

# Public Document Pack



**Cherwell**

DISTRICT COUNCIL  
NORTH OXFORDSHIRE

**Committee: Planning Committee**

**Date: Thursday 9 March 2023**

**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 Ian Harwood  
Councillor Simon Holland  
Councillor Richard Mould  
Councillor Les Sibley

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

Councillor Rebecca Biegel  
Councillor Hugo Brown  
Councillor Jean Conway  
Councillor Sandy Dallimore  
Councillor David Hingley  
Councillor Fiona Mawson  
Councillor Lynn Pratt  
Councillor Dorothy Walker

## Substitutes

Councillor Mike Bishop  
Councillor Gemma Coton  
Councillor Matt Hodgson  
Councillor Adam Nell  
Councillor Douglas Webb  
Councillor Bryn Williams

Councillor Phil Chapman  
Councillor Nick Cotter  
Councillor Ian Middleton  
Councillor Angus Patrick  
Councillor Fraser Webster  
Councillor Barry Wood

## AGENDA

### **1. Apologies for Absence and Notification of Substitute Members**

### **2. Declarations of Interest**

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

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

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

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 5 - 48)

To confirm as a correct record the Minutes of the meeting of the Committee held on 9 February 2023.

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)**

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

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

## **Planning Applications**

8. **Land North West Bicester Home Farm, Lower Farm and SRG2 Caversfield**  
(Pages 51 - 169) **21/01630/OUT**
9. **Land Used For Motocross, Stratford Road, A422, Wroxton, OX15 6HX** (Pages  
170 - 227) **21/00517/F**
10. **OS Parcel 1570 Adjoining And West Of Chilgrove Drive And Adjoining And  
North Of Camp Road, Heyford Park** (Pages 228 - 261) **21/04289/OUT**
11. **Os Parcel 0006 Adjoining North Side Of Ells Lane, Bloxham** (Pages 262 - 288)  
**23/00065/OUT**
12. **Kidlington Garage, 1 Bicester Road, Kidlington, OX5 2LA** (Pages 289 - 321)  
**22/00017/F**
13. **Windrush Surgery, 5A Bradley Arcade, Bretch Hill, Banbury, OX16 0LS**  
(Pages 322 - 328) **22/03821/F**
14. **4 Grimsbury Square, Banbury, OX16 3HX** (Pages 329 - 335) **22/03180/F**

## **Review and Monitoring Reports**

### **15. Appeals Progress Report (Pages 336 - 345)**

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**

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

### **Access to Meetings**

If you have any special requirements (such as a large print version of these papers or special access facilities) please contact the officer named below, giving as much notice as possible before the meeting.

### **Mobile Phones**

Please ensure that any device is switched to silent operation or switched off.

### **Queries Regarding this Agenda**

Please contact Aaron Hetherington / Matt Swinford, Democratic and Elections  
[democracy@cherwell-dc.gov.uk](mailto:democracy@cherwell-dc.gov.uk), 01295 221534

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

Published on Wednesday 1 March 2023

## **Cherwell District Council**

### **Planning Committee**

Minutes of a meeting of the Planning Committee held at Bodicote House, Bodicote, Banbury, Oxon OX15 4AA, on 9 February 2023 at 4.00 pm

#### Present:

Councillor George Reynolds (Chairman)  
Councillor Andrew Beere  
Councillor Rebecca Biegel  
Councillor John Broad  
Councillor Hugo Brown  
Councillor Colin Clarke  
Councillor Jean Conway  
Councillor Ian Corkin  
Councillor Ian Harwood  
Councillor David Hingley  
Councillor Simon Holland  
Councillor Fiona Mawson  
Councillor Richard Mould  
Councillor Lynn Pratt  
Councillor Les Sibley  
Councillor Dorothy Walker

#### Substitute Members:

Councillor Sandy Dallimore (In place of Councillor Bryn Williams)  
Councillor Barry Wood (In place of Councillor Maurice Billington)

#### Apologies for absence:

Councillor Maurice Billington (Vice-Chairman)  
Councillor Bryn Williams

#### Officers:

Paul Seckington, Senior Manager Development Management  
Karen Jordan, Deputy Principal Solicitor  
Katherine Daniels, Principal Planning Officer  
Lewis Knox, Planning Officer  
Wayne Campbell, Principal Planning Officer  
Chris Wentworth, Principal Planning Officer  
Rebekah Morgan, Principal Planning Officer  
Aaron Hetherington, Democratic and Elections Team Leader  
Matt Swinford, Democratic and Elections Officer  
Eleanor Gingell, Planning Policy Team Leader

Officers Attending Virtually:

Natasha McCann, Planning Officer

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## **Declarations of Interest**

### **8. Land South West Of Avonbury Business Park, Howes Lane, Bicester.**

Councillor Les Sibley, Other Registerable Interest, as a member of Bicester Town Council which had been consulted on the application

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

Councillor Richard Mould, Other Registerable Interest, as a member of Bicester Town Council which had been consulted on the application.

Councillor Sandy Dallimore, Other Registerable Interest, as a member of Bicester Town Council which had been consulted on the application.

### **9. Land Adjoining Withycombe Farmhouse, Stratford Road, A422, Drayton.**

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

Councillor Rebecca Biegel, Other Registerable Interest, as a member of Banbury Town Council which had been consulted on the application.

### **12. OS Parcel 5616 South West Of Huscote Farm And East Of Daventry Road, Banbury.**

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

Councillor Rebecca Biegel, Other Registerable Interest, as a member of Banbury Town Council which had been consulted on the application.

### **13. Recreation Ground, Keble Road, Bicester, OX26 4UX.**

Councillor Barry Wood, Other Registerable Interest, as a member of the Executive and would leave the meeting for the duration of the item.

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

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

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

Councillor Lynn Pratt, Other Registerable Interest, as a member of Bicester Town Council which had been consulted on the application and as a member of the Executive and would leave the meeting for the duration of the item.

Councillor Richard Mould, Other Registerable Interest, as a member of Bicester Town Council which had been consulted on the application and as a member of the Executive and would leave the meeting for the duration of the item.

**14. 277 Warwick Road, Banbury, OX16 1AU.**

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

Councillor Rebecca Biegel, Other Registerable Interest, as a member of Banbury Town Council which had been consulted on the application.

119 **Requests to Address the Meeting**

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

120 **Minutes**

The Minutes of the meeting held on 12 January 2023 were agreed as a correct record and signed by the Chairman.

121 **Chairman's Announcements**

The Chairman made the following announcement:

1. The Chairman welcomed the Planning Policy Team Leader to the meeting to give Members an update on the Council's Housing Land Supply figure that was reported to the Executive on 6 February 2023.

122 **Urgent Business**

There were no items of urgent business.

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

There were no proposed Pre-Committee Site visits.

124 **Land South West Of Avonbury Business Park, Howes Lane, Bicester**

The Committee considered application 22/02922/F for the construction of Thames Valley Police Technical Services Building (Use Class E) with associated access, car parking and hard and soft landscaping at Land South West of Avonbury Business Park, Howes Lane, Bicester for Thames Valley Police.

Geoff Clark, local resident, addressed the Committee in objection to the application.

Simon Dackombe, on behalf of the Thames Valley Police, addressed the Committee in support of the application.

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

### **Resolved**

- (1) Delegate to the Assistant Director for Planning and Development to grant permission, subject to:
  - i) The following conditions (and any amendments to those conditions as deemed necessary) and:
  - ii) The completion of a planning obligation under Section 106 of the Town and Country Planning Act, as substituted by the Planning and Compensation Act 1991, to secure obligation including contributions and the infrastructure identified in the annex to the Minutes (as set out in the Minute Book) (and any amendments to those obligations as deemed necessary)

### **Conditions**

#### **Time Limit and General Implementation 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.

#### **Compliance with Plans**

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: To be confirmed as a completed S106 agreement will need to be in place prior to the decision notice being issued.

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.

3. The development shall be used as a Technical Services Building associated with Thames Valley Police only, and shall not be used for any other purposes whatsoever.

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

4. All site clearance (including the removal of any vegetation or works to hedgerows) shall be timed so as to avoid the bird nesting season, this being during the months of March until July inclusive unless the Local Planning Authority has confirmed in writing that such works can proceed, based on submission of a survey (no more than 48hrs before works commence) undertaken by a competent ecologist to assess the nesting bird activity on site, together with details of measures to protect the nesting bird interest on the site as required.

Reason: To ensure that the development will conserve and enhance the natural environment and will not cause significant harm to any protected species or its habitat to comply with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

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

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

6. The level of noise emitted from the site shall not exceed (A) 41 dB between 2300 and 0700 and (A) 53 dB at any other time, as measured 1m from the nearest noise-sensitive receptor as shown on figure 5-1 of the Noise Impact Assessment (A is noise level expressed as Laeq over a time period T (eg 1 hour day, or 5 mins night) and T is time of day).

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

7. Notwithstanding the provisions of Class A of Part 2, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting or amending that order) no gate, fence, wall or other means of enclosure shall be erected, constructed or placed other than the enclosures shown on the approved plans or to be agreed by condition 23, without the prior express planning permission of the Local Planning Authority.

Reason - In order to retain the open character of the development and in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996.

8. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building(s) or on the completion of the development, whichever is the sooner, and shall be maintained for a period of 5 years from the completion of the development. Any trees and/or shrubs which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent for any variation.

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

#### **Pre-Commencement Conditions**

9. No development shall commence unless and until full details of the means of construction access between the land and the highway, including, position, layout, construction, drainage and vision splays have been submitted to and approved in writing by the Local Planning Authority. The means of access shall be constructed in strict accordance with the approved details prior to the commencement of construction on site and shall be retained and maintained as such thereafter. Agreed vision splays shall be kept clear of obstructions higher than 0.6m at all times.

Reason - In the interests of highway safety and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme

10. Where the submitted Ecological Assessment Report is more than two years old at the date of the commencement of the development, no

development shall commence, until an updated Ecological Assessment Report has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

Reason - In the interests of biodiversity and to comply with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme

11. No development shall commence until a Construction Method Statement, incorporating a construction traffic management plan has been submitted to and approved in writing 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:
  - a) The CTMP must be appropriately titled, include the site and planning permission number.
  - b) 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.
  - c) Details of and approval of any road closures needed during construction.
  - d) Details of and approval of any traffic management needed during construction.
  - e) Details of wheel cleaning/wash facilities – to prevent mud etc, in vehicle tyres/wheels, from migrating onto adjacent highway.
  - f) Measures to control the emission of dust and dirt during construction as detailed in paragraph 6.1.2 of the Air Quality Management Plan;
  - g) Details of appropriate signing to accord with standards/requirements, for pedestrians during construction works, including any footpath diversions.
  - h) The erection and maintenance of security hoarding / scaffolding if required.
  - i) A regime to inspect and maintain all signing, barriers etc.
  - j) Contact details of the Project Manager and Site Supervisor responsible for on-site works to be provided.
  - k) The use of appropriately trained, qualified and certificated banksmen for guiding vehicles/unloading etc.
  - l) 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.
  - m) Layout plan of the site that shows structures, roads, site storage, compound, pedestrian routes etc.
  - n) 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.
  - o) Any temporary access arrangements to be agreed with and approved by Highways Depot.

- p) Details of times for construction traffic and delivery vehicles, which must be outside network peak and school peak hours.
- q) Delivery, demolition and construction working hours;

Reason: In the interests of highway safety and to mitigate the impact of construction vehicles on the surrounding highway network, road infrastructure and local residents, particularly at morning and afternoon peak traffic times. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme

12. No development shall commence until a detailed surface water drainage scheme for the site, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is first occupied. 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;
- A Flood Exceedance Conveyance Plan;
- Comprehensive infiltration testing across the site to BRE DG 365 (if applicable)
- Detailed design drainage layout drawings of the SuDS proposals including cross-section details;
- Detailed maintenance management plan in accordance with Section 32 of CIRIA C753 including maintenance schedules for each drainage element, and;
- Details of how water quality will be managed during construction and post development in perpetuity;
- Confirmation of any outfall details.
- Consent for any connections into third party drainage systems

Reason - To ensure that sufficient capacity is made available to accommodate the new development and in order to avoid adverse environmental impact upon the community in accordance with Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

13. No development shall take place on any phase (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP: Biodiversity shall include as a minimum:
- a) Arrangements for a site walkover survey undertaken by a suitably qualified Ecologist to ensure that no protected species, which could be harmed by the development have moved onto the site since the previous surveys were carried out. If any protected species are found, details of

mitigation measures to prevent their harm shall be required to be submitted;

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

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

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

14. No development shall take place until the existing tree(s) to be retained have been protected in accordance with the approved Tree Protection Plan 1170 Atk Xx Xx Dr L 481002 P02 (Clearance and Tree Protection Plan) received 23rd September 2022 unless otherwise agreed in writing by the Local Planning Authority. The barriers shall be erected before any equipment, machinery or materials are brought onto the site for the purposes of development and shall be maintained until all equipment machinery and surplus material has been removed from the site. 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

15. No development shall take place until a Sustainable Waste and Resources Plan has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

Reason – To support the creation of a low carbon community to achieve the requirements of Policies ESD1 and Bicester 1 of the CLP 2011-2031. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

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

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

17. No development shall commence until a scheme to demonstrate that the development will achieve BREEAM 'Excellent' shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall set out a timescale for the provision of evidence, including certificates at design stage and post construction stages. Evidence of the achievement of BREEAM Excellent shall be provided in accordance with the approved scheme.

Reason: To support the creation of a low carbon community to achieve the requirements of Policies ESD1 of the Cherwell Local Plan Part 1 2011-2031.

**Conditions requiring approval or compliance before specific construction works take place**

18. Prior to their installation on any building, full details of the solar PV shall be submitted to and approved in writing by the Local Planning Authority. The solar PV shall be installed prior to first occupation and retained and maintained in working order thereafter.

Reason: To support the delivery of renewable and low carbon energy in accordance with Policy Bicester 1 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework.

19. 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 the commencement of those works.

The development shall thereafter be completed in accordance with the approved details.

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

20. Prior to the commencement of the parking areas, specification details (including construction, layout, surfacing, and drainage) of the turning area and parking spaces within the curtilage of the site, arranged so that motor vehicles may enter, turn round and leave in a forward direction and vehicles may park off the highway, have been submitted to and approved in writing by the Local Planning Authority. The turning area and car parking spaces shall be constructed in accordance with the approved details prior to the first occupation of the development and shall be retained as such for the parking and manoeuvring of vehicles at all times thereafter.

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

21. Prior to their installation on any building hereby approved, full details of any mechanical ventilation or extraction equipment (if applicable and including any air source heat pumps and their associated condenser units) shall be submitted to and approved by the Local Planning Authority. Thereafter the mechanical ventilation shall be installed, brought into use, and retained in accordance with the approved details.

Reason - In order to safeguard the amenities of the area and to minimise the risk of a nuisance arising from smells in accordance with Saved Policy ENV1 of the adopted Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

22. Notwithstanding the submitted details, prior to the first installation of any fencing, details of the fencing and its location 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.

Reason – To ensure that the fencing is appropriate to the appearance of the locality, to ensure the satisfactory appearance of the completed development and to ensure that the proposed fencing does not restrict the land required for the future delivery of the realignment of Howes Lane and to ensure the development does not have a detrimental impact on the highway network 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.

### **Prior to occupation**

23. Prior to the first occupation details of improvements to provide safe cycling and pedestrian access to the site along Howes Lane, including, position, layout, construction, drainage and vision splays have been submitted to and approved in writing by the Local Planning Authority. The improvements shall be constructed in strict accordance with the approved details prior to first occupation.

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

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

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

25. Prior to the first occupation of the development, a scheme for the provision of vehicular electric charging points to serve the development shall be submitted to and approved in writing by the Local Planning Authority. The vehicular electric charging points shall be provided in accordance with the approved details prior to the first occupation of the unit they serve, and retained as such thereafter.

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

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

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

27. Prior to first occupation, a record of the installed SuDS and site wide drainage scheme shall be submitted to and approved in writing by the



Local Planning Authority for deposit with the Lead Local Flood Authority Asset Register. The details shall include:

- (a) As built plans in both .pdf and .shp file format;
- (b) Photographs to document each key stage of the drainage system when installed on site;
- (c) Photographs to document the completed installation of the drainage structures on site;
- (d) The name and contact details of any appointed management company information.

Reason - To ensure that the development/site is served by sustainable arrangements for the disposal of surface water, to comply with Policy ESD6 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government advice in the National Planning Policy Framework.

28. Details of the external lighting, and security lighting including the design, position, orientation, and any screening of the lighting shall be submitted to and approved in writing by the Local Planning Authority prior to the installation of any such lighting. The lighting shall be installed and operated in accordance with the approved scheme at all times thereafter.

Reason - To protect the amenities of nearby residents and in the interest of biodiversity and to comply with Policies ESD10 and ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policies C28 and C30 of the Cherwell Local Plan 1996

29. Details of the levels of ammonia emissions from the operation of the building shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the building.

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

30. Details of a Management Plan for the control of ammonia emissions emanating from the building shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation. The details shall include any action requires where emissions exceed those as set out in condition 29.
31. Prior to the first occupation of the building, details of the measures to be installed in the building to minimise water consumption shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details. The measures shall thereafter be retained in an operational condition.

Reason: To support the delivery of renewable and low carbon energy in accordance with Policy Bicester 1 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework

32. No employment building shall be occupied until it has been provided with service connections capable of supporting the provision of high-speed broadband from the building to the nearest broadband service connection outside The Site

Reason: To facilitate information delivery in accordance with Government guidance contained within the National Planning Policy Framework.

33. The building hereby approved shall be provided with real time energy and travel information prior to its first occupation. Details of the provision the building shall be submitted to the Local Planning Authority and agreed in writing prior to the commencement of construction of the building above slab level. The devices shall thereafter be retained in operational condition.

Reason: To support the delivery of modal shift towards sustainable modes and create high quality, inclusive, sustainable development in accordance with Policy Bicester 1 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework.

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### **Land Adjoining Withycombe Farmhouse, Stratford Road, A422, Drayton**

The Committee considered application 22/02101/OUT, an outline planning application for a residential development comprising up to 250 dwellings (with up to 30% affordable housing), public open space, landscaping and associated supporting infrastructure. Means of vehicular access to be determined via Edinburgh Way, with additional pedestrian and cycle connections via Dover Avenue and Balmoral Avenue. Emergency access provision also via Balmoral Avenue. All other matters reserved at Land Adjoining Withycombe Farmhouse, Stratford Road, A422, Drayton for Bloor Homes (Western).

Laura Hinds, local resident, addressed the Committee in objection to the application.

Jon Bryan, on behalf of the applicant, Bloor Homes addressed, the Committee in support of the application.

In reaching its decision, the Committee considered the officers' report, presentation, the written update and addresses from the public speakers.

**Resolved**

- (1) That the authority be delegated to the Assistant Director – Planning and Development to grant permission subject to:
  - (i) The following conditions (and any amendments to those conditions as deemed necessary) and:
  - (ii) The completion of a planning obligation under Section 106 of the Town and Country Planning Act, as substituted by the Planning and Compensation Act 1991, to secure obligation including contributions and the infrastructure identified in the annex to the Minutes (as set out in the Minute Book) (and any amendments to those obligations as deemed necessary)

### **Conditions**

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

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

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

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

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

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

4. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the application form and the following plans and documents:  
WE080-PD-039G, 3877 Sheets 1-2;

P20-1853\_04 Rev C;  
P20-1853\_02 Rev H;  
10511-FPCR-XX-XX-DR-L-0001 Issue D;  
06104-SK-001-P0;  
06104-SK-002-P0;  
06104-SK-003-P0.

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

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

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

6. Prior to commencement of the development hereby approved, a Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the Local Planning Authority. The CTMP shall include a commitment to deliveries only arriving at or leaving the site outside local peak traffic periods. Thereafter, the approved CTMP shall be implemented and operated in accordance with the approved details.
  - The CTMP must be appropriately titled, include the site and planning permission number.
  - Routing of construction traffic and delivery vehicles is required to be shown and signed appropriately to the necessary standards/requirements. This includes means of access into the site.
  - Details of and approval of any road closures needed during construction.
  - Details of and approval of any traffic management needed during construction.
  - Details of wheel cleaning/wash facilities – to prevent mud etc, in vehicle tyres/wheels, from migrating onto adjacent highway.
  - Details of appropriate signing, to accord with the necessary standards/requirements, for pedestrians during construction works, including any footpath diversions.
  - The erection and maintenance of security hoarding / scaffolding if required.

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

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

7. Prior to first occupation a Residential Travel Plan and Residential Travel Information Pack should be submitted to the Local Planning Authority for written approval. Thereafter, the approved Residential Travel Plan shall be implemented and operated in accordance with the approved details.

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

8. Prior to commencement of any development a Construction Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The approved document shall include the following:
  - a) the parking of vehicles of site operatives and visitors;
  - b) loading and unloading of plant and materials;
  - c) storage of plant and materials used in constructing the development;
  - d) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
  - e) wheel washing facilities;
  - f) measures to control the emission of dust and dirt during construction;
  - g) a scheme for recycling/disposing of waste resulting from demolition and construction works;

- h) measures for the protection of the natural environment;
- i) hours of construction, including deliveries;
- j) the temporary site compound including temporary structures
- k) the location and noise levels of any temporary generators or other fixed mechanical plant.
- l) details of external lighting and proposed operation times.
- m) contact details for the site manager or other persons associated with the management of operations on the site.

Thereafter the development shall be carried out only in accordance with approved CEMP.

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

9. No development shall commence including any demolition, and any works of site clearance, unless and until a method statement and scheme for enhancing biodiversity such that an overall net gain for biodiversity is achieved, to include details of enhancement features and habitats both within green spaces and integrated within the built environment, has been submitted to and approved in writing by the Local Planning Authority, which shall accompany any reserved matters application for layout and landscaping. This shall also include a timetable for provision. Thereafter, the biodiversity enhancement measures shall be carried out in accordance with the approved details and shall be retained as such thereafter in accordance with the approved details.

Reason: To ensure the development provides a net gain in biodiversity in accordance with Policy ESD10 of the Cherwell Local Plan 20112031 Part 1 and Government guidance contained within the National Planning Policy Framework.

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

Reason: To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy ESD10 of the Cherwell Local Plan 20112031 Part 1 and Government guidance contained within the National Planning Policy Framework.

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

development shall be carried out in accordance with the approved document.

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

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

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

13. No development shall be occupied until confirmation has been provided that either:-

1. Foul water Capacity exists off site to serve the development, or
2. A development and infrastructure phasing plan has been agreed with the Local Authority in consultation with Thames Water. Where a development and infrastructure phasing plan is agreed, no occupation shall take place other than in accordance with the agreed development and infrastructure phasing plan, or
3. All Foul water network upgrades required to accommodate the additional flows from the development have been completed.

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

14. There shall be no occupation beyond the 49th dwelling until confirmation has been provided that either:-

all water network upgrades required to accommodate the additional demand to serve the development have been completed; or-

a development and infrastructure phasing plan has been agreed with Thames Water to allow additional development to be occupied. Where a development and infrastructure phasing plan is agreed no occupation of those additional dwellings shall take place other than in accordance with the agreed development and infrastructure phasing plan.

Reason: The development may lead to low / no water pressures and network reinforcement works are anticipated to be necessary to ensure

that sufficient capacity is made available to accommodate additional demand anticipated from the new development. Any necessary reinforcement works will be necessary in order to avoid low / no water pressure issues.

15. Prior to any demolition and the commencement of the development 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 NPPF (2021).

16. Following the approval of the Written Scheme of Investigation referred to in condition 15, and prior to any demolition on the site and 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 NPPF (2021).

17. No development shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles including an assessment of the hydrological and hydro-geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:
  - a. Discharge Rates;
  - b. Discharge Volumes;
  - c. SUDS (Permeable Paving, Soakaway Tanks);
  - d. Maintenance and management of SUDS features (to include provision of a SUDS Management and Maintenance Plan);
  - e. Infiltration in accordance with BRE365;
  - f. Detailed drainage layout with pipe numbers;
  - g. Network drainage calculations;
  - h. Phasing;
  - i. Flood Flow Routing in exceedance conditions (to include provision of a flood exceedance route plan).

Development shall be carried out in accordance with the approved surface water drainage scheme.



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

18. No dwelling shall be occupied until it has been constructed to ensure that it achieves a water efficiency limit of 110 litres per person per 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.

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

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

20. All site clearance (including vegetation removal) shall be timed so as to avoid the bird nesting/breeding season from 1st March to 31st August inclusive, unless, in the case of a tree that is required to be removed for health and safety reasons, the Local Planning Authority has confirmed in writing that such works can proceed.

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.

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

Reason – To ensure the continued health of retained trees/hedges and to ensure that they are not adversely affected by the construction works,

in the interests of the visual amenity of the area, to ensure the integration of the development into the existing built environment and to comply with Policy C28 of the adopted Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

22. Prior to the commencement of development hereby approved, a phasing plan covering the entire application site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved phasing plan and each reserved matters application shall only be submitted in accordance with the terms of the approved phasing plan and refer to the phase (or phases) it relates to as set out in the approved phasing plan.

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

23. Prior to the commencement of the development hereby approved, including any demolition, and any works of site clearance, a method statement which ensures a minimum of 20% biodiversity net gain within the development site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the biodiversity enhancement measures shall be carried out and retained in accordance with the approved details.

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

24. No reserved matters applications shall be made or development commenced until a Design Code for the site has been produced in accordance with Condition 25 and following consultation with the Local Planning Authority and other stakeholders, and has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved Design Code.

Reason - A Design Code, is required at the beginning of the development process to ensure that the subsequent reserved matters applications are considered and determined by the Local Planning Authority in the context of an overall approach for the site consistent with the requirements to achieve high quality design as set out in the Environmental Statement and the adopted Cherwell Local Plan 2011-2031 and Government guidance within the National Planning Policy Framework.

25. The Design Code shall include,

- a. the character, mix of uses and density of each character area identified, to include the layout of blocks and the structure of public spaces
- b. the character and treatment of the structure planting to the development areas
- c. guidance of surface water control including design standards and methodology for sustainable drainage systems, detail of specific features and constraints, including appropriate options for SUDs features, considerations for implementing during construction, and adoption requirements
- d. the building height, scale, form, design features and means of enclosure that will form the basis of the character of each phase, sub-phase or parcel
- e. the street form and hierarchy and the features that will be used to restrict traffic speeds and create legibility and requirements for street furniture
- f. the approach to car parking and cycle parking within the phases, subphases and parcels and the level of car and cycle parking within each phase to be provided to serve the proposed uses
- g. the materials to be used within each character area
- h. the treatment of any hedge or footpath corridors and retained trees and woodlands and local areas of play within each phase, sub phase or parcel
- i. the measures to be incorporated to protect the amenities of the occupiers of existing properties adjacent to the site measures to be incorporated into the development to ensure all properties have convenient locations for individual waste and recycling bins
- k. lighting proposals

Reason - A Design Code, is required at the beginning of the development process to ensure that the subsequent reserved matters applications are considered and determined by the Local Planning Authority in the context of an overall approach for the site consistent with the requirements to achieve high quality design as set out in the Environmental Statement and the Adopted Cherwell Local Plan 2011-2031 and Government Advice within the National Planning Policy Framework.

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**OS Parcel 3489 Adjoining And South West Of B4011, Allectus Avenue, Ambrosden**

The Committee considered application 22/01976/OUT, an outline application for a residential development of up to 75 dwellings including bungalows; open spaces (including children's play space); community woodland and other green space; new vehicular and pedestrian access off Blackthorn Road; and associated landscaping, earthworks, parking, engineering works, demolition, and infrastructure at OS Parcel 3489 Adjoining and South West of B4011, Allectus Avenue, Ambrosden for Hallam Land Management.

Lawrence Dungworth representing the applicant Hallam Land Management and Dawn Seaworth speaking on behalf of Ambrosden Parish Council addressed the committee in support of the application.

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

### **Resolved**

- (2) Delegate to the Assistant Director for Planning and Development to grant permission, subject to:
- iii) The following conditions (and any amendments to those conditions as deemed necessary) and:
  - iv) The completion of a planning obligation under Section 106 of the Town and Country Planning Act, as substituted by the Planning and Compensation Act 1991, to secure obligation including contributions and the infrastructure identified below and in the annex to the Minutes (as set out in the Minute Book) (and any amendments to those obligations as deemed necessary)

#### *Cherwell District Council (all contributions will be index linked)*

- Provision of and commuted sum for maintenance of open space (including informal open space, mature trees, hedgerows, woodland. SUDS etc) or details of long term management provisions in accordance with the Policy BSC11 of the CLP
- Provision of a Local Equipped Area of play and commuted sum for maintenance or details of other management provisions
- £106 per dwelling for bins – WASTE
- Affordable housing provision – 35% (up to 27 units)
- CDC monitoring fee

#### *Oxfordshire County Council*

- Public transport contribution of £96,305 equated at £1,133 per dwelling for the provision of bus services in Ambrosden
- Public Rights of Way of £25,000 to mitigate the impact to the PROW in the vicinity of the site.
- Delivery of a public footway to connect to the existing footway provision at Allectus Avenue via Church Leys Field to enable appropriate pedestrian access to the village.
- Obligation to enter into a S278 agreement to secure:
  1. New site access Blackthorn Road and as shown on drawing 001 Rev P9 with a visibility splay of 2.4m x 120m
  2. New 3m wide footway as shown on drawing 001 Rev P9
  3. Realignment of existing kerbline over a distance of approximately 83m to accommodate shared footway / cycleway as shown on drawing 001 Rev P9.
  4. Relocation of speed limit terminal signs and village entry feature

5. Provision of the bridleway/cyclepath to link with Bridleway (105/6/20) and details of how this will be facilitated and constructed to adoptable standards
6. Street lighting to be agreed in line with the agreed highway boundary.
  - £598,266 towards secondary education capacity and £63,144 towards secondary school land contribution for secondary school places
  - secondary school places in Bicester to ensure adequate secondary school provision
  - £44,871 towards special school contribution to be spent on expansion of SEN school capacity to ensure adequate SEN provision.
  - £7,047 contribution towards expansion and efficiency of Household Waste Recycling Centres as existing facilities at capacity and to provide additional capacity.
  - Monitoring Fee

#### Other

- OCCG group have been consulted and stated that there are significant capacity issues serving the area. They have stated there are insufficient consulting rooms to cope with increased population. They have requested a contribution to support capital projects associated with either local plans for surgery alterations or support patient services (£360 per person – circa 180 people).

#### **Conditions**

##### **Time Limit**

1. Application for approval of all the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission and the development hereby permitted shall be begun either before the expiration of three 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).

### **Compliance with Plans**

3. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the application form and the following plans and documents:  
Drawing HLM 034/022 Rev D, HLM 034/002 Rev M, HLM 034/024 Rev E, 21297\_SK\_T\_P4\_003 P5 and 001 Rev P9.

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.

### **Levels**

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

Reason: To secure an acceptable standard of development that safeguards the visual amenities of the area and the living conditions of existing and future occupiers and to ensure compliance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and government guidance within the National Planning Policy Framework.

### **Contamination**

5. 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.

6. If contamination is found by undertaking the work carried out under condition 5, prior to the commencement of the development hereby

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

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

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

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

## **Drainage**

8. As part of any application for reserved matters relating to layout, a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall not be implemented other than in accordance with the approved details and shall be implemented before the development is completed. It shall thereafter be managed in accordance with the approved details. The scheme shall also include:
  - 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;
  - A Flood Exceedance Conveyance Plan;
  - Comprehensive infiltration testing across the site to BRE DG 365 (if applicable)
  - Detailed design drainage layout drawings of the SuDS proposals including cross-section details;
  - Detailed maintenance management plan in accordance with Section 32

of CIRIA C753 including maintenance schedules for each drainage element, and; Details of how water quality will be managed during construction and post development in perpetuity;

- Confirmation of any outfall details.
- Consent for any connections into third party drainage systems

Reason: To ensure that sufficient capacity is made available to accommodate the new development and in order to avoid adverse environmental impact upon the community and to ensure compliance with Policy ESD 6 and 7 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance within the National Planning Policy Framework.

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

Reason: In order to avoid adverse environmental impact upon the community and to ensure compliance with Policy ESD 6 and 7 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance within the National Planning Policy Framework.

## **Archaeology**

10. Prior to any demolition and the commencement of the development 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 Government guidance within the National Planning Policy Framework.

11. Following the approval of the Written Scheme of Investigation referred to in condition 10, and prior to any demolition on the site and the commencement of the development (other than in accordance with the agreed Written Scheme of Investigation), a staged programme of archaeological evaluation and 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 and approved in writing.

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.

### **Environmental Protection**

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

Reason: To ensure the development provides a good standard of amenity for future residents in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in the National Planning Policy Framework.

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

Reason: To ensure the development protects and enhances biodiversity and the natural environment in accordance with the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in the National Planning Policy Framework.

### **Natural Environment**

14. As part of any reserved matters for layout, an Arboricultural Method Statement (AMS), undertaken in accordance with BS:5837:2012 and all subsequent amendments and revisions shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, all works on site shall be carried out in accordance with the approved AMS. Details must include:
  - A management proposal is created for the groups in order to improve their visual contribution, and longevity, particularly when forming a screen between existing properties and the development.

- Space is afforded to the hedges/groups in order to allow future access for maintenance, and reduce likelihood of both above and below ground impact with proposed dwellings.
- Consideration is given to shading arcs where properties sit to the north of retained trees/hedges.
- A finalised plan to incorporate and improve retained groups/hedges surrounding the residential development, and community woodland/green space area to the north.
- Detailed planting plans for the community woodland/green space.

Reason: To protect the existing trees and hedgerows on site and in the interests of visual amenities of the area to ensure the creation of a pleasant environment for the development and to accord with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in the National Planning Policy Framework.

15. A scheme for the community woodland shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of the development. The scheme shall include the provision of a network of routes and their proposed surface treatment, a planting schedule, programme for implementation and areas of interest for people to dwell, including picnic areas.

