

# Public Document Pack



**Cherwell**

DISTRICT COUNCIL  
NORTH OXFORDSHIRE

**Committee:** Planning Committee  
**Date:** Thursday 3 November 2022  
**Time:** 4.00 pm  
**Venue:** Bodicote House, Bodicote, Banbury, Oxon OX15 4AA

## Membership

### **Councillor George Reynolds (Chairman)**

Councillor Andrew Beere  
Councillor John Broad  
Councillor Colin Clarke  
Councillor Ian Corkin  
Councillor Simon Holland  
Councillor Richard Mould  
Councillor Les Sibley  
Councillor Amanda Watkins

### **Councillor Maurice Billington (Vice-Chairman)**

Councillor Rebecca Biegel  
Councillor Hugo Brown  
Councillor Jean Conway  
Councillor Ian Harwood  
Councillor Fiona Mawson  
Councillor Lynn Pratt  
Councillor Dorothy Walker  
Councillor Bryn Williams

## Substitutes

Councillor Mike Bishop  
Councillor Gemma Coton  
Councillor David Hingley  
Councillor Ian Middleton  
Councillor Dr Chukwudi Okeke  
Councillor Fraser Webster

Councillor Phil Chapman  
Councillor Sandy Dallimore  
Councillor Matt Hodgson  
Councillor Adam Nell  
Councillor Douglas Webb  
Councillor Barry Wood

## AGENDA

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

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

- 3. Requests to Address the Meeting**

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

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 - 9)

To confirm as a correct record the Minutes of the meeting of the Committee held on 6 October 2022

5. **Chairman's Announcements**

To receive communications from the Chairman.

6. **Urgent Business**

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

7. **Proposed Pre-Committee Site Visits (if any)** (Pages 10 - 13)

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

Requests received in advance of the meeting are included with the agenda. Any further requests or proposed site visits will be published as part of the written update.

## **Planning Applications**

8. **Land To Rear Of St Marys House Adj To Henge Close Adderbury Banbury OX17 3GA** (Pages 16 - 53) **22/00203/OUT**

9. **60 Bicester Road Kidlington OX5 2LF** (Pages 54 - 71) **22/01999/F**

10. **27 Shearwater Drive Bicester OX26 6YR** (Pages 72 - 80) **22/02845/F**

## **Review and Monitoring Reports**

11. **Appeals Progress Report** (Pages 81 - 91)

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](mailto: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**

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### **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 Aaron Hetherington, Democratic and Elections [democracy@cherwell-dc.gov.uk](mailto:democracy@cherwell-dc.gov.uk), 01295 221534

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

Published on Wednesday 26 October 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 6 October 2022 at 4.00 pm

#### Present:

Councillor George Reynolds (Chairman)  
Councillor Maurice Billington (Vice-Chairman)  
Councillor Andrew Beere  
Councillor John Broad  
Councillor Hugo Brown  
Councillor Colin Clarke  
Councillor Ian Corkin  
Councillor Ian Harwood  
Councillor Fiona Mawson  
Councillor Lynn Pratt  
Councillor Les Sibley  
Councillor Amanda Watkins

#### Substitute Members:

Councillor Dr Chukwudi Okeke (In place of Councillor Sean Woodcock)

#### Apologies for absence:

Councillor Rebecca Biegel  
Councillor Jean Conway  
Councillor Simon Holland  
Councillor Richard Mould  
Councillor Dorothy Walker  
Councillor Sean Woodcock

#### Also Present Virtually:

Wayne Campbell, Principal Planning officer (Officer presenting virtually)  
Natasha Clark, Governance and Elections Manager  
Liam Semugabi, Democratic and Elections Officer

#### Officers:

Alex Chrusciak, Senior Manager - Development Management  
Dale Jones, Planning Officer  
David Mytton, Solicitor  
Aaron Hetherington, Democratic and Elections Team Leader  
Katherine Daniels, Senior Planning Officer

68 **Declarations of Interest**

There were no declarations of interest.

69 **Requests to Address the Meeting**

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

70 **Minutes**

The Minutes of the meeting held on 8 September 2022 were agreed as a correct record and signed by the Chairman.

71 **Chairman's Announcements**

There were no Chairman's Announcements.

72 **Urgent Business**

There were no items of urgent business.

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

There were no proposed Pre-Committee Site visits

74 **Unit 7 Oxford Technology Park Technology Drive Kidlington OX5 1GN**

The Committee considered application 22/01683/F a development within Use Classes E (g) (i), and/or (ii), and/or (iii), and/or B2 and/or B8 and Associated Works including Access and Parking.

Chris Brenan, of Cycle Advocacy Network addressed the committee in objection to the planning application.

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

**Resolved**

- (1) That authority be delegated to the Assistant Director of Planning and Development to grant permission for application 22/01683/F subject to:
  - i) The Conditions set out and suitable provisions to secure a travel plan monitoring fee.

75 **60 Bicester Road Kidlington OX5 2LF**

The Chairman advised that application 22/01999/F had been withdrawn.

## **Land Between Sewage Works And Manor Farm Adjacent Street From Bell Street To Balscote Hornton**

The committee considered application 22/02769/F Proposed dwelling and ancillary open store/byre and stables with associated hardstanding as a replacement for the same form of development approved under planning permission 19/00157/F.

John Offord, Chairman of Hornton Parish Council addressed the committee in objection to the application.

Peter Frampton, agent for the applicant addressed the committee in support to the application.

It was proposed by Councillor Reynolds and seconded by Councillor Watkins that application 22/02769/F be refused, contrary to the officer recommendation as the proposed dwelling would be located on a different siting to and not within the curtilage of the existing farm buildings. The proposal therefore conflicts with saved policies H17 and H18 of the Cherwell Local Plan 1996, Policy ESD13 of the Cherwell Local Plan 2011-2031 Part 1 and the National Planning Policy Framework and in the absence of a satisfactory planning obligation, the applicant has failed to adequately demonstrate that the existing farm buildings and bungalow at Manor Farm will be demolished, and the land made good prior to the commencement of the new dwelling.

In reaching its decision the Committee considered the officers report, presentation, the written update and addresses from the local ward member and public speaker.

### **Resolved**

1. The proposed dwelling would be located on a different siting to and not within the curtilage of the existing farm buildings. The location of the dwelling is an area of open countryside on active agricultural land outside the village of Hornton. Due to the location of the dwelling and by virtue of its scale and siting, extending the village and poorly related to it, the proposal would fail to preserve the intrinsic character and beauty of the countryside and would adversely affect the character and visual amenity of the local landscape and the setting of the village. Therefore, the proposal would not constitute an appropriate replacement dwelling and would result in a new dwelling in an isolated location in the countryside. The proposal therefore conflicts with saved policies H17 and H18 of the Cherwell Local Plan 1996, Policy ESD13 of the Cherwell Local Plan 2011-2031 Part 1 and the National Planning Policy Framework.
2. In the absence of a satisfactory planning obligation, the applicant has failed to adequately demonstrate that the existing farm buildings and bungalow at Manor Farm will be demolished, and the land made good prior to the commencement of the new dwelling. The demolition works are required to ensure that there is only one dwelling as the new dwelling is a

replacement dwelling and not a second dwelling which would be contrary to saved Policies H17 and H18 of the Cherwell Local Plan 1996 and Government guidance in the National Planning Policy Framework.

Note to Applicant: This reason for refusal is capable of being addressed and is added to protect the Council's interests in the event of any further application or appeal in relation to this development proposal.

77

### **Windmill Nurseries London Road Bicester OX26 6RA**

The Committee considered application 22/00464/F Change of Use of Land to provide temporary caravan site with associated access enclosure and amenity for use by railway construction staff.

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

#### **Resolved**

That application 22/00464/F be approved, subject to the following conditions:

##### **Time Limit**

1. The use hereby permitted shall be discontinued on or before 10th October 2025 and the land restored in accordance with a Land Restoration Strategy to be submitted to and agreed in writing by the Local Planning Authority. The submission of the Land Restoration Strategy shall be made prior to 10th April 2025.

Reason: To safeguard the visual amenities of the area and residential amenity in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1 and Saved Policy C28 of the Cherwell Local Plan 1996.

##### **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 forms and the following plans and documents: 6218.10 A (Site Location and Proposals Layout Plan) received 13 July 2022.

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

##### **Details of Amnesty buildings**

3. Prior to the first installation of the sanitary and amenity building, details of the sanitary and amenity buildings, including elevations, floorplans and proposed materials demonstrating that it shall be single storey only shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details prior to the first use of the site.

Reason: To ensure that the buildings 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.

### **Landscaping**

4. A scheme of planting to provide a screen for the site along its north-western boundary consisting of suitable plants capable of growing to a height of not less than two metres, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented within the first planting season following the first date on which any part of the approved development is occupied.

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 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.

### **Highway**

5. Prior to the first occupation of the development, a Shuttle Strategy shall be provided, which shall include details of the frequency and quantity of the proposed shuttle service and a proposed timetable which shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved Shuttle Strategy shall be implemented and operated in accordance with the approved details.

Reason: In the interests of highway safety and to comply with Government guidance contained within Section 12 the National Planning Policy Framework.

### **Archaeology**

6. The applicant, or their agents or successors in title, shall be responsible for organising and implementing an archaeological watching brief, to be maintained during the period of construction/during any groundworks taking place on the site. The watching brief shall be carried out by a professional archaeological organisation in accordance with a Written Scheme of Investigation that has first been approved in writing by the Local Planning Authority.

Reason - To safeguard the recording and inspection of matters of archaeological importance on the site in accordance with the Policy ESD15 of the Part 1 CLP (2011-2031) and the NPPF (2021).

7. Following the approval of the Written Scheme of Investigation referred to in condition 6, no development shall commence on site without the appointed archaeologist being present. Once the watching brief has been completed its findings shall be reported to the Local Planning Authority, as agreed in the Written Scheme of Investigation, including all processing,



research, and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the Local Planning Authority within two years of the completion of the archaeological fieldwork.

Reason - To safeguard the recording and inspection of matters of archaeological importance on the site in accordance with the Policy ESD15 of the Part 1 CLP (2011-2031 and the NPPF (2021).

78 **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 on planning appeals contained within the report be noted.

The meeting ended at 5.25 pm

Chairman:

Date:

# Agenda Item 7

## **Agenda item 7. Proposed Pre-Committee Site Visits**

### **1. Request**

- 1.1 A request has been received from Cllr Sibley for a committee site visit to be held for application 22/02922/F. This relates to a proposal for the construction of a Thames Valley Police Technical Services Building (Use Class E) with associated access, car parking and hard and soft landscaping on land adjacent to Bicester Road and South West of Avonbury Business Park, Howes Lane, Bicester.
- 1.2 Cllr Sibley highlights the following reasons for a formal site visit:
- This planning application has a high level of public interest and concern amongst Bicester Residents.
  - A judgement is required on visual impact.
  - The setting and surroundings are particularly relevant to the determination or conditions being considered
  - To enable a formal site visit to be undertaken by OCC Highways, CDC Planning Officers & Committee Members.
  - It is appropriate to make an informed assessment of the proposals which are subject to conflicting claims by applicants and objectors which cannot be adequately expressed in writing, or the proposal is particularly contentious.

### **2. Officer Assessment**

- 2.1 Section 11.3.6 of the Council's Planning Committee Procedure Rules relates to unaccompanied site visits. It highlights that members of the Planning Committee have a long-established practice of undertaking their own visits to sites before Committee meetings.
- 2.2 The Procedure Rules highlights that the disadvantage of these unaccompanied, informal visits is that: (i) they can be used by applicants, agents and objectors to undertake unwarranted lobbying; and (ii) where a Member visits private property it can be interpreted as showing favour to the person visited. Therefore Members are advised against entering private land, even if invited to do so, but to view the site only from public vantage points.
- 2.3 Section 11.3.1 of the Procedure Rules highlights the decision making process to carry out a site visit. This is normally based on one or more of the following criteria:
- Illustrative material is insufficient to convey the issues
  - A judgement is required on visual impact
  - The setting and surroundings are particularly relevant to the determination or conditions being considered
  - It is necessary to experience similar/comparable conditions at another location/site
  - The proposal is of particular significance although applications which only raise issues of principle or fundamental planning policies will not normally be appropriate for a formal site visit
  - It is appropriate to make an informed assessment of the proposals which are subject to conflicting claims by applicants and objectors which cannot be adequately expressed in writing; or the proposal is particularly contentious.

2.3 The application site is located off Howes Lane in Bicester. The site is currently in use as an agricultural field, with further agricultural fields to the north and southwest of the application site. The Thames Valley Police vehicle workshop and Roads Policing Traffic Base is located to the northeast of the application site. Avonbury Business Park is adjacent to these buildings. Residential development lies to the south of Howes Lane.

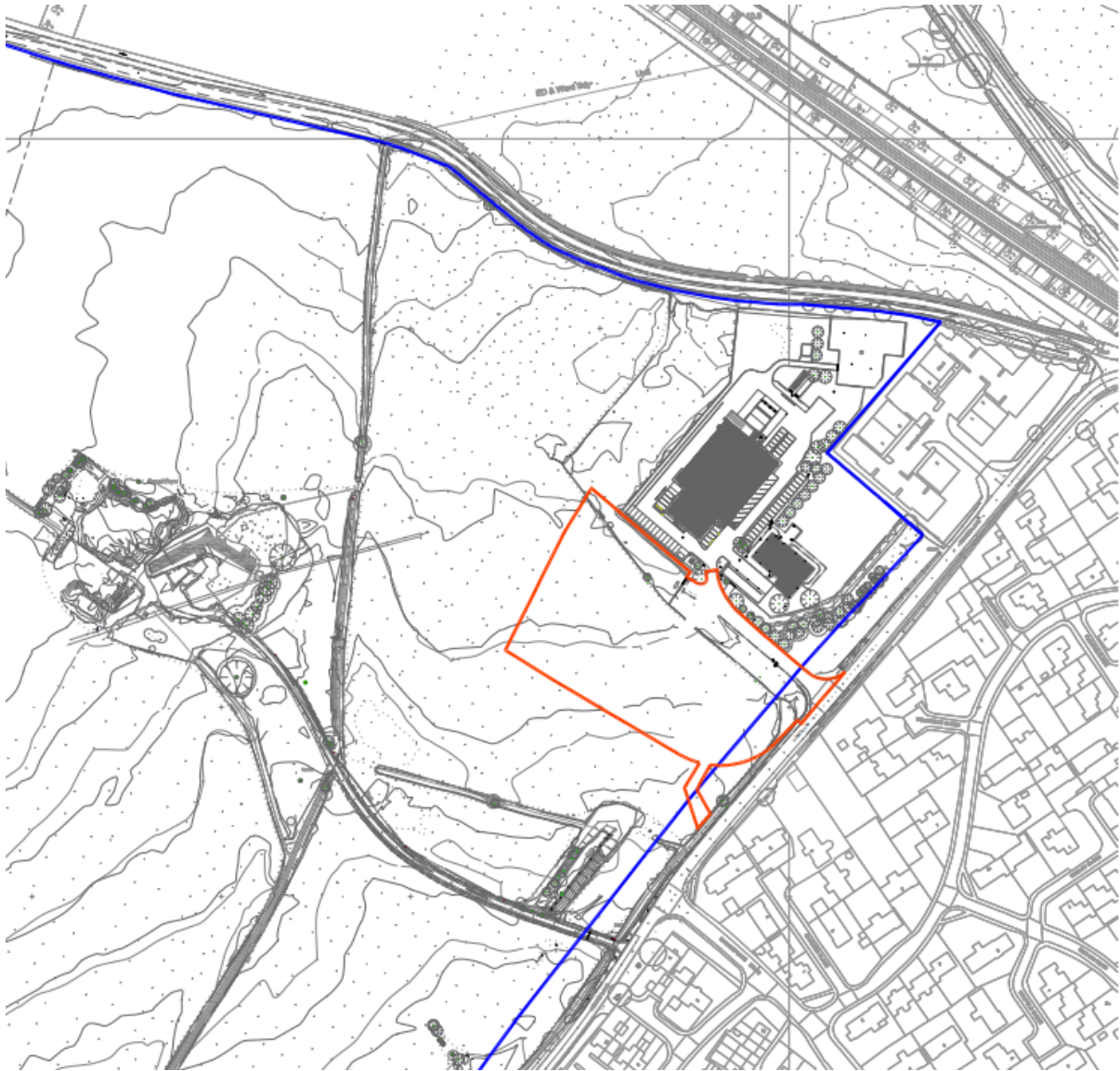


Image 1: Extract of Site Location Plan

2.4 There are no public right of ways to the north, east or west of the site, however the site is visible from Howes Lane. Members will be able to assess the site from Howes Lane, without the need to enter the site, as demonstrated by the street view pictures from Google Maps below.



- 2.5 A request has been made for the Highway Authority to attend a site visit. The main request for a Committee Site Visit is for the visual impact of the proposed development. To date the Highway Authority has not commented on the application.
- 2.6 The requirement for the Highway Authority to attend a site visit is not warranted at this time, especially as the purpose of a site visit is solely to ascertain the facts relating to the physical nature of the site and its surroundings (paragraph 11.3.1 of the Council's Planning Committee Procedure Rules) When the application does come before Members, the response of the Highway Authority will be set out within the Officer's Committee Report.

### **3. Recommendation**

- 3.1 The purpose of site visit is to ascertain the facts relating to the physical nature of the site and surroundings, and it is considered that Members are able to undertake an unaccompanied site visit in this case. The site and its surroundings are clearly seen from the public realm without the need to enter the site, as demonstrated above.
- 3.2 Therefore, it is recommended a Formal Committee Site Visit is not undertaken for the application, as it does not meet the requirements of the Council's Planning Committee Rules paragraph 11.3.1, and members will be able to undertake an unaccompanied site visit to understand the site and its surroundings.

