Way. Concerns raised in respect of house types and design and poor vistas across, to and from the open space. The comments of Thames Valley Police in terms of crime prevention should be addressed. The proposed increase in building heights must be justified.

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 **2 December 2021**. There were 2 objections, no submissions of support and no comments received.

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

- No particular comments in respect of design, but ratio of affordable housing is not clear. Can we be assured, please, that the Committee approved percentage has been maintained;
- This is a development into a rural area and the range of materials being used is not sympathetic to the rural setting, in particular the red brick and plain tile are visually unappealing and not fitting with the local environment. Object to number of red brick/plain tile dwellings, there should be more stone and slate;
- The number of trees being planted is low and should be increased.

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

7. RESPONSE TO CONSULTATION

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

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

- 7.2. BODICOTE PARISH COUNCIL: **No comments received.**

CONSULTEES

- 7.3. OCC HIGHWAYS: **No objections** subject to a linking agreement to the outline 15/01326/OUT regarding any uplift in payments for the additional dwellings and standard condition in respect of an updated travel plan.

- 7.4. OCC DRAINAGE: **Objection** – expect to see more SuDS being utilised in the proposal and where infiltration has been proposed, report of infiltration testing in accordance with BRE365 must be submitted.

Update 27.04.22: The Cv values have been corrected and the latest drainage document explains the drainage strategy. The project is now in line with LLFA's requirements.

- 7.5. OCC EDUCATION: **No objection** subject to a linking agreement to the original obligation and additional uplift for the additional dwellings.

- 7.6. OXFORDSHIRE FIRE SERVICE: **Comments** - It is taken that these works will be subject to a Building Regulations application and subsequent statutory consultation with the fire service to ensure compliance with the functional requirements of the Building Regulations 2010.

- 7.7. ARBORICULTURE: **Comments** - The landscape proposals are acceptable as far as the trees are concerned, however, there doesn't appear to be any plans showing the proposed tree planting in the open spaces, including their size and there is no reference to existing trees on site, an arboricultural report has not been submitted.

Further comments received on 30.11.2021 advises that there needs to be a greater number of tree species chosen for the proposed highway verges. Currently there are only 4 types, and they should be interspersed rather than in blocks of the same species.

Additional comments 19/01/2022 state that the comments of the landscape officer are agreed in terms of root barriers and heavy use of Betula and Magnolia; would like to see planting pit designs.

Update: 1.3.22 – following amended submission, no further comments.

- 7.8. ECOLOGY: **No comments received.**

- 7.9. LANDSCAPE OFFICER: **Objection** – Ligustrum hedges are not suitable; Griselinia is not fully frost hardy; there are still a large number of Betula; all trees within 5m of the path or road need root barriers; no planting instructions or specification; need to confirm that all trees will have watering pipes.

Update: 11.3.22 – None of the comments made in January on the planning applications have been addressed. All they seem to have done is add a revision note.

7.10. RECREATION AND LEISURE: **Comments** received – additional contributions towards community facility; off-site sports; on-site sports maintenance costs will be required.

7.11. STRATEGIC HOUSING: **Objection** - the proposed number of affordable dwellings and tenure split is compliant with Policy BSC3 and the section 106 requirements and the parking arrangements shown on the site plan are acceptable as are the layout/clustering arrangements. However, the properties do not currently meet the Nationally Described Space Standards and 50% of rented units must meet the requirements of M4(2) Category 2: Accessible and Adaptable Dwellings. The Affordable Rent, if possible, should be delivered as Social Rented as affordable rent at 80% of market rent would be unaffordable for the majority of households on the Council's housing register. All affordable units should deliver high/standards rates of energy efficiency.

Update 18.02.2022 – the revised plans show that Type T50 dwellings have now been amended to comply with NDSS. However, type SH52 are still below NDSS and there is no acknowledgement or demonstration that 50% of the rented dwellings will meet M4(2) requirements. We are therefore **unable to support** this proposal until these matters have been rectified.

Further Update 9.3.22 – the Strategic Housing Team are appreciative that these dwellings are now 3-bed 5-person dwellings. The dimensions shown on the revised plans meet NDSS requirements for 3-bed 5-person houses and can confirm that these dwellings will now be effective in meeting identified housing needs.

7.12. THAMES VALLEY POLICE: **No objection** - but suggest relocation of the vehicle gate between plots 179/180 in line with the front of the secure building line to remove/secure recessed area between buildings.

7.13. THAMES WATER: has been unable to determine the foul water infrastructure needs of the application and has contacted the developer accordingly. In the absence of such information conditions are recommended to be attached to any permission. In terms of surface water drainage – no objection, if the developer follows the sequential approach. In terms of water infrastructure, a condition is also recommended regarding the provision of such infrastructure prior to occupation. There are water mains crossing or close and Thames Water do not permit the building over or construction within 3m of water mains.

Update: No further correspondence has been received and therefore the requested conditions are recommended to be attached to the planning permission.

7.14. WASTE AND RECYCLING: **No comments received.**

7.15. SALT WAY ACTIVITY 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 several 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)

- ESD15 – The Character of the Built and Historic Environment
- BSC3 – Affordable housing
- BSC4 – Housing Mix
- BSC10 – Open space, outdoor sport and recreation provision
- BSC11 – Outdoor Sport
- ESD3 – Sustainable construction
- ESD5 – Renewable energy
- ESD6 – Sustainable flood risk management
- ESD7 – SuDS
- ESD10 – Biodiversity and the natural environment
- Policy Banbury 17 – South of Salt Way – east
- INF1 – Infrastructure provision

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

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

8.3. Other Material Planning Considerations:

- National Planning Policy Framework (NPPF) 2021
- Planning Practice Guidance (PPG)
- National design Guidance 2019
- CDC Residential Design Guide SPD 2018
- CDC Planning Obligations SPD 2018

9. APPRAISAL

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

- Principle of development
- Design Principles and Layout
- House types
- Affordable housing and housing mix
- Highways
- Drainage
- Landscaping
- Biodiversity
- Sustainability
- Planning Obligation
- Environmental Impact Assessment

Principle of Development

- 9.2. The site forms part of a larger allocated site in the adopted Cherwell Local Plan 2015 under Policy Banbury 17. Policy Banbury 17 brings forward greenfield land to the southwest of Banbury as a strategic urban extension for up to 1345 dwellings and associated infrastructure. The whole site is in more than one ownership and is currently being brought forward by a number of developers; Morris Homes (145 dwellings – complete); L&Q Estates (up to 1,000 dwellings with outline consent); and David Wilson/Barratt (280 dwellings – construction is underway) giving a total currently of 1,425 dwellings.
- 9.3. Policy Banbury 17 sets out the requirements for the site, including the number of dwellings and number of affordable units at 30% of the total number.
- 9.4. Reserved matters consent for this part of Banbury 17 was granted in July 2020 for 280 dwellings in accordance with the outline consent. The principle of residential development is therefore established.

Five Year Housing Land Supply

- 9.5. In Cherwell District, a five-year housing land supply does not presently exist. The Council's latest Annual Monitoring Report, (AMR 2021), prepared in accordance with NPPF guidance identifies only a 3.5-year housing land supply for the period 2022-2027 (commencing on 1 April 2022). As the Council cannot demonstrate a five-year housing land supply, in accordance with the NPPF, any assessment of the residential proposals will need to apply the 'tilted balance'. The 'tilted balance' states that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

Quantum of Development

- 9.6. The Banbury 17 allocation envisages a development of up to 1,345 dwellings with associated facilities and infrastructure. The current permitted total (1,425) already exceeds the number envisaged by the allocation by about 6%. The additional dwellings proposed here would result in an additional total of 103 dwellings across the site as a whole (i.e., +7.7%). The increase in units proposed is therefore not strictly in accordance with Policy Banbury 17 in this respect. However, the merits of providing additional homes (including affordable homes) on this site would assist in delivering new homes and meeting the overall Policy BSC1 housing requirements to 2031, which is a material consideration to which substantial weight should be attributed.
- 9.7. Policy BSC4 of the adopted CLP 2015 requires a mix of housing to be provided on new development sites in accordance with the percentages set out in the policy and taking account of local market conditions. It is noted that the provision of additional units as proposed to provide a greater number of smaller units is in accordance with that policy.

Conclusion

- 9.8. Having regard to the above and the Council's position in terms of a five-year housing land supply, the proposed re-plan to allow an additional uplift of 23 dwellings (including 7 affordable) across the site as a whole will not result in any significant or demonstrable harm and is therefore in principle considered acceptable.

Design Principles and Layout

- 9.9. Policy Banbury 17 sets out a number of site-specific design and place shaping principles relating to the development of the site. One of these is that the development

should comply with Policy ESD15. The NPPF emphasises the need for good design and local distinctiveness, and this is further emphasised by Policy ESD15 which advises that new development should build on the character of Cherwell. It also advises that design standards for new development, whether housing or commercial development are equally important and seeks to provide a framework for considering the quality of the built environment, to ensure we achieve locally distinctive design which reflects and respects the urban or rural context within which it sits. The CLP 1996 contains saved Policy C28, which states that *'control will be exercised over all new development to ensure the standard of layout, design and external appearance, including choice of materials are sympathetic to the character of the urban or rural context of the development'*. Saved Policy C30 states 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 and (iii) that new housing development or any proposal for the extension (in cases where planning permission is required) or conversion of an existing dwelling provides standards of amenity and privacy acceptable to the Local Planning Authority'*. These are all relevant to the proposals considered here.

- 9.10. The Cherwell Residential Design Guide SPD 2018 seeks to ensure that the quality of design across the district is raised, ensuring a legacy of successful places for future generations to enjoy. Regrettably, the submission makes no reference to the Design Guide and therefore how the scheme has been designed having regard to its requirements and advice. It is however considered that the Design Guide is a material consideration, and the proposal should therefore accord with the requirements and advice of the Design Guide and this submission has therefore been assessed against it accordingly.
- 9.11. 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.
- 9.12. A well-designed layout will incorporate good design practice and standards. Urban form is also an important element in defining the character of a place. Design is not only about the physical appearance of a development but how it works, functions and fits together, ensuring a quality of life for those who live there.
- 9.13. The application is accompanied by a Design and Access Statement (DAS) which seeks to set out the design rationale behind the proposals. Policy ESD15 also 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 design principles that have informed the proposals and then demonstrated in the DAS.
- 9.14. In terms of creating a sense of place, providing an attractive street scene and a safe refuge for pedestrians and cyclists away from a busy road is vital. In terms of the main spine road, the outline consent required a 3m-wide footpath/cycleway down one side of the spine road. This was provided through the reserved matters consent and discharge of conditions through the outline consent, together with a 4m tree-lined verge along the same side and dwellings set back from the pavement edge. This requirement is carried through in this application submission.
- 9.15. Good urban design requires house types that will effectively turn corners and define and enclose spaces, linking buildings into terraces that define a street form or focal point within the development thereby providing contrasts and interest within the layout. The proposed layout has sought to ensure that dwellings on prominent corners have been designed to appropriately turn the corner, or to address the corner by attaching two dwellings together. Vistas are also addressed, terminating them with a building front rather than a garage or an area of parking.

- 9.16. The Design and Access Statement submitted with the previous reserved matters sought to divide the development into a number of character areas. The character of streets is fundamental to the character of a place. It is important to be able to differentiate between character areas as one moves through the development, aiding legibility. There was considerable discussion during the consideration of the previous reserved matters around the proposed character areas, and whilst considerable improvement was made at that time, it was considered that the character areas defined remained disappointing and failed to provide any real distinctions between the character areas and different parts of the site. This new submission follows the previous approach, which comprises four main character areas, these being: Main Street, Neighbourhood, Park Edge and Saltway Edge. All character areas are relevant to this proposal.
- 9.17. The Main Street character area is located along the central spine road. This provides a well-defined frontage as one travels through the site. These are mostly terraced plots fronting the tree-lined street, with a consistent building line and small front gardens. Parking is hidden from the main street in small rear parking courts or from adjacent side roads. The walling main material proposed along the spine road is natural ironstone.
- 9.18. The Neighbourhood character area is centrally located and provides a transition between the spine road and the Park Edge. Here the streets are narrower with shared surfaces. Architecturally, dwellings are predominantly cottage style. This area also accommodates a secondary street which leads to the sports pitches and pavilion at the southern end. Here some of the more formal main street characteristics have been carried through to create a transition. Materials here are predominantly red brick with some render.
- 9.19. The Park Edge character area is located along the outer edge of the development and is designed to be looser knit with larger detached plots, narrower roads and private drives, more organic in form and a varying roofscape which address the open spaces along the outer edge of the development. The architectural character here draws on inspiration from the traditional vernacular of Bodicote. Materials here are predominantly red brick with some natural ironstone.
- 9.20. The Saltway Edge character area is situated along the northern edge of the site. Here the development proposes dwellings set back from Salt Way of simple design to reflect local traditional vernacular. Materials indicate a mix of red brick and natural ironstone.
- 9.21. The submission seeks to build on the previously approved scheme with access taken from the previously consented spine road. The development includes a mix of detached, semi-detached and terraced houses offering 2, 3 and 4-bedroom homes. One of the key aspects of the outline consent was the imposition of a condition restricting the maximum height of any dwelling within the development to 8.5m. This was not the case for the remainder of the Banbury 17 allocation, where there is a much greater variation in roof height across the site. This application submission has therefore sought to introduce several 2.5-storey dwellings. It is considered that this will introduce a greater variation in ridge lines and therefore visual interest within the development and will not significantly increase the landscape impact of the development and is therefore deemed acceptable.
- 9.22. A materials plan has been submitted with this application. The layout indicates a total of 35 dwellings which equates to 33% of the total within this re-plan area to be constructed in natural ironstone which is welcomed and accords with the Council's adopted Residential Design Guide SPD 2018, which requires a minimum of 30% on sites such as this. Other materials proposed are red/orange and buff bricks and some

render. The roof materials proposed do not match those already approved on the remainder of the development and it is considered that consistency of materials is important. Further, the use of duo slates is contrary to the Residential Design Guide SPD 2018. An updated materials plan has been requested but has not yet been received, so a condition will be included accordingly, which seeks the approval of alternative roofing materials.

- 9.23. To ensure reasonable standards of amenity are provided for the occupiers of each dwelling, the District Council uses a number of criteria to ensure minimum back-to-back relationships of 22m, minimum of 14m between the rear elevation of one property and any two-storey side gable of another and a reasonable area of usable private amenity space which is not overshadowed and almost entirely enclosed by buildings, such as garages, as far as possible across all new developments.
- 9.24. These layout criteria have in the main been respected through this submission. In terms of the proposed layout, comments raised during the pre-application discussions have largely been addressed and it is now considered acceptable.
- 9.25. Having regard to the above, it is considered that the submission is acceptable in layout and design terms and in the interests of ensuring the delivery housing on this strategic site and having carefully considered the relevant policy guidance and Government advice, recommended that it is approved accordingly.

Ecology Impact

- 9.26. Paragraph 174 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.
- 9.27. Paragraph 180 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.
- 9.28. Paragraph 185 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.
- 9.29. 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.
- 9.30. Policy ESD11 is concerned with Conservation Target Areas (CTAs). It 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.

- 9.31. These policies are both supported by national policy in the NPPF and also, under Regulation 43 of Conservation of Habitats and Species Regulations 2017, it is a criminal offence to damage or destroy a breeding site or resting place, unless a licence is in place.
- 9.32. 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.
- 9.33. Natural England's Standing Advice states that an LPA only needs to ask an applicant to carry out a survey if it's likely that protected species are:
- present on or near the proposed site, such as protected bats at a proposed barn conversion affected by the development
- It also states that LPA's can also ask for:
- a scoping survey to be carried out (often called an 'extended phase 1 survey'), which is useful for assessing whether a species-specific survey is needed, in cases where it's not clear which species is present, if at all
 - an extra survey to be done, as a condition of the planning permission for outline plans or multi-phased developments, to make sure protected species aren't affected at each stage (this is known as a 'condition survey')
- 9.34. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the Saltway, a District Wildlife site sits immediately along the northern boundary of the site.
- 9.35. The application is supported by an Ecological Appraisal which provides details of a Desk Study and Extended Phase 1 Habitat Survey carried out in September 2021 prior to the submission of the application. The Appraisal concludes that aside from the hedgerows adjacent to the application site, which are to be retained, the site itself supports habitats of limited ecological value. The Salt Way is a non-designated heritage asset. The outline consent requires a 20m buffer is retained to the Salt Way boundary and this is also maintained through this submission.
- 9.36. The original outline consent for the whole site (15/01326/OUT) sought ecological enhancements across the whole site. Whilst this is a new stand-alone application, it does form part of that larger development site where net gain was sought. This parcel excludes the boundary hedgerows which are to be retained by the whole development. It is considered therefore that the red line site here had very little in ecological value being previously agricultural land and now part of a building site.
- 9.37. Policy ESD15 of the adopted Cherwell Local Plan advises that new development should integrate and enhance green infrastructure and incorporate biodiversity enhancement features where possible in accordance with Policies ESD10 and ESD17. Well-designed landscape schemes should be an integral part of the development proposals to support improvements to biodiversity, the micro-climate and air pollution and provide attractive places that improve people's mental health and sense of vitality. Disappointingly, notwithstanding the comments above, it is considered that the submission does not adequately address biodiversity net gain and ecological enhancements in respect of this particular parcel. Therefore, conditions are recommended to be included in the permission.

- 9.38. Officers are satisfied, on the basis of the above, and subject to conditions, that the welfare of any European Protected Species found to be present at the site and surrounding land will continue and be safeguarded notwithstanding the proposed development and that the Council's statutory obligations in relation to protected species and habitats under the Conservation of Habitats and Species Regulations 2017, have been met and discharged.

House Types

- 9.39. Traditional Cherwell vernacular tends to be simple flat fronted dwellings, avoiding projecting gables, deep or square plan forms, hipped or pyramidal roofs, exposed wide gables and narrow fronted detached houses. In general and where proposed, apartment buildings should also be designed to be indistinguishable from the individual houses adjacent and within the development. The traditional arrangement of windows and doors varies from building to building but as a general rule of thumb, they should follow the same rules. Window openings should normally diminish in height as the building rises, so ground floor windows should be taller/larger than the first or second floor windows, the arrangement of windows should consider the balance and proportion of the overall street façade and horizontal strips of windows should always be avoided. Windows make a fundamental contribution to the character and appearance of buildings, and their design, choice of material, arrangement and proportions are fundamental in establishing the character of a building and place.
- 9.40. In respect of this submission the majority of house types are considered appropriate, being very similar to those already approved on the remainder of the development. A number of concerns were raised regarding the Kingsville and Alderney house types as well as some roof and eaves details. Amended plans have been received and the submission is now considered on balance to be acceptable in terms of the proposed house types, which are similar to those already approved on the remainder of this development.

Affordable Housing and Housing Mix

- 9.41. The outline planning permission provides for up to 280 dwellings on the site. No details of housing mix were provided at outline stage. It is important to have consideration of the mix of housing in considering urban design as well as responding to identified local housing needs. Policy BSC4 of the adopted CLP 2015 seeks to encourage a mix of housing on all new developments that meets the need of the district as identified by the results of the SHMA 2014. This advises that there is a greater need for 3-bedroom properties in Cherwell and the suggested mix is shown on Table 67 of the Local Plan. Consideration of and compliance with Policy BSC4 is relevant in this respect. This amended scheme which seeks to provide an increased number of dwellings, has resulted in fewer larger detached properties and a greater number of smaller units, which is welcomed.
- 9.42. Policies BSC3 and Banbury 17 require the provision of 30% affordable housing. The outline planning permission was accompanied by a Unilateral Undertaking securing the provision of 30% affordable housing which equated to 84 dwellings, with 59 rented and 25 low-cost home ownership dwellings. The original outline consent was issued prior to the Nationally Described Space Standards being adopted and consequently, the affordable housing provision approved to date on this site do not comply and are smaller than we now require. The applicant at the time of considering the reserved matters application declined to provide the affordable housing to NDSS.
- 9.43. Aster Housing Group are the Registered Provider for this scheme and have submitted a schedule of delivery for the 84 affordable units, which will be delivered by David Wilson Homes (DWH) and Barratt Homes by October 2023. Members of the Housing Team have recently liaised with DWH and have negotiated some improvements such

as level access thresholds and the installation of showers instead of baths to assist customers with limited mobility. Whilst none of the dwellings will meet any of Part M4 (2) requirements for accessibility and adaptability, these improvements will assist customers to some degree.

- 9.44. This proposal is for the re-working of the western edge of the site to include additional dwellings, although the already approved affordable units are excluded, which is regrettable as these do not comply with NDSS. The additional proposed 23 dwellings will generate a requirement for the provision of further affordable housing, as a consequence, a further 7 affordable units are proposed. It is considered that the required standards must be achieved in respect of the additional units in order to fully meet the needs of households on the Council's housing register.
- 9.45. The original scheme submitted did not comply and the applicant was requested to amend the affordable housing provision accordingly. Following discussions with the applicant and agent, a revised submission was received in March 2022, which has been assessed by Strategic Housing who have confirmed that the submission is now acceptable in this respect.
- 9.46. Affordable housing should be indistinguishable from market housing in terms of external design and integrated throughout the site. In terms of the number of additional affordable units proposed and the tenure split, it is compliant with Policy BSC3, and the parking arrangements shown are acceptable as are the layout/clustering arrangements. As above, the submission requires amendment to achieve the Nationally Described Space Standard and meet the requirements of M4(2) Category 2: Accessible and Adaptable Dwellings. All affordable housing units are also now required to deliver high standards/rates of energy efficiency to ensure that household fuel and water bills are affordable.
- 9.47. Following the receipt of amended plans, the revised plans show that type T50 dwellings have been amended and now comply with NDSS. However, Type SH52 remained below NDSS and there was no acknowledgement or demonstration that 50% of the rented dwellings would meet M4(2) requirements. The applicant's agent was advised that this must be rectified if the submission was to be considered acceptable. Further amended plans have now been received and assessed by Strategic Housing, who advise that the submission is now effective in meeting identified housing needs.

Highways

- 9.48. The submission has been assessed by OCC as Local Highway Authority who raise no objections. The access arrangements to the site are not deemed to change, nor does the application propose to alter the road layout from the plans already approved.
- 9.49. OCC consider that the development proposed would not give rise to a significant traffic generation in isolation but may cumulatively (with the wider scheme) have some modest impact. The transport Statement accompanying the application shows in Table 5.5 that the proposals would create an additional 2% impact at the White Post Road access, taking the RFC from 0.745 to 0.759 in the PM peak.
- 9.50. However, OCC consider that such an impact is not significant enough to warrant an objection but rather an appropriate mitigation shall be required to address the seemingly meagre but cumulative impact on the network. It is thus considered appropriate to uplift the contributions that were secured as part of the S106 Agreement of the outline consent.
- 9.51. An updated Travel Plan covering the full scale of the development shall need to be submitted in reflection of the uplift in dwellings.

- 9.52. Having regard to the above, the proposals and additional 23 dwellings are not considered to have any significant highway impact and is therefore considered acceptable in this respect.

Drainage

- 9.53. The original submission was assessed by OCC as Local Lead Flood Authority who raised an objection to the original submission on the grounds that as LLFA they would expect to see more SuDS utilised in the proposal and where infiltration is proposed, a report of infiltration in accordance with BRE365 must be submitted. The applicant was advised of the objection. Following further correspondence and discussions, OCC have now confirmed that the drainage proposals are acceptable.
- 9.54. Comments in respect of the submission have also been received from Thames Water who advise that from the information submitted they are unable to determine the Foul water infrastructure needs of the development and has identified an inability of the existing water network infrastructure to accommodate the needs of the development proposal. The applicant has been asked to contact Thames Water accordingly and a response is awaited. Should the issues not be resolved, conditions are recommended to be attached to any planning consent.

Landscaping

- 9.55. The submission which includes a set of landscape plans has been assessed by Landscape and Arboriculture Officers. The landscape officer advises that previous comments have largely been ignored and makes comments about the suitability of some of the proposed planting for the location. Concern has also been expressed regarding the number of Betula and lack of detail on the plans in terms of planting instructions and specifications. The applicants have been requested to re-consider the landscaping proposals having regard to these comments.
- 9.56. Following the above, revised landscaping plans were received on 8 February 2022 and has been assessed by the Landscape and Arboriculture Officers. However, the landscape officer advises that these do not fully overcome previous objections. A landscaping condition is therefore included accordingly.

Sustainability

- 9.57. This application is part of a large strategic residential allocation within the adopted CLP 2015 on the edge of the built-up area of Banbury. A new spine road will be provided through the development and the remaining allocation to provide a new link from Bloxham Road to White Post Road. This route will also be a main bus route through the development. The site is therefore in a highly sustainable location in terms of transport and access to the existing built-up area and schools etc. A local centre, including new community building and new primary school will be provided on the adjacent Banbury 17 site to serve the whole allocation.
- 9.58. In terms of energy efficiency and sustainable construction, an Energy Report and Addendum is submitted with this application. The agent advises that these have previously been approved as part of the discharge of condition 26 of the outline planning permission and are therefore applicable to this application and the same measures will be applied to the dwellings proposed under this application in order to ensure consistency with the wider site. It should be noted that the energy strategy submitted with the outline application was poor in terms of addressing Policies ESD1-5 and securing energy efficiency. At the time of discharging the above-mentioned condition, Barratt/David Wilson Homes were encouraged throughout the consideration of their submission in this respect to have regard to the increasingly important need to address climate change, particularly having regard to the District Council's Climate Change Emergency. At that time Barratt/David Wilson Homes were

reluctant to consider anything more than had already been committed through the outline submission, which was disappointing. However, as the submission to discharge the condition on the outline consent at that time accorded with the minimal requirements set out in that outline approval, the Council could not reasonably withhold consent, and the condition was therefore discharged.

- 9.59. Whilst it is acknowledged that there is an extant permission relating to this development site through the original outline and reserved matters consents, this is a new full application for a greater number of dwellings than has been permitted through the outline consent that now stands to be considered against the most up to date policies and requirements. It is therefore considered that the applicant should consider further Policies ESD1-5 and the Councils Climate Change Emergency.
- 9.60. An updated Energy Strategy was awaited at the time of writing this report.

Planning Obligation

- 9.61. In order to ensure that the development is acceptable in planning terms, a number of the impacts of the development need to be mitigated and/or controlled through covenants in a legal agreement. All section 106 requirements are subject to statutory tests and in order to be taken into account in deciding to grant planning permission they need to be: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind.
- 9.62. The original outline consent was subject to a Unilateral Undertaking signed by the landowner and developer at that time, Gladman Developments Ltd. The new section 106 required in respect of this additional development will need to be linked to the original to ensure the continued delivery of all the associated infrastructure and mitigation measures. A new legal agreement relating to this application is currently being drafted in consultation with the legal team and OCC. Accordingly, the requirements indicated below may be subject to change.
- 9.63. It is considered that the following additional items/contributions should be secured as part of the permission relating to the additional dwellings (and any amendments deemed necessary):

9.64. **CDC Obligations:**

- 30% affordable housing to NDSS and CDC requirements;
- Community facility to serve the additional units;
- Off-site sports provision to serve the additional units;
- On-site sports contribution for additional maintenance of the existing facility to be provided on site of £15,349.97 (plus indexation);
- Additional allotment facilities to serve the additional dwellings;
- Burial ground contributions to serve the additional dwellings;
- Refuse and recycling bins for the additional dwellings; and
- Monitoring Fee of £1,000.

9.65. **OCC Obligations:**

- Uplift in transport requests through the original obligation in respect of the additional units; and

- Additional education contribution of £375,000 for the expansion of BGN.
- Monitoring fee TBC

9.66. Other Obligations:

- OCCG - £19,872 to support the local primary care trust relating to the additional units.