The community woodland shall be implemented in accordance with the approved scheme and shall thereafter be retained as such for the lifetime of the development.

Reason: In the interests of biodiversity enhancement and visual amenity in accordance with Policies ESD10, ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in the National Planning Policy Framework.

## Highways

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

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

17. Prior to the commencement of the development hereby approved, full details of the improvements to footpaths including, position, layout, construction, drainage, vision splays and a timetable for the delivery of the improvements shall be submitted to and approved in writing by the

Local Planning Authority. Thereafter, the works shall be constructed and retained in accordance with the approved details.

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

18. Prior to first occupation a Residential Travel Plan and Residential Travel Information Pack should be submitted to the Local Planning Authority for approval.

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.

19. Prior to commencement of the development hereby approved; a construction traffic management plan shall be submitted to and approved by the Local Planning Authority. The CTMP will need to incorporate the following in detail and throughout development the approved plan must be adhered to

- The CTMP must be appropriately titled, include the site and planning permission number.
- Routing of construction traffic and delivery vehicles is required to be shown and signed appropriately to the necessary standards/requirements. This includes means of access into the site.
- Details of and approval of any road closures needed during construction.
- Details of and approval of any traffic management needed during construction. Details of wheel cleaning/wash facilities – to prevent mud etc, in vehicle tyres/wheels, from migrating onto adjacent highway.
- Details of appropriate signing to accord with 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.

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 and to accord with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in the National Planning Policy Framework.

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

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

## **Water**

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

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

## **Ecology**

22. Where an offence under Regulation 41 of the Habitat and Species Regulations 2010 is likely to occur in respect of the development hereby approved, no works of site clearance, demolition or construction shall take place which are likely to impact on Great Crested Newts until a licence to affect such species has been granted in accordance with the

aforementioned Regulations and a copy thereof has been submitted to the Local Planning Authority.

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.

23. No development shall commence including any demolition, and any works of site clearance, unless and until a method statement and scheme for enhancing biodiversity on site such that an overall net gain for biodiversity is achieved, to include details of enhancement features and habitats both within green spaces and integrated within the built environment, has been submitted to and approved in writing by the Local Planning Authority, which shall accompany any reserved matters application for layout and landscaping. This shall also include a timetable for provision. Thereafter, the biodiversity enhancement measures shall be carried out in accordance with the approved details and shall be retained as such thereafter in accordance with the approved details.

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

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

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

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

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

## **Sustainability**

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

Reason: To encourage the use of renewable and low carbon energy in accordance with Policy ESD5 of the Cherwell Local Plan 2011-2031 Part 1.

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

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

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

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

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**Land To The Rear Of No.12 And South Of Dismantled Railway, Heath Close, Milcombe, OX15 4RZ**

The Committee considered application 22/02104/F, for the erection of 35 two storey dwelling houses, construction of access off Rye Hill, together with garaging, parking, open space with LAP, landscaping and all enabling works at Land to the Rear of No.12 and South of Dismantled Railway, Heath Close, Milcombe, OX15 4RZ for Stoic Roofing and Construction and Abbeymill Homes.

In introducing the application, the Planning Officer referred to the published written update which set out that the applicant had submitted a legal opinion on the committee report and the recommendation to Committee had therefore

been amended and it was recommended that the application be deferred to allow legal advice to be sought.

It was proposed by Councillor Reynolds and seconded by Councillor Clarke that consideration of application 22/02104/F be deferred for one planning cycle so legal advice could be obtained by the council.

**Resolved**

That consideration of application 22/02104/F be deferred for one Planning Committee cycle to allow the council to obtain legal advice on a legal opinion submitted by the applicant on the officer committee report.

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**OS Parcel 5616 South West Of Huscote Farm And East Of Daventry Road, Banbury**

The Committee considered application 22/01488/OUT, an outline application for the construction of up to 140,000 sqm of employment floorspace (use class B8 with ancillary offices and facilities) and servicing and infrastructure including new site accesses, internal roads and footpaths, landscaping including earthworks to create development platforms and bunds, drainage features and other associated works including demolition of the existing farmhouse at OS Parcel 5616 South West Of Huscote Farm and East Of Daventry Road, Banbury for Greystoke CB.

Lisa Phipps, local resident and also on behalf of CPRE and Banbury Civic Society, addressed the committee in objection to the application.

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

**Resolved**

(1) That the Committee resolved to confirm that, had the power to determine application 22/01488/OUT continued to rest with them, application 22/01488/OUT would be refused for the following reasons:

1. The proposal is located on an unallocated site and development would represent an urbanising form of development which by reason of its location and proposed land use would result in a cluster of large warehouse buildings poorly related to Banbury that would result in a harmful visual intrusion of development into the landscape and open countryside and would therefore result in harm to the rural character, appearance and quality of the area. This identified harm would significantly and demonstrably outweigh the benefits of the proposal. Development would therefore fail to accord with Cherwell Local Plan 2011-2031 Part 1 policies ESD10, ESD13 and ESD15 and Cherwell Local Plan 1996 saved policies C7, C8 and EMP4, and with national policy guidance given in the National Planning Policy Framework (NPPF) (2021).

2. The proposed development would be sited in a geographically unsustainable location with poor access to services and facilities and therefore future employees would be highly reliant on the private car to access their workplace, which would not reduce the need to travel and would result in increased car journeys and hence carbon emissions. The proposed development would therefore conflict with policies PSD1, SLE4 and ESD1 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in the National Planning Policy Framework. This identified harm would significantly and demonstrably outweigh the benefits associated with the proposed development and therefore the development does not constitute sustainable development when assessed against the National Planning Policy Framework as a whole.
3. The appeal site is located in an unsustainable location for cycling and walking. The proposal is therefore contrary to policies SLE1 and SLE4 contained within the Cherwell Local Plan 2011-2031 Part 1 (CLP 2031 Part 1), saved policy TR1 contained within the Cherwell Local Plan 1996 (CLP 1996) and Government guidance within the National Planning Policy Framework.
4. The proximity of the access roundabout to M40 Junction 11 is likely to lead to severe congestion and potential safety issues arising from queuing on the M40 off slip. The proposal is therefore contrary to policies SLE1 and SLE4 contained within the Cherwell Local Plan 2011-2031 Part 1 (CLP 2031 Part 1), saved policy TR1 contained within the Cherwell Local Plan 1996 (CLP 1996) and Government guidance within the National Planning Policy Framework.
5. Any further development around Junction 11 of the M40 will add to the severe congestion and air quality problems on the A422, particularly along Hennef Way. This development does not demonstrate how it would mitigate its impact on these issues through adequate sustainable travel connections or by highway improvements. The proposal is therefore contrary to policies SLE1 and SLE4 contained within the Cherwell Local Plan 2011-2031 Part 1 (CLP 2031 Part 1), saved policies TR1 and ENV7 contained within the Cherwell Local Plan 1996 (CLP 1996) and Government guidance within the National Planning Policy Framework.
6. Safe and suitable operation of affected highway junctions has not been demonstrated by the use of a suitable analysis tool. It has been agreed with the Appellant's transport consultant and National Highways that microsimulation modelling (such as VISSIM) is required to accurately represent the flow of vehicles at all primary local junctions and the interaction between them. Without such analysis and resultant appropriate mitigation, the proposal is contrary to policies SLE1, SLE4 and INF1 contained within the Cherwell Local Plan 2011-2031 Part 1 (CLP 2031 Part 1), saved policy TR1 contained within the Cherwell Local Plan 1996 (CLP 1996) and Government guidance within the National Planning Policy Framework.



7. It has not been demonstrated that a signalised crossing of the A361 Daventry Road for pedestrians and cyclists may be incorporated at a safe and suitable location, and the associated access into the site has not been indicated. The proposal is therefore contrary to policies SLE1 and SLE4 contained within the Cherwell Local Plan 2011-2031 Part 1 (CLP 2031 Part 1), saved policy TR1 contained within the Cherwell Local Plan 1996 (CLP 1996) and Government guidance within the National Planning Policy Framework.
8. The site is located immediately west of an existing Air Quality Management Zone and the proposal fails to adequately assess or mitigate against air quality matters as a result of increased vehicle movements associated with the development. The proposal is therefore contrary to policies SLE1, SLE4 and ESD1 contained within the Cherwell Local Plan 2011-2031 Part 1 (CLP 2031 Part 1), saved policies TR1 and ENV7 contained within the Cherwell Local Plan 1996 (CLP 1996) and Government guidance within the National Planning Policy Framework.
9. The proposal fails to assess the potential economic impact upon Banbury, specifically the attractiveness of Banbury town centre and the edge of town retail and employment centres as a result of additional traffic and congestion on the strategic and local highway network rendering Banbury a less sustainable location. The proposal is therefore contrary to policies SLE1 and SLE2 contained within the Cherwell Local Plan 2011-2031 Part 1 (CLP 2031 Part 1), saved policy TR1 contained within the Cherwell Local Plan 1996 (CLP 1996) and Government guidance within the National Planning Policy Framework.
10. The proposal lacks detail and information relating to the drainage of the site and is therefore contrary to Oxfordshire County Council's published guidance "Local Standards and Guidance for Surface Water Drainage on Major Development in Oxfordshire" and policies ESD6 and ESD7 of the adopted Cherwell Local Plan 2015 and Government guidance within the National Planning Policy Framework.
11. The application has failed to demonstrate through the lack of submission of a Landscape and Visual Impact Assessment that the proposals on this prominent site would not cause substantial landscape harm to the undeveloped rural character and appearance of the site when viewed from Public Rights of Way in the surrounding countryside. As such, the proposal is contrary to policies ESD10, ESD13 and ESD15 contained within the Cherwell Local Plan 2011-2031 Part 1 (CLP 2031 Part 1) and Government guidance within the National Planning Policy Framework.
12. The proposal has failed to adequately assess the site's archaeology and consequently the development may cause harm to significant archaeological remains and in the absence of any evaluation it is not possible for the Council to reach an informed decision on this issue. The proposal is therefore contrary to policy ESD 15 of the Cherwell Local

Plan 2011-2031 and paragraph 128 of the National Planning Policy Framework.

13. The proposal has failed to adequately demonstrate that development would not harm existing flora and fauna and ecological mitigation would successfully deliver a 10% net gain in biodiversity or protection, enhancement and connectivity with the local green infrastructure network. As such the proposal fails to accord with policies ESD10 and ESD17 of the Cherwell Local Plan 2011-2031, saved policies C1 and C2 within the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.
14. In the absence of an appropriate protected species survey, the welfare of protected species has not been adequately addressed in accordance with article 12(1) of the EC Habitats Directive. The Local Planning Authority cannot therefore be satisfied that protected species will not be harmed by the development and as such the proposal does not accord with policy ESD10 of the Cherwell Local Plan 2011-2031, saved policies C1 and C2 within the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.
15. In the absence of a satisfactory Section 106 legal agreement, the Local Planning Authority is not satisfied that the proposed development provides for appropriate infrastructure contributions required as a result of the development and necessary to make the impacts of the development acceptable in planning terms, to the detriment of both existing and proposed residents and workers and contrary to policy INF 1 of the Cherwell Local Plan 2015, CDC's Planning Obligations SPD 2018 and Government guidance within the National Planning Policy Framework.

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### **Recreation Ground, Keble Road, Bicester, OX26 4UX**

The Committee considered application 22/02491/CDC for the demolition of the existing Bicester East Community Centre and construction of a new community hall, 6no. dwelling and car parking. Removal of Public Telephone Kiosk and repositioning of footpath at Recreation Ground, Keble Road, Bicester, OX26 4UX for Cherwell District Council.

Linda Burn, Local Resident, addressed the committee in objection to the application.

In reaching its decision the Committee considered the officers report, presentation and address by the public speaker.

### **Resolved**

- (1) That permission be granted for application 22/02491/CDC subject to the following conditions.

## Conditions

### Time Limit

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

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

2. No development shall commence on the dwellings hereby approved until the new community centre is constructed and operational.

Reason: The proposed dwellings are only considered acceptable in principle to facilitate the provision of the new community centre.

### Compliance with Plans

3. 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 - Covering letter - Design and Access Statement (Version 2) dated December 2022
  - Drawing number 5046/G/20/001 Rev P2 – [Location Plan]
  - Drawing number 5046/G/20/003 Rev P3 – [Proposed Site Plan]
  - Drawing number 5046/G/20/004 Rev P1 – [Proposed Plans Plots 1 & 2]
  - Drawing number 5046/G/20/005 Rev P1 – [Proposed Plans Plots 3 & 4]
  - Drawing number 5046/G/20/006 Rev P1 – [Proposed Plans Plots 5 & 6]
  - Drawing number 5046/G/20/007 Rev P1 – [Proposed Plots 1-6 Street Scene]
  - Drawing number 5046/G/20/008 Rev P1 – [Community Hall – Proposed Plans]
  - Drawing number 5046/G/20/009 Rev P0 – [Community Hall – Proposed 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.

### General Conditions

4. 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.

5. Prior to commencement of the development, an arboricultural method statement (in line with BS58737:2012) setting out protective measures and working practices to ensure the protection of retained trees (T1, T2, T6, T13 and T16 as identified within the Arboricultural Impact Assessment), 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.

6. All hard-standing areas (including parking 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.

7. Details of any external lighting/security lighting/floodlighting including the design, position, orientation, and any screening of the lighting shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of those works. The lighting shall be installed and operated in accordance with the approved scheme at all times thereafter.

Reason: To protect the amenities of nearby residents and to comply with Policy ESD15 of the Cherwell Local Plan 2015, Saved Policies C28 and C30 of the Cherwell Local Plan 1996.

#### **Conditions relating to the Community Centre**

8. A schedule of materials and finishes to be used in the external walls and roof of the community centre building shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of

those works on the community centre building. The development shall thereafter be completed in accordance with the approved details.

Reason: To ensure that the materials are appropriate to the appearance of the locality and to ensure the satisfactory appearance of the completed development in accordance with Policy ESD15 of the Cherwell Local Plan 2011 2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

9. Prior to the first use of the community centre 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 use of the community, 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.

10. Prior to the first use of the community centre building hereby permitted, covered cycle parking facilities shall be provided on the site in accordance with details which shall be firstly submitted to and approved in writing by the Local Planning Authority. Thereafter, the covered cycle parking facilities shall be permanently retained and maintained for the parking of cycles in connection with the development.

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

11. Full details of the enclosures along all boundaries of the community centre shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of those works. Such approved means of enclosure shall be constructed and retained in accordance with the approved details prior to the first use of the building.

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

### **Conditions relating to the Dwellings**

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

the dwellings. 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.

13. Prior to the first use or occupation of the dwellings hereby permitted, secure cycle parking facilities shall be provided for each dwelling in accordance with details which shall be firstly submitted to and approved in writing by the Local Planning Authority. Thereafter, the secure cycle parking facilities shall be permanently retained and maintained for the parking of cycles in connection with the development.

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

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

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

15. Full details of the enclosures along all boundaries of the dwellings shall be submitted to and approved in writing by the Local Planning Authority before the dwelling hereby approved reaches slab level and such means of enclosure shall be erected prior to the first occupation of the dwelling.

Reason: To ensure the satisfactory appearance of the completed development, to safeguard the privacy of the occupants of the existing and proposed dwellings and to comply with Policy ESD15 of the Cherwell Local Plan 2015, Saved Policies C28 and C30 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

130 **277 Warwick Road, Banbury, OX16 1AU**

The Committee considered application 22/02517/F for Formation of means of access and associated dropped kerb at 277 Warwick Road, Banbury, OX16 1AU for Mr Willow Hobbs.

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

## **Resolved**

- (1) That permission be granted for application 22/02517/F subject to the following conditions.

## **Conditions**

### **Time Limit**

1. 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 Purchases Act 2004.

### **Compliance with Plans**

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the application forms and the following plans and documents: Site Location Plan; P03; and the Arboricultural Statement produced by LandArb Solutions.

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.

### **Parking Area**

3. Prior to the first use of the access hereby approved, the parking area shall be provided in accordance with the plan approved (Drawing No. PO3) and notwithstanding shall be constructed from porous materials or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the site. Thereafter, the parking and manoeuvring areas shall be retained in accordance with this condition and shall be unobstructed except for the parking of vehicles at all times.

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

### **Root Protection**

4. Prior to the commencement of the works to form the new access track, an Arboricultural Statement (AMS), undertaken in accordance with

BS:5387:2012 and all subsequent amendments and revisions shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, all works on site shall be carried out in accordance with the approved AMS.

Reason – To ensure the continued health of retained tree and to ensure that they are not adversely affected by the constructions work. In the interests of the visual amenity of the area, to ensure the integration of the development into the existing landscape and to comply with policies ESD15 of the Cherwell Local Plan 20112031 Part 1, saved Policy C28 of the Cherwell Local Plan 1966 and Government Local Guidance contained within the National Planning Policy Framework.

131 **Appeals Progress Report**

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

**Resolved**

- (1) That the position statement be accepted.

The meeting ended at 7.02 pm

Chairman:

Date:



## CHERWELL DISTRICT COUNCIL

Planning Committee – 09 March 2023

### 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>
<b>8</b>	Land North West Bicester Home Farm, Lower Farm and SRG2 Caversfield	21/01630/OUT	Bicester North and Caversfield	Approve	Caroline Ford
<b>9</b>	Land Used For Motocross, Stratford Road, A422, Wroxton, OX15 6HX	21/00517/F	Cropredy, Sibfords & Wroxton, Banbury Ruscote	Approve	Gemma Magnuson
<b>10</b>	OS Parcel 1570 Adjoining And West Of Chilgrove Drive And Adjoining And North Of Camp Road, Heyford Park	21/04289/OUT	Fringford and Heyfords	Approve	Katherine Daniels
<b>11</b>	Os Parcel 0006 Adjoining North Side Of Ells Lane, Bloxham	23/00065/OUT	Adderbury, Bloxham and Bodicote	Refuse	Nathanael Stock
<b>12</b>	Kidlington Garage, 1 Bicester Road, Kidlington, OX5 2LA	22/00017/F	Kidlington East	Approve	Thomas Webster
<b>13</b>	Windrush Surgery, 5A Bradley Arcade, Bretch Hill, Banbury, OX16 0LS	22/03821/F	Banbury Ruscote	Approve	Michael Sackey
<b>14</b>	4 Grimsbury Square, Banbury, OX16 3HX	22/03180/F	Banbury Grimsbury and Hightown	Approve	Jordan Campbell

\*Subject to conditions

**21/01630/OUT**

Agenda Item 8

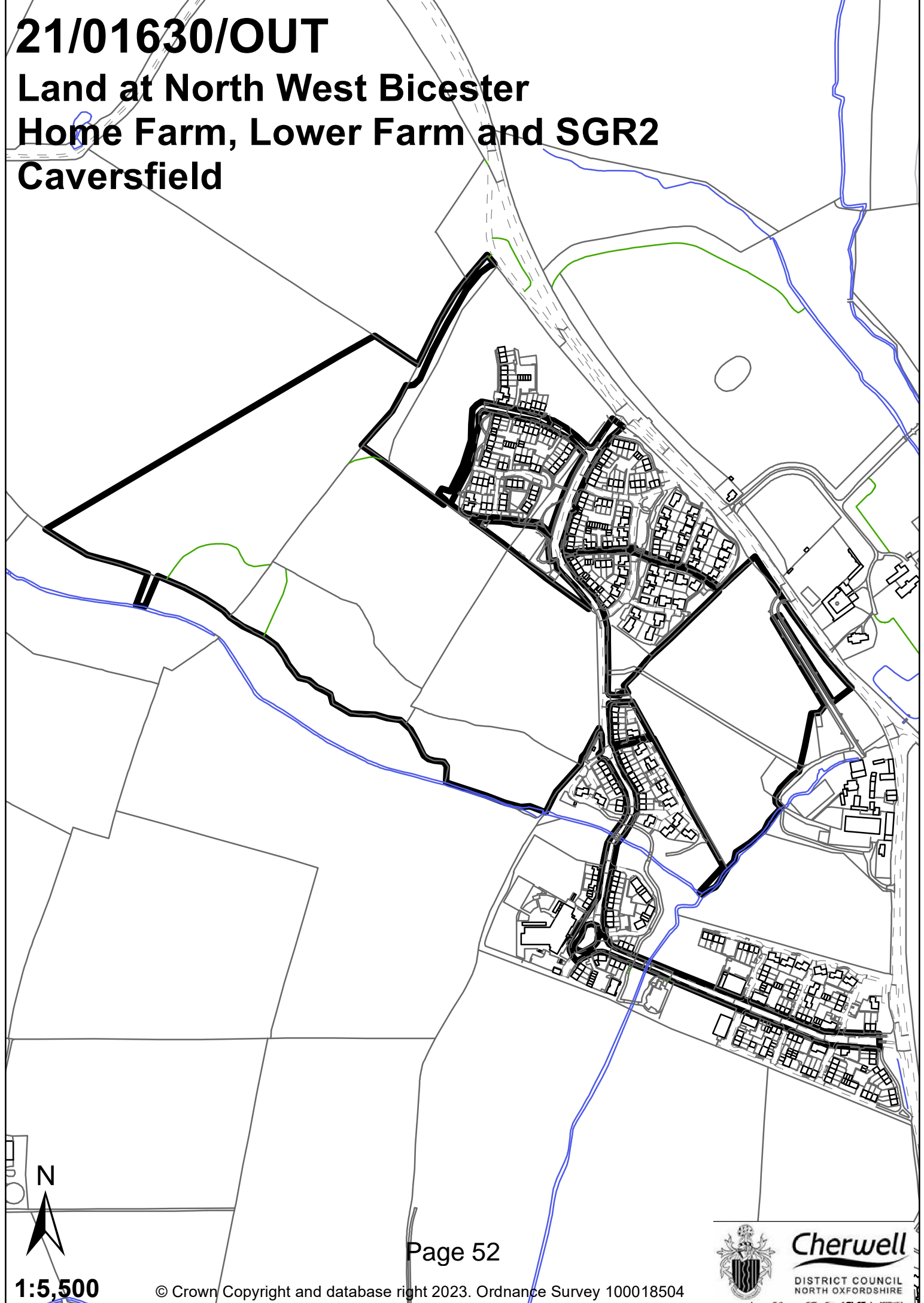
**Land at North West Bicester  
Home Farm, Lower Farm and SGR2  
Caversfield**



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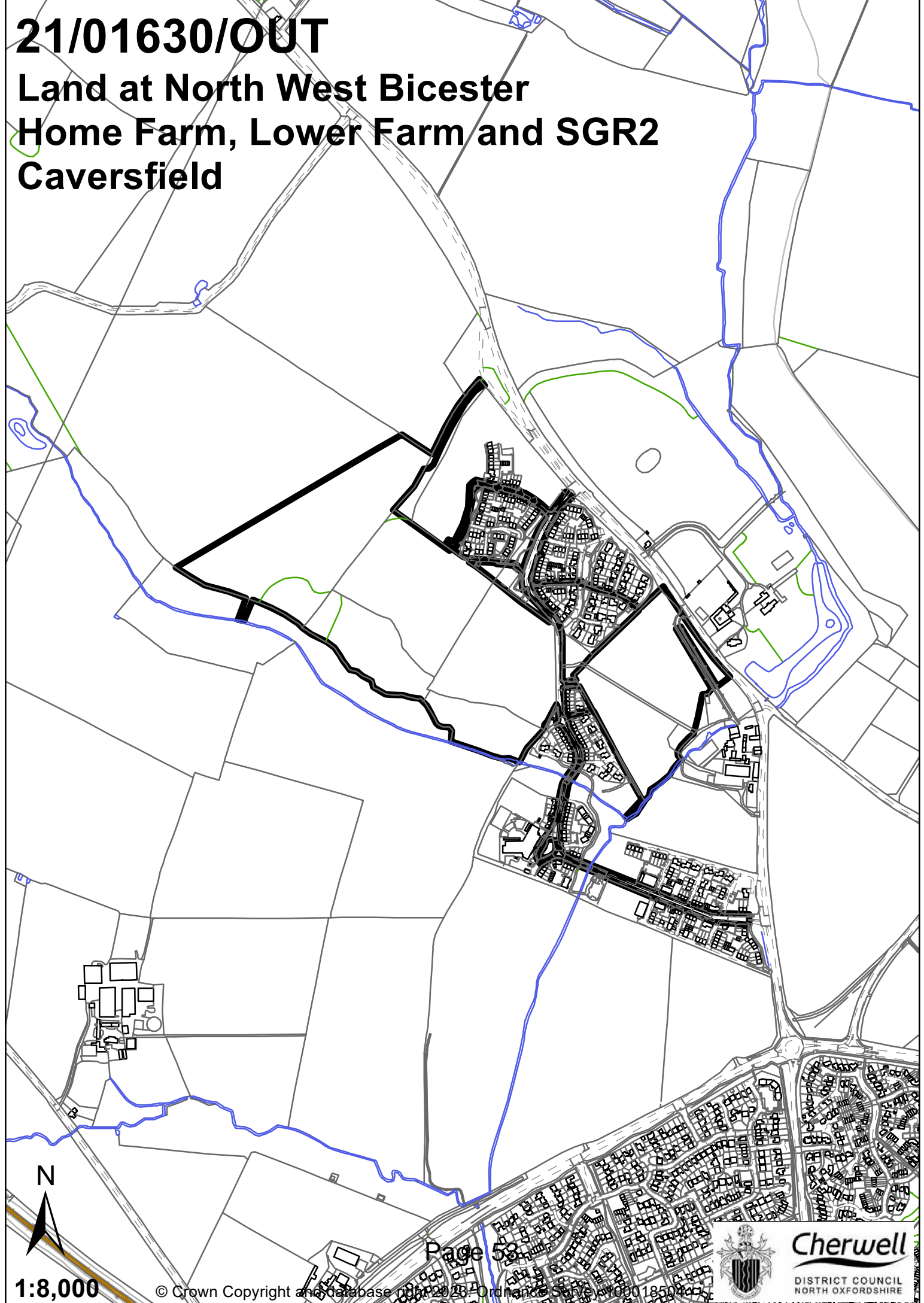
# 21/01630/OUT

## Land at North West Bicester Home Farm, Lower Farm and SGR2 Caversfield



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# APPEAL AGAINST NON-DETERMINATION

**Land at North West Bicester Home Farm, Lower Farm  
and SGR2 Caversfield**

**21/01630/OUT**

**Case Officer:** Caroline Ford

**Applicant:** Firethorn Developments Ltd

**Proposal:** Outline planning application for up to 530 residential dwellings (within Use Class C3), open space provision, access, drainage and all associated works and operations including but not limited to demolition, earthworks, and engineering operations, with the details of appearance, landscaping, layout, and scale reserved for later determination

**Ward:** Bicester North and Caversfield

**Councillors:** Cllr Mawer, Cllr Pratt, and Cllr Slaymaker

**Reason for Referral:** Major development

**Expiry Date:** 16 January 2023

**Committee Date:** 09 March 2023

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On the 31 January 2023, an appeal against the non-determination of the above application was lodged. A start date has now been received and the Public Inquiry is scheduled for June 2023. In light of the dates relating to the appeal, Officers require the Committee to confirm how they would have resolved to determine the application, and to set the scope of delegated powers for Officers to deal with the upcoming appeal.

**SUMMARY OF RECOMMENDATION: THAT THE COMMITTEE CONFIRM THAT THEY WOULD HAVE RESOLVED TO APPROVE THE APPLICATION SUBJECT TO:**

- i. THE COMPLETION OF VIABILITY DISCUSSIONS,
- ii. THE COMPLETION OF A S106 AND
- iii. A SET OF PLANNING CONDITIONS

**IN ORDER TO RESPOND TO THE PLANNING APPEAL, OFFICERS SEEK DELEGATION TO DEAL WITH THE UPCOMING APPEAL TO ACHIEVE WHAT COMMITTEE WOULD HAVE DONE SHOULD THEY HAVE BEEN ABLE TO DETERMINE THE APPLICATION (AS SUMMARISED ABOVE – THE FULL RECOMMENDATION IS SET OUT BELOW).**

The report which follows is an updated version of the report included on the Planning Committee agenda for the 12 January 2023 which was deferred at that meeting. It includes the written updates from that meeting and presents a set of conditions and heads of terms which would form the basis for continuing discussions with the appellant team.

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

- 1.1. The application site is situated to the North West of Bicester and comprises land extending to 23.97ha in area split across two separated parcels of land. However this is extended to 24.2594ha to include two construction accesses to the east of the site. The site forms part of the land allocated by Policy Bicester 1 and it is within the Masterplan for NW Bicester. The two separated parcels of land relate to:
  - An eastern parcel extending to approximately 4.68ha
  - A western parcel extending to approximately 15.962ha
- 1.2. The red line site area also includes access to the site meaning that the adopted highway of Charlotte Avenue and Braeburn Avenue are also included within the red line which would be utilised as existing accesses. Both roads are currently not adopted.
- 1.3. The site is characterised as predominantly grassland with fields bounded by hedges with some large trees, woodland and plantation, and is classified as good to moderate value (primarily Grade 3b) under the Agricultural Land Classification system. The west of the Site contains two distinct areas of woodland, and the most northern area of woodland contains a dry pond. There is a historic hedgerow which runs along the north-eastern border of the Site.
- 1.4. To the west and south are principally other areas of the site allocation for North West Bicester Eco-Town which are generally included within the site subject to consideration currently – 21/04275/OUT. Bucknell sits to the west of the site.
- 1.5. To the southeast is the Home Farm Farmhouse complex which also contains various business uses. Caversfield is further beyond to the southeast.
- 1.6. The A4095 and residential areas on the southern side of this road as part of Bicester are to the south.
- 1.7. To the east is the exemplar development as part of NorthWest Bicester Eco Town and beyond this the B4100 and St Lawrence Church. Other elements of the first phases of the Eco Town which include Elmsbrook Forest School and Gagle Brook Primary School, an Eco Business Centre and a community hall which is currently under construction are also located to the south of the application site with residential properties off Charlotte Avenue.
- 1.8. To the north, beyond the application site, is Caversfield House and then agricultural fields which are outside the current allocation.
- 1.9. The Site is undulating rising gradually to the north west with boundaries principally hedgerows which comprise a range of species and quality. The site includes the existing woodland (to be retained as part of the proposals). The highest elevation in the western parcel is approximately 92 m above ordinance datum (AOD) towards the north and the lowest elevation is approximately 85 m AOD to the south east. The eastern parcel slopes in a south easterly direction with ground levels falling from approximately 91 m AOD to approximately 83 m AOD.

## **2. CONSTRAINTS**

- 2.1. The application site is within the North West Bicester Allocated Housing site. There are watercourses running through the south of the western parcel and in a north south direction to the east of the eastern parcel and this area also comprises areas of flood

zones 2 and 3. The Grade II\* listed Church of St Lawrence is situated to the north east and the Grade II listed Home Farmhouse to the east. The land has some potential for ecology and is potentially contaminated. A public right of way is located to the north of the site running in an east-west orientation. Assessments with regard to each of these constraints are contained within the appraisal of this report.

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

- 3.1. For an outline planning application where EIA is required, the description of the development must be sufficient to enable the requirements of the EIA Regulations to be fulfilled, and in particular, to enable the potential significant effects of the development to be identified.
- 3.2. The Development comprises up to 530 residential units (Use Class C3). The range of residential accommodation within the Development may extend from one-bedroom apartments to five bedroomed detached houses, and all formats in between and will include private and affordable homes.
- 3.3. The application is made in outline with all matters reserved apart from access. Details are provided for the four main vehicular access points. The applicant has submitted a series of 'Development Parameters' for assessment which outline the areas for built development and maximum building heights, green space and access (beyond the main access points). An outline planning application is a common application type, particularly for major development proposals. It allows for a decision on the general principles of how a site can be developed with this followed by the requirement for one or more 'reserved matters' should outline permission be granted.
- 3.4. The applicant submits that the Development Parameters detail all the limits necessary to define and fix those aspects of a development capable of having significant environmental effects. This will enable planning conditions to be drawn up and agreed to control the implementation of the Development.
- 3.5. The Development Parameters (updated by the applicant on 16 December 2022) are considered by the applicant to include:
  - Location Plan (ref: 1190-001 Rev J)
  - the location and types of land use including access; and
  - the maximum heights of development as maximum metres Above Ordnance Datum (AOD).
  - the parameter plans – these being:
    - Development Parameter Plan 1: Maximum building heights and footprint (ref: 1192-003 Rev N)
    - Development Parameter Plan 2: Green Space (ref: 1192-003 Rev N)
    - Development Parameter Plan 3: Access and Movement (ref: 1192-003 Rev M)
- 3.6. The majority of the Development will be up to 12m above ground level however parts (primarily at the area in the centre of the site on the principal access road) will comprise buildings with a maximum height of 14 metres above ground level (up to three storeys). Ground levels at the Site are not expected to require extensive remodelling and therefore a 2m variation has been included on the submitted building heights and footprint parameter plan. The applicant considers that taller buildings along the public transport route of Braeburn Avenue in the context of the framework



masterplan to increase density and meet the perceived and expected requirements of occupiers in these locations would be appropriate.