# Agenda Annex

## CHERWELL DISTRICT COUNCIL

Planning Committee - 3 November 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

<b>Item No.</b>	<b>Site</b>	<b>Application Number</b>	<b>Ward</b>	<b>Recommendation</b>	<b>Contact Officer</b>
8	Land To Rear Of St Marys House Adj To Henge Close Adderbury Banbury OX17 3GA	22/00203/OUT	Adderbury, Bloxham and Bodicote;	Approve	Wayne Campbell
9	60 Bicester Road Kidlington OX5 2LF	22/01999/F	Kidlington East;	Approve	Rebekah Morgan
10	27 Shearwater Drive Bicester OX26 6YR	22/02845/F	Bicester South and Ambrosden;	Approve	Rebekah Morgan

\*Subject to conditions

Agenda Item 8  
**22/00203/OUT**

**Land To Rear Of St Marys House Adj To  
Henge Close  
Adderbury  
Banbury  
OX17 3GA**



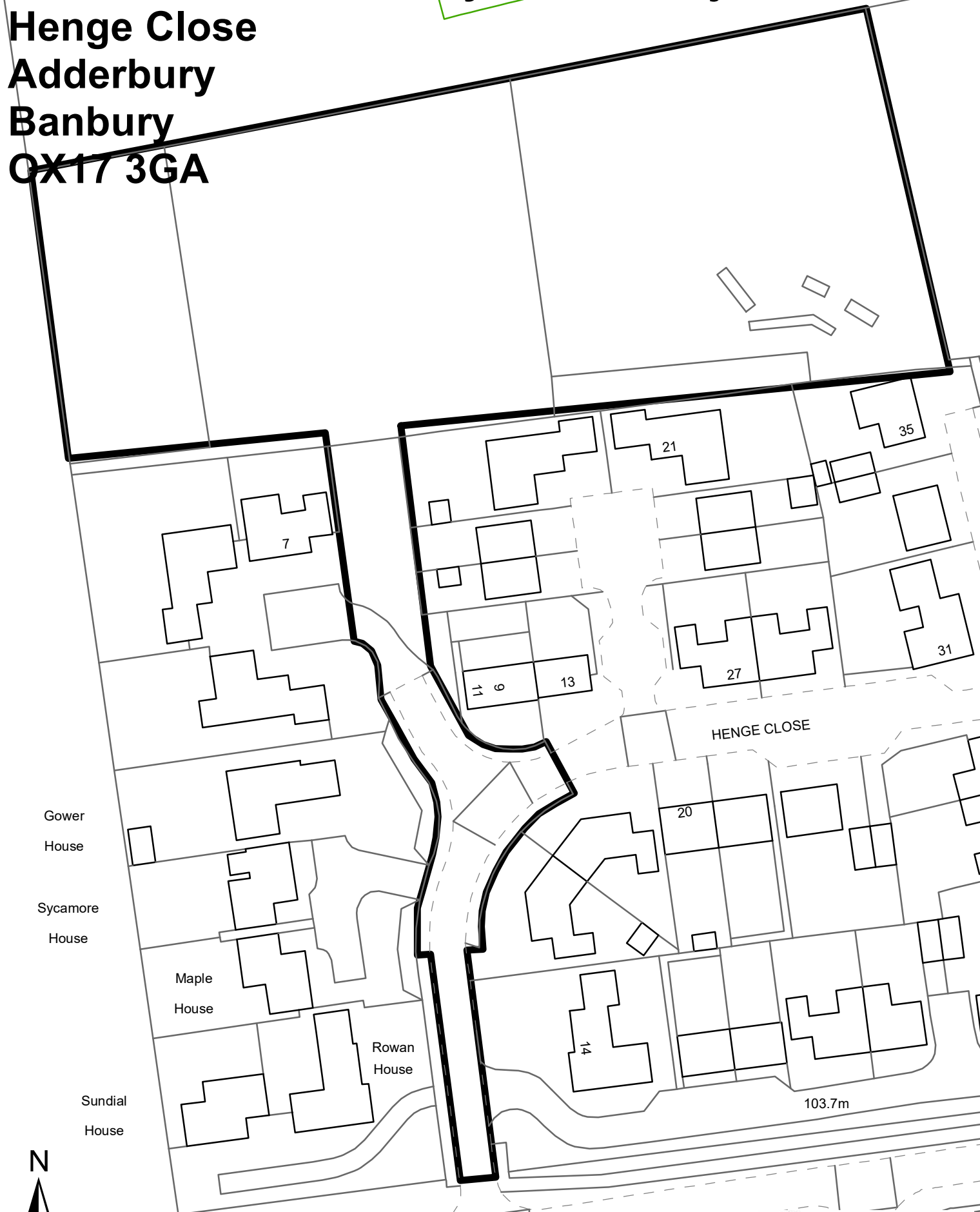
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# 22/00203/OUT

## Land To Rear Of St Marys House Adj To Henge Close Adderbury Banbury OX17 3GA



1:750

MILTON ROAD

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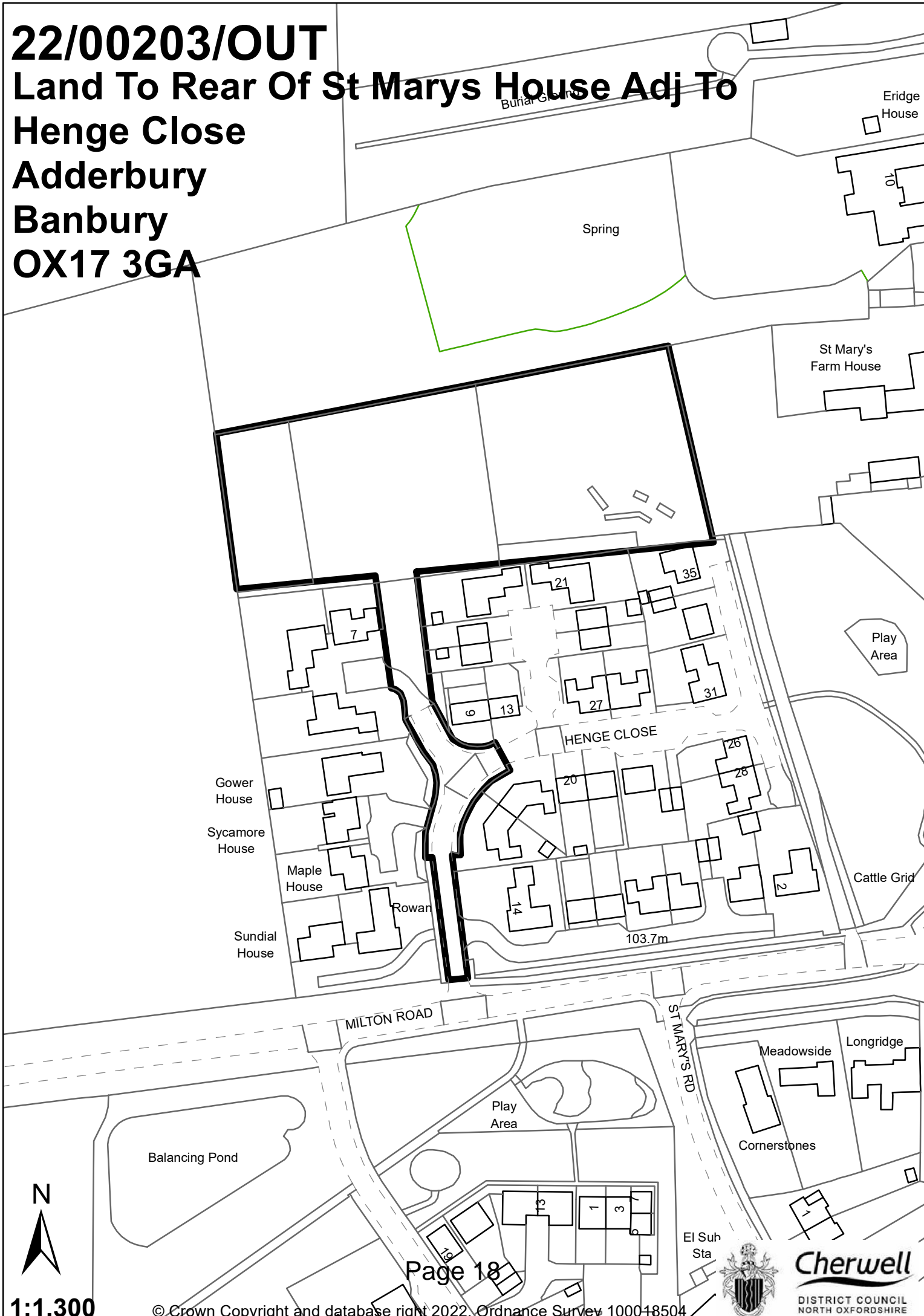
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**Cherwell**  
DISTRICT COUNCIL  
NORTH OXFORDSHIRE

# 22/00203/OUT

## Land To Rear Of St Marys House Adj To Henge Close Adderbury Banbury OX17 3GA



**Case Officer:** Wayne Campbell

**Applicant:** Nicholas King Homes

**Proposal:** Outline application for the erection of up to 10no houses, with all matters reserved except access

**Ward:** Adderbury, Bloxham and Bodicote

**Councillors:** Cllr Bishop, Cllr Hingley and Cllr Nell

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

**Expiry Date:** 21 April 2022

**Committee Date:** 3 November 2022

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**SUMMARY OF RECOMMENDATION: DELEGATE POWERS TO GRANT PERMISSION  
SUBJECT TO CONDITIONS AND SECTION 106**

**1. APPLICATION SITE AND LOCALITY**

- 1.1. The application site is an area of paddock located to the north of the existing residential development of Henge Close and to the immediate west of St Mary's Farmhouse. The site is roughly rectangular in shape and 0.76ha in area of greenfield land, accessed by means of a gate from the St Mary's Farmhouse.
- 1.2. The site is surrounded to the north, south and east by existing residential development while land to the west has planning permission for use as sports / recreation and community use along with pavilion and associated car parking.
- 1.3. In terms of boundary treatment, the site is enclosed on the north and western boundaries by a mix of post and rail fencing, semi-mature trees and hedgerow. On the southern boundary the site is marked by a mix of landscaping and fencing used to demarcate the rear gardens of dwellings in Henge Close while to the east the boundary is marked by a post and rail fence through which is an access point to serve the remainder of the paddock area.

**2. CONSTRAINTS**

- 2.1. The application site is located outside the built limits of Adderbury village and is outside but adjacent to the Adderbury Conservation Area, which lies to the east of the site. The curtilage of the grade II listed building of St Mary's Farmhouse also lies to the east of the site.

**3. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 3.1. This outline application is for the erection of up to 10 market sale houses on the land west of St Mary's Farmhouse and north of Henge Close. The application seeks outline permission with all matters reserved other than access. The site would be accessed by means of extension of the existing roadway and footpaths from Henge Close to the south, through an area currently used as open space.

- 3.2. *Timescales for Delivery*: The applicant/agent has not advised, in the event that planning permission is granted, when development would commence although, as this is an outline application, in the event that permission is granted the detailed matters of the development would need to be approved as part of a reserved matters application(s)

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

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

14/00250/F

Demolition of existing agricultural buildings and erection of 20 private houses and 11 affordable dwellings, provision of public open space and land for a possible community use.

Permitted

17/00813/F

Erection of 5 No private market sale dwellings on land previously allocated for possible community use.

Permitted

18/00691/F

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

Permitted

20/03687/F

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

Permitted

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

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

21/00855/PREAPP

This pre-app although relating to the site under consideration sought advice on the development of the site for 21 dwellings. The Council's advice was that the established settlement pattern of Adderbury is that of linear development, with the more modern developments at the edge of the village being contrary to this, with cul-de-sacs created in these recent housing developments. The proposals subject of this pre-application enquiry would create backland development to the rear of Henge Close, which would be accessed from the internal road through the site. This form of development would fail to relate well to the existing built form of the village and would result in the loss of a greenfield site. It is considered that a development of this scale in this location would also cause harm to the setting of St Marys House, as historically the property would have had a connection to the open countryside to the west which has been affected by the approval of Henge Close but this development would completely remove that. The character of the Adderbury Conservation Area would also be harmed for this reason.

The Council's response continued by stating that scheme as submitted would cause harm to the amenities of existing occupiers within Henge Close. The separation distances between plots 15-18 of the proposed scheme would be 13m to the existing dwellings to the south. The separation distance between plots 17/18 and 20 and 21 would be below that expected as well. Overall, in our view, the current proposal would result in a cramped form of over-development that would adversely affect the

character and appearance of the area and the setting of the village and its Conservation Area.

The pre-app response stated that if 21 homes were applied for, it is expected that 7 of these would be affordable and the tenure proportions should be split 70/30 between rented units and shared Ownership units (5 x rented and 2 x shared ownership). In addition, it is likely that affordable housing contributions would be sought for primary and secondary education, a local area of play, local green space, cemeteries, community halls, medical facilities and highways (as set out above). To conclude, it is considered that the principle of development is not acceptable in housing strategy terms, and the proposed development would cause harm to the character and appearance of the area, the setting and significance of heritage assets and the amenities of existing and future occupier. A future planning application on this basis would not be supported.

## 6. RESPONSE TO PUBLICITY

6.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records (amend as appropriate). The final date for comments was **22 February 2022**

6.2. A total of 46 objections were received on this application with no comments and no submissions of support. The comments raised by third parties are summarised as follows:

- Principle - Development contrary to National, Local Plan and Adderbury Neighbourhood Plan Policy.
- Plot of land to be used as access is currently used as a green space provided for the benefit of the residents of Henge Close.
- Between 2015-2021, 198 housing completions in the parish of Adderbury, with outline permission for 40 more new homes approved at appeal on the site north of Berry Hill Rd. These developments have already changed the character of the village, which has traditionally been rural in nature with a limited number of more modern houses.
- Not acceptable in housing strategy terms and current supply needs
- Support the view of Cherwell District Council planning officers in the pre-app response.
- Visual impact – Landscape Officer expressed concern in the pre-app about creation of an urban boundary due to the introduction of boundary fences and the loss of the hedgerow.
- Development ignores 'Residential Settlement Boundary' for Adderbury as set out in 'The Adderbury Neighbourhood Plan' and therefore contravenes Policy AD1.
- Will result in a back land development and an intrusion into the countryside detracting from rural character and quality of area same reason for refusal on application 16/02313/OUT.
- This is not an in-fill but an extension of the village boundary.
- Heritage - Impact on conservation area of West Adderbury and historic listed houses in the village.

- Amenity - Henge Close is private road, owned and maintained by the residents who have access rights over the site therefore notice should have been served on owners of the land and access. This may not be a planning issue, but the planning committee must consider whether this site for 10 houses could eventually be 'landlocked' and therefore not viable.
- Unacceptable level of noise and disturbance during proposed building period
- Proposed houses would overlook and cause a loss of privacy to adjacent properties due to insufficient separation distances.
- Ecology - Loss of greenfield site will remove valuable habitats for wildlife including small mammals, birds (including hedgerow species, game and raptors).
- Highway safety concerns - detrimental to the safety, privacy and amenity of existing residents of Henge Close and those who use the playing facilities in the adjacent green space and traffic congestion
- Movement of heavy construction vehicles with no place to turn or manoeuvre would pose a serious danger to young children playing and walking on this narrow private road. HSE Guidance would suggest application is called in by Secretary of State for determination due to danger to school children.
- Other - HSE Guideline states application should be called-in for Secretary of State to determine if proposal represents a hazard to public and children.
- Excess run off from a further development will cause more excess water risking the over run of the Parish councils land drain which has historically (2013) flooded, causing huge damage to our property and land.
- Suggestion that site was left in order to retain access to the development site is incorrect.
- Although there is a bus stop nearby the services are limited and there are no links to Banbury or Kings Sutton rail stations.
- No evidence on how the development would contribute to reducing carbon emissions, levelling up or on how it would satisfy the three pillars of any sustainable development.

### 6.3. **West Adderbury Residents Association:**

- Adderbury Neighbourhood Plan (Policy AD1) site falls outside the agreed Settlement boundary, therefore development of the site should not be supported.
- Proposed access to the site was designated as a green space under the conditions of the original Henge Close development.
- Location of proposed access at the end of a small cul-de-sac is completely unsuitable as the sole access for a new housing development.
- Milton Road through West Adderbury is acknowledged by OCC to have serious traffic issues.
- Additional traffic associated with new houses would be detrimental to the safety, privacy and amenity of existing residents.
- Development would place additional strain on an already dangerous stretch of road.
- Adverse impact on listed buildings and Conservation Area.

- Development directly adjacent to the community playing fields off the Milton Road, will inevitably interfere with the use of the proposed community facilities and potentially lead to additional costs for the community.
- Between 2015 – 2021 198 housing completions in the parish of Adderbury, with outline permission for 40 more new homes approved at appeal on the site north of Berry Hill Rd. Developments change the fundamental character of the village, in particular of West Adderbury.

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

## 7. RESPONSE TO CONSULTATION

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

### PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

7.2. ADDERBURY PARISH COUNCIL: **Objects** on the following grounds:

- Contrary to the Adderbury Neighbourhood Plan Policy AD1 and is outside the residential settlement boundary as stated in that policy.
- Inefficient and ineffective use of land because building ten properties means the density of housing is not in keeping with Henge Close. Nor does it make efficient and best use of the land as required under the NPPF;
- Limited community benefit and no provision for affordable homes.
- Ten properties cannot be described as 'infill', and may be seen as 'back land' development;
- Increase traffic onto an already very busy Milton Road and the Henge Close junction was not designed for so many vehicle movements;
- Increased traffic movements within Henge Close;
- Loss of another greenfield site in the village and it is unsuitable development for the Conservation Area;
- Concerns about the green area along the boundary of the sports field.
- Sports field site must be secured to ensure there is no unauthorised access
- Clear gap in the design of the site, which in due course, will lead to another development to the north;
- If minded to approve, the Parish Council requests that the permission includes; some affordable housing; community benefit, particularly towards the Milton Road Sports and Community Project to which it is adjacent and will be used by any new residents and also towards the new project for 20mph speed restrictions in Adderbury. The Parish Council's community benefits list has already been submitted to the Local Planning Authority; discussions between the Parish Council and the landscape officers and developer to ensure that the green buffer on the west boundary is created as a robust and secure landscape feature and maintained for a wildlife corridor; and - reassurance of secure boundaries for the Milton Road Sports Field.
- Other issues raised not related to the proposals – No reference to the Adderbury Neighbourhood Plan in the pre-app advice

## OTHER CONSULTEES

- 7.3. OCC HIGHWAYS: **No objections** subject to conditions
- 7.4. OCC LEAD LOCAL FLOOD AUTHORITY: **No objections** subject to conditions.
- 7.5. OCC ARCHAEOLOGY: **No objections** subject to conditions
- 7.6. THAMES WATER: **No objections**
- 7.7. CDC ARBORICULTURAL OFFICER: **No objections** subject to conditions
- 7.8. CDC LANDSCAPE OFFICER: **Comments** Landscape and Visual Appraisal does not contain any viewpoints from the PRoW to the north of the site so is unacceptable. Please ask for a full set of viewpoints to be submitted for appraisal
- 7.9. CDC STRATEGIC HOUSING OFFICER: **Comments** – the proposal is for 10 dwellings and as there is therefore no policy requirement for affordable housing. Policy BSC3 requires affordable housing to be provided on developments of 11 dwellings or more. The proposal is not being brought forward as a rural exceptions site; it is solely for open market housing. In view of these factors, Strategic Housing do not have any comments to make.
- 7.10. CDC ENVIRONMENTAL HEALTH: **No objections** subject to conditions.
- 7.11. CDC RECREATION and LEISURE: **No objections** subject to S106 contributions.
- 7.12. CDC ECOLOGY: **No objections** subject to conditions
- 7.13. CRIME PREVENTION DESIGN ADVISOR: **No objections** subject to inclusion of design changes
- 7.14. CONSERVATION OFFICER: No comments received.