Environmental Impact Assessment

- 9.67. The original outline permission (15/01326/OUT) was accompanied by an Environmental Impact assessment. The development proposed therefore also falls under Schedule 2, Section 13(b) of the Regulations as it is a change to, extension of, the development described by Section 10(b) of Schedule 2 and that development is authorised and in the process of being executed.
- 9.68. For the development as changed or extended to be considered an EIA development it would be likely to have significant effects on the environment by virtue of factors such as its nature, size or location. In determining whether the proposals are likely to constitute EIA development, regards has to be had to the criteria set out in Schedule 3 of the Regulations 2017.
- 9.69. Having regard to the above, it was concluded that the additional dwellings proposed is unlikely to have significant environmental effects for the purposes of EIA Regulations and therefore that this amended proposal and new application did not constitute EIA development.
- 9.70. For the full assessment, see the letter to the applicant's agent dated 1 December 2021 in the application documentation.

10. BALANCE AND CONCLUSION

- 10.1. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 requires that the three dimensions to sustainable development (economic, social and environmental) are not undertaken in isolation, but are sought jointly and simultaneously.
- 10.2. The delivery of housing is high on the Government's and District Council's agenda. Having regard to the above, this proposal which will secure additional housing provision, in particular having regard to the council's lack of a five-year housing land supply, and whilst not strictly in accordance with Policy Banbury 17 because of the increased number, is on balance considered acceptable.

11. RECOMMENDATION

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

FURTHER RECOMMENDATION: IF THE SECTION 106 AGREEMENT /UNDERTAKING IS NOT COMPLETED AND THE PERMISSION IS NOT ABLE TO

BE ISSUED, AND, NO EXTENSION OF TIME HAS BEEN AGREED BETWEEN THE PARTIES, IT IS FURTHER RECOMMENDED THAT THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT IS GIVEN DELEGATED AUTHORITY TO REFUSE THE APPLICATION FOR THE FOLLOWING REASON:

1. In the absence of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement the Local Planning Authority is not satisfied that the proposed development provides for appropriate infrastructure required as a result of the development and necessary to make the impacts of the development acceptable in planning terms, to the detriment of both existing and proposed residents and contrary to Policy INF 1 of the adopted Cherwell Local Plan 2011-2031, Government guidance within the NFFF and CDC Planning Obligations SPD 2018.

S106 HEADS OF TERMS

As set out in the table set out at Appendix 1.

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 inserted once received and agreed*]

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. Notwithstanding the landscaping proposals submitted, prior to the commencement of any development above slab level, a scheme for landscaping the site shall be submitted to and approved in writing by the local planning authority. The landscaping scheme shall include: (i) details of proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas and written specifications (including cultivation and other operations associated with plant and grass establishment, i.e depth of topsoil, mulch etc.(ii) details of the hard landscaping including hard surface areas, pavements, pedestrian areas and any steps etc. The approved scheme shall be implemented by the end of the first planting season following occupation of the development.

Reason: To ensure that a satisfactory landscape scheme is provided in the interest of well planned development and visual amenity and to accord with Policy ESD15 of the adopted Cherwell Local Plan 2011-2031 and saved Policy C28 of the adopted Cherwell Local Plan 1996 and Government guidance within the National Planning Policy Framework.

4. Prior to the commencement of any development above slab level, a material plan shall be submitted to and approved in writing by the Local Planning Authority.

Notwithstanding the materials plan submitted, all materials of construction relating to (i) all access roads, driveways, parking courts, parking areas and footpaths (ii) all dwellings, garages and other buildings and structures (iii) shall be in accordance with the use of materials already agreed under 18/00895/REM, unless otherwise agreed in writing. The development shall be carried out in accordance with the approved materials plan.

Reason: In the interests of the visual appearance of the development and to comply with Policy ESD15 of the adopted Cherwell Local Plan 2011-2031. The Council's adopted Residential Design Guide SPD 2018 and Government guidance within the National Planning Policy Framework.

5. If alternative materials to those in condition 4 above are proposed, prior to the commencement of any dwelling or garage above slab level, samples of any alternative roofing materials and sample panels (minimum size 1m²) of the alternative bricks/natural ironstone shall be constructed on site to be inspected and approved in writing by the Local Planning Authority. Thereafter, the external walls of the relevant dwellings, garages and boundary walls shall be constructed in accordance with the approved sample panels. The sample panels shall be retained on site for the duration of the construction of the development.

Reason: In the interests of the visual appearance of the development and to comply with Policy ESD15 of the adopted Cherwell Local Plan 2011-2031, the Council's adopted Residential Design Guide SPD 2018 and Government guidance within the National Planning Policy Framework.

6. No dwellings shall be constructed above slab level until details of a site-wide biodiversity enhancement strategy has been submitted to and approved in writing by the Local Planning Authority. Such details shall include the provision of habitat boxes/bricks for bats, swifts and other birds; the provision of hedgehog passages; the provision of boundary treatments to facilitate the movement of wildlife; and a timetable for the enhancements to take place. The development shall be carried out in accordance with the approved details and timetable and thereafter maintained in accordance with this condition.

Reason: To enhance biodiversity in accordance with Policy ESD10 of the adopted Cherwell Local Plan 2011-2031 and Government guidance within the National Planning Policy Framework.

7. Prior to commencing any works in respect of landscaping, final details, locations, specifications and construction methods for all purpose-built tree pits and above ground features, to include the installation of below ground, load bearing cell structured root trenches, rot barriers, irrigation systems and a stated volume of suitable growing medium to 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 development, the long-term survival of the trees, to ensure the creation of a pleasant environment, and to comply with Policy ESD15 of the adopted Cherwell Local Plan 2011-2031 and Government guidance within the National Planning Policy Framework.

8. Prior to the first occupation of any dwelling on the site, a Travel Plan. Prepared in accordance with the Department of Transport's Best Practice Guidance Note 'Using the Planning Process to Secure Travel Plans' and its subsequent amendments. shall be submitted to and approved in writing by the Local Planning Authority. The approved

Travel Plan shall thereafter be implemented and operated in accordance with the approved details.

Reason: In the interests of sustainability and to accord with Government guidance within the National Planning Policy Framework.

9. No development shall be occupied until confirmation has been provided that either:-
(i) Foul Water Capacity exists off-site to serve the development; or, (ii) A Development and Infrastructure Phasing Plan has been agreed with the Local Planning 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, (iii) All Foul water 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.

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

11. The drainage strategy for the site shall be carried out in accordance with the drainage report dated 25.03,2022 and drawing number 957-00-001 Rev A.

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

12. Prior to the commencement of any development hereby approved, an Energy Statement shall be submitted to and approved in writing by the Local Planning Authority, demonstrating how each dwelling hereby approved, will achieve a 19% reduction in carbon emissions above 2013 Building regulations and a water efficiency of not more than 110 litres/person/day. The development shall thereafter be carried out in accordance with the approved energy strategy.

Reason: In the interests of creating sustainable new development in accordance with the requirements of Policies ESD1, ESD2, ESD£, ESD4 and ESD5 of the adopted Cherwell Local Plan 2011-2031 and Government guidance within the National Planning Policy Framework.

13. That prior to the occupation of any dwelling, it shall be provided with an electric vehicle charging point.

Reason: in the interests of sustainability and reducing carbon footprints and to accord with Policy ESD3 of the adopted Cherwell Local Plan 2011-32031 and Government guidance within the National Planning Policy Framework.

14. Notwithstanding the information shown on the approved plans, all casement windows to be installed on the dwellings and garages within the development shall be side hung, balanced casements of equal proportions unless alternative details are first submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the satisfactory appearance of the completed development and to comply with Policy ESD 15 of the adopted Cherwell Local Plan 2011-2031, saved Policy C28 of the adopted Cherwell Local Plan 1996, the Council's adopted Residential Design Guide SPD 2018 and Government guidance within the National Planning Policy Framework.

15. All windows and doors to be installed within the development shall be recessed a minimum of 75mm within the window and door surrounds, unless alternative details are first submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the satisfactory appearance of the completed development and to comply with Policy ESD15 of the adopted Cherwell local Plan 2011-2031, the Council's adopted Residential Design Guide SPD 2018 and Government guidance within the National Planning Policy Framework.

16. All dwellings and garages shall be constructed using simple mortared edges to roof edges and no overhang, and clipped eaves and gutters fitted tight to the walls or brackets or sprockets, unless alternative details are first submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the satisfactory appearance of the completed development and to comply with Policy ESD15 of the adopted Cherwell Local Plan 2011-2031, the Council's adopted Residential Design Guide SPD 2018 and Government guidance within the National Planning Policy Framework.

17. 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, wall, fence or other means of enclosure shall be erected or constructed or placed between any dwelling and the highway or within the curtilages of dwellings if forward of a principal elevation without the prior express consent of the Local Planning Authority.

Reason: To retain the character and appearance of the development and in the interests of highway safety, to comply with Policy ESD15 of the adopted Cherwell Local Plan 2011-2031 and Government guidance within the National Planning policy Framework.

18. Notwithstanding the provisions of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 and its subsequent amendments the garages, car ports and drive-throughs serving parking areas shown on the approved plans shall be retained and maintained for the parking and manoeuvring of vehicles and storage of cycles at all times and shall not be converted to provide additional living accommodation without the express planning permission of the Local Planning Authority.

Reason: To ensure that satisfactory provision is made for parking and access, and the parking of safe undercover storage of cycles clear of the highway, in accordance with Government guidance within the National Planning Policy Framework.

APPENDIX 1- Heads of Terms for Section 106 Agreement/undertaking

Planning obligation			Regulation 122 Assessment
Detail	Amounts (all to be Index linked)	Trigger points	
Provision of and commuted sum for burial ground provision	Commutated sum as set out in the Developer Contribution SPD	To be delegated to officers	<p>Necessary: To meet the demands generated from the proposal and to ensure long term maintenance in accordance with Policy BSC10 and BSC11 of the CLP 2015 and advice in the Developer Contributions SPD (2018).</p> <p>Directly related: For the use of future occupiers of the development.</p> <p>Fairly and reasonably related in scale and kind: In accordance with the policy and guidance provisions adopted by the Council.</p>
Provision of additional allotment provision to serve the additional units	Provision on site. Commutated sum as set out in the Developer Contribution SPD (as updated by annual tendering).	To be delegated to officers	<p>Necessary: To meet the demands generated from the proposal and to ensure long term maintenance in accordance with Policy BSC10 and BSC11 of the CLP 2015 and advice in the Developer Contributions SPD (2018)</p> <p>Directly related: For the use of future occupiers of the development</p>

	Details of ongoing management company if no commuted sum		Fairly and reasonably related in scale and kind: In accordance with the policy and guidance provisions adopted by the Council
Off-site outdoor sports facilities capital provision – to serve the additional units On-site sports provision contribution for additional maintenance towards the existing facility to be provided on site of £15,349.97 (plus indexation)	TBC	To be delegated to officers	<p>Necessary: The proposed development will lead to an increase in demand and pressure on existing services and facilities in the locality as a direct result of population growth associated with the development in accordance with Policy BSC12, INF1 and advice in the Developer Contribution SPD</p> <p>Directly related: The future occupiers will place additional demand on existing facilities.</p> <p>Fairly and reasonably related in scale and kind: Calculations will be based on the Developer Contributions SPD calculation based on the final mix of housing and number of occupants.</p>
Off-site indoor sports facilities – Towards Indoor Tennis Centre and/or improvements of leisure centre provision in the locality	TBC based on the additional units		
Community hall facilities – in respect of the additional units	TBC based on the additional units. Final calculation to be based on calculation outlined in the Developer Contribution SPD		
Contributions to bins	£106 per dwelling	To be delegated to officers	Necessary: The dwellings will required adequate waste receptacles for future occupants and in accordance with the advice in the Developer Contribution SPD

			<p>Directly related: The need for these comes from the increase in the number of dwellings</p> <p>Fairly and reasonably related in scale and kind: Costs in accordance with the advice in the Developer Contribution SPD</p>
Affordable housing provision on site	<p>At least 30% of total number.</p> <p>Housing mix – To be delegated to officers.</p> <p>To be in accordance with the standards outlined in Developer Contributions SPD</p>	To be delegated to officers	<p>Necessary: As would provide housing for those who are not able to rent or buy on the open market pursuant Policy BSC3 of the Cherwell Local Plan</p> <p>Directly related: The affordable housing would be provided on-site in conjunction with open market housing</p> <p>Fairly and reasonably related in scale and kind: Based on the Cherwell Local Plan requirement for percentage of affordable housing.</p>
Monitoring Fee Contribution towards the Council's (both district and County Council) costs of monitoring compliance with the agreement or undertaking.	<p>CDC - £1,000</p> <p>OCC - To be confirmed</p>	To be delegated to officers	<p>Necessary: In order to ensure the planning obligations are complied with.</p> <p>Directly related: As only costs arising in connection with the monitoring of the development and these planning obligations are covered.</p>

			<p>Fairly and reasonably related in scale and kind: Considering the extent of the development and the obligations to be monitored.</p>
Public transport contribution to serve the additional units towards bus services through the site	£117,156	To be delegated to officers	<p>Necessary: To ensure sustainable mode of transport and encourage and integrated into the development and made attractive to future users to reduce car dependency.</p> <p>Directly related: As these will benefit the future occupants of the site and encourage use of sustainable transport options in the locality.</p> <p>Fairly and reasonably related in scale and kind: The contributions are in scale with the development and would be directly benefiting residents of the future development.</p>
Public transport infrastructure uplift in accordance with the original obligation to serve the additional units	TBC		
Secondary education capacity contribution and contribution towards the expansion of BGN secondary school	£63375,000.	To be delegated to officers	<p>Necessary: To provide adequate education provision in the locality as existing infrastructure is at capacity with planned growth.</p> <p>Directly related: Will provided additional school places for children living at the proposed development</p> <p>Fairly and reasonably related in scale and kind: In accordance with the County Councils standards for provision of new school places based on cost per additional pupil.</p>

21/03913/F

Unit 5B
Oxford Technology Park
Langford Lane
Kidlington



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Unit 5B Oxford Technology Park Langford Lane Kidlington

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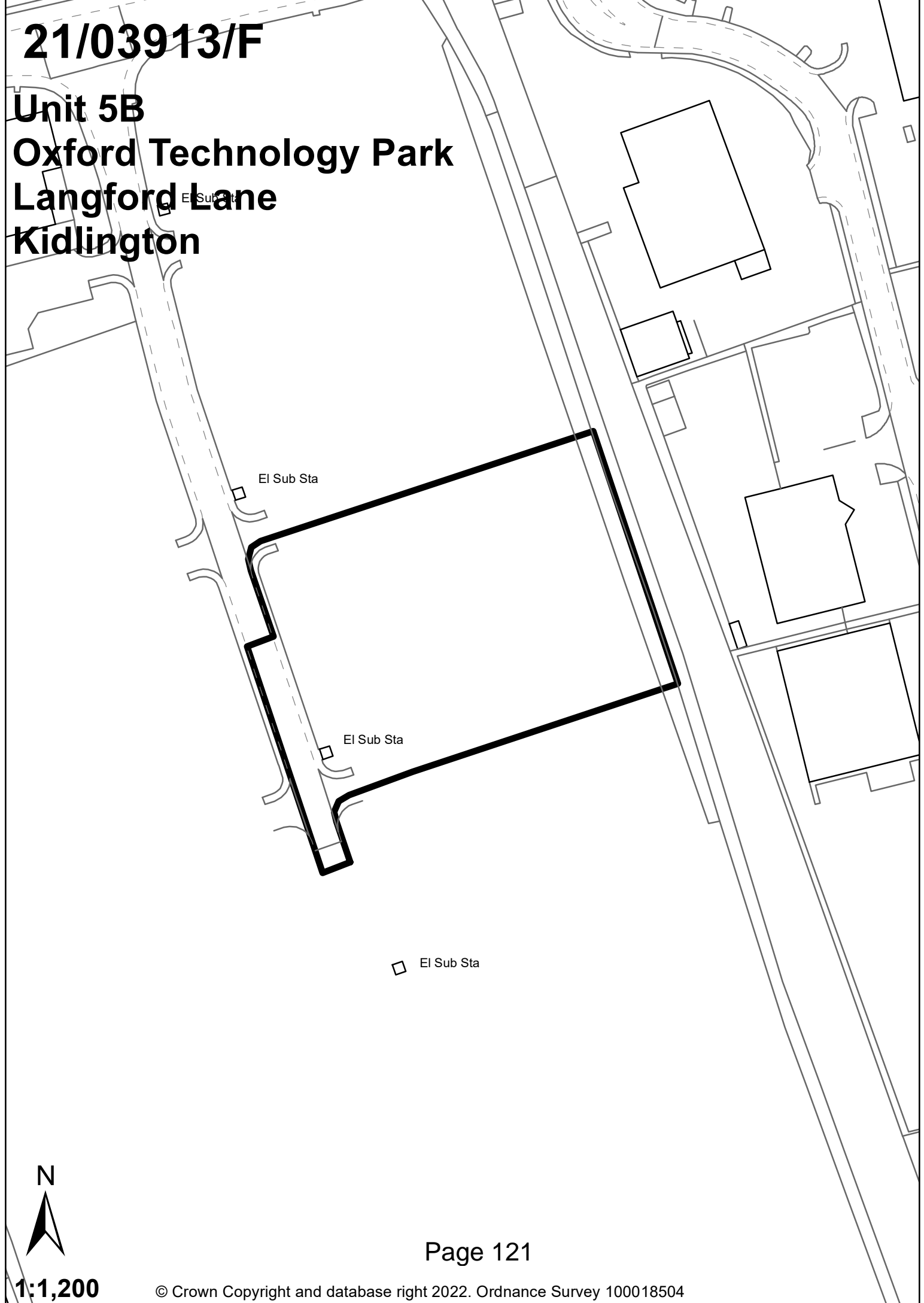
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21/03913/F

**Unit 5B
Oxford Technology Park
Langford Lane
Kidlington**



1:1,200

Case Officer: Andy Bateson

Applicant: Oxford Technology Park Limited, c/o agent Savills (UK) Ltd

Proposal: Development within Use Classes E (g) (i) and/or (ii), and/or (ii), and/or B2 and/or B8 and associated works including access and parking

Ward: Kidlington (West)

Councillors: Councillor Conway, Councillor Tyson, and Councillor Walker

Reason for Referral: Major development

Expiry Date: 21 February 2022

Committee Date: 19 May 2022

**SUMMARY OF RECOMMENDATION: DELEGATE POWERS TO GRANT PERMISSION
SUBJECT TO: (i) TRAVEL PLAN MONITORING FEE; AND (ii) CONDITIONS**

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site is located to the south of Langford Lane and east of Technology Drive, towards the north-western edge of the built-up area of Kidlington. It comprises Plot 4 / Units 5A and 5B on the 8.3ha Oxford Technology Park, which lies south of London Oxford Airport and west of the Motor Park.
- 1.2. The application site is part of a wider area that was allocated for High Value Employment Needs development under Policy Kidlington 1 of the adopted Cherwell Local Plan 2015. Planning permission exists across the Oxford Technology Park site (Ref: 14/02067/OUT) for 40,362m² flexible, hi-technology units suitable for office, research and development, laboratory, storage and ancillary purposes. Delivery of approved development on Plots 1, 3 and 4 of the Oxford Technology Park development are currently under construction and a hotel on Plot 2 (now known as Premier Inn Oxford Kidlington Airport) is open and trading.
- 1.3. The Plot 4 / Units 5A & 5B application site comprises a 0.74ha rectangular area of flat serviced land on the east side of Technology Drive, which lies just south of the Plot 3 development on the Langford Lane frontage, opposite the new hotel car park (Plot 2) and the South Central Ambulance Service Resource Centre (Plot 3), with Campsfield House IRC just beyond.

2. CONSTRAINTS

- 2.1. The application site lies within the Oxford Green Belt, the London Oxford Airport Height Safeguarding Zone, within 330m of the Rushy Meadows SSSI and is identified as a minor groundwater Aquifer.
- 2.2. Previously before site allocation and remediation works, it had comprised Category 2 best and most versatile agricultural land and had also been identified as potentially contaminated, but those are no longer constraints to development.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The proposals seek planning permission for the construction of up to two commercial units within use classes E (g) (i) – (iii), B2 and B8 on Plot 4 (Units 5A and 5B) in a new single building measuring 4,078m², including 1,384m² at mezzanine first floor level. The Unit(s) will be accompanied by a parking area alongside for 60 cars (including 10 with EV charging points and 6 disabled) and 40 cycle parking spaces. The building will be 10m tall over two stories, with a very shallow pitched roof surrounded by a 1.4m parapet, giving the impression of a flat-roofed structure. It will measure 60m wide to north and south elevations and 47.6m deep to east and west.
- 3.2. The building is described in the application Planning Support and Design & Access Statements as an industrial unit for uses within Use Classes E (g) (i)-(iii), B2 and B8 (consistent with the Local Plan allocation and outline planning consent) and has recently been confirmed for occupation by the Williams F1 team, as an adjunct to their headquarters building at Grove, near Wantage. The building would be configured similarly to the neighbouring building on adjoining Plot 3 fronting Langford Lane. The building would be clad in Equitone Rainscreen Cladding Panels in three-tone grey (light, mid and dark) similar to that previously constructed on Plot 3. Glazing would extend along almost the entire length of all four elevations at both ground and first floor levels.

4. RELEVANT PLANNING HISTORY

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

14/02067/OUT – Outline planning permission granted for the construction of 40,362m² of office, research and development, laboratory and storage business space within Use Classes E (g) (i)-(iii), B2 and B8 – Permitted.

16/00533/DISC - Discharge of Conditions 6 (means of access), 10 (surface water drainage scheme), 11 (drainage strategy), 12 (air quality impact assessment), 14 (low emission transport plan), 15 (reptile method statement), 16 (method statement for enhancing tree or shrub planting, areas of species rich grassland, habitat boxes for birds) and 18 (bird control management plan) of 14/02067/OUT – Permitted.

17/00559/F – The above outline permission was subsequently varied (Conditions 1, 2, 3, 5, 7, 9 & 21) by this full planning permission – Permitted.

17/01542/REM – Reserved Matters approval granted for Units 1 and 3 (opposite and alongside) – Permitted.

17/02233/F – Planning permission granted for a new 3,981m² hotel at Unit 2, which is now built and occupied as a Premier Inn – Permitted.

21/00690/REM – Slight design amendments were subsequently approved to Unit 3 last year and the development is now virtually complete – Permitted.

22/02278/F – Resolution passed recently to grant planning permission for Unit 4.

- 4.2. Once Units 1, 3 and 4 are completed alongside the approved Premier Inn hotel on Plot 2, the total amount of developed floorspace will be 22,31m².
- 4.3. Construction of this proposed building on Plot 4 / Units 5A/5B will take the overall quantum of development to 26,459m² – still 13,903m² below the threshold approved under the original outline permission and varied by the 2017 full permission.

5. PRE-APPLICATION DISCUSSIONS

5.1. None.

6. RESPONSE TO PUBLICITY

6.1. The application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was **23 December 2021**.

6.2. No comments were received from third parties at the time this report was prepared.

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** subject to conditions relating to car park layout, cycle parking, a travel plan and a construction traffic management plan and a s106 with them over requisite transport contributions. Those contributions amounted to £160k for an on-road segregated cycleway and £15k for a footway along Technology Drive from the application site to Langford Lane.

7.4. **Update:** Similar contribution sums were also requested in respect to the commercial developments on neighbouring Plots 1 and 3 for the same proposed works. The sums were subsequently paid, and the required works undertaken. In such circumstances, the applicant challenged the need to pay for those works again, which were considered unreasonable. At the time of writing, no response had been received from OCC Highways.

7.5. OCC ARCHAEOLOGY: **No objections.**

7.6. ENVIRONMENT AGENCY: **No objections** subject to two drainage conditions (Nos.8 and 9).

7.7. OCC DRAINAGE: **Objection** – a standard recent objection was received from the LLFA stating that they expect to see a Surface Water Management Strategy incorporating SuDS associated with any and all new full and outline planning applications for major development, which this application lacks.

7.8. CDC BUILDING CONTROL: **No objection.** Comment – a Full Plans Building Regs application will be required for the proposals.

7.9. CDC ECOLOGY: **No objections.** Comment – The site has already been cleared. A biodiversity enhancement scheme should be conditioned (unless covered elsewhere) to ensure planting and integrated nesting provisions or similar opportunities for wildlife are included.

7.10. CDC POLICY: **No comments received.** Proposals are Development Plan compliant.

8. RELEVANT PLANNING POLICY AND GUIDANCE

8.1. The Town & Country Planning Act 1990 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 in July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced several ‘saved’ policies in 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
- SLE4 – Improved Transport & Connections
- ESD1 – Mitigating and Adapting to Climate Change
- ESD2 – Energy Hierarchy and Allowable Solutions
- ESD3 – Sustainable Construction
- ESD4 – Decentralised Energy Systems
- ESD5 – Renewable Energy
- ESD6 – Sustainable Flood Risk Management
- ESD7 – SuDS
- ESD8 – Water Resources
- ESD10 – Biodiversity and the natural environment
- ESD 11 – Conservation Target Areas
- ESD14 – Oxford Green Belt
- ESD15 – The Character of the Built and Historic Environment
- ESD17 – Green Infrastructure
- Policy Kidlington 1 – Accommodating High Value Employment Needs
- INF1 – Infrastructure Provision

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C28 – Layout, design and external appearance of new development
- C30 – Design control over new development
- C32 – Provision of facilities for disabled people
- ENV1 – Development likely to cause detrimental levels of pollution

8.3. Other Material Planning Considerations:

- National Planning Policy Framework (NPPF) 2021
- Planning Practice Guidance (PPG)
- National Design Guidance 2019
- CDC Planning Obligations SPD 2018

9. APPRAISAL

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

- Principle of Employment Development
- Transport & Highway Impact
- Design Principles and Layout
- Drainage
- Ecology & Biodiversity
- Energy Efficiency & Sustainability
- Planning Obligation

Principle of Employment Development

9.2. The application site lies within the Oxford Green Belt where restrictive policies apply at national and local level through the National Planning Policy Framework (NPPF) and the CLP 2015.

9.3. Notwithstanding this, the CLP 2015 does set out a need for small scale review of the Green Belt and refers to the Oxford Technology Park site within policy Kidlington 1 as one of the locations where small-scale review could accommodate high value employment development subject to site specific design and place shaping principles. The intended review and amendments to the Green Belt envisaged through policy Kidlington 1 have not been progressed despite some time having passed since the adoption of the CLP 2015.

9.4. The application of policy (including very special circumstances) and the harm to the Green Belt was however considered through the Outline planning application (14/02067/OUT). Whilst it was concluded at the time that the development at this location would have an adverse impact on the Green Belt, the need to provide sites for high technology industry was considered to outweigh the harm and tipped the planning balance in favour of granting planning consent.

9.5. The site forms part of a larger allocated site in the adopted CLP 2015 under Policy Kidlington 1. This policy brings forward high-value employment needs development on land to the northwest of Kidlington and adjacent London Oxford Airport as a strategic allocation for hi-tech employment development and associated infrastructure. The whole site was granted outline planning permission for the construction of 40,362m² of office, research and development, laboratory and storage business space within Use Classes E (g) (i)-(iii), B2 and B8 in 2016 (Ref: 14/02067/OUT) with the consent subsequently varied with a modified full permission in 2017 (Ref: 17/00559/F). Approximately two-thirds of the allocated site has already been developed in a similar manner to that now proposed on this Plot 4.

Conclusion

9.6. Having regard to the above, the proposed development will accord entirely with the Local Plan employment site allocation and given the history of the site and the clear intention of the Council to review the Green Belt at this location, the proposal will not cause significant or demonstrable harm with respect to other Plan policies and is therefore in principle considered acceptable.

Transport and Highways

Policy Context

9.7. Policy SLE4 of the CLP 2015 requires new developments to maximise opportunities for access to sustainable modes of travel and seeks improvements to the highway

network to mitigate significant adverse impact of traffic generation resulting from new development.