- 3.7. Access will be provided into the eastern and western parcel of the Development from four highway connection points, as shown on the submitted plans from existing roads serving Elmsbrook. Pedestrian and cycle connections will be provided at each of the vehicular access points and opportunities for additional connections are allowed for. Safe and attractive environments for walking and cycling will be provided to encourage local journeys to be made sustainably.
- 3.8. The Development includes greenspace as shown on the submitted Green space Parameter Plan. It is stated by the applicant that green space, including retained vegetation, buffers and the landscape and visual mitigation zone will comprise a minimum of 40% of the Site area when the Development is complete. The greenspace is stated to include private gardens (albeit these would be in addition to the 40% requirement), landscaping, and structural planting; drainage; ecological and natural areas; parkland; formal and informal recreation areas; orchards and edible landscapes; allotments; equipped and non-equipped play areas; wetlands and watercourses, water features; flood risk management areas; and natural areas.
- 3.9. In respect of Drainage the applicant notes that the majority of the Site is located within Flood Zone 1 and subsequently at low risk of fluvial and tidal flooding however a small portion of the Site (along the eastern boundary of the eastern parcel) lies within the extents of Flood Zone 2 (at medium risk of flooding) and Flood Zone 3 (at high risk of flooding), associated with Town Brook. The Development Parameters include flood attenuation areas within the green spaces as shown on Multi-Functional Greenspace Parameter Plan. Opportunities for sustainable drainage will be maximised across the Development and the existing topography and proposed landscape corridors provide an opportunity to create a system of swales and ponds to mitigate surface water.
- 3.10. The applicant highlights that the adoption of controlled lighting and implementation of a lighting strategy in accordance with current best practice guidance will ensure that the potential effects on surrounding sensitive receptors from light spill, glare and sky glow are minimised and reduced to an acceptable level.
- 3.11. Finally, the applicant proposes that the Development will provide sustainable transport facilities within walking distance and pedestrian and cycling routes that connect to local facilities and will promote sustainable living. A modal shift towards active travel and more sustainable modes would reduce the emissions of greenhouse gases that might otherwise be the case, helping to mitigate climate change.
- 3.12. The applicant has assessed the following energy efficiency measures, which would also help mitigate climate change: use of air source heat pumps, solar arrays on-site and either off-site solar arrays or carbon offsetting. The actual proposals for this scheme are considered in further detail in the appraisal section of this report.
- 3.13. It is also submitted by the applicant that the Development includes measures to increase adaptation to climate change. The applicant submits that the Development will include Sustainable Drainage Systems (SuDS) and water efficiency measures to reduce consumption and will include new planting that will provide natural cooling and channel surface water runoff. Buildings will be designed to adapt to climate extremes by reducing water consumption and reducing overheating and improving ventilation.
- 3.14. *Timescales for Delivery.* Development is anticipated to commence as soon as practicable (at the time of submission in May 2021 this was early 2022) subject to gaining planning permission, but the development would be expected by the applicant to have been completed within five years from the granting of planning permission.

#### 4. RELEVANT PLANNING HISTORY

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

##### **The site itself has been subject to applications previously:**

*Land North and Adjoining Home Farm Banbury Road B4100 Caversfield (the eastern parcel of the current application site):*

- 18/00484/OUT - Outline planning permission for up to 75 homes, pedestrian and cycle routes, creation of new access point from Charlotte Avenue, provision of open space, play space, allotments, orchard, parking, and associated works. **WITHDRAWN**

*Land to the North of the railway line and south of Elmsbrook (the application site extended to 154.5ha and included the two western fields which form the western parcel of the current application site):*

- 14/01384/OUT - Development comprising redevelopment to provide up to 2600 residential dwellings (Class C3), commercial floorspace (Class A1 - A5, B1 and B2), social and community facilities (Class D1), land to accommodate one energy centre, land to accommodate one new primary school (Up to 2FE) (Class D1) and land to accommodate the extension of the primary school permitted pursuant to application (reference 10/01780/HYBRID). Such development to include provision of strategic landscape, provision of new vehicular, cycle and pedestrian access routes, infrastructure, ancillary engineering, and other operations. **WITHDRAWN**

##### **Wider NW Bicester:**

*Bicester Eco Town Exemplar Site (adjacent to the application site):*

- 10/01780/HYBRID - Development of Exemplar phase of NW Bicester Eco Town to secure full planning permission for 393 residential units and an energy centre (up to 400 square metres), means of access, car parking, landscape, amenity space and service infrastructure and outline permission for a nursery of up to 350 square metres (use class D2), a community centre of up to 350 square metres (sui generis), 3 retail units of up to 770 square metres (including but not exclusively a convenience store, a post office and a pharmacy (use class A1)), an Eco-Business Centre of up to 1,800 square metres (use class B1), office accommodation of up to 1,100 square metres (use class B1), an Eco-Pub of up to 190 square metres (use class A4), and a primary school site measuring up to 1.34 hectares with access and layout to be determined. **Approved July 2012.**
- 19/01036/HYBRID - Full permission is sought for Local Centre Community Floorspace (Use Class D1 with ancillary A1/A3), with a total GIA of 552 sqm, and 16 residential units (Use Class C3) with associated access, servicing, landscaping, and parking. Outline consent is sought for Local Centre Retail, Community or Commercial Floorspace (flexible Use Class A1/A2/A3/A4/A5/B1/D1). **Approved July 2021**
- Other applications have also been dealt with at Elmsbrook including an earlier local centre scheme, a full application for the Eco Business Centre and a full application for a re-design and three additional units relating to Phase 4. Various non-material amendment and condition discharge applications have also been made.

### *Proposal for New Highway Aligned with Howes Lane Bicester*

- 14/01968/F Construction of new road from Middleton Stoney Road roundabout to join Lord's Lane, east of Purslane Drive, to include the construction of a new crossing under the existing railway line north of the existing Avonbury Business Park, a bus only link east of the railway line, a new road around Hawkwell Farm to join Bucknell Road, retention of part of Old Howes Lane and Lord's Lane to provide access to and from existing residential areas and Bucknell Road to the south and associated infrastructure  
**Granted August 2019**

### *North of the Railway Line*

- 21/04275/OUT OUTLINE - with all matters reserved except for Access - Mixed Use Development of up to 3,100 dwellings (including extra care); residential and care accommodation(C2); mixed use local centre (comprising commercial, business and service uses, residential uses, C2 uses, local community uses (F2(a) and F2(b)), hot food takeaways, public house, wine bar); employment area (B2, B8, E(g)); learning and non-residential institutions (Class F1) including primary school (plus land to allow extension of existing Gagle Brook primary school); green Infrastructure including formal (including playing fields) and informal open space, allotments, landscape, biodiversity and amenity space; burial ground; play space (including Neaps/Leaps/MUGA); changing facilities; ground mounted photovoltaic arrays; sustainable drainage systems; movement network comprising new highway, cycle and pedestrian routes and access from highway network; car parking; infrastructure (including utilities); engineering works (including ground modelling); demolition **PENDING CONSIDERATION** – this site provides for the remaining land that formed part of application 14/01384/OUT to the North of the railway line plus additional land.

### *South of the Railway Line*

- 14/01641/OUT Outline Application - To provide up to 900 residential dwellings (Class C3), commercial floor space (Class A1-A5, B1 and B2), leisure facilities (Class D2), social and community facilities (Class D1), land to accommodate one energy centre and land to accommodate one new primary school (up to 2 FE) (Class D1), secondary school up to 8 FE (Class D1). Such development to include provision of strategic landscape, provision of new vehicular, cycle and pedestrian access routes, infrastructure, ancillary engineering and other operations **PENDING BUT NOT ACTIVE**
- 14/01675/OUT as varied by 19/00347/OUT and 20/03199/OUT Permitted:
- Minor material amendment to planning permission 14/01675/OUT to vary conditions 6, 7, 8, 9 and 10 to refer to updated parameter plans and temporary access plan; variation of condition 14 to enable delivery of employment development in full in advance of strategic link road; and deletion of condition 20 to reflect removal of temporary access onto Howes Lane (Outline reference number 14/01675/OUT, granted at Appeal - Ref: APP/C3105/W/16/3163551 for the erection of up to 53,000 sqm of floor space to be for B1, B2 and B8 (use classes) employment provision within two employment zones covering an area of 9.45 ha; parking and service areas to serve the employment zones; a new access off the Middleton Stoney Road (B4030); temporary access off Howes Lane pending the delivery of the realigned Howes Lane; 4.5 ha of residential land; internal roads, paths and cycleways; landscaping including strategic green infrastructure (GI); provision of sustainable urban systems

(SUDS) incorporating landscaped areas with balancing ponds and swales; associated utilities and infrastructure).

- Applications pursuant to this: Reserved matters 19/00349/REM (completed) and 20/02454/REM (approved December 2020).
- 21/03177/F 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  
**REFUSED – APPEAL ALLOWED**
- 14/02121/OUT OUTLINE - Development to provide up to 1,700 residential dwellings (Class C3), a retirement village (Class C2), flexible commercial floorspace (Classes A1, A2, A3, A4, A5, B1, C1 and D1), social and community facilities (Class D1), land to accommodate one energy centre and land to accommodate one new primary school (up to 2FE) (Class D1). Such development to include provision of strategic landscape, provision of new vehicular, cycle and pedestrian access routes, infrastructure and other operations (including demolition of farm buildings on Middleton Stoney Road)  
**GRANTED JANUARY 2020.**

4.2 As part of an Environmental Statement the level of development and surrounding committed developments have been agreed as part of the scoping exercise. This forms part of the Environmental Statement.

## 5. PRE-APPLICATION DISCUSSIONS

5.1. The Applicant and their team have had pre-application discussions with Officers in respect of this submission. The Applicant and their team met with the Council in November 2020, and again in February 2021, following initial pre-app discussions which started in late 2019. Further to these discussions, the Council has provided the Applicant with formal pre-application advice. This pre-application discussion included Oxfordshire County Council as Highways Authority. As set out by the applicant in their planning statement, advice has included:

- i. Careful consideration to be given to the relationship of residential development in the Eastern Parcel to both Home Farm and to St Lawrence Church – particularly the views to the latter;
- ii. In relation to the rural edge of the Western Parcel, to consider whether this could be a softer edge;
- iii. Would like to understand more about the different character areas identified across the site within the planning submission;
- iv. Where proposed links are identified between the Site and the Exemplar development, these should be explained, and shown on the relevant Parameter Plan – both vehicular and pedestrian;
- v. Parking should be provided for any allotment plots;
- vi. There should be greater clarity on the extent of the maximum building heights and footprint for development within the Parameters, and the view to the Church should be defined further;
- vii. There will be a requirement for a crossing on the B4100 to the Church, as was proposed through the Home Farm application;
- viii. The proposals for regional based SuDS on the edge of the development with minimal swales is not considered to be in line with current guidance and best practice, with the expectation being that surface water drainage would be

managed in a number of small catchments attenuation features throughout the site. The proposed drainage scheme should mimic the existing drainage regime of the site;

- ix. Consideration should be given to how the edges of the site close to Home Farm and the Church are handled including with regard to materials;
- x. The site is not expected to provide employment opportunities, but should consider accessibility and home working opportunities;
- xi. A Health Impact Assessment should be submitted with the OPA;
- xii. A biodiversity impact assessment tool should be used, with CDC seeking a net gain of 10% for biodiversity as a minimum;
- xiii. The SPD identifies that if it is not possible to mitigate for farmland birds on-site then off-site mitigation is required via a financial contribution;
- xiv. 30% affordable housing must be provided with 70%/30% split (social rented/shared ownership) – with an indicative mix given, subject to confirmation during the application process;
- xv. Policy BCS4 of the adopted Local Plan Part 1 (2011-2031) for the housing mix for market housing; and
- xvi. A CEMP, and a Noise Report demonstrating the habitable rooms within dwellings will achieve the noise levels specified in British Standards, will be required.

Guidance was also provided on the S106 required Heads of Terms.

## 6. RESPONSE TO PUBLICITY

- 6.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for public comments was **07 May 2022** (with respect to public consultation), although comments received after this date and before finalising this report have also been taken into account. The final date following a re-consultation with consultees for comments was the **15 January 2023**.

A total of 204 letters of objection and 12 general comments have been received from residents of the existing Eco-Town, the surrounding areas, including Caversfield, and residents' groups such as Elmsbook Community Organisation, Bicester Residents Group, Elmsbrook Traffic & Parking Group and St Lawrence District Church Council. Gagle Brook Primary School have also written in objection. It should be noted that some residents and groups have written more than once to the application and additional information that has been submitted during the course of the application. The comments raised by third parties are summarised as follows:

### Principle of Development

- The growth and expansion of Bicester has become too great with too many houses
- Existing facilities cannot cope (e.g. schools, doctors, youth club)
- Bought a house with the promise that the fields would remain fields.

### Transport

### Traffic Impact

- Accuracy of the transport model and the availability of more accurate data should be considered
- Traffic levels have been underestimated and should use data from surveys carried out in September 2021 and there should be co-ordination between data collected from other sources (e.g. residents' data)
- Covid pandemic has skewed transport data
- At peak times it is difficult to exit Elmsbrook onto the B4100 especially towards Bicester. This results in pollution. Traffic lights at the junction may not resolve the issues.
- The lorries and other vehicles that will access the site as well as other building sites will impact the roads, houses and the conditions lived in.
- The transport impact of the development is incorrect:
  - The model used is questioned.
  - Traffic surveys and monitoring show the original model underestimated trips.
  - Illogical conclusions around the new development compared to Elmsbrook
  - Anomalies due to the construction rate at Elmsbrook
  - There is no modelling of 'bottle necks' on Elmsbrook (see below for more detail).
  - There are existing issues with school parking at Elmsbrook. There is a risk to pupils.
  - Charlotte and Braeburn Avenues will not be able to cope. Queue lengths are already around what is predicted for 2031.
  - Dangerous for the parking area at the entrance to the eastern parcel.
  - Issues with the existing road system on Elmsbrook (see below for more detail).
- Impact of construction traffic and these potentially going past schools and houses
- General lack of parking on the Eco-Town
- Other parts of the network will be impacted upon beyond the issues raised in Transport Technical Notes

#### Pedestrian and cycling

- Impact on school safety and people walking to school
- The development does not provide for sustainable transport routes to ensure the minimum 50% active travel target can be met – the footpath from the B4100 to Bucknell does not connect to the proposed development or Elmsbrook.
- Concern over links shown into Wintergreen Fields and Caraway Fields as they do not link to existing footpath routes.
- How will the homes be heated? If they do not intend to use the heat network then impact on existing services needs consideration.
- Services is an issue. Heating and hot water costs are greater than elsewhere in Bicester.
- The Western parcel of land has no pedestrian cycle connections to the west of the road connection and this is a missed opportunity.
- Crossing to the western parcel for construction traffic is of concern. An alternative should be found not to use Charlotte Avenue.

- Access to Caversfield via Fringford Road does not have adequate cycle provision so it is not a safe option. Suggestions made regarding Aunt Em's Lane and how this might enable more connections.

#### Public Transport

- The site intends to make use of the existing sustainable measures on Elmsbrook.
- It is unrealistic to assume people will walk or cycle to local services on Bure Park. Local services should be built as part of the site.
- A bus only section is present on Elmsbrook but this is abused. This issue will become more severe with access proposed either side of the link. Enforcement measures should be put in place.
- The car club referenced is no longer running. This would be a welcome addition.

#### Suitability of the Exemplar Phase Spine road

- Why have the critical points regarding the traffic impact analysis of Elmsbrook roads, which are supported by traffic survey information and mathematical analyses not been addressed?
- Concern that only the 4.1m narrowing to the north of the school has been considered rather than the narrowings to the bridge at the south
- The OCC Transport response summarised relates only to the A4095.
- There is no mention of transport/ traffic impacts in the 'key issues for consideration' at paragraph 9.1.
- Paragraph 9.94 discusses Charlotte Avenue and the narrowing north of the school but this does not consider the bottlenecks south east of the school where the greater volume of traffic actually flows.
- It is incorrect to assume that all children will arrived on foot within the eco-town to the school. When trips are calculated using the original trip targets for the school, the peak trips will be slightly higher than they are now.
- The Transport Assessment/ traffic analysis documentation uses COVID as an excuse to have not undertaken a traffic survey on Elmsbrook. There have been multiple surveys done, immediately prior to covid and since, in July 2021. A further survey was undertaken in September 2021. This is ignored and provides a way to assess the accuracy of the simulation data.
- Have the figures in the applicant's technical notes been fully checked to confirm accuracy/ validity? It is considered that there remain errors.
- The development to the south could involve a car link through into Elmsbrook.
- Even if the applicant's information is relied on only, the best case RFC for the Charlotte Avenue junction is 0.87. This exceeds 0.85 which was a 'hard and fast' limit set out at Graven Hill. Allowing this would be inconsistent with decisions made elsewhere.
- By ignoring traffic surveys completely, the Council is opening itself up to a Judicial Review.
- The traffic surveys show that 60% targets are not being met by vehicle trips – they are being met by petrol/ diesel vehicles but Elmsbrook has a high percentage of electric vehicles. In any event there are vehicular trips because the site does not have everyday services such as a local centre, GP, pub etc and the nearest local ones are beyond walking distance for elderly residents etc. No additional facilities are proposed and so the same will be true for their site. The inputs to the Transport Model are vastly underestimated where they are not informed by true flows from local traffic surveys.
- The conclusions reached regarding Braeburn Avenue are illogical including the impact at the junction and the smaller feeder roads.

- The group wish for the Ecotown to grow but not at the expense of the road network to be ruined, especially when there are proposed easy solutions. These would also reduce the pollution created by vehicles. There would be a severe transport impact. A simple solution would be to provide an entrance to the eastern parcel from the B4100.

#### Bicester Eco Town

- The proposals in not meeting the Eco-Town principles, ignore the climate crisis
- The proposal does not meet the requirements of the NW Bicester Masterplan or the Bicester LCWIP.
- Other parcels of land within the Eco Town are currently subject to pending and approved planning applications where the true zero-carbon requirement is respected
- Loss of the green buffer and green spaces shown within the masterplan
- Development profit being prioritised over meeting Eco-Town standards
- The proposals on the Eastern parcel of land were not part of the original NW Bicester Masterplan and these will impact Charlotte Avenue. This parcel should be accessed from the B4100 with walking/ cycle points provided to Elmsbrook to encourage active travel. Construction access is proposed here. Why can it not be permanent?
- Concerned regarding the proximity to Elmsbrook and the density.
- Gas CHP would not be an environmentally friendly option.
- The developer indicated that they were working to use the Ecotowns existing District Heating System, however it seems this is not the case giving flawed arguments regarding the environmental benefits of heat pumps in comparison. The DHS is designed for 1200 homes with operation break-even at 900 homes. It currently only serves 300 homes.
- It is critical that the Firethorn homes connect to this system meaning the design efficiencies of scale and the environmental benefits can be realised.
- Housing not in keeping with the existing housing built on Eco-Town
- Overdevelopment of the site at a cost of green space
- The proposals do not meet the 40% green infrastructure requirement due to the loss of planned green space

#### Development Viability

- The viability assessment demonstrates that the proposed development is profitable, just not as much as the developer would like it to be
- There are logical flaws in the costings
- Developer profit is being prioritised over the Eco-Town principles
- Land values appear to be high
- Sales values appear to be overly pessimistic
- Eco-Town credentials have a higher sales value and this should be considered
- Development profit should not be accepted.
- If the developer cannot present a viable economic proposal for this land, rather than allow one specific part of the Eco Town to be built in breach of the zero-carbon requirement, it may be appropriate to wait for new construction and energy technology, which would be more efficient and less costly, as there has been rapid progress in this area



- The fact that the applicant, with a much less complex proposed development and without these additional costs, argues that it is not economically viable, while other developers proceed with more complex projects that comply with the environmental requirements, seem to indicate that the applicant has not demonstrated the skills, experience and knowledge required to prepare a proposal that is viable.

#### Wildlife

- General loss of greenery and habitats
- Impact on species through the loss of the green space and trees
- Inadequate space for wildlife due to the overdevelopment of the site

#### St Lawrence Church

- Loss of the Green Buffer shown in the masterplan would impact on the landscape and setting of the Church
- The Church, Home Farmhouse and Caverfield House should be considered cumulatively.
- Impact on the approach and the tower of the Church which is visible to the local landscape
- Archaeology should be carried out based on a precautionary approach
- Need for car parking for church goers.
- There is a need for a crossing to the Church but in the right position
- There is good consideration to providing a sightline to St Lawrence's Church but it remains inaccessible with no crossing or pathway.

#### Public Health

- Number of cars this will generate is of concern in terms of pollution and respiratory issues.
- Proposals will impact on the health and wellbeing of existing residents

#### Other

- Drainage – the current system cannot take more load, this requires more clarification.
- Thames Water response does not address issues drainage or waste water or capacity of services in the long term or beyond 49th dwelling.
- Service charges will go up as the population increased with the implications that will bring.

All representations are available via the Council's public access system. At the time of writing this report no other consultation responses have been received. Any additional responses received will be reported to members verbally or in the form of a late paper, subject to the date of receipt.

In assessing the proposal due regard has been given to local resident's comments as material planning considerations. Nevertheless, decisions should not be made solely on the basis of the number of representations, whether they are for or against a proposal. Local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission unless it is founded on valid planning reasons

## 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. CAVERSFIELD PARISH COUNCIL: While the larger western 'block' of units did not have a visual impact on the village, the use of the field nearest the B4100 and therefore nearest Caversfield has caused concern. This is primarily because of the erosion of the "green buffer zone" between Bicester / the EcoTown and the Category C village of Caversfield and the detriment it would have on the village.

Secondly, the setting of the Grade II\* listed church and Grade II Listed farm house (Home Farm) would be greatly affected by the development. There is a historic link between Home Farm, the Church (including the WWII Commonwealth War Graves), Caversfield House and grounds, the land of South Lodge Riding Stables which had already been recognised by Planning Inspector David Nicholson on 27 May 2014 to be of significant import as part of the wider setting, together with the RAF Conservation Area within Caversfield.

As the Planning Inspector said in his report regarding the proposed development on land at South Lodge Riding Stables located just over the road from the current proposal, (reference APP/C3105/A/13/2208385) the main issues on which he rejected the proposal were that:

- (a) the character and appearance of the area with particular regard to the built up limits of Bicester and Caversfield, the proposed green buffer gap [which included the area of land of this current proposal] between the planned expansion of Bicester and Caversfield, and housing land supply;
- (b) the surrounding landscape;
- (c) the setting of the RAF Bicester Conservation area;
- (d) the setting of adjacent listed buildings / heritage assets;
- (e) the quality of design. The majority of the points above are as relevant to this current proposal as they were to the South Lodge proposal.

The Council believes that development is likely to:

- harm the historic value of the landscape;
- cause undue harm to important natural landscape features and topography;
- have an impact on an area which currently has a high level of tranquillity and
- harm the setting of settlements, buildings, structures and other landmark features of historical importance.

No mention has been made in the plans of promoting access to the Church or ways to assist the Church in embracing the new development.

The more general impact of the traffic on the area was also of great concern. Parents of children who live in Caversfield and attend the catchment school – Gagle Brook – already have great difficulties delivering and collecting their children from school –

some of whom have no option but to do so by car as it is simply too far to walk. It does not appear that the traffic model is the most up-to-date and is missing major developments. It also does not appear to take into account the 'pinch points' on the current development – the two by the park on Phase 2 and one by the larger park on Phase 3. The impact of these points together with the parking issues by the school are likely to greatly affect the surrounding roads including the B4100. The cycle routes proposed on the existing road structure are also not adequate.

If the Council were minded to approve the development, S106 / CIL funds should be allocated to:

- the E1 bus service in order that it can be fit for purpose (it should run on Sundays and beyond 7pm in the evenings) and should be maintained through Caversfield
  - the Church in order that improvements to the access along the B4100 and within the Church curtilage can be made.
- On the 11 January 2023, Caversfield Parish Council confirmed they had no further comments beyond those made within the original response made in August 2021.
- 7.3. BICESTER TOWN COUNCIL: observations – BTC commented that this could be a chance for the developers to use the wild space and ponding to mitigate flooding which currently occurs in this area.
- 7.4. BUCKNELL PARISH COUNCIL have objected to the development. They comment:
- The proposed development enters the boundary of Bucknell encroaching further into the open countryside and will erode the rural character of Bucknell.
  - The village is already threatened by proposed residential developments from Bicester towards Bucknell and industrial and commercial developments from the north and east which cumulatively threaten the rural character of an historic village.
  - There will be additional traffic through the village of Bucknell and will cause additional safety concerns for families with children and elderly residents.
  - There has been no engagement from the developer or opportunity to input into proposals prior to this stage.

### CONSULTEES

- 7.5. CDC DESIGN AND CONSERVATION: There are two heritage assets which lie within close proximity to the proposed development, which will impact on their setting. Home Farmhouse is a grade II listed building and the site forms part of the original agricultural landholding associated with the farmhouse. St Laurence's Church is an isolated rural church and a grade II\* listed building. The church is separated from the site by the main road (B4100).

Earlier versions of the masterplan for the site show a larger indicative 'buffer' area to mitigate the impact on the setting of the grade II\* listed building of St Laurence Church and grade II Home Farmhouse. The buffer area shown as part of the outline permission is reduced. The precise dimensions of the buffer zone are considered to be less significant than the role it plays in mitigating the impact on the heritage assets.

The majority of open space between the listed building of Home Farm and the development is provided by land outside the site boundary. The buffer zone associated with the development is provided to the frontage of the site and creates a sense of openness between Home Farm and St Lawrence's church, retaining a small element of the historic landscape which once existed. The treatment of this area will

be crucial in retaining this element of the significance of the site. It will be important that this area remains as natural and open as possible. There are concerns about locating the play area in this location and if there are no alternative locations this will need to be carefully designed to minimise impact to the setting of the heritage assets.

The Heritage Enhancement Zone, which provides a view corridor to St Lawrence's church is noted. This is considered to be positive, but further details will be required in a reserved matters application about how this will be achieved in practice.

Residential development in the rural setting of heritage assets (in this case a farmhouse and isolated rural church) will inevitably have a harmful impact. In this case the harm is considered to be less than substantial and it is considered that sufficient mitigation has been put in place to minimise the harm.

There is considered to be a public benefit to outweigh this harm as the site has been formally allocated for part of the housing allocation for the district.

There are concerns with the form and location of the proposed pelican crossing immediately adjacent to St Lawrence's Church. This was addressed in an earlier application (18/00484/OUT)

'The proposal for a signalised pedestrian crossing will have a direct, negative impact on the rural setting of the church immediately adjacent to the existing church gate. This will clearly negate the positive aspects of the development including the proposal to have a specific vista within the housing development towards St Laurence Church.

A signalised pedestrian crossing immediately opposite the church is not considered to provide sufficient mitigation for the level of harm caused. If a signalised pedestrian crossing is the only option available it will be necessary to review the proposed location of the crossing away from its current position in close proximity to the gated access to the church'.

It is appreciated that there is a public benefit to provide access to the existing church building, which should lead to greater use of the building, but there is harm to the visual amenity and setting of the building.

Consideration should be given to an alternative location for the crossing or if this is not possible a less visually intrusive form of crossing – making use of differing road / pavement textures and surfaces.

There is a high level of harm to the setting of listed building of St Lawrence's Church (it is considered to be significant, but less than substantial). It is acknowledged that there is a public benefit to St Lawrence's Church (as it will be made more accessible for people living in the development).

- 7.6. CDC LAND DRAINAGE: Flood Risk/Surface Water Drainage. No further comments at this time. The extent of the development layout and detailed surface water management strategy can only be determined after agreement of the Flood Model. This will determine the limits of the fluvial flood plains and calculate the 1% AEP + 40% Climate Change allowance flood levels through the site.
- 7.7. CDC HOUSING: The outline planning application seeks approval for residential development with all matters reserved except for access. The planning application form indicates that the proposed development will comprise of 530 dwellings of which there will be 371 market dwellings and 111 (approx. 70%) social or affordable rent and 48 (approx. 30%) affordable home ownership dwellings. The accompanying Affordable Housing Statement (dated 21 April 2021 – prepared by Pioneer Property

Services Ltd), sets out that achieving 30% affordable housing on this site will be challenging but goes on to suggest that subject to viability testing, there will be 30% affordable housing split as 50% Affordable Rent and 50% Intermediate Housing. The AH Statement provides an indicative affordable housing dwelling mix but sets out that this mix is subject to viability and further discussion with the District Council.

- 7.8. CDC ECOLOGY: The submitted metric and biodiversity impact assessment is generally fine and shows that at a least a 10% net gain in habitats and hedgerows is likely to be achievable. However it is stated that this is not based on the latest layouts and so an updated BIA will be required as layouts are finalised. Any condition to this effect must specify that at least a 10% net gain for biodiversity (as measured by a recognised metric) needs to be achieved on site. As regards the off site farmland bird contribution I do not agree that no contribution is necessary here. This aspect is clearly stated in the SPD and requires all developments within the masterplan area to contribute. This is to help ameliorate the cumulative impact on farmland birds from the whole area of the masterplan - not necessarily to directly mitigate on an individual basis for each patch. The other measures are fine to be included in CEMP, LEMP etc.. though as per my previous comments it should be noted that we would be looking for a minimum of the equivalent of one nesting/roosting provision per dwelling (they don't mention numbers in their text). I could not find any additional submitted information on Great Crested Newts. The Newt Officers comments outlined the options which are either to apply for a district licence prior to determination or show that GCN have been properly accounted for on site (currently the information within the PEA is lacking in terms of ruling out impacts on GCN). The Newt officers comments make this clear in the summary and so more information is required on this for us to fulfil our duties in this regard and to ensure no offence is committed.
- 7.9. CDC ECOLOGY: Following further consideration on this matter, the CDC Ecologist has confirmed that she does not object to conditioning additional GCN surveys in the way suggested by the applicant pre-commencement. Concern remains that should the large waterbody to the East not be able to be surveyed, that we may need to assume GCN presence and they may then need to potentially obtain a licence which may be difficult to do but there is plenty of scope for mitigation on site.
- 7.10. CDC NEWT OFFICER: GCN are present in the local landscape, as indicated by existing records and the Impact Risk Zone mapping for the area. Clusters of breeding and non-breeding ponds are important features for maintaining a population of GCN (providing opportunities for adult newts to breed as well as foraging and sheltering habitat for juvenile and non-breeding adults); therefore a single negative eDNA result from only one of the ponds is not sufficient to rule out the potential for impacts on GCN arising through this development. Because there is a District Licensing Scheme in operation in this area, the developer has two options – either: - Provide an updated ecological assessment of the site and surrounding landscape to further assess the likely presence/absence of GCN; or - Submit a Nature Space Report/Certificate to confirm the proposed development is capable of being covered by the Council's District Licence and the applicant has entered the District Licensing Scheme. Natural England's guidance to LPAs (Great Crested Newts: District Level Licensing for development projects, Natural England, March 2021) explains that in the red/amber impact risk zone, if the developer has not provided a Nature Space Report/Certificate, the applicant must provide further information to either rule out impacts to GCN, or present further work (including surveys) to assess those impacts and present measures to address those impacts, with appropriate mitigation and compensatory measures. This is to demonstrate to the planning authority that the proposed measures are capable of being granted a licence. If the developer chooses to carry out further survey work, the following should be noted: - The development site contains favourable habitat and considering the size of the site and the potential impact on the population's range and connectivity of the landscape, all ponds on-site

and within 500m (not 250m) should be considered for survey and assessment (following guidance set out within Natural England's Method Statement template – contrary to the assertion in the submitted Preliminary baseline ecological appraisal, chapter 2.3.18: Great Crested Newt Habitat Suitability Index (HSI)). - No supporting documentation was submitted with the application in relation to the one pond that was subject to an eDNA survey. This data should be submitted along with any updated ecological assessment for this application.

- 7.11. LANDSCAPE OFFICER: Generally agree with the findings of the LVIA. Because we are relying on the establishment of the structural vegetation of the northern boundary to provide visual mitigation it would be appropriate that this planting is done at the earliest opportunity during the forthcoming planting season, and the developer to maintain and establish it as construction commences.

Play Area Flood Risk 2 As discussed, in respect of play area ref. 04 far southern extremity of the western parcel shown on the illustrative masterplan, it appears that the play area may be subject to flooding in 1:1000 event - refer to Flood Risk Assessment. As such events become more prevalent, this will mean the play area is unusable, a risk to children's health, and subject to cleaning and repairs before it is ready for it to be used again. The play area should be relocated away from the flood zone to avoid these problems.

The DAS indicates the area of minimum natural green space required under Policy BSC 11: Local Standards of Provision- Outdoor Recreation Table 7. The retention of woodland and hedgerows and their green buffers within the context of the development design layout more than meets the open space requirement for this development and positively contributes to the acknowledged 40% green infrastructure of the Ecotown as a whole.

530 residential dwellings triggers, in accordance with the above policy, LAPs, LEAPs, NEAPs and MUGA. The LAP and LEAP are to be located 400 m from the farthest extent of dwellings. The NEAP and MUGA 1200 m from the farthest dwelling. There is already a MUGA built in phase 2 of the Exemplar which is within 1200 m walking distance. It is deemed unnecessary to have another MUGA because this complies with the original Ecotown Masterplan. The play areas within the western parcel meet the 400 m walking requirement and 3 play area locations are appropriate except for the play area location which may flood – refer above – this play area should be relocated.

The 2 play areas in the eastern parcel is also within the 400 m walking distance requirement. The southern-most play area should be a NEAP for older children and this will be within the 1200 m for dwelling on the extremity i.e. the western parcel.

The western parcel's central square play area is a LAP close to housing for accessibility for 2 - 6 years, parents and carers and allows for good surveillance.

The play area in the woodland is not covered by adequate surveillance. This play area may have a social behavioural problem associated with it, especially if the older children are unaccompanied by adults. I recommend an enhanced LEAP with additional area and challenging play equipment for 4 to 8 year old children within an area of 400 + sq metres of play activity, depending on the landscape context.

The western play area near the 'new' structural landscape/site boundary should be a LEAP to ensure the provision for 4 to 8 year olds.

Commuted sums for 15 year landscape maintenance, subject to indexation are sought.

#### 7.12. CDC ENVIRONMENTAL PROTECTION:

Noise – the contents and conclusions of the noise report are agreed. Further details of the glazing and ventilation strategy and a construction management plan should be agreed with the LPA at the detailed design stage

Contaminated Land – The contents and recommendations of the submitted reports are agreed and further work, along with basic radon protection measures should be sought by condition.

Air Quality – The contents of the AQ report are satisfactory. A condition relating to EV charging should be imposed.

Odour – No comments

Light – Details of a lighting scheme should be agreed.