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

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

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

- PSD1 – Presumption in Favour of Sustainable Development
- SLE4 – Improved Transport and Connections
- BSC1 – District Wide Housing Distribution
- BSC2 – The Effective and Efficient Use of Land – Brownfield land and Housing Density



- BSC3 – Affordable Housing
- BSC4 – Housing Mix
- BSC7 – Meeting Education Needs
- BSC8 – Securing Health and Well-Being
- BSC9 – Public Services and Utilities
- BSC10 – Open Space, Outdoor Sport and Recreation Provision
- BSC11 – Local Standards of Provision – Outdoor Recreation
- BSC12 – Indoor Sport, Recreation and Community Facilities
- ESD1 – Mitigating and Adapting to Climate Change
- ESD2 – Energy Hierarchy and Allowable Solutions
- ESD3 – Sustainable Construction
- ESD6 – Sustainable Flood Risk Management
- ESD7 – Sustainable Drainage Systems (SuDs)
- ESD10 – Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13 – Local Landscape Protection and Enhancement
- ESD15 – The Character of the Built and Historic Environment
- ESD17 – Green Infrastructure · VILLAGES 1 – Village Categorisation · VILLAGES 2 – Distributing Growth
- INF1 - Infrastructure

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- H18 – New dwellings in the countryside
- TR1 – Transportation funding
- C8 – Sporadic development in the countryside
- C14 – Countryside management projects
- C15 – Prevention of coalescence of settlements
- C28 – Layout, design and external appearance of new development
- C30 – Design of new residential development
- ENV1 – Development likely to cause detrimental levels of pollution
- ENV12 – Development on contaminated land

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

- AD1 Adderbury Settlement Boundary
- AD2 Green Infrastructure
- AD3 Local Green Spaces
- AD4 Local Open Spaces

- AD6 Managing Design in the Conservation Area and its Setting Church Quarter
- AD17 Buildings and structures of local importance
- AD18 New Community Facilities
- AD19 Community Assets & Local Services

#### 8.4. 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
- Highway impact
- Residential amenity
- Heritage impact
- Ecology impact
- Sustainable Construction
- S106

#### Principle of Development

9.2. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. Also, of a material consideration is the guidance provided in the National Planning Policy Framework (NPPF) which sets out the Government's planning policy for England and how this should be applied.

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.

9.4. Paragraph 10 of the NPPF states that "*so sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development (paragraph 11)*". Paragraph 11 defines the presumption in favour of sustainable development for decisions making as "*c) approving development proposals that accord with up-to-date development plan without delay; or d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*

*i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, or ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole”.*

- 9.5. Paragraph 12 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. 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 paragraph 60 states that *“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. The supply of specific deliverable sites should in addition include a buffer (moved forward from later in the plan period)”.* Paragraph 75 continues by stating that *“a five year supply of deliverable housing sites, with the appropriate buffer, can be demonstrated where it has been established in a recently adopted plan, or in a subsequent annual position statement which:*
- a) has been produced through engagement with developers and others who have an impact on delivery, and been considered by the Secretary of State; and*
  - b) incorporates the recommendation of the Secretary of State, where the position on specific sites could not be agreed during the engagement process”.*

#### *Development Plan*

- 9.8. 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.
- 9.9. Policy PSD 1 of the CLP 2015 states that *when considering development proposals, 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 *planning 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.*
- 9.10. Policy BSC4 of the CLP 2015, which covers the issue of providing housing mix on new development, states that *new residential development will be expected to provide a mix of homes to meet current and expected future requirements in the interests of meeting housing need and creating socially mixed and inclusive communities.*
- 9.11. Saved Policy H18 of the CLP 1996 covers the issue over new dwellings in the countryside. Under this policy it is stated that *planning permission will only be granted for the construction of new dwellings beyond the built-up limits of settlements other than those identified under policy H1 when:*

- (i) *it is essential for agriculture or other existing undertakings, or*
- (ii) *the proposal meets the criteria set out in policy H6; and*
- (iii) *the proposal would not conflict with other policies in this plan.*

Under the current CLP 2015 Saved Policy H1 was replaced by Policy BSC1 while Saved Policy H6 was replaced with Policy Villages 3 (Rural Exception Site).

- 9.12. The CLP 2015 seeks to allocate sufficient land to meet District Wide Housing needs. The overall housing strategy is to focus strategic housing growth at the towns of Banbury and Bicester and a small number of strategic sites outside of these towns. With regards to villages, the Local Plan notes that the intention is to protect and enhance the services, facilities, landscapes and natural and historic built environments of the villages and rural areas. It does however advise that there is a need within the rural areas to meet local and Cherwell-wide needs.
- 9.13. Cherwell's position on five-year housing land supply is reported in the Council's 2021 Annual Monitoring Report (AMR). The 2021 AMR concludes that the District can demonstrate a 3.5 year supply for the current period 2022-2027, a shortfall equal to 2,255 houses for the period 2022-2027. The current application is for a development of 10 dwellings which would make a contribution towards the provision of dwellings within the District.
- 9.14. Section E of the CLP 2015 concerns the monitoring and delivery of the Local Plan. Paragraph E.19 states that *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.* In this instance the most recent published review undertaken by the Council is the Housing & Economic Land Availability Assessment (HELAA) (February 2018). This application site was not reviewed in the HELAA but neither was the existing site to the immediate south now known as Henge Close.
- 9.15. Policy Villages 1 of the CLP 2015 provides a framework for housing growth in the rural areas of the District and groups villages into three separate categories (A, B and C), with Category A villages being considered the most sustainable settlements in the District's rural areas. These villages have physical characteristics and a range of services within them to enable them to accommodate some limited extra housing growth. Adderbury is a Category A village.
- 9.16. Policy Villages 2 states that in identifying and considering sites, particular regard will be given to the following criteria:
- i. 'Whether the land has been previously developed land or is of less environmental value';*
  - ii. 'Whether significant adverse impact on heritage and wildlife assets could be avoided';*
  - iii. 'Whether development would contribute in enhancing the built environment';*
  - iv. 'Whether best and most versatile agricultural land could be avoided'; v. 'Whether significant adverse landscape impacts could be avoided';*
  - vi. 'Whether satisfactory vehicular and pedestrian access/egress could be provided';*
  - vii. 'Whether the site is well located to services and facilities';*
  - viii. 'Whether necessary infrastructure could be provided';*

- ix. *'Whether land considered for allocation is deliverable now or whether there is a reasonable prospect that it could be developed within the plan period';*
- x. *'Whether land the subject of an application for planning permission could be delivered within the next five years';*
- xi. *'Whether development would have an adverse impact on flood risk'.*

#### *Assessment*

- 9.17. This application seeks planning permission for the development of a paddock for a scheme of up to 10 dwellings. The site is an undeveloped paddock that, given its physical and visual relationship to the existing built form, is outside of the existing built form of Adderbury village. The site is bounded by existing residential properties to the south, east and mature landscaping to the north. The site is bounded to the west by open countryside, which has planning permission for sport/recreation and community use under application 18/00220/F along with a pavilion and associated car park under application reference 19/02796/F.
- 9.18. The site is not allocated for development in any adopted or emerging policy document forming part of the Development Plan and is located outside the village boundary for the Adderbury Neighbourhood Plan. However, Adderbury is identified in the Local Plan as a sustainable location for meeting defined housing requirements – one of 23 Category A villages intended to provide 750 homes from 2014 to 2031 (Policy Villages 2). The Local Plan reached that conclusion having undertaken a comparative assessment and categorisation of all the district's villages. In addition, under paragraph 14 of the NPPF, as it was adopted more than two years ago, the policies within the Adderbury Neighbourhood Plan relating to the supply of housing are to be considered out of date.
- 9.19. The Local Plan does not allocate specific, non-strategic sites. Instead, Policy Villages 2 sets a total of 750 dwellings for the rural area and provides criteria against which individual proposals are required to be assessed as set out above. The requirement of Policy Villages 2 to provide 750 homes at Category A villages is monitored in the 2021 AMR. Table 39 of the AMR shows that, at 31<sup>st</sup> March 2021, 749 dwellings had either been completed or were under construction on sites with planning permission. Para. 5.159 records that between 1 April 2014 and 31 March 2021 a total of 1,062 dwellings have been identified for meeting the Policy Villages 2 requirement of 750 dwellings.
- 9.20. That the total of 750 will by now have been met is a material consideration when assessing further applications for 'major' developments at the Category A villages. However, in the context of policy BSC1 and the need to meet overall district housing requirements by 2031, it does not mean that there is a moratorium on future development and, in successive appeal decisions relating to the development proposals in the Cherwell district, Planning Inspectors have held that the total of 750 is not a ceiling and that merely exceeding that total would not result in harm. Furthermore, at the present time there is a need to consider the district's 5 year land supply position. The lack of a 5 year supply renders the Council's policies for housing, including Policy Villages 2, out-of-date, and instead means that a presumption in favour of sustainable development must be applied.
- 9.21. The first question to ask is whether the site is a sustainable location for additional development of this scale. The site is on the edge of Adderbury, one of the larger villages in the Cherwell district, which has a range of facilities enabling residents to meet their day to day needs. There is a footpath along the Milton Road into the village and bus stops within walking distance and a regular bus service is available from Adderbury.

- 9.22. As to whether the proposal would result in loss of best and most versatile agricultural, the Council's own mapping system suggests that the site is an area of Agricultural Land Classification which is a mix of grade 1 (best) land and grade 5 land (of least value). Although the application is not supported by any soil assessment to confirm the actual land classification it is noted that neither the site or the adjoining site to the west is no longer under agricultural use. Therefore, and given the size of the site, the loss of the very small area of grade 1 is not considered sufficient to warrant a refusal.
- 9.23. Although this application is in outline form, and therefore only seeks approval of the principle of a residential development on the site, an indicative layout has been provided in support of the application. This layout shows an estate of 10 dwellings to be in the region of 13 dwellings per hectare. The applicant has not stated a proposed mix of units nor whether any the dwellings would be provided as affordable housing. However, it should be recognised that under Policy BSC 3 of the CLP 2015 affordable housing provision would only be required in the event that the development proposed is equal to 11 dwelling or more, whereas the proposal is for 10 dwellings.
- 9.24. Matters such as visual amenity, heritage, highway safety, ecology and flood risk are considered in later sections of this report.

#### *Conclusion*

- 9.25. In the absence of a sufficient supply of land for housing, the Council's development plans for housing are to be considered 'out of date'. The presumption in favour of sustainable development applies. The proposal's effects, on visual amenity, heritage, highway safety, ecology and flood risk, etc. are considered in subsequent sections of this report. However, the site is in a geographically sustainable location, with footpaths close by, a range of amenities within the village and regular public transport available from the village, meaning future occupiers of the proposed development would have a realistic choice of travel in order to meet their day to day needs.

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

- 9.26. 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. Section 12 of the NPPF is clear that good design is a fundamental to what the planning and development process should achieve.
- 9.27. Policy BSC2 of the CLP 2015 states amongst other things that new housing should be provided on net development areas at a density of at least 30 dwellings per hectare unless there are justifiable reasons to lower the density.
- 9.28. The gross density of the scheme is in the region of 13 dwellings per hectare (dph). It is not clear what the density is for the existing Henge Close development. However, the applicant has advised that the lower density shown on the indicative layout has been provided to be more appropriate to the setting on the edge of the village. Furthermore, the applicant has also highlighted that the number of proposed dwellings would provide more space for each plot, in order to design houses that would overcome the potential impact of the development on the existing dwellings in Henge Close. The reduction in density would also allow for more landscaping to provide screening between the proposed and the existing dwellings. In this case, given the edge of settlement location of the development and the need for a robust landscape strategy to the boundaries of the site, it is considered that the proposed density would be acceptable.

- 9.29. The Council's Design Guide seeks to ensure that new development responds to the traditional settlement pattern and character of a village. This includes the use of continuous building forms along principal routes and the use of traditional building materials and detailing and form that respond to the local vernacular.
- 9.30. Notwithstanding the point that the application only seeks to establish the principle of the development, the indicative details provided in the Design & Access Statement suggest that in terms of appearance the new dwellings would follow the same design and use of materials as used elsewhere on Henge Close. As such the new development would therefore appear as a natural extension to the Henge Close development. While this detail is not for consideration at this stage the application submission does give an indication of the type of development which is likely to be developed and would be subject to reserved matters application.
- 9.31. Access to the site would be provided with a single point off Henge Close which is the main access road serving the rest of the development. The main point of access would be through an area currently used as an area of amenity space, but which has an unimplemented planning permission for a single dwelling (applications reference 18/00691/F and 20/03687/F).
- 9.32. As such the proposed access would not result in the loss of an area of amenity space but would result in the development of the site for the single dwelling not being implemented.
- 9.33. The proposed access into the site would be a single spine road formed as an extension to the existing Henge Close and once within the site would lead round the site in a form of cul-de-sac with no routes thorough into the adjoining parcels of land to the north, east or west. The dwellings are shown arranged around the site with positions largely determined by the position of the spine road which runs east to west through the site.
- 9.34. The indicative layout does not, however, provide any areas of play and under Policy BSC11 of the 2015 CLP the threshold for a LAP is 10 dwellings. Notwithstanding, the application is in outline seeking the principle of development and the final layout is not for consideration at this stage. For this reason, officers would recommend that any permission granted be subject to a condition requiring the provision of a LAP in accordance with the Policy BSC11.
- 9.35. The current indicative layout presented would result in an unacceptable form of development. However, as noted above the application is made in outline and other than access all other matters are reserved with the layout, scale and appearance of the development to be considered at a later stage. Given the relatively low density of the scheme and the roughly regular shape of the site it is considered that a revised layout could be negotiated at reserved matters stage to ensure that the proposed development achieved a high quality and locally distinctive scheme.
- 9.36. It is noted that objectors have raised concerns that the development would represent a backland development with no access to the public highway and development across third party land. The term backland generally means development behind existing development and which does not have a clear public view. The proposed development would be accessed through an area of amenity land / building plot to allow the development to the north of the existing dwellings in Henge Close.
- 9.37. However, to the extent that the proposal would result in backland development this is not in itself a reason to refuse planning permission. Although often seen as a negative, the development of a potential site which is essentially 'landlocked' would generally require development to be designed in a sensitive and appropriate fashion which can

and is often an appropriate form of development from both a planning and landscape point of view. In this instance the access to the site would be via an existing highway which serves the rest of the estate and although it is accepted that at the point of access the highway forms part of a small cul-de-sac the access would be to an acceptable standard. The development of the site would allow for an additional 10 dwellings in Adderbury and would make a contribution towards the provision of dwellings in the District.

### Heritage

- 9.38. Section 66(1) of the Planning (Listed Building & Conservation Areas) Act 1990 states: 'in granting planning permission for development which affects a listed building or its setting,' a Local Planning Authority must 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.' Further, under Section 72(1) of the same Act the Local Planning Authority has a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of a Conservation Area.
- 9.39. Listed Buildings and Conservation Areas are designated heritage assets, and Paragraph 195 of the NPPF states that: *Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise.*
- 9.40. Paragraph 199 of the NPPF directs 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.
- 9.41. Under paragraph 197 of the NPPF in determining applications, Local Planning Authorities should take account of:
- (a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
  - (b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and*
  - (c) the desirability of new development making a positive contribution to local character and distinctiveness.*
- 9.42. The application shares a common boundary with the Adderbury Conservation Area and the curtilage of St. Mary's House a grade II listed building. The application is supported by a detailed Heritage Statement which considers the potential impact the development could have on these heritage assets and others in Adderbury. A separate archaeology assessment of the site has also been provided by the applicant following a number of trial trenches being dug on the site.
- 9.43. The heritage assessment highlights that as a Grade II listed building, St. Mary's House is of national importance. Its significance derives primarily from the remaining physical evidence of the 18th and early 19th century structure and from the quality of the formal east elevation and its contribution to the wider architectural setting of Horn Hill Road. Internally and externally the building retains elements of the historic building design and offers evidence of historic building techniques. The Adderbury Conservation Area



was designated in 1975, with a detailed appraisal being prepared and adopted in 2012.

- 9.44. The heritage assessment notes that as the proposed development is in the vicinity of Grade II listed St. Mary's House and just outside the boundary of Adderbury Conservation Area, the development could potentially impact upon the setting of these heritage assets. It also highlights that St. Mary's House and the Conservation Area are both assessed as having a medium level of significance. While it is possible that there may have been a historic association between the proposal site and St. Mary's House (the former farm) and by extension the Conservation Area, such that the proposal might impact on their historical special interest, no data was found to confirm this.
- 9.45. In terms of impact of the development the heritage assessment concludes that the proposed development and the siting of its built element does not form a part of the views of the assets, despite the intuitive connection perceived based on map review. The primary view of St. Mary's House was and remains from the east; from the west it was historically and remains screened by trees on the north, west and south boundaries of the former farmyard. The altered rear elevation of the house is not visible from outside these boundaries or from the proposal site. The view into the Conservation Area from the west is not identified as an important view and the planned erection of a 6m high ball-stop fence along the west boundary of the proposal site will obscure views from this direction. The proposed development constitutes a negligible magnitude of change to the heritage assets. Following the heritage assessment methodology, the significance of a change of a negligible magnitude to a heritage asset of medium value would constitute a neutral/slight impact, which could be either adverse or beneficial.
- 9.46. Overall, the Heritage Statement concludes that the proposed development would have a neutral impact on the setting of the heritage assets. In assessing this impact and with no comments being received from the Conservation Officer it is considered that the development would not result in any significant harm to St Mary's House through change to its setting and also will not result in harm to the character or appearance of the Conservation Area.