Assessment

- 9.8. The Oxford Technology Park site access junction with Langford Lane has quite recently been constructed and includes both a footway on one side of the road and a segregated cycleway on the opposite side of what is now known as Technology Drive. As the junction has been designed to accommodate the total quantum of development permitted by the outline consent (14/02067/OUT), and the quantum of this proposed development (as well as that already permitted and built) does not exceed the parameters of the outline consent, it is considered that the access arrangements into the technology park site are suitable to accommodate the development now proposed.
- 9.9. Total related trip generation is within that which had previously been assessed as acceptable through the outline permission.
- 9.10. Visibility from the plot access junction is suitable, given the linear nature of the spine road and OCC Highway have not objected to the access proposals or its parking and turning arrangements. OCC asked for details of the parking sizes and positions, to be provided through condition, as they were not specified on the submitted Block Plan drawing 2613-01-PL2. However, such details had in fact been included on the Hard Landscaping Plan 2613-05-PL2. Accordingly, the wording recommended by OCC for a condition of approval has been modified to reflect the submitted details.
- 9.11. Car parking has been proposed based on the OCC standard for office use (one space per 30m²) plus an additional 9 spaces (60 in all, including 6 disabled spaces). OCC highway officers have highlighted that the application of parking standards for office use where research and development floor space is also proposed would result in an overprovision of car parking which may encourage car travel to the site, although the County Council would not wish to raise an objection on this basis.
- 9.12. Mitigation measures including public transport improvements and footway enhancements were previously secured through the outline consent in order to enhance sustainable transport options to the site.
- 9.13. Electric vehicle charging points are proposed to serve this development, providing 10no. charge points. In order to promote the take up of electric vehicle use, the Council promotes the installation of ducting to allow for future expansion of EV charging rather than retrofitting at a later date. This can be conditioned.
- 9.14. Cycle shelters (for 40 cycles) are shown to the frontage of the proposed buildings but details of the appearance of these shelters has not been submitted and will need to be conditioned.

Conclusion

- 9.15. The proposals are considered to be in accordance with policies SLE4 of the CLP 2015 as well as national planning policy set out within the NPPF in this regard.

Design Principles and Layout

Policy Context

- 9.16. Policy ESD15 of the CLP 2015 requires new development to respect its context and take the opportunities available to improve the character and appearance of the area and the way it functions. These development plan policies are consistent with national

planning policy in the NPPF which places great weight on the importance of good design achieving sustainable development.

- 9.17. Saved Policy C28 of the Cherwell Local Plan 1996 exercises control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context.

Assessment

- 9.18. The application site is flat and is not within a sensitive landscape. The site is surrounded on its north, east and west side by other built development, much of which is relatively functional in appearance with the use of simplistic materials, including the hangers at Oxford Airport to the north of the site and the new hotel and neighbouring commercial development also to the north and the car showrooms to the east of the site, which are all similar to the current development proposals.
- 9.19. The development comprises a single rectangular building in either one or two connected parts sited perpendicular to the main spine road through the technology park site.
- 9.20. The design of the buildings is consistent with the appearance of the buildings recently constructed on Plots 1 and 3 and typical of a modern commercial development comprising large areas of glazing with grey panelling in varying shades. The buildings are designed to be constructed with a shallow pitched roof behind a low parapet giving the impression of a flat roof.
- 9.21. In terms of scale, the building would be two storey in height, consistent with the commercial buildings on Plots 1 and 3 and the hotel on Plot 2. This creates a uniformity of scale, design and material finish within the Oxford Technology Park site.
- 9.22. The layout, scale and appearance of the proposed buildings are considered acceptable in the context and would be consistent with the design principles established on the Technology Park.
- 9.23. The landscape scheme for the site is also consistent with the principles agreed and approved through the outline consent for the wider technology park including the retention and enhancement of the existing mature hedgerow to the eastern boundary and the planting of street trees along the main spine road. Full details will be required by condition.
- 9.24. Boundary treatment information has not been submitted with the application and will also need to be conditioned.
- 9.25. Areas for recycling (bin storage) are shown in the car park layout but details of the appearance of these areas (structures/boundary treatment) has not been submitted and will need to be conditioned.

Conclusion

- 9.26. The proposals are in accordance with policies ESD15 of the CLP 2015 and C28 of the CLP 1996 as well as national planning policy within the NPPF.

Flood Risk and Drainage

Policy Context

- 9.27. Policies ESD 6 and ESD 7 of the CLP 2031 Part 1 together resist new development where it would increase flood risk or be unduly vulnerable to flooding. They also seek

to ensure that the proposals incorporate sustainable drainage systems in order to prevent increased risk of flooding.

Assessment

- 9.28. Flood risk and drainage on this site have been considered and addressed under the original outline consent, which agreed the drainage strategy and principles for the Technology Park site as a whole. The application site lies within Flood Zone 1.
- 9.29. Whilst an objection was raised to the current application by OCC Drainage, the LLFA objection that this particular application is not accompanied by a Surface Water Management Strategy incorporating SuDS is not a material objection since the concerns raised have already been previously addressed and conditions discharged under a separate consent (Para.7.5 above and Para.9.30 below refer). Also, the Environment Agency has raised no drainage objection to the proposals. Conditions are recommended to ensure that the development is carried out satisfactorily.
- 9.30. A Flood Risk Assessment & Drainage Strategy for the whole Oxford Technology Park site was submitted and approved as part of the original outline planning permission (Ref: 14/02067/OUT) with the Environment Agency confirming on 1st May 2015 their satisfaction with the proposals detailed in the Baynham Meikle Partnership Ltd report subject to condition discharges (Conditions 10 and 11). Condition 10 (surface water drainage scheme) and condition 11 (drainage strategy) were subsequently discharged on 12th April 2017, with confirmation given that the Flood Risk Assessment & Drainage Strategy (Ref: NSB/12076, dated February 2015), the Engineering Appraisal (Ref: 159/017, dated November 2013) and the SuDS Maintenance Plan (Ref: GL/12076, dated February 2017) were all acceptable.

Conclusion

- 9.31. Notwithstanding the OCC Drainage objection, the proposals are considered to be satisfactory in this regard, in accordance with the requirements of policy ESD6 and ESD7 of the CLP 2015.

Ecology & Biodiversity

Legislative context

- 9.32. 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.
- 9.33. 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.
- 9.34. 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.

9.35. 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.

9.36. 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

9.37. Paragraph 174 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.

9.38. Paragraph 180 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.

9.39. Paragraph 185 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.

9.40. 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.

- 9.41. 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.
- 9.42. 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.
- 9.43. 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

- 9.44. Natural England's Standing Advice states that an LPA only needs to ask an applicant to carry out a survey if it's likely that protected species are:
- present on or near the proposed site, such as protected bats at a proposed barn conversion affected by the development

It also states that LPA's can also ask for:

- a scoping survey to be carried out (often called an 'extended phase 1 survey'), which is useful for assessing whether a species-specific survey is needed, in cases where it's not clear which species is present, if at all;
 - an extra survey to be done, as a condition of the planning permission for outline plans or multi-phased developments, to make sure protected species aren't affected at each stage (this is known as a 'condition survey').
- 9.45. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site is close to the Rushy Meadows SSSI to the east. The ecological impact of the development has already been considered under the original outline consent including the submission of further information by condition.
- 9.46. The site has now been cleared for development and consists of a 'clean' site. The existing mature hedgerow to the eastern boundary would not be affected by proposals and there are no buildings or trees to be removed or altered to facilitate the proposed development.
- 9.47. Having considered Natural England's Standing Advice and taking account of the site constraints and history of the site, it is considered that the site has limited potential to contain protected species and any species present are unlikely to be adversely affected by the proposed development. The ecological impact of the development of the technology park site has already been considered and no further formal survey is required. Conditions will be imposed to ensure compliance with details already approved in respect of ecology and biodiversity will be imposed and is considered sufficient to address the risk of any residual harm.

Conclusion

- 9.48. The proposals are considered to be satisfactory in this regard, in accordance with the requirements of policy ESD10 and ESD11 of the CLP 2031 Part 1 and taking into account Natural England Standing Advice.

Energy Efficiency and Sustainability

Policy Context

- 9.49. Policy ESD 5 of the CLP 2015 requires new commercial development of over 1,000m² floorspace to provide for significant on-site renewable energy provision unless robustly demonstrated to be undeliverable or unviable. Policy ESD 4 of the CLP 2015 1 also requires a feasibility assessment to be carried out for such developments to determine whether Combined Heat and Power (CHP) could be incorporated.
- 9.50. Policy ESD 3 of the CLP 2015 also requires that all new non-residential development shall meet at least BREEAM 'Very Good' standard.

Assessment

- 9.51. The application does not include an Energy or Sustainability Statement to address how the development would seek to comply with Building Regulations and policies ESD1-5 of the CLP 2015 and the achievement of BREEAM 'Very Good' standard. The DAS does however specify that the new build elements will all be designed to achieve BREEAM 'Outstanding' standard and the LEVI Climate Emergency Design Guide standard, which exceed the Local Plan policy standards.
- 9.52. Given the type of development proposed and limited constraints on the site, it is considered that there would be reasonable opportunities for the development to incorporate improvements to the building fabric and the installation of high efficiency equipment to secure environmental improvements to the built form in addition to the utilisation of renewable energy sources such as solar panels and Air Source Heat Pumps, which the application Design & Access Statement confirms will be included in the development.

Conclusion

- 9.53. Subject to the imposition of suitable conditions, Planning Officers are satisfied that the proposed development will be able to be designed to achieve sustainability through construction in accordance with the requirements of policies ESD 3, ESD 4 and ESD 5 of the CLP 2015.

Planning Obligations

- 9.54. Policy INF1 of the CLP 2015 requires that development proposals demonstrate that infrastructure requirements can be met including the provision of transport, education, health, social and community facilities.
- 9.55. Where a development would give rise to potential adverse on and off-site impacts, it is sometimes necessary for mitigatory infrastructure or funding to be secured through a planning obligation (S106 agreement). Obligations within a S106 agreement must meet statutory tests set out in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended). Where planning obligations do not meet the statutory tests, they cannot be taken into account in reaching a decision.
- 9.56. Contributions towards highway improvements were previously secured through the outline consent including improvements to cycleway infrastructure and bus service provision along Langford Lane.

9.57. In responding to this application, OCC have raised no objection and have not requested any linking agreement, as the highway improvements previously secured through the original outline permission have now been implemented. They have however requested an update of the Framework Travel Plan for the wider site to reflect the details of this development and payment of a Travel Plan Monitoring fee of £1,446 (Index linked).

10. BALANCE AND CONCLUSION

10.1. Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 require that planning applications be determined against the provisions of the development plan unless material considerations indicate otherwise.

10.2. The proposed development represents positive economic investment in a sustainable location supporting the overall development of the wider Oxford Technology Park site.

10.3. It is acknowledged that the site remains within the Oxford Green Belt although it is anticipated through CLP 2015 policy Kidlington 1 that this would be amended. However, development of the site has been supported through the granting of outline planning consent. Development has commenced on the site and the site now represents a ready development site with the necessary infrastructure to support the growth of the technology park for high value employment uses.

10.4. The proposals are considered to be acceptable in all other regards and conditional approval is recommended.

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 SUITABLE PROVISIONS BEING IN PLACE TO SECURE THE FOLLOWING (AND ANY AMENDMENTS AS DEEMED NECESSARY):

- Travel Plan Monitoring Fee

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:

2613-01-PL2 – Site Block Plan
2613-02-PL1 – Site Location Plan
2613-10-PL2 – Ground Floor Plan
2613-11-PL2 – First Floor Plan

2613-12-PL1 – Roof Plan
2613-14-PL1 – South & West Elevations
2613-15-PL2 – North & East Elevations
2613-16-PL1 – Sectional Elevations
2613-100-PL2 – Cycle Locations
2613-101-PL1 – Bin Storage & Recycling
2613-1-2-PL2 – Fence Plan
2613-05-PL2 – Proposed Hard Landscaping Plan
Planning & Economic Statement by Savills, received by the Local Planning Authority on 22 November 2021
Design & Access Statement by Garrett McKee Architects, received by the Local Planning Authority on 22 November 2021
Transport Statement, Ref: 33231058 Rev1, by Stantec, dated November 2021 and received by the Local Planning Authority on 2 December 2021

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

3. The levels of noise emitted by fixed plant and equipment operated on the site shall not exceed the levels set out in table 7.1 of the Noise Assessment Report produced by Peter Brett and dated December 2014 and approved under outline planning permission Ref: 14/02067/OUT.

Reason: In order to safeguard the amenities of the area and to comply with Policy ENV1 of the Cherwell Local Plan 1996.

4. The floorspace hereby approved is permitted to be used for uses in classes E(g) (i) and/or (ii) and/or (iii) and B2 of the Town and Country Planning (Use Classes) Order 1987 (as amended). Uses in Class B8 of the Town and Country Planning (Use Classes) Order 1987 (as amended) are also permitted but only where they are ancillary to the function of an individual Class E(g) or B2 operation.

Reason: This permission is only granted in view of the very special circumstances and needs of the applicant, which are sufficient to justify overriding normal planning policy considerations and to comply with Policies Kidlington 1 and ESD 14 of the Cherwell Local Plan 2015 and Government Guidance contained within the National Planning Policy Framework.

5. Prior to the 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 will include a commitment that construction traffic will not arrive or leave the site through Kidlington and that delivery or construction vehicles will only arrive or leave between 9.30 and 16.30. The CTMP should follow Oxfordshire County Council's template, if possible. This should identify:
 - a) The routing of construction vehicles and management of their movement into and out of the site by a qualified and certified banksman;
 - b) Access arrangements and times of movement of construction vehicles (to minimise the impact on the surrounding highway network);
 - c) Details of wheel cleaning/wash facilities to prevent mud, etc., from migrating on to the adjacent highway;
 - d) Contact details for the Site Supervisor responsible for on-site works;
 - e) Travel initiatives for site related worker vehicles;
 - f) Parking provision for site related worker vehicles;

- g) Details of times for construction traffic and delivery vehicles, which must be outside network peak and school peak hours; and
- h) Engagement with local residents.

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 network, road infrastructure and local residents, particularly at peak traffic times.

- 6. The vehicle parking layout shown on plans 2613-01-PL2 and 2613-05-PL2 shall be laid out prior to occupation of the approved development. Thereafter, the areas shall be retained solely for the purpose of parking, turning and manoeuvring.

Reason: In the interests of highway safety.

- 7. Before the development is occupied details of the cycle parking areas, including dimensions and means of enclosure, shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be brought into use until the cycle parking areas and means of enclosure have been provided within the site in accordance with the approved details and thereafter the areas shall be retained solely for the purpose of parking of cycles.

Reason: To encourage the use of sustainable modes of transport.

- 8. No development shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development including appropriate infiltration testing in accordance with BRE 365, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The drainage strategy should demonstrate:

- Surface water run-off generated up to and including 1 in 100 year (including a 30% allowance for climate change) critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event;
- Surface water runoff will be managed so that it does not contaminate controlled waters.

The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

Reason: To prevent the increased risk of flooding, both on and off site.

- 9. Prior to the first occupation of the development hereby approved, 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:
 - 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;
 - 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 principles of sustainable drainage are incorporated into this proposal in accordance with Policy ESD8 of the Cherwell Local Plan 2015 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

10. No external lights/floodlights shall be erected on the land without the prior express consent of the Local Planning Authority.

Reason: To ensure that the development does not unduly affect operations at London Oxford Airport and in order to safeguard the amenities of the area and to comply with Government guidance contained within the National Planning Policy Framework and Policy ENV1 of the Cherwell Local Plan 1996.

11. Notwithstanding the hard landscaping proposals submitted, prior to the commencement of any development above slab level, a scheme for soft landscaping the site shall be submitted to and approved in writing by the local planning authority. The landscaping scheme shall include: (i) details of proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas and written specifications (including cultivation and other operations associated with plant and grass establishment, i.e., depth of topsoil, mulch etc.(ii) details of the hard landscaping including hard surface areas, pavements, pedestrian areas and any steps etc. The approved scheme shall be implemented by the end of the first planting season following occupation of the development.

Reason: To ensure that a satisfactory landscape scheme is provided in the interest of well planned development and visual amenity and to accord with Policy ESD15 of the adopted Cherwell Local Plan 2015 and saved Policy C28 of the adopted Cherwell Local Plan 1996 and Government guidance within the National Planning Policy Framework.

12. Notwithstanding the details of the recycling areas shown on drawing no. 2613-101 PL1 submitted with the application, no development shall commencement until a detailed plan showing the proposed bin and recycling storage to serve the development be submitted to and approved in writing by the Local Planning Authority. Thereafter, construction shall only commence in accordance with the approved details.

Reason: In order that proper arrangements are made for the disposal of waste, and to ensure the creation of a satisfactory environment in accordance with Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

13. Full details of the enclosures along all boundaries of the site shall be submitted to and approved in writing by the Local Planning Authority before the first occupation of the development hereby approved. Thereafter, the development shall be carried out in strict accordance with the approved plans.

Reason: To ensure the satisfactory appearance of the completed development, and to comply with Policy ESD15 of the Cherwell Local Plan 2015, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

14. Prior to the commencement of the development hereby approved, a Sustainability and Energy Statement, outlining how sustainability will be built into the approved development including a scheme to allow for the easy expansion of the EV charging shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first use of the development, these sustainability measures will be implemented in accordance with the approved details.

Reason: To ensure sustainable construction and reduce carbon emissions and to comply with Policies ESD1, ESD2, ESD3, ESD4 and ESD5 of the Cherwell Local Plan Part 1 and Government guidance contained within the National Planning Policy Framework.

15. The development hereby permitted shall be constructed to meet at least BREEAM 'Very Good' standard.

Reason: In order to comply with Policy ESD3: Sustainable Construction of the Cherwell Local Plan 2015.

16. No goods, materials, plant or machinery shall be stored, repaired, operated or displayed outside the buildings hereby approved unless otherwise approved in writing by the Local Planning Authority.

Reason: In order to safeguard the visual amenities of the area in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Saved Policy C28 of the Cherwell Local Plan 1996.

17. Prior to first occupation a Framework Travel Plan for the wider site shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To encourage the use of sustainable modes of transport.

Informative:

1. The top rock levels plotted on Drawing 12076/101 appear to be incorrectly plotted when compared to the level of the rock stated in the ground investigation report. Using the depth stated in the ground investigation supports the statement in the email of 17 April that the cellular storage will not require excavation into the bedrock. As part of the ground investigation limited soakage test have been undertaken. As part of detailed design full soakage tests in accordance with BRE365 should be undertaken to inform the final drainage strategy.

Former Buzz Bingo Bolton Road Banbury OX16 5UL

95.1m

North Bar
(site of)

LB

97.2m

16a 16 51 41 13

12

9 to 11

1:800



NORTH BAR STREET

CASTLE STREET

BOLTON ROAD

Car Park

Post

Depot

The Old Stables

El Sta



21/04202/F

El Sub Sta

2

Charter Mews

Former Buzz Bingo

Bolton Road

PH

Banbury

5

17

31

OX16 5UL

CASTLE STREET

34

33
37
39
41

Depot

Post

97.2m

42

44

To 43

45

Car Park

NORTH BAR STREET



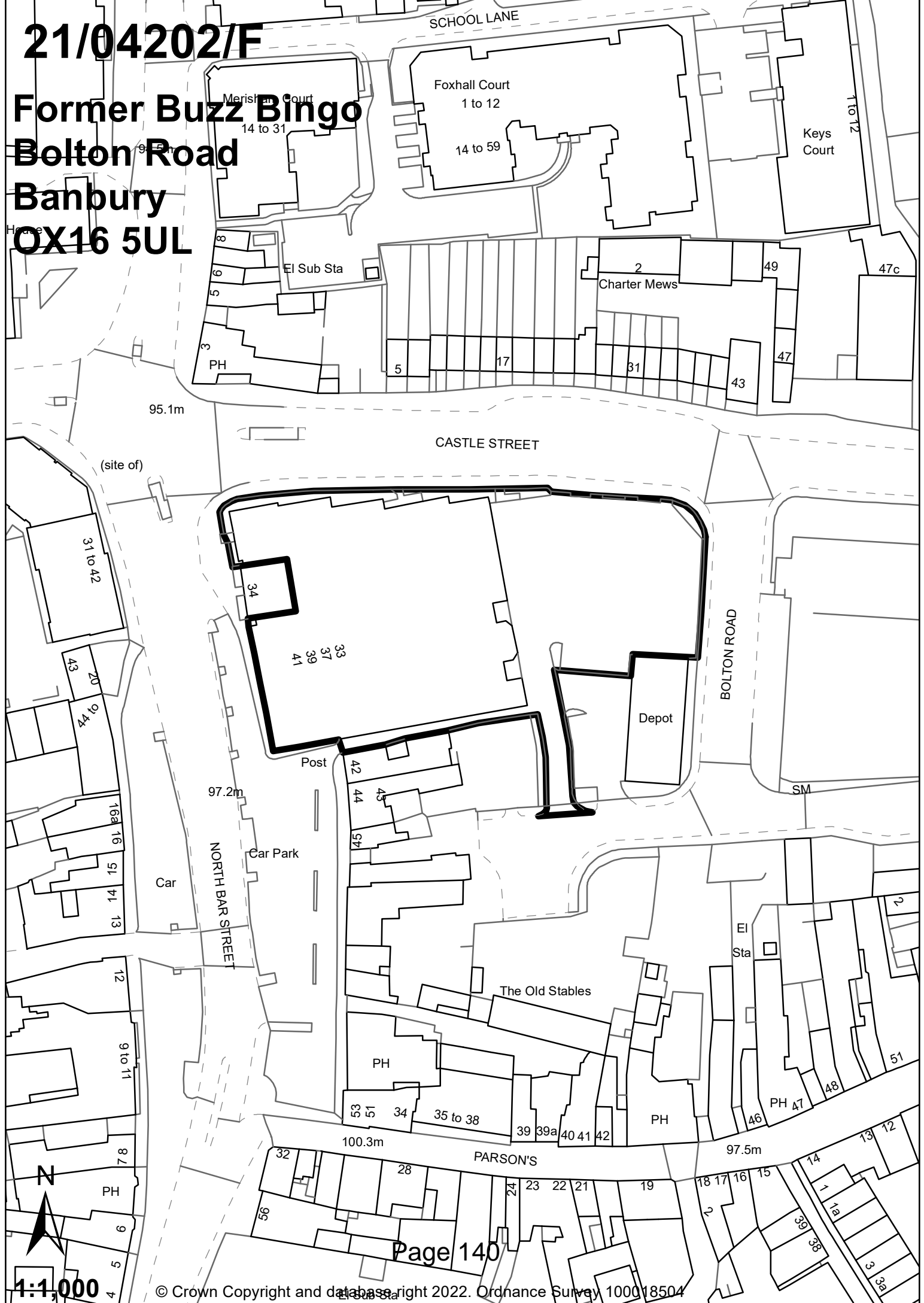
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The Old Stables

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21/04202/F

Former Buzz Bingo
Bolton Road
Banbury
OX16 5UL



Case Officer: Linda Griffiths

Applicant: Churchill Retirement Living

Proposal: Redevelopment for 80 retirement living apartments including communal facilities, access, car parking and landscaping.

Ward: Banbury Cross and Neithrop

Councillors: Councillor Banfield, Councillor Hodgson and Councillor Okeke

Reason for Referral: Major development

Expiry Date: 24 March 2022

Committee Date: 19 May 2022

SUMMARY OF RECOMMENDATION: THAT THE COMMITTEE CONFIRM THAT THEY WOULD HAVE REFUSED THE APPLICATION

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site is located on the junction of Castle Street, North Bar Street, Southam Road and Warwick Road. Bolton Road abuts the eastern boundary of the site. The site comprises the former Buzz Bingo Hall and its associated surface car park and a few small offices. Buzz Bingo closed in March 2020 and it was formally confirmed that it was not reopening in July 2020.
- 1.2. The site envelops but does not include Trelawn House which is a Grade II Listed building. This building would be retained. The application site also excludes the land and tyre service building which is located to the rear adjacent to Bolton Road.

2. CONSTRAINTS

- 2.1. The application site is partially within the Banbury Conservation Area and is surrounded by a number of listed buildings, including Trelawn House which is enveloped by the existing buildings. The site is also within an area of archaeological importance. The site constraints have also identified the presence of Swifts within the vicinity of the site – an Oxon Protected and Notable Species; Neithrop Cutting SSSI is nearby and the land is potentially contaminated.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The application proposes the demolition of the existing Buzz Bingo buildings and the redevelopment of the site with 80 elderly persons apartments and associated facilities. The submission proposes a new building of 3-4 storeys in height under a pitched roof fronting Castle Street and North Bar. Vehicular and pedestrian access to the site is from Bolton Road to the rear of the site. A new landscaped square is proposed on the junction of Castle Street/Southam Road to provide an area of public open space with an element of public art.
- 3.2. *Timescales for Delivery:* The applicant has not given any indication that in the event of planning permission being granted when development might start on site.

4. RELEVANT PLANNING HISTORY

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

5. PRE-APPLICATION DISCUSSIONS

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

21/01879/PREAPP - Redevelopment of the site for 94 bed care home and 22 residential units with some retail/dining to North Bar

21/02881/PREAPP – Redevelopment of the site for elderly accommodation and retail element to North Bar

- 5.2. Overall, whilst the principle of the re-development of the site was considered acceptable and supported by the Local Plan, it was not considered that it would be acceptable to come forward in the form shown or in the absence of the adjacent tyre depot and evidence of active engagement with landowners in respect of the remainder of the allocation. It was also considered that the submission was not acceptable in its submitted form both in terms of scale and form, resulting in an over-development of the site. In the absence of evidence that the delivery of the site will not prejudice the delivery of the key objectives sought under Banbury Policy 8 and the Banbury Vision and Masterplan SPD, the proposal would not be considered to accord with those policies and the development plan accordingly.

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 **16 February 2022**. There were 2 objections, no submissions of support and 1 comment raised by third parties.

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

- Given the modern eyesore, the re-development is welcome. The proposed frontages however look out of place when compared to the other side of Castle Street and the juxtaposition of Trelawn House against the new design is still too different and are not 'old Banbury'.do not need another Merisham Court/Peoples Place frontage. Far too dark and tall. The Huntingdon example in the DAS is more in keeping
- Too many flats and retirement places in this town, why not do something for the people/kids of Banbury, the bingo hall would make a great ice rink, trampoline hall or roller skate hall.

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

7. RESPONSE TO CONSULTATION

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

TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

- 7.2. BANBURY TOWN COUNCIL: **Comment** that they agree with the principle of this from of development in this location but raise concerns about the scale and siting of the blocks nearest to Trelawn House and suggest a greater set back from the listed building be explored with reduced block sizes/heights near to the listed building.

CONSULTEES

- 7.3. OCC HIGHWAYS: **No objections** subject to issues being resolved in respect of car park layout, cycle parking, access details, travel plan, CTMP, delivery service plan and modal details
- 7.4. OCC DRAINAGE: **Objection** due to insufficient information and details
- 7.5. OCC ARCHAEOLOGY: **Comment** the site is in an area of archaeological importance and therefore recommend that prior to the determination of the application that an archaeological field evaluation is carried out.
- 7.6. OCC FIRE SERVICE: **Comment** that the works will be subject to full building regulations
- 7.7. CDC CONSERVATION OFFICER: **Refuse** as submitted. The very detailed comments can be read in full on the application file and are discussed in the appraisal below.
- 7.8. CDC ENVIRONMENTAL HEALTH: **No Objection** subject to conditions relating to contamination and electric charging points
- 7.9. CDC STRATEGIC HOUSING: **Comment:** in accordance with Policy BSC3 require 30% affordable housing provision with 70:30 tenure split. Recognise that affordable housing provision on site would not be practical due to the nature of the development, but if viable, require an off-site affordable housing contribution in lieu of on-site.
- 7.10. CDC ECOLOGY: **No objection** as there is no issue here regards protected species or habitats and any nesting birds in the buildings can be dealt with by condition. It will deliver a good level of biodiversity enhancement as no real ecological value on site. No issues with the planting plan which will provide limited resources for invertebrates and birds. A biodiversity enhancement plan should be conditioned.
- 7.11. CDC POLICY: **No comments**
- 7.12. CDC LANDSCAPE OFFICER: No comments received
- 7.13. CDC LAND DRAINAGE: **No objection**
- 7.14. THAMES WATER: **No objection** in terms of waste - foul, surface water network infrastructure capacity and surface water drainage are acceptable, **but** there is an inability in the existing water network infrastructure to accommodate the development and therefore a condition is recommended.