#### 7.13. OCC HIGHWAYS: The development traffic assumed in TN011 is consistent with the revised development traffic distribution, and having re-read TN008 Rev B, I now see that the disparity in queue lengths is because the previous, longer queue related to the earlier surveys which were not carried out on a typical day, whereas the shorter queue related to the repeat surveys carried out in July. A larger adjustment was required to the Junctions 10 model to calibrate it to the July surveys. Therefore I now accept that the predictions of queue length in delay in TN011 are reasonable.

The results show that in the worst case delay would increase by 50% from 6 to 9 minutes average delay per vehicle through the critical junction, comparing the situation in 2026 with and without the development. (This compares to earlier predictions of delays of up to 17 minutes.) In the context of an increasingly urban setting, drivers will become accustomed to congestion on all routes into and around Bicester by 2026, where they may face similar delays. Whilst there is no definition of what constitutes a 'severe' impact, a doubling of delay would in my opinion be severe and even an increase to 9 minutes could be seen as unreasonable. However, although there is currently no certainty of the A4095 realignment being delivered via external funding, there are current development proposals on the land required for the scheme, which means the land can potentially be safeguarded and there is some likelihood of the road eventually being delivered by developers, particularly as the most challenging element of the project, namely the bridge under the railway, has already been delivered.

Therefore although the impact of the development may be felt for many years, it is likely to be temporary, if long-term temporary. As a result I can remove our highway objection on the basis that the traffic impact would not be considered severe, subject to planning obligations and conditions as previously set out (contributions sought towards: improvements to junction of B4100/ Charlotte Avenue, to the junction of B4100/A4095, to the cycle route between the site and town centre/ stations, the improvement of bus services and infrastructure at NW Bicester, to monitoring the travel plan over its life, to new public rights of way and improvements to public rights of way in the vicinity of the site, to local road improvements, to enable the provision of a pedestrian/ cycle bridge over the watercourse into the adjacent site to the west, to the major infrastructure costs (primarily the strategic link road/ A4095 diversion through the NW Bicester allocation), to off site highway works, to enable access arrangements to be secured, to the shared value requirements of Network Rail). Conditions suggested to require a construction traffic management plan, to secure cycle parking, to require travel information packs and a travel plan and to place a restriction on the number of dwellings to be accessed from accesses A and B).

No objections with regard to the access arrangements and provision for cyclists and pedestrians subject to a S106 to secure transport mitigation and planning conditions.

- 7.14. OCC EDUCATION: No objection subject to s106 contributions towards Primary and Early Years, Secondary School and SEN Educational Needs.
- 7.15. OCC WASTE MANAGEMENT: No objection subject to s106 contributions towards the expansion and efficiency of Household Waste Recycling Centres
- 7.16. OCC CHILD SERVICES: No objection subject to s106 contributions towards increased provision at Children's Homes (later confirmed as not being required).
- 7.17. OCC LIBRARY SERVICES: No objection subject to s106 contributions towards Bicester Library including the book stock.
- 7.18. OCC ARCHAEOLOGY: The site is located in an area of archaeological interest as identified by a desk-based assessment, a geophysical survey and a trenched evaluation. These surveys were undertaken as part of a larger development. The geophysical survey and evaluation identified a number of areas of surviving archaeological features including a Neolithic Pit, an area of Bronze Age activity including two possible 'burnt mound' deposits, a number of areas of Iron Age activity and a number of areas of Roman activity. This development will therefore disturb these surviving features and a further programme of archaeological investigation and mitigation will need to be undertaken ahead of any development. An aerial photographic assessment and the geophysical survey has identified a number of rectangular enclosures and other potential archaeological features within this application area which were also confirmed by the evaluation results. These remains are not of such significance to prevent any development, but a further phase of archaeological mitigation will be required ahead of any development of the site. We would, therefore, recommend that, should planning permission be granted, the applicant should be responsible for ensuring the implementation of a staged programme of archaeological investigation to be maintained during the period of construction. This can be ensured through the attachment of a suitable negative condition.

Existing storage facilities based in Standlake will not hold capacity to meet the needs of the development. The mechanism for addressing this need will be met through application of a charge set against the m<sup>2</sup> of archaeological finds generated by the development. Work is in hand to assess the potential for extension of the existing building, the capacity that extension would have, and its capital costs. A mechanism for developer contributions would then be applied through the section 106 process.

- 7.19. LEAD LOCAL FLOOD AUTHORITY: No objection to the outline drainage strategy proposed and its principles outlined in the submitted FRA. As stated in the flood risk assessment, we will expect to see numerous SuDS being utilised on site with justifications provided where it cannot be used. When submitting information for detailed design review stage/reserved matters, calculations must comply with the OCC guidance such that 1 in 1, 1 in 30, 1 in 100 is also provided along with 1 in 100 + 40% CC
- 7.20. OCC FIRE SERVICE: Detailed comments with regard to the provision of fire hydrants, service requirements and other aspects of detailed design and water pressure.
- 7.21. NATIONAL HIGHWAYS ENGLAND: In the case of this development proposal, our interest is in the M40, A34 and A43. Having examined the additional information for this planning application, our response remains the same as that dated 23rd November 2021 when we offered a CEMP and Travel Plan conditioned 'No Objection'.
- 7.22. NETWORK RAIL: No comments



- 7.23. NHS BUCKINGHAMSHIRE, OXFORDSHIRE, BERKSHIRE WEST INTEGRATED CARE BOARD: This PCN area is already under considerable pressure from surrounding planning applications, and this application directly impacts on the ability of these practices to provide primary care services to the increasing population. Primary Care infrastructure is therefore requested to support local plans to have either a new surgery site in the Bicester area, potentially (but not restricted to) Graven Hill site or Kingsmere site, or extension/internal works to Bicester Health Centre. Should these not go ahead for any reason, or in addition to any of the above, the funding will be invested into other capital projects which directly benefit this PCN location and the practices within it. A contribution of £457,920 is therefore sought.
- 7.24. HISTORIC ENGLAND: On the basis of this information, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.
- 7.25. SPORT ENGLAND: Supportive of this proposal therefore does not raise any objections to the granting of planning permission.
- 7.26. BICESTER BIKE USERS GROUP (BicesterBUG): We welcome the improvements that the applicant has made and the effort invested to address the active travel issues with the original application. However we also note that certain inaccuracies and omissions mean that the application is not up to the standard that would be expected.
- General points:
- Segregated paths need to replace shared paths along B4100 between the A4095 and Charlotte Avenue, with horizontal separation (buffers) as per LTN 1/20.
  - Access along the Banbury Road into Bicester needs to be improved, particularly around the junction into Lucerne Avenue. Short length of access along Buckingham Road to Bicester North station also needs to be made suitable for cycling.
  - The proposed Charlotte Avenue traffic lights need to be made suitable for both pedestrians and cyclists. The crossing should not be staggered, and there should be segregated crossings. The refuge island should also be wide enough for the cycle design vehicle.
- 7.27. NATURAL ENGLAND: No objection. Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutory designated sites and has no objection.
- On the 25 January 2023, Natural England confirmed that their previous responses apply equally to this amendment although they made no objection to the original proposal. The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal.
- 7.28. BUILDING CONTROL: No comment at this stage
- 7.29. THAMES VALLEY POLICE: Disappointed that crime prevention and community safety still has not been considered or addressed within the application at this point. In order to address this concern I ask that a condition relating to secured by design principles be placed upon the applicant should this application be permitted
- 7.30. ENVIRONMENT AGENCY: The proposed development will be acceptable if conditions are included on the planning permission's decision notice. Without these conditions we would object to the proposal due to its adverse impact on the environment.

### 7.31. THAMES WATER:

- Thames Water has been unable to determine the waste water infrastructure needs of the application. A condition is recommended to ensure that there is sufficient capacity or sufficient capacity can be made for foul water drainage.
- As the application indicates that surface water will not be discharged to the public network, Thames Water has no objection, however approval should be sought from the LLFA.
- This catchment is subject to high infiltration flows during certain groundwater conditions. The scale of the proposed development doesn't materially affect the sewer network and so there is no objection however care needs to be taken in designing networks to ensure they don't surcharge and cause flooding.
- Thames Water have identified that there are capacity constraints with the off site water infrastructure needs to serve the development. Thames Water have identified that some capacity exists within the water network to serve 49 dwellings but that beyond this, upgrades will be needed. An appropriately worded planning condition should be attached to any approval to ensure that development doesn't outpace the delivery of essential infrastructure.
- Advice is provided regarding water mains crossing the site and constraints that arise for built development arising from these and in relation to development within 15m of their underground water assets. Informatives are recommended.

7.32. CPRE: In summary the CPRE believes that clarity is required around how the challenging target of reducing private car usage can be met. CPRE are keen that the final planning application is future proofed, and given the context of the climate emergency, which is more than just reducing carbon emissions, the final planning application should be able to both preserve and enhance the current site's biodiversity.

7.33. Elmsbrook Community Organisation (ECO): Does not directly oppose the planned development adjacent to the Elmsbrook Exemplar site, however we have concerns over certain elements of the proposals including access, density, movement of traffic, suitable sustainable travel provision, visitor parking and drainage.

### 7.34. BIOREGIONAL (CDC ADVISORS ON SUSTAINABILITY):

- The energy strategy does not provide detail on how the True Zero Carbon requirement would be met. Indicative carbon balance information should be presented to provide assurances on this. There should be commitments made around build standards, carbon offsetting.
- The existing energy centre is gas and so any source of heat from natural gas would likely fail to meet Building Regulation requirements.
- No details are provided on how the scheme achieves Building for a Healthy Life
- Water efficiency targets should be set
- There is no mention of real time public transport information/ superfast broadband provision
- Is 40% Green Infrastructure to be provided? Would green roofs be included? Buffer zones from key GI features should be provided. How can areas be multi-functional?
- Reliance of wider Elmsbrook facilities is made. S106 contributions should be secured.
- There is no mention of proposals for the Local Management Organisation.

- There is no mention of how the aspiration to water neutrality will be met/ whether there are opportunities from the Ardley EfW.
- There is no obvious reference to waste targets for construction/ operational phases.
- Sustainability credentials for local sourcing and embodied carbon should be committed to.
- There should be a commitment towards climate change adaptation and assessment of overheating.
- Active travel and details of safe walking routes should be a key part of the scheme and local food growing opportunities to contribute towards a sustainable lifestyle.
- All homes should be within 400m of bus stops. EV charging should be included.
- Properly segregated cycle paths should be included to enable active transport modes.
- A contribution towards offsite provision for farmland birds should be made.
- Parts of the eastern parcel lie within an area identified as green space within the SPD.
- All flood risk mitigation should include appropriate allowance for climate change.
- Further detail on U values could be provided to ensure fabric efficiency is a key part of the scheme.
- The energy statement has considered decentralised energy systems, district heating and the feasibility of on site renewable energy systems that would be deliverable and forms part of the proposed development.

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

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

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

- PSD1: Presumption in Favour of Sustainable Development
- 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
- ESD4: Decentralised Energy Systems
- ESD5: Renewable Energy
- ESD6: Sustainable Flood Risk Management
- ESD7: Sustainable Drainage Systems (SuDS)
- ESD8: Water Resources
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13: Local Landscape Protection and Enhancement
- ESD15 - The Character of the Built and Historic Environment
- ESD17: Green Infrastructure
- Bicester 1: North West Bicester Eco-Town
- Policy INF1: Infrastructure

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- TR1 - Transportation funding
- TR7 - Development attracting traffic on minor roads
- TR10 - Heavy Goods vehicle
- C28 – Layout, design and external appearance of new development
- C30 – Design Control
- ENV1 – Development likely to cause detrimental levels of pollution
- ENV12 – Development on contaminated land

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- The Town and Country Planning Act 1990 (as amended)
- The Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended)
- Environmental Impact Assessment Regulations 2017 (as amended)
- EU Habitats Directive
- Natural Environment and Rural Communities Act 2006

- Conservation of Habitats and Species Regulations 2017
- DfE - Securing developer contributions for Education - November 2019
- North West Bicester Supplementary Planning Document 2016

## 9. APPRAISAL

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

- Principle of development
- Bicester Eco-Town (North-West Bicester)
- Design, and impact on the character of the area
- Transport
- Density, Space Standards and Housing Mix
- Heritage impact
- Ecology impact
- Trees, Hedgerows and Green Infrastructure
- Drainage and Flood risk
- Ground Conditions, Noise and Air Quality
- Planning Obligations and Viability
- The Environmental Statement
- The Planning Balance and Conclusion

### Principle of Development

#### *Policy Context*

- 9.2. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the District comprises the adopted Cherwell Local Plan 2011-2031 (Part 1), the adopted Cherwell Local Plan 2011-2031 (Part 1) Partial Review – Oxford’s Unmet Housing Need, the saved policies of the Cherwell Local Plan 1996 and a number of Neighbourhood Plans.
- 9.3. Paragraph 60 of the NPPF sets out 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.
- 9.4. Further Paragraph 68 states that planning policies should identify a sufficient supply and mix of sites, taking into account their availability, suitability and likely economic viability.
- 9.5. It is also stated within Paragraph 73 that the supply of large numbers of new homes can often be best achieved through planning for larger scale development, such as new settlements or significant extensions to existing villages and towns, provided they are well located and designed, and supported by the necessary infrastructure and facilities (including a genuine choice of transport modes). Working with the support of their communities, and with other authorities if appropriate, strategic policy-making

authorities should identify suitable locations for such development where this can help to meet identified needs in a sustainable way.

- 9.6. Paragraph 73 includes a number of criteria which include that large-scale development should:
- a. consider the opportunities presented by existing or planned investment in infrastructure, the area's economic potential and the scope for net environmental gains;
  - b. ensure that their size and location will support a sustainable community, with sufficient access to services and employment opportunities within the development itself (without expecting an unrealistic level of self-containment), or in larger towns to which there is good access;
  - c. set clear expectations for the quality of the places to be created and how this can be maintained (such as by following Garden City principles); and ensure that appropriate tools such as masterplans and design guides or codes are used to secure a variety of well-designed and beautiful homes to meet the needs of different groups in the community.
- 9.7. The Cherwell Local Plan's spatial strategy is to focus most of the growth in the District towards locations within or immediately adjoining the main towns of Banbury and Bicester with limited growth identified in the rural areas but with land allocated at Former RAF Upper Heyford. Policy BSC1 identifies the district wide housing distribution with Bicester identified to accommodate just over 10,000 new homes during the Plan period. Policy ESD1 also identifies that this spatial strategy (in distributing growth to the most sustainable locations as defined by the Plan) is a key part of the measures that will be taken to mitigate the impact of development within the District on climate change. There are 13 strategic allocation sites at Bicester, most for mixed use, residential led development, some for wholly commercial development and some relating to the town centre.
- 9.8. Policy Bicester 1 is an allocation for a new zero carbon, mixed use development including 6,000 homes.

#### *Assessment*

- 9.9. It is recognised that the application proposals are part of the large-scale allocated site as part of the North-West Bicester Eco Town (Policy Bicester 1) and the allocation is supported by the North-West Bicester Supplementary Planning Document.
- 9.10. The SPD sets out that North-West Bicester will be a neighbourhood unlike any other in Bicester - a development that demonstrates the highest levels of sustainability. Residents who move to North-West Bicester will be making a lifestyle choice to live in efficient modern homes built to the highest environmental standards with excellent access to the town centre, public transport and adjoining countryside. The site offers a unique opportunity to bring about a sustainable large-scale development as part of the extension of the existing town with a comprehensive mixed use scheme designed and constructed to the highest environmental standards, bringing a mix of homes, offices, shops and easily accessible open space.
- 9.11. In summary, when fully delivered, North-West Bicester will provide:
- Up to 6,000 "true" zero carbon homes;
  - Employment opportunities providing at least 4,600 new jobs;
  - Up to four primary schools and one secondary school;
  - Forty per cent green space, half of which will be public open space;

- Pedestrian and cycle routes;
- New links under the railway line and to the existing town;
- Local centres to serve the new and existing communities; and
- Integration with existing communities.

9.12. It is clear therefore that the expectation of the policy is to deliver high quality and higher levels of sustainability in construction with this aim being at the core of the policy. The policy and supporting guidance also set out key infrastructure necessary and a co-ordinated approach is outlined through the development of the masterplan within the SPD to ensure a comprehensive development. The remainder of this report sets out the consideration of detailed matters.

#### *Conclusion*

9.13. The NPPF encourages in paragraph 11c) to approve development proposals that accord with an up-to-date development plan without delay.

9.14. Cherwell's housing land supply as reported in the Council's 2021 Annual Monitoring Report (AMR) concluded that the District had a **3.5 year supply** for the next five year period 2022-2027 commencing on 1 April 2022. This is reviewed annually and currently the housing land supply position is calculated as **5.4 year supply** of housing for the period 2022-2027.

9.15. This updated figure was agreed by the Council's Executive on 6 February 2023. This is largely the result of applying the standard method housing need figure of 742 homes per year from 2022 rather than the Local Plan figure of 1,142 from 2011. The paper states at paragraph 3.26, "...economic conditions are challenging and it is important that officers continue to seek Local Plan compliant housing delivery to maintain supply and deliver the district's planned development. Having a five year land supply position does not mean that development allowed for by the Local Plan should halt. Indeed, not progressing planned development considered to be acceptable could undermine the land supply position".

9.16. Notwithstanding the Council's Housing Land Supply position, the proposed development forms part of an allocated site. Continued development on allocated sites will be important to ensure the ongoing delivery of housing to maintain the housing land supply position.

9.17. In principle the application and the associated Environmental Statement is, subject to the consideration of detailed matters within the scope of the outline planning application parameters, considered appropriate as an allocated site for development identified through an up to date Development Plan. Detailed matters in respect of the Development Parameters presented are discussed below.

#### Bicester Eco-Town (North-West Bicester)

##### *Policy Context*

9.18. Policy Bicester 1 sets out the basis for the site allocation in the 2015 Local Plan. Its broad vision is that the development over 390 hectares will be a new zero carbon mixed use development including 6,000 homes will be developed on land identified at North-west Bicester. Planning permission will only be granted for development at North-West Bicester in accordance with a comprehensive masterplan for the whole area to be approved by the Council as part of a North West Bicester Supplementary Planning Document.

- 9.19. The proposed development generally complies with the Masterplan for NW Bicester apart from the extent of development on the eastern parcel which is addressed further below.
- 9.20. A key requirement at NW Bicester is to achieve a new zero carbon development. The definition of zero carbon in eco-towns is that over a year the net carbon dioxide emissions from all energy use within the buildings on the eco-town development as a whole are zero or below. This therefore includes unregulated as well as regulated emissions. The SPD and Policy have not specified the way in which development must meet this standard to enable flexibility in approach and to reflect changes that might occur over the life of the development in order to meet the highest standards available at any time.
- 9.21. Policies ESD2, ESD 3 and ESD5 of the Development Plan, are noted in the context of development plan aspirations for development outside the Eco-Town allocation.
- 9.22. Other Eco Town standards relate to ensuring that the site:
- incorporates best practice on tackling overheating and to tackling the impacts of climate change (the main risks for which are identified as overheating and water stress),
  - provides for homes to meet high standards of fabric energy efficiency and designed to high environmental and space standards as well as to provide a range of house types and sizes to meet needs and to be adaptable and flexible for residents to work from home. 30% affordable housing to meet local needs is required,
  - provides for employment by being supported by an economic strategy to demonstrate how access to work will be achieved and to deliver a minimum of one employment opportunity per new dwelling that is easily reached by walking, cycling and/ or public transport,
  - to be ambitious in terms of transport by achieving high levels of modal shift, to promote sustainable modes of transport and contributes towards the achievement of healthy lifestyles by providing facilities to contribute to wellbeing, for green spaces and allotments to be provided and to enable residents to make healthy choices easily, to make provision for future modes of transport (i.e. electric vehicles) and to make sure that sufficient transport infrastructure is in place to serve the development,
  - provides for community facilities and local services provided within proximity to homes to enable walkable neighbourhoods and to encourage sustainable travel initiatives,
  - the provision of green space and infrastructure as a distinguishing feature of the site making it an attractive place to live and to provide for 40% Green Infrastructure across the site with spaces being multi-functional and to provide for a range of green spaces. Sports pitches to form part of the overall requirement,
  - provides for tree planting, responds appropriately to the development edges and to hedgerow and stream corridors through the site (with 20m buffers provided to hedgerows, 60m buffers to watercourses) as well as dark corridors provided for nocturnal species,
  - appropriately mitigates for and enhances biodiversity to ensure a net biodiversity gain. Contributions are identified to mitigate for farmland birds as it is not possible to mitigate for them on site,



- is ambitious with regard to water efficiency with the ambition of achieving water neutrality by demonstrating efficient use and recycling of water to minimise additional demand,
- to incorporate sustainable urban drainage systems to minimise the impact of new development on flood risk,
- includes proposals to be ambitious with regard to waste to ensure it is sustainably dealt with and to divert waste from landfill. Zero construction waste to landfill from construction, demolition and excavation should be targeted,
- to contribute towards proposals for long term governance structures across the site to ensure that appropriate governance structures are in place, to ensure there is continued community involvement and engagement, to ensure development meets eco-town standards and to maintain community assets,
- to contribute towards the cultural enrichment of the site to create a culturally vibrant place through high quality design and community engagement.

9.23. The Ministry of Housing, Communities and Local Government (MHCLG) (now the Department for Levelling Up, Housing and Communities DLUHC) published the Future Homes Standard consultation on 1 October 2019. This has resulted in recent changes in particular to Building Regulations Approved Document F (Ventilation) and Approved Document L (Conservation of fuel and power), Approved Documents O (Overheating) and Approved Document S (Infrastructure for the charging of electric vehicles) with further changes expected and necessary to meet the Future Homes Standard at 2025 and beyond.

#### *Assessment*

9.24. The applicant submits within their submission that the key principles for the Proposed Development to deliver the energy hierarchy but not to deliver True Zero Carbon Development citing financial viability and cost as a principal reason. The development however includes:

- a proposal to go beyond the current Part L of the Building Regulations to align with the anticipated future changes (as part of the Future Homes Standard).
- to incorporate measures to reduce energy demands and supply energy efficiently in line with the energy hierarchy. Incorporate a high standard of energy efficiency measures into the design and aspire to achieve improvement over Part L 2013 (Policy ESD3).
- to incorporate low carbon and/or renewable energy technologies for energy generation (Policy ESD5).
- to integrate measures into the design that will support mitigation and adaptation to the anticipated effects of climate change (Policy ESD2)
- a financial contribution to offset the level of carbon that the applicant calculates cannot be offset on site at a rate of £60 per tonne (assessed later in this appraisal)

9.25. The applicant's submission has therefore considered anticipated changes in Part L of the Building Regulations to reflect electricity grid decarbonisation that are likely to result in a shift towards electric-led heating strategies (rather than gas) in the coming years. Furthermore, the Government has indicated that gas may be banned as a heating source from 2025. In line with this, the submission shows that CO<sub>2</sub> emissions arising from the Proposed Development are expected to decrease by circa 75% within the predicted scenario compared to the baseline of Part L 2013. However, the application makes no firm commitment to these elements if not introduced through national regulations albeit through discussions relating to the financial viability of the

scheme, it is proposed to ensure that the development would be built to the Future Homes Standard (as far as it is understood at this time).

- 9.26. The applicant also highlights that a series of design principles to increase energy efficiency have been considered through careful masterplan design. In accordance with the energy hierarchy, the Proposed Development will seek to adopt a “fabric-first” approach to building design (enhancing the performance of the components and materials that make up the building fabric itself, such as improving insulation and reducing cold bridging), before considering the use of Mechanical Electrical Plumbing (MEP) services systems and renewable/ low carbon technologies.
- 9.27. In accordance with Policy ESD4, a preliminary assessment of district heating feasibility has been undertaken. Connection to the existing heat network is likely to risk the project failing Part L of the Building Regulations in 2021. It is understood from the Applicant’s Executive Summary of the outline energy statement that SSE Enterprise are currently assessing how their infrastructure can be decarbonised to meet Building Regulation compliance.
- 9.28. There is also a ‘suite’ of ‘building-specific’ technologies that could potentially be deployed at the Proposed Development. Policy ESD5 suggests that significant on site renewable energy provision will be required for developments above 100 dwellings where this is feasible. At this stage, the most suitable technologies are anticipated to be roof-mounted photovoltaic solar panels (PV), solar water heating systems (or solar thermal) and heat recovery technologies (e.g. wastewater and air heat recovery). Air source heat pumps are likely to feature prominently in any electric led heating strategy. There may also be potential for ground/water source heating solutions, subject to further geological investigation and the detailed building designs.
- 9.29. Opportunities for incorporating emerging technologies to actively manage the generation and use of energy, including active network management and broader ‘smart’ energy concepts have been considered including thermal and electric batteries.
- 9.30. All opportunities identified here must be subject to thorough technical feasibility and financial viability assessment. The final energy strategy for each phase will be detailed at the RMA stage and secured through a S106 obligation and demonstrated through full Building Regulations (Part L) calculations for Building Control.

#### *Conclusion*

- 9.31. The summary of the Applicant’s Technology Appraisal for Zero Carbon Homes within the application are:
1. Over the next five years the greatest influence on carbon emission reduction potential of new homes will be the decarbonisation of grid electricity. The adoption of electric led heating approaches on each housing unit offers the maximum carbon benefit.
  2. Zero carbon homes and Code Level 5 can be achieved through a combination of Future Home Standard and solar generation.
  3. New homes will fail Part L of the Building Regulations if they are connected to a heat network supplied by gas boilers and CHP beyond 2021.
  4. If true zero carbon cannot be delivered on site, offsetting or offsite renewable energy project will be required.

5. Decarbonisation of the heat network is critical to achieving minimum compliance to the Building Regulations and reducing the need for offsite renewable generations.
- 9.32. It is recognised that since the adoption of the Development Plan in 2015 the standards of sustainability in construction have been improved at national level through Building Regulations and that further changes are expected by 2025 and beyond.
- 9.33. However, in light of recent volatility in national Government whilst progress has been made, the commitment to the Future Homes Standard cannot be guaranteed and the applicant does not make the commitment as to what will be delivered if national changes to Building Regulations are not brought forward although it is understood that they would target the Future Homes Standard based upon current understanding of what that would be.
- 9.34. The Applicant does, through the viability process, offer a contribution based upon £60 per tonne of carbon per year for 30 years to offset the remaining carbon that they are unable to offset on site. The Council does not currently have a basis for charging such a contribution or therefore a justifiable basis for the cost of any contribution per tonne or a scheme to spend this contribution. In addition, Bioregional who advise the Council on sustainability matters relating to NW Bicester and who have been involved in reviewing the viability case, firstly identify that the calculation of the figure offered is inconsistent but secondly that the £60 per tonne figure would likely not be sufficient because it was based on data that has since changed. Their advice is that a more sophisticated approach to calculation by applying a regression to reflect the projected decarbonisation of grid electricity (which would reduce the amount of carbon that needs to be offset over the 30 years) but with the cost increasing each year to reflect the cost of abatement and inflation which would more closely enable any contribution to offset the required level of carbon. The value offered by the applicant could be safeguarded for use on site to improve the standard of the development and the technology included to provide for benefits beyond what is likely to be the Future Homes Standard.
- 9.35. The applicant also submits that implementing True Zero Carbon would impact further on financial viability and ability to deliver affordable housing or s106 contributions. This is discussed further below.
- 9.36. As such, whilst the development would be higher than the baseline at the time of the adoption of the Development Plan policy, the proposals would not meet the aspirations of Policy Bicester 1 and the allocation as it would not meet the true zero carbon requirements. There is conflict with Policy Bicester 1 in this respect.
- 9.37. The applicant has provided some notes on the use of Modern Methods of Construction as follows (this is the applicant's position/ view):

*Assuming a similar specification and level of finish, there isn't a discernible cost differential between modular housing and traditional methods. Instead, the primary drivers for modular construction is speed of assembly to minimise on-site programme activities with lower on-site preliminaries, improved health and safety, reduced adverse weather risk and lower material wastage. This appeals to councils, neighbouring property owners and other stakeholders since it reduces extended disruption in the locality and other externalities such as traffic, noise and dust.*

*However, modular construction is still in its relative infancy. The modular home market in the UK predominantly caters for the self-build community, delivering bespoke, one-off projects. However, in time, the modular housing industry could become a scalable industry model that benefits from economies of scale, resulting in build cost*

*improvements compared to traditional methods. However, it is unlikely in the medium term that this is achievable due to high barriers to entry (e.g. financing and pay-back period of considerable factory, plant and equipment set up) and slow uptake to date.*

*A scaled up modular sector, in time, could enable this sector to be able to cater for larger schemes with 100's of new homes. However, at present, modular housing is mainly limited to clusters/ small schemes/ subset of a wider scheme as a pioneering experiment.*

*Furthermore, in terms of viability, Gardiner & Theobald would like to highlight the potential implications on the out-turn values and saleability for modular housing due to the perceived quality considerations by the end-user. G&T would therefore recommend the Client's agent is consulted on this important aspect on scheme viability. Coupled with this, modular volume housing design is limited by the manufacturing process, with the result that modular housing has limited designs and scope to customise. It is therefore perceived to be a partially homogenous end-product (and therefore less attractive) and does not have the flexibility that on-site traditional methods afford.*

*A final consideration on the suitability of modular housing from a saleability perspective is the lack of understanding from the mainstream lenders, which could make it tricky to access mortgages and therefore detracting potential buyers to a scheme.*

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

##### *Policy Context*

- 9.38. Policy ESD13 sets out that development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided. Proposals will not be permitted if they would cause undue visual intrusion into the open countryside or harm the setting of settlements, buildings, structures or other landmark features. It also identifies that opportunities will be sought to secure the enhancement of the character and appearance of the landscape.
- 9.39. Policy ESD15 identifies that new development will be expected to complement and enhance the character of its context through sensitive siting, layout and high-quality design. It includes various specific points to ensure development respects the character of the built and historic environment.
- 9.40. Policy Bicester 1 sets out various key site-specific design and place shaping principles relating to the wider allocated site. It seeks to secure a well-designed approach to the urban edge, to respect the landscape setting and to carefully consider open space and structural planting around the site.
- 9.41. Policy Bicester 1 and the associated Supplementary Planning Document (SPD) sets out a masterplan vision and context for the whole NW Bicester development with Howes Lane and Lords Lane forming the urban edge to the site and the interface with the existing town. Middleton Stoney Road forms the western edge and the interface with Bignell Park, historic parkland in private ownership. Banbury Road forms the eastern edge to the proposed development with Caversfeld House and the Church of St Lawrence beyond. The northern edge of the site area is rural and cuts through existing field boundaries. This edge requires sensitive treatment in order to lessen the impact on the surrounding countryside. St Lawrence's Church is an important local landmark building (Grade 2\* listed). Its setting is important in the local landscape. The SPD confirms that the setting of St Lawrence's Church, Himley Farm Barns and Home

Farm are key considerations for any development in the area. It finds that this setting is currently defined by underdeveloped agricultural land with associated rural qualities, in turn allowing views from these areas to the Church tower such that built development without adequate buffers would be incongruous.

9.42. The Council's SPD includes a masterplan as a key component to ensure that infrastructure and design quality will be delivered in a comprehensive manner. The masterplan shows the site boundary, proposed land uses, existing woodlands and hedgerows, watercourses and ponds, proposed woodlands and hedgerow buffers; water corridor buffer zones, a nature reserve and country park, a burial ground, site access points from the highway network as well as indicative primary and secondary routes; and the proposed realignment of Howes Lane.

9.43. The SPD sets out the following design principles that should guide the preparation of proposals on the site:

- Sustainability – a key driver in the design of the eco-town and a fundamental principle in achieving a zero-carbon development - the layout of the site and individual buildings should reduce the use of resources and carbon dioxide emissions;
- Character – somewhere with a sense of place that responds positively to the area as a whole;
- Integration – within the site but also with the surrounding town and countryside;
- Legibility – a place which is easy to understand and navigate;
- Filtered Permeability – achieving a form of layout which makes for efficient movement for pedestrians, cyclists and public transport provision while accommodating vehicles, and ensuring good connections with its surroundings;
- Townscape – utilising building height, scale and massing, and design detail and
- Landscape and green infrastructure including green space – a place which responds to its landscape setting, historic landscape and field boundaries incorporates buildings in a quality landscape setting.
- Proposed development should be sensitive to the existing landscape and townscape character whilst creating a unique image for the eco-town.

#### *Parameter Plans and Development Principles*

9.44. As many elements are reserved for future consideration, the outline application is defined through the submitted Development Principles Document and the three Parameter plans.

- Development Parameter Plan 1: Maximum building heights and footprint (ref: 1192-003 Rev N)
- Development Parameter Plan 2: Green Space (ref: 1192-003 Rev N)
- Development Parameter Plan 3: Access and Movement (ref: 1192-003 Rev M)

9.45. The applicant states that built development footprint shall be restricted to the areas shown on the Building heights and footprint parameter plan, with the exception of the categories below.

9.46. Within the areas of Multi-functional Green Space and the Landscape and Visual Mitigation Zone (on the Multi-Functional Greenspace Parameter Plan and paragraph 7.5), there will be no residential built form, and no built development will be permitted other than:

- i. Sustainable Drainage Systems
- ii. Existing fluvial flood storage;
- iii. Surface water attenuation;
- iv. Structural planting;
- v. Landscaping;
- vi. Land sculpting;
- vii. Artwork, sculptures, and signage;
- viii. Means of enclosure;
- ix. Footpaths and cycleways and their associated apparatus;
- x. Utilities and apparatus;
- xi. Development related to open space and recreation, including play equipment, allotments, orchards, and edible landscapes;
- xii. Creation of roads (including driveways) and footpaths that may need to cross the Zones in order to provide connections for the built development; and
- xiii. Creation of ecological habitats including wetland, wildflower meadows, scrub, species-rich grassland, woodland.