#### Residential amenity

- 9.47. Saved Policy C30 of the CLP 1996 requires that a development must provide standards of amenity and privacy acceptable to the Local Planning Authority. These provisions are echoed in Policy ESD15 of the CLP 2015 which states that: *new development proposals should consider amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation and indoor and outdoor space.*
- 9.48. The existing properties which would be most impacted upon by the proposed development would be the properties to the south and the curtilage of the grade II listed property known as St. Marys House. The application is, however, in outline only and therefore all detailed proposals in the reserved matters applications would need to have due regard to requirements of Section 6 of the Residential Design Guide SPD with regard to appropriate standards of amenity for both existing and future residents. Appropriate positioning and scale of dwellings, boundary treatments and the nature of such treatments could be given due consideration at reserved matters stage.
- 9.49. Given the above, it is considered that the development could be made acceptable in residential amenity terms, both for existing residents neighbouring the site and future occupiers, with acceptable details to be secured at reserved matters stage.

## Highway Implications

9.50. 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.*

9.51. This application seeks to provide a new access off the existing Henge Close across an area which has planning permission for a single dwelling (applications reference 18/00691/F and 20/03687/F) but is currently used as an area of amenity space. The new access would be provided as an extension to the existing Henge Close estate road leading into the southern edge of the application site. Henge Close is accessed via Milton Road to the south, with the access in the form of a bellmouth arrangement. Pedestrians and cyclists would be able to access the site via the Henge Close/Milton Road junction or alternatively via the pedestrian link which connects Henge Close directly with Horn Hill Road. The existing 2m wide footways located adjacent to the eastern and western side of Henge Close would be extended into the site with the western footway terminating just north of the site boundary. In terms of car and cycle parking provision the applicant has confirmed that this would be determined at the reserved matters stage; however, it is also confirmed that the parking provision would be provided in accordance with Cherwell District Council's Design Guide Supplementary Planning Document.

9.52. Concern has been raised by a number of objectors that the access is across private land and would result in the loss of an area of amenity space as per the original approved layout. In terms of the issue of private land this has been covered earlier in this report and relates to a land ownership issue and not a planning matter. Turning to the loss of the amenity space it is accepted that the point of access is currently used as a green area with small ornamental trees and a low hedgerow along the edge of the site together with a low post and rail fence. However, as noted above this report this area of amenity space has planning permission for the development of a single dwelling. The loss of this area of amenity space is therefore already agreed and the provision of a new access road through this part of the site would therefore actually result in the permission for the single dwelling not being implemented

9.53. In considering the access arrangement the local highway authority advises that subject to conditions being attached to any permission, and planning obligations as set out later in this report, there is no highway objections to raise.

9.54. Officers consider that the proposal would not result in any highway safety issues and that there is no highway reason to warrant a refusal of permission.

## Drainage

- 9.55. 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 *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.*
- 9.56. 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.*
- 9.57. Policy ESD6 of the CLP 2015 essentially replicates national policy contained in the NPPF with respect to assessing and managing flood risk. In short, this policy resists development where it would increase the risk of flooding and seeks to guide vulnerable developments (such as residential) towards areas at lower risk of flooding.
- 9.58. 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.
- 9.59. The current is situated wholly within Flood Zone 1, which is land which has a less than 1 in 1,000 annual probability of river flooding. The applicant has submitted a Flood Risk assessment and Drainage Strategy in support of the application. This assessment outlines that the development will utilise the following drainage strategy:
- Infiltration System (Soakaway crate systems, permeable pavement systems where possible).
  - Connection to a piped foul sewer network via a Section 106 (Water Industry Act 1991) with Thames Water.
- 9.60. In addition, the drainage strategy also confirms that plots 1, 2, and 3 would require cellular soakaways sized at 8m<sup>2</sup> by 0.8m deep, whilst plots 4, 5, 6 and 10 would require cellular soakaways sized at 6m<sup>2</sup> by 0.8m deep. Plots 7 and 8 would require cellular soakaways sized at 9m<sup>2</sup> x 0.8m deep.

- 9.61. In considering the details of the drainage strategy confirmation that there is no objection from the LLFA subject to conditions being attached to the permission. Thames Water has also confirmed that the network infrastructure capacity relating to both foul water and surface water drainage is not an issue and as such there is no objection to raise on this application.
- 9.62. Your officers recommend that any permission granted is subject to a condition requiring details of foul and surface drainage details to be submitted to and approved prior to the commencement of any development. Based on this and there being no objections raised to the application by the LLFA or Thames Water it is considered that subject to the necessary infrastructure being in place there are no grounds to warrant a refusal for drainage reasons in this instance.

#### Ecology impact

- 9.63. 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.
- 9.64. Under the Regulations, competent authorities i.e. any Minister, government department, public body, or person holding public office, have a general duty, in the exercise of any of their functions, to have regard to the EC Habitats Directive and Wild Birds Directive. The Regulations provide for the control of potentially damaging operations, whereby consent from the country agency may only be granted once it has been shown through appropriate assessment that the proposed operation will not adversely affect the integrity of the site. 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.
- 9.65. 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.
- 9.66. The Regulations require competent authorities to consider or review planning permission, applied for or granted, affecting a European site, and, subject to certain exceptions, restrict or revoke permission where the integrity of the site would be adversely affected. Equivalent consideration and review provisions are made with respects to highways and roads, electricity, pipe-lines, transport and works, and environmental controls (including discharge consents under water pollution legislation).
- 9.67. 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.*

- 9.68. Paragraph 180 states, amongst other things, 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.*
- 9.69. 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.
- 9.70. 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.
- 9.71. 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.
- 9.72. The application is supported by a preliminary ecology assessment of the application site. The report highlights that an ecological survey and appraisal of the site and proposed development was undertaken on the 11th November 2021. The survey was also supported with a desk-based review of maps, satellite imagery, and information supplied by the Thames Valley Environmental Records Centre.
- 9.73. In considering the details of the assessment the Council's ecologist states that the site is within the 'red zone' for Great crested newt suitability as determined by Nature Space modelling (our district licence delivery body). This denotes areas likely to be of high value and suitability to Great Crested Newts (GCN). As such it was not considered that the assessment in terms of the investigation of potential presence of GCN had gone far enough and additional information was requested.
- 9.74. Following these comments additional information was provided by the applicant to address the concerns raised. On re-consultation on this additional information the Council's Ecologist has confirmed that although not entirely in line with what was expected it was agreed that on GCN this information was acceptable and could be covered by a condition. On the issue of working methods to be employed across the site any mitigation measures required to protect badgers, birds and reptiles could be covered in a condition requiring a Construction Environmental Management Plan.
- 9.75. The additional information submitted included a Biodiversity Net Gain assessment and a Biodiversity Impact Assessment metric. Cherwell currently seeks a 10% net gain in addition to species specific enhancements such as integrated bat and bird boxes. The metric shows a 13% net gain. The assessment includes the piece of

amenity land between No. 7 and Nos. 15-19 Henge Close, although the Council's ecology officer advises that its measured biodiversity value counts for very little in the biodiversity scheme required for the site.

- 9.76. Looking through the history of the site it appears that the access road goes through an area which was landscaping previously put in order to make the original development acceptable in terms of avoiding a net loss. While the loss of this area of landscaping has been accepted with the approval of the single dwelling on this amenity space, the proposed development needs to provide an adequate level of landscaping within the scheme to ensure that there is a net gain achieved on site. The biodiversity net gain for the site would need to cover both the site and this area of land.
- 9.77. Overall, the proposals are considered in ecology terms subject to conditions and further details being provided at the reserved matters stage.

#### Sustainable construction

- 9.78. 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.*
- 9.79. 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).*
- 9.80. Policy ESD 2 relates to Energy Hierarchy and Allowable Solutions. This policy seeks to achieve carbon emissions reductions, where the Council will promote an 'energy hierarchy' as follows: *Reducing energy use, in particular by the use of sustainable design and construction measures. Supplying energy efficiently and giving priority to decentralised energy supply. Making use of renewable energy Making use of allowable solutions.* Any new development will be expected to take these points into account and address the energy needs of the development.
- 9.81. 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.*

- 9.82. This application seeks outline planning permission for a new development of up to 10 dwellings on the site. As such the final design of the building is not provided as this will be the subject of a reserved matters application. At that stage it is considered that the full details of the sustainability measure to be incorporated into the design will be provided and agreed. A condition is attached to this outline permission which highlights the need to ensure that the final design of the building complies with Policy ESD3 as well as the requirements of Section 14 of the NPPF.
- 9.83. Given this is an outline application, no information has been provided with regards to the final design and hence sustainability measures to be used on this site. However, it is considered that the imposition of a condition to secure the sustainability credentials of the development would comply with the aspirations of these policies.

#### Infrastructure / S106

- 9.84. Due to the level of development on the site the issue of S106 contributions should be taken into account. A number of contributions are sought via the adopted Developers Contributions Supplementary Planning Document February 2018, which follows the tests of the National Planning Policy Framework and is therefore relevant to this planning application.
- 9.85. Paragraph 55 of the NPPF states that *local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.* Paragraph 57 continues by stating that *planning obligations must only be sought where they meet all of the following tests:*
- a) necessary to make the development acceptable in planning terms;*
  - b) directly related to the development; and*
  - c) fairly and reasonably related in scale and kind to the development*
- 9.86. Policy INF 1 of the CLP 2015 covers the issue of Infrastructure. This Policy states, amongst other things, that the *Council's approach to infrastructure planning in the District will identify the infrastructure required to meet the District's growth, to support the strategic site allocations and to ensure delivery by:*
- *Development proposals will be required to demonstrate that infrastructure requirements can be met including the provision of transport, education, health, social and community facilities.*

- 9.87. Policy BSC 3 of the CLP 2015 states, amongst other things that *at Kidlington and elsewhere, all proposed developments that include 11 or more dwellings (gross), or which would be provided on sites suitable for 11 or more dwellings (gross), will be expected to provide at least 35% of new housing as affordable homes on site. The Policy continues by stating that, all qualifying developments will be expected to provide 70% of the affordable housing as affordable/social rented dwellings and 30% as other forms of intermediate affordable homes. Social rented housing will be particularly supported in the form of extra care or other supported housing. It is expected that these requirements will be met without the use of social housing grant or other grant.*
- 9.88. The Council also has an adopted Developer Contributions SPD in place which was adopted in February 2018. Under the SPD it is outlined that Although the scope for securing S106 planning obligations has been reduced since April 2015 due to the pooling restrictions, it is expected that planning obligations will still be sought for infrastructure which is required to mitigate the direct impact of a development. It should, however, be noted that this is a general guide and development proposals will continue to be assessed on a case-by-case basis with the individual circumstances of each site being taken into consideration when identifying infrastructure requirements.
- 9.89. As noted above under Policy BSC3 of the CLP 2015 the threshold for the provision of affordable housing is for developments of 11 or more and as this development is for up to 10 dwellings the proposal would not need to provide any element of affordable housing. The Council's Strategic Housing Officer has also confirmed that for this reason a contribution will not be required as part of the development or any S106.
- 9.90. The response from the Council's Recreation and Leisure Officer is that there is a need for contributions towards community facilities to be included as part of any S106 agreement. In addition to this there is a need for contributions towards highway infrastructure requires to be covered by a S106 agreement. Finally, there would need to be a contribution towards the upkeep of the landscaping around the site as well as the maintenance towards the LAP to be provided as part of the development.
- 9.91. In addition, the local highway authority has requested a financial contribution towards the improvement of public transport as part of this development. There is an existing bus stop located on Horn Hill Road, approximately 220m east. Both stops are unmarked but provide a regular hourly service to Oxford (southbound) and Banbury (northbound) by Bus S4 Gold. The nearest railway stations are in Kings Sutton approximately 5km east of Adderbury, in Banbury approximately 6.4km away. The S4 service is partly financially supported by Oxfordshire County Council, particularly in the early mornings, evenings and on Sundays, using Section 106 contributions from developers on the A4260 corridor. It is important that new developments on the route of the service make similar contributions so that the service can be maintained in the future.
- 9.92. Although the application is not supported by any draft heads of terms the applicant has confirmed it is prepared to enter a planning obligation that may be lawfully demanded pursuant to Regulation 122 of the CIL Regulations 2010. As part of the process of the application the applicant has confirmed that on granting outline planning permission work on the S106 would progress to an agreement which is policy compliant. As such it is considered that the development will comply with Policies BSC3 and INF1 of the CLP 2015 as well as guidance outlined in paragraph 57 of the NPPF.



### Other matters

- 9.93. Objectors have stated that Henge Close is a private road and the residents are the shareholders while the area of the amenity land although permission has been granted for a dwelling on the site, the residents have a right of access to Plot 37 so even if house were built that right would remain making any new house unsaleable. The point being raised is that of land ownership and is not a planning matter in that planning permission is not determined by who the owner of the land is but whether the development is acceptable in planning terms. In the event that the applicant does not have full ownership of the site and or the areas of access it will be a matter between the two parties to agree a way forward and it is not a reason to refuse a planning application.

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

- 10.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined against the provisions of the development plan unless material considerations indicate otherwise. The NPPF supports this position and adds that proposals that accord with an up-to-date development plan should be approved and those which do not should normally be refused unless outweighed by other material considerations.
- 10.2. In reaching an informed decision on planning applications there is a need for the Local Planning Authority to undertake a balancing exercise to examine whether the adverse impacts of a development would be outweighed by the benefits such that, notwithstanding the harm, it could be considered sustainable development within the meaning given in the NPPF. In carrying out the balancing exercise it is, therefore, necessary to take into account policies in the development plan as well as those in the NPPF. It is also necessary to recognise that Section 38 of the 1990 Act continues to require decisions to be made in accordance with the development plan and the NPPF highlights the importance of the plan led system as a whole.
- 10.3. Having regard to the Council's current housing land supply position, i.e. less than a 5-year housing land supply, Paragraph 11d of the NPPF is engaged; with a presumption of granting planning permission unless such would cause conflict with other policies and would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.
- 10.4. The site is an enclosed paddock unallocated in the adopted CLP 2015 and in the Neighbourhood Plan and located outside the village boundary. Adderbury is designated as a Category A Village under Policy Villages 1 of the CLP 2015. Policy Villages 2 supports development of sites for more than 10 homes at Category A villages in certain circumstances; this development would be for 10 dwellings and therefore falls within this category. 750 homes are to be delivered across these villages. While these policies are to be afforded reduced weight, given that the Council's housing land supply position renders them out of date, the site is in a geographically sustainable location and future occupiers of the development would have access to a range of services within the village and a realistic choice as to how they access others outside the village.
- 10.5. It is considered that the site being outside the village boundary is an area of open countryside on the western side of Adderbury. It is accepted that the loss of this paddock would have an impact on the rural character. However, with existing residential development to the immediate south and east, a significant landscape buffer to the immediate north and sports / recreational grounds to the west the

development of this small paddock would not be to the detriment of the open countryside.

- 10.6. The proposals are considered acceptable in terms of transport and could be designed to ensure acceptable in terms of neighbour amenity. It is further considered that a net gain in biodiversity across the site can be achieved. The application due to its size and nature requires the submission and agreement of a S106.
- 10.7. It is accepted that the development would make a small but valuable contribution to housing delivery and that significant weight should be attached to this benefit. There would also be some economic benefit in the support of construction jobs and spending in the area those future residents would bring about although this is only afforded minor to moderate weight.
- 10.8. Overall, it is considered that the harm in the form of the views into the site and the loss of the paddock as identified in this report would not outweigh the benefits of the additional housing in the District. Given the above assessment and in light of current guiding national and local policy set out in the report, it is considered that the proposal would amount to sustainable development and therefore the recommendation is that outline planning permission be permitted in this instance.

## 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

The Heads of Terms set out in Appendix 1

### CONDITIONS

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

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

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

Reason: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory

Purchase Act 2004, and Article 6 of the Town and Country Planning (Development Management Procedure (England)) Order 2015 (as amended).

3. No development shall commence unless and until full details of the means of access between the land and the adjacent plot, including, position, layout, construction, drainage have been submitted to and approved in writing by the Local Planning Authority. The means of access shall be constructed in full accordance with the approved details prior to first occupation and shall be retained as such thereafter.

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

4. Before the development permitted is commenced a swept path analysis for all vehicles including Delivery and Emergency Service vehicles (such as a Fire Tender shall be submitted to, and approved in writing by, the Local Planning Authority to demonstrate that all vehicles can safely and easily enter and exit the parking space for all the parking bays.

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

5. No development shall commence unless and until details of the cycle parking areas, including dimensions and means of enclosure, have been submitted to and approved in writing by the Local Planning Authority. The cycle parking shall be provided in strict accordance with the details approved prior to the first occupation of the development and shall thereafter be retained solely for the purpose of the parking of cycles.

Reason: To encourage the use of sustainable modes of transport

6. No development shall commence unless and until full details of the improvements to footpaths including, position, layout, construction, drainage, vision splays and a timetable for the delivery of the improvements have been submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out other than in accordance with the approved details, which shall be provided prior to the first occupation of the development.

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

7. No building shall be occupied until the vehicular accesses, driveways, car, and cycle parking spaces, turning areas (for cars and refuse vehicles of not less than 11.6m in length), and parking courts that serve the buildings has been constructed, laid out, surfaced, lit and drained in accordance with details that have been first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety in accordance with the National Planning Policy Framework.

8. No development shall commence unless and until a plan showing details of the site's Pedestrian and Cycle routes connectivity with existing pedestrian and cycle routes close to development and PROW has been submitted to and approved in writing by the Local Planning Authority.

Reason: in the interest of sustainable travel.

9. Prior to the first occupation of the development a Residential Travel Plan and Residential Travel Information Pack shall be submitted to and approved in writing by the Local Planning Authority.

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

10. No development shall commence unless and until a construction traffic management plan has been submitted to and approved by the Local Planning Authority. The CTMP will need to incorporate the following in detail and throughout development the approved plan must be adhered to

- The CTMP must be appropriately titled, include the site and planning permission number.
- Routing of construction traffic and delivery vehicles is required to be shown and signed appropriately to the necessary standards/requirements. This includes means of access into the site.
- Details of and approval of any road closures needed during construction.
- Details of and approval of any traffic management needed during construction.
- Details of wheel cleaning/wash facilities – to prevent mud etc, in vehicle tyres/wheels, from migrating onto adjacent highway.
- Details of appropriate signing to accord with standards/requirements, for pedestrians during construction works, including any footpath diversions.
- The erection and maintenance of security hoarding / scaffolding if required.
- A regime to inspect and maintain all signing, barriers etc.
- Contact details of the Project Manager and Site Supervisor responsible for on-site works to be provided.
- The use of appropriately trained, qualified and certificated banksmen for guiding vehicles/unloading etc.
- No unnecessary parking of site related vehicles (worker transport etc) in the vicinity – details of where these will park, 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.