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 in 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)

- SLE1 – Employment development
- SLE2 – Securing dynamic town centres
- SLE4 – Transport
- BSC2 – Effective and efficient use of land
- BSC3 – Affordable housing
- 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 – Climate change
- ESD2 – Energy hierarchy
- ESD3 – Sustainable construction
- ESD4 – Decentralised systems
- ESD5 – Renewable energy
- ESD6 – Sustainable flood risk
- ESD7 – SuDS
- ESD15 – Built and historic environment
- Policy Banbury 7 – Strengthening the town centre
- Policy Banbury 8 – Bolton Road
- INF1 - Infrastructure

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- TR1 – Transportation funding
- C18 – listed buildings
- C23 – Conservation area
- C28 – Design
- C30 – Design
- C32 – Access for Disabled People
- C34 – Views of St Marys Church
- ENV12 - Contamination

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- Banbury Vision and Masterplan SPD 2016
- Banbury Conservation area Appraisal 2018
- CDC Residential Design Guide SPD 2018

- OCC Street Design Guide 2021

9. APPRAISAL

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

- Principle of development
- Quantum of Development and Need
- Heritage impact
- Layout, Design, Open Space and Landscaping
- Highways
- Flood Risk and Drainage
- Land Contamination, Noise, Odour and Air Quality
- Sustainable Construction and Sustainability
- Health and Well-Being
- Viability
- Planning Obligations

Principle of Development

- 9.2. The site forms part of a larger allocated site in the adopted Cherwell Local Plan 2011-2031 ('CLP 2015') under Policy Banbury 8: Bolton Road. Policy Banbury 8 seeks to regenerate this part of the town and provide a mixed use development of employment uses and housing comprising retail, hotel, leisure, ancillary residential, car parking and 200 dwellings in conjunction with the wider retail and leisure proposals. The application site is located at the western end of the allocation occupying a prominent corner position and is bounded by North Bar to the west, Castle Street to the north and Bolton Road to the east. The policy requires a high quality landmark mixed use development that will support the regeneration of this area and its integration with the wider town centre with pedestrian and cycle linkages through Parsons Street and Castle Quay Shopping centre. Policy SLE2: Securing Dynamic Town Centres seeks to direct 'Main Town Centre Uses' towards the town centres of Banbury and Bicester.
- 9.3. Policy Banbury 8 also states that the development proposals will be expected to be in accordance with an SPD for the site and also come forward in a comprehensive approach for the redevelopment of the whole site accompanied by a detailed masterplan to ensure a fully integrated and comprehensive development of the site rather than piecemeal. In terms of the SPD this has not been progressed to date and is unlikely to be produced in conjunction with this development plan. The Banbury Vision and Masterplan SPD 2016, however, remains a material consideration.
- 9.4. The site is partly within the Banbury Conservation Area and is in Banbury Town Centre within the shopping Area (as defined on the Local Plan Map – Policy Banbury 7). This policy seeks to strengthen the town centre and supports shopping, leisure and other main town centre uses within it and residential development in appropriate locations except where it will lead to the loss of retail or other main centre uses. Policy Banbury 7 goes on to say however, that the change of use of sites for residential development will normally be permitted if proposals contribute significantly to the regeneration of the town centre. It is therefore considered that the redevelopment of the site for elderly residential accommodation can be considered to accord with Policies Banbury 7 and Banbury 8 in principle.
- 9.5. Notwithstanding the above, the NPPF defines bingo halls and offices as town centre uses. Paragraph B.48 of the CLP 2015 explains that the loss of jobs in any use class will be a consideration in determining a planning application. The application proposal

is therefore inconsistent with Policy 7 in this regard as it would lead to the loss of main town centre uses in the town centre. The Banbury Vision and Masterplan SPD 2016 also advises that should this part of Policy Banbury 8 come forward for redevelopment that existing uses and occupiers could remain on site. It is also relevant to consider however, that the main bingo building has been vacant for some time and that the proposal will provide potential for regeneration of this area albeit only a part of the whole allocation.

- 9.6. In respect of new commercial use on the site, Churchill initially considered at pre-application an element of retail on the site fronting onto North Bar. However, Churchill advise that there is a covenant across the majority of the site restricting the sale of liquor which may prevent any café or restaurant taking the premises. Further the applicant advises that following enquiries there was little or no interest from food retailers. Whilst this is regrettable, having regard to the location of the site, the proposed residential use, distance from the main central shopping area and the recent changes in shopping habits, this position is accepted.
- 9.7. In Cherwell a five year housing land supply does not presently exist. The Council's latest Annual Monitoring Report (AMR 2021), prepared in accordance with the NPPF guidance identifies only a 3.8 year housing land supply for the period 2021-2026 and a 3.5 year housing land supply for the period 2022-2027 (commencing on 1 April 2022). As the Council cannot demonstrate a five year housing land supply, in accordance with the NPPF, any assessment of residential proposals will need to apply the 'tilted balance'. The 'tilted balance' states that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the adopted CLP 2015 and the NPPF taken as a whole. The proposal will contribute towards the council's 5 year housing land supply. It is considered that the proposal is consistent with Policy Banbury 8 in terms of providing new homes, however, it falls short on the number set out in the policy and does not provide market or much needed affordable family housing.
- 9.8. Policy Banbury 8 also states that, in order to achieve continuity in design and delivery of the vision, a small scale, piecemeal approach would not be appropriate. The policy explains that a comprehensive approach is preferred but that a phased approach may be permitted provided that, proposals will contribute towards the creation of a single integrated community and coherent development. The application submission relates to only part of the site and more crucially does not include the tyre depot or Trelawn House adjacent. As such the application is not in accordance with Policy Banbury 8 and may therefore not achieve the policy objectives. Whilst the application submission advises that the tyre depot occupiers are not currently interested in developing the site comprehensively due to their long lease, no written statement has been included from the tyre depot occupiers to confirm this. Further, the scheme does not appear to have been designed with the possible re-development of the tyre depot site in mind with the potential to incorporate it into this development as an extension to the facility, family housing or other appropriate town centre use in the future.
- 9.9. It is vital that in order to deliver the vision for Policy Banbury 8 that positive engagement with adjoining occupiers and landowners is clearly evidenced. If a comprehensive re-development proposal cannot be achieved, the policy requires a comprehensive masterplan as part of any submission to show how the proposed development would not prejudice the acceptable and viable re-development of the remainder of the site. This would ensure that the adjacent land, and in particular the tyre depot site, could be fully integrated, including a single vehicular access point with suitable pedestrian connectivity. The indicative plan within the Design and Access Statement as shown with separate accesses and boundary enclosures would not deliver an integrated site.

- 9.10. The Banbury Vision and masterplan SPD which was adopted in 2016 is also relevant in the consideration of the application which identifies the site as a potential area for re-development for town centre uses and car parking. The SPD contains objectives which seek to create a vibrant, attractive town centre and environment and high quality housing development.
- 9.11. The proposal must also be considered against and be consistent with housing policies within the CLP 2015. The proposals are consistent with Policy BSC2 which states that the council will encourage the re-use of previously developed land. The site is in an extremely sustainable location. In terms of Policy BSC3 Affordable housing and BSC4 Housing Mix, the proposal does not seek to provide on-site affordable housing provision and has submitted a viability appraisal which advises that an off-site affordable housing contribution would not be viable. This is considered further below.
- 9.12. Having regard to the above, it is considered that the re-development of the site for residential purposes is supported, however, there are reservations given the piecemeal nature of the submission which has not been fully justified and clarified by the applicant, particularly in respect of the Tyre Depot, which is excluded, which consequently is not in accordance with Policy Banbury 8 in this respect.

Quantum of Development and Need

- 9.13. Policy Banbury 8 envisages that in conjunction with the wider retail and leisure proposals for this area that approximately 200 new dwellings will also be delivered. The application site relates to approximately 0.48ha of the wider 2 hectares site. The submission which includes the demolition of the former bingo building and existing office premises, proposes that the re-development of the site would be occupied by a retirement complex of 80 apartments and community facilities to serve those residents. The submission does not provide for market family housing or affordable housing or other town centre uses.
- 9.14. In support of the application, the applicant has provided information on the need for the provision of elderly retirement accommodation of this type as life expectancy increases and the aging population continues to rise. The recently prepared Oxfordshire Growth Needs assessment Report (July 2021) shows that in comparison to all other Oxfordshire Districts, Cherwell has seen the greatest increase in the proportion of the population aged 65+ between 2011-2018. The Oxfordshire SHMA (2014) also indicates a significant increase in Cherwell's aging population 2011-2031 and acknowledges the need to provide housing for older people. Policy BSC4 of the CLP 2015 also states that '*opportunities for the provision of extra care, specialist housing for older and/or disabled people and those with mental health needs and other supported housing for those with specific living needs will be encouraged in suitable locations close to services and facilities. All proposals will be expected to provide affordable housing in accordance with Policy BSC3: Affordable Housing*'. The submission in principle would therefore be in accordance with Policy BSC4 as stated above.
- 9.15. Whilst it is accepted that a residential retirement scheme on this part of the Banbury 8 site may be acceptable in principle, and that the remainder of the Bolton Road re-development area may be better suited to retail, leisure, car parking and hotel uses as required by Policy Banbury 8, due to its proximity and relationship with the town centre itself, the redevelopment of this part of the site in isolation for residential use only must not prejudice the viable and timely delivery of either the total number of dwellings (200) for the overall site or the delivery of the remainder of the site; including the design and place shaping principles, improved links to the town centre and improved public realm accordingly as required by the policy and SPD.

9.16. Notwithstanding the above, it is considered that on balance, the re-development of this part of the Bolton Road redevelopment site for elderly living accommodation might be acceptable in principle having regard to its sustainable location and proximity to the town centre, local amenities and public transport connections. The current application submission however, is not currently considered acceptable as it does not provide sufficient parking and manoeuvring space within the development to OCC standards and it is therefore not clear that the site can be developed appropriately for 80 apartments appropriately.

Heritage Impact

9.17. The site is partially within the Banbury Conservation Area and there are a number of key listed buildings immediately adjacent and within the vicinity of the site, including St Marys Church. Saved Policy C34 of the adopted Cherwell Local Plan 1996 seeks to protect the views of St Marys Church. There are also a number of local heritage assets / non-designated heritage assets on North Bar Street, Warwick Road and Castle Street.

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 199 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 Banbury Conservation Area was designated in 1969 and last reviewed in September 2018. The Conservation Area Appraisal identifies the application site is bounded by the Main Route/Calthorpe/Medieval and Castle Street Character Areas.

9.22. Banbury is a rural market town with an intact medieval street pattern within its central core, surrounded by 18th and 19th century suburbs. The significant urban fabric and grain of the town must be understood and respected in order to inform future development.

9.23. The site forms part of an important urban block at a key crossroads in the centre of Banbury, lying within and adjacent to the Banbury Conservation Area. Whilst there are several important listed buildings and non-designated heritage assets, with key views and focal points, the quality of the street scene has suffered due to a lack of vision in the late 20th century and early part of 21st century. A concurrent application 21/04179/LB deals with the demolition of the Buzz Bingo buildings which currently envelop 3 sides of the Grade II Listed Trelawn House.

9.24. The Banbury Conservation Area is a designated heritage asset and comprises mainly traditional buildings forming strong frontages on burgage plots using a limited palette of materials, form and scale. The designation aims to manage and protect the special

architectural and historic interest of the urban grain of the town and features that make it unique. Any new development should preserve or enhance the character or appearance of the conservation area, *'the special architectural or historic interest of which it is desirable to conserve or enhance'*.

- 9.25. The proposed development lies adjacent to the site of Banbury's historic North Bar, south of Cuttle Brook and Back Lane (now known as Castle Street). There was a strong traditional frontage to North Bar Street/Southam Road with long rear linear development stretching to the east. A multi storey car park to the north of the site has recently been demolished and currently provides a surface car park. The visual analysis of the Main Route Character Area identifies the bingo site as a negative landmark and crossroads where the North Bar stood as a point of 'disorientation'.
- 9.26. The Banbury Vision and Masterplan 2016 SPD and Policy Banbury 8 both reiterate the importance of this site within Banbury town centre and its historic core in respect of the redevelopment of the area. Whilst the Banbury Vision and Masterplan SPD 2016 identifies a potential for 3-4 storey development on the site, there are conservation and urban design concerns with 4-storey development immediately adjacent to and behind the 2 storey listed building. The historic curtilage of Trelawn House extended eastward into the application site.
- 9.27. The proposal under the concurrent application 21/04179/LB looks to expose the northern gable of Trelawn House and this application does not take up the challenge of rebuilding on the corner of the site. This will make the intersection between the four streets less defined. The opportunity to create a piece of architecture worthy of corner status, adjacent to the grade II listed Trelawn House and the Three Pigeons Pub was encouraged during pre-application discussions, although the alternative option of the public art celebrating the history of North Bar was also discussed. The absence of a building on this corner also creates more pressure for higher density to Castle Street and Bolton Road. If the open space is to be the key feature on this prominent corner, it is also important that the public art also makes a positive statement to the streetscape. The north elevation of Trelawn House is blank and was not designed to be exposed to view. It is therefore considered that the current building form and area of open space as shown does not create the landmark statement building/development envisaged by the development plan nor the Banbury Vision and Masterplan.
- 9.28. The proposed development aligns with Trelawn House creating a green wedge to Castle street with the building line set back. It runs parallel with the north wall of Trelawn House in the western part, and then breaks forward, parallel with Castle Street. The Conservation Officer has commented that she is not convinced that Trelawn House with its blank north elevation, should dictate this move away from a strongly defined building line addressing Castle Street and North Bar as illustrated in the Banbury 8 masterplan, particularly having regard to making the best use of land. This also creates difficulty at the change in angle of the buildings which has not been resolved in the proposals and is therefore currently unacceptable.
- 9.29. In terms of the Castle Street elevation, it is considered by the Conservation Officer that the 3 storey block which is set slightly above pavement level should be reduced to 2 storey beside Trelawn House and the space between the two also requires further consideration. As the roof is continuous and there is a stone band separating the second and third floor it looks quite monolithic as it lacks the usual plot width of traditional terraces, normally divided by chimneys and doors. Omitting the stone band and dividing the façade into typical 2-bay burgage plots would be more reflective of the north side of Castle Street. Juliet balconies are discouraged fronting the highway. The widths of the doors and windows look too wide and the band of masonry between ground and first floors too thin. The proportions of the white block are too squat and

together with the width and colour detracts from the scheme. The depth of the roof slope east of the white block creates a roof slope that is too big (compare with the lower 3-storey roof) and makes the development look contrived. A lower block might be better on this corner with Bolton Road.

- 9.30. The proposed development along North Bar is 3-storey. North Bar rises in a southerly direction and adjoins a modest 3-storey development with a higher eaves line. It is considered that here there might be an opportunity to have modest 3-storeys fronting the car park with slightly higher eaves aligning with the adjacent 3-storeys, stepping down to 2-storeys towards Trelawn House. In terms of detailing, the Conservation Officer also raises concerns with respect of materials, eaves, window proportions and door/porch detail.
- 9.31. Having regard to the above comments, it is considered that the proposals are currently not acceptable in terms of impact upon heritage assets primarily Trelawn House, properties in North Bar and the Banbury Conservation Area and as such would be contrary to the Development Plan, and Government advice within the NPPF in this regard and would therefore warrant a reason for refusal.
- 9.32. The site is also located in an area of archaeological interest within the medieval core of the town, immediately south east of the site of North Bar, originally built around the C13th and one of the five gates around the town. The Medieval settlement is recorded in the Domesday Survey of 1086, and it is likely that the centre is what forms the historic core today.
- 9.33. An archaeological evaluation 50m to the west of the site of the redevelopment of the Warwick Road car park, archaeological deposits were recorded relating to a post-medieval brewery. An archaeological watching brief took place 85m to the west of the development area at Warwick Road found that though the area had been heavily truncated by earlier development, an undated pit and gully were recorded. An archaeological investigation c. 138m to the east of the development site recorded late Saxon ditches which were likely property boundaries, an 11th century pit, a stone lined pit and gullies dated to the 13/14th centuries.
- 9.34. The development site also lies 160m south west of the site of Banbury castle, where an archaeological evaluation recorded pre-Conquest activity that pre-dated the castle. Also recorded were a large ditch and a causeway constructed across the silty marshes. The evaluation took place on a site which has been subject to development and truncation, though this is likely less than seen on the proposal site, it suggests that the development has the potential to impact on archaeological remains associated with the Medieval and early post Medieval development of the town.
- 9.35. Having regard to the above, County Archaeologist advises that an archaeological desk based assessment, in line with the Chartered Institute for Archaeologists standards and guidance, including the submission of an appropriate written scheme of investigation to agree the scope of the assessment should have been submitted with the application in line with paragraph 194 of the NPPF. The applicant has since been in further discussion with the County Archaeologist regarding this matter who has since advised that *'it seems that predetermination work will be difficult to carry out whilst the building and car park are still in use, so I would ask for a staged programme of archaeological investigation to be part of the conditions if permission is granted'*.

Layout, Design, Open Space and Landscaping

- 9.36. Policy Banbury 8 requires a high quality landmark mixed use development that will support the regeneration of this area and its integration into the wider town centre. The policy also requires a design which respects and enhances the conservation area

and the historical grain of adjoining area and in particular, the Grade II Listed building Trelawn House to the west of the site. There is great opportunity here to enhance this part of Banbury, providing a rich grain of streetscape and urban housing development which draws on the architectural and historical context of the site and conservation area as a whole.

- 9.37. As previously stated, the site forms part of an important and visually prominent urban block within the centre of Banbury which lies within and adjacent to the Banbury Conservation Area. It is accepted that the quality of the street scene here has suffered in recent past, but the re-development of this site gives a great opportunity to improve this busy and prominent junction with high quality, well-designed landmark buildings which respect the historic core and adjacent heritage assets in terms of scale, massing, design and choice of materials. It should also be mindful of the setting of listed buildings and the heritage views as discussed above. This site can also potentially act as an important catalyst for the remainder of Policy Banbury 8 being brought forward for development accordingly, although it should be noted that Policy Banbury 8 recommends that the whole site is developed as one rather than piecemeal as is the case here and the inclusion of the tyre depot within any redevelopment scheme has therefore been encouraged through pre-application discussions.
- 9.38. Policy Banbury 8 also sets out a number of site-specific design and place shaping principles relating to the development of the site. One of these is that the development should comply with Policy ESD15 of the CLP 2015. Policy ESD15 advises that the design standards for new development, whether housing or commercial are equally important, and seeks to provide a framework for considering the quality of the built environment, to ensure that we achieve locally distinctive design which reflects the context within which it sits. This policy also advises that the design of all new developments will need to be informed by an analysis of the context, together with an explanation and justification of the design principles that have informed the design rationale which should be demonstrated in a Design and Access Statement. The application is accompanied by a Design and Access Statement accordingly which generally assesses only the immediate context of the site and does not assess more widely the historic core. This document includes several photos of the existing area and site. A number of precedent development photos are included on page 10 of the document, but it is unclear how these relate specifically to Banbury and are not locally distinctive in their design.
- 9.39. It is essential from an urban design perspective to understand the visual impacts of the heights proposed along key vistas around the site as well as the setting of adjacent listed buildings, views of St Mary's Church and the impact upon the character and appearance of the Banbury Conservation Area. The proposed heights are of particular importance when seen in the context of Grade II Listed Trelawn House and these are discussed above and by the Conservation Officer.
- 9.40. Design is not only about the physical appearance of a development but how it works, functions and fits together, both in terms of itself and with that around it. The masterplan and layout plan must be robust having derived from a full understanding of both the site's constraints and opportunities and its setting, resulting in a new development that sits comfortably with its location and surroundings.
- 9.41. Paragraph 130 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 appearance and effective landscaping
- Are sympathetic to the local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change

9.42. The Council's adopted Residential Design Guide SPD 2018 also seeks to ensure that new development responds to the traditional settlement pattern and character of a town. It advises in Section 3 that in assessing the townscape it is important to question '*how might the scheme reflect locally distinctive relationships between buildings and the public realm*', such as building forms, groupings, heights, rooflines and architectural details, wall and surface materials.

9.43. In addition to Policy ESD15 of the CLP 2015, The Banbury Vision and masterplan SPD also contains development principles and aspirations for the re-development of the site which must be considered. As previously discussed in the pre-application guidance, whilst the Banbury Vision and Masterplan envisages that 3 to 4-storey development might be acceptable on the site, regard must also be given to the surrounding older Victorian and Georgian development to Castle Street, which is a mix of 2 and 3-storey dwellings and North Bar. Whilst North Bar comprises 3-storey, buildings they are generally smaller in scale to that now proposed, and this is exacerbated by the land levels on the site relative to the adjacent Grade II Listed Building Trelawn House. It is considered that the overall scale and bulk of the building could be improved by proposing a mix of 2, 2.5, 3 and 4-storey building heights rising from west to east across the site rather than the substantial 3 and 4-storey block proposed. The overall visual impact of the development could be further reduced by reducing the ground levels on site to those that would have originally related to the site. The scale of the proposed 4-storey building on this corner with its high eaves and hipped roof arrangement in relation to the existing Castle Street properties is demonstrated by the section shown on drawing number 10116BB-PA10. As discussed above, it is considered that the scheme would benefit from a lower building here.

9.44. In terms of the views of the building down North Bar, the blank gable ends at ground floor level are unfortunate. Further consideration must be given to providing fenestration here and therefore natural surveillance to North Bar and the adjacent footpath link which currently runs down the side of buildings along North Bar to Bolton Road. This is one of the key pedestrian links which must be improved as part of the Banbury 8 re-development proposals in order to increase connectivity to and integration with the town centre for the general public. It is not clear from the submission how this aspiration is achieved to create a safe and inviting pedestrian link between the buildings and adjacent car park separated by retaining wall and railings from North Bar through to Bolton Road and the town centre.

9.45. Following pre-application discussions, whilst the applicant has sought to address concerns raised previously in terms of the building height in respect of Castle Street and Trelawn House, the building remains clearly visible behind Trelawn House and remains overly dominant in this respect. Whilst the existing Buzz Bingo building is of no architectural merit, it currently sits behind Trelawn House and is not visible behind. The applicant has been requested to consider reducing the height of the building immediately to the rear and side of Trelawn house to 2 or 2.5 storey. This was previously discussed at pre-app but has not been addressed by this submission.

9.46. In terms of window details, it is unclear from the plans what from these will take. The buildings are designed to replicate traditional townhouses where sliding sash are the traditional window style. It is understood from discussions with the applicant that

elderly persons may not easily be able to open sliding sash, however, it is considered that if the buildings are to retain their 'Georgian' appearance, that the applicant should give further thought to the use of sliding sash to the main front elevations.

- 9.47. Local traditional vernacular are simple flat fronted buildings with minimal detail. The proliferation of long narrow projecting rear gables are therefore not appropriate and do not respect the local traditional vernacular and historic buildings within the proximity of the site and the Conservation Area. Proposed dormer windows should be of traditional proportions and constructed in appropriate materials. It is noted that the plans state grey UPVC, but these would not be in keeping with the local traditional vernacular nor the traditional style of building proposed.
- 9.48. Policy Banbury 8 is quite clear in its aspirations that this important crossroads requires a bespoke landmark design solution, and it is considered that this proposal does not provide that. A landmark building must provide interest, draw attention and focus, creating a sense of arrival into Banbury town centre that reflects its character, historical integrity and local distinctiveness as well as having regard to its context. It was previously discussed with the applicant at pre-application that a more modern architectural solution which reinforces local vernacular in terms of proportions, fenestration and materials might be more appropriate here, rather than a modern pastiche as proposed. Concerns raised by the Conservation Officer in terms of the design of the building are discussed in more detail above.
- 9.49. Policy Banbury 8 and the Banbury Vision and Masterplan SPD 2016 require the inclusion of a 7m landscape buffer fronting Castle Street. It is considered that the submitted application fails to deliver either the strategic landscape buffer as required by the SPD or the distinct landscape setting for Trelawn House or this prominent corner as envisaged through the design and access statement submitted with the application. The plans indicate small paved areas for each unit opening out on to Castle street at ground floor level within a grassed area behind a hedge with the landscape buffer between this hedge and Castle Street. The first issue to consider here is the amenity value of these small patio areas which are north facing and overshadowed by the 3 and 4 storey buildings themselves as well as suffering road traffic noise. The second issue is that the remaining public open space or strategic landscape buffer varies in width from 9m at the western end to only 4m at the Bolton Road end. This is not in accordance with Policy Banbury 8 or the Banbury vision and Masterplan SPD 2016.
- 9.50. In terms of the public open space to the corner of the site and to the side of Trelawn House, this indicates a small area enclosed by metal railings of only approximately 126m² (scaled from the submitted site plan). It is not clear from the submission how this small area can provide that distinct landscape setting and gateway entrance to Banbury town centre. Furthermore it is considered that the landscaped corner as shown together with the exposed gable end of Trelawn House fails to provide the bespoke landmark design solution required here.
- 9.51. Having regard to the above, it is considered that the proposal as currently submitted is not acceptable and is therefore contrary to the development plan and Government guidance within the NPPF in this respect and would warrant a reason for refusal.

Highways

- 9.52. The application has been assessed by OCC as Highway Authority. The site is in a sustainable location with abundance of amenities situated within walking and cycling distances, for example, Castle Quay shopping centre, Market Place and Parsons Street shopping areas. Footways exist on Bolton Road flanking the western side of the internal access measuring 1.5m approximately and on both the northern and southern sides immediately outside the site access and towards the Castle Street

junction. A pedestrian refuge island is located 100m northeast of the site (at the Bolton Road/Castle Street junction). There is also a signalised pedestrian crossing at the junctions of Castle Street/Warwick Road/Southam Road/North Bar Street. In addition to the footways along the local highway network, the site is situated within proximity of a number of Public Rights of Way.

- 9.53. The submitted Transport Assessment (TA) shows the TRICS based trip generation estimates for the existing bingo hall, with no AM peak, 23 PM peak hour trips and a 12hour daily trips of 313 trips. In comparison, the proposed development shows a modest increase of 8 AM peak hour trips, a reduction of 12 trips during PM peak hour, with 12hour daily 139 trips in total. An estimated reduction of 174 daily trips for the retirement accommodation when compared to for the extant permission. There is an even greater reduction when the present permission daily trips is compared to that of Churchill Independent Research Retirement living sites trip forecast (a 194 trip 12hour period total trip reduction). OCC have questioned however, why no details of generated developments multimodal trips data for residents, staff and visitors and anticipated trip movements and staff shift patterns etc are absent from the submitted TA document. The applicant subsequently responded to this but further comments from OCC have confirmed that the requested information has not been submitted, instead a pie chart showing modal split percentages has been submitted. Clarification on this matter therefore remains outstanding at the time of writing the report.
- 9.54. In terms of vehicle access and pedestrian and cycle route connectivity, OCC advise that given that the application site is to be accessed via the existing access that the proposed bellmouth junction access drawing should be provided showing the access visibility splays for vehicles and pedestrians at the junction. This is awaited. The TA has provided drawings that seeks improvements to pedestrian and cycle connectivity with the local road network, public footway and pedestrian and cycle networks between Bolton Road, Castle Street and North Bar street requested in pre-application comments.
- 9.55. In terms of public transport, the closest bus stop to the site is the 'Bolton Road' bus stop located on Castle Street, 170m northeast of the site (a 2minute walking distance). The bus stop is served by 6 bus routes. Banbury Railway Station, southeast of the site is about a 4 minute cycle ride and 11 minute walk away.
- 9.56. In the absence of OCC's and Cherwell Design Parking Standards for retirement homes, 27 parking space arrangement is proposed for the development (at a ratio of 0.33 per unit). Vehicular tracking drawings have been provided demonstrating access and egress, manoeuvres associated with the site and proposed car parking. Independent research of the existing Churchill Retirement Homes confirms an average parking demand of 0.28 spaces per unit which amounts to 22 spaces for the proposed 80 units. Based on the proposed car parking provision, the applicant asserts that overspill parking should not occur, however in the unlikely event that this should arise, the nearby 58 Bolton Road car park is available. This statement however, is made without providing any detail substantive support on the availability of parking spaces to accommodate the demand.
- 9.57. Further, no provision has been made for designated staff, visitor parking, residents and disabled parking bays nor EVCP bays in compliance with OCC's standards within the parking facility. OCC will expect the provision of 7 EVCP bays, with one EVCP allocated to a disabled parking bay. Neither is a parking/standing area for Taxi or Emergency Vehicle evident in the car park. A scaled and dimensioned layout plan capable of accommodating the manoeuvres and swept paths of all vehicle types including a Fire Tender and Pentechion is therefore required to be submitted to ensure that the site works appropriately. Further to these comments, the applicant submitted a revised plan which has been further assessed by OCC, however, none of the

submitted plans in support of the application show ECPCs for any of the parking bays, neither designated parking space for Taxis, Ambulances, Refuse and Service vehicles and this should be addressed. Further, due to the nature of the residential development, a single disabled parking bay is considered to be inadequate.