9.47. Within the areas of Retained Vegetation, which are located within the Multi-functional Green Space, there will be no residential built form, and no built development will be permitted other than:

- i. Some surface water drainage;
- ii. Informal footpaths and their associated apparatus;
- iii. Artwork, sculptures, and signage;
- iv. New planting and management of existing vegetation;
- v. Means of enclosure; and
- vi. Any works associated with the potential uses of any part of the woodland area for educational purposes whilst maintaining the natural feel and biodiversity of that woodland.

9.48. Efforts have been made through the above text and, latterly, the proposed parameter plans have been amended to be consistent with elements of the overall vision. The applicant team have confirmed that these changes have not resulted in any changes to the conclusions of the ES.

- 9.49. Whilst the comments of the LLFA are noted, the use of four areas for surface water attenuation ponds is not in keeping with the overall masterplan and landscape context which envisioned Sustainable Drainage being delivered also through other more designed approaches such as swales. The parameter plans identify four locations for attenuation basins but a drainage strategy for the site will be required via condition as advised by the LLFA.
- 9.50. The use of the area to the eastern edge, closest to the development edge with St Lawrence Church and Home Farm Farmhouse, was also envisioned to be greenspace as part of the setting to the two listed buildings. The proposal includes significant development in this area and a much smaller area of open space than envisioned in the masterplan and the SPD. However discussions with Conservation colleagues have indicated that there is no issue with the setting of the listed buildings in respect of the development proposals.
- 9.51. It is also noted that the greenspace is generally to the edges of the development (albeit detailed indicative work does demonstrate green spaces throughout the internal area of the development), and whilst a matter of detail, particular concern is raised to the indicative locations of the play areas which appear in constrained areas of greenspace and without appropriate designed relationships to the neighbouring dwellings. National guidance advises that in order to achieve a satisfactory relationship Local Equipped Areas of Play should have a buffer zone of 20m (minimum) from residential properties. Play areas would also not be appropriate within areas at risk of flooding due to the time that they may be unavailable. Appropriate details would need to be safeguarded through conditions.
- 9.52. Overall whilst meeting the technical requirement for 40% of the development for green space (of which half should be publicly accessible), this is achieved through the inclusion of the retained woodland and area around the River Bure rather than adherence to the landscape and design principles of the Council's Masterplan, however Officers conclude this is acceptable.
- 9.53. Conditions would be required to ensure that the detailed designs comply with the Development Parameters to ensure that the development complies with the scope of the development assessed via the Environmental Statement.

#### *Assessment*

- 9.54. The applicant's Design and Access Statement identifies that Bicester block structures and spaces are characterised by its historical evolution through a grid layout, higher densities at the village centre, a modern interpretation of rural farmsteads.
- 9.55. A variety of materials and styles reflect the rich heritage of Bicester and its surrounding villages. Simple geometry for windows with lintel detailing, sash and casement windows for example are highlighted as styles likely to be reflected as discussed in the applicant's Design and Access Statement. However, there would be an expectation that a Design Code would be sought via planning condition to secure a suitable basis for the delivery of the site through reserved matter applications taking into account the ambitions for the site.
- 9.56. The applicant also states in their Design and Access Statement landscape and public open space at Bicester are characterised by village greens and recreational grounds, growing spaces such as allotments and community orchards, verges including mature trees on historic streets, landscape corridors and overlooked recreation space.
- 9.57. However, the existing development on the wider site is more contemporary in nature and with strong continuous frontage to streets and the proposals should form

important character traits established in previous permissions and development in particular to the principal road frontages.

- 9.58. Whilst being a Reserved Matter, the Design and Access Statement sets out a reflective design approach which indicate that the proposals could, through a clear design code and design led approach, deliver an appropriate development and urban grain.

#### *Conclusion*

- 9.59. The use of the eastern area for development, where previously this was open space would cause concern and the northern boundary and buffers to the Brook and retained woodland also needs further design work but this can be dealt with through Design Coding.
- 9.60. As the proposal is in outline, the broad nature of the parameter plans are a matter which needs to be carefully considered, with landscaping, layout and scale all matters which need further approval through the Reserved Matters. The Environmental Statement and the documents associated with the planning application are more robust.
- 9.61. As such, the proposals would need to be carefully conditioned, if approved, to safeguard the principles of the masterplan and policy guidance. Officers are generally content that the information included on the proposed parameter plans alongside the ES information and to be secured through condition provide a sufficient basis for future development at the site.

#### Transport

##### *Policy Context*

- 9.62. Policy SLE4 seeks to support proposals in the movement strategies and the Local Transport Plan to deliver key connections, to support modal shift and to support more sustainable locations for employment and housing growth. It identifies that new development in the district will be required to provide financial and/ or in kind contributions to mitigate the transport impacts of the development. The Policy also identifies that new development should facilitate the use of sustainable modes of transport to make the fullest use of public transport, walking and cycling. The policy reflects the NPPF in that it advises that development which is not suitable for the roads that serve the development and which have a severe traffic impact will not be supported.
- 9.63. Policy Bicester 1 and associated guidance rely on delivering the phases of development in a co-ordinated and comprehensive manner to the delivery of infrastructure.

Guidance sets out that key considerations for movement are to be addressed in planning applications, with a key requirement to achieve modal shift to enable at least 50% of trips originating in the development to be made by non-car means with the potential for this to increase to 60%, are as follows:

- Reducing car dependency;
- Prioritising walking and cycling;
- Generating activity and connectivity;
- Highway and transport improvements including Howes Lane and Bucknell Road; and
- Bus priority and links and infrastructure including Real Time Information



- 9.64. At the outline planning application stage it will be necessary to set out the indicative layout of lower hierarchy streets as part of a future design code. The secondary road network will provide other routes through the site. Below this level, further work in preparing planning applications is required to show how the routes will connect and illustrate the permeability of the site.
- 9.65. There is scope for planning applications to reconsider key elements and provide further detail to explain how the movement principles will be realised in spatial and public realm terms.
- 9.66. It is considered in guidance that planning applications and proposals should:
- Demonstrate how Manual for Streets 1 and 2 have been incorporated into the design of roads and streets;
  - Demonstrate how Sustrans design manual guidance has been incorporated;
  - Address and ensure connectivity along the major routes;
  - Include a Movement Strategy and designs to promote sustainable transport ensuring that all residential areas enjoy easy access to open space and are connected by a range of modes of transport to schools, community facilities and leisure/ employment opportunities.
- 9.67. The NPPF also sets out at Paragraph 104 that transport issues should be considered from the earliest stages of plan-making and development proposals, so that:
- a. the potential impacts of development on transport networks can be addressed;
  - b. opportunities from existing or proposed transport infrastructure, and changing transport technology and usage, are realised – for example in relation to the scale, location or density of development that can be accommodated;
  - c. opportunities to promote walking, cycling and public transport use are identified and pursued;
  - d. the environmental impacts of traffic and transport infrastructure can be identified, assessed and taken into account – including appropriate opportunities for avoiding and mitigating any adverse effects, and for net environmental gains; and
  - e. patterns of movement, streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places.
- 9.68. Further Paragraph 110 In assessing sites that may be allocated for development in plans, or 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;
  - c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code; and
  - d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.
- 9.69. Paragraph 111 of the Framework also stipulates 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.

- 9.70. There is as yet no defining case or assistance from the NPPF or PPG which deals with the meaning of "severe" or how decision makers should address the issue.
- 9.71. An appeal decision ref: APP/D3315/W/16/3157862 helpfully summarised these approaches and provides as a useful reference point for decision makers at appeals on this vexed issue.

Herewith some relevant extracts with emphasis added:

*(paragraph 34) **"the term 'severe' sets a high bar for intervention via the planning system in traffic effects arising from development, stating that: 'The Council agreed that mere congestion and inconvenience was not sufficient to trigger the 'severe' test but rather it was a question of the consequences of such congestion"***.

*The Inspector also considers (paragraph 25), **that the queuing of vehicles is a relevant matter in looking at cumulative impact of development on the local highway network.***

- 9.72. In assessing that impact other factors which have been considered in appeals include:
- increase in the number of vehicles likely to be generated by the proposed development in relation to the capacity of the road to accommodate such an increase, both in terms of free-flow of traffic and highway safety.
  - the ability for pedestrians to cross the main road conveniently and safely; and
  - the ease of vehicles to gain access to the main road from side streets and access points.
  - the nature of vehicles (e.g. where vehicles are long/or slow moving) using the proposed accesses
- 9.73. The above is not an exhaustive list but aims to focus matters where there is proven appeal cases where severity of impact has been discussed.

#### *Assessment*

- 9.74. The NW Bicester site as acknowledged by Policy Bicester 1 and the NW Bicester SPD identifies that changes and improvements to Howes Lane and Lords Lane are required alongside the (newly installed) vehicular bridge, in improving the Howes Lane/ Bucknell Road/ Lords Lane junction which is constrained in transport terms. The purpose of the realigned road is also to provide an environment which is safe and attractive to pedestrians and cyclists as well as contributing to the place shaping requirements at NW Bicester by being a strategic route for the town which is an urban boulevard for the development and to be a focal point for the community.
- 9.75. The application site is situated to the north of the route for the realigned road and the applicant has no control over land required to deliver it. However, the site is impacted by the requirement for the road due to the transport constraints within the wider area.
- 9.76. Earlier transport work at NW Bicester identified that there was some (limited) capacity for development to be undertaken at the site prior to the delivery of the realignment of Howes Lane but that beyond this, the realignment of the road, to resolve the existing constraints was required. This has resulted in two planning permissions for the wider

NW Bicester site being approved subject to a Grampian condition relating to the delivery of the strategic infrastructure.

9.77. Until the end of 2021, this earlier work had been relied upon as a reasonable indication of transport impact because, until that point, there had been a level of certainty that the realigned Howes Lane would be provided within a reasonable timeframe. This was based upon Oxfordshire County Council having progressed the delivery of the strategic infrastructure including in delivering the two structures under the railway line utilising forward funding and progressing the detailed design for the road infrastructure with the intention to deliver the project using Oxfordshire Growth Funding.

9.78. Subsequently, the Oxfordshire Infrastructure Advisory Group advised the Future Oxfordshire Partnership on 23 November 2021 of proposed changes to the infrastructure funding allocation from the Housing and Growth Deal.

*“The A4095 alignment in North-West Bicester was proposed to be removed and the funding instead allocated to the Lodge Hill diamond interchange in north Abingdon. This would enable more housing to be accelerated. It was clarified that this would be a decision for Oxfordshire County Council. The Infrastructure Advisory Group were also looking to meet with a representative from the UK Infrastructure Bank when it was set up.*

*Panel members commented that whilst the decision to move the funds to Lodge Hill on this occasion can be understood, there would be disappointed groups, and a request was made that alternative sources of funding be identified as early as possible for the A4095 alignment. This infrastructure was considered very important for existing residents too, and not just for the homes that were due to be built.”*

9.79. The Future Oxfordshire Partnership resolved to support continued efforts to identify funding for the A4095 [Howes Lane] re-alignment work.

9.80. On this basis, there is now no certainty of the delivery of the strategic infrastructure so Oxfordshire County Council have advised that the earlier work seeking to establish potential capacity in advance of the strategic infrastructure cannot be relied upon. That earlier work was based upon an older version of the Bicester Transport Model which did not include Heyford in its assumptions. The Bicester Transport Model has since then been further updated to reflect a new scenario without the realigned road in place by 2026.

9.81. In the current circumstances, Officers have previously advised that it would not be possible to impose a Grampian condition and this applies with respect to this site too. This is because the Planning Practice Guidance provides guidance on the use of Grampian Planning Conditions and advises that such conditions (which prohibit development or a certain trigger point of a development happening (i.e., occupation) until a specified action has been completed (i.e., the provision of supporting infrastructure)) should not be used where there are no prospects at all of the action in question being performed within the time limit imposed by the permission. Therefore, the impact of a development must be judged in its entirety.

9.82. It is acknowledged that the applicant and the Local Highway Authority have been discussing and scoping the level of information prior to the submission of the application and assessing the impacts. This has involved further information and re-assessment of models being shared in particular following the submission of the application following the changes in circumstance.

9.83. In January 2022 (following the application having been with the Council since May 2021 and an initial response from OCC as the Highway Authority), an OCC Local

Highway Authority objection was raised for a number of reasons; one of which related to the impact of the development in the absence of the A4095 diversion/ strategic link road. The analysis of the impact was found to not be sound and therefore the traffic impact of the proposal could not be predicted. Since then, the applicant has been working hard to resolve the transport issues and has made a number of submissions in response to each of the objections raised (throughout 2022) including proposing an interim scheme in the form of a mini roundabout at the Howes Lane/ Bucknell Road junction (albeit this proposal has been not pursued as it has been acknowledged that this would likely result in little benefit to the operation of the local highway network).

- 9.84. The applicant also proposed to 'calibrate' the traffic flows at the existing junction to ensure that the output data from the junction modelling software (PICADY) more accurately represented the extent of queues that were observed to be generated on the approach to the existing junction as part of the traffic surveys. The approach to calibration has been accepted by OCC having been advised by their consultants (Stantec) on this point.
- 9.85. The applicant has also proposed to adjust the distribution of traffic from the proposed development that would travel to this area. With 30% of the traffic identified to the junction from the development with other traffic distributed alternatively through the centre of Bicester, around the eastern perimeter of the town or north from the proposed development along the B4100 to J10 of the M40.
- 9.86. The applicant notes that the key junctions of the Middleton Stoney Road Roundabout Junction (1,400m) and Banbury Road Roundabout Junction (1,150m) are not affected by the queues and that in this context, the queue extending 234m (am) and 73m (pm) towards the Banbury Road junction and 110m (am) and 628m (pm) towards the Middleton Stoney Road Roundabout junction would not be severe. It is noted however that the queue on Howes Lane would go beyond the signalised junction of Shakespeare Drive (c.395m). It should be noted however that without the development there would be an impact on Shakespeare Drive without mitigation by 2026.
- 9.87. Officers from the Local Planning Authority and County Council have continued to liaise with the applicant over the accuracy and detail of the highways assessment and mitigation. It should be noted that this is a principal concern for local residents and Elmsbrook Traffic and Parking Group amongst others.
- 9.88. As a result, various technical notes have been received updating the assessment and model outcomes during the course of the application with the latest being *TN011 – A4095 Junction Modelling – further assessment* which was submitted at the beginning of November 2022. This document provides the results of a further assessment of the junction, which predicts a lower level of delays and queueing at the junction of Bucknell Road and Howes Lane in 2026 than the previous assessment, upon which previous objections from OCC were based.
- 9.89. This lower prediction is the result of three factors:
- i) Using the most recent Bicester Transport Model 2026 reference case. An interim reference case was initially provided, which did not include the A4095 realignment. However, whereas in this interim reference case the amount of development predicted at NW Bicester was in line with the 2021 Annual Monitoring Report, the reference case was subsequently updated to adjust all the development at Bicester to be in line with the 2021 AMR. This has resulted in a change in predicted traffic movements at the critical junction, notably with a 10% reduction in traffic approaching from Lords Lane in the a.m. peak.

ii) Adjusting the predicted assignment of southbound traffic from the development. The initial (manual) assignment of southbound development traffic assumed the A4095 realignment was in place. However, it is accepted that given the predicted congestion at the critical junction in 2026 (without the A4095 realignment) a larger proportion of traffic would route either through the town centre or via the eastern peripheral route, reducing the amount of development traffic predicted to pass through the critical junction. However, it is unclear as to why the reduction appears to be greater in the pm peak.

iii) Further additional calibration of the Junctions 10 model of the critical junction. This was previously calibrated by applying a 14% reduction in demand traffic flow to the northern arm, such that the queueing in the base model matched observed traffic queues. However, the applicant now submits that the observed queues were in fact shorter and therefore a larger reduction factor of 28% should be used. Para 2.4.4 of TN008 says that the queue on Bucknell Rd N/Lords Lane was approx. 400m or 69.5 PCUs in the am peak, whereas Para 2.3.3 of TN011 says the queue is 170m or 29 PCUs. OCC have advised that this requires clarification. It is worth noting that TN 008 (para 2.4.10) argued that a reduction greater than 14% could be applied 'as the RFC still exceeds 1' – this is a reason for calibration that would not be accepted.

9.90. Highways Officers noted that it is accepted that the queueing and delays at the junction would be less than previously predicted in transport assessments and models, as a result of using the most up to date reference case and allowing for the reassignment of development traffic.

9.91. OCC initially advised that the results however are considered to be inconclusive because of the disparity in queue lengths between technical notes TN008 and TN011, and because of the seeming inconsistency in the application of the revised development traffic assignment.

9.92. Having reviewed further, OCC have advised that the development traffic assumed in TN011 is consistent with the revised development traffic distribution, and having re-read TN008 Rev B, the disparity in queue lengths is because the previous, longer queue related to the earlier surveys which were not carried out on a typical day, whereas the shorter queue related to the repeat surveys carried out in July. A larger adjustment was required to the Junctions 10 model to calibrate it to the July surveys. Therefore, it is accepted that the predictions of queue length in delay in TN011 are reasonable.

9.93. The results show that in the worst case, delay would increase by 50% from 6 to 9 minutes average delay per vehicle through the critical junction, comparing the situation in 2026 with and without the development. (This compares to earlier predictions of delays of up to 17 minutes.) In the context of an increasingly urban setting, drivers will become accustomed to congestion on all routes into and around Bicester by 2026, where they may face similar delays. Whilst there is no definition of what constitutes a 'severe' impact, a doubling of delay would in the opinion of OCC be severe and even an increase to 9 minutes could be seen as unreasonable. However, although there is currently no certainty of the A4095 realignment being delivered via external funding, there are current development proposals on the land required for the scheme, which means the land can potentially be safeguarded and there is some likelihood of the road eventually being delivered by developers, particularly as the most challenging element of the project, namely the bridge under the railway, has already been delivered.

9.94. Therefore, although the impact of the development may be felt for many years, it is likely to be temporary, if long-term temporary. As a result, OCC as the Local Highway Authority advise that they have removed their highway objection on the basis that the

traffic impact would not be considered severe, subject to planning obligations and conditions as previously set out

- 9.95. OCC have therefore indicated that in their view that there would not be a sustainable reason for refusal based on transport grounds.
- 9.96. With respect to other transport factors, discussions have been held with regard to the suitability of Charlotte Avenue for the level of development proposed. North of the school, the width reduces through a narrowing to 4.1m which OCC advise would be a high risk for vehicles in overrunning the footway when passing one another. The applicant has proposed a scheme of widening within this area. However, this would, in all likelihood, result in the loss of street trees along Charlotte Avenue. The applicant has offered a contribution to allow OCC to carry out the widening works. As it stands however, the road is not yet adopted. The loss of the trees could potentially be mitigated for on the site itself, which could offset some of this impact.
- 9.97. In addition, the narrowings which exist southeast of the school at the bridge on Charlotte Avenue have been assessed. This work identified how alterations could be made to better cater for both two-way traffic and cyclists which involved narrowings being removed and being replaced with speed tables and other traffic calming features. The applicant's contribution referred to above would also apply here to allow for local road improvements should those be found to be necessary in consultation with the local community.
- 9.98. Nevertheless and notwithstanding these local road improvements, the number of dwellings to be accessed from both access A and B should be kept to a minimum to ensure the impact is no greater than as modelled. The transport note for the development suggests a maximum number of 67 dwellings from access B (to the south of the bus only link and accessing the western parcel) and 138 dwellings from access A (to the south of the bus only link and accessing the eastern parcel).
- 9.99. Queries have been raised regarding the suitability of Braeburn Avenue and the local roads in this area. OCC have advised that in the modelling, the junction of Braeburn Avenue with the B4100 is showing plenty of capacity so even if there were an underestimate, this would not present a problem in terms of capacity. Traffic exiting this junction is limited by the bus gate.
- 9.100. The proposal seeks to provide cycle and pedestrian links onto the infrastructure that exists within Elmsbrook. These are generally at the same locations as the vehicular access points as well as some other locations where they can be achieved taking into account future adoption standards (or permission granted by the adjoining landowner) and future development proposals. This includes the proposal for a bridge leading over the watercourse from the site towards the south. Whilst there have been some concerns raised with respect to how segregated cycle facilities might be provided for, it has been accepted that this would not be required on Braeburn Avenue or Charlotte Avenue north of the school due to the traffic volumes. Construction access is planned to be taken from the B4100 and the layby to avoid construction traffic being taken through Elmsbrook.
- 9.101. The original Transport Assessment assumed that 40% of the trips originating within the application site would be made by car drivers with the remaining 60% of trips expected to be person trips made by sustainable means of transport.
- 9.102. Local residents have queried this, in particular due to local traffic surveys undertaken which they also consider demonstrates that the traffic impact on Elmsbrook will be far worse than predicted. There are differences between local traffic surveys and the

assumed trip generation in the models for Elmsbrook for a number of reasons. This is likely to be due to:

- the number of pupils being brought to the school who live elsewhere however in time it is assumed that more pupils will result from NW Bicester rather than from elsewhere and so the number of pupils being driven to school should reduce,
- the site is not served by facilities that meet everyday service needs such as a local centre, GP, pub and the fact that the nearest local ones are beyond walking distance for elderly residents. However, this is not unusual for a large site where the phased delivery of services is common to ensure that those delivered can be viably supported by the community. The local traffic surveys are therefore representative of the current lack of facilities in the local area and are not representative of the expected levels of trip containment when NW Bicester is built out.

The Highway Authority have found that the Bicester Transport Model reference cases have been found to be acceptable for use in modelling junction capacity for developments in the area. The model has been fully validated and validation reports are available. Their conclusion is that the impact upon the road network within Elmsbrook is acceptable. It should be noted in this context that whilst it has been suggested to the applicant that the principle of an access to the eastern parcel or some of it could be directly accessed from the B4100 which would be preferable (subject to the detail), the applicant's proposal does not include this and their proposals must therefore be considered. Their proposals are found to be acceptable subject to local road widening.

9.103. The issue of car parking has been raised by residents due to issues on Elmsbrook. This is a matter that would be negotiated at the reserved matters stage using most recent parking standards but noting the issues already experienced, particularly with respect to visitor parking.

9.104. Officers note that concerns with the proposals for the land to the south and the potential for access through into that site. This route is shown as 'potential' in that planning application and it is allowed for by the NW Bicester Masterplan. That application is though not progressed at this stage in order to reach agreement regarding the access strategy (as a whole) albeit it is likely that a link would be required, at the very least as a sustainable transport link, to ensure that a well connected development is created and to ensure that access to the school is achievable from the wider development. If that is secured as a sustainable transport link then mechanisms could be used to secure this.

9.105. The proposal would be expected to make contributions towards various offsite transport improvements including the signalisation of the Charlotte Avenue junction (which is required to offset an adverse impact at this junction), towards the bus service serving Elmsbrook, towards the Banbury Road roundabout junction, towards offsite cycle routes leading towards the town centre and to monitor the travel plan. A contribution would also be required towards the bridge leading over the watercourse as mentioned above and towards the major infrastructure costs (i.e., the A4095 realignment). There is also an expectation that the site developers would take part in a NW Bicester Bus Forum.

9.106. With regard to the signalisation of the Charlotte Avenue junction with the B4100 and the expected impact from this development, Officers note the concerns of local residents and note that the application documentation acknowledges that there would be an adverse impact on the junction. The requirement is for a contribution towards

its signalisation so that the required signalisation can be carefully designed and modelled in conjunction with the upgraded A4095/B4100 (Banbury Road) junction.

9.107. A crossing is proposed to lead from the development to the Church of St. Lawrence at Caversfield, which is proposed as a signalised crossing. This was requested in order to improve accessibility to the church and potentially increase its ability to be used for community purposes. There have been requests made for a parking area to be provided on site which was proposed as part of the proposal for the eastern parcel previously given the lack of parking available for the church. Whilst this was proposed previously, Officers do not consider that there is justification to insist on this provision because the church is within close proximity to the development and walking/ cycle provision would be available.

#### *Conclusion*

9.108. Whilst the development could provide for walking and cycling links and provide contributions towards transport improvements (including the strategic link road itself), the County Council have advised that prior to the delivery of a strategic link road, that the transport impacts of the development would not be severe.

9.109. As directed by paragraph 111, 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.

#### Density, Space Standards and Housing Mix

##### *Policy Context*

9.110. Policy BSC2 sets out that new housing should be provided on net developable areas at a density of at least 30 dwellings per hectare unless there are justifiable planning reasons for lower density development

9.111. Policy BSC4 requires that housing mix in 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. The mix of housing will be negotiated having regard to the Council's most up-to-date evidence on housing need and available evidence from developers on local market conditions. Housing sites of at least 400 dwellings will be expected to provide a minimum of 45 self-contained extra care dwellings as part of the overall mix. Should it be agreed with the Council that extra care housing would not be desirable in a particular location, an equivalent amount of alternative specialist housing (use class C3) for older people will be required.

9.112. The Masterplan for NW Bicester identifies a site for Extra Care Housing which is not related to the current application site so this has not been pursued as a requirement.

9.113. The policy mix sets out to achieve:

Market: 1bed (5%); 2bed (25%); 3bed (45%); 4+ bed (25%)

Affordable: 1bed (25-30%); 2bed (30-35%); 3bed (30-35%); 4+ bed (5-10%)

All Dwellings: 1bed (15%); 2bed (30%); 3bed (40%); 4+ bed (15%)

9.114. In respect of Policy Bicester 1 and the associated SPD it is stated that built form, density and massing that optimises the potential for solar gain to generate energy is required. Further that the density of residential development will reflect its location within the site with higher density residential development along public transport corridors and adjacent to local centres.



9.115. Whilst the Council have not adopted the National Space Standards into adopted planning policy, Policy Bicester 1 and the associated guidance sets out that homeworking will play an important role in creating employment opportunities on the site. It will be encouraged and facilitated by the design of the new homes and superfast broadband provision. Further it is stated that the ability of homes to provide flexible space for residents to work from home is a requirement of the phase 1 exemplar development.

9.116. Homeworking, in addition to the evidence presented as a result of the recent pandemic, would reduce the need to travel allowing residents who work elsewhere to spend time doing their job at home. It will also provide the opportunity to facilitate the provision of small businesses, sole traders and local businesses to use their homes for work and employment. Within homes there should be space provided to allow use as an office or small-scale ancillary business use.

#### *Assessment*

9.117. It is understood that the proposals would be able to achieve in excess of 30dph as required by Policy BSC2 of the Development Plan.

9.118. Noting the requirement of associated guidance that the density of residential development will reflect its location within the site with higher density residential development along public transport corridors and adjacent to local centres, the proposal seeks to allow for greater scale alongside the spine road through Elmsbrook which has been reduced compared to the original proposal. There are also proposals to amend the land levels across the site by plus or minus 2m. Cross sections have been provided to demonstrate this, but it is also a matter that would need further assessment at the detailed design stage to ensure a resulting suitable scheme including ensuring a suitable impact upon surrounding land uses and to protect residential amenity.

9.119. Taking the above into account and the reduced area of greenspace to the eastern area close to St Lurance Church in the masterplan it is unclear in design terms as to why the development density would be below 30dph unless the mix proposed or sought would be to create a higher proportion of larger dwellings than the overall policy mix of 1bed (15%); 2bed (30%); 3bed (40%); 4+ bed (15%).

9.120. Indicative mixes submitted to viability assessments included (albeit these have been queried by the Council's Viability Advisor as is explained later):

Market: 1bed: 0 (0%); 2bed: 128 (34.9%); 3bed: 149 (40.5%); 4+ bed: 90 (24.5%)

Affordable: 1bed: 31 (19%); 2bed: 73 (44.8%); 3bed: 47 (28%); 4+ bed: 12 (7.3%)

All: 1bed: 31 (5.8%); 2bed: 201 (37.9%); 3bed: 196 (37%); 4+ bed: 102 (19.25%)

9.121. The Council's preferred housing mix would therefore need to be secured through planning condition to guide future design work whilst ensuring that market and affordable housing mixes are well integrated and tenure blind. This may result in higher levels of greenspace.

9.122. The proposals do not include a commitment towards space standards and the need for these to be addressed form part of the commitment to homeworking (albeit the size of certain dwelling types has been queried by the Council's Viability Consultant taking into account his market research). Should planning permission be granted, appropriate safeguards would need to be included through planning conditions, preferably meeting, if not exceeding National Space Standards (given reference within Policy Bicester 1 to Lifetime Homes Standards, though the impact on viability would need to be reviewed).

### *Conclusion*

- 9.123. Overall, the proposals would need to be carefully conditioned, if approved, to safeguard the principles of the masterplan and to ensure that the areas safeguarded for landscape policy guidance where there is conflict with the parameter plans presented is secured.
- 9.124. As the proposal is in outline, further approval through the Reserved Matters is required. The above position of the Council in achieving appropriate density, design and space standards throughout the development will be important considerations to be safeguarded at a later date.

### Heritage Impact

#### *Legislative and policy context*

- 9.125. The site affects the setting of the Grade II listed building of Home Farm Farmhouse and the Grade II\* St Laurence Church.
- 9.126. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that: *In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority...shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.* Therefore, significant weight must be given to these matters in the assessment of this planning application.
- 9.127. Listed Buildings are designated heritage assets, and Paragraph 193 of the NPPF states that: *when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.* Policy ESD15 of the CLP 2031 Part 1 echoes this guidance.

#### *Assessment*

- 9.128. The comments of representatives of the St Laurence Church and the Council's Conservation Advisors amongst other commentators (e.g. Historic England) are carefully considered in particular in relation to the green margins around the eastern parcel which have been greatly reduced which will have the potential to lead to adverse impacts on biodiversity and on the setting of the church and other historic buildings.

#### *Built Heritage*

- 9.129. The building of St Laurence Church itself is Grade II\* listed and dates at least to the 12th Century, with some visible evidence of an older Saxon church on the site. It houses the oldest inscribed bell in the UK, several rare brasses and is renowned in North Oxfordshire for its beauty and special character. The churchyard is home to 25 graves of servicemen killed during the Second World War, one of the largest Commonwealth War Grave sites in North Oxfordshire. The Church is separated from the development by the B4100.
- 9.130. The application proposals include a pelican crossing immediately adjacent to St Laurence's Church. Objectors highlight in their view that the proposal for a signalised pedestrian crossing will have a direct, negative impact on the rural setting of the church immediately adjacent to the existing church gate.

- 9.131. The inclusion of a specific vista within the housing development towards St Lawrence Church as shown on the Multi-functional Greenspace Parameter Plan would mitigate the harm from the reduced green space from the masterplan.
- 9.132. The impact to St Lawrence Church is considered significant but the harm would be considered to be less than substantial. The public benefit to provide access to the existing church building, which should lead to greater use of the building is a matter balanced in accordance with the requirements of the NPPF.
- 9.133. Home Farmhouse (Grade II Listed) is also impacted by the reduced green space however there would remain a green buffer on the boundary between the proposed development and the existing heritage asset. Following consideration of the details the application would have a significant impact on the setting of Home Farmhouse however this impact is considered to be less than substantial.
- 9.134. It is noted that a number of other heritage assets are in the wider area, and these have been evaluated within the application submission, in particular the Environmental Statement. Overall due to intervening distance and the nature of the proposals, it is considered that the proposals would not have an impact on these heritage assets.
- 9.135. Taking all matters into consideration, the proposals would be in accordance with Policy ESD15 of the Local Plan and guidance contained in the National Planning Policy Framework, the identified harm would be outweighed by the public benefits arising from the development which includes the provision of housing on an allocated site.

#### *Archaeology*

- 9.136. The Site and surroundings have previously been subjected to several phases of intrusive and non-intrusive archaeological investigation, including aerial photograph examination (Air Photo Services 2010 & 2018), geophysical survey (Northamptonshire Archaeology 2011 & 2012; Magnitude Surveys 2018) and evaluation trenching (Oxford Archaeology 2014; MoLA 2018).
- 9.137. The applicant highlights in their submission that within the western portion of the Site, a rectilinear enclosure was sample excavated in two trenches and found to contain Middle Iron Age pottery sherds. Within the eastern portion, ditches within several trenches were found to contain pottery sherds ranging in date from the Early Saxon (early medieval) period to the 13th century, along with a holloway dating to the 11th-12th century. These features were interpreted as associated with the former medieval settlement of Caversfield, situated slightly further to the east.
- 9.138. Previous studies of HER data illustrate further historic activity within the wider environs of the Site, including evidence of Mesolithic, Bronze Age, Iron Age, Roman, Late Saxon and medieval activity.
- 9.139. As set out by the applicant, it is agreed that in consideration of the identified archaeological presence within the western part of the Site, the Planning Archaeologist for Oxfordshire County Council has requested a programme of further archaeological mitigation within this area. This will take the form of an archaeological excavation in advance of construction, followed by post-excavation assessment, analysis and publication of the discoveries to a scope proportionate to their significance.
- 9.140. This work would be defined as a condition of a consented scheme. No further mitigation is required for the eastern part of the Site.

- 9.141. Overall, it is agreed that the proposals would be in accordance with the Development Plan and National Planning Policy and are considered to be less than substantial. The recording and mitigation proposed will continue to be managed through the construction process and further investigations will be secured through planning condition.
- 9.142. The impact on heritage assets is therefore considered to be less than substantial harm in particular to the Church of St Lawrence. The heritage impacts therefore need to be considered in the overall planning balance with appropriate conditions in particular relating to the detail of archaeological work.

### Ecology Impact

#### *Legislative context*

- 9.143. 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.
- 9.144. 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.
- 9.145. 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.
- 9.146. 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.
- 9.147. The Regulations require competent authorities to consider or review planning permission, applied for or granted, affecting a European site, and, subject to certain exceptions, restrict or revoke permission where the integrity of the site would be

adversely affected. Equivalent consideration and review provisions are made with respects to highways and roads, electricity, pipelines, transport and works, and environmental controls (including discharge consents under water pollution legislation).