The development must be carried out in full accordance with the approved CTMP.

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

11. No part of the development hereby permitted shall take place until a desk study and site walk over to identify all potential contaminative uses on site, and to inform the

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

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

12. If a potential risk from contamination is identified as a result of the work carried out under condition 11, 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.

13. If contamination is found by undertaking the work carried out under condition 12 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.

14. If remedial works have been identified in condition 11, the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 12. 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.

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.

16. No development shall commence unless and until a Construction Environmental 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 the details of the consultation and communication to be carried out with local residents has been submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out other than in accordance with the approved CEMP.

Reason: To ensure the creation of a satisfactory environment free from intrusive levels of noise in accordance with Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

17. No development shall commence unless and until a professional archaeological organisation acceptable to the Local Planning Authority shall prepare an Archaeological Written Scheme of Investigation, relating to the application site area, which shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard the recording of archaeological matters within the site in accordance with the National Planning Policy Framework.

18. Following the approval of the Written Scheme of Investigation referred to in condition 17, and prior to the commencement of the development (other than in accordance with the agreed Written Scheme of Investigation), a programme of archaeological mitigation shall be carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the Local Planning Authority within two years of the completion of the archaeological fieldwork.

Reason – To safeguard the identification, recording, analysis and archiving of heritage assets before they are lost and to advance understanding of the heritage assets in their wider context through publication and dissemination of the evidence in accordance with the National Planning Policy Framework.

19. Construction shall not begin until a detailed surface water drainage scheme for the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall include:
- A compliance report to demonstrate how the scheme complies with the "Local Standards and Guidance for Surface Water Drainage on Major Development in Oxfordshire";

- Full drainage calculations for all events up to and including the 1 in 100 year plus 40% climate change and 10% urban creep (Note: the Cv values should be set to 0.95 and MADD should be 0.0);
- A Flood Exceedance Conveyance Plan;
- Comprehensive infiltration testing across the site to BRE DG 365;
- Detailed design drainage layout drawings of the SuDS proposals including cross-section details;
- Detailed maintenance management plan in accordance with Section 32 of CIRIA C753 including maintenance schedules for each drainage element;
- Details of how water quality will be managed during construction and post development in perpetuity; and
- Consent for any connections into third party drainage systems

Reason: To ensure that there is no flooding due to the site drainage and that the water environment is protected and in accordance with Government guidance contained within the National Planning Policy Framework.

20. Prior to the first occupation of the development 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;
  - The name and contact details of any appointed management company information.

Reason: In accordance with section 21 of the Flood and Water Management Act 2010 and Government guidance contained within the National Planning Policy Framework.

21. 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. The development shall not be carried out other than 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.

22. No development shall commence, including any demolition, any works of site clearance and prior to the introduction of any construction machinery onto the site, until protective fencing and warning notices have been erected on the site in accordance with the approved Construction Environmental Management Plan. All protective fencing and warning signs shall be maintained in accordance with approved details for the entirety of the construction phase.

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.

23. Prior to the commencement of the development, including any demolition and any works of site clearance, full details of the role, responsibilities and operations to be overseen by a qualified supervising ecologist shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be overseen by the qualified ecologist 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.

24. Construction Environmental Management Plan (CEMP) for Biodiversity – PC  
No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP: Biodiversity shall include as a minimum:
- a) Risk assessment of potentially damaging construction activities;
  - b) Identification of 'Biodiversity Protection Zones';
  - c) 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);
  - d) The location and timing of sensitive works to avoid harm to biodiversity features;
  - e) The times during construction when specialist ecologists need to be present on site to oversee works;
  - f) Responsible persons and lines of communication;
  - g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
  - h) Use of protective fences, exclusion barriers and warning signs

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

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

25. Notwithstanding the details of the indicative layout plan details of the provision, landscaping and treatment of open space/play space within the site together with a timeframe for its provision shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of those works. Thereafter the open space/play space shall be landscaped, laid out and completed in accordance with the approved details and retained at all times as open space/play space.

Reason: In the interests of amenity, to ensure the creation of a pleasant environment for the development with appropriate open space/play space and to comply with Policy BSC11 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

26. No development shall take place until the existing tree(s) to be retained [have been protected in the following manner unless otherwise previously agreed in writing by the Local Planning Authority;



a) Protective barriers shall be erected around the tree(s) to a distance not less than a radius of 12 times the trunk diameter when measured at 1.5m above natural ground level (on the highest side) for single stemmed trees and for multi-stemmed trees 10 times the trunk diameter just above the root flare.

b) The barriers shall comply with the specification set out in British Standard BS5837:2012 'Trees in Relation to Construction – Recommendations' that is steel mesh panels at least 2.3m tall securely fixed to a scaffold pole framework with the uprights driven into the ground a minimum of 0.6m depth and braced with additional scaffold poles between the barrier and the tree[s] at a minimum spacing of 3m.

c) The barriers shall be erected before any equipment, machinery or materials are brought onto the site for the purposes of development [and / or demolition] and shall be maintained until all equipment, machinery and surplus material has been removed from the site.

d) Nothing shall be stored or placed within the areas protected by the barriers erected in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavations be made, without the written consent of the Local Planning Authority.

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

#### INFORMATIVE NOTES

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 Oxfordshire County Council's Streetworks and Licensing Team (0845 310 1111) for this action. Works required to be carried out within the public highway, shall be undertaken within the context of a legal Agreement (such as Section 278/38 Agreements) between the Applicant and Highway Authority
2. Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.

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

<b>Planning obligation</b>			<b>Regulation 122 Assessment</b>
<b>Detail</b>	<b>Amounts (all to be Index linked)</b>	<b>Trigger points</b>	
Provision of and commuted sum for maintenance of open space (including informal open space, mature trees, hedgerows, new woodland, SUDS, landscape and ecology management plan etc) or details of long-term management provisions in accordance with the Policy BSC11 of the CLP	Provision on site. Committed sum: <b>£12.65</b> per square metre of Informal Open Space <b>£26.60</b> per linear metre of Hedgerow <b>£280.04</b> per Mature Tree <b>£35.02</b> per square metre of New Woodland <b>£66.05</b> per square metre of the area of balancing ponds comprised in the SUDS; <b>£120.32</b> per linear metre of ditches, watercourses swales and similar features District Council's costs of monitoring the open space land and facilities transferred to the Management Company <b>£15,000</b>	No more than SEVENTY PER CENT (70%) of the Dwellings shall be Occupied until the Practical Completion Certificate has been issued	<b>Necessary</b> – 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).  <b>Directly related</b> – For the use of future occupiers of the development.  <b>Fairly and reasonably related in scale and kind</b> – In accordance with the policy and guidance provisions adopted by the Council.

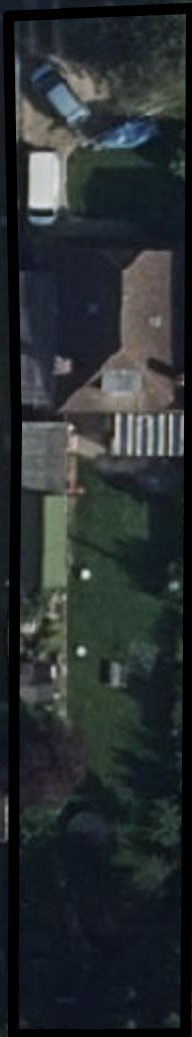
Provision of a Local Area of Play and commuted sum for maintenance or other management provisions	Provision on site. Commuted sum <b>£TBC</b>	No more than SEVENTY PER CENT (70%) of the Dwellings shall be Occupied until the Practical Completion Certificate has been issued	<b>Necessary</b> – To meet the 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)  <b>Directly related</b> – For the use of future occupiers of the development  <b>Fairly and reasonably related in scale and kind</b> – In accordance with the policy and guidance provisions adopted by the Council
Off-site outdoor sports facilities capital provision – towards the sports pavilion and changing facilities off Milton Road, Adderbury	<b>£20,170.30</b>  Based on £2,017.03 per dwelling	Off-site Indoor Sports Facilities Contribution and the On-site Outdoor Sports Facilities Contribution in the following instalments:- 50% prior to the first Occupation of any Dwelling; remainder prior to the first Occupation of 50% of the Dwellings	<b>Necessary</b> – 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  <b>Directly related</b> – The future occupiers will place additional demand on existing facilities.
Off-site indoor sports facilities – Towards indoor sports improvements within the locality	<b>£8,349.47</b>  <b>£335.32</b> x figure derived from the Occupancy Rate of each Dwelling in the Composition of the Development outlined in table in Appendix of S106	Community Hall - Prior to the First Occupation of any Dwelling on the Site	<b>Fairly and reasonably related in scale and kind</b> – Calculations will be based on the Developer Contributions SPD calculation based on the final mix of housing and number of occupants.
Community hall facilities – towards community hall facilities off Milton Road, Adderbury.	<b>£11,442.02</b>  <b>£2,920</b> x 0.185 (0.185m2 community space per resident) the		

	resultant figure multiplied by the figure derived from Occupancy Rate of each Dwelling in the Composition of the Development outlined in table in Appendix of S106		
Contributions to bins	£106 per dwelling	50% of the Refuse Contribution to the District Council prior to Commencement  Remainder prior to the first Occupation of 50%	<b>Necessary</b> – The dwellings will require adequate waste receptacles for future occupants and in accordance with the advice in the Developer Contribution SPD  <b>Directly related</b> – The need for these comes from the increase in the number of dwellings  <b>Fairly and reasonably related in scale and kind</b> – Costs in accordance with the advice in the Developer Contribution SPD
Bus Service contribution, for the improvement of bus services in Adderbury	<b>£1,051 x 10</b>	No dwelling to be Occupied until payment to OCC	<b>Necessary</b> to ensure sustainable mode of transport and encourage and integrated into the development and made attractive to future users to reduce car dependency.  <b>Directly related</b> as these will benefit the future occupants of the site and encourage use of sustainable transport options in the locality.  <b>Fairly and reasonably related in scale and kind.</b> The contributions are in scale with the development and would be directly benefiting

			residents of the future development.
Obligation to enter into a S278 agreement to secure Highway Works and Traffic Regulation Order (if not dealt with under S278/S38 agreement)			
Waste management – towards expansion and efficiency of Household Waste Recycling Centres as existing facilities at capacity and to provide additional capacity.	£TBC  Indexed from Index Value 327 using BCIS All-in Tender Price Index, and based on a cost per dwelling of £93.96	TBC	
Biodiversity offset contribution to mitigated for impacts upon species of wildlife	TBC	TBC	
Travel Plan Monitoring fee	OCC: TBC	On completion of the S106	
CDC and OCC Monitoring fee	CDC: £5,500 OCC: £TBC	On completion of the S106	The CDC charge is based upon its recently agreed Fees and Charges A registration charge of £500 is also applicable. OCC to advise on their monitoring costs

Agenda Item 9  
22/01/2022

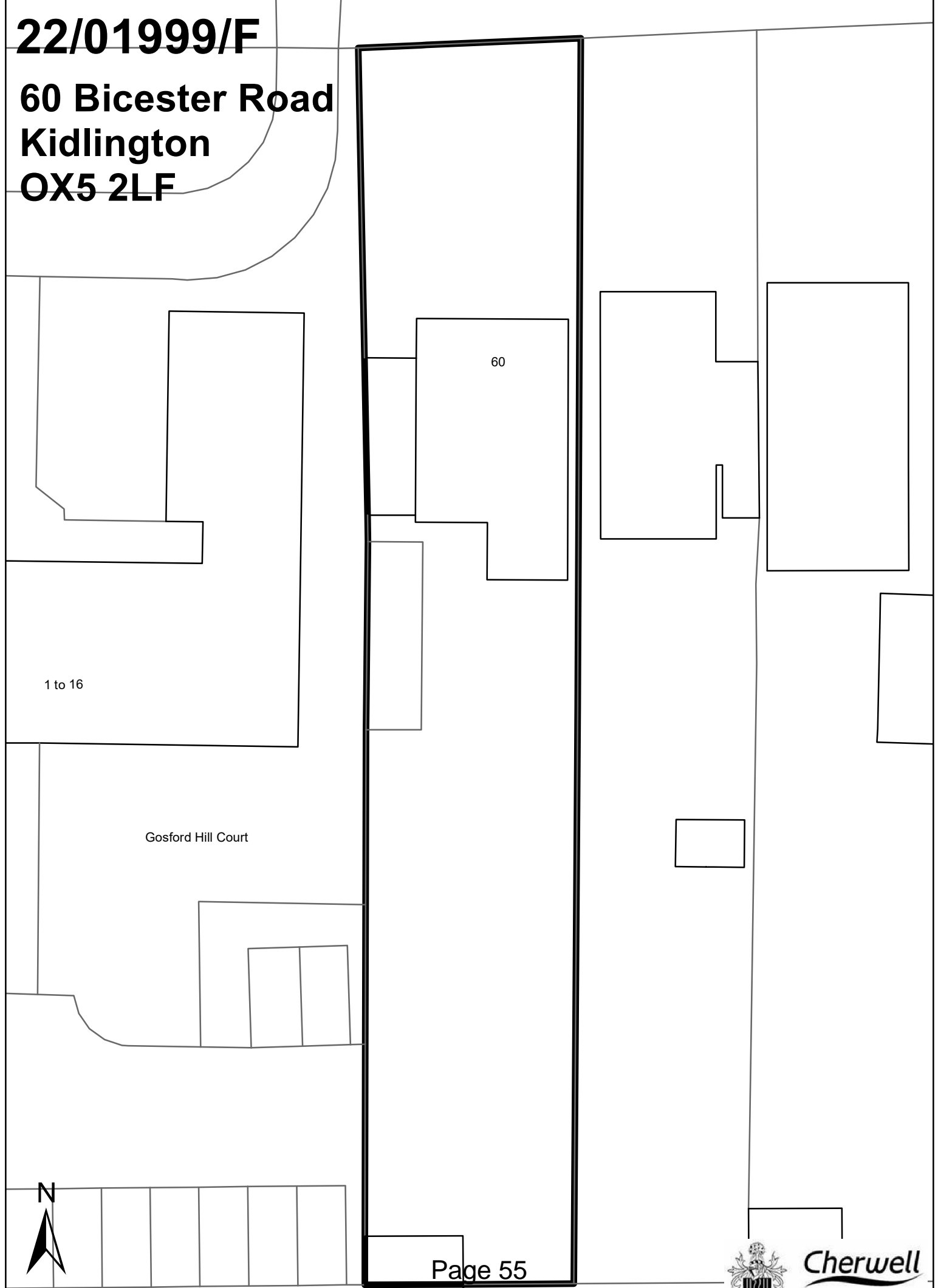
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Kidlington  
OX5 2LF



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**22/01999/F**

**60 Bicester Road  
Kidlington  
OX5 2LF**



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1 to 16

Gosford Hill Court

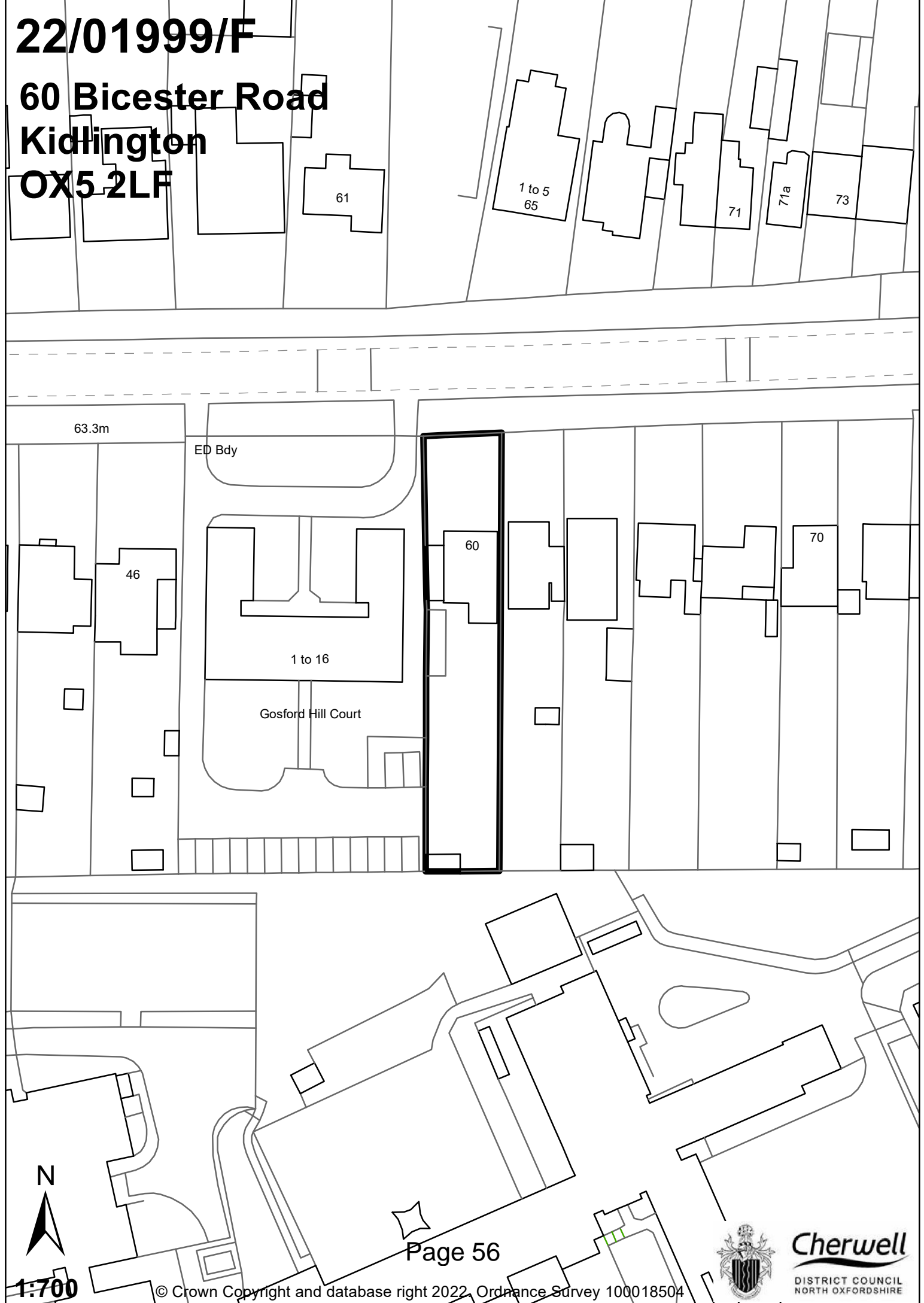


**22/01999/F**

**60 Bicester Road**

**Kidlington**

**OX5 2LF**



**1:700**





**Case Officer:** Rebekah Morgan

**Applicant:** Rehman Property Management Ltd.

**Proposal:** Demolition of existing 3 bed house and erection of 5 new flats - 4 x 2 bed (C3) & 1 x 1 bed (C3). Associated parking, amenity, refuse and bike storage.