- 9.58. Regarding the vehicle swept path drawings, the manoeuvres would be tight and just manageable within the parking area. The receipt of the updated plan, reference number PA01 C which includes a hardstanding in front of the refuse store to accommodate car parking manoeuvres is acknowledged, however, the revised drawing superimposed with the swept manoeuvres of refuse vehicles to and from the designated collection point is also required.
- 9.59. In terms of cycle parking, the application states that a secure cycle facility will be located within the mobility scooter store for the retirement living apartments. No details, however, of drawings of the cycle storage facility for residents, staff and visitors has been provided and neither has any information been submitted on how the parking would be managed in a safe and secure manner. Given the age profile of residents, the sustainable location of the site and the average cycle per development (0.75) based on other Churchill Retirement surveys. Whilst it is accepted that cycling is unlikely to be highly utilised by residents, opportunities to promote cycling within the vicinity of the site for visitors and staff should be promoted. These details have now been submitted for consideration.
- 9.60. In terms of personal injury accidents, the most recent data (2016-2021) confirmed 3 accidents occurred within proximity of the site, two were slight and one was serious. The serious accident however was unrelated to the proposed access junction or highway safety design issues.
- 9.61. In terms of refuse and servicing, the application proposes that this is collected on-site with the appropriately sized vehicle able to access the site, turn and leave in a forward gear. The footway leading into the site should be 2m wide, however, the existing fence may prevent this and OCC do not recommend that the carriageway is narrowed to accommodate a wider path. OCC advise that the Refuse Strategy is not ideal as the refuse vehicle appears to narrowly pass the parking gate entrance area, with a 10.6m long refuse vehicle used in the swept path drawing, but a 11.6m long refuse vehicle is normally required and neither is it clear where refuse vehicles will park for collection.
- 9.62. OCC also advise that dropped kerbs and tactile pavements should be installed where possible to allow pedestrians to safely walk down Bolton Road from the site in the south and northeast and in vicinity of the uncontrolled crossing at the Bolton Road/Castle Street junction. These off-site works will need to be designed in accordance with Design Manual for Roads and Bridges (DMRB) and junctions and visibility splays will need to comply with the OCC Street Design Guide and dedicated to OCC if they fall out of the existing highway boundary. A Stage 1 Road Safety Audit in accordance with GG119 (5.46.1) may be required in advance of planning permission being granted as the findings may result in the red line boundary having to change due to road safety remedial measures being required. To date details of off-site works, including suggested dropped kerbs as requested have not been addressed. Additional information requested on the travel Plan is also awaited.
- 9.63. Having regard to the above, the application currently remains unacceptable in terms of Transport Development Control and is therefore contrary to Government guidance within the NPPF Section 9 'Promoting Sustainable Transport' and would warrant a reason for refusal.

Flood Risk and Drainage

- 9.64. The site is in Flood Zone 1 with a low risk of flooding and is less than 1 hectare in size and a detailed Flood Risk Assessment has therefore not been submitted although the application is accompanied by a Flood Risk and Drainage Technical Note.
- 9.65. OCC as Local Lead Flood Authority (LLFA) have assessed the submission and have objected.
- 9.66. LLFA advise that as part of a full application, drawings and calculations are expected to be detailed. The drainage strategy drawing should show invert and cover levels for all proposed drainage infrastructure and SuDS features. All surface water pipes need to be numbered and sized which should correlate with the Micro-drainage calculations. Calculations are required for the whole surface water network.
- 9.67. The existing drainage must be shown on the drainage strategy drawings and existing pipes that are to be retained clearly identified. Further, all the maintenance requirements for the existing retained pipes need to be identified on the plan drawings.
- 9.68. A surface water catchment plan is required to demonstrate how the site will drain and to which drainage features. The existing and proposed areas must be clearly shown.
- 9.69. A detailed maintenance schedule is required for all proposed drainage infrastructure and SuDS features and all maintenance requirements need to be clearly identified.
- 9.70. A surface water exceedance plan must be provided to demonstrate how the site will drain in an event where the surface network fails. All surface water should be kept away from structures and within the site boundary.
- 9.71. Technical approval from the sewer undertaker will be required in order to make drainage connections.
- 9.72. The Ground Investigation Report states that infiltration is not feasible, however, the infiltration testing results, and location of testing have not been provided.
- 9.73. Having regard to the above, it is considered that the application fails to comply with Policies ESD6 and ESD10 of the CLP 2015 and Government guidance within the National Planning Policy Framework and therefore would warrant a reason for refusal.
- 9.74. Thames Water have also assessed the submission and advise that no objections are raised in respect of waste, but in respect of water have identified an inability of the existing water network infrastructure to accommodate the needs of the development proposal. They have suggested a condition is imposed should the development be approved.

Land Contamination, Noise and Air Quality

- 9.75. The application is accompanied by an Acoustic Report, Air Quality Report and Ground Investigation Report which have been assessed by the Environmental Health team.
- 9.76. In terms of noise, where there is a need for background ventilation to achieve the desired noise levels, an overheating assessment should be carried out and any necessary mitigation put in place prior to first occupation. An overheating risk assessment has subsequently been submitted which addresses any issues and is acceptable. Whilst the external areas on Castle Street will have noise levels above 55dB, provided all residents have access to the communal patio area for relaxing then this is not a reason for objection. However, there is concern that relying on the gate

to be closed is not the best way to maintain a good noise environment on the patio area.

- 9.77. In terms of contamination, the content and findings of the report is accepted and therefore a condition is recommended regarding any contamination not previously identified be found.
- 9.78. In terms of air quality, the air quality report contents and its findings are acceptable. A condition is recommended regarding the provision of EV charging points for 25% of the car parking spaces.

Sustainable Construction and Sustainability

- 9.79. Section 14 of the NPPF 'Meeting the challenge of Climate Change, Flooding and Coastal Change' is relevant to this proposal, and in particular Paragraphs 154 and 155.
- 9.80. Policy ESD1 of the CLP 2015 'Mitigating and Adapting to Climate Change' and includes a criteria for considering applications, including the requirement that new development will incorporate suitable adaption measures to ensure that the development is more resilient to climate change impacts.
- 9.81. Policy ESD2 of the CLP 2015 'Energy Hierarchy and Allowable Solutions' seeks to achieve carbon emissions reductions, particularly in respect of sustainable design and construction measures, making use of renewable energy and giving priority to decentralised energy systems.
- 9.82. Policy ESD3 'Sustainable Construction' states amongst other things that '*All 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 also goes on to say 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*'.
- 9.83. The application is accompanied by a sustainability statement which has assessed the development in terms of Policies ESD1, 2 and 3. The key conclusions advise that:
- The buildings will be constructed to a specification which incorporates insulation levels and fixings achieving u-values significantly beyond the benchmarks in Part L
 - The energy efficiency measures proposed will achieve a 10.90% saving over the Building Regulations Target Fabric Energy Efficiency metric
 - A PV array capable of generating 43,647.94Wh/year of electricity and off-setting 22,260.45kg/year cO₂ will be installed on the roof of the building
 - Each home will achieve a water consumption rate less than 110 litres person/day or less
 - An ethical timber procurement policy will operate at the application site
- 9.84. Officers are satisfied that the proposed development would comply with the requirements of the Policy and that the development would be sustainable in terms of energy use.

Health and Well-Being

- 9.85. Health and well-being is high on both the Government's and this council's agenda, particularly in the light of the recent pandemic and impact it has had on the population, emphasising the need for access to good quality public open space as well as the benefit of private outdoor space. The applicant was therefore advised at pre-application that a Health Impact Assessment should be carried out in connection with the development. This was submitted accordingly and has been assessed by the Healthy Place Shaping Team who raise no objection to the submission.

Affordable Housing and Viability

- 9.86. The application submission does not propose affordable housing within the development due to the specialist nature of the development, stating that the management regime and high service charges associated with retirement schemes render it problematic to mix open market and affordable tenures.
- 9.87. The usual policy requirement set out in Policy BSC3 of the CLP 2015 would be for the provision of 30% affordable housing on all developments of 11 or more dwellings with a 70:30 tenure split between rented and intermediate tenures. However, it is recognised that with proposals such as this for open market retirement apartments in a block, on-site affordable housing provision would not be practicable and therefore accept the reasoning above put forward by the applicant. In such circumstances an off-site contribution would ordinarily be sought through a Section 106 Agreement and the amount payable would be based on estimated sales values with an overage clause included to secure commuted sum payments in the future if the developer achieves a higher profit margin than anticipated in the viability assessment.
- 9.88. A viability statement has also been submitted with the application advising that the provision of an off-site affordable contribution in lieu of on-site provision would not be viable. The viability statement has been reviewed by an independent assessor on behalf of the District council.
- 9.89. The findings of the independent assessor advises that the site is sufficiently viable to make a policy compliant contribution towards the provision of Affordable Housing. A copy of the report has been forwarded to the applicant for information and comment, but to date no response has been received. The provision of an appropriate affordable housing off-site contribution will therefore be sought through the Section 106 Agreement accordingly.

Planning Obligations

- 9.90. In order to ensure that the development is acceptable in planning terms, a number of the impacts of the development need to be mitigated and/or controlled through covenants in a legal agreement. All section 106 requirements are subject to statutory tests and in order to be taken into account in deciding to grant planning permission they need to be: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind.
- 9.91. Policy INF1 of the CLP 2015 advises 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. The Council's Developer Contributions SPD 2018 offers guidance in respect of infrastructure requirements and provision and is a material consideration.
- 9.92. It is considered that the following additional items/contributions should be secured as part of any permission relating to the development (and any amendments deemed necessary)

9.93. CDC Obligations

- Off-site affordable housing contribution in lieu of 30% on site
- Community facilities enhancement within the vicinity of the site of £47,009.08
- Outdoor sports provision of £82,949.60
- Indoor Sports provision of £34,336.77
- Monitoring fee of £1000

9.94. OCC Obligations

- Monitoring fee of £1,446 (RPIx Dec 2020)

9.95. Other Obligations

- OCCG - £69,120 towards doctors surgeries in Banbury to provide the additional health care necessary to serve the increased population

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 normally refused unless outweighed by other material consideration.
- 10.2. In terms of this application, the principle of the redevelopment of the site for residential elderly persons accommodation is considered acceptable in principle. The application as submitted however, is not considered appropriate in terms of the overall scale and height of the proposed buildings in relation to the Grade II Listed Trelawn House adjacent and in terms of its detail of design, and its function as a key landmark building at this main road junction. The proposal is therefore contrary to Policy ESD15 of the CLP 2015 and saved policies C18, C23, C28 and C30 of the adopted CLP 1996 and Government guidance within the NPPF relating to design and heritage impact.
- 10.3. In terms of the piecemeal nature of the development which has specifically excluded the adjacent tyre depot from the site, the application is also considered to be contrary to Policy Banbury 8 of the CLP 2015 which aims to develop the site in a comprehensive manner.
- 10.4. The development is also not currently considered acceptable in terms of highways who have raised objections to the current submission and would therefore fail to provide safe access to the site and fails to comply with Policy ESD15 of the CLP 2015 and Government guidance within the NPPF.
- 10.5. In terms of flood risk and drainage, the site lies in Flood Zone 1 and is therefore at low risk of flooding. OCC as Local Lead Flood Authority have objected to the proposal on the grounds of lack of detail and information. To date this objection has not been resolved and therefore the proposal is contrary to policy ESD6 and ESD10 of the CLP 2015 and Government guidance within the National Planning Policy Framework.
- 10.6. In terms of Planning Obligations, a section 106 has not yet been agreed and drafted, and the issue of the viability of the development in terms of an off-site affordable housing has not yet been resolved. A reason for refusal relating to the lack of a completed Section 106 is therefore also recommended.

11. RECOMMENDATION

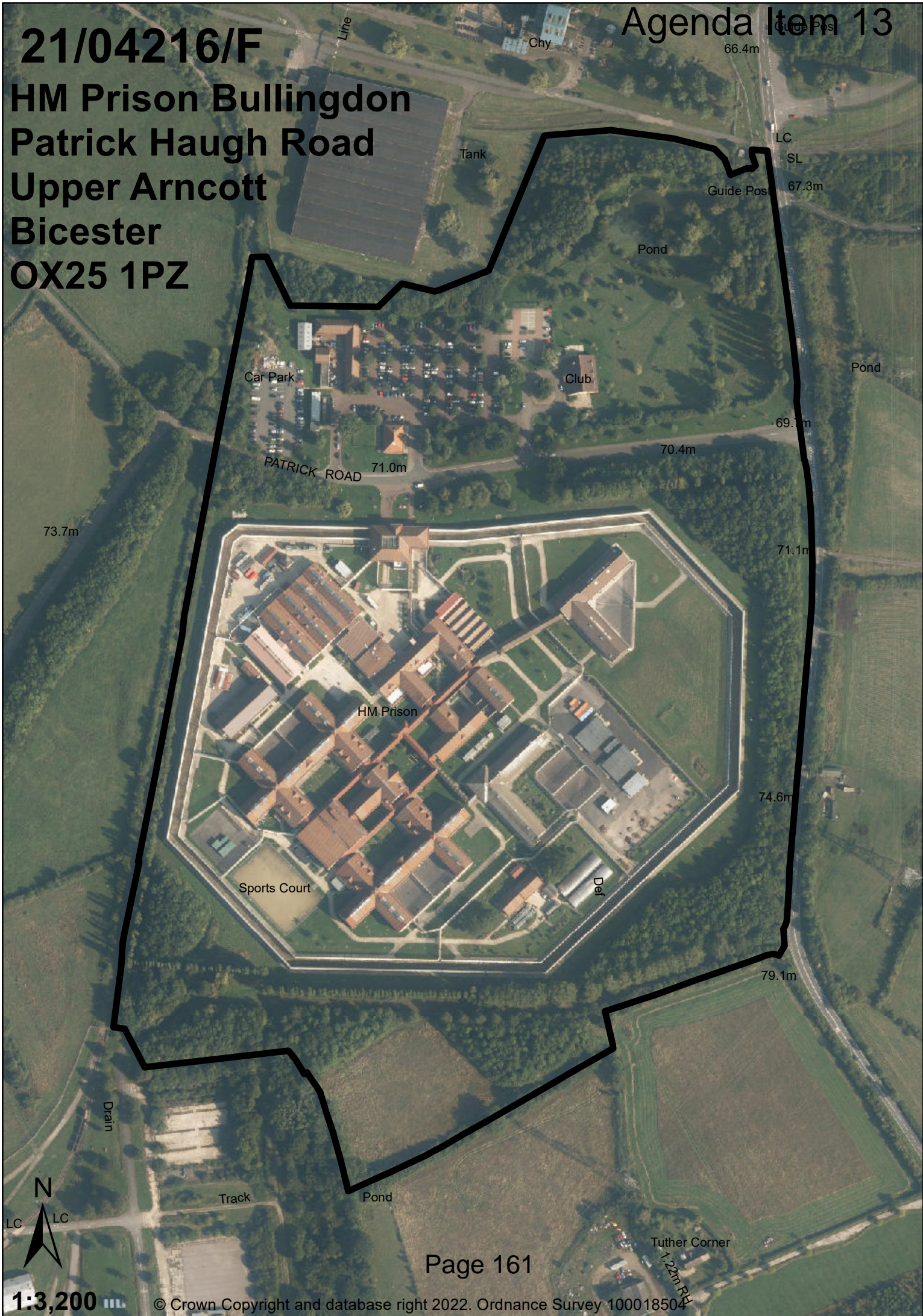
THAT THE COMMITTEE RESOLVE TO CONFIRM THAT, HAD THE POWER TO DETERMINE THE APPLICATION HAVE CONTINUED TO REST WITH THEM, THEY WOULD HAVE REFUSED THE APPLICATION FOR THE REASONS SET OUT BELOW:

REASONS FOR REFUSAL

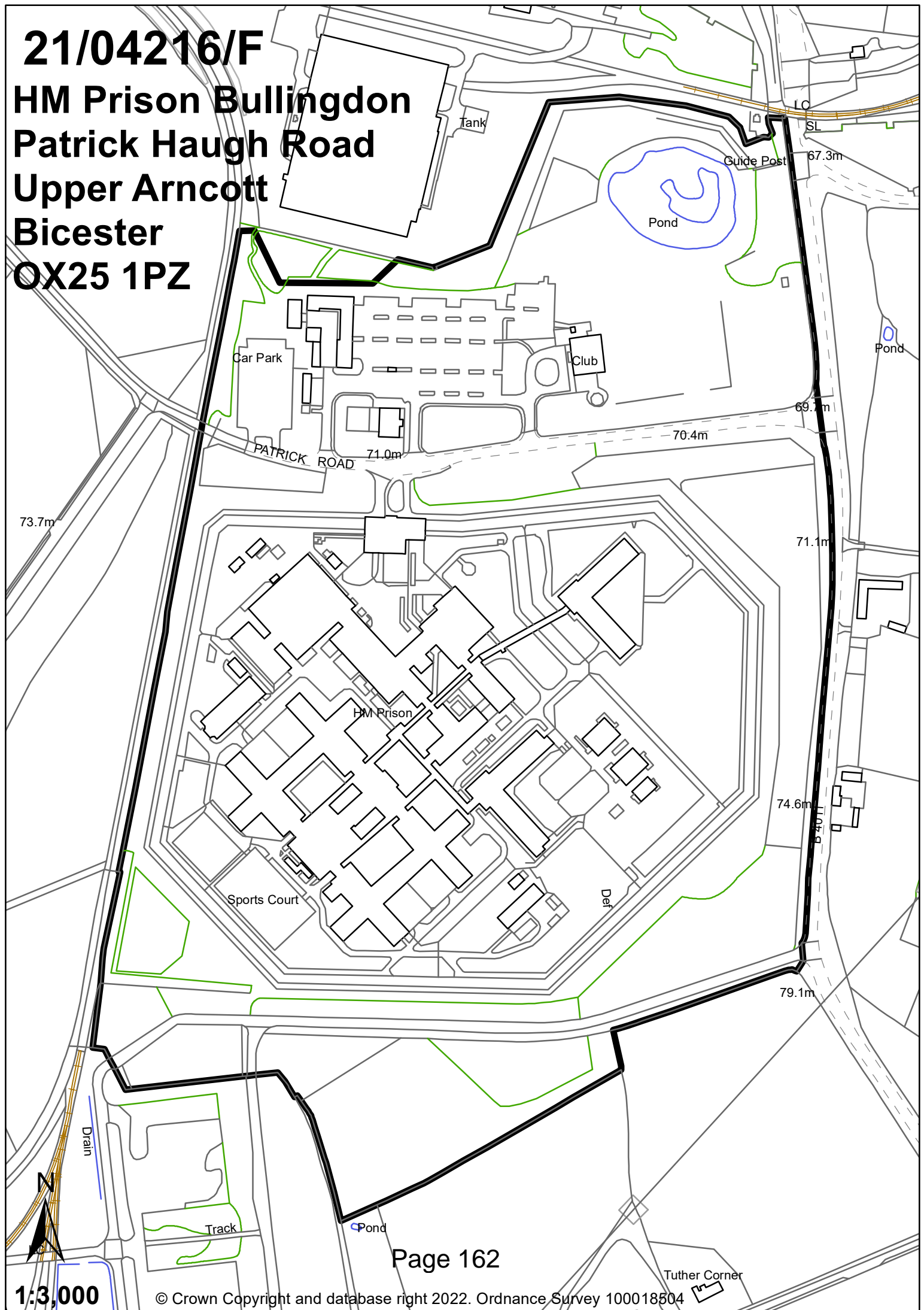
1. The development proposed, by virtue of its scale, form and design in relation to Trelawn House adjacent and the Banbury Conservation Area is considered to have a detrimental impact (less than substantial) upon the character and appearance, historical integrity and setting of this grade II Listed building and would fail to preserve and enhance the character and appearance of the Banbury Conservation Area. Furthermore, the development by virtue of its form and design fails to provide the bespoke landmark building as required by Policy Banbury 8 and the Banbury Vision and Masterplan SPD 2016. The benefit of bringing the site back into use and making efficient use of the land would not outweigh the harm caused to the heritage assets. The proposals are therefore contrary to saved Policy C18 of the adopted Cherwell Local Plan 1996, Policies Banbury 8 and ESD15 of the adopted Cherwell Local Plan 2015 and Government guidance within paragraphs 199, 202 and 206 of the National Planning Policy Framework.
2. The proposal lacks detail and information relating to the drainage of the site and is therefore contrary to Oxfordshire County Council's published guidance "Local Standards and Guidance for Surface Water Drainage on Major Development in Oxfordshire" and Policies ESD6 and ESD7 of the adopted Cherwell Local Plan 2015 and Government guidance within the National Planning Policy Framework
3. The proposal does not provide for safe and adequate access, parking and manoeuvring within the site to the detriment of pedestrian and highway safety contrary to Oxfordshire's County Council's guidance Residential Road Design Guide (2003) - Second Edition (2015) Also, the off-site works will need to be designed in accordance with DMRB and the junction and forward visibility splays and dimensions must be in accordance with the OCC Street Design Guide November 2021 and Government guidance within the National Planning Policy Framework.
4. In the absence of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement the Local Planning Authority is not satisfied that the proposed development provides for appropriate infrastructure contributions required as a result of the development and necessary to make the impacts of the development acceptable in planning terms, to the detriment of both existing and proposed residents and contrary to Policies BSC3, BSC10, BSC11 and INF 1 of the Cherwell Local Plan 2015 and Planning Obligations SPD 2018 and Government guidance within the National Planning Policy Framework.

21/04216/F

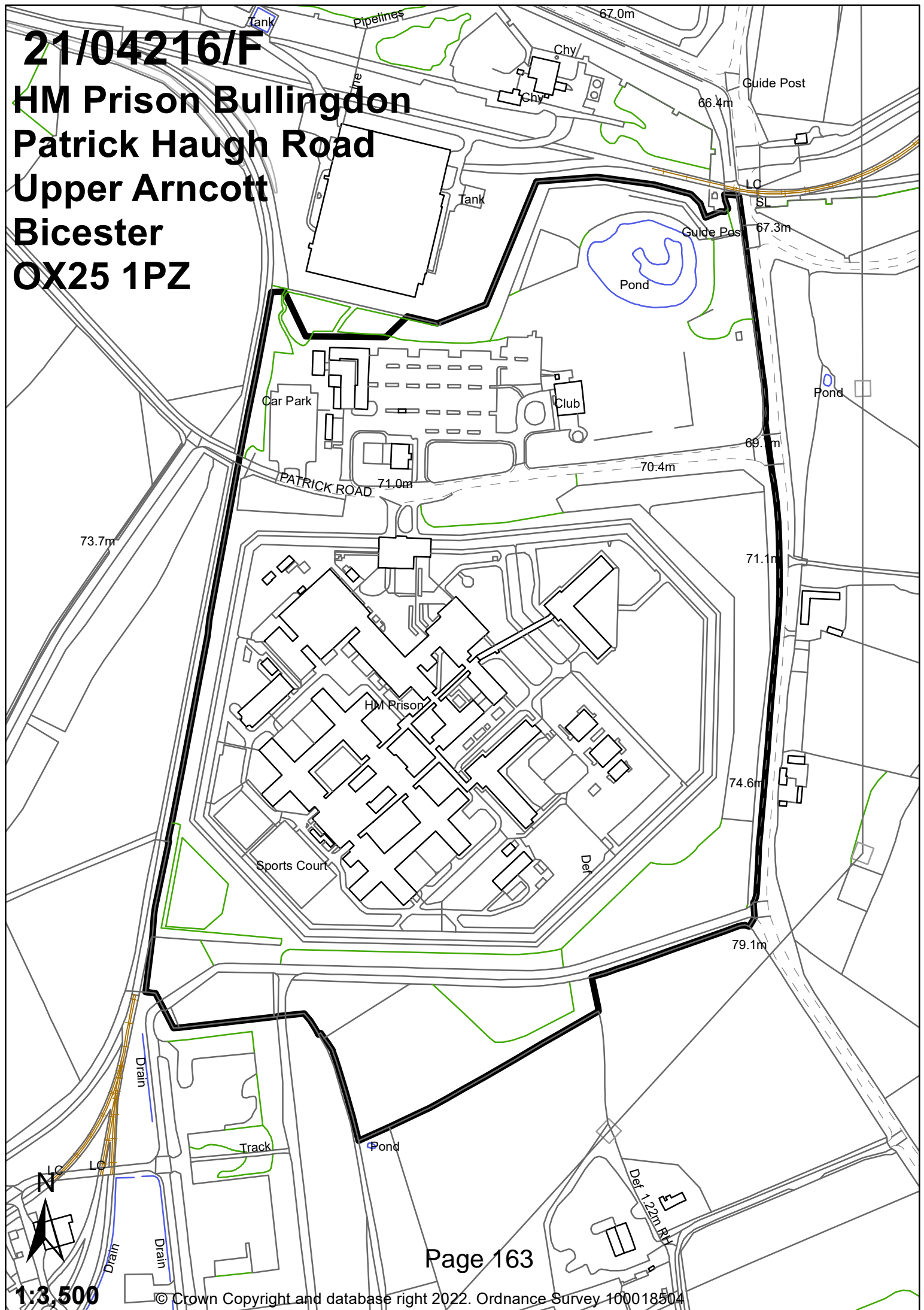
HM Prison Bullingdon
Patrick Haugh Road
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Case Officer: Wayne Campbell

Applicant: Her Majesty's Prison & Probation Service

Proposal: Development of a new accommodation houseblock, new office/administration building, new workshop building, extension to existing medical office, new 'programmes/multifaith' building, and extension to existing physical recreation building; associated demolition works; extension to the prison car park; associated landscaping.

Ward: Launton and Otmoor

Councillors: Councillor Coton, Councillor Holland, and Councillor Patrick

Reason for Referral: Major development

Expiry Date: 14 April 2022

Committee Date: 19 May 2022

SUMMARY OF RECOMMENDATION: DELEGATE POWERS TO GRANT PERMISSION SUBJECT TO CONDITIONS AND S106

1. APPLICATION SITE AND LOCALITY

- 1.1. The site is located to the southeast of Bicester between the villages of Upper Arncott and Piddington. The site is within the countryside, with neighbouring sites occupied by the Ministry of Defence and the Oxfordshire Army Cadet Force Headquarters. Generally, the site is surrounded by established trees and greenery that largely conceal the prison from the surrounding road network. The Establishment can be accessed from Patrick Haugh Road, which runs between Upper Arncott and the B4011.
- 1.2. HMP Bullingdon opened in 1992. It covers approximately 21 hectares of former Ministry of Defence land. The prison's regime is linked with Milton Keynes College and provides learning opportunities from basic skills such as English and Mathematics through to distance learning with the Open University. Training is available to trades and professions such as printing, industrial cleaning, barbering, music, hospitality and business. Work is also available throughout the prison in areas such as the laundry and farms and gardens. Currently, there are around 1100 men living at Bullingdon across 6 houseblocks.