#### *Policy Context*

- 9.148. Paragraph 170 of the NPPF states that Planning policies and decisions should contribute to and enhance the natural and local environment by (amongst others): a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils; and d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 9.149. Paragraph 175 states that when determining planning applications, local planning authorities should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.
- 9.150. Paragraph 180 of the NPPF states that planning decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should (amongst others) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.
- 9.151. Policy ESD10 of the Cherwell Local Plan 2011-2031 lists measures to ensure the protection and enhancement of biodiversity and the natural environment, including a requirement for relevant habitat and species surveys and associated reports to accompany planning applications which may affect a site, habitat or species of known ecological value.
- 9.152. Policy ESD11 is concerned with Conservation Target Areas (CTAs) and requires all development proposals within or adjacent CTAs to be accompanied by a biodiversity survey and a report identifying constraints and opportunities for biodiversity enhancement.
- 9.153. 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.
- 9.154. The Planning Practice Guidance dated 2014 post-dates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that Local Planning Authorities should only require ecological surveys where clearly justified, for example if there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.
- 9.155. Policy Bicester 1 sets out three principal objectives in respect of the biodiversity objectives:

- Preservation and enhancement of habitats and species on site, particularly protected species and habitats and creation and management of new habitats to achieve an overall net gain in biodiversity including the creation of a local nature reserve and linkages with existing BAP habitats
- Sensitive management of open space provision to secure recreation and health benefits alongside biodiversity gains.
- A Landscape and Habitats Management Plan to be provided to manage habitats on site and to ensure this is integral to wider landscape management.

#### *Assessment*

9.156. The comments of the Council's Ecologist and Natural England are noted and have been carefully considered alongside the comments of local residents and stakeholders who have commented on the application.

9.157. Having considered Natural England's Standing Advice and taking account of the site constraints it is considered that the site has the potential to contain protected species and any species present.

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

9.159. The application is supported by a detailed protected species survey and sections of the Environment Statement which identified that ecological habitats were identified on the Site: semi-improved grassland, hedgerows and treelines, scattered trees, woodland and off-site watercourses. Surveys of protected species found that the Site supports potential opportunities for bats, badgers and other mammals (hedgehogs and polecats), breeding birds, reptiles, common toads and Brown Hairstreak butterflies. The Environmental Statement has been updated during the course of the application to take account of further breeding bird and bat surveys.

9.160. Opportunities to safeguard, mitigate and enhance, as set out in the Design and Access Statement, include:

- Retention and protection of key habitat features such as the watercourses, woodland, hedgerows and their buffer zones
- Sensitive timings and working methods
- Supervised staged habitat clearance exercises to safely remove protected species from developable areas
- Provision of new and enhanced greenspace and ongoing sensitive management of such habitats
- Provision of new faunal enhancements throughout the Site including bird and bat boxes (integrated and upon retained trees), hedgehog domes and highways, hibernacula and log-piles for reptiles and amphibians and invertebrate hotels and butterfly bank

9.161. Through the construction phase it is agreed that a number of mitigation measures have been incorporated into the design of the Development, with the key elements being retention of buffer zones around key habitats, the establishment of green infrastructure corridors around and across the Site, specific dark corridors for bats, and new drainage features. It is agreed that these measures together through the implementation of appropriate conditions, including a construction and environmental

management plan could manage the impact of the construction process on protected species and biodiversity.

- 9.162. The Council's Ecologist and the Newt Officer at NatureSpace did raise an issue with regard to Great Crested Newts (GCN) as there are ponds nearby which have not been surveyed for GCN suitability and therefore there could be impacts upon this species which need to be understood pre-determination. If the District Licensing route were to be required, this would need to be dealt with prior to determination. Following discussion and further consideration, a Great Crested Newt Mitigation Strategy has been submitted dated September 2022. This, in summary, argues that the current scope of survey is appropriate but, it finds that update surveys could be undertaken at the pre-commencement stage alongside a precautionary mitigation approach which could be implemented to safeguard GCN and ensure that the necessary licencing procedures are followed if necessary. There is no proposal to use the District Licensing route. The Council's Ecologist has not objected to conditioning additional GCN surveys as proposed however has expressed some concern that if the large waterbody to the east cannot be surveyed, that an assumption of GCN presence may need to be made and that the grant of a licence in this scenario would be difficult in the absence of survey information. Nevertheless, there is plenty of scope for mitigation on site and providing GCN surveys with a full report and mitigation/ licence information are the subject of a condition requiring compliance pre-commencement, then no objection is raised.
- 9.163. The Council's Ecologist also recommends a number of other pre-commencement conditions in relation to further survey work and ensuring that appropriate mitigation is delivered through the phased approach to development and to ensure that the basis of this is as up to date and accurate as possible. Officers agree that this is appropriate and can be managed through planning conditions.
- 9.164. Through the development it is proposed that the scheme will implement mitigation and compensation to seek to achieve a minimum of 10% biodiversity net gain which would be in line with the national requirement of the emerging Environment Act. The submitted Biodiversity Impact Assessment finds that the redevelopment proposals themselves deliver quantifiable net gain for biodiversity in relation to habitats which, anticipates a net gain of 16.69% for habitats and a net gain of 14.36% for hedgerows. This would need to be secured through planning conditions, in particular the delivery of a Landscape and Ecological Management Plan (LEMP) and detailed lighting design.
- 9.165. A contribution is also required towards a scheme of offsetting for farmland birds which is an impact identified by the NW Bicester Masterplan work as a result of development across the whole site. The applicant does not agree this contribution, and this is assessed in further detail later.
- 9.166. The creation of a SuDS network also provides the opportunity for an exciting ecologically rich meadow to enhance biodiversity. Swales and ponds also add interest and there is also potential for biodiversity improvement.
- 9.167. The detailed design of houses and other buildings (e.g. substations, etc) could include green roofs, bird boxes and other aspects which could add interest and biodiversity aspects however these are subject to detailed design and cannot be relied upon at this stage but could be encouraged through pre-application discussions to Reserved Matters submissions.
- 9.168. In addition, the applicant highlights that a range of qualitative gains can also be delivered on Site, such as the provision of faunal enhancements targeted to national and local Priority Species.

- 9.169. As part of the mitigation to achieve the net gain a number of enhancements are also proposed to create and improve habitats through the development which will be implemented and managed through the development and the long term. The proposals will create new faunal opportunities in relation to semi-improved grassland, hedgerows, treelines and woodland, bats, breeding birds, reptiles, common amphibians and to invertebrates. This would include further enhancement to Brown Hairstreak butterflies. There would be detailed schemes at Reserved Matters stage, informed by the outline planning consent and conditions. Due to the outline nature of the application the detail of the landscape and ecological enhancement would come forward as part of the Reserved Matters, however, the outline application submission and associated Environmental Statement form an appropriate basis for determination.
- 9.170. Officers are satisfied, on the basis of the advice from the Council's Ecologist and the absence of any objection from Natural England, and subject to conditions, that the welfare of any European Protected Species found to be present at the site and surrounding land will continue and be safeguarded notwithstanding the proposed development and that the Council's statutory obligations in relation to protected species and habitats under the Conservation of Habitats & Species Regulations 2017, have been met and discharged.

### Trees, Hedgerows and Green Infrastructure

#### *Policy Context*

- 9.171. The NPPF, at Paragraph 131, notes that Trees make an important contribution to the character and quality of urban environments, and can also help mitigate and adapt to climate change. Planning policies and decisions should ensure that new streets are tree-lined, that opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), that appropriate measures are in place to secure the long-term maintenance of newly planted trees, and that existing trees are retained wherever possible. Applicants and local planning authorities should work with highways officers and tree officers to ensure that the right trees are planted in the right places, and solutions are found that are compatible with highways standards and the needs of different users.
- 9.172. Policy and associated guidance also set out to achieve a minimum of 40% of the site to be Green Infrastructure and the policy sets out that particular attention should be given to land to allow the production of food from community, allotment and/or commercial and community gardens.
- 9.173. Development should have a clear system of safe, accessible and attractive open and green spaces that respond to and enhance natural features across the site and integrate with the existing settlement. Play areas should be located where they are accessible to children and overlooked.
- 9.174. There should be areas where biodiversity is the principal outcome, such as the nature reserve, parts of the country park, and wildlife corridors and buffers. In addition, opportunities to maximise biodiversity in other green spaces should be taken.
- 9.175. The SPD sets out that planning applications should demonstrate a range of types of green space, for example wetland areas and public space in accordance with Policy BSC11. The SPD sets out to achieve that green spaces should be multi-functional, for example accessible for play and recreation, local food production (important due to the high carbon footprint of food), walking or cycling safely and support wildlife, urban cooling and food management, providing the policy principle is not compromised.



9.176. Retaining and reinforcing the existing hedgerows, trees and woodland on the site is a key development principle. The field boundaries and hedgerows divide the site into parcels. The hedges are to be largely retained in the masterplan proposals and provide both a constraint and opportunity for development proposals. They are an important feature in the local landscape and form the basis of the site's green infrastructure.

9.177. The SPD masterplan uses the existing field boundaries and hedgerows to give the layout of the proposed development structure. Hedgerows define the site layout recognising their landscape importance and contribution to biodiversity and habitat. They provide natural corridors throughout the site for wildlife but also for residents as part of the comprehensive cycling and walking network. The Landscape Strategy that supports the masterplan includes the following key landscape elements:

- Green loops as part of a linear park;
- Retained and reinforced hedgerows with a 20 metre buffer;
- Riparian zones along the stream corridors;
- Woodland copses; and
- Green "fingers" integrating green infrastructure into the development.

#### *Assessment*

9.178. The application proposals include approximately 48% green space and infrastructure through the application proposals which includes the retention of existing woodland, new green corridors through the development proposals and buffer zones.

9.179. The applicant, in the Design and Access Statement highlights that the application proposals are based on a series of key landscape/green infrastructure (GI) zones have been developed as an integral and iterative process with the overarching masterplan within the Design and Access Statement.

9.180. The key zones are as follows:

- Western fringe - new boundary hedgerow and small woodland copses, defining the western edge of development.
- Woodland and wooded edge - retained and enhanced woodland, with woodland edge planting to create diversity. A natural play feature is set within the existing woodland clearing.
- Stream meadow - area of meadow grassland and new pond, providing attenuation and habitat diversity. The wetland area compliments the adjacent stream corridor.
- Eastern parkland - area of wildflower grassland and clusters of trees to define the eastern edge of development. Areas for attenuation and play are integrated within the parkland.
- Green corridors - restoring, retaining and enhancing existing tree belts and hedgerow boundaries with appropriate new planting, routes and attenuation features.
- Pocket park - focal space at the heart of community, with central play area

9.181. In total the application includes as an illustration 10.11ha of green infrastructure within the masterplan that is broken down to 1.1ha of play (through LEAPs and a MUGA), 0.5ha of allotments, 8.51ha of general green space (including retained woodland).

- 9.182. It is expected that formal sports provision and burial space would be provided elsewhere, in accordance with the SPD expectations and therefore contributions would be sought to meet these needs.
- 9.183. As stated, the detailed design and assessment would be secured through the Reserved Matters submissions. The key buffers and designs to play space and in particular LEAPs and LAPs will need detailed design and agreement in terms of their position on site.
- 9.184. In terms of detail some concerns could be raised with regard to the northern boundary and the integration of play space in this location into the development with appropriate buffers and boundaries to the north however these would need to be discussed at detailed stages.
- 9.185. As such, the proposed level and range of Green Infrastructure could be considered to be acceptable and in accordance with the aims of the wider masterplan as set out in Policy Bicester 1 and the associated North West Bicester SPD.

### Drainage and Flood Risk

#### *Policy Context*

- 9.186. Nationally, Paragraph 167 of the NPPF guides that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. 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:
- i. 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;
  - ii. the development is appropriately flood resistant and resilient;
  - iii. it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
  - iv. any residual risk can be safely managed; and
  - v. safe access and escape routes are included where appropriate, as part of an agreed emergency plan.
- 9.187. National Policy also guides 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.
- 9.188. Policy Bicester 1 and the associated North West Bicester SPD sets out the principles of how Sustainable Drainage and Water Management should form part of the development and that proposals should demonstrate how Sustainable Urban Drainage Systems (SUDS) and other appropriate measures will be used to manage surface water, groundwater and local watercourses to prevent surface water flooding. Policies ESD6 (Flood Risk Management), ESD7 (Sustainable Drainage Systems) and ESD8 (Water Management) are also important considerations. The policies are in

general compliance with National policy guidance and are therefore considered to be up to date.

### *Assessment*

- 9.189. The application is supported by a Flood Risk and Drainage Strategy as part of the Environmental Statement which has been updated and amended during the course of the application including the submission of a Flood Modelling Study.
- 9.190. The submission sets out that along the northern boundary of the western parcel there is a manmade field ditch which drains the northern part of the western parcel. This ditch drains to the north and is culverted beneath the B4100 and discharges into a tributary of Town Brook. Town Brook flows into a pond in the proximity of Caversfield House. The pond is approximately 30 m to the north of the Site's eastern parcel. Town Brook eventually flows alongside the eastern boundary of the eastern parcel. The rest of the western parcel drains to an unnamed watercourse which runs along part of the western parcel's southern boundary and forms a confluence with Town Brook at the south east corner of the eastern parcel. Town Brook continues in a southerly westerly direction towards the A4095 and Bicester town centre.
- 9.191. The application notes that the Town Brook (also known as Bure Brook or the River Bure) passes through Bure Park Local Nature Reserve and then through Bicester town centre. The Town Brook eventually discharges into the Gagle Brook (via Langford Brook), approximately 5 km to the south east of the Site.
- 9.192. The application sets out that during the construction phases measures such as water management and mitigation will be managed through the Construction and Environmental Management Plan (CEMP).
- 9.193. For the completed development, as the application is in outline, further details at a reserved matters will include a SuDS-based drainage strategy which will ensure that all surface water runoff is contained and controlled in accordance with the SuDS management train and the sustainable drainage hierarchy as per the OCC's Local Standards.
- 9.194. This Strategy will see the implementation of source control techniques and surface water drainage with increased runoff rates and volumes from the Development being mitigated using SuDS. These will ensure that flood risk is not increased downstream and will have been adequately sized (accounting for climate change) to provide attenuation storage in line with planning policy and LLFA requirements.
- 9.195. The SuDS will reduce runoff rates from the Development due to the application of greenfield rates, will aim to match the existing drainage regime as closely as is feasibly possible. Therefore, in the larger rainfall events, the rate of water running off from the Development is likely to be reduced.
- 9.196. As aforementioned, SuDS will be implemented within the surface water drainage strategy using the SuDS management train principles to avoid a 'pipe to pond' scenario and will therefore help to facilitate the removal of pollutants via filtration and retention methods. Runoff will be managed at source, with residual flows to drain to additional storage and treatment systems downstream. Suitable maintenance regimes are also proposed to be in place.
- 9.197. The comments from Thames Water have been noted and their suggested conditions are recommended. There were discussions through the application process relating to capacity whereby it is understood that there were indications that there may be more capacity than for 49 dwellings relating to foul water infrastructure. This has not been confirmed in a formal response from Thames Water. However, Officers believe

this matter could be resolved by continuing discussions and in seeking an update from Thames Water on this point. Ultimately, the imposition of conditions can be used to ensure that development is phased appropriately alongside any required upgrades to accommodate development within the water network.

- 9.198. The comments of the Environment Agency, CDC Drainage Advisors and the LLFA have been given full and careful consideration. Particular attention is given to the Environment Agency who note that in raising no objection to the outline drainage strategy proposed and its principles outlined in the submitted FRA, they do require conditions to be imposed.
- 9.199. As stated in the flood risk assessment, the Environment Agency will expect to see numerous SuDS being utilised on site with justifications provided where it cannot be used. When submitting information for detailed design review stage/reserved matters, calculations must comply with the County Council guidance such that 1 in 1, 1 in 30, 1 in 100 events is also provided along with 1 in 100 year event + 40% Climate Change allowance.
- 9.200. Overall it is considered that the application and Environmental Statement, as updated provide an appropriate basis for a positive determination on matters of flood risk and drainage principles. Further details will be safeguarded as part of the detail of the Reserved Matters and through conditions suggested by the Environment Agency and other consultees. Inclusion of water management through the construction management process would also be required by condition.

#### Ground Conditions, Noise and Air Quality

##### *Policy Context*

- 9.201. It is noted that Paragraphs 183-188 of the NPPF are relevant in terms of national guidance in determining planning applications.
- 9.202. In particular with respect to noise, Paragraph 188 states that the focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.
- 9.203. On ground contamination it is guided that it should be ensured that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation) and that adequate site investigation information, prepared by a competent person, is available to inform these assessments.
- 9.204. In respect of air quality the NPPF guides that development should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement.
- 9.205. Policy ENV12 of the Cherwell Local Plan 1996 sets out to ensure that development on contaminated land is appropriately mitigated and Policies SLE 4, ESD 1, ESD 3

and ESD 5 of the adopted Cherwell Local Plan 2011-2031 sets out to ensure that the development is managed in respect of the construction and operational phases of development. These policies are in accordance with the general objectives of the NPPF.

### *Assessment*

#### *Noise*

- 9.206. Having regard to the submission and the assessment of the application it is noted that the application has been assessed in detail by Environmental Health officers in respect of the noise climate and impact on neighbouring residents. The comments of residents from close to and adjacent to the development with regard to the potential impact of the development and construction traffic on the quality of the environment are noted and are a common issue with multi-phase development as new residents move into early phases. It should be noted that no building site can be completely silent however management of the construction process is an important consideration.
- 9.207. Environmental Protection Officers notes that having read the noise report provided they are satisfied with its contents and agree with its conclusions.
- 9.208. The proposals will need to ensure that, if approved, details of the suitable glazing and ventilation strategy should be agreed at the detailed design stage and that suitable conditions would be necessary. In addition careful consideration of the mitigation, layout, orientation of sensitive rooms etc. will need to be taken, in relation to development due to noise from the B4100, in particular.
- 9.209. It is also recommended that a Construction Environment Management Plan (CEMP), which shall include details of the measures to be taken to ensure construction works do not adversely affect residential properties on, adjacent to or surrounding the site together with details of the consultation and communication to be carried out with local residents shall be submitted to and approved in writing by the Local Planning Authority.
- 9.210. Whilst detailed design information with regards to the layout and composition of the proposed development with regard to road noise, play areas and non-residential areas on the neighbouring sites is not available at this outline stage, particular consideration needs to be given towards the prevention of nuisance to such uses being in close proximity.
- 9.211. These impacts would be a matter of detailed design and understanding at the time of detailed application. Placing restrictions on such uses or matters at this stage, when detailed layouts have not been formed would be unnecessary and unrelated to the consideration of the outline application.
- 9.212. As such, a number of planning conditions would need to be progressed if the application is approved in the consideration of the application and environmental protection officers raise no objection in principle to the development.
- 9.213. Whilst the comments and concerns of residents have been noted, the application is considered to be in accordance with the requirements of Development Plan policy and national best practice.

#### *Contaminated Land*

- 9.214. The application is supported by site investigation reports following investigation in August 2020 and January 2021 and documentation which has been evaluated by environmental protection officers and found to be satisfactory.
- 9.215. Whilst the submitted reports constitute an appropriate assessment for the purposes of the outline application the submitted report recommends the following further works will be required including completion of the ground gas works and a materials management plan. These can be appropriately conditioned should planning permission be granted.
- 9.216. As such considering the submitted information, there is no reason to suggest that the land, by virtue of contamination, is unsuitable for the development proposed and would be in accordance with Policy and National best practice.

#### *Air Quality*

- 9.217. The application is supported by an Air Quality Assessment which is within the Environmental Statement. The Assessment outlines and considers the impact of the future development and the impacts through construction on existing residents, for example. It is noted that Environmental Protection Officers are satisfied with its contents and have no further comments.
- 9.218. The construction phase assessment has assessed the potential impact significance of construction activities of demolition, earthworks, construction and trackout, and the appropriate mitigation measures to reduce the impact risks have been discussed and recommended. These matters include measures such as dust suppression from construction activity, for example, which would form part of a Construction and Environmental Management Plan in particular.
- 9.219. In the Operational Phase the effects of changes in traffic flow as a result of the Development, significance is determined to be 'negligible' at all identified receptor locations. All Development receptor locations are predicted to be below the Air Quality Objectives.
- 9.220. Environmental Protection Officers also advise that a condition requiring the dwelling(s) hereby permitted are provided with a system of electrical vehicle charging points should be recommended in the event that planning permission is granted. It is noted that Building Regulations (Approved Document S) has recently been updated to require electric charging points on new dwellings.

#### *Conclusion*

- 9.221. The application is supported by site investigation, noise and air quality information that has been assessed and found to be appropriate by Environmental Protection Officers. The concerns raised by local residents and objectors have been carefully considered.
- 9.222. For the reasons set out above, the application and the associated Environmental Statement is considered to be appropriate and subject to conditions in the event that planning permission being granted which would manage construction mitigation and management in particular. The proposals are therefore considered to be in accordance with Development Plan Policy and National Policy Guidance when read as a whole.

#### Planning Obligations and Viability

#### *Policy Context*

9.223. In accordance with National Planning Policy, 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

9.224. Policy Bicester 1 requires 30% affordable housing to be delivered across the site with associated infrastructure and contributions being sought in line with the Council's Planning Obligations Supplementary Planning Document and bespoke requirements relating to the specific circumstances to meet the requirements at NW Bicester.

#### *Assessment*

9.225. Contributions from this site have been requested and sought towards:

- Health provision
- Neighbourhood policing
- Community Buildings
- Community Development Workers and a fund
- Primary education
- Secondary education
- Secondary education land contribution
- Special educational needs
- Sports pitches (capital and maintenance)
- Burial ground
- Community Management Organisation
- Maintenance of community facilities
- Household waste receptacles and recycling points
- Bus services
- Public transport infrastructure
- Pedestrian/ Cycle Infrastructure
- A bridge crossing to the south
- A right of way contribution
- A contribution to the improvements required to the junction of Charlotte Avenue and the B4100
- A contribution to the improvements required to the junction of the B4100 and the A4095
- A Travel Plan Monitoring fee
- Bicester Leisure Centre
- Offsite biodiversity to mitigate for farmland birds
- A contribution towards the costs of the strategic infrastructure required at NW Bicester
- Library services

- Children's Centres
- Household waste recycling centres (from OCC)
- A Network Rail Shared Value contribution
- A contribution towards the forward funding used to fund the underbridges
- The requirement to provide for cultural wellbeing/ public art
- The requirement to monitor the development to the standards expected
- The requirement to provide for a training and employment plan and to commit the provision of apprenticeship starts
- 30% Affordable Housing
- The requirement to build to certain construction standards
- The requirement to achieve true zero carbon via a strategy
- The development would also be required to set out and then manage and maintain areas of open space and play areas
- A requirement to pay to both the District and County Councils a monitoring fee

9.226. Planning Practice Guidance highlights that where up-to-date policies have set out the contributions expected from development, planning applications that fully comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. Policy compliant in decision making means that the development fully complies with up to date plan policies. A decision maker can give appropriate weight to emerging policies.

9.227. Where a viability assessment is submitted to accompany a planning application this should be based upon and refer back to the viability assessment that informed the plan; and the applicant should provide evidence of what has changed since then.

9.228. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and viability evidence underpinning the plan is up to date, and site circumstances including any changes since the plan was brought into force, and the transparency of assumptions behind evidence submitted as part of the viability assessment.

9.229. Any viability assessment should follow the government's recommended approach to assessing viability as set out in National Planning Guidance and be proportionate, simple, transparent and publicly available. Improving transparency of data associated with viability assessment will, over time, improve the data available for future assessment as well as provide more accountability regarding how viability informs decision making.

9.230. The applicant's case is that the delivery of the proposed site has been frustrated by viability issues, principally on the delivery of the Council's policy objectives of net carbon homes, the cost of the necessary infrastructure amongst other policy requirements such as 40% open space and 30% affordable housing. The applicant has submitted a viability appraisal which concludes that it would not be viable to deliver the development to a Policy compliant standard in all respects.

9.231. The applicant's initial work considered of three scenarios of build cost – North West Bicester traditional house building costs, house building costs based on future homes standard and house building costs based on True Zero Carbon (however, the TZC scenario is for homes built to future homes standard plus a contribution to offset the



remaining carbon). The applicant then tested each of the three scenarios of build cost against four affordable housing scenarios. Their conclusion being that just three scenarios would be viable, each of which based upon the scenario of build cost being a 'traditional house building cost'.

9.232. The applicant's offered contribution for carbon offset is based upon a cost of £60 per tonne which it is understood was accepted by the Greater London Authority some years ago. This, used with the predicted carbon left after achieving a future homes standard build has resulted in a contribution offered by the applicant.

9.233. The applicant's submission has been interrogated for the Council by a Viability Consultant and a Quantity Surveyor. Throughout this process, discussions have been ongoing with regard to the inputs to the appraisal (for example relating to benchmark land value, sales values, development mix and dwelling sizes, allowances for finance, professional fees and contingencies etc) and whilst some agreement has been reached on some inputs, there remains disagreement on some inputs such as:

- The applicant's position on land cost is that benchmark land value should be £200,000 per gross acre (albeit a suggested 'compromise' position of £175,000 per gross acre was also put to the Council) compared to the Council's advisor's position on BLV which is £150,000 per gross acre (allowing for the 'reasonable incentive for a landowner to bring forward land for development while allowing a sufficient contribution to fully comply with policy requirements' (PPG)). This is allowed for in the FVA prepared for the Council by its advisor.

9.234. The Council's advisor, in November 2022, has concluded that there is a viability gap of £6.35 million. This is based upon Q1 2022 build costs and values as well as the applicant's assumed S106 package, the Council's QS advised build costs (rather than the applicant's), the BLV of £150,000 per gross acre, their view on the inputs to the appraisal (some of which are agreed with the applicant as mentioned above) and the provision of 30% affordable housing with a split of 69% affordable rent and 31% shared ownership). This gap is lower than that anticipated by the applicant.

9.235. Through an interrogation of the build cost elements, Officers were advised of certain costs accounted for that appeared high or were costs related to the development of land at NW Bicester. This included a figure of just short of £6million for rainwater and grey water harvesting.

9.236. The Council's Viability Consultant has undertaken a number of sensitivity tests to assess the impact of key variables on development viability. They have tested:

- The impact of movements in both costs and values of both plus and minus 10%
- A Value engineered scheme including the removal of the costs for rainwater and grey water harvesting plus other cost reductions such as removing the requirement to provide fruit trees and passive ventilation
- An alternative scheme with slightly larger market homes and some 5 bed dwellings to reflect a potentially likely scheme that could come forward (due to concerns that the scheme costed includes small dwellings).
- The update of costs from Q1 2022 to current day costs and sales values.

9.237. The value engineered scheme sensitivity test indicates that the viability gap could almost be closed by removing certain elements of the build cost. With some further adjustments to this scenario (i.e. to the S106 costs or the inclusion of Future Homes), that the proposal could deliver a true zero carbon development (FHS dwellings plus

a contribution) and 30% affordable housing (with the rental units based upon affordable rent).

9.238. In seeking to move matters forward, the applicant made an offer to the Council based upon a mid-point position which, in summary offered 10% affordable housing and all S106 contributions as they understood them. However, following further consideration, including the Financial Viability Appraisal of the Council's advisor, has indicated that they wish to negotiate further and that, subject to understanding the Council's final position on the S106 heads of terms, may accept the inputs to the appraisal as considered appropriate by the Council's advisor.

9.239. In reviewing their position on this point, using the Council's advisors inputs to the appraisal and in updating the costs and values to a Q4 2022 position, the Applicant anticipates that the scheme could deliver in the order of 10-15% affordable housing. This also assumes a value engineered approach to the build cost.

9.240. S106 costs have latterly been provided to the applicant for their consideration. Officers have reviewed the contributions sought and have considered what changes could be made to assist viability. This is assessed further below.

9.241. It is therefore necessary to consider the outcome of this and conclude as to whether this, as a negotiated position, can be accepted and what approach might be available to ensure that this position can be reviewed to capture any additional value that might be available.

#### **Inputs to the appraisal including updates to Q4 2022**

9.242. On the basis that the applicant intends to update their appraisal to accept all of the Council's advisor's inputs to the appraisal, Officers consider that the appraisal will be based upon an acceptable baseline. This includes the benchmark land value.

9.243. However, their view is that it is necessary to update the costs and values inputs to the latest available baseline costs to ensure that at the point that the application is considered at Committee, that the scheme viability is understood. This is also important considering the economic uncertainty being faced which is impacting build costs and property values. Officers are not averse to this and agree the principle, however those inputs to update this are not yet agreed. With regard to the build cost, Officers have been advised that it would be acceptable to update those costs to the most up to date base costs as set by the BCIS index. However, with regard to values, Officers have been advised by its advisor that the applicant's proposed approach would not be acceptable. They wish to use a land registry index for the Cherwell area, which indicates values have increased by 2.72% between Q1 2022 and Q4 2022. The Council's advisor considers this to be too crude of a way of assessing value increases and that a bespoke approach to consider values in Bicester should be adopted which would more closely reflect values seen in the town.

9.244. Further assessment will therefore be undertaken once this point is agreed.

#### **Build cost and standard**

9.245. As mentioned above, build costs have been assessed on both a traditional build cost and a future homes standard cost (as far as can be assumed at this point). However, there were some costs within the build cost, which appeared to go beyond the future homes standard. Through a consideration of what a value engineered approach might result in, as well as the position more generally on Viability (i.e. that the scheme is not viable and that it is likely that a Policy compliant level of Affordable Housing cannot

be met), Officers conclude that costs associated with the following should not be included for the following reasons:

- The rainwater/ grey water harvesting proposed is costed at just short of £6m and it is understood is reflective of what is provided for in this respect on the scheme at Elmsbrook. This reflects the requirements of the SPD which expects development to be ambitious with regard to water with ambitions towards water neutrality and reflective of the fact that this area is in an area of water stress which is also a key risk in future climate scenarios. Rainwater harvesting at a property level is identified as an 'option' for the dwellings at NW Bicester through the SPD. Whilst this cost identifies an ambition to contribute to water neutrality and is welcomed by Officers, it is also a significant cost that impacts viability and the schemes ability to provide for affordable housing. There may also be other, cheaper options to contribute towards reducing potable water demand which have not been explored. This cost is not related to the scheme's ability to achieve True Zero Carbon but is related to other sustainability/ climate change aspects of the development. Its removal from the build cost is therefore recommended. The requirement to achieve a water efficiency target of 110 litres/ person/ day in accordance with Policy ESD3 which is higher than the Building Regulations would continue to be imposed to ensure that the development contributes to reducing water use in light of the fact that the District is within an area of water stress.
- The SPD identifies that passive design principles could be included to incorporate best practice on overheating which relates to Development Requirement 3 around Climate Change mitigation. A number of examples are indicated as to how development should incorporate best practice including – tackling the impacts of climate change on the built and natural environment, using urban cooling through green infrastructure, orientation and passive design principles, water neutrality measures and meeting minimum fabric energy efficiency standards amongst others. At Elmsbrook, planning condition 11 identified 20 plots where the house designs were to be constructed with passive ventilation and thermally massive floors. This is around 5% of the 393 dwellings permitted there. The reason for the condition was to test the delivery of innovative energy efficient houses. The applicant has therefore assumed 5% of the dwellings on the site to be provided with passive ventilation and this is costed at £245,160.00. Whilst testing of innovative techniques would be supported; in the overall balance where the scheme is unviable and affordable housing is at risk, Officers consider that additional measures should not be pursued. The way that the scheme is adapted to relate to future climate scenarios would still be considered through the design of the scheme (such as orientation) as well as through the provision of green infrastructure, sustainable drainage techniques, seeking to ensure excellent fabric energy efficiency and through water reduction measures as assessed above.
- The SPD identifies that in respect of homes, the designs will need to encourage more sustainable ways of living through various ways (such as providing space for recycling and composting facilities, providing for easily accessible cycle storage areas, greywater use, rainwater harvesting etc) including providing gardens and food production and biodiversity (for example, fruit trees, wildflower meadows and log piles). At Elmsbrook, planning condition 35 required a scheme to enable each new resident to choose a fruit tree for their garden or to be provided elsewhere on the site. This was to mitigate the impact of the development and provide biodiversity gain. The applicant has therefore assumed that it will be necessary to provide a fruit tree for each new dwelling which is costed at £101,923.00. Whilst this element of the proposal would have a positive impact on the scheme, it is further the case that in the overall balance

where the scheme is unviable and affordable housing is at risk, that this could be a cost saving overall. As above, the design of the development will take into account the need to provide for a sustainable design and careful consideration can be given to factors such as ensuring that sustainable modes of transport are optimum etc. The provision of fruit trees could also be negotiated through detailed landscaping schemes within public open space areas or allotment areas without the cost needing to be attributed to each individual dwelling.

- The applicant has included a cost of £272,400.00 as costs associated with lifts to apartments which assumes that all homes must meet lifetime homes standards. Lifetime Homes minimum space standards are identified as a requirement for all homes by the SPD and Policy Bicester 1 identifies that the 'layout should achieve Building for Life 12 and Lifetime Homes Standards'. It is understood that the Lifetime Homes Standard has been broadly replaced by the optional Building Regulations M4(2) 'accessible and adaptable dwellings' standard. The Council's Developer Contributions SPD identifies that 50% of affordable rented dwellings will need to meet the M4(2) requirement (and that 1% of the house housing should be built to M4(3) requirements). The achievement of M4(2) sized dwellings for all properties (broadly equivalent to the Lifetime Homes Standard as required by Policy Bicester 1) would impact build cost and this is clear based on the costs associated with lifts to all apartments. Officers consider that this cost would not be required for all apartments, again balanced against the overall picture on viability and impact on affordable housing. This cost may not be able to be removed in its entirety though as the required standard for affordable housing should be pursued to ensure that it is delivered to meet needs.