**Ward:** Kidlington East

**Councillors:** Cllr Billington, Cllr Mawson and Cllr Middleton

**Reason for Referral:** Referred by Assistant Director for Planning and Development for the following reasons: Due to its controversial nature.

**Expiry Date:** 13 December 2022

**Committee Date:** 03 November 2022

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## **SUMMARY OF RECOMMENDATION: GRANT PERMISSION, SUBJECT TO CONDITIONS**

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

- 1.1. The site is on the south side of Bicester Road within Kidlington, and this site is accessed from this same highway. The property, like others on this side of Bicester Road, benefits from a relatively long spacious plot, and the dwelling is set back some distance from the highway. The property is described as a 'chalet bungalow' but is essentially a two storey dwelling. It is mainly constructed from brick under a tile roof.
- 1.2. The south side of Bicester Road mainly consists of detached single storey to two storey dwellings. The site itself has a two storey dwelling to one side and a part two storey and part three storey block of flats to the other side.

### **2. CONSTRAINTS**

- 2.1. The application site is within 2km of the Rushy Meadows Site of Special Scientific Interest (SSSI).
- 2.2. The site is not within a Conservation Area and there are no Listed Buildings within the vicinity of the site.

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

- 3.1. The application proposes the demolition of the existing detached bungalow and construction of 5 flats in the form of a single building. The building would be positioned back in the site, in line with neighbouring properties with a parking area to the front and bin store, cycle parking and amenity space to the rear.
- 3.2. The proposed building would be three storeys, with a maximum height of approximately 9m. The proposed design is modern with a mixture of materials shown in the 3D images. The building's design has a width (across the front elevation) of approximately 9.3m for the first two storeys, with the top floor being set in from the sides (with a width of approximately 6.7m).

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

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

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

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

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

6.1. This application has been publicised by way of a site notice displayed near the site and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was 27 September 2022.

6.2. 24 letters of objection, no letters of support and 3 comments have been received. The comments raised by third parties are summarised as follows:

- Gosford Hill Court is only part three storey, with the section closest to the application site being only two storey
- Overlooking of neighbouring properties
- Overshadowing of neighbouring properties
- Impact on daylight and privacy of adjacent flats due to size/height of proposal
- Windows in new design face Gosford Hill Court
- Too many flats in this area causing problems
- Flats change the character of the street
- Results in a large number of bins blocking the pavement on collection days
- Design is not in keeping with properties in the area
- The development is too wide for the plot and too high
- Concerns there will be balconies on the proposed building
- Not in keeping with the height of the majority of buildings on this side
- Risks turning Bicester Road into a row of square blocks
- Disruption from building work
- Loss of tree in front garden
- Lack of visitor parking provision in the proposal
- It will exacerbate the existing parking issues and on-street parking issues in the area
- Impact on highway safety inc. risk to children at the primary school
- Increased traffic
- Five parking spaces are inadequate for the proposal
- Not meeting the Council's climate change and sustainability agenda
- Suggestion they build a two storey building containing three flats
- Should be promoting Council's climate change policy by requiring good insulation standards, solar panels, efficient lighting, heat pumps, electric vehicle charging etc.

- There should be a limit on the number of family homes that can be demolished and replaced with flats
- Shortage of family homes in the area

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: **Object** on the following grounds:

- The height of the proposed development will have a detrimental impact upon adjoining development
- Concerns about the level of on street parking and the provision of one space per flat is inadequate, within this context

Further comments have been received following the submission of amended plans. The Parish Council maintain their objection and raise the following issues:

- The bin and bike store are poorly located at the rear of the development
- The parking provision is inadequate and will lead to a potential increase in on-road parking along an already busy road that has existing problems associated with parking
- The plans have insufficient details on parking spaces and with this level of development requires more than 5 parking spaces

7.3. GOSFORD AND WATER EATON PARISH COUNCIL: **Object** on the following grounds:

- Overdevelopment and out of context
- Very close to Gosford Court and will very likely overlook neighbouring garden
- There is no parking in the area (as a general comment)

### CONSULTEES

7.4. CDC ARBORICULTURAL OFFICER: No objections subject to conditions.

7.5. CDC ECOLOGIST: No objections, subject to a condition requiring biodiversity enhancements.

7.6. OCC HIGHWAYS: No objections, subject to conditions.

*I visited the site at 06:45 this morning and observed no overspill adjacent to the flats that are already existing within this road (Oxford B&B, 65, 66 and 70 Bicester Road). The car parks to these properties were not full at the time of observation with spaces available in each one. The main overspill was towards the west-end of the road (towards the main road) with vehicles parked along one edge, with the odd vehicle parked on the grass verges outside of private houses. There is no definitive way of knowing if these cars belong to the residents living within the flats or not, but given their distance from the flats I would say it is unlikely.*

*The amount and dimension of spaces, coupled with the provision of cycle parking are all adequate within this development.*

*Subject to the condition above, this proposal is unlikely to cause any significant impact on the highway in terms of safety or convenience. Therefore, OCC do not object to the granting of planning permission.*

- 7.7. COUNCILLOR MIDDLETON: The following comments were made in response to the comments provided by OCC Highways.

*Thanks for taking a look at the site at that time of the morning. I think part of the reason you're not seeing cars parked in some of the other converted units is because many of them are listed as ABNBs and it's not really high season now.*

*You also noted that cars are regularly parked on the grass verges to a lesser or greater degree. At the time of your visit it may have been a lesser degree, but in general it's greater and getting greater all the time as these developments multiply.*

*As I've said multiple times before to both OCC Highways and CDC planners, we can no longer look at these developments in isolation. They are multiplying at a rate of knots and each new development puts additional strain on existing infrastructure and increases parking in surrounding streets. There is going to come a point where the area can no longer cope with this and the increase in parking generated by additional development as a result of the LLPR and an increase in people using Kidlington's streets as a free car park while they jump on the train.*

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

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

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

- PSD1: Presumption in Favour of Sustainable Development
- BSC1: District Wide Housing Distribution
- BSC2: The Effective and Efficient Use of Land
- ESD1: Mitigating and Adapting to Climate Change
- ESD2: Energy Hierarchy and Allowable Solutions
- ESD3: Sustainable Construction
- ESD5: Renewable Energy
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD15: The Character of the Built and Historic Environment
- Villages 1: Village Categorisation

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

- C28: Layout, design and external appearance of new development
- C30: Design of new residential development
- ENV1: Environmental Pollution

### 8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Kidlington Masterplan (2016)
- Cherwell Residential Design Guide (SPD) (2018)

## **9. APPRAISAL**

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

- Principle of development
- Design and impact on the character of the area
- Residential amenity
- Accessibility, highway safety and parking
- Climate change and sustainability
- Ecology and Biodiversity
- Impact on trees

#### Principle of Development

- 9.2. Paragraph 11 of the National Planning Policy Framework (NPPF) states that the decision maker should apply a presumption of sustainable development. There are three dimensions to sustainable development, as defined in the NPPF, which require the planning system to perform economic, social and environmental roles. These roles should be sought jointly and simultaneously through the planning system.
- 9.3. Paragraph 12 of the NPPF notes that the development plan is the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise.
- 9.4. Paragraph 103 of the NPPF states that the planning system should: “*Actively manage patterns of growth*”, whilst Policy ESD1 of the Cherwell Local Plan (2011 2031) Part 1 states that: “*Measures will be taken to mitigate the impact of development within the District on climate change.*” Policy ESD1 states that this includes distributing growth to the most sustainable locations as defined in the Local Plan and delivering development that seeks to reduce the need to travel and which encourages sustainable travel options including walking, cycling and public transport to reduce dependence on private cars.
- 9.5. The Cherwell District Council Annual Monitoring Report (AMR) (December 2021) shows that the Council can currently demonstrate only a 3.5 year housing land supply which indicates an insufficient supply of new housing. The Local Plan is considered out of date (for housing applications) where there is a lack of five-year supply. This

triggers paragraph 11(d) of the NPPF which states that if the most relevant Local Plan policies for determining a planning application are out of date, the application should be approved unless the harms caused by the application significantly outweigh its benefits.

- 9.6. The proposal does represent an increase in density on the site and will provide a net increase of 4 dwellings. Whilst this is a limited number, windfall sites do contribute to the overall targets to help meet the housing land supply requirements.
- 9.7. The principle of residential development in Kidlington is assessed against Policy Villages 1 in the CLP 2015. Kidlington is recognised as a Category A village in the Cherwell Local Plan Part 1. Category A villages are considered the most sustainable settlements in the District's rural areas and have physical characteristics and a range of services within them to enable them to accommodate some limited extra housing growth. Within Category A villages, residential development will be restricted to the conversion of buildings, infilling and minor development comprising small groups of dwellings on sites within the built-up area of the settlement
- 9.8. Theme 2 of the Kidlington Masterplan focusses on 'creating a sustainable community' and in relation to the approach to housing development it states: *"A range of options for development within the existing built-up area should be considered including appropriate redevelopment, intensification and infill while protecting Kidlington's key assets. This may involve increasing housing densities, reconfiguring land uses and introducing mixed used development."*
- 9.9. This proposal is considered to constitute minor residential development in the village of Kidlington which is a sustainable location for new housing. It is therefore considered that the proposal is acceptable in principle, but this is subject to other material considerations which are discussed below.

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

- 9.10. Government guidance contained within the NPPF towards achieving well-designed places states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. The NPPF goes on to note that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Further, Paragraph 134 of the NPPF states that *'development that is not well designed should be refused, especially where it fails to reflect local design policies and national guidance on design'*.
- 9.11. Paragraph 130 of the NPPF states that planning policies and decision should ensure that developments:
  - a) Will function 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 innovation or change (such as increased densities);
  - d) Establish or maintain a strong sense of place, using arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

- e) Optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; 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.
- 9.12. Policy ESD15 of the CLP 2015 states that: *“New development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design. All new development will be required to meet high design standards.”* The Cherwell Residential Design Guide SPD also encourages development which is locally distinctive and the use of appropriate materials and detailing, but states that new development should avoid the creation of ‘anywhere places’ which do not respond to local context.
- 9.13. Saved Policy C28 of the CLP 1996 exercises control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context as well as compatible with existing buildings.
- 9.14. The Cherwell Residential Design Guide SPD states that development within Kidlington should look to strengthen the character of the village. The Design Guide SPD also states that new development should avoid architectural focus on individual buildings rather than the overall street composition. The SPD goes on to state that individual buildings should be designed to relate well to their neighbours, creating a harmonious overall composition and work with site conditions.
- 9.15. Kidlington Masterplan SPD, Theme 2: Creating a sustainable community, subheading ‘Securing high design standards’ states that: *“The design of the site layout, access arrangements, scale, massing and appearance will be required to demonstrate a positive relationship with the immediate surrounding context of the site and respect and enhance the townscape character of Kidlington as a whole.”*
- 9.16. The layout for the site provides vehicular parking between the building and highway. Amenity space is provided to the rear of the buildings as well as cycle storage and bin storage. This offers an overall layout that is akin to the character of the area and protects the quiet environment to the rear of properties along this street. The area to the front of the building would mainly comprise hardstanding, but this would be relatively similar in character and appearance to what presently exists to the front of the dwelling. The existing tree is to be retained on the front boundary and this would help soften the development and provide some screening when viewed from the public domain.
- 9.17. The siting of the bin cycle storage area behind the building would be screened from the public domain and is therefore welcomed. However, full design details of these structures would need to be submitted and this can be conditioned.
- 9.18. The immediate context to the application site is one of mainly 1 to 2 storey residential dwellings. That said, there is a large part 2 and part 3 storey apartment building immediately to the west of the site which is of little architectural merit, this being Gosford Court. The front elevations of the dwellings in the locality tend to be relatively simple in articulation and appearance. Fronting onto a straight section of highway, it is within this context that the proposed frontage of the altered and extended building would be viewed.
- 9.19. The building would have a slight increase in height in comparison to the existing buildings in this area, but the third floor would be constructed in a different material,

so it reads more like a roofing element rather than the full bulk of the rest of the building. It is considered that the overall height of the replacement building could be considered acceptable because it would not appear significantly higher or overly prominent in the context of the neighbouring buildings.

- 9.20. In relation to the mass of the building, the replacement building would be larger than the existing chalet bungalow both in terms of height and width. The building would occupy the majority of the width of the plot. Many of the properties along Bicester Road are detached and occupy a significant proportion of the width of their plots, therefore the width of the development and close positioning with the neighbouring properties would not be out of keeping when considering the visual appearance of the street scape. Thus, it is considered that the mass of the building in this location would be acceptable especially when considered in the context of the adjacent flats which occupy a very wide plot.
- 9.21. The design incorporates a mix of materials and projections to break up the expanse of the frontage, so it does not appear as a single mass. The inclusion of a projecting element on the front elevation is reflective of the existing flat development immediately adjacent to the site. The second floor is set back from all elevations creating a more subservient feature and would be in a darker material, reflective of the darker tiling on the neighbouring properties.
- 9.22. The proposed design is distinctively more modern than most buildings in the area. There are some other examples of more modern design on Bicester Road, mainly towards the west end at the junction with Blenheim Road. Whilst the design is modern, the form is reflective of the adjacent flats with flat roof and projecting elements. The predominant materials proposed are brick and render which are common materials in this area.
- 9.23. The existing buildings in the area, particularly the adjacent flats are clearly 'of their time' and do not have a strong architectural presence. The introduction of a more modern development would not disrupt the flow of the area or appear completely out of keeping. The area is not sensitive in terms of historic assets and simply replicating the form of the neighbouring flats would not itself be a positive design approach. The examples of modern design in developments at the west end of Bicester Road demonstrate that this type of design approach can be successfully incorporated into the wider street scene and character of this area.
- 9.24. Given the above, it is considered that, when viewing the building from Bicester Road, the proposed building would not appear overly prominent or out of keeping with the neighbouring residential developments in the locality. Furthermore, it is considered that the proposal accords with Policy ESD15 of the CLP 2015, saved Policies C28 and C30 of the CLP 1996 and Government guidance contained within the NPPF.

#### Residential Amenity

- 9.25. Paragraph 127 of the NPPF states that planning decisions should 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.
- 9.26. Policy ESD15 of the CLP 2015 states that new development proposals should consider the amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation, and indoor and outdoor space.
- 9.27. Saved Policy ENV1 of the CLP 1996 states that: "*Development which is likely to cause detrimental levels of noise, vibration, smell, smoke, fumes or other type of environmental pollution will not normally be permitted.*"



- 9.28. The properties most likely to be affected by the proposed development are those on either side of the site, these being No 62 Bicester Road and the flats located in the eastern side of Gosford Hill Court.
- 9.29. No. 62 Bicester Road is a two storey property with a hipped roof. The width of the property is smaller than its depth given the narrow, long nature of the plots. The property occupies the majority of the width of the property.
- 9.30. The proposed development would project approximately 4.5m further back (element of proposal closest to the boundary) than the property at 62 Bicester Road with a gap of approximately 2.1m between the properties. The proposed development does project slightly further at the rear, but that element is set away from the neighbour. The second floor is also designed so it is set back from the elevations, increasing the distance that this element sits from the neighbour by an additional 1.7m.
- 9.31. The applicant has annotated the plans with a 45 degree line, from the mid-point of the neighbouring window, that demonstrates the proposal would not encroach that line. This test is informal guidance that is commonly used by the Council to assess potential impact. Given the position of the proposed building, it is not considered to have a harmful impact on the general outlook from 62 Bicester Road and would not appear overbearing.
- 9.32. There are some windows proposed facing 62 Bicester Road, but these are small windows and proposed to be obscurely glazed above ground floor level. To ensure they do not have a negative impact, a condition can be imposed to ensure all first floor the windows on this elevation are obscurely glazed and non-opening. The windows are secondary windows serving living rooms, so the condition would not be considered unduly restrictive for future occupiers as they have an alternative window that could be opened. The ground floor windows would not have a harmful impact as the face onto the boundary fence and would not result in overlooking.
- 9.33. Gosford Hill Court immediately to the east of the site, is a mixture of two and three storey development and sits close to the boundary with the application site. The distance between Gosford Hill Court and the proposed building is approximately 5m at the point where the three storey element is proposed on the development and this is opposite a two storey section of Gosford Hill Court (the top section - second floor element is set approximately 1.4m back from the main elevation, positioning it approximately 6.4m away from the neighbouring flats at this point).
- 9.34. Although the proposed development represents a change from the existing chalet bungalow, given the distance between the properties, it would not be harmful in terms of general outlook or being overbearing. In terms of windows facing onto Gosford Hill Court, the first and second floor windows are proposed to be obscurely glazed and fixed shut, and this would be secured by condition.
- 9.35. Concerns have been raised by the Parish Council regarding potential overlooking of the neighbouring gardens. Given the nature (predominantly two storey buildings) and layout (continuous row) of buildings in this area, it will be common for properties to have views into neighbouring rear gardens and the views from the proposed development would not be dissimilar. Therefore, the ability of the development to have some views into neighbouring gardens is not considered to be harmful given the context of the site.
- 9.36. It is therefore considered that the proposed development would be sited so as to prevent significant or demonstrable harm to any other neighbouring properties in terms of loss of light, loss of privacy or overlooking, or the creation of an overbearing impact. Therefore, the proposal is considered to be acceptable in this regard.

#### Accessibility, highway safety and parking

- 9.37. Policy ESD15 of the CLP 2015 states, amongst other matters, that new development proposals should: *“Be designed to deliver high quality safe...places to live and work in.” This is consistent with Paragraph 110 of the NPPF which states that: “Developments should create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles.”*
- 9.38. The proposed development would utilise the existing vehicular access to the property with the provision of 5 parking spaces (with EV charging) provided at the front of the site. Secure cycle storage would be provided to the rear of the property.
- 9.39. Kidlington is considered to be a sustainable settlement with local facilities close by and good bus links. Active travel should be promoted and is achievable in this area. The Local Highway Authority has advised the size and number of parking spaces provided for the development are acceptable.
- 9.40. It is acknowledged that there are concerns from third parties on the matter of parking and highways safety. The Local Highway Officer has carried out a site visit to observe the situation and considered the parking situation in the local area. Whilst it is likely the development could result in some additional pressure on on-street parking, the Local Highways Authority is of the opinion that the proposal would not have a significant detrimental impact on the highway network.
- 9.41. In conclusion, the access, vehicular parking and cycle parking provision are considered to be adequate for the development. The proposal is unlikely to cause significant detrimental impacts on the highway network and is considered acceptable in this regard.