2. CONSTRAINTS

- 2.1. The application site has the following constraints:
- Within Flood Zone 1 – i.e., the land is the lowest flood risk
 - The site is located to the west of District Wildlife Site – Piddington Training Area
 - The site is located to the immediate north of the Local Wildlife Site – Site B, Arncott
 - The majority of the area outside the prison site is maintained as open fields

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. All the proposed building works are within the secure perimeter wall of the prison boundary. The proposal includes an additional 240-space prisoner accommodation block; a new office and administration building; new workshop building; extension to an existing medical office; a new 'programmes/multifaith' building; extension to the existing physical recreation building; and associated demolition works.
- 3.2. The proposal also includes some works outside the secure boundary of the prison in the form of the addition of 100 new parking spaces adjacent to the existing car park, on the opposite side of Patrick Haugh Road; and associated landscaping around the car park extensions, to address the increased occupancy requirements.

4. RELEVANT PLANNING HISTORY

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

21/00842/CLUP – Certificate of Lawfulness for proposed installation of solar PV panels on some roofs. Permitted 3 June 2021;

19/01019/CLUE – Certificate of Lawfulness for retention of Prison accommodation block F Wing. Permitted 13 September 2019;

18/01934/CLUP – Certificate of Lawfulness for proposed blocking up of ten first floor windows along the north and east elevations. Permitted 3 January 2019;

17/01622/F – Fire upgrade works to the accommodation blocks, including external installation of eight containerised water-misting plants. Permitted 2 October 2017.

- 4.2. There were eleven earlier applications for a variety of building works to the Prison over the period 2001 – 2010 but nothing of relevance to the current proposals.

5. PRE-APPLICATION DISCUSSIONS

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

21/02023/PREAPP: Proposed new houseblock

- 5.2. The pre-application advice provided confirmed that the principle of the development was acceptable and that the design of the proposals would also be acceptable taking into consideration the use in the context of the existing Prison complex.

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) and statutory consultees. The final date for comments was **31 March 2022**.

- 6.2. There were no objections, no submissions of support and no comments 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. ARNCOTT PARISH COUNCIL: No comments received.
7.3. PIDDINGTON PARISH COUNCIL: No comments received.

CONSULTEES

- 7.4. OCC MINERALS AND WASTE: **No objections.**
7.5. CDC LAND DRAINAGE: **No objections.** However, advise that there are areas of surface water flood risk within the site where water can pond if not readily drained.
7.6. CDC LEGAL SERVICES RIGHTS OF WAY OFFICER: **No objections.**
7.7. THAMES WATER: **No objection** subject to a suggested condition and a request that the Prison authority contact Thames Water with respect to their wayleave or easement rights. That can be added as an Informative to the decision notice.
7.8. INTERNAL DRAINAGE BOARD: **No objection.**
7.9. ANGLIAN WATER: **No comments.**
7.10. OCC HIGHWAYS: **No objection** subject to S106 contribution towards public transport services and conditions
7.11. LEAD LOCAL FLOOD AUTHORITY: **Objection.**
7.12. THAMES VALLEY POLICE (DESIGN ADVISOR): No comments received.
7.13. CDC HEALTH PROTECTION: No comments received.
7.14. CDC ENVIRONMENTAL PROTECTION: No comments received.
7.15. CDC PLANNING POLICY: No comments received.
7.16. ENVIRONMENT AGENCY: No comments received.
7.17. WESTERN POWER: No comments received.
7.18. SOUTHERN GAS NETWORK: No comments received.
7.19. SEVERN TRENT WATER: 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 in 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
- ESD2 – Energy Hierarchy and Allowable Solutions
- ESD3 – Sustainable Construction
- ESD5 – Renewable Energy
- ESD6 – Sustainable Flood Risk Management
- ESD7 – SuDS
- ESD8 – Water Resources
- ESD10 – Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13 – Landscape Protection
- ESD15 – The Character of the Built and Historic Environment

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C8 – Sporadic Development
- C28 – Layout, design and external appearance of new development
- C30 – Design
- ENV1 – Pollution Control

- 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
 - Highway implications
 - Drainage
 - Ecology impact
 - Sustainable development

Principle of Development

Policy Context

- 9.2. Planning law requires that planning decisions are made in accordance with the Development Plan unless material considerations indicate otherwise. Paragraph 12

of the National Planning Policy Framework (NPPF) makes clear that it does not change the statutory status of the development plan as the starting point for decision making. Proposed development that conflicts with the development plan should be refused unless other material considerations indicate otherwise.

- 9.3. The NPPF sets a presumption in favour of sustainable development and a positive approach to planning as a means of supporting the country's economic and housing growth, whilst protecting the environment.
- 9.4. Paragraph 96 of the NPPF states that to ensure faster delivery of other public service infrastructure such as further education colleges, hospitals and criminal justice accommodation, local planning authorities should also work proactively and positively with promoters, delivery partners and statutory bodies to plan for required facilities and resolve key planning issues before applications are submitted. As this application seeks to provide additional accommodation within the prison boundary this paragraph is a material consideration.
- 9.5. The Development Plan comprises saved policies in the 1996 adopted Cherwell Local Plan (CLP 1996) and the 2015 adopted Cherwell Local Plan (CLP 2015). The policies important for determining this application are referenced above. Key policy in terms of principle is PSD1 - Presumption in Favour of Sustainable Development. Under this Policy it states that in considering applications *the Council will take a proactive approach to reflect the presumption in favour of sustainable development contained in the National Planning Policy Framework*. The Policy continues by stating that *applications that accord with the policies in this Local Plan (or other part of the statutory Development Plan) will be approved without delay unless material considerations indicate otherwise*.

Assessment

- 9.6. This application seeks planning permission for a number of new buildings within the prison grounds to allow for an improved prison service both in terms of facilities on the site and inmate provision. The use of the site as a prison has a long and established history and the type of accommodation is not something which can be provided outside the prison site. As such, the proposed development for more intensive prison use within the prison grounds (240 extra inmates within a new accommodation block and associated other works) is considered acceptable in terms of principle.
- 9.7. Notwithstanding this point the development also includes the provision of additional car parking with the extension of the existing car parking area located to the immediate north of the main prison buildings. The provision of the additional car parking is to address the additional accommodation on the site and the increase in staff to be employed on the site with a stated increase in staff from 650 full time posts to 747 members of staff as a result of the development.
- 9.8. Although it is accepted that the prison is served by a bus service by Stagecoach, it also has to be accepted that the staff will work shifts which would not necessarily be covered by the times of the buses and therefore there is a need to ensure adequate parking is provided on site. For this reason, the principle of the additional 102 parking spaces is considered acceptable.

Conclusion

- 9.9. This application seeks planning permission for a series of new buildings and extensions to existing buildings within the secure boundary walls on this prison site as well as an extension to the surface carparks located outside the secure area of the prison. The new development would be for use by the prison as part of the

improvements to the service on the site. The site has a long history of providing secure accommodation which could not be provide elsewhere in this area. The principle of the development is therefore considered acceptable.

Design, and impact on the character of the area

Policy context

9.10. Section 12 of the National Planning Policy Framework covers the issue over design and is clear that good design is a fundamental to what the planning and development process should achieve. Paragraph 130 of the NPPF highlights, amongst other things, 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);

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; and

f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

9.11. Policy ESD15 of the Adopted Local Plan Part 1 states that 'new development proposals should:

- Contribute positively to an area's character and identity by creating or reinforcing distinctiveness and respecting local topography, including skylines, valley floors, significant trees, historic boundaries, landmarks, features or views;
- Respect the traditional pattern, routes, spaces, blocks, enclosures and (inter alia) create clearly defined active public frontages.

9.12. Policy ESD13 of the Cherwell Local Plan Part 1 states that: "Development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided. Proposals will not be permitted if they would:

- Cause undue visual intrusion into the open countryside;
- Cause undue harm to important natural landscape features and topography;
- Be consistent with local character;
- Harm the setting of settlements, buildings, structures, or other landmark features;
- Harm the historic value of the landscape.

9.13. Saved Policy C28 of the Cherwell Local Plan 1996 exercises control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context and Saved Policy C8 seeks to limit sporadic development beyond the built limits of settlements.

Assessment

- 9.14. The application seeks planning permission for a mix of new development within the secure prison boundary. In terms of scale the new development will be a mix of single-storey and two-storey ancillary buildings and a four-storey star-shaped accommodation block building on the site. The single storey buildings will provide a new office accommodation, a medical centre extension, and a separate property store building on the site.
- 9.15. The two-storey buildings will comprise a new workshop building, a new multi-faith building, as well as an extension to the physical recreation building. With regard to the larger building on the site, this will be a new four-storey accommodation block which will provide accommodation of up to 247 inmate beds. This building will be in the form of a cross created by four projection wings from a central core. All new buildings and extensions will be provided with pitched roof designs. Overall, the additional floor area created on the site is stated as 9,704sqm although a total of 1,500sqm will also be lost as part of demolition works to facilitate the new build and extensions. The scale of the proposed buildings will be comparable with the other 3-storey accommodation blocks and the other 1, 2 and one 4-storey buildings already on site.
- 9.16. In terms of construction, all new buildings and extensions on the site will be constructed from materials similar to those elsewhere within the prison site with reinforced concrete block, brick, metal cladding and metal profile roof panels. As such, the design of the proposed development when viewed within the prison grounds will appear in character with the prison site.
- 9.17. With regards to the impact of the development on the wider area outside the secure enclosure of the site, it has to be acknowledged that the central area of the prison site is enclosed by a tall perimeter wall which, for obvious security reasons is to a significant height. Due to this security wall, the proposed development will not be readily visible from outside the site from public vantage points. Notwithstanding this point, it is accepted that the four-storey accommodation block will be one of the largest building on the site, and it is likely that parts of the roof could be visible from the car park area as well as from the access road Patrick Haugh Road to the north of the prison and from a short stretch of the B4011 to the east of the prison. However, as both those roads are screened by significant landscaping between the roads and the security wall, only glimpse views would be possible above the wall when viewed from the public highway.

Conclusion

- 9.18. It is considered that in terms of design and location of the buildings and extensions on the site that the proposals will have no adverse impact on the area. Furthermore, the design of the new development will match the style and character of existing buildings on the site. For these reasons it is considered that in terms of design and appearance the proposal represents an acceptable form of development and complies with the adopted policies.

Highway implications

Policy context

- 9.19. Paragraph 110 of the NPPF states 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.*

In addition to this, paragraph 111 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.

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

Assessment

- 9.22. Along with the proposed development within the secure area of the prison site, this application also seeks permission for an increase in the car park located to the north of the main prison entrance building. The proposal is for the extension of the existing car parking area in this location from 356 spaces to 458. The parking will include an increase in disabled parking from 6 to 123 spaces while the number of cycle parking spaces will remain at 24. All parking will be maintained as surface parking with the increase in the car park. The additional parking spaces will be provided in two extensions to the existing car park. The first will be a small extension to the south in an area of landscaping and will provide an additional 57 spaces with the second extended area being to the east of the main car park and behind the social centre to provide an additional 48 spaces.
- 9.23. As noted in the paragraphs above the main proposal is for the increase in floor area on the prison site, which will require an increase in the number of staff at the prison by an additional 97 posts. The increase in accommodation will also result in a higher number of visitors to the prison and as such the demand upon parking will also increase and hence the need to extend the car parking provision at the prison. Although it is accepted that the prison site is located and served by a bus service, it has to be acknowledged that staff will work shift patterns which would not always allow access to and from the site by public transport. Furthermore, there are limited pedestrian access routes serving the prison being in a slightly isolated location away from the main villages of Upper Arncliffe and Piddington. For these reasons adequate parking provision needs to be provided at the site.
- 9.24. As highlighted under paragraph 111 of the NPPF *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 this instance the Highway Authority has confirmed no objections subject to conditions and the applicant make a contribution of £125,000 towards public transport services under a S106 agreement. With no highway safety objection, it is considered that due to the semi-isolated location and nature of the site, the increase in the car parking provision is considered acceptable in this instance.

Drainage

Policy content

- 9.25. Section 14 of the NPPF covers the issue of meeting the challenge of climate change, flooding and coastal change. Paragraph 163 of which 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. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:*
- a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;*
 - b) the development is appropriately flood resistant and resilient;*
 - c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;*
 - d) any residual risk can be safely managed; and e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.*
- 9.26. Paragraph 165 of the NPPF continues by stating 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
- 9.27. 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

- 9.28. The site is situated wholly within Flood Zone 1, which is land which has a less than 1 in 1,000-year probability of river flooding.
- 9.29. Nevertheless, the application is supported by a Flood Risk Assessment as well as details of a SuDs scheme around the site to allow for adequate drainage of the site and to accommodate the additional floor area. The applicant also confirms that the foul and surface water drainage from the existing buildings to be refurbished will be connected into the existing foul and surface water network separate to the drainage for the new build. As a result of the design the applicant is of the view that no flooding of the drainage system will occur during a 1 in 30-year storm event (in accordance with Ciria 753, The SUDS Manual). Furthermore, the applicant has also confirmed that no flooding of adjacent properties, land or main accesses will occur during a 1 in 200-year storm event inclusive of an additional 30% for climate change (in accordance with Ciria 753, The SUDS manual). Notwithstanding this the applicant has also confirmed that given the low risk of surface water flooding identified in and across the site, it is recommended best practice for the finished floor levels of the site to be elevated above surrounding ground levels by a minimum of 300mm where practicable to address any residual risk of surface water flooding. It is also considered that due to

the nature of the site, that it is likely that a drainage system will address the on-site surface water flood risk.

- 9.30. In considering the details submitted, no comments have been raised by the Internal Drainage Board but an objection has been received from the Local Lead Flood Authority on the grounds of a lack of information relating to surface water drainage. Thames Water have also suggested an inability of the existing water network infrastructure to accommodate the needs of this development proposal without further information being provided. Notwithstanding this point, Thames Water has not objected to the proposals but stated that in the event that planning permission is granted that a suitably worded condition should be attached which requires no occupation of any new development until all water network upgrades required to accommodate the additional demand to serve the development have been completed; or a development and infrastructure phasing plan has been agreed with Thames Water to allow development to be occupied. Thames Water has also requested that in the event that permission is granted that an Informative is added to the decision notice which highlights that a Groundwater Risk Management Permit from Thames Water will be required for discharging groundwater into a public sewer which is to be agreed with Thames Water prior to any discharge into the main system.
- 9.31. As highlighted in the comments of Thames Water, the applicant will need to discuss the details of the final drainage connection with Seven Trent and reach an agreement on what if any changes to the infrastructure are required, to allow the development to connect to the current system. There is no objection raised to the proposal by Thames Water. With regards to the objection raised by the LLFGA it is considered that the additional information required could be provided by a suitably worded condition and at the time of drafting this report confirmation of this was sought from the LLFA. Based on this and the no objections raised to the application by Thames Water, it is considered that subject to the necessary infrastructure being in place there is no drainage reason to warrant a refusal in this instance.

Ecology Impact

Legislative context

- 9.32. 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.
- 9.33. 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.
- 9.34. 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.

- 9.35. 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.
- 9.36. 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

- 9.37. 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.
- 9.38. 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.
- 9.39. 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.
- 9.40. Policy ESD10 of the Cherwell Local Plan 2011-2031 lists measures to ensure the protection and enhancement of biodiversity and the natural environment, including a requirement for relevant habitat and species surveys and associated reports to accompany planning applications which may affect a site, habitat or species of known ecological value.
- 9.41. 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.

- 9.42. 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.
- 9.43. 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

- 9.44. Natural England's Standing Advice states that an LPA only needs to ask an applicant to carry out a survey if it's likely that protected species are:
- present on or near the proposed site, such as protected bats at a proposed barn conversion affected by the development

It also states that LPA's can also ask for:

- a scoping survey to be carried out (often called an 'extended phase 1 survey'), which is useful for assessing whether a species-specific survey is needed, in cases where it's not clear which species is present, if at all
 - an extra survey to be done, as a condition of the planning permission for outline plans or multi-phased developments, to make sure protected species aren't affected at each stage (this is known as a 'condition survey')
- 9.45. The application is supported by a detailed ecology assessment of the application site. The report highlights that an ecological survey and appraisal of the site and proposed development was undertaken in October 2021. The survey was also supported by a search of Bioscan's own in-house archives and available online resources, such as the government's MAGIC website, and information supplied by the Thames Valley Environmental Records Centre.
- 9.46. The report outlines that the proposed development site is not covered by any statutory or non-statutory nature conservation designations, and there are no potentially affected designated sites in the local landscape. The report highlights that no confirmed evidence of specially protected species being resident within the areas studied was found. In particular, no evidence of badgers was found, and the no reptiles of any species were recorded during the detailed survey. In terms other species the report notes that Dormouse is fully protected under the Conservation of Habitats and Species Regulations 2017 (as amended) and whilst no conclusive evidence of this species was found, an unconfirmed nest was recorded and it would be prudent to adopt a precautionary approach at this stage that assumes this species is present. It is therefore recommended that further checks of these tubes be carried out in November.
- 9.47. The static bat detector surveys confirmed three bat species together with bats of the Myotis, Plecotus and Nyctalus genera. Whilst it is difficult to be confident as to which species of Myotis bat were detected, analysis of these calls suggests the likely detection of Daubenton's bat Myotis daubentonii and also Natterer's bat Myotis

nattereri. Of these, soprano pipistrelle and noctule are a species of principal importance. The most frequently detected species was common pipistrelle, which accounted for approximately 75% of all the bat registrations, with 8% of calls from soprano pipistrelle bats, 4% were from *Myotis* bats and 9% were from noctule bats. This mix of registrations suggests the survey area may be of higher importance to bats within the local area and it is reasonable to attributed it a value at up to the local (e.g. Parish) level. Notwithstanding this, although the proposals would result in the removal of an area of meadow and amenity grassland, given the extent foraging habitat that would remain this impact is unlikely to significantly denude this value.

- 9.48. With regards to natural habitat the report highlights that the majority of the habitats were found to contain species and assemblages of plant species that are common and widespread throughout much of lowland Britain. The presence of a grassland likely to be remnant lowland meadow is, however, significant in the context of land use planning as it is a Section 41 priority habitat and therefore a material consideration for the local planning authority. The greatest impact on the area of lowland meadow is as a result of the new car parking located to the north of the main site. The loss of such habitat should therefore be justified, and the mitigation hierarchy adopted to first avoid, then mitigate and lastly compensate for any impact. The origin of the impact on this habitat is the need to create additional parking at the prison to support the expanded prisoner capacity. It is understood that space within the prison landholding for this is limited, and wholly avoiding an impact on this grassland is not possible. Nevertheless, following initial discussions with applicant the parking area was reconfigured and space for some additional parking was found elsewhere. This resulted in some 781 sqm of lowland meadow that was proposed to be removed, now being retained.
- 9.49. In order for the local planning authority 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 local planning authority should then consider whether Natural England 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.
- 9.50. In respect of planning applications and the Council discharging of its legal duties, case law has shown that if it is clear/ very likely that Natural England will not grant a licence then the Council should refuse planning permission; if it is likely or unclear whether Natural England will grant the licence then the Council may grant planning permission.
- 9.51. Officers are satisfied, on the basis of the advice from the Council's Ecologist and the absence of any objection from Natural England, and subject to conditions, that the welfare of any European Protected Species found to be present at the site and surrounding land will continue and be safeguarded 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.

Sustainable construction

Policy Context

- 9.52. 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

- 9.53. Policy ESD1 of the CLP 2015 covers the issue of Mitigating and Adapting to Climate Change and includes 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).*
- 9.54. With regards to Policy ESD 2, this covers the area of Energy Hierarchy and Allowable Solutions. The policy seeks to achieve carbon emission 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.
- 9.55. Policy ESD 3 covers the issue of Sustainable Construction and states amongst other things that *all 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 *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.* The Policy continues by stating that *all development proposals will be encouraged to reflect high quality design and high environmental standards, demonstrating sustainable construction methods including but not limited to: Minimising both energy demands and energy loss. Maximising passive solar lighting and natural ventilation. Maximising resource efficiency Incorporating the use of recycled and energy efficient materials. Incorporating the use of locally sourced building materials. Reducing waste and pollution and making adequate provision for the recycling of waste. Making use of sustainable drainage methods. Reducing the impact on the external environment and maximising opportunities for cooling and shading (by the provision of open space and water, planting, and green roofs, for example); and making use of the embodied energy within buildings wherever possible and re-using materials where proposals involve demolition or redevelopment.*
- 9.56. Policy ESD5 covers the issue of Renewable Energy and relates to all residential developments for more than 100 dwellings and non-domestic developments above 1000sqm. The policy states, inter-alia that where feasible, site renewable energy

provision will be required as part of the development unless an alternative solution would deliver the same or increased benefit.

Assessment

- 9.57. This application seeks planning permission for a series of new buildings on this prison site along with a few extensions to and refurbishment of existing units on the site. The applicant has confirmed that in terms of the new build elements, they will be aiming to achieve the BREEAM 'Outstanding' target and meeting the Net Zero Carbon Strategy standard set out in the London Energy Transformation Initiative (LETI) Climate Energy Design Guide standard stipulated by the Ministry of Justice. Renewable measures will be incorporated into the design and this can be seen on the elevation plans, which clearly show the use of PV solar panels on a number of roofs and the use of air source heat pumps.
- 9.58. In conclusion, it is considered that the design of the new build both in terms of the extensions and the new buildings on the site will be built to a high standard in terms of sustainable construction. Measures will also be used across the site to reduce the environmental impact of the development in terms of the build and use of the site, which complies with the requirements of the NPPF and adopted Local Plan policies.

10. PLANNING BALANCE AND CONCLUSION

- 10.1. This application seeks planning permission for a number of extensions to existing buildings and for new buildings on this prison site. The accommodation is required to allow for an extension in the use of the prison site and to provide improved facilities within the site. The application also seeks permission for the extension of the existing surface car park to the immediate north of the main entrance to the secure part of the prison.
- 10.2. The use of the site as a prison has a long history and as the development is for additional prison-related accommodation, which could not be provided outside the walls of the prison, for this reason; it is considered that the principle of this development is acceptable.
- 10.3. In terms of design, the development will be of comparable size and use comparable materials to that used elsewhere on the prison site and therefore will not appear out of place. Notwithstanding this point, due to the high security wall around the prison the majority of the new development will not be visible from outside the site and therefore will have no impact on the area when viewed from the public highway. The only potential part of a building to be seen would be that of the roof of the four-storey accommodation block to be provided in the north section of the site. However, again due to the boundary wall, the highway landscaping belts together with the position of the building in the site, the impact of this element is likely to be very limited. For these reasons the development within the secure site will have no adverse impact on the area surrounding the prison.
- 10.4. The car park to the north of the main site will be visible as further development on the site. It is accepted that part of the new car park will result in a loss of an area of lowland habitat, however, the justification is warranted in this instance and there is no alternative location. The provision of the car park will result in an increase in the urban area around the site but that would not be to an extent which would warrant a refusal and is an area of development required to support the increased use within the prison site. Furthermore, there is no highway objection to the development in terms of highway safety issues.

- 10.5. The applicant has demonstrated that the site will be served by a new SUDs scheme to address the increased drainage requirements on the site. No objections have been raised subject to further details being provided to Thames Water, as stipulated by a condition and informative.
- 10.6. As this is a new build on the site, the applicant has confirmed that the development will be built to a high specification which will include a contribution towards the Net Zero Carbon Strategy for HMP Bullingdon, as defined by the Ministry of Justice. The measures to be used include PV solar panels on the roofs and the installation of air source heat pumps. The applicant has therefore complied with Local Plan Policies ESD1, ESD2 and ESD3.

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):

S106 HEADS OF TERMS

- £125,000 towards public transport services
- Monitoring fees – TBC

CONDITIONS

Time Limit

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

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

2. The development shall not be carried out otherwise than in complete accordance with the approved plans 535804-BHK-ZZZ-ZZ-DR-A-001-S4-D0100_P02, 535804-BHK-ZZZ-ZZ-DR-A-020-S4-D0100_P03, 535804-BHK-ZZZ-ZZ-DR-A-021-S4-D0100_P03, 535804-BHK-ZZZ-ZZ-DR-A-100-S4-D0100_P07, DR-A-1200_P01, DR-A-1201_P01, DR-A-1202_P01, DR-A-1203_P01, DR-A-1204_P01, DR-A-1205_P01, DR-A-3920_P01, DR-A-4000_P01, DR-A-4001_P01, DR-A-4002_P01, DR-A-4003_P01, DR-A-4004_P01, DR-A-4005_P01, DR-A-4006_P01, DR-A-3100_P01, DR-A-3101_P01, DR-A-30206_P01, DR-A-3100_P01, 535804-6462-BHK-051-ZZ-DR-A-0700-S4-D0100_P01, 535804-6462-BHK-051-ZZ-DR-A-0120-S4-D0100_P03, 535804-6462-BHK-051-GF-DR-A-0100-S4-D0100_P04, 535804-6462-BHK-051-MZ-DR-A-0102-S4-D0100_P02, 535804-6462-BHK-051-ZZ-DR-A-0110-S4-D0100_P03, 535804-6462-BHK-051-R1-DR-A-0101-S4-D0100_P04, 535804-6462-BHK-050-ZZ-DR-A-0120-S4-D0100_P02, 535804-6462-BHK-050-GF-DR-A-0100-S4-D0100_P03, 535804-6462-BHK-050-R1-DR-A-0101-S4-D0100_P03, 535804-6462-BHK-050-ZZ-DR-A-0110-S4-D0100_P02, 535804-6462-BHK-053-ZZ-DR-A-0700-S4-D0100_P01, 535804-6462-BHK-053-ZZ-DR-A-0120-S4-D0100_P03, 535804-6462-BHK-053-ZZ-DR-A-0110-S4-D0100_P03, 535804-6462-BHK-053-GF-DR-A-0100-S4-D0100_P05, 535804-6462-BHK-053-01-DR-A-

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

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

4. The development hereby permitted shall be carried out in accordance with the recommendations set out in Ecological Appraisal of the HMP Prison Bullingdon by Bioscan (UK) Ltd dated November 2021 unless otherwise agreed in writing by the Local Planning Authority.

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

5. The development shall proceed in accordance with the Flood Risk Assessment reference 20305-HYD-XX-XX-FP-FR-0005 prepared by Hydrock received 20/12/2021 accompanying the application unless otherwise previously approved in writing by the Local Planning Authority.

Reason: To protect the development and its occupants from the increased risk of flooding in accordance with Policy ESD6 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government advice in Section 14 of the National Planning Policy Framework.

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

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

7. The proposed extension to the car park shall be provided in accordance with the approved plans before first occupation of the development hereby permitted. The additional parking shall thereafter be retained for use in connection with the development for those purposes only.

Reason: In the interests of highway safety, to ensure the provision of adequate off-street car parking to comply with Government guidance in Section 12 of the National Planning Policy Framework.

8. 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 to be first 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 Government advice in the National Planning Policy Framework.

9. No development shall take place, including any works of demolition until a Construction Method Statement has been submitted to, and approved in writing by the Local Planning Authority. The statement shall provide for at a minimum:
- a) The parking of vehicles of site operatives and visitors;
 - b) The routeing of HGVs to and from the site;
 - c) Loading and unloading of plant and materials;
 - d) Storage of plant and materials used in constructing the development;
 - e) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - f) Wheel washing facilities including type of operation (automated, water recycling etc) and road sweeping;
 - g) Measures to control the emission of dust and dirt during construction;
 - h) A scheme for recycling/ disposing of waste resulting from demolition and construction works;
 - i) Delivery, demolition and construction working hours;

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

Reason: To ensure the environment is protected during construction in accordance with Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

10. 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" and its subsequent amendments (and a Travel Plan Statement setting out how this phase will contribute to the overall site wide Travel Plan), 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, to ensure a satisfactory form of development and to comply with Policies SLE4 and ESD1 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

11. Prior to the commencement of the development hereby approved, full details of a drainage strategy for the entire site, detailing all on and off site drainage works required in relation to the development, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the drainage works shall be carried out and completed in accordance with the approved strategy, until which time no discharge of foul or surface water from the site shall be accepted into the public system.