9.246. Whilst Officers accept that removing these costs is regrettable, it is clear that these costs are impacting viability such that if retained, the level of affordable housing is reduced. These costs appear not to be related to the achievement of True Zero Carbon at the site but instead appear to be related to wider sustainability aspirations and are largely presented as 'options' through the SPD. The importance of those wider sustainability aspirations must not be ignored in meeting the ambitions for NW Bicester as a whole but, where there is a demonstrable viability gap, the achievement of a Policy compliant development before features over and above this is recommended and this value engineered scheme is therefore recommended to be the cost basis.

9.247. It is relevant to note here that the Council's advisors position was that there is a viability gap of £6.35m and removing the above elements of build cost would make a significant contribution to closing this gap. Whilst it might therefore seem that with some further modest changes to the S106 requested obligations and to affordable housing, that it might be possible to close the gap and protect the delivery of 30% affordable housing, it is understood that this may not be the case when updating all inputs to the appraisal to a Q4 2022 basis. Further assessment to finalise this matter is therefore required to understand both the gap at this baseline and then what certain changes to the appraisal do to the scheme viability.

### **S106 obligations**

9.248. The Applicants have assumed a S106 package which was based upon advice from Officers at the pre-application stage and this was based upon costs used elsewhere for NW Bicester using work undertaken some years ago. This is then used within the Council's Advisor's work in the absence of further confirmation from Officers. However, this is a matter that Officers have now reviewed in light of requests made by Consultees and in reviewing the contributions sought against the Developer Contributions SPD. The broad list of Heads of Terms sought are repeated below and

this assesses what has been assumed and what contribution should be secured to assist the scheme viability. Further detail will then be set out at Appendix 1 of all contributions to be retained as to how each contribution meets the CIL Reg tests which form the recommended heads of terms to be secured as a minimum by this scheme.

- Health provision: the applicant has assumed a cost of £259.46 at 2Q17 per dwelling which aligns with the cost secured in other S106 agreements relating to NW Bicester based upon historic work. However, the Council's Developer Contributions SPD sets out a cost of £360 per person at 2Q17 costs. This cost has been sought by the NHS Buckinghamshire, Oxfordshire, Berkshire West Integrated Care Board and, in order to ensure that the ICB are able to fund the provision of health care services to meet the needs of the population, it is recommended that the higher cost of £360 per person at 2Q17 costs is sought. The total cost for this item has then been re-indexed to give a figure at December 2022 as set out in the Heads of Terms list at Appendix 1.
- Neighbourhood policing: the applicant has assumed a cost of £151.30 per dwelling at 2Q17 which aligns with the cost secured in other S106 agreements relating to NW Bicester. Whilst Thames Valley Police have not sought a contribution from this scheme, for consistency across the NW Bicester site and to align with requests made to other sites (on the same cost basis as above), Officers consider that this cost should be retained as set out. The total cost for this item has then been re-indexed to give a figure at December 2022 as set out in the Heads of Terms list at Appendix 1.
- Community Buildings: the applicant has assumed a cost of £1050.94 per dwelling at 2Q17 which aligns with advice from Officers which was based upon historic work for development to the north of the railway line at NW Bicester. The Council's Developer Contributions SPD assumes a cost for community building infrastructure of £580 per person at 2Q17 costs. Officers have therefore taken the SPD cost despite this being higher to ensure that community facilities can be constructed which meet the needs of the population. However, the applicant has been asked to provide a signalised crossing of the B4100 to access St Lawrence Church at Caversfield and this has been costed at £100,507.00 (accounted for in the Cost Plan). It is proposed to deduct this cost from the overall contribution towards community buildings as access would be improved to the church for the community and this may give opportunities for its greater use. The resultant cost is higher than assumed by the applicant and the total cost for this item has then been re-indexed to give a figure at December 2022 as set out in the Heads of Terms list at Appendix 1.
- Community Development Workers and a fund: the applicant has assumed a contribution based upon £347.46 and £45.29 per dwelling at 2Q17 costs which aligns with the cost secured in other S106 agreements relating to NW Bicester which assumes two community development workers are in post for 20 years in a full time capacity and then a further 4 years in a part time capacity. This is far in excess of the Council's Developer Contributions SPD which requires (even with this development combined with the rest of NW Bicester), a worker at 0.8FTE would be required for 2.5 years. The benefit that a Community Development worker would bring is important in supporting the social development of the new community. But, in a scenario where a development is unviable, Officers recommend that a contribution towards this support is **NOT** pursued to assist in the viability of the scheme.
- Primary education: Oxfordshire County Council seek a total contribution of £5,030,076 (base of BCIS All-In TPI 327). Officers consider this contribution is

required as it is based upon OCC's rates per pupil to provide capacity at Gagle Brook Primary School. OCC also acknowledge in their comments that the Gagle Brook school benefitted from forward-funding from Cherwell District Council and therefore it is currently being clarified whether the requested contribution includes a payment towards re-paying the forward funding. Officers will liaise with OCC to ensure the cost is based upon the most recent index possible.

- Secondary education: Oxfordshire County Council seek a contribution of £3,360,870 (base of BCIS All-In TPI 327). Officers consider this contribution is required as it is based upon OCC's rates per pupil to provide secondary school capacity at a new school on the NW Bicester site. Officers will liaise with OCC to ensure the cost is based upon the most recent index possible.
- Secondary education land contribution: Oxfordshire County Council seek a contribution of £299,970 (base of RPIX November 2020). The land required for the secondary school is elsewhere on the NW Bicester site and OCC advise that this development would be expected to contribute proportionately towards the cost of this land. Officers have queried this contribution with OCC but if it is required, then Officers will liaise with OCC to ensure the cost is based upon the most recent index possible.
- Special educational needs: Oxfordshire County Council seek a contribution of £260,249 (base of BCIS All-In TPI 327). Officers consider this contribution is required as it is based upon OCC's rates per pupil for special education needs provision and to meet expected demand from a development of this scale. Officers will liaise with OCC to ensure the cost is based upon the most recent index possible.
- Sports pitches (capital and maintenance): the applicant has assumed a cost of £478.03 per dwelling at 2Q17 costs which aligns with the cost secured in other S106 agreements relating to NW Bicester based upon historic work. However, the Council's Developer Contributions SPD sets out a cost of £2,017.03 per dwelling at 2Q17 costs. In order to ensure that sufficient funds are available to provide the outdoor sport facilities elsewhere on the site, it is considered necessary to seek the higher cost. This could impact viability further without other costs being reduced. The total cost for this item has then been re-indexed to give a figure at December 2022 as set out in the Heads of Terms list at Appendix 1.
- Burial ground: the applicant has assumed a cost of £10.06 per dwelling at 2Q17 costs which aligns with the cost secured in other S106 agreements relating to NW Bicester based upon historic work. In the absence of another cost, this cost remains relevant and should be secured. The total cost for this item has then been re-indexed to give a figure at December 2022 as set out in the Heads of Terms list at Appendix 1.
- Community Management Organisation: the applicant has assumed a cost of £1417.91 per dwelling at 2Q17 costs which aligns with the cost secured in other S106 agreements relating to NW Bicester based upon historic work. The intention has always been to seek contributions to enable the establishment of an organisation to enable community governance across the site which was costed for a 30 year period. In order to assist viability, Officers have considered this proposal further and determined that as this development is an early phase of the overall development, that it would be reasonable to reduce the costs of this contribution to account for a 10 year period only. In this way, a contribution is still made to the CMO proposal but at a third of the cost assisting with the viability gap. As such, Officers advise that the **amended** contribution as set out

in Appendix 1 (with the total figure re-indexed to give a figure at December 2022) be secured.

- Maintenance of community facilities: the applicant has assumed a cost of £394.07 per dwelling at 2Q17 costs which aligns with the cost secured in other S106 agreements relating to NW Bicester based upon historic work. The cost relates to long term management and maintenance of community halls, allotments and the community farm planned elsewhere at NW Bicester for a 30 year period as the costs were derived from the work to establish the costs for a CMO assuming that they would take the lead in managing those facilities. This ongoing maintenance of community facilities will be required and so Officers advise that this contribution continue to be secured as set out in Appendix 1 (with the total figure re-indexed to give a figure at December 2022).
- Household waste receptacles and recycling points: the applicant has assumed a cost for this which is slightly lower than the figure requested in the Council's Developer Contributions SPD (£111 - £106 for bin and collection vehicle provision and £5 towards recycling banks). However, Officers consider that this cost can be deducted from the S106 costs and that a condition or S106 requirement can be imposed to ensure that households are provided with sufficient waste facilities prior to occupation. This will continue to ensure that the ambitions for the site in terms of reducing waste to landfill and ensuring that waste is dealt with sustainably can be met. Officers therefore advise that this cost **NOT** be pursued through S106.
- Oxfordshire County Council have sought contributions towards sustainable transport promotion including to provide for public transport services and infrastructure, pedestrian and cycle infrastructure offsite, towards a bridge to cross the water course to enable connections to the land to the south and towards new and improved public rights of way within the vicinity of the site as well as to monitor the required travel plan. OCC have confirmed that there is no flexibility in their requests for these items of infrastructure. Officers agree that the contributions should be secured as requested. A key part of achieving sustainable development at NW Bicester is to contribute to the achievement of ambitious modal shift targets and more generally, planning policy at the local and national level confirms that development must promote sustainable transport. In this context, it would be difficult to justify a reduction in S106 costs sought towards sustainable transport improvements. As such, Officers advise that the costs as set out in Appendix 1 (albeit Officers will liaise with OCC to ensure the cost is based upon the most recent index possible) should be secured.
- A contribution to the improvements required to the junction of Charlotte Avenue and the B4100 has been requested by OCC. OCC originally objected to the scheme on the basis that they questioned whether there would be sufficient capacity at the Charlotte Avenue junction to accommodate the traffic from the development. Improvements to the junction through signalisation are known to be required as a result of wider NW Bicester development as an access to a much larger area of development. On the basis that this improvement would require careful design and modelling in conjunction with the upgraded B4100/A4095 junction, OCC request a proportionate contribution towards the future upgrade of the junction. Officers therefore agree that this contribution should be secured (this is set out in Appendix 1, albeit Officers will liaise with OCC to ensure the cost is based upon the most recent index possible).
- A contribution to the improvements required to the junction of the B4100 and the A4095: Oxfordshire County Council have sought a contribution of £278,330

(index linked Baxter from December 2020) towards the proposed improvements at the Banbury Road roundabout. It is understood that this work will be forward funded (including with some Garden Town Funding), however Officers have not received confirmation as to whether this can be treated as grant and thus not re-paid where there is a viability case. In the absence of confirmation as to whether this is required to be re-paid, Officers advise that this figure be retained as a S106 cost unless otherwise advised. Officers will liaise with OCC to ensure the cost is based upon the most recent index possible.

- Bicester Leisure Centre: the applicant has assumed a cost of £493.00 at 2Q17 costs towards improvements towards indoor sport provision at Bicester Leisure Centre. This cost aligns with the contributions secured from other sites at NW Bicester but is lower than the cost that would be required should the contribution be based upon the Council's Developer Contributions SPD. In discussing this contribution with the Leisure and Recreation team, Officers have been advised that the contribution could be lowered to relate onto to the swimming pool element of the cost due to an ongoing project aiming to deliver improved swimming pool provision at the leisure centre. Officers consider that this lower contribution should therefore be pursued as set out at Appendix 1.
- Offsite biodiversity to mitigate for farmland birds: the applicant has assumed a contribution towards a biodiversity offset scheme to mitigate for farmland birds as has been secured from other NW Bicester sites. This was identified through the strategic environmental work to support the whole NW Bicester Masterplan which set out that 'it was accepted at an early stage that the Masterplan site was of value to farmland birds and that these species could not be accommodated within the Masterplan design'. The proposal was to secure funds to enhance local habitats for farmland birds and work was undertaken to anticipate a cost which could be proportionately shared across the site. As is assessed earlier, the site is able to (subject to this being secured appropriately) achieve a net biodiversity gain and the applicant's EIA found no ground nesting farmland bird of conservation concern on site during the most recent survey work and found that the conditions on site were not typically favoured by ground nesting birds. On this basis, whilst the site would not make its proportionate contribution towards this mitigation identified, the site itself would cause limited impact on farmland birds and therefore in order to assist viability, Officers consider that this contribution should **NOT** be pursued.
- A contribution towards the costs of the strategic infrastructure required at NW Bicester has been accounted for, with the applicant proposing a contribution of £3,117,646 (indexing to be confirmed) in the absence of a figure having been sought. OCC have considered the figure proposed and in considering this have confirmed that this should cover phase 2 works (the bulk of the works required for the A4095 realignment). It is not known whether this total cost would also cover phase 3 (a bus link at the south of the site and the treatment of the existing Howes Lane) works but those works are not yet costed so it would be difficult to justify an alternative. On the basis that OCC accept this cost and that a contribution towards this infrastructure is required as a proportionate contribution towards those strategic works, Officers consider that this contribution should be pursued as set out in Appendix 1.
- OCC have sought contributions towards library services and household waste recycling centres. Officers have accounted for these in appendix 1 but have queried whether there are any savings to be made against these requests bearing in mind the overall viability picture. Officers seek delegation to amend/remove these requests should that be possible and for this to be taken into account in the minimum level of affordable housing to be secured.



- OCC sought a contribution towards Children's Centres but have since confirmed that this contribution is not required. On this basis, this is not accounted for in Appendix 1.
- A Network Rail Shared Value contribution has not been accounted for by the applicant but it is a cost that OCC are obliged to seek based upon their Property agreement with Network Rail (related to the underbridges already delivered). The relevant Shared Value payment would be approximately £768,500, however, the OCC agreement with Network Rail acknowledges that 'compliance with the Council's obligations to its funders and the securing of Reg 122 infrastructure will be prioritised over obtaining any agreement for Shared Value Contributions in applicable S106 obligations'. On the basis that the scheme is unviable and the scheme cannot be entirely Policy compliant, OCC have confirmed that a Network Rail Shared Value contribution can not be pursued. This would be in the interest of retaining value in the scheme for the purpose of mitigating the impacts of the development and achieving closer to policy compliant development than could be achieved should this payment be required.
- A contribution towards the HIF forward funding used to fund the underbridges has not been accounted for by the applicant and OCC have latterly confirmed that this does not need to be recouped via S106 based upon their agreement with Homes England.
- The requirement to provide for cultural wellbeing/ public art: this is a S106 requirement but has not been allocated a cost in the viability appraisal.
- The requirement to monitor the development to the standards expected: this is a S106 requirement but has not been allocated a cost in the viability appraisal.
- The requirement to provide for a training and employment plan and to commit the provision of apprenticeship starts: this is a S106 requirement but has not been allocated a cost in the viability appraisal.
- 30% Affordable Housing – assessed below
- The requirement to achieve true zero carbon via a strategy – assessed below
- The development would also be required to set out and then manage and maintain areas of open space and play areas: this matter has not been allocated a cost in the viability appraisal and Officers have queried this with the applicant because it will result in a cost through either commuted sums should areas be transferred to the Council or through safeguarding funds should a Management Company arrangement be pursued.
- A requirement to pay to both the District and County Councils a monitoring fee: OCC have not confirmed their fee but Officers seek £10,000 for the District Council to monitor the development.

The applicant has included the following which have either been queried or advised as not required:

- Howes Lane Interim Scheme was proposed to increase transport capacity to accommodate the development in advance of the strategic infrastructure. OCC advised that the scheme would not provide enough of a benefit to justify the cost and disruption to the network. The scheme was therefore not pursued and OCC do not object to the development on transport grounds. As such, this cost will need to be removed from the S106 costs.

- The applicant included a contribution towards a sports pavilion. This was not requested as previously it was assumed that the developments to the south of the railway line would contribute to this and a community facility at the south. As such, Officers have not sought a contribution towards this piece of infrastructure as removing this cost should help the viability of the scheme.
- The applicant accounted for a cost to adopt unallocated parking bays. This cost was not requested by OCC and it is not clear whether this would be required as it is not clear if they would be within an area that OCC would adopt. This cost has therefore been recommended to be removed as a S106 cost, however OCC have advised that any later highways agreement may legitimately consider this matter depending upon the specifics of the case.
- The applicant has accounted for a cost towards 'local road improvements' however Officers are unclear what these are and whether these are legitimately a S106 cost or whether they are a build cost. The cost included has not been sought by OCC, however this matter may require review depending upon what the cost is intended to cover.
- The applicant proposed a contribution towards local village traffic calming measures. This was not sought by OCC and therefore Officers have advised that this contribution be removed from the S106 requirements.

9.249. Officers are mindful that there is a minimum level of infrastructure required to make a scheme acceptable in terms of mitigating its impacts. Through its review of the S106 requirements, Officers have sought to establish the minimum level of infrastructure that would be required in this respect also seeking to ensure that the impact of the viability gap does not mean the loss of affordable housing only. Should Members disagree with the Officer view on these elements then further work could be undertaken to review this, however where S106 costs increase, then the level of affordable housing that could be secured would fall.

### **Affordable Housing**

9.250. The applicant anticipates an affordable housing level of 10-15% based upon their understanding of the position. The final level of affordable housing is still to be concluded through further assessment work as highlighted above and using the S106 costs confirmed by Officers. This level falls significantly short of the Policy Compliant level of affordable housing required by Policies BSC3, Bicester 1 and the NW Bicester SPD and Officers are mindful of the significant pressing need for affordable housing for the District. However, Officers are also mindful that where a viability gap is proven and accepted, that a solution must be reached and that this must consider all matters. Should Members wish to secure additional affordable housing, then the S106 costs would need to be varied further and/ or a lower build cost standard achieved. Officers have reached a recommendation which seeks to provide for a balanced approach.

9.251. The basis for affordable housing has been to secure affordable rented dwellings and to retain the split within the overall number to be 70% rented and 30% intermediate. First Homes has not been modelled and it is understood that social rent would impact viability still further. Officers consider that further work can be undertaken through the S106 negotiation process to ensure that the minimum provision for affordable housing can be maximised in both number, mix and type and to work with the Strategic Housing Team to identify what type of dwellings are most needed to ensure that what is secured is most beneficial – albeit this could impact build cost/ values and could result in a lower overall percentage. Officers are unable to advise on this level of detail at this stage and therefore recommend that Members support a broad level of 10-15% affordable housing with delegation provided to Officers to secure a minimum within

this range and to negotiate the detail of this provision working alongside the Strategic Housing team.

### **True Zero Carbon**

- 9.252. As indicated previously, the applicant's proposal is to construct the dwellings to Future Homes Standard which falls short of the True Zero Carbon requirement and is a standard that will be introduced through the Building Regulations which it is understood will therefore be the required build standard for any new development from 2025 (some amendments have been introduced already starting from the 15 June 2022). The applicant then offered a contribution of £543,600 based upon £60 per tonne to offset the remaining carbon to achieve the True Zero Carbon requirements.
- 9.253. The Council's Sustainability advisors, Bioregional, have identified that a cost of £60 per tonne is unlikely to be sufficient to offset the required carbon, especially as this figure was adopted some years ago by the Greater London Authority and a more sophisticated approach to calculating a contribution should be adopted which acknowledges that the level of carbon needing to be offset over time should reduce (taking into account energy generally becoming 'cleaner') but that the cost overtime to offset would likely increase. Using this methodology, a greater contribution would be required and this would further impact the scheme viability.
- 9.254. At this point in time, the Council does not have an agreed contribution rate for carbon offsetting or a scheme to spend any contributions that it might secure in this way. Such a scheme could see significant financial contributions made to it if other developers were to rely on such an approach and it would become the Council's responsibility to offset the required level of carbon to ensure developments met the standard. This would be a significant burden for the Council now (that is not to say that such a scheme could not be secured in the future but in this respect, it could be appropriately planned to ensure that contributions are appropriate in terms of cost and how they are spent to achieve the benefit required).
- 9.255. In this case and based upon the current situation, Officers consider that it is appropriate to secure the £543,600 offered by the applicant but, that rather than this be secured as a contribution payable to the Council, that this be secured as a fund for use on the site to provide for tangible benefits over and above what the development would achieve in meeting the future homes standard. This might include additional PV or even better fabric efficiency on some or all dwellings to result in a scheme which goes beyond future homes standard (and therefore what is expected will result on all other sites anyway) albeit that this will likely not reach the true zero carbon standard. It is proposed that this contribution be secured through a schedule which requires a strategy to show how each phase of development will contribute, as far as possible to the true zero carbon standard (albeit acknowledging that this standard may not be achievable).

### **Approach to viability moving forward**

- 9.256. Given the solution recommended and the relatively low level of affordable housing that it is anticipated can be secured at this stage, as well as the outline nature of the scheme at this stage, uncertainties in costs and values and certain assumptions made at this stage which are questioned (such as the size and mix of dwellings), it is recommended that the S106 includes a viability review mechanism. The timing of this would be at each reserved matters stage (including the first) to ensure that any improvement in value generated by a more optimum scheme that might be brought forward at the reserved matters stage can be captured and ensure that the actual proposals in terms of reaching the true zero carbon/ sustainability standards can be

accounted for. This would be an upward only review process meaning that the minimum level of infrastructure secured at the outline stage would not be lost but that where additional value is generated, that this would be used to secure additional affordable housing up to a maximum of a policy compliant level. Should further value be identified then Officers would recommend that this be used on site to further improve the build standards (in preference to seeking S106 obligations that it is advised that are dropped as identified above).

### *Conclusion*

9.257. Officers have carefully considered the viability case and have balanced all requirements at NW Bicester to seek to recommend a solution to the viability issue which enables all Policy requirements to be met without one area being lost entirely. The review mechanism suggested would also ensure that should circumstances change where development viability improved and based upon the specifics of a scheme at a reserved matters stage, that additional affordable housing up to a maximum of a policy compliant level could be secured (and that if the development was still more viable that other sustainability measures could be secured). However, it is necessary to advise that if the development viability did not improve or was worse than anticipated, that the recommended solution may be all that is deliverable by the scheme.

9.258. The balanced solution to the viability gap is recommended to be:

- 10-15% Affordable Housing (final % to be confirmed once further work has been undertaken as the minimum to be secured)
- A S106 package as set out in Appendix 1 which sets out the recommended Heads of Terms taking into account the assessment above (final HoT to be confirmed once some queries have been dealt with as set out above)
- The development built to Future Homes Standard with the applicant's offered contribution of £543,600 set aside and identified for use on site to enable additional benefit to the site over and above the development achieving Future Homes Standard.

9.259. Whilst this solution to the viability gap does not meet Planning Policy requirements in a number of ways – i.e. it does not achieve Policy compliant levels of affordable housing, it does not provide for all sought S106 obligations and it does not achieve the build standards required at NW Bicester, Officers consider that the approach recommended ensures that the scheme responds to each of the Policy requirements for the site as far as it possibly can based upon the information before it taking into account that with all requirements, the scheme would not be viable.

9.260. The recommended solution, acknowledging that there is conflict with the Development Plan, must then be weighed in the overall planning balance taking into account all positive benefits and negative impacts of the development when assessed as a whole in order to reach a reasoned recommendation for the scheme.

### The Environmental Statement

#### *Policy and Legislative Context*

9.261. The Environmental Statement is a mechanism for assessing the significant environmental impacts on the development proposals and the mitigation attached to these areas. The applicant's conclusions and assessment within the Environmental Statement (and summarised at Chapter 15) is considered to be accurate and an appropriate response to the issues on the site and cumulatively when considered with developments in the area.

9.262. Impacts are defined as changes arising from the Proposed Development, and consideration of the result of these impacts on environmental receptors enables the identification of associated effects, and their relative significance. The significance of each effect has been identified both before and after mitigation measures have been applied. Effects after mitigation are referred to as 'residual effects'. Consideration of effect significance has given due regard to the following:

- extent (i.e. local, regional or national) and magnitude of the impact;
- effect duration (whether short, medium or long-term);
- effect nature (whether direct or indirect, reversible or irreversible);
- whether the effects occur in isolation, are cumulative or interactive;
- performance against environmental quality standards and in the context of relevant legislation, standards and accepted criteria;
- number of receptors affected;
- sensitivity of receptors;
- compatibility with environmental policies; and
- professional experience and judgement of the assessor.

9.263. Definitions of the standard terms are provided as follows:

Relative significance of effects (in each case to an environmental resource or receptor):

- negligible - imperceptible effects;
- minor - slight, very short or highly localised effect;
- moderate - limited effect (by extent, duration and/or magnitude); and
- major - considerable effect (by extent, duration and/or magnitude) for example of more than local scale or in breach of recognised acceptability, legislative or policy standards;

Nature of effects (in each case to an environmental resource or receptor):

- adverse - detrimental or negative effects:
- neutral - effects that are neither advantageous or detrimental; and
- beneficial - advantageous or positive effect.

9.264. Moderate and major effects are generally considered to be 'significant' for the purposes of the EIA Regulations, in accordance with standard EIA practice.

9.265. In accordance with the requirements of Regulation 29 of the Environmental Impact Assessment Regulations. The summary of the residual impacts has been measured by the applicant.

9.266. There have been no areas where consultees have advised that the Environmental Statement and the associated assessment has required amendment or alteration to the characterisation or the methodology applied. This includes all statutory consultees and the assessment of cumulative impacts.

9.267. The Application and Environmental Statement should not be considered as an opportunity to re-rehearse or assess matters of the allocation of the site as this and the associated Strategic Environmental Assessment have been found sound through independent examination.

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

10.1. Sustainability is the golden thread that runs through the National Planning Policy Framework and this is reflected in the policies of the adopted Cherwell Development Plan. The three strands of sustainability are economic, social and environmental as set out at Paragraph 8 and 9 of the NPPF.

### **Positive Benefits – Economic**

10.2. The proposals will contribute significantly to the Council's Housing Supply in terms of the short and medium term due to the size and duration of the project. The proposals support the Council's Growth strategy and provides support to the Development Plan. These elements, in accordance with decisions of similar sized projects should be afforded very substantial positive weight.

10.3. The proposals will create construction jobs and also support facilities and employment in businesses, shops and services within the area and mixed use employment areas within the wider application proposals. Due to the scale of the development these should also be afforded substantive positive weight.

### **Social**

10.4. The proposals will provide affordable housing at a tenure providing housing for those in need and a significant social benefit. The social benefits of the housing elements are considered to be a significant positive element.

10.5. The proposals would also provide significant social benefit from on site recreation and play facilities which would be at the level expected by policy. The provision of other green infrastructure would also be of significant community benefit to future residents and provide recreational opportunity and routes.

10.6. Through s106 contributions the proposals would result in a range of community based infrastructure being supported across the wider NW Bicester site which would also be of significant benefit.

10.7. The provision jobs and employment in terms of supporting jobs and opportunities is also considered a significant community and social benefit.

### **Environmental**

10.8. The creation of new green infrastructure alongside carries significant positive benefit.

10.9. The retention of trees and landscape features around the boundary and providing the structural link to the history of the site are substantive positive benefits. The retention and management of the trees for landscape and ecological benefit are given positive weight. The proposals also committing to a minimum of 10% biodiversity net gain which also carries significant positive weight.

10.10. The proposals commit to the provision of a development that will progress to zero carbon and adopting the latest best practice in seeking to develop the site through a stepped approach to energy, which includes a fabric first approach, a stepped move away from fossil fuelled heating, low carbon heating technology, and the incorporation of renewables (e.g, air source heat pumps and photovoltaics). Other initiatives will

include electric charging points and development of low energy that will exceed a carbon reduction above the current levels. As explained above, whilst the proposals would not achieve the policy objective of true net zero carbon development but the positive progression towards net zero and to be built to Future Homes Standard should be given positive weight.

### **Negative impacts**

- 10.11. It is also important to recognise that every development has to consider negative impacts in terms of the development and consider whether the positive benefits outweigh these negative impacts.
- 10.12. No development or construction site is silent and therefore the development will result in impacts on the area in terms of noise and disturbance as the development is completed. There would also be disruption through the implementation of the traffic mitigation. This is minimised through the development and implementation of construction management plans however some disturbance is expected. This carries moderate negative weight.
- 10.13. The development would have a significant albeit less than substantial impact upon the setting of the grade II\* listed St Lawrence Church and the grade II listed Home Farmhouse. This must be attributed negative weight in the planning balance. However, and as discussed, the public benefits of providing housing and increasing accessibility to the listed church would assist in mitigating the less than substantial harm identified. In addition, the Council's Conservation Team do not raise an objection to the impact upon setting due to sufficient mitigation being put in place and subject to detailed consideration of its treatment and the provision of a heritage enhancement zone. This therefore carries minor negative weight taking into account the mitigation identified.
- 10.14. The proposal has been demonstrated to be unviable and therefore cannot achieve policy compliance in a number of ways. Whilst delivering affordable housing, this would not be to the level expected by Planning Policy and the site would not deliver True Zero Carbon as also expected by Policy Bicester 1. The S106 contributions sought have been varied or reduced to also assist viability. Whilst Officers have reached a conclusion on these matters, they do carry moderate negative weight in the planning balance.

### **Conclusion**

- 10.15. Officers are mindful of the significant positive impacts that would arise from the development and attribute this significant weight. Whilst the viability picture is difficult and planning policy cannot be met in respect of a number of areas, the balanced approach to how this issue can be resolved as explained is considered to be an acceptable way forward that would ensure the development satisfactorily mitigates its impacts.
- 10.16. Officers do wish to highlight those that should Members resolve that they would have approved the planning application, that the recommendation is that further work is undertaken on viability to reach an agreed position which could result in additional affordable housing being secured above that identified as a minimum in the recommendation report (and should that be possible, Officers will ensure this is secured). The report highlights outstanding issues which will need to be worked through and some outstanding queries on matters such as the S106. Delegation is sought to progress negotiation through the appeal process and to secure the best possible outcome once further viability work is undertaken.

10.17. The development would have a transport impact should it be delivered in advance of the strategic infrastructure for the site but Oxfordshire County Council have accepted that the impact would not be severe and that they have no objections to the proposal in this context.

10.18. Taking all material considerations into account, Officers conclude that the scheme represents an acceptable development proposal and recommend that the Committee confirm that they would have resolved to grant outline permission subject to various matters as set out in the recommendation below.

## **11. RECOMMENDATION**

- i. THAT THE COMMITTEE RESOLVE TO CONFIRM THAT, HAD THE POWER TO DETERMINE THE APPLICATION HAVE CONTINUED TO REST WITH THEM, THAT THEY WOULD HAVE RESOLVED TO APPROVE THE APPLICATION SUBJECT TO:
  - I. THE COMPLETION OF VIABILITY DISCUSSIONS,**
  - II. THE COMPLETION OF A S106 AND**
  - III. A SET OF PLANNING CONDITIONS****
- ii. THAT POWERS BE DELEGATED TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT, OR AN OFFICER NOMINATED BY THEM, TO AGREE THE COUNCIL'S APPEAL SUBMISSIONS.**
- iii. THAT POWERS BE DELEGATED TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT, OR AN OFFICER NOMINATED BY THEM, HAVING REGARD TO THE HEADS OF TERMS SET OUT WITHIN APPENDIX 1 BELOW TO COMPLETE VIABILITY DISCUSSIONS TO ACHIEVE AS CLOSE TO POLICY REQUIRED LEVELS OF AFFORDABLE HOUSING AND AS CLOSE TO TRUE ZERO CARBON AS POSSIBLE ALONGSIDE DEVELOPER CONTRIBUTIONS TO MITIGATE THE IMPACT OF THE DEVELOPMENT AND THEN TO NEGOTIATE AND COMPLETE AN AGREEMENT CONTAINING OBLIGATIONS PURSUANT TO S106 OF THE TOWN AND COUNTRY PLANNING ACT (AS AMENDED) RELATING TO THE PLANNING APPEAL**
- iv. THAT POWERS BE DELEGATED TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT, OR AN OFFICER NOMINATED BY THEM, TO NEGOTIATE AND COMPLETE A LIST OF PLANNING CONDITIONS RELATING TO THE PLANNING APPEAL BASED UPON THE LIST BELOW**

### CONDITIONS

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

Reason - This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 5(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).



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

Reason - This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 5(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).

3. In the case of all other reserved matters, in respect of subsequent phases, application for approval shall be made not later than the expiration of five years beginning with the date of this permission.

Reason - This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 5(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).

4. The development to which this permission relates shall be begun not later than the expiration of two years from the approval of the first residential phase reserved matter and for all subsequent phases two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last reserved matters to be approved for that phase.

Reason - This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 5(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).

5. The development hereby permitted shall be carried out in accordance with the following approved plans and parameter plans which form the basis for future Reserved Matters and the detail to be outlined in the Design Code:

- i. Development Parameter 1: Maximum Building Heights and Footprint (Drawing ref: 003 Rev N)

- ii. Development Parameter Plan 2 Green Space (Drawing Ref: 003 Rev N)

- iii. Development Parameter Plan 3: Access and Movement (Drawing Ref: 003 Rev M)

- iv. Site Location Plan (Drawing Ref: 001 Rev J)

- v. Access drawings:

- Site access A – Access to Eastern Parcel (4600-1100-T-040 Rev A)
- Site accesses A&B – Access to Eastern Parcel and Western Parcel (south) (4600-1100-T-041 Rev A)
- Site access C – Access to Western Parcel (north) (4600-1100-T-042 Rev A)
- Site access D – Direct Access to North of the Western Parcel (4600-1100-T-010 Rev B)
- Site access E – Proposed Construction Access (4600-1100-T-011 Rev F) [UNLESS INCLUDED WITHIN THE S106 AS A S278 REQUIREMENT]
- Construction Access Western Parcel (4600-100-T-027 Rev B) [UNLESS INCLUDED WITHIN THE S106 AS A S278 REQUIREMENT]
- Proposed Pedestrian Crossing to Church (4600-1100-T-004 Rev D) [UNLESS INCLUDED WITHIN THE S106 AS A S278 REQUIREMENT]

The Development Parameters Schedule and Plans dated amended in December 2022 (Ref. V6.1) dated 16 December 2022 also forms part of the permission in setting parameters and principles of the permission.

Reason: To define the approved plans of the outline planning permission and the parameters for future submissions and to avoid doubt and to comply with Government guidance contained within the National Planning Policy Framework.