#### Climate change and sustainability

- 9.42. Policies ESD1-3 and ESD5 of the CLP 2015 set out the Council's expectations in terms of climate change and sustainability requirements.
- 9.43. The proposal efficient use of previously developed land by increasing the density of dwellings on the site and is located within a sustainable location. The proposal includes sustainability features including an air source heat pump, solar panels and electric vehicle charging points. Furthermore, changes in building regulations would also ensure more sustainable methods of construction would be required for this new build development.
- 9.44. Policy ESD3 of the CLP 2015 states ‘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 applicant has not provided details of water efficiency methods or rates for the development; however, it is considered that this could be appropriately secured via a planning condition.
- 9.45. The proposal is considered to represent a sustainable development with a sufficient provision of sustainability features. Therefore, the proposal complies with the provisions of ESD1-3 and ESD5 of the CLP 2015.

#### Ecology and Biodiversity

- 9.46. 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.

- 9.47. 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.
- 9.48. 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.
- 9.49. 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.
- 9.50. 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.
- 9.51. The proposal includes the demolition of an existing building. The constraints for the site do not highlight any ecology or protected species constraints, however the Council's ecologist has advised there are records of hedgehogs (a priority species) within the area.
- 9.52. The Council's ecologist has recommended seeking biodiversity enhancements for the site; this could include wildlife friendly planting/landscaping, hedgehog highways in fencing, bat and bird provision integrated into the fabric of the building and swift bricks. It is considered that a planning condition requiring the submission/approval of a biodiversity enhancement scheme would be appropriate.
- 9.53. With regards to the demolition of the building, the ecologist has advised there could be the potential presence of bats, although due to its location and lack of local records, the likelihood is reduced. Therefore, a planning note will be included to make the applicant aware of the strict laws pertaining to bats.

#### Impact on Trees

- 9.54. The potential impact of the proposal on two trees and a hedge to the front of the site was assessed by the Council's Arboricultural Officer. Following an initial review, the Officer requested an arboricultural report to assess any potential impact of the proposed development whilst also assessing the condition/value of the trees.
- 9.55. The subsequently submitted report categorises both trees as falling within Category U of BS5837:2012. Category U trees are considered to be of "*such condition that any existing value would be lost within 10 years, and which should, in the current context,*

*be removed for reasons of sound arboricultural management*". The Council's Arboricultural Officer supports the conclusion of the report regarding these trees and has recommended a condition to require suitable replanting.

9.56. The hedgerow is identified as being Category C and would be retained. The Council's Arboricultural Officer supports this assessment and has recommended a condition requiring protective measures are in place during construction.

9.57. The existing trees and hedge do have visual value at the front of the site and the loss of the trees is unfortunate, however, the arboricultural report has demonstrated they are not suitable for retention regardless of the proposed development. A condition requiring suitable replacement trees would mitigate the loss of the trees and ensure longer term visual benefits to the appearance of the street scene.

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

10.1. For the reasons set out in this report, the proposal would be compliant with the Local Plan Policy and Government guidance set out in Section 8 of this report. The principle of minor residential development in Kidlington is acceptable, and it is considered that the proposal would not cause detrimental harm to the character and appearance of the area and would safeguard the living conditions of neighbouring properties. In addition, the proposal would not have an adverse impact upon protected species or the safe and efficient operation of the highway network. The proposal is therefore considered to constitute sustainable development and is recommended for approval subject to conditions set out below

## **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.

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
- Design and Access Statement
- Drawing number 220011-A-PR-90 rev A – [Proposed site plan]
- Drawing number 220011-A-PR-100 – [Proposed ground floor and first floor plans]
- Drawing number 220011-A-PR-110 rev A – [Proposed second floor and roof plans]
- Drawing number 220011-A-PR-200 – [Proposed front and rear elevations]
- Drawing number 220011-A-PR-210 – [Proposed side 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.

3. 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 in accordance with the approved levels.

Reason: In order to safeguard the visual amenities of the area in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

4. 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 thereafter be completed in accordance with the approved details.

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

5. Prior to the first occupation of the development hereby approved, full details of the refuse bin storage for the site, including location and compound enclosure details, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the first occupation of the dwellings, the refuse bin storage area shall be provided in accordance with the approved details and retained unobstructed except for the storage of refuse bins.

Reason: In order that proper arrangements are made for the disposal of waste, and to ensure the creation of a satisfactory environment free from intrusive levels of odour/flies/vermin/litter in accordance with saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

6. Prior to the first use or occupation of the development hereby permitted, covered cycle parking facilities shall be provided on the site in accordance with details 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 Policy ESD1 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

7. All hard-standing areas within the site must be constructed from a permeable material, or provision must be made within the site for surface water to discharge to soakaway/SUDS feature. There must be no increase in surface water run-off from the site to the highway or neighbouring properties as a result of this proposal.

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

8. Prior to the construction of the parking and manoeuvring area of the development hereby approved, full specification details (including construction, layout, surfacing and drainage) of the parking and manoeuvring areas shall be submitted to and

approved in writing by the Local Planning Authority. Thereafter, and prior to the first occupation of the development, the parking and manoeuvring areas shall be provided on the site in accordance with the approved details and shall be retained unobstructed except for the parking and manoeuvring of vehicles at all times thereafter.

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

9. The first and second floor window(s) in the east and west side elevations shall be obscure glazed, using manufactured obscure glass, (not an applied adhesive film) before the building is first occupied and shall be permanently retained as such thereafter. They shall also be non-opening, unless those parts which can be opened are more than 1.7m above the floor of the room in which it is installed and shall be permanently retained as such thereafter.

Reason: To ensure that the amenities of the occupants of the neighbouring properties are not adversely affected by loss of privacy in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C30 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

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

Reason: To 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.

11. The dwelling shall not 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.

12. Prior to commencement of any works to the trees on the site, full details of replacement tree planting, including number, location, species and size at time of planting shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the replacement tree(s) shall be planted in the first planting season (mid November to end of March) following the removal of the tree(s) for which consent has been granted and any tree which, within a period of five years from being planted dies, is removed or becomes seriously damaged or diseased, shall be replaced in the current/next planting season in accordance with the approved details and the wording of this condition.

Reason – In the interests of the visual amenities of the area and to comply with good arboricultural practice and Government Guidance contained within the National Planning Policy Framework.

13. Prior commencement of the development, an arboricultural method statement (in line with BS58737:2012) setting out protective measures and working practices to ensure the retention of the hedgerow (H1) along the front boundary, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the works shall be carried out in accordance with the approved arboricultural method statement.

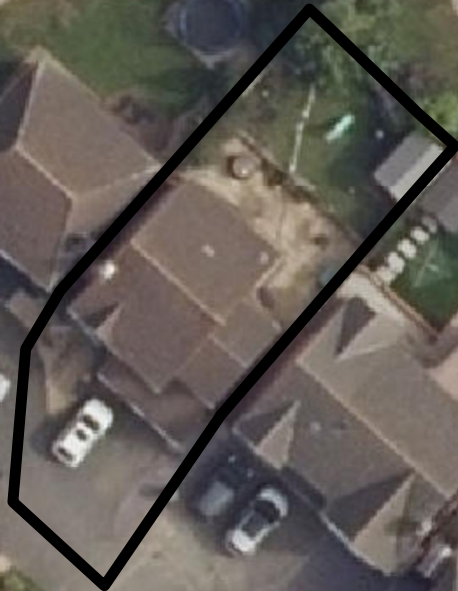
Reason – In the interests of the visual amenities of the area and to comply with good arboricultural practice and Government Guidance contained within the National Planning Policy Framework.

#### **Planning Notes**

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

Agenda Item 10  
**22/02845/F**

**27 Shearwater Drive**  
**Bicester**  
**OX26 6YR**



**1:400**



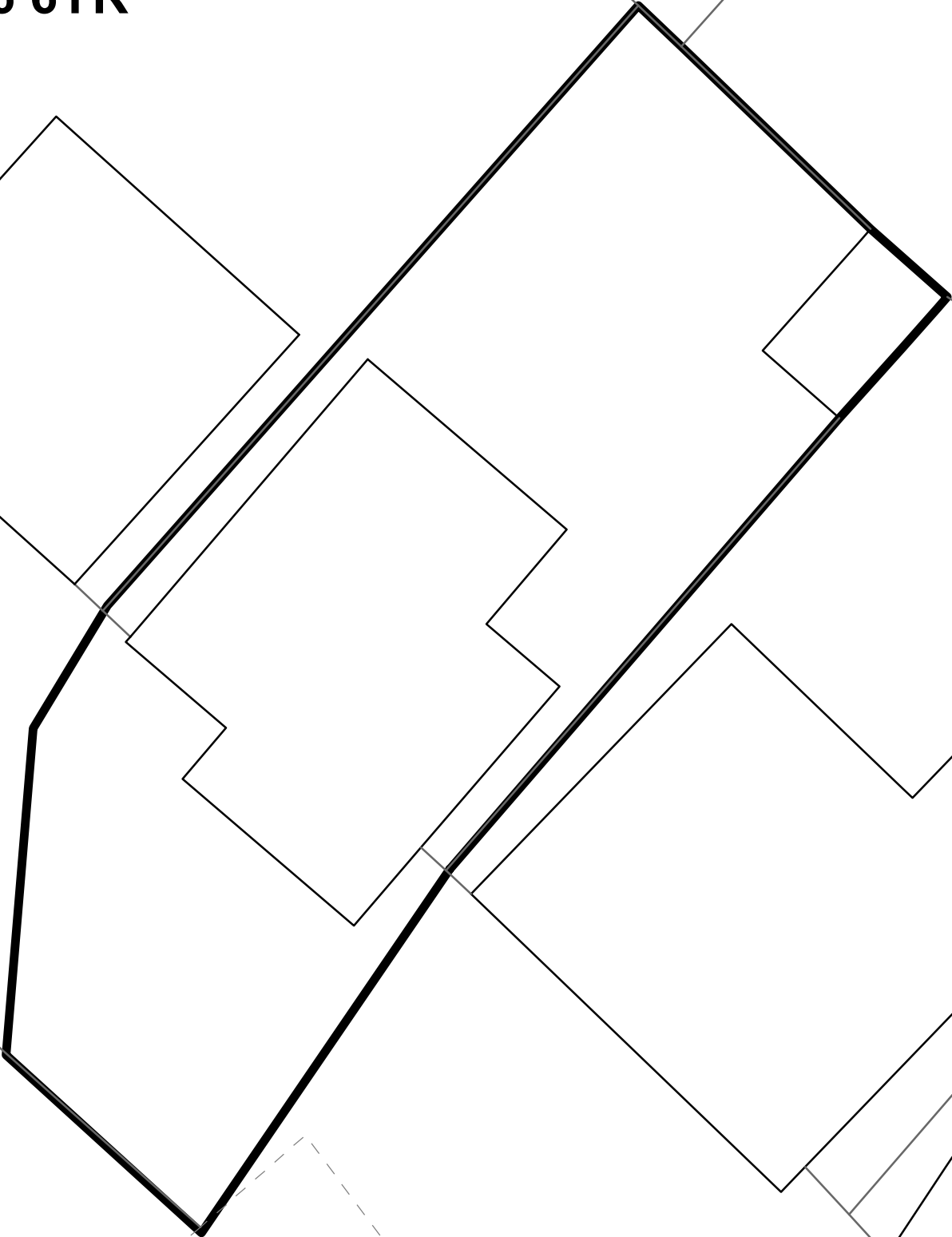


**22/02845/F**

**27 Shearwater Drive**

**Bicester**

**OX26 6YR**



**1:150**



**22/02845/F**

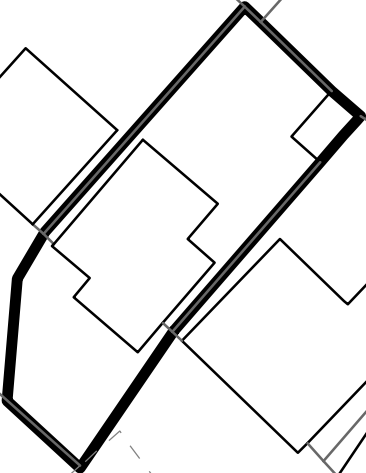
**27 Shearwater Drive**

**Bicester**

**OX26 6YR**

Play Area

Path and Cycle Track



67

51

23

31

49

SHEARWATER DRIVE

N



**Case Officer:** Rebekah Morgan

**Applicant:** Mr & Mrs Dan & Susan Sames

**Proposal:** Single and two storey rear extension

**Ward:** Bicester South and Ambrosden

**Councillors:** Cllr Nick Cotter, Cllr Chris Pruden, and Cllr Dan Sames

**Reason for Referral:** Application submitted by a CDC Councillor

**Expiry Date:** 16 November 2022

**Committee Date:** 03 November 2022

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## **SUMMARY OF RECOMMENDATION:**

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

- 1.1. The application property is a two-storey, detached, four bedroom dwelling located at the end of a cul-de-sac within a residential estate in Bicester. The existing property is constructed from a buff brick with a plain brown roof tile. The property has an integral garage and large shared driveway area to the front. The integral garage and accommodation above has the appearance of a subservient two storey extension set back from the front and rear elevations, but this was part of the original dwelling. The rear of the property has a large garden with close board fencing on all boundaries.
- 1.2. The area is characterised by large, detached, two-storey dwellings constructed mainly of brick but utilising a variety of different design features

### **2. CONSTRAINTS**

- 2.1. The application site is within an area identified for the potential presence of protected species

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

- 3.1. The application seeks consent for a single storey and two storey rear extension that wraps around the rear corner of the house due to the existing staggered rear elevation.
- 3.2. The two storey element measures approximately 4.3m (d) x 2.7m (w) with an eaves height of 5.1m and a ridge height of 6.3m. The single storey element measures approximately 1.4m (d) x 5.9m (w) with an overall height of 2.8m (not including rooflights).
- 3.3. Due to the existing staggered rear elevation, both extensions project to form a solid rear wall spanning the full 8.6m width of the dwelling. The proposal would be constructed in materials to match the existing dwelling (mainly through the re-use of existing materials and additional of matching materials).

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

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

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

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

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

6.1. This application has been publicised by way of 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 **17 October 2022**.

6.2. 1 letter of objection, no letters of support and no comments have been received. The comments raised by third parties are summarised as follows:

- Impact on privacy
- Impact on property value
- Impact on neighbouring properties
- Extension of No. 29 should not be a justification for this proposal
- No prior consultation with applicant

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

#### **7. RESPONSE TO CONSULTATION**

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

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

7.2. BICESTER TOWN COUNCIL: No comments received.

##### CONSULTEES

7.3. CDC BUILDING CONTROL: A building control application will be required before work commences on site.

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

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

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

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

- PSD1 – Presumption in Favour of Sustainable Development
- ESD1: Mitigating and Adapting to Climate Change
- 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 Extension and Alterations Design Guide (2007)

## 9. APPRAISAL

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

- Design and impact on the character of the area
- Residential amenity
- Highway safety
- Other matters

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

- 9.2. The proposal includes two storey and single storey extensions, that jointly wrap around the building. The two storey extension sits to the rear of two storey part of the dwelling containing the integral garage (described in the description above) and to the side of the main body of the dwelling. It would project approximately 1.4m beyond the rear wall of the main body of the dwelling.
- 9.3. The design of the two storey extension does result in a slightly uncomfortable roof line configuration towards the rear. Unfortunately, this is due to the expanse of the extension, with the new roof sloping away from the existing ridge creating more of a cat slide roof with a shallower pitch than the existing dwelling. However, it would not be overly prominent or clearly visible from the street scene and is not considered to have a detrimental impact on the character of the area. As the existing ridgeline is being used, the extension would appear subservient to the main body of the house.
- 9.4. The single storey element is a flat roof proposal. The Council's Home Extensions and Alterations Guide (2007) discourages flat roof extensions '*unless they are well designed, use good quality durable materials and are appropriate in the context of the existing building and wider area*'. This element is entirely situated to the rear of the property and would not be visible in the street scene. The proposed materials include brickwork to match the existing dwelling and the flat roof would only represent a small proportion of the property. Aerial photos suggest there are a variety of rear extensions on properties including some flat roof extensions and therefore the proposal is considered appropriate for the context of the building and the wider area.
- 9.5. Overall, the proposal replicates window proportions from the existing property, the ridge and eaves heights match and the extension would be constructed using recycled bricks from the property and materials to match, where necessary.

- 9.6. The proposals are therefore considered acceptable and thus accord with Government guidance contained within the NPPF, saved Policies C28 and C30 of the CLP 1996 and Policy ESD15 of the CLP 2015.

#### Residential Amenity

- 9.7. The proposal includes a single storey rear extension and two storey side/rear extension. Adjacent to the boundary with no. 25, is the single storey element of the proposal. The single storey element would project approximately 2.3m beyond the rear wall of the neighbouring property, however, due to the 2m gap between the properties and the intervening fence line, the proposal would not be overbearing or unduly impact on the general outlook from this neighbour.
- 9.8. The two storey element of the proposal is situated closest to the boundary with no. 29. The proposed extension would not however protrude beyond this neighbour's rear elevation. As such, the proposal would not have a harmful impact on this neighbour as it would not appear overbearing or impact on their general outlook. The proposal does include a first floor window in the side elevation; this is an existing window that is being slightly re-positioned and would continue to face onto a blank gable of the neighbouring property. The applicants propose to obscurely glaze this opening to ensure that privacy is maintained in perpetuity.
- 9.9. An objection has been received from a property situated to the rear of the application site raising concerns regarding impact on privacy. The property in question, is part two storey with a single storey (integral garage) section to the side. When measuring from the two storey part of that property to the proposed development, the distance measures approximately 21.8m. Measuring between the single storey part of the neighbouring property and the proposal is a distance of 19.5m.
- 9.10. The Council's Home Extensions and Alterations Guide (2007) advises '*Where the extension has a window at the rear, it should normally be at least 22 metres from a window of a neighbour's habitable room to prevent loss of privacy. However, in the case of single storey extensions, boundary fences, walls or hedges can overcome harmful overlooking*'.
- 9.11. The proposed extension would only be slightly closer than the recommended 22m. Furthermore, the extension would have the same distance/relationship with the neighbours to the rear as the previously approved extension at no.29 and is only 1.4m closer than the existing first floor rear elevation windows on the application property.
- 9.12. In terms of potential overlooking of garden areas, this is common in residential areas such as this and the existing properties all already have views over neighbouring gardens.
- 9.13. When considering the existing relationship between the residential properties and the context of the site, the proposal is not considered to have a harmful impact on the neighbouring properties to the rear of the site or any other surrounding properties.
- 9.14. For the above reasons, the proposal therefore accords with Government guidance contained within the NPPF, saved Policy C30 of the CLP 1996 and Policy ESD15 of the CLP 2015, which seek standards of amenity and privacy acceptable to the Local Planning Authority.