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 in accordance with Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

INFORMATIVE

1. A Groundwater Risk Management Permit from Thames Water will be required for discharging groundwater into a public sewer. Any discharge made without a permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 1991. We would expect the developer to demonstrate what measures he will undertake to minimise groundwater discharges into the public sewer. Permit enquiries should be directed to Thames Water's Risk Management Team by telephoning 020 3577 9483 or by emailing trade.effluent@thameswater.co.uk. Application forms should be completed online via www.thameswater.co.uk. Please refer to the Wholesale; Business customers; Groundwater discharges section. 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.

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Kidlington
Oxfordshire
OX5 2AG



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**94 The Moors
Kidlington
Oxfordshire
OX5 2AG**



Case Officer: Sarah Greenall

Applicant: Henaud Developments

Proposal: Demolition of existing dwellinghouse, garage and outbuilding. Erection of 2 x 5-bed detached dwellinghouses (Use Class C3). Car parking, and alterations to access and landscaping. (Resubmission of 21/03017/F)

Ward: Kidlington West

Councillors: Cllr Conway, Cllr Tyson and Cllr Walker

Reason for Referral: Called in by Councillor Billington for the following reasons: (1) The development would represent an overdevelopment of the plot; (2) Significant public interest.

Expiry Date: 19 April 2022

Committee Date: 19 May 2022

SUMMARY OF RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site is located on the north side of The Moors within the built-up area of Kidlington and contains a detached bungalow externally faced in brick and situated on a generous plot. The existing dwelling benefits from a rear conservatory and a detached single garage to the eastern boundary of the plot with a further outbuilding being located to the rear of the dwelling adjacent to its western boundary. The dwelling benefits from two accesses onto the highway and front of the plot is laid to hardstanding sufficient for the parking of several vehicles. There is open land to the rear of the site, with a two-storey brick dwelling to the east and a bungalow to the west. There is a telegraph pole situated on highway land to the front of the site which would need to be repositioned at the applicant's expense to facilitate the proposed access.
- 1.2. The Moors is characterised by detached dwellings in a range of scales and architectural styles situated on generous plots. The application site forms a point of change in the street scene with larger two storey dwellings being common place to the west of the site and bungalows being the dominant form of development to the east; the established building line shifts further into the plots to the west with the existing dwelling being positioned in the mid-point of this change.

2. CONSTRAINTS

- 2.1. The application site is within Flood Zone 1, the area of least flood risk; however, there is a drainage ditch to the rear of the site that has been known to result in localised drainage issues. The site is not within a conservation area and does not contain or impact on the setting of any listed buildings. There are no protected species or trees identified on the site however there is an oak tree subject to a Tree Protection Order within the curtilage of the adjacent dwelling, no. 94 the Moors.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The application proposes the demolition of the existing detached bungalow and the erection of two 2 x 5-bed detached dwellinghouses (Use Class C3). Car parking, and alterations to access and landscaping.
- 3.2. Both dwellings would have two parking spaces to the front and access to the rear along the side boundaries. The vehicular accesses to each dwelling would be separated by landscaping and bin stores provided behind hedging. Air source heat pumps would also be installed to the rear of the dwellings.
- 3.3. The dwellings themselves would be in a similar position to the existing bungalow set back from the road in line with the surrounding neighbouring properties. They would be detached and feature a gable end design fronting onto the road and would be finished with a tiled roof, facing brick and render walls and reconstituted stone cills and lintels.

4. RELEVANT PLANNING HISTORY

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

21/03017/F: Demolition of existing dwellinghouse, garage and outbuilding. Erection of 2 x 5-bed detached dwellinghouses (Use Class C3). Car parking, and alterations to access and landscaping. *Application withdrawn.*

- 4.2. The application was withdrawn following Officers raising concern that the development would have a detrimental impact on the character and appearance of the street scene, and that the development would result in oppressive relationship with the neighbouring properties at 92 and 96 The Moors.

5. PRE-APPLICATION DISCUSSIONS

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

21/04279/PREAPP: Demolition of existing dwellinghouse, garage and outbuilding. Erection of 2 x 5-bed detached dwellinghouses (Use Class C3). Car parking and alterations to access and landscaping.

- 5.2. The proposed dwellings were reduced in height and redesigned to create a gable end facing onto the road to allow the eaves on the boundaries of the neighbours to be lowered further. The principle of the development was previously considered acceptable and the amendments were considered to allow the design to be generally acceptable; however, it was advised that the height of number 94 should be reduced to allow for a more suitable relationship with the adjacent bungalow. The impact on neighbour amenity was likely to be considered acceptable and it was highlighted that providing there were no objections from the Local Highway Authority and the telegraph pole would be relocated at the applicant's expense, it was likely the scheme could be considered acceptable in highways safety terms.

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

16 April 2022. There were 6 objections, no submissions of support and no comments received.

- 6.2. The comments raised by third parties are summarised as follows:
- Objections due to concerns about parking provision in the area.
 - Scale of the proposed dwellings would be out of keeping with the surrounding dwellings.
 - Concerns about protected species on the site.
 - Two dwellings would cause strain on sewage.
 - Would constitute overdevelopment of the plot.
 - Impact on light and privacy to neighbouring property.
- 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. KIDLINGTON PARISH COUNCIL: **Objects** on the grounds of impact on the character of the area; adding to parking problems in the area; lack of ecology statement.

CONSULTEES

- 7.3. OCC HIGHWAYS: **No objections** but highlights the need for the applicant to relocate the existing telegraph pole at their own expense.
- 7.4. CDC ARBORICULTURE: **No comments** received at the time of writing this report.
- 7.5. CDC BUILDING CONTROL: **Comments** that a building regulations application will be required and notification of intended demolition will need to be made.
- 7.6. CDC LAND DRAINAGE: No objections to principle of the development; however, notes that the ditch at the northern boundary should be retained.

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 in 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

- Villages 1: Village Categorisation
- BSC1: District Wide Housing Distribution
- BSC2: The effective and efficient use of land - brownfield Land and Housing Density
- BSC4: Housing Mix
- 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
- ESD6: Sustainable Flood Risk Management
- ESD7: Sustainable Drainage Systems
- ESD10: Protection and Enhancement and the Natural Environment
- ESD15 - The Character of the Built and Historic Environment

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

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

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Cherwell Residential Design Guide (SPD) 2018
- Kidlington Framework Masterplan 2016
- Conservation of Habitats and Species Regulations 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
- Residential amenity
- Highway safety
- Land drainage
- Ecology

Principle of Development

- 9.2. The principle of residential development in Kidlington is assessed against Policy Villages 1 in the CLP 2015, with Kidlington being recognised as a Category A village, one of the most sustainable settlements in the District's rural areas and having physical characteristics and a range of services to enable it to accommodate some limited extra housing growth. Within Category A villages, residential development will be restricted to the conversion of non-residential buildings, infilling and minor development comprising small groups of dwellings on sites within the built-up area of the settlement.
- 9.3. The application site is located in an established residential area within Kidlington and contains a detached single storey dwelling situated on a generous plot. The application seeks planning permission for the demolition of the dwelling and its replacement with 2no 5-bedroom dwellings.
- 9.4. 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.

9.5. Paragraph 10 of the NPPF states that, so sustainable development is pursued in a positive way, at the heart of the NPPF is a presumption in favour of sustainable development. Paragraph 11 states that applying the presumption to 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 (this includes, for applications involving the provision of housing, situations where the Local Planning Authority cannot demonstrate a five-year supply of deliverable housing sites), granting permission unless:
 - i. the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed;
 - ii. or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

9.6. The position in which the most important policies are considered to be out-of-date because of the absence of a five-year housing land supply is often referred to as the 'tilted balance'. Cherwell's position on five-year housing land supply has recently been reviewed by officers and confirmed by executive on 10 January 2022 for the 2021 Annual Monitoring Report (AMR). Despite a strong record of delivery since 2015, the AMR presents a 3.5 year supply position for 2022-2027. This compares to the 4.7 years housing land supply for the period 2021-2026 reported in the 2020 AMR. According to the AMR, an additional 1,864 homes would need to be shown to be deliverable within the current 2021-2026 five-year period to achieve a five year supply as required by the NPPF.

9.7. However, paragraph 12 of the NPPF advises 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. In February 2021, the primacy of development plans in the planning system was reaffirmed by a Court of Appeal ruling on two appeals by land promoter Gladman, which emphasised that, where a council lacks the required five-year housing land supply, this may tilt the balance in favour of proposed residential schemes but it does not render grants of planning permission automatic.

9.8. The provision of additional housing within an existing residential area located in a sustainable Category A village weighs in favour of this proposal which has the potential of increasing the District's housing supply and therefore helps to address the current shortfall, albeit one providing one additional dwelling in this instance. However, any development proposal would need to be assessed against the other policies of the Development Plan.

9.9. The proposed development can therefore be considered acceptable in principle, with overall acceptability subject to compliance with the relevant Development Plan policies and the NPPF.

Design, and impact on the character of the area

Policy Context

- 9.8. Guidance contained within paragraph 126 of the NPPF covering 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.*
- 9.9. Saved Policy C28 of the CLP 1996 exercises control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context.
- 9.10. 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 ensuring a high-quality design.
- 9.11. Paragraph 130 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*
- 9.12 Section 6.4 of the Cherwell Residential Design Guide (SPD) 2018 relates to Scale. It advises the building scale should respond to local context and proposed character. As a principle for scale, it states “*Taller buildings may be appropriate in town centre locations, but individual buildings should be designed to fit comfortably with the general urban form*”.

Assessment

- 9.13. In terms of the design of the buildings, concerns were raised with the original proposed (ref: 21/03017/F) in terms of their bulk, height and depth of the proposed dwellings and their relationship with the adjacent bungalow. Amended plans were submitted as part of the pre-application enquiry, that saw the buildings feature a gabled design to the front to allow for the pitched roof to slope towards the boundaries of the neighbours. The overall height of the buildings was also reduced by approximately 0.2 metres with the eaves of the dwelling closest to 92 The Moors reduced by approximately 0.6 metres.
- 9.14. The plans submitted with this application have, however, been further amended to reduce the height of the dwelling closest to number 92 The Moors. It is noted that the street scene is characterised by a variety of property types and it is not unusual for a two-storey building to be positioned next to a bungalow. Reducing the height of the dwelling closest to the bungalow to a similar height to the two-storey building seen at number 96 The Moors allows it to be read more as a two-storey dwelling incorporating additional rooms in the roof space rather than a three-storey dwelling, and which is considered more in keeping with the character of the surrounding area.

- 9.15. The gable fronting design is considered acceptable given that there is a diverse streetscene with a number of other properties also featuring a gable end on the front elevation. The houses are set back from the road a similar amount to the adjacent properties and would feature some greenery to the front to soften the large area of hardstanding that would incorporate the parking spaces. The materials proposed to be used include concrete roof tiles, facing brick and render with reconstructed stone cill and lintels which given the large variety of materials seen within the area already is also considered to be acceptable.
- 9.19 It is considered that the design of the development would be in keeping with the surrounding streetscene and would not result in harm to the visual amenities of the area, thus complying with Saved Policies C28 and C30 of the CLP 1996 and Policy ESD15 of the CLP 2015.

Residential Amenity

Legislative and policy context

- 9.20. Saved Policy C30 of the CLP 1996 requires that a development must provide standards of amenity and privacy acceptable to the Local Planning Authority. Policy ESD15 of the CLP 2015 highlights, amongst other things, that new development should *consider the amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation, and indoor and outdoor space.*
- 9.21. 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

- 9.22. In objecting to the original application (ref: 21/03017/F) officers had concerns over the impact on the amenity of adjacent neighbours at numbers 92 and 96 The Moors. The proposed site plan does, however, show that the 45 degree lines of habitable room windows on number 96 would not be intervened by any of the two storey elements of 94A. The rear of the two-storey section of the proposed dwelling at 94A would also only slightly extend past the existing garage on number 96. While the single storey element of the proposal would slightly intervene the 45 degree angle from the rear window of number 96, the existing outbuilding on the site already intervenes this line and it is not considered that the single storey element would result in any additional impacts in this regard. The first-floor window on the side elevation would be obscurely glazed serving a bathroom, and therefore the impact on light, outlook and privacy of number 96 is considered to be acceptable.
- 9.23. The relationship with the number 92 is different given that the neighbouring property is a bungalow, and the proposed two storey building could be overbearing. The front elevation of number 92 does, however, sit further forward and is unlikely to be impacted by the development. The 45-degree angle taken from the rear elevation, which is an extension to number 92 with large openings and a glazed gable, would not be intervened by the proposed development. Further to this, the two-storey element of proposed number 94 would not extend past the rear elevation of number 92 and appears to have a garage structure in between.
- 9.24. The relationship with the western side elevation of number 92 has been addressed. Amendments to the proposals have reduced the height of the building and allowed the roof pitch to slope away from the neighbour to further help mitigate impacts in terms of loss of light. The extension appears to have relocated the kitchen diner to the rear of the property, however it is not clear what the original kitchen is now used

for. While this is the case, the outdoor area to the west of the property at number 92 benefits from a car port area with a plastic roof that extends all the way to the boundary. On site the roof looked to be particularly weathered and not visible to see through. Further, the western side elevation of number 92 is also located approximately 5 metres from the proposed development with a boundary fence and the roof of the carport in between. Given this, and considering the amendments made to the scheme to reduce the height and slope the roof away from the boundary, on balance it is unlikely that the impact on light or outlook to windows on the western elevation of this neighbour would be so significant to warrant a reason for refusal on this occasion.

- 9.25. There are no neighbours to the rear of the site that would be impacted by the proposed development.
- 9.26. The proposals are therefore considered to be acceptable in terms of residential amenity, thus compliant with Saved Policy C30 of the CLP 1996, Policy ESD15 of the CLP 2015 and Government guidance contained within the NPPF.

Highway Safety

Legislative and policy context

- 9.10. 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.
- 9.11. Paragraph 108 of the NPPF states that in assessing specific applications for development, it should be ensured that:
- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;*
 - b) safe and suitable access to the site can be achieved for all users; and*
 - c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.*
- 9.12. In addition, 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.*

Assessment

- 9.13. Several concerns have been raised with regards to the parking provision proposed at the site, and the potential impact on highway safety. Two parking spaces are to be provided per property which is the maximum parking standards for urban areas within Cherwell. Further to this, the Local Highway Authority has raised no objections to the proposals and an informative note is recommended to make the applicant is aware that the telegraph pole would need to be moved at their expense.
- 9.14. The site is in a highly sustainable location, with frequent bus services within close proximity to the site along The Moors. Further to this, there are a number of nearby amenities close to the site, and there are good levels of cycling infrastructure nearby. The applicant has also indicated that cycle parking provision can be provided within the curtilage of each dwelling, which would further promote the use of sustainable forms of travel and can be secured by an appropriately worded condition.
- 9.15. Given the above, it is therefore considered the proposals comply with Policy ESD15 of the CLP 2015 and Government guidance contained within the NPPF and would therefore be acceptable in highway safety terms.

Land Drainage

Policy Context

- 9.16. The NPPF states at paragraph 163 that when determining 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.
- 9.17. Policies ESD 6 and ESD 7 of the CLP 2015 together resist new development where it would increase flood risk or be unduly vulnerable to flooding. They also seek to ensure that the proposals incorporate sustainable drainage systems in order to prevent increased risk of flooding.

Assessment

- 9.18. The site lies within Flood Zone 1 the area at lowest risk of flooding, and therefore a Flood Risk Assessment was not required in support of the application. The applicants Design and Access statement acknowledges that a SuDS compliant drainage scheme will be required to serve the proposal however, it is considered that this could be secured by way of a suitably worded condition attached to any permission granted.
- 9.19. There is a drainage ditch located to the rear of the site and the Council's Land Drainage Officer has stated that while they have no objections in principle, the site is in a location where there is a risk of surface water flooding. This occurs where surface water can pond in low-lying areas due to not being able to flow freely away, and that soakaways as a means of surface water disposal will only be acceptable subject to satisfactory BRE 365 soakage tests, and the drainage ditch must not be adversely affected.
- 9.20. Having regard to the above, and considering the depth of the site and the fact that the site currently contains a dwelling, which benefits from permitted development rights, notwithstanding the fact that BRE 365 soakage testing would be required to inform the design of any proposed soakaways it is considered that this could be secured by way of a suitably worded condition and therefore the proposed development is considered acceptable in drainage terms and in accord with Policies: ESD6 and ESD7 of the CLP 2015.

Ecology Impact

Legislative and policy context

- 9.21. 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.
- 9.22. 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.
- 9.23. 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.

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

Assessment

9.25. Natural England's Standing Advice states that an LPA only needs to ask an applicant to carry out a survey if it's likely that protected species are:

- present on or near the proposed site, such as protected bats at a proposed barn conversion affected by the development

It also states that LPAs can also ask for:

- a scoping survey to be carried out (often called an 'extended phase 1 survey'), which is useful for assessing whether a species-specific survey is needed, in cases where it's not clear which species is present, if at all
- an extra survey to be done, as a condition of the planning permission for outline plans or multi-phased developments, to make sure protected species aren't affected at each stage (this is known as a 'condition survey')

9.26. Having considered Natural England's Standing Advice and taking account of the site constraints it is considered that the site has limited potential to contain protected species and any species present are unlikely to be adversely affected by the proposed development. As such no formal survey is required and in the absence of which this does not result in a reason to withhold permission. An informative note reminding the applicant of their duty to protected species would instead be included on the decision notice should the application be approved and is considered sufficient to address the risk of any residual harm.

9.27. Given the Policy ESD10 of the CLP 2015 highlights that development proposals are expected to incorporate features to encourage biodiversity, a condition requiring a method statement for enhancing biodiversity on the site to secure this would be required.

10. PLANNING BALANCE AND CONCLUSION

10.1. For the reasons set out in this report 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 application form and the following plans and documents:
 - 21005-P01 - Site Location Plan
 - 21005-P05 - Proposed Site Plan
 - 21005-P06 - Floor Plans & Street Elevations
 - 21005-P07 - Elevations
 - Tree Survey Report, Impact Appraisal and Tree Protection Details dated August 2021
 - Planning Design and Access Statement dated February 2022

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 first occupation of the development hereby approved, the parking and manoeuvring areas shall be provided in accordance with the plan approved (Drawing No. 21005-P05 Site Plan) demarcated and constructed from porous materials or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the site. Thereafter, the parking and manoeuvring areas shall be retained in accordance with this condition and shall be unobstructed except for the parking and manoeuvring of vehicles at all times.

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

4. Prior to the first 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.

5. Prior to the first occupation of the development, the bin storage shall be provided on site in accordance with the approved drawing No. 21005-P05 Site Plan and shall be retained as such thereafter.

Reason: To encourage sustainable modes of transport, to ensure the satisfactory appearance of the completed development and to comply with Policies ESD1 and ESD 15 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. Prior to the first occupation of the development hereby approved 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. Such approved means of enclosure shall be erected prior to the first occupation of the development and shall be retained as such thereafter.

Reason: To safeguard the character and appearance of the area and 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.

7. Prior to the first occupation of the dwellings hereby permitted, the electric vehicle charging infrastructure shall be provided on site in accordance with the approved plan Drawing No. 21005-P05 Site Plan, and shall be retained as such thereafter.

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

8. Notwithstanding the provisions of Schedule 2, Part 1, Classes A to E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting or amending that order) there shall be no additions to, or extensions or enlargements of any building forming part of the development hereby permitted or any building or structure erected or placed within the curtilage of the dwelling(s) hereby permitted without the grant of further specific planning permission from the Local Planning Authority.

Reason: In order to safeguard the character and appearance of the area in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

9. All impermeable areas of the proposed development, including roofs, driveways, and patio areas shall be drained using Sustainable Drainage measures (SuDS). This may include the use of porous pavements and infiltration, or attenuation storage to decrease the run off rates and volumes to public surface water sewers and thus reduce flooding.

Soakage tests should be carried out in accordance with BRE Digest 365 or similar approved method to prove the feasibility/effectiveness of soakaways or filter trenches. Where infiltration is not feasible, surface water should be attenuated on site and discharged at a controlled discharge rate no greater than prior to development using appropriate SuDS techniques and in consultation with the sewerage undertaker where required.

If the use of SuDS are not reasonably practical, the design of the surface water drainage system should be carried out in accordance with Approved Document H of the Building Regulations. The drainage system should be designed and maintained to remain functional, safe, and accessible for the lifetime of the development.

Reason: To avoid increasing surface water run-off and volumes to prevent an increase in flood risk in accordance with policies ESD6 and ESD7 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

10. The ditch located at the northern boundary of the site shall be retained and maintained as existing.

Reason: To avoid increasing surface water run-off and volumes to prevent an increase in flood risk in accordance with policies ESD6 and ESD7 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National

Planning Policy Framework.

11. 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 development reaching slab level. Thereafter, the biodiversity enhancement measures approved shall be carried out prior to occupation and retained in accordance with the approved details.

Reason: To provide 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.

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.

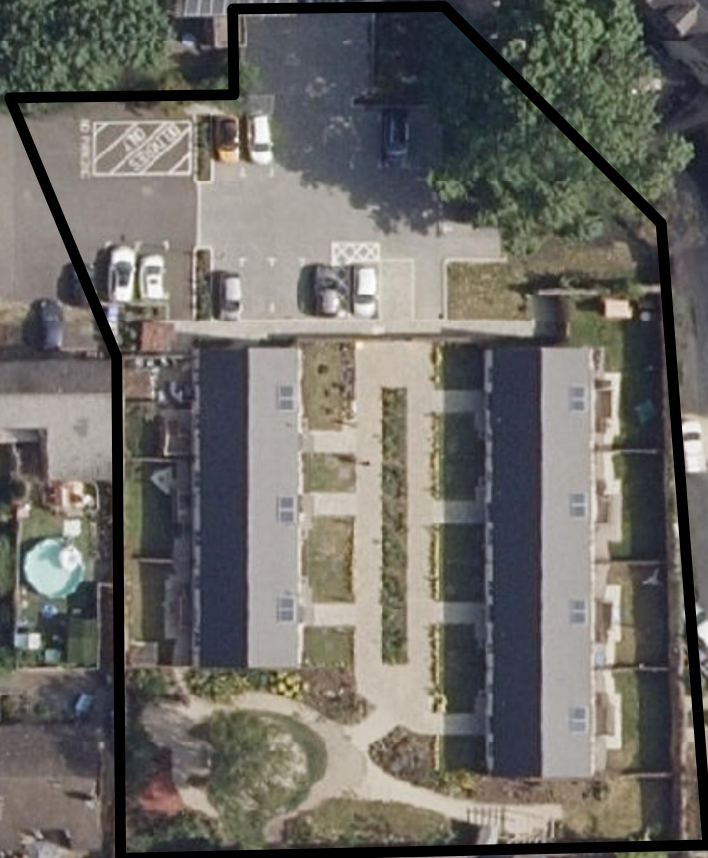
INFORMATIVES

1. Any alterations to the public highway will be at the applicant's expense and to Oxfordshire County Council's standards and specifications. Written permission must be gained from the Oxfordshire County Council (Contact – 08453101111 or refer to <https://www.oxfordshire.gov.uk/cms/content/dropped-kerbs> for this action).

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 060 390

22/00601/CDC

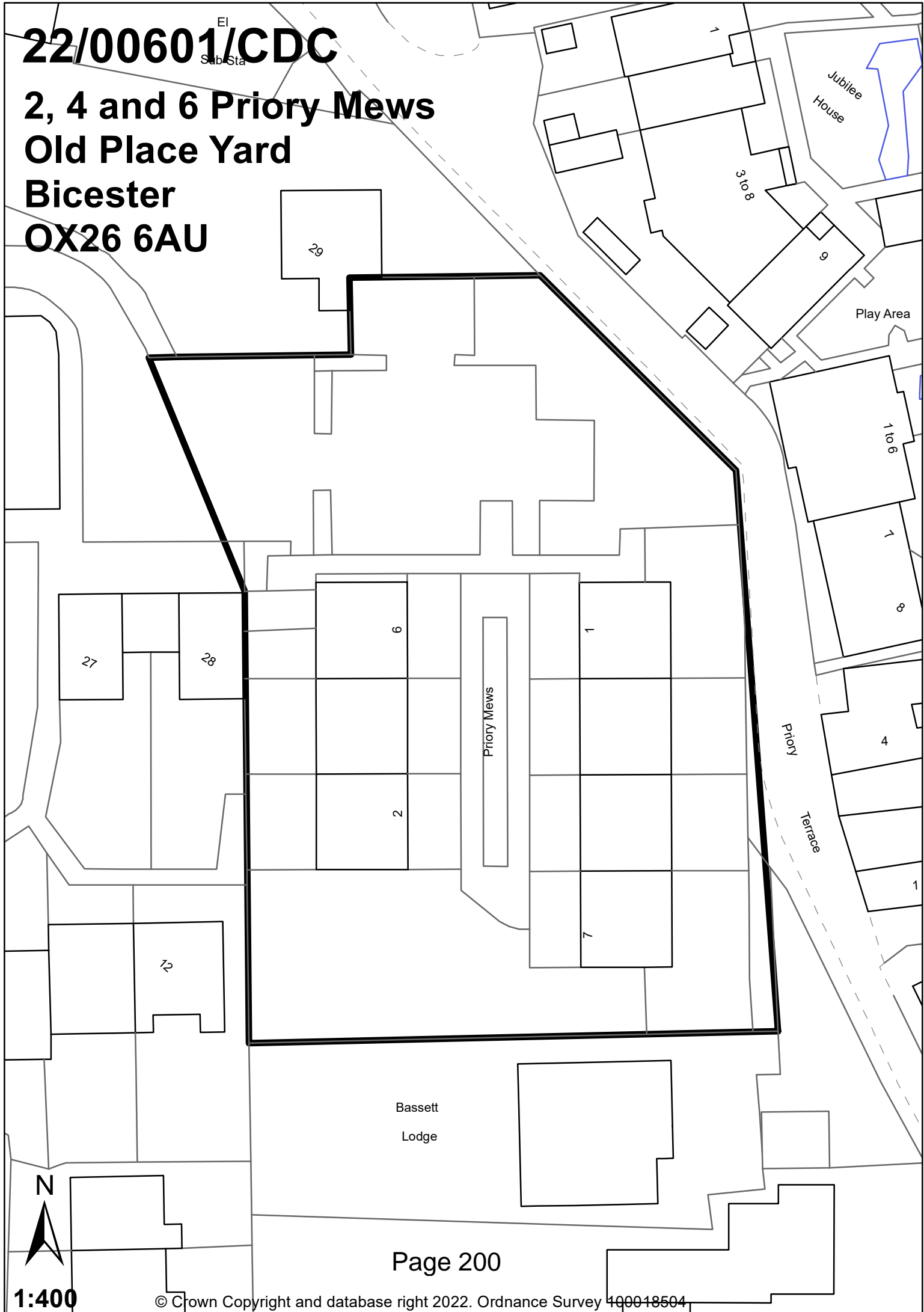
**2, 4 and 6 Priory Mews
Old Place Yard
Bicester
OX26 6AU**