6. No more than 530 dwellings falling within Use Class C3 shall be constructed on the site.

Reason: To ensure that the significant environmental effects arising from the development are mitigated, as set out in the Environmental Statement, and sustainable development is achieved in accordance with Policy Bicester 1 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework.

7. No more than 67 dwellings shall be constructed on the western parcel to be accessed from Access B and there shall be no vehicular access into or between the rest of the western parcel beyond those dwellings. No more than 138 dwellings shall be constructed on the eastern parcel to be accessed from Access A.

Reason: To ensure that the transport impacts of the development upon Charlotte Avenue are no greater than those considered under this application in accordance with Policy SLE4 of the Cherwell Local Plan Part 1 2011-2031 and Government guidance contained within the National Planning Policy Framework.

8. There shall be no residential development or raising of existing ground levels within the areas identified as being at risk of flooding as shown in Appendix A of letter reference L01/205550D/NB dated 04 February 2022, from Vectos Limited.

Reason: To reduce the risk of flooding to the proposed development and to prevent flooding elsewhere.

9. Any reserved matters application/s shall include details of the finished floor level of all residential units which shall be set at 300mm above the expected 1% annual probability flood level with the appropriate allowance for climate change.

Reason: To reduce the risk of flooding to the proposed development and future occupants.

10. Any reserved matters application which includes a new or amended crossing of a watercourse shall include a detailed Flood Risk Assessment and detailed design drawings of the crossing that demonstrates that there will be no increase in flood risk or adverse effect on flood flow up to and including an appropriate allowance for climate change.

Reason: to prevent flooding elsewhere by ensuring that there will be no impact on flood flows.

11. Every Reserved Matters Submission within the redline of the outline application shall be accompanied by an Environmental Statement and Design Code Compliance Statement.

Reason: To provide detailed and meaningful monitoring of the aims and objectives of the outline planning permission through the delivery of a sustainable framework

of the delivery of the long-term objectives in accordance with Government guidance contained within the National Planning Policy Framework.

12. All site clearance (including the removal of any vegetation or works to hedgerows) shall be timed so as to avoid the bird nesting season, this being during the months of March until July inclusive unless the Local Planning Authority has confirmed in writing that such works can proceed, based on submission of a survey (no more than 48hrs before works commence) undertaken by a competent ecologist to assess the nesting bird activity on site, together with details of measures to protect the nesting bird interest on the site as required.

Reason: To ensure that the development will conserve and enhance the natural environment and will not cause significant harm to any protected species or its habitat to comply with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

13. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building(s) or on the completion of the development, whichever is the sooner, and shall be maintained for a period of 5 years from the completion of the development. Any trees and/or shrubs which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent for any variation.

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

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

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

15. All services serving the proposed development shall be provided underground unless details of any necessary above ground service infrastructure, whether or not permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), have first been submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the first occupation of the development that they serve, the above ground services shall be provided on site in accordance with the approved details.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031, Policy C28 of

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

16. Prior to or alongside the submission of the first reserved matters application a Design Code shall be submitted to and agreed in writing by the Local Planning Authority. The Design Code shall include, but shall not be limited to, information relating to:

- a. The overall vision of the development as part of the delivery of NorthWest Bicester taking account of the timescale for development and potential innovation whilst allowing flexibility for changes in legislation and technology;
- b. The creation of character areas, neighbourhoods, development parcels and unifying features common across the wider development;
- c. Key buildings, frontages, primary and secondary streets and access points to create an appropriate hierarchy of routes based on sustainable travel hierarchy of walking, cycling, public transport and the car and measures to minimise opportunities for crime;
- d. The delivery of sustainability standards and the progression to true net zero carbon environments;
- e. A strategy and approach to public realm, including landscaping and sustainable drainage and public art;
- f. The promotion of modern and innovative methods of construction;
- g. The incorporation of flexible living and workspace and creating high quality homeworking environments and supporting infrastructure;
- h. A strategy of the design and delivery of the green and blue infrastructure;
- i. Design and space principles relating to the creation of formal and informal play areas to support the development of a Youth and Play Strategy.
- j. Crime prevention and community safety
- k. Sub stations

All reserved matters applications shall be made in accordance with the Design Code and the development shall thereafter be carried out in accordance with the principles of the approved Design Code.

Reason: To secure the delivery of high quality sustainable development in accordance with Government guidance contained within the National Planning Policy Framework and Policies Bicester 1 and ESD15 of the Cherwell Local Plan Part 1 2011-2031. This information is required prior to commencement of any development as it is fundamental to the acceptability of the scheme.

17. Prior to or alongside the submission of the first reserved matters application, a Site Wide Phasing Plan shall be submitted to and approved in writing by the Local Planning Authority.

The Site Wide Phasing Plan shall contain sufficient information to show how the development will be delivered and shall outline the detail and timetable for the following:

- i) Details of Development Parcels and/or Key Phases for the residential development parcels (including approximate housing numbers and broad delivery timescales)
- ii) Strategic engineering elements (including drainage mitigation)
- iii) Strategic landscaping elements
- iv) The delivery of drainage and SuDS attenuation
- v) Relevant triggers with the associated s106 Legal Agreement and development timescales.
- vi) Construction Strategy and implementation of key mitigation for air quality and noise.
- vii) Public transport access and transport infrastructure

- viii) Implementation of recreational routes, play space and open space provision.
- ix) A mechanism for its review and where necessary amendment.

Thereafter each reserved matters application shall refer to a phase, phases, or part thereof identified in the approved phasing plan and development shall proceed in accordance with the approved phasing unless an alternative phasing plan is agreed in writing by the Local Planning Authority pursuant to this condition.

Reason: To ensure the proper phased implementation of the development and associated infrastructure in accordance with Policy Bicester 1, SLE4 and INF1 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of any development as it is fundamental to the acceptability of the scheme.

18. Prior to or concurrently with the submission of the first Reserved Matters application, a strategy shall be submitted detailing how the development will progress to meet the Future Homes Standard, or above, to include targets for each element that:

- As a minimum, complies with national and local requirements for low and zero carbon.
- Create a Development that is resilient to energy price fluctuation and the impacts of climate change.
- Supports the transition of the UK target to be Net Zero Carbon by 2050.
- Reduce potable water demand through the efficient use of water to a maximum of 110 litres per person per day
- Include details for the management of wastewater (e.g. through rainwater harvesting)
- Manage water run-off through the incorporation of SuDS
- Minimise the generation of and increase the reuse of waste associated with demolition, excavation and construction
- Provide systems for efficient waste management during operation
- Provide for the sustainable use of materials and resources, considering embodied impacts, sourcing, conservation and reuse
- Promote and enable efficient low-carbon means of transport
- Ensure the reduction in energy use for heating and cooling
- Provide for electric charging points on all private properties
- Provide for charging points in street furniture for e-bikes and e-scooters, where appropriate
- Promote accessibility to and within the site through the delivery of non-vehicular routes.
- Protect and enhance biodiversity and habitat connectivity to achieve a Net Positive impact including the use of green roofs where appropriate
- Sustainable construction in buildings that deliver high levels of enhanced economic, social and environmental outcomes including lower operational costs.
- The review and/or enhancement of environmental standards throughout the course of the development.

Reason: To contribute towards the achievement of the standards required by Policy Bicester 1 and Policies ESD1-5 of the Cherwell Local Plan Part 1 2011-2031. This information is required prior to the commencement of the development as it is fundamental to the acceptability of the scheme.

19. No development shall take place until a site wide Construction and Environmental Management Plan (CEMP) including for biodiversity has been submitted to and

agreed in writing by the Local Planning Authority. The CEMP shall be based on the principles include the following:

- a. Implementation of the Soil Handling and Earthworks Strategy, including details of any piling, noise, vibration and associated mitigation;
- b. Implementation air quality and dust suppression management measures through a Dust Management Plan;
- c. The protection of the environment and implement best practice guidelines for works within or near water and habitats, including the appointment of a qualified ecologist to advise on site clearance and construction, in particular any works that have the potential to disturb notable ecological features;
- d. Arrangements for a site walkover survey undertaken by a suitably qualified Ecologist to ensure that no protected species which could be harmed by the development have moved onto the site since the previous surveys were carried out. If any protected species are found, details of mitigation measures to prevent their harm shall be required to be submitted;
- e. Measures to minimising energy requirements and emissions from equipment and plant (including minimising the use of diesel or petrol powered generators and instead using mains electricity or battery powered equipment; powering down of equipment / plant during periods of non-utilisation; optimising vehicle utilisation; use of energy efficient lighting)
- f. Construction management measures to ensure the preservation of on site heritage assets
- g. An Emergency Response / Spill Response Plan to be produced by the Principal Contractor(s) for the protection from contamination
- h. A Construction Traffic Management Plan (CTMP) and traffic routing, temporary access and haul roads to ensure construction vehicles, materials and logistics saving measures are managed
- i. Measures to minimise greenhouse gas emissions associated with the production of waste including the reuse and recovery of materials where possible, avoid excavation waste, management of water and water resources, the reuse and/or recycling of construction waste on-site in subsequent stages of the development
- j. Measures to reduce the impact on neighbouring and nearby residents and associated temporary fencing, lighting and construction compounds and activity through the operational phase of development.
- k. Delivery and construction working hours
- l. Details of site management including a method for creation of logging of visitors and contractors on site, the monitoring incidents and complaints), including monitoring and reporting (including site inspections, soiling checks, compliance with Dust Management plan, etc) and, where appropriate, CCTV and tracking of contractor vehicles to ensure appropriate routing of vehicles.
- m. A wastewater strategy detailing how foul drainage will be managed during the construction stage.

The approved Construction Environment Management Plan shall be adhered to throughout the construction period for the development.

Reason: To manage construction process and to ensure that the impacts to soils, air quality, contamination and ground conditions, ecological habitats, cultural heritage, noise and vibration, heritage assets, transport and waste as well as neighbouring and nearby residents and climate impacts are managed in accordance with the mitigation outlined in the Environmental Statement (including the Environmental Statement) and in accordance with Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework. This information is required prior to the commencement of the development as it is fundamental to the acceptability of the scheme.

20. Prior to the commencement of development on a phase, a Site Waste Management Plan, targeting zero construction waste to landfill for that phase, shall be submitted to and approved in writing by the Local Planning Authority. The approved Site Waste Management Plan shall thereafter be implemented in accordance with the approved details.

Reason - to ensure the appropriate management of waste in accordance with Government guidance contained within the Eco Town PPS and the National Planning Policy Framework. This information is required prior to commencement of any development on the appropriate phase as it is fundamental to the acceptability of the scheme.

21. No development shall take place until the ground investigation works outlined at section 10 of the Desk Study and Site Investigation report dated 16 April 2021 (doc ref. 13603-HYD-XX-XX-RP-GE-1000) have been carried out and a report detailing the outcomes of the further ground investigation works, any required phasing, any risks from contamination and/ or gas, any radon protection measures and a remediation strategy where required shall be submitted to and approved in writing by the Local Planning Authority.

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

22. No development of a phase shall take place until a detailed surface water drainage strategy pursuant to that phase and which shall accord with the outline drainage strategy and its principles outlined in the submitted Flood Risk Assessment and Surface Water Drainage Strategy prepared by Vectos dated April 2021 (Issue 3) has been submitted to and approved in writing by the Local Planning Authority. The strategy shall demonstrate how the management of water within the reserved matters site for which approval is sought accords with the approved details set out in the approved Flood Risk Assessment and Surface Water Drainage Strategy. The strategy shall maximise the use of measures to control water at source as far as practicable to limit the rate and quantity of run-off and improve the quality of any run-off before it leaves the site or joins any water body. The strategy shall also include a maintenance plan for the surface water management system.

ii) Each submitted strategy shall include details of all flow control system(s) and the design, location and capacity of all strategic SuDS features within the reserved matters submission site and shall include ownership, long-term adoption, management and maintenance schemes and monitoring arrangements and responsibilities. The strategy should also demonstrate that the exceedance of the designed system has been considered through the provision of overland flow routes.

iii) The development shall be carried out in full accordance with the approved relevant surface water strategy and no building constructed pursuant to that particular reserved matters approval shall be occupied or used until such time as the approved detailed surface water measures relating to that building have been fully completed in accordance with the approved strategy.

Reason: In order to reduce the risk of flooding, to ensure adequate flood control, maintenance and efficient use and management of water within the site, to ensure the quality of the water entering receiving water courses is appropriate and monitored and to promote the use of sustainable urban drainage systems to limit the volume and rate of water leaving the site in accordance with Policies ESD6 and ESD7 of the Cherwell Local Plan Part 1 2011-2031 and Government guidance contained within the National Planning Policy Framework. This information is required prior to the commencement of the development as it is fundamental to the acceptability of the scheme.

23. No development shall commence until a Foul Water Strategy for the development has been submitted to and approved in writing by the Local Planning Authority. The strategy should include:
- a) Coloured plan to show the different foul and surface water sewers;
  - b) Routes of all sewers for that Development Parcel;
  - c) A programme phasing the delivery of such works (having regard to planning conditions **X and Y**);
  - d) Provision for inspection by the Local Planning Authority.

The strategy as approved shall be constructed and completed in accordance with the approved plans/specification and the approved programme for their phased delivery.

Reason: In order to manage foul water drainage, maintenance and efficient use and management of water within the site, to ensure the quality of the water leaving the site and to manage the connections to the wider drainage network. In accordance with Policies ESD6 and 7 of the Cherwell Local Plan Part 1 2011-2031 and Government guidance contained within the National Planning Policy Framework. This information is required prior to the commencement of the development as it is fundamental to the acceptability of the scheme.

24. No development shall take place until update surveys, a mitigation strategy and licence details (should those be considered necessary) for Great Crested Newts have been undertaken and submitted to and approved in writing by the Local Planning Authority. The development shall be then undertaken in accordance with the agreed mitigation strategy.

Reason: To protect species of importance from any loss or damage and to ensure they are appropriately mitigated for in accordance with Policies Bicester 1 and ESD10 of the Cherwell Local Plan Part 1 2011-2031 and Government guidance contained within the National Planning Policy Framework. This information is required prior to the commencement of the development as it is fundamental to the acceptability of the scheme.

25. No development shall take place until a professional archaeological organisation acceptable to the Local Planning Authority has prepared an Archaeological Written Scheme of Investigation relating to the application site 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 Government guidance contained within the National Planning Policy Framework. This information is required prior to the commencement of the development as it is fundamental to the acceptability of the scheme.

26. Following the approval of the Written Scheme of Investigation, referred to in condition **X**, and prior to the commencement of the development (other than in accordance with the agreed Written Scheme of Investigation), a staged programme



of archaeological evaluation and 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 from 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. This work is required prior to the commencement of the development as it is fundamental to the acceptability of the scheme.

27. No development shall take place until a Site-wide Soil Handling and Earthwork Strategy has been submitted to and agreed in writing by the Local Planning Authority. Details to be submitted shall incorporate the principles outlined in Defra Code of Practice for the Sustainable Use of Soils on Construction Sites (or alternative or succeeding guidance and legislation) (including details within the Environmental Statement) and include details relating to:

- i) the need for soils stripped from the construction areas to be re-used appropriately to provide suitable conditions for the required end use,
- ii) the maximisation of recycled or reused soils
- iii) the location and details of soil storage away from watercourses (or potential pathways to watercourses) and
- iv) any measures to ensure that potentially contaminated soil will be stored on an impermeable surface and covered to reduce leachate generation and potential migration to surface waters.
- v) an Implementation and monitoring strategy to be incorporated into the Strategic Construction and Environmental Management Plan.

The development hereby approved shall be carried out in accordance with the approved Site-wide Soil Handling and Earthwork Strategy.

Reason: To ensure that risks from the movement of soil and construction activity associated with development are appropriately managed throughout the construction timescale and across the delivery of the development appropriate to neighbouring land uses, together with managing controlled waters, property and ecological systems, neighbours and other offsite receptors in accordance with Policy Bicester 1 of the Cherwell Local Plan Part 1 2011-2031 and Government guidance contained within the National Planning Policy Framework. This information is required prior to the commencement of the development as it is fundamental to the acceptability of the scheme.

28. No development of a phase shall take place until a report has been submitted to and approved in writing by the Local Planning Authority outlining how carbon emissions from the construction process and embodied carbon within that phase will be minimised. The phase of development shall thereafter be carried out in accordance with the approved report.

Reason: To ensure the development achieves a reduced carbon footprint in accordance with Policy Bicester 1 of the Cherwell Local Plan 2011-2031. This information is required prior to commencement of any development on the appropriate phase as it is fundamental to the acceptability of the scheme.

29. No development shall take place until a Landscape and Ecology Management Plan has been submitted to and agreed in writing by the Local Planning Authority taking forward the recommendations of the Environmental Statement and demonstrating how the development will achieve at least a total 10% biodiversity net gain. This includes:

- i) Management of species (including translocation) and creation of habitats and species through the construction period including badgers, bats, water voles, great crested newts, reptiles, bird species and other species, including the removal of invasive and non-native landscaping, as appropriate.
- ii) Development of short and long-term mitigation and delivery of habitats through the implementation of landscaping and appropriate phasing to maximise the potential and biodiversity net gain in Strategic Landscaping elements.
- iii) Delivery of tree planting, bird and bat boxes and nesting opportunities and green/brown roofs within Development Parcels.
- iv) Development of green corridors and crossings
- v) Management strategies for new and retained habitats and environments.
- v) Monitoring measures to measure existing habitats being retained and the implementation of new biodiversity features.
- vi) a mechanism for the review and amendment of the strategy.

The strategy shall be implemented throughout the construction period and Reserved Matters submissions for each phase shall take account of and be submitted in accordance with the approved strategy.

Reason: To ensure that the proposals deliver appropriate an amount and variety of habitats and support the biodiversity net gain opportunities in accordance with the submitted Environmental Statement to comply with Policies Bicester 1 and ESD10 of the Cherwell Local Plan Part 1 2011-2031 and Government guidance contained within the National Planning Policy Framework.

30. No development shall take place on a phase until an Arboricultural Method Statement (AMS) undertaken in accordance with BS:5837:2012 and all subsequent amendments and revisions including a scheme for the provision of protective fencing, to prevent damage during construction, for the retained hedgerows, trees, woodlands, ponds and areas of green space within that phase, has been submitted to and approved in writing by the Local Planning Authority. Thereafter, all works on the phase shall be carried out in accordance with the approved AMS with all tree protection erected prior to development commencing on that phase. If any tree or hedgerow shown to be retained is cut down, uprooted or destroyed or dies, another tree or hedgerow shall be planted in the same place within the following planting season and that tree shall be of such a size and species as will be first agreed in writing with the Local Planning Authority.

Reason: To protect biodiversity and historic landscape features in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of any development on the appropriate phase as it is fundamental to the acceptability of the scheme.

31. No development shall take place until a study, by a suitably qualified person, has been submitted to and approved in writing by the Local Planning Authority, demonstrating that the design of the dwellings within that phase is such that overheating, using a future climate scenario of 2050, will not occur and that heat island effects have been minimised. The development shall thereafter be carried out in accordance with the agreed details.

Reason: to address the impacts of climate change in accordance with Policy Bicester 1 of the Cherwell Local Plan Part 1 2011-2031. This information is required prior to the commencement of the development as it is fundamental to the acceptability of the scheme.

32. No development shall take place in any phase containing residential development until a noise impact assessment and a noise attenuation / insulation scheme (having regard to the building fabric, glazing and background and purge / rapid ventilation requirements) to protect occupants or other users internally and externally as appropriate from B4100 and primary routes through the site traffic noise in accordance with the requirements of British Standard 8233:2014 'Sound Insulation and noise reduction for buildings-Code of Practice' (or any replacement guidance or standard), has been submitted to and approved in writing by the Local Planning Authority. The scheme as approved shall be fully implemented before the residential use hereby permitted is occupied and shall be retained thereafter unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that sufficient noise attenuation is provided to all residential properties to protect residents from the impact of internal site traffic noise and safeguard the amenity and health of future residents in accordance with Policies Bicester 1 and ESD15 of the Cherwell Local Plan 2011-2031, Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework. This information is required prior to the commencement of the development as it is fundamental to the acceptability of the scheme.

33. Where remediation is identified by the report required by condition **X**, any works specified within the remediation statement for that phase shall be completed, and a verification report submitted to and approved in writing by the Local Planning Authority prior to the first occupation of development in that phase.

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

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

Reason: To facilitate information provision to homes for energy monitoring, travel and home working change in accordance with Policy Bicester 1 of the Adopted Cherwell Local Plan Part 1 2011-2031 and Government guidance contained within the National Planning Policy Framework.

35. Prior to the first occupation of the development a Framework Travel Plan, prepared in accordance with the Department of Transport's Best Practice Guidance Note 'Using the Planning Process to Secure Travel Plans' and which includes a target for at least 50% of trips originating within the development to be made by non-car means with the potential for this to increase over time to at least 60% shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented and operated in accordance with the approved details.

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

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

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

37. Prior to the first occupation of any development within a phase, an external lighting strategy for that phase shall be submitted to and approved in writing by the Local Planning Authority. The external lighting approved shall be implemented and made operational prior to the occupation of any building in that phase.

Reason: To enable the Local Planning Authority to retain planning control over the development of this site, in order to safeguard the amenities of the occupants of the adjoining dwellings and to protect biodiversity in accordance with Policies Bicester 1 and ESD10 of the Cherwell Local Plan Part 1 2011-2031, Policies C28 and C30 of the adopted Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

38. Prior to the occupation of any phase of the development, a waste strategy, setting targets above national standards for residual waste levels, recycling levels and landfill diversion and which identifies measures to facilitate waste reduction and recycling for commercial occupiers of that phase shall be submitted to and approved in writing by the Local Planning Authority. The waste reduction measures shall be implemented in accordance with the strategy.

Reason: To ensure the appropriate management of waste in accordance with Government guidance contained within the National Planning Policy Framework.

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

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

40. With respect to the water network, no occupation beyond the 49th dwelling shall be made until confirmation has been provided that either:
- a. all water network upgrades required to accommodate the additional flows to serve the development have been completed; or-
  - b. a development and infrastructure phasing plan has been agreed with Thames Water to allow additional development to be occupied. Where a

development and infrastructure phasing plan is agreed no occupation of those additional dwellings shall take place other than in accordance with the agreed development and infrastructure phasing plan.

Reason - The development may experience low / no water pressures and network reinforcement works are anticipated to be necessary to ensure that sufficient capacity is made available to accommodate additional demand anticipated from the new development. Any necessary reinforcement works will be necessary in order to avoid low / no water pressure issues.

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

Reason: The site is located in an area of water stress and to comply with Policy ESD3 of the Cherwell Local Plan Part 1 2011-2031 and Government guidance contained within the National Planning Policy Framework.

42. Each dwelling shall be provided with waste receptacles prior to its first occupation.

Reason: to ensure the satisfactory appearance and functioning of the development, and to promote recycling in accordance with the requirements of Policies Bicester 1 of the Cherwell Local Plan Part 1 2011-2031 and Government guidance contained within the National Planning Policy Framework.

43. Each dwelling hereby approved shall be provided with real time energy and travel information prior to its first occupation. Details of the provision for each phase shall be submitted to the Local Planning Authority and agreed in writing prior to the commencement of construction of dwellings above slab level within that phase. The devices shall thereafter be retained in operational condition.

Reason: To support the delivery of modal shift towards sustainable modes and create high quality, inclusive, sustainable development in accordance with Policy Bicester 1 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework.

#### **Informatives:**

1. Before granting this planning permission the Council has taken into account the environmental information relating to the development (within the meaning of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended)).

With regard to the requirements of Regulation 29 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended), the main reasons and considerations on which the decision is based including information about the participation of the public - along with the main measures to avoid, reduce and, if possible, offset the major adverse effects of the development – is contained within the Officer's reports to Planning Committee dated 09 February 2023.

2. Attention is drawn to a Legal Agreement related to this development dated **[to be added]** which has been made pursuant to Section 106 of the Town and Country Planning Act 1990, Sections 111 and 139 of the Local Government Act 1972 and/or other enabling powers.
3. The Framework Travel Plan referred to in condition **X** shall include:

- a package of measures consistent with the aim of reducing reliance on the car, and should include (but not be limited to) providing information on / promoting the use of alternative modes of transport, by:
    - i) The appointment of a travel plan co-ordinator,
    - ii) The establishment of targets for modal shift,
    - iii) The details of measures to be employed to achieve the identified targets,
    - iv) Mechanisms for ongoing monitoring and review of targets and travel plan measures,
    - v) Details of penalties and/or additional measures to be investigated / implemented in the event that the identified targets are not met.
    - vi) Public transport information and ticket details;
    - vii) Cycle provision, showers and lockers and associated infrastructure in workspace;
    - viii) Walking and cycling initiatives;
    - ix) Improving overall links to public transport infrastructure within Northstowe and to adjacent villages;
    - x) Opportunities for alternative modes of transport and management of site operatives during construction; and
    - xi) including binding methods of delivery, review, and monitoring of the measures in the Travel Plan (including the requirements of this condition).
4. Pursuant to the requirement for Crime Prevention to be included within the Design Code required by condition X, your attention is drawn to the detailed comments of Thames Valley Police dated 24 December 2021 which sets out guidance as to what to consider.
5. Any application for Reserved Matters submitted pursuant to condition 1 should, where relevant, include the following details:
- (a) Levels:
- A topographical survey of the site
  - Where the development includes re-profiling of the existing ground level, a plan showing the revised ground levels following earthworks remodelling of the relevant parts of the site
  - A plan and cross section showing the details of the finished floor levels of the proposed buildings in relation to the existing ground levels on the site, remodelled levels and adjacent dwellings
  - Street scene plans of the proposed buildings
- (b) Landscape:
- details of green recreational routes for non-vehicular modes which include details of tree planting and landscaping, footpaths, cycleways, interpretation boards for heritage, ecology and community activity, seating, bins, site levels and a strategy for implementation and management and connections to neighbouring parcels.
  - Details of community gardens and orchards, details of site levels and soil preparation, planting to promote an edible landscape including fruit trees, shrubs and bushes, boundary treatment and hedgerow planting, any ancillary features such as seating, bins (including dog bins), arrangements for implementation and management of the area for the future community.
  - Details of allotments including, plan of the allotments, principles of plot layout and design providing for a range of plot sizes designed to allow flexibility to meet the needs of future plot holders; areas for communal storage of, for example, manure and compost; Confirmation that the site of the proposed allotments is free from contamination and capable of growing fruit and vegetables for human consumption; Proposed management arrangements

for the allotments (including topsoil and soil provision/management) including consultation with relevant bodies; Access and parking arrangements to allow easy and safe access to the allotments; Details of the ancillary features (e.g. bins, seats, water butts, greenhouses and sheds); Boundary treatment, including security arrangements for the allotments; Water supply, including use of stored rainwater and SuDS for watering crop and drainage arrangements to ensure that the proposed site for the allotments is free draining and does not impact on the wider drainage network (e.g. through silting up of the drainage network); Management arrangements and future maintenance agreements with an appropriate community body.

- Details of any formal or informal play areas shall include details of site levels, play features, seating, pathways, planting and landscaping relating to that play area and a strategy for their implementation and management.
  - Details of hard and soft landscaping works to include: identification of existing trees, shrubs and other vegetation to be retained, Wildlife habitat creation of potential benefit to protected species. The extent, location and design of such habitat shall be shown clearly and fully described, The creation of a visually attractive and stimulating environment for the occupiers of the future development, and other users of the site, The eradication of Japanese knotweed or other invasive species on the site, if applicable, The replacement of trees proposed to be lost in site clearance works, Details of the future management of the landscape scheme, Ground preparation measures to be adopted, Full botanical details, numbers, locations, planting specifications and densities/ seeding rates of all plant material included within the landscape scheme, Existing and proposed levels, Programme for delivery of the approved scheme
6. Please note, the Advance Payments Code (APC), Sections 219 -225 of the Highways Act 1980, is in force in the county to ensure financial security from the developer to off-set the frontage owners' liability for private street works, typically in the form of a cash deposit or bond. Should a developer wish for a street or estate to remain private, then to secure exemption from the APC procedure, a 'Private Road Agreement' must be entered into with the County Council to protect the interests of prospective frontage owners. For guidance and information on road adoptions etc. please visit our website.
  7. Prior to the commencement of a development, a separate agreement(s) must be obtained from Oxfordshire County Council's (OCC) Road Agreements Team for the proposed highway works (vehicular access, new footway links, bus infrastructure, pedestrian refuge island, carriageway widening and new right-turn lane) under S278 of the Highways Act 1980. For guidance and information please contact the county's Road Agreements Team via <https://www.oxfordshire.gov.uk/cms/content/contact-road-agreements-team>.
  8. There are water mains crossing or close to your development. Thames Water do NOT permit the building over or construction within 3m of water mains. If you're planning significant works near the mains (within 3m) Thames Water will need to check that the development doesn't reduce capacity, limit repair or maintenance activities during and after construction, or inhibit the services they provide in any other way. The applicant is advised to read their guide working near or diverting our pipes. <https://developers.thameswater.co.uk/Developing-a-large-site/Planning-your-development/Working-near-or-diverting-our-pipes>
  9. The proposed development is located within 15m of Thames Waters underground assets, as such the development could cause the assets to fail if appropriate measures are not taken. Please read their guide 'working near our assets' to ensure your workings are in line with the necessary processes you need to follow if you're

considering working above or near their pipes or other structures.  
<https://developers.thameswater.co.uk/Developing-a-large-site/Planning-your-development/Working-near-or-diverting-our-pipes>. Should you require further information please contact Thames Water. Email: [developer.services@thameswater.co.uk](mailto:developer.services@thameswater.co.uk)



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

Planning obligation			Regulation 122 Assessment
Detail	Amounts (all to be Index linked)	Trigger points	
Health provision to Bicester PCN practices expansion plans or to health provision on the NW Bicester site to meet the needs of the increased population.	£533,694 index linked BCIS from December 2022  (based upon 530 dwellings and to be adjusted once housing mix is known)	To be agreed – careful phasing of the payments will be needed to assist with the viability issues	<p><b>Necessary</b> – The CCG (now NHS Buckinghamshire, Oxfordshire, Berkshire West Integrated Care Board) have advised that there are insufficient consulting rooms to cope with the increased population growth as a direct result of the increase in dwellings. Therefore, it is necessary for the development to make a contribution towards primary care provision to meet the health needs of residents resulting from the development.</p> <p><b>Directly related</b> – The proposed development would result in increased population that would need to access primary health care provision. As health provision in the area is under considerable pressure, contributions would be required to ensure the increase population can access the services required and would be adjusted once the housing mix is known. The contribution will therefore be directly related to the development proposed.</p> <p><b>Fairly and reasonably related in scale and kind</b> – The requested contribution is based upon the number of dwellings forming part of the development. The cost</p>

			per dwelling is based upon expected occupancy of the development (2.4 persons) as unit sizes are not specified in the application but will be adjusted once the housing mix is known. The requested contribution is therefore directly related to the development.
Neighbourhood policing	£98,449 index linked CPIX from December 2022)  (based upon 530 dwellings)	To be agreed – careful phasing of the payments will be needed to assist with the viability issues	<p><b>Necessary</b> – the increased population resulting from NW Bicester will put increased pressure onto local policing services to police both new and existing communities. Thames Valley Police have anticipated the additional capital infrastructure required to support the future population of the area and this has been used to form a per dwelling contribution.</p> <p><b>Directly related</b> – as the development would result in increased population, it would directly increase pressure on the local police force. The per dwelling contribution to support increased police capacity would therefore be directly related to the development.</p> <p><b>Fairly and reasonably related in scale and kind</b> – Thames Valley Police have identified the additional capital infrastructure required and have costed this in order to provide a per dwelling cost. The cost identified is based upon the scale of the development so it is fairly and reasonably related and it is proportionate to the cost of providing additional infrastructure for the local neighbourhood teams.</p>

<p>Community Building Provision</p>	<p>£770,535 index linked BCIS from December 2022  (based upon 530 dwellings)</p>	<p>To be agreed – careful phasing of the payments will be needed to assist with the viability issues</p>	<p><b>Necessary</b> – The development of community hall space is necessary to serve the increased population. Policy BSC12 confirms that the Council will encourage the provision of community facilities to enhance the sustainability of communities. The proposal will increase population who will require facilities and therefore it is necessary for the development to contribute towards facilities planned at the site.</p> <p><b>Directly related</b> – The contribution is directly related to the development as it is based upon a cost per dwelling that reflects the costs set out in the Council’s SPD which provides capital cost estimates for new community hall space. Community hall space is required on the wider NW Bicester site and so the contribution is directly related to expanding community space to serve the proposed development.</p> <p><b>Fairly and reasonably related in scale and kind</b> – As explained above, the contribution is based upon costs set out in the Council’s SPD. As explained within the report, the cost is reduced to take account of the cost of providing a crossing to St Lawrence Church at Caversfield which has the opportunity to be used for community purposes. The contribution is therefore fairly and reasonably related in scale and kind to the proposed development.</p>
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Primary Education	£5,030,076 index linked BCIS All in TPI 327	To be agreed – careful phasing of the payments will be needed to assist with the viability issues	<p><b>Necessary</b> – Gagle Brook Primary school opened in September 2018 to provide primary school capacity for the NW Bicester site and would serve the development. The school was forward-funded as a 1 form entry school by CDC and OCC and is planned for future expansion to 2 forms of entry. As the development would result in additional primary school children, it is necessary for the development to contribute towards additional capacity to meet the demand arising from the development.</p> <p><b>Directly related</b> – The current school size would account for the scale of the Exemplar phase. The pupil generation from this development would therefore be expected to fill Gagle Brook at its current size and contribute towards the need for the school to be expanded. The contribution sought would therefore be directly related to the resulting population from the development.</p> <p><b>Fairly and reasonably related in scale and kind</b> – The County Council’s costs are based upon the number of primary and nursery pupils expected to be generated which is then used against the cost of the cost of building the Gagle Brook School to give a per pupil cost. The contribution is therefore fairly and reasonably