### Highway Safety

- 9.15. The proposals do not involve the addition of any additional bedrooms at the property and the existing parking/access arrangements would not be altered by the proposal. Therefore, the retained car parking provision is considered acceptable for a dwelling of this size.

### Other Matters

- 9.16. The third party objection received also raised concerns relating to property value, the precedent set by the extension of no. 29 Shearwater Drive and not having received any prior consultation from the applicant.
- 9.17. Impact on property value is not a material planning consideration and cannot be considered when determining planning applications.
- 9.18. The extension at no. 29 Shearwater Drive is not considered to set a precedent as each application is considered on its own merits.
- 9.19. With regards to prior consultation, there is no requirement for applicants to notify third parties of their intention to submit an application, unless the proposal includes land owned/controlled by a third party. The planning process has statutory requirements for consultation. In this case, the neighbouring properties that adjoin the site were notified by letter. The consultation period was open to any interested parties enabling them to engage and comment on the application.

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

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

## **11. RECOMMENDATION**

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

#### **CONDITIONS**

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

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

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents:
- Design and Access Statement (ref: PMA259 dated 12/09/2022)
  - Drawing number GA 01 – [Proposed Ground Floor Plan]
  - Drawing number GA 02 – [Proposed First Floor Plan]
  - Drawing number GA 03 – [Proposed Roof Plan]

- Drawing number GA 04 – [Proposed North Elevation]
- Drawing number GA 05 – [Proposed South Elevation]
- Drawing number GA 06 – [Proposed East Elevation]
- Drawing number GA 07 – [Proposed West Elevation]
- Drawing number GA 08 – [Proposed Site Plan]
- Drawing number GA 09 – [Site Block/Layout 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. The first floor window in the east elevation shall be obscure glazed, using manufactured obscure glass that is impenetrable to sight, (not an applied adhesive film) before the extension is first occupied and shall be permanently retained as such thereafter. The window shall also be non-opening, unless those parts which can be opened are more than 1.7m above the floor of the room in which it is installed and shall be permanently retained as such thereafter.

Reason – To ensure that the amenities of the occupants of the neighbouring properties are not adversely affected by loss of privacy in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C30 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.



## Cherwell District Council Planning Committee

**3 November 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) 21/03177/F – Land West of Howes Lane, Bicester**

Full planning application for employment development (Use Classes E(g)(iii), B2 and/or B8) comprising 5 units within 3 buildings and associated parking and servicing, landscaping and associated works

Officer recommendation: Approval (Committee)

Method of determination: Hearing

Hearing Date: Tuesday 17<sup>th</sup> January 2023

Hearing Venue: Council Chamber, Bodicote House

Start Date: 04.10.2022

Statement due: 08.11.2022

Appeal reference: 22/00045/REF

##### **b) 22/01585/F – 6 Willow Way, Banbury, OX16 9EY**

Change of use of grass verge/land within applicant's ownership to enclosed residential garden area. Erect 1.8m high close board fencing set back from pavement to match existing rear boundary fencing.

Officer Recommendation: Refused (Delegated)

Method of determination: Written Representations

Start Date: 18.10.2022

Statement due: 22.11.2022

Appeal reference: 22/00046/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  
Hearing Date: Tuesday 22<sup>nd</sup> November 2022  
Hearing Venue: River Cherwell Meeting Room, Bodicote House  
Start Date: 08.10.2021  
Statement Due: 26.11.2021  
Appeal reference: 21/00033/REF

### b) 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 – 18<sup>th</sup>/19<sup>th</sup> May 2022  
Start Date: 30.11.2021  
Statement due: 19.02.2022  
Appeal reference: 21/00037/REF

### c) 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 – 18<sup>th</sup>/19<sup>th</sup> May 2022  
Start Date: 30.11.2021  
Statement due: 19.02.2022  
Appeal reference: 21/00036/REF

### 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  
Appeal reference: 22/00020/REF

**e) 21/03190/F - Land North of Camp Road, East of Holly Trees and 1 Jalna Lodge, Camp Road, Upper Heyford**

Erection of dwelling, detached garage, widening of vehicular access and all associated works

Officer recommendation: Non-Determination  
Method of determination: Written Representations  
Start Date: 21.06.2022  
Statement due: 27.07.2022  
Appeal reference: 22/00034/NON

**f) 21/03445/F – 41 Fernhill Road, Begbroke, OX5 1RR**

Extension and subdivision into two houses

Officer recommendation: Refused (Delegated)  
Method of determination: Written Representations  
Start Date: 10.08.2022  
Statement due: 14.09.2022  
Appeal reference: 22/00038/REF

**g) 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  
Appeal reference: 22/00021/REF

**h) 21/04112/OUT – OS Parcel 2778 Grange Farm North West of Station Cottage, Station Road, Launton**

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)

Officer recommendation: Approval (Committee)  
Method of determination: Hearing  
Hearing date: 11<sup>th</sup> October 2022  
Hearing Venue: Council Chamber, Bodicote House  
Start Date: 11.08.2022  
Statement due: 22.09.2022  
Appeal reference: 22/00039/REF

**i) 21/04166/F – The Pheasant Pluckers Inn, Burdrop, OX15 5RQ**

Permission is sought to re-position and amend the structure of the previously allowed 3-bedroom building

Officer recommendation: Refused (Delegated)

Method of determination: Hearing  
Hearing date: 4<sup>th</sup> October 2022  
Hearing Venue: River Cherwell Meeting Room, Bodicote House  
Start Date: 08.07.2022  
Statement due: 12.08.2022  
Appeal reference: 22/00035/REF

**j) 21/04211/F – 5 Milton Street, Banbury, OX16 9PL**

Two storey rear extension

Officer recommendation: Non-Determination  
Method of determination: Written Representations  
Start Date: 12.09.2022  
Statement due: 17.10.2022  
Appeal reference: 22/00041/NON

**k) 21/04271/F - Land South of Faraday House, Woodway Road, Sibford Ferris**

Erection of 6 one storey age restricted dwellings (55 years) for older people with access, landscaping and associated infrastructure

Officer recommendation: Approval (Committee)  
Method of determination: Written Representations  
Start Date: 02.09.2022  
Statement due: 07.10.2022  
Appeal reference: 22/00040/REF

**l) 22/00173/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  
Appeal reference: 22/00023/REF

**m) 22/00540/F – Land adjacent 58 Corncrake Way, Bicester, OX26 6UE**

Change of use of land to residential garden land in association with 58 Corncrake Way with the removal of some existing boundary fences and erection of new boundary fences.

Officer recommendation: Refusal (Delegated)  
Method of determination: Written Representations  
Start Date: 14.09.2022  
Statement due: 19.10.2022  
Appeal reference: 22/00043/REF

**n) 22/00985/TEL56 - Telecommunications Cabinet CWL 18533, Oxhey Hill, Cropredy**

Proposed 15.0m Phase 9 super slimline Monopole and associated ancillary works

Officer recommendation: Refusal (Delegated)  
Method of determination: Written Representations  
Start Date: 13.09.2022  
Statement due: 18.10.2022  
Appeal reference: 22/00042/REF

### 3.4 Enforcement Appeals in Progress

a) **20/00236/ENF - Land Rear of PO Merton Road and Adjoining No 2 Chapel Drive, Ambrosden, Bicester**

Method of determination: Written Representations  
Start Date: 13.09.2022  
Statement Due: 25.10.2022  
Appeal reference: 22/00043/ENF

### 3.5 Forthcoming Public Inquires and Hearings between 3 November 2022 and 8 December 2022

a) **20/01122/F - OS Parcel 9635 North East of Hm 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.

Hearing date: Tuesday 22<sup>nd</sup> November 2022. Start Time: 10:00  
Hearing Venue: River Cherwell Room, Bodicote House

### 3.6 Appeal Results

Inspectors appointed by the Secretary of State have issued the following decisions:

a) **17/00334/ENF – Varied the enforcement notice and dismissed the appeals made by Mr and Mrs Kent-Baguley against the enforcement notice served on the address of 107 Middleton Road, Banbury, OX16 3QS for without planning permission, the creation of 7No. Self-Contained units of residential accommodation (6No. Studio Flats and 1No. bedroom flat)**

Method of determination: Written Representations  
Appeal reference: 22/00024/ENF

The enforcement notice relates to the creation of 7no Self-Contained units of residential accommodation (6no Studio Flats and 1no bedroom flat) without planning permission.

The notice required a number of actions to remedy the breach including stopping the use of 7 self-contained flats situated at basement, ground floor, first floor and second floor, remove all fixtures, fixings and utilities associated with the unauthorised flats from the building and restore the land to its conditions before the breach took place.

The time period given to comply with the notice was 12 months.

The appeal was submitted under grounds (d) and (e) of section 174(2) of the Town and Country Planning Act 1990 as amended; (d) that, at the time the enforcement notice was issued, it was too late to take enforcement action against the matters stated in the notice and (e) that the notice was not properly served on everyone with an interest in the land.

On ground (e), the Inspector found based on the evidence before them that the Council had served the notice correctly and advised that the appellants have not suffered any substantial prejudice regarding the ground.

For the ground (d) appeal, the Inspector found that the appeal could not succeed as the appellant had provided no evidence to demonstrate that building was re-configured to provide 7 flats at the date that it would need to under the four year rule under S171B(2) of the Planning Act.

The enforcement notice was corrected by the Inspector and the appeal was dismissed.

**b) 21/03726/F – Dismissed the appeal by Mr J Mastrogiacomo against refusal of planning permission for Demolition of existing lean-to structure, erect new single storey extension. Convert existing 3-bed chalet-style house into 3 no separate apartments with off-road parking (revised scheme of 21/01654/F). 123 Oxford Road, Kidlington, OX5 2NP**

Officer recommendation: Refused (Delegated)

Method of determination: Written Representations

Appeal reference: 22/00033/REF

The Inspector noted that amended plans had been submitted during the appeal, which made substantial changes to the proposal. The Inspector did not consider them in her determination of the appeal because she could not certain all interested parties had the opportunity to consider them.

The Inspector identified the main issues of the appeal to be,

- i) The effect of the proposal on the safety of road users and pedestrians using Oxford Road;
- ii) The effect of the proposal on the living conditions of the occupants of 121 Oxford Road with particular regard to daylight levels and overlooking; and
- iii) Whether the proposal would provide adequate living conditions for the occupants of the proposed and host dwellings, with particular regard to fire safety.

In respect of the first issue, the Inspector was unconvinced that there was sufficient space for vehicles to manoeuvre within the space without reversing onto the Oxford Road which would increase the potential for conflict between road users and pedestrians. The Inspector found that the proposal failed to provide the necessary cycle storage but that this could be dealt with by condition.

On the second issue, the Inspector found that the proposal would significantly harm the living conditions of the occupants of 121 Oxford Road through loss of privacy. The windows to serve the bedrooms in the extension would be positioned close to the site boundary and would allow for clear and direct views of the windowed rear elevation of 121 Oxford Road and the associated private rear

garden over boundary treatment.

In respect of the third issue, the Inspector found that the proposal would not result in any loss of outlook to existing openings or additional opportunities for overlooking and associated loss of privacy. The Inspector advised matters relating to fire safety would be covered under separate legislation and would not have a bearing on their consideration of the planning merits of the proposal.

The Inspector concluded that the proposal would result in significant harm to highway safety and neighbouring amenity.

**c) 22/00721/F – Allowed the appeal by Mr Withey and Ms Harvey against refusal of planning permission for front and rear single storey extensions. 2 East Street, Bicester, OX26 3EX**

Officer recommendation: Refused (Delegated)  
Method of determination: Householder (Fast Track)  
Appeal reference: 22/00037/REF

The Inspector noted that the Council had refused permission on the grounds of the front extension and therefore limited the appeal assessment to that extension. The Inspector identified the main issue of the appeal to be the effect of the proposed extension on the character and appearance of the area around East Street and Hudson Street.

The Inspector noted the neighbouring properties which have had extensions but agreed with the Council that there was no other extension in the surrounding area of the type proposed for the appeal property. However, the Inspector found that the extension would not appear as a prominent feature in the streetscape and the existing front porch would remain on the shorter elevation facing East Street and would provide a visual link to the similar characteristic features on the side and front elevations of many other houses in the wider surrounding area.

The Inspector therefore concluded that the proposed front extension would not be harmful to the character or appearance of the area.

**d) 22/00642/F – Dismissed the appeal by Mr O Morton against refusal of planning permission for Proposed single & 1.5 storey front extension (re-submission of app. No. 21/01851/F). 2 Dewars Farm Cottages, Ardley Road, Middleton Stoney, OX25 4AE.**

Officer recommendation: Refused (Delegated)  
Method of determination: Householder (Fast Track)  
Appeal reference: 22/00036/REF

The Inspector identified the main issues of the appeal to be effects of the proposed extension on the character and appearance of the area around Ardley Road to the north of Middleton Stoney, and the living conditions of the occupiers of No 1 Dewars Farm Cottages by way of light and outlook.

In respect to the first issue, the Inspector found that the design and external appearance of the proposed front single and 1.5-storey extension would not be sympathetic to the context or appearance of the pair of dwellings and would not be compatible with the scale of the existing dwelling and the character of the street scene. The Inspector concluded on the issue that the proposal would be

harmful to the character and appearance of the area along Ardley Road and the wider area of open countryside to the north of Middleton Stoney.

In regard to the second issue, the Inspector found that the proposed extension would not be significantly harmful to living conditions of 1 Dewars Farm Cottages. The Inspector found that the proposed extension would be dominant but does not consider that on its own would be sufficient to dismiss the appeal.

The Inspector concluded that the proposed extension would have only very limited harm to the living conditions of the occupiers of No 1, but that it would be significantly harmful to the character and appearance of the area along Ardley Road and the surrounding countryside. In the view of the combined harm, the Inspector dismissed the appeal.

**e) 21/02346/F – Dismissed the appeal by Mr G Wright against refusal of planning permission for Loft conversion with rooflights to front roof slope and dormer extension to rear roof slope. 1 Cranesbill Drive, Bicester, OX26 3WG.**

Officer Recommendation: Refused (Delegated)  
Method of determination: Householder (Fast Track)  
Appeal reference: 22/00014/REF

The Inspector identified the main issue of the appeal to be the effect of the proposed rear dormer extension on the character and appearance of the area around Cranesbill Drive and Germander Way.

The Inspector noted that the dormer would occupy the full width and height of the north-facing rear roof slope and would be a prominent feature in the street scene of Germander Way, readily visible from multiple directions. The Inspector held that it would result in a tall and rather top-heavy appearance and that its apparent verticality coupled with the prominence of the side dormer cheek meant it would have a dominant and incongruous appearance.

The Inspector concluded that the proposed rear dormer would be unsympathetic to the character of the context of the property and the wider street scene.

**f) 21/02804/F – Dismissed the appeal by Mr M Furby against the refusal of planning permission for Erection of dwelling. 19 Hastings Road, Banbury, OX16 0SE**

Officer recommendation: Refused (Delegated)  
Method of determination: Written Representations  
Appeal reference: 22/00032/REF

The Inspector identified the main issues of the appeal to be:

- i) the effect of the proposal on the character and appearance of the area;
- ii) the effect of the proposal on the safety of road users and pedestrians along Hastings Road;
- iii) the effect of the proposal on the living conditions of the occupants of 19 Hastings Road with particular regard to outlook; and



iv) whether the proposal would provide satisfactory living conditions for the future occupiers with particular regard to light levels.

On the first issue, the Inspector found that the smaller scale of the proposed dwelling would be at odds with the scale of the host property and other dwellings within the surrounding area. The Inspector also found that the scale and siting of the dwelling would read as an incongruous addition to the site resulting in a form of development which would be contrary to the character of the area. The Inspector thus concluded on this issue that the proposal would adversely affect the character and appearance of the surrounding area.

On the second issue, the Inspector found that the proposed layout of the new car parking spaces would inevitably involve reversing manoeuvres onto the road and over the footpath. This would increase the risk of accidents within the road as it would be hard for drivers reversing out to see oncoming vehicles and would be difficult to see pedestrians approaching the site on the footpath. Accordingly, the Inspector found that the proposal would have an unacceptably harmful effect on the safety of road users and pedestrians using Hastings Road and would thereby compromise the safe operation of the highway network.

Regarding the issue of living conditions of neighbouring residents, the Inspector found that the proposed development would not have an unacceptable effect on the living conditions of the occupants of 19 Hastings Road.

In respect to the fourth issue, the Inspector found the proposed development would provide satisfactory living conditions for the future occupiers with regards to levels of light.

The Inspector considered the extant planning permission for extensions to the dwelling but found significant differences with that approval and the appeal scheme specifically that the appeal proposal was for a separate dwelling.

The Inspector concluded that the benefits of the proposal were significantly and demonstrably outweighed by the identified harm to highway safety and to the character and appearance of the area and accordingly dismissed the appeal.

- g) 21/01818/F – Allowed the appeal by Churchill Retirement Living Ltd against the non-determination of the application for Redevelopment of the site to form 38 no. Retirement apartments including communal facilities, access, car parking and landscaping. Pakefield House, St Johns Street, Bicester, OX26 6SL.**

The appeal is a non-determination appeal however the application was heard at Planning Committee on 13<sup>th</sup> January 2022.

Officer recommendation: Refusal (Committee)

Start Date: 21.04.2022

Statement Due: 26.05.2022

Decision summary to follow in the next Appeals Progress Report. The decision can be found on the Council's online register using the link below.

<https://planningregister.cherwell.gov.uk/Appeals/Display/22/00022/NON>

## **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:  
Kimberley Digweed, Service Accountant  
kimberley.digweed@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:  
Shahin Ismail, Interim Monitoring Officer – shahin.ismail@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. Any arising risk will be managed through the service operational risk and escalated to the Leadership Risk Register as and when necessary.

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      Page 90

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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