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Sub Sta

2, 4 and 6 Priory Mews
Old Place Yard
Bicester
OX26 6AU



Bassett
Lodge

Jubilee
House

Play Area

Priory Mews

Priory
Terrace

6

1

27

28

2

7

1

8

4

1

1 to 6

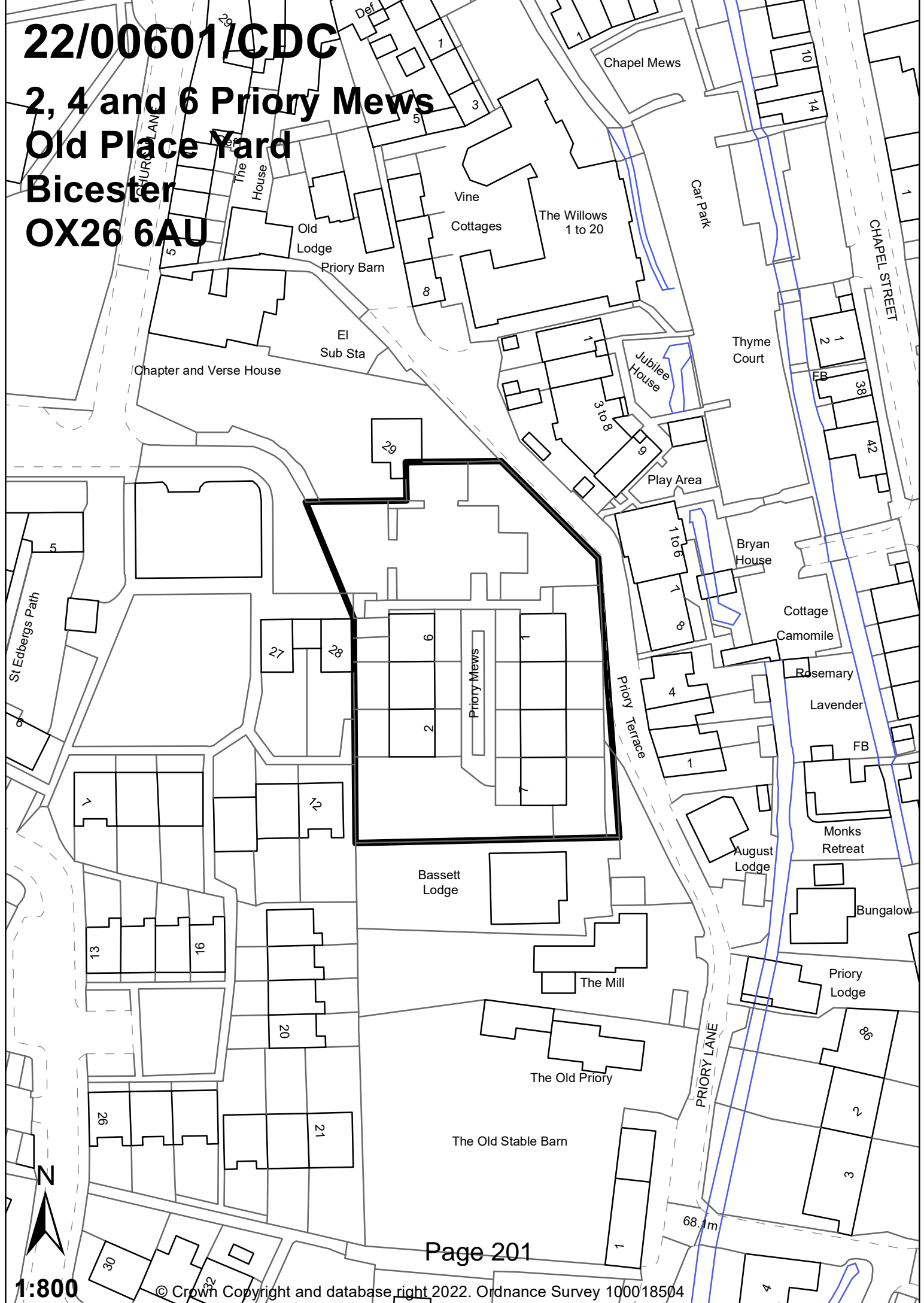
3 to 8

9



22/00601/CDC

2, 4 and 6 Priory Mews Old Place Yard Bicester OX26 6AU



Case Officer: Emma Whitley

Applicant: Miss Kim Swallowe

Proposal: RETROSPECTIVE - Adaptation to eastern boundary to improve privacy for both residents and neighbours. The existing boundary consists of two limestone walls that sit either side of a taller timber fence. The proposal seeks to retain the existing limestone walls but to increase the height of these by attaching new, higher quality timber panels together with the removal and replacement of the existing fence section to match

Ward: Bicester South and Ambrosden

Councillors: Councillor Cotter, Councillor Pruden and Councillor Sames

Reason for Referral: Cherwell District Council application

Expiry Date: 11 May 2022

Committee Date: 19 May 2022

SUMMARY OF RECOMMENDATION: DELEGATE POWERS FOR PLANNING PERMISSION TO BE GRANTED SUBJECT TO: (i) NO NEW MATERIAL PLANNING CONSIDERATIONS BEING RAISED BEFORE THE EXPIRY OF THE CONSULTATION PERIOD; (ii) AND CONDITIONS

1. APPLICATION SITE AND LOCALITY

1.1. The application site is situated within the built-up area of Bicester and has good accessibility to services and facilities and employment opportunities. The site was previously occupied by Bicester Old Library but is now occupied by three residential dwellings.

2. CONSTRAINTS

2.1. The application site is adjacent to Bicester Conservation Area, within the setting of a number of listed buildings and is in an area of high archaeological interest.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

3.1. The applicant seeks retrospective planning permission for the erection of a timber fence located either side of existing limestone walls. The fence has a maximum height of 3 metres and is proposed due to the nature of the scheme which requires specific and carefully considered design treatments to maintain the wellbeing of residents.

4. RELEVANT PLANNING HISTORY

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

Application: 20/02230/DEM
Prior Approval Granted 21 September 2020
Demolition of redundant library building

Application: 20/02405/F

Permitted 7 October 2021

Erection of terrace of 3no affordable housing units on site of dis-used library

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 **24 May 2022**. At the point this report was written there was 1 objection, no submissions of support and no comments received.,

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

- Fence could result in noise reverberations
- Detrimental impact to appearance and access to light of Old Place Yard
- Fixings will be detrimental to appearance of wall
- Fence will further prevent integration with existing residents (as was initial intention of project) and resembles a secure unit
- Overall project continues to cause significant distress and have a negative impact on the surrounding community

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.

BICESTER TOWN COUNCIL – No objection to this planning application.

ARCHAEOLOGY (OCC) – No objections.

CONSERVATION (CDC) – Comments: Due to the nature and the location of the proposal it is considered that the works will not affect any designated heritage assets and therefore it is not considered necessary for us to provide detailed comments at this time.

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)

- ESD15 - The Character of the Built and Historic Environment

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

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

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Cherwell Residential Design Guide (2018)
- CDC Home Extensions and Alterations Design Guide (2007)
- Bicester Conservation Area Appraisal 2011

9. APPRAISAL

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

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

Design, and impact on the character of the area

- 9.2. The fence runs along the rear boundary of the application site, which also forms the side boundary to No. 28 Old Place Yard. A large proportion of the fence is obscured from the public realm as it is predominantly screened by the other fencing. The additional height of the fence, compared with a standard fence, is therefore not apparent outside the site.
- 9.3. The neighbour's comments are noted with regards to the fixings to the limestone wall. However, these fixings are not visible in the public realm and as such, officers consider that this element does not result in detrimental harm to the character of the area.
- 9.4. It is considered that the proposal does not have a detrimental impact on the character and appearance of the area and therefore, it is considered that the proposal complies with Policy ESD 15 of the CLP 2015 and saved Policies C28 and C30 of the CLP 1996 and the relevant guidance in the NPPF.

Heritage impact

- 9.5. The site is located outside but adjacent to the Bicester Conservation Area and in the setting of a number of listed buildings including the Grade II listed dovecote immediately to the west of the site and Grade II listed dwellings in Church Lane to the north.
- 9.6. The proposed works are considered to have a neutral impact on the character and appearance of the Conservation Area given that the fence is sufficiently well screened and will not result in less than substantial harm to the significance of the nearby heritage assets (i.e. the adjacent listed buildings and conservation area) by reason of an impact on their settings as it will not be viewed in the same context of the listed

buildings. Further, no objections were raised by the Council's Conservation Officer with regards to the proposed fence.

- 9.7. The site is located in an area of considerable archaeological interest, as it was formerly occupied by the medieval Bicester Priory. However, as the development had limited below ground impacts, the County Archaeologist raised no comments or concerns.
- 9.8. In respect of its impact on the historic environment, the proposal is therefore to comply with Policy ESD15 of the CLP 2015 and saved Policies C28 and C30 of the CLP 1996 and the relevant guidance in the NPPF.

Residential amenity

- 9.9. The only neighbouring residents directly affected by the fence are the occupiers of 28 Old Place Yard with the fence forming one of their side boundaries. As these neighbours are on higher ground, approximately 0.7 metres, than the application properties, the impact of the fence is of little difference to a standard 2 metre high fence.
- 9.10. The additional privacy and security afforded by the fence offsets any harm to the occupiers of the application properties of the 3 metre high fencing at the end of their gardens.
- 9.11. Officers note a comment from a neighbour with regards to the fence resulting in some noise reverberations. The Council's Environmental Health Officer advised that this was not the case and that the fence would reduce noise breakout from the application site, which is of benefit to the immediate neighbouring residents.
- 9.12. The proposal is therefore considered to comply with saved Policy C30 of the CLP 1996, Policy ESD15 of the CLP 2015 and guidance contained within the NPPF in respect of its impact on residential amenity.

Other matters

- 9.13. Whilst it has been suggested that the fence has a negative impact on the residents' integration into the community, the same would be true of any boundary fence that was above head height.
- 9.14. Officers note neighbour concerns with regards to the wider project of Priory Mews, however officers can only assess the impact of this proposal.

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 – DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT TO **GRANT PERMISSION SUBJECT TO NO NEW MATERIAL PLANNING CONSIDERATIONS BEING RAISED BEFORE THE EXPIRY OF THE CONSULTATION PERIOD AND SUBJECT TO THE CONDITIONS SET OUT BELOW** (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY)

CONDITIONS

Compliance with Plans

1. Except where otherwise stipulated by conditions attached to this permission, the development shall remain in accordance with the information contained within the application form and the following approved plans: Site Location Plan received by the Council on 16 March 2022, Site Plan – extent of Boundary received by the Council on 14 March 2022 and drawing number 012/21 Rev B (Proposed Site Plan/ Elevations).

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 fence shall be stained to match that of the existing front boundary fence and in accordance with the proposed fence treatment picture within drawing number 012/21 Rev B.

Reason: To ensure that the materials are appropriate to the appearance of the locality and to ensure the satisfactory appearance of the completed development in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Cherwell District Council

Planning Committee

19 May 2022

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 decisions received and the scheduling of public inquiries and hearings for new and current appeals.

1.0 Recommendations

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

2.0 Introduction

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

3.0 Report Details

3.1 New Appeals

a) 21/02909/F – 37A Hertford Close, Bicester, OX26 4UX

Erection of 1 dwelling (resubmission of 21/02218/F)

Officer recommendation – Refused (Delegated)

Method of determination: Written Representations

Start Date: 25.03.2022

Statement Due: 29.04.2022

Decision: Awaited

Appeal reference – 22/00017/REF

b) 21/04093/F – 5 St Peter Close, South Newington, OX15 4JL

Rear extension, porch and dormer in converted roof space (resubmission of 21/02697/F)

Officer recommendation – Refused (Delegated)

Method of determination: Householder (Fast Track)

Start Date: 31.03.2022

Statement Due: N/A

Decision: Awaited

Appeal reference – 22/00018/REF

c) 21/04202/F – Former Buzz Bingo, Bolton Road, Banbury, OX16 5UL

Redevelopment for 80 retirement living apartments including communal facilities, access, car parking and landscaping.

Officer recommendation – Non-Determination
Method of determination: Public Inquiry, Start date: 9th August 2022
Start Date: 19.04.2022
Statement Due: 24.05.2022
Decision: Awaited
Appeal reference – 22/00019/NON

d) 21/02986/F – 2 The Orchard, Horton Cum Studley, OX33 1BW

Two storey rear/side extension and associated internal alterations

Officer recommendation – Refused (Delegated)
Method of determination: Householder (Fast Track)
Start Date: 20.04.2022
Statement Due: N/A
Decision: Awaited
Appeal reference – 22/00020/REF

e) 21/03452/TEL56 – Street Record, Station Road, Kirtlington

Proposed 15.0m Phase 8 Monopole C/W wraparound Cabinet at base and associated ancillary works.

Officer recommendation – Refused (Delegated)
Method of determination: Written Representations
Start Date: 21.04.2022
Statement Due: 26.05.2022
Decision: Awaited
Appeal reference – 22/00021/REF

f) 21/01818/F – Pakefield House, St Johns Street, Bicester, OX26 6SL

Redevelopment of the site to form 38 no. Retirement apartments including communal facilities, access, car parking and landscaping

The appeal is a non-determination appeal however the application was heard at Planning Committee on 13th January 2022.
Officer recommendation – Refusal (Committee)
Method of determination: Written Representations
Start Date: 21.04.2022
Statement Due: 26.05.2022
Decision: Awaited
Appeal reference – 22/00021/REF

g) 22/0173/CLUP – 15 Arcott Road, Piddington, OX25 1PS

Certificate of Lawfulness of Proposed Development for the erection of a wooden workshop to be use for dog grooming services.

Officer recommendation – Refused (Delegated)

Method of determination: Written Representations

Start Date: 05.05.2022

Statement Due: 16.06.2022

Decision: Awaited

Appeal reference – 22/00023/REF

3.2 New Enforcement Appeals

None

3.3 Appeals in Progress

a) 20/01122/F - OS Parcel 9635 North East of HMP Bullingdon Prison, Widnell Lane, Piddington

Material Change of Use of land to use as a residential caravan site for 12no. gypsy/traveller families, each with two caravans, including improvement of access, laying of hardstanding and installation of package sewage treatment plant.

Officer recommendation – Refused (Committee)

Method of determination: Hearing – date to be confirmed Start Date: 08.10.2021

Statement Due: 26.11.2021 Decision: Awaited

Appeal reference – 21/00033/REF

b) 20/01180/F - OS Parcel 2172 SE Of Vicarage Lane, Piddington

Siting of timber cabin for occupation by a rural worker

Officer Recommendation – Refused (Delegated)

Method of determination: Hearing – Tuesday 10th May 2022

Start Date: 09.12.2021

Statement due: 13.01.2022

Decision: Awaited

Appeal reference 21/00045/REF

c) 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

d) 20/02192/LB - Manor Farm, Station Road, Hook Norton, OX15 5LS

Repairs, alterations and extension to dwellinghouse. Alterations to agricultural buildings to facilitate their conversion to ancillary residential use and erection of newbuildings to be used ancillary to the dwellinghouse. Associated landscaping.

Officer Recommendation – Refused (Delegated)

Method of determination: Hearing – 18th/19th May 2022 Start Date: 30.11.2021

Statement due: 19.02.2022 Decision: Awaited

Appeal reference: 21/00037/REF

e) 20/02193/F – Manor Farm, Station Road, Hook Norton, OX15 5LS

Repairs, alterations and extension to dwellinghouse. Alterations to agricultural buildings to facilitate their conversion to ancillary residential use and erection of newbuildings to be used ancillary to the dwellinghouse. Associated landscaping.

Officer Recommendation – Refused (Delegated)

Method of determination: Hearing – 18th/19th May 2022 Start Date: 30.11.2021

Statement due: 19.02.2022 Decision: Awaited

Appeal reference 21/00036/REF

f) 20/02446/F – Glebe Farm, Boddington Road, Claydon, Banbury, OX17 1TD

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

Officer Recommendation – Approval (Committee) Method of determination: Written Representations Start Date: 09.12.2021

Statement due: 13.01.2022 Decision: Awaited

Appeal reference 21/00046/REF

g) 20/03635/F – Land Adjacent to 1 Coleridge Close, Bicester, OX26 2XR

Erection of one bedroom bungalow and associated works Officer Recommendation – Refusal (Delegated)

Method of determination: Written Representations Start Date: 07.12.2021

Statement date: 11.01.2022

Decision: Awaited

Appeal reference – 21/00043/REF

h) 21/00500/OUT – Land North of Railway House, Station Road, Hook Norton

Erection of up to 43 new homes, access from Station Road and associated works including attenuation pond

Officer Recommendation – Approval (Committee)

Method of determination: Hearing – Tuesday 14th June 2022 Start Date: 09.12.2021

Statement due: 13.01.2022 Decision: Awaited

Appeal reference 21/00044/REF

i) 21/01488/F – The Old Bakehouse, Bakers Lane, Swalcliffe, OX15 5EN

Single storey extensions and conversion of garage to habitable accommodation

Officer Recommendation – Refused (Delegated) Method of determination: Written Representations
Start Date: 25.01.2022
Statement due: 01.03.2022 Decision: Awaited
Appeal reference 22/00008/REF

j) 21/01489/LB - The Old Bakehouse, Bakers Lane, Swalcliffe, OX15 5EN

Single storey extensions and garage conversion

Officer Recommendation – Refused (Delegated)
Method of determination: Written Representations
Start Date: 25.01.2022
Statement due: 01.03.2022 Decision: Awaited
Appeal reference 22/00009/REF

k) 21/02007/F – 15 Heath Close, Milcombe, OX15 4RZ

To complete driveway by replacing breeze block section with block paving to match. Also to complete the dropped kerb to fall in line with the full width of the house. To install either two or three lower trims and one angled trim. (resubmission of 21/01238/F)

Officer recommendation – Refused (Delegated)
Method of determination: Written Representations
Start Date: 15.03.2022
Statement Due: 19.04.2022
Decision: Awaited
Appeal reference – 22/00016/REF

l) 21/02346/F – 1 Cranesbill Drive, Bicester, OX26 3WG

Loft conversion with rooflights to front roof slope and dormer extension to rear roof slope.

Officer Recommendation – Refused (Delegated)
Method of determination: Householder (Fast Track)
Start Date: 21.02.2022
Statement due: N/A Decision: Awaited
Appeal reference - 22/00014/REF

3.4 Enforcement Appeals in Progress

a) 21/00215/ENF – Land Adjacent To 1 Coleridge Close, Bicester, OX26 6XR

Appeal against the enforcement notice served for ‘Without planning permission, the erection of a timber fence above 1 metre in height and adjacent to a highway’

Method of determination: Written Representations
Start Date: 26.01.2022
Statement due: 09.03.2022
Decision: Awaited
Appeal reference 22/00011/ENF

b) 20/00115/HH - Thames Valley Police, Headquarters South, 169 Oxford Road, Kidlington, OX5 2NX

Appeal against the decision by the Council not to issue a remedial notice on a high hedge complaint made by a local resident.

Start date: 31.01.2020

Questionnaire due: 28.02.2022

3.5 Forthcoming Public Inquires and Hearings between 19 May 2022 and 16 June 2022

a) 21/00500/OUT - Land North of Railway House, Station Road, Hook Norton

Erection of up to 43 new homes, access from Station Road and associated works including attenuation pond

Hearing Date: Tuesday 14th June. Start time: 10.00

Hearing venue: Council Chamber, Bodicote House, White Post Road, Bodicote, Banbury OX15 4AA

3.6 Appeal Results

Inspectors appointed by the Secretary of State have issued the following decisions:

a) 21/02867/F – Allowed the appeal by Mrs N Roberts against the refusal of retrospective planning permission for Erection of a timber pergola. Barton House, 62 Mallards Way, Bicester, OX26 6WT

Officer recommendation – Refusal (Delegated)

Method of determination: Householder (Fast Track)

Appeal reference – 22/00010/REF

The Inspector identified the main issue of the appeal to be the effect of the proposal on the character and appearance of the area.

The Inspector found that the timber pergola is screened from the public realm by the side wall and the wooden framework that can be seen above the wall is not obtrusive or at odds with the fabric and appearance of the residential estate.

The Inspector noted that the structure is used as a climbing frame for plants, and it has a simple and well considered open design and they concluded that these factors contribute to the residential character of the area rather than detract from it.

Based on this assessment, the Inspector allowed the appeal.

b) 21/02883/F – Dismissed the appeal by Miss D Whitford against refusal of planning permission for Flat roofed single garage. The Bungalow, White Post Road, Bodicote, OX15 4BN

Officer recommendation – Refusal (Delegated)

Method of determination: Householder (Fast Track)

Appeal reference – 21/00042/REF

The Inspector considered the main issues to be the effect of the development proposed on the character and appearance of the area and whether it would preserve or enhance

the character and appearance of the Bodicote Conservation Area and the setting of nearby listed buildings.

The Inspector noted that the frontage of the host property is relatively open and found that the proposed garage would be quite prominent and conspicuous in the street scene and that its flat roof design would be at odds with the prevailing form and pattern of development.

The Inspector held that the suggested benefits of the proposal in screening waste bins, car and garden equipment “would be greatly outweighed by the harmful visual presence of the building itself”.

The Inspector concluded that the design and materials, siting and prominence of the proposed structure would harm the general character and appearance of the area. The Inspector also found that the proposal would neither preserve or enhance the character or the appearance of the Conservation Area and would not preserve the setting of the listed building of Brown Thatch.

Therefore, the Inspector dismissed the appeal.

c) 21/00923/F – Dismissed the appeal by Mr F Shakerchi against the refusal of planning permission for Demolition of bungalow and replace with 5 no apartments (Re-submission of and amendments to 17/00917/F). 43 Oxford Road, Kidlington, OX5 2BP

Officer recommendation – Refusal (Delegated)

Method of determination: Written representations

Appeal reference – 22/00005/REF

The Inspector identified the main issues of the appeal to be the effect of the development upon the character and appearance of the area and the effect of the development upon the living conditions of occupiers of the neighbouring properties of nos. 41 and 45 Oxford Road, with particular regard to outlook and light.

On the first issue, while the street scene contains a mix of buildings that vary significantly in their scale and appearance, the Inspector found that the mixed forms of roof would be available from a public vantage point on the Oxford Road which would result in an awkward and unattractive presence within the street scene, and an unsympathetic addition to the character of the area. He held that it would represent a poorer quality of design than that previously permitted.

On the second issue, the Inspector held that appeal proposal would not have a significant enclosing effect on the side elevation windows serving no. 41 meaning that the proposed development would not cause harm to the living conditions of the occupiers of no. 41 in respect of outlook and light.

The Inspector found that the relationship of the proposed building with the window serving no. 45 would remain similar and due to the existing site context found that the proposal would not materially worsen the sense of enclosure, outlook, or natural light to the occupiers of no. 45.

However, for visual amenity reasons, the appeal was dismissed.

- d) **20/01762/OUT – Allowed the appeal by Mr Collisson against non-determination of the planning application for Outline planning application for five dwellings, with all matters reserved except means of access. Land to the Rear of Home Farm Close, Ambrosden, OX25 2NP.**

Officer recommendation – No decision. Appeal against non-determination
Method of determination: Written representations
Appeal reference – 22/00002/NON

The application sought outline permission for 5 dwellings. The appeal was against non-determination.

The Council indicated it would have refused the application on the basis of it being piecemeal development of a wider site suitable residential site which would result in the wider site not requiring affordable housing or other infrastructure contributions and would also impact on the design quality of the final development.

The inspector considered that the appeal site and surrounding sites have a clear visual and physical relationship, and such an approach would enable a broader assessment of the implications of development that would possibly facilitate the delivery of important affordable housing. However, he noted that the parcels of land are within separate ownership and a comprehensive form of development would not appear to be forthcoming.

He considered that the NPPF offered support for the Council's approach, but he noted that the Council does not have any specific policies that requires a comprehensive approach. He went on to note that the Council had not used the tools in the NPPF such as compulsory purchase powers, production of character assessments or masterplans to guide development towards a more comprehensive approach.

The Inspector noted that the NPPF is clear that the planning system should be genuinely plan-led, and held that on the basis of the evidence before him, local planning policy did not support the approach taken by the Council.

As such the appeal was allowed.

A separate costs application by the appellant was refused. The Inspector found that the Council's approach was not without merit, that its desire to make effective use of land was supported by the NPPF, that it had provided a well-articulated case at appeal and had fully justified its concerns.

- e) **21/01403/F – Dismissed the appeal by Mr A Bawa against refusal of planning permission for Two storey extension and conversion into two separate studio flats - with on plot parking and electric vehicle charging points (resubmission of 20/01937/F). 5 Chichester Walk, Banbury, OX16 1YP**

Officer recommendation – Refusal (Delegated)
Method of determination: Written representations
Appeal reference – 22/00015/REF

The Inspector identified the main issue of the appeal to be the effect of the proposal on the provision of parking and on highway safety.

The Inspector found that the development proposed would not make reasonable parking provision for the additional residential unit and the deficiency would be likely to increase parking stress in the area and result in more indiscriminate parking around the highway which would not be in the interests of highway safety.

The Inspector dismissed the appeal.

f) 21/01474/F – Dismissed the appeal by Mr M Masih against the refusal of planning permission for Change of use of amenity land to domestic garden and single storey side extension. 35 Longleat Close, Banbury, OX16 9TG.

Officer recommendation – Refusal (Delegated)

Method of determination: Written representations

Appeal reference – 22/00012/REF

The Inspector identified the main issue of the appeal to be the effect of the development on the character and appearance of the area.

The Inspector found that the proposed development would be noticeably closer to the footway than the side of the existing house and the separation between the extension and proposed boundary would be set away for the pavement edge would be modest. As such the proposal would be a prominent feature in the street scene.

The Inspector also found that the proposed development would project forward of the largely consistent building line formed by the dwellings to the rear of the appeal site meaning that it would diminish the open aspects of the locality and would be unsympathetic to the existing pattern of development. The proposed development would also reduce the openness of the grassed area.

The Inspector concluded that the development would be detrimental to the character and appearance of the area and so it would not accord with development plan policies when read as a whole. Accordingly, the Inspector dismissed the appeal.

A separate costs application by the appellant was refused. The Inspector noted that the Council had given the appellant forewarning of its intention to refuse the planning application, that the case officer had agreed an extension of time as requested by the applicant's agent, showing it had been open with the applicant, and had provided an opportunity to respond to concerns. The Inspector agreed that it was reasonable for the Council to conclude that other developments highlighted by the appellant failed to set a precedent that was bound to be followed in the determination of the appeal proposal.

g) 21/00824/OUT – Allowed the appeal by Mr J A Calcutt against refusal of planning permission for Outline application for the erection of a detached dwelling (3-bed) & associated works. Land Adj To Allotments Off Duns Tew Road, Hempton, OX15 0QZ.

Officer recommendation – Refusal (Delegated)

Method of determination: Written representations

Appeal reference – 22/00015/REF

The Inspector identified the main issue to be whether the development would be in a suitable location having regard to the development plan policies, the provisions of the NPPF and accessibility to services.

The Inspector found that the development would lie within the built-up part of the village of Hempton as it would be between the barns and dwellings. Whilst Hempton has very few facilities and services, the Inspector noted the explanatory text to Policy Villages 1 with regard to proximity to settlements that do, designating them as satellite villages. In this case, Deddington would be a short drive from the development, and there is a dedicated walkway and cycleway between the two villages. The Inspector therefore concluded that the development would be in a suitable location in respect of access to services.

The Inspector allowed the appeal.

A separate costs application by the appellant was refused. The Inspector disagreed with the appellant that the Council had failed to produce evidence to substantiate its objections, found that the Council's appeal statement set out a coherent case for refusing planning permission and was clearly based on accurate facts relevant to the proposal, that its opinion on the relevant issues was fair and clearly explained, and that the case turned on matters of planning judgement.

An application for costs was dismissed.

4.0 Conclusion and Reasons for Recommendations

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

5.0 Consultation

None.

6.0 Alternative Options and Reasons for Rejection

None. The report is presented for information.

7.0 Implications

7.1 Financial and Resource Implications

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:

Janet Du Preez, Service Accountant, 01295 221606
janet.du-preez@cherwell-dc.gov.uk

7.2 Legal Implications

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

Comments checked by:

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

7.3 Risk Implications

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:

Celia Prado-Teeling, Interim Assistant Director – Customer Focus, 01295 221556
celia.prado-teeling@cherwell-dc.gov.uk

7.4 Equality & Diversity Implications

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

Comments checked by:

Celia Prado-Teeling, Interim Assistant Director – Customer Focus, 01295 221556
celia.prado-teeling@cherwell-dc.gov.uk

7.5 Decision Information

Key Decision:

Financial Threshold Met: No

Community Impact Threshold Met: No

Wards Affected

All

Links to Corporate Plan and Policy Framework

Business Plan Priorities 2022-2023:

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

Lead Councillor

Councillor Colin Clarke, Lead Member for Planning

Document Information

None

Background papers

None

Report Author and contact details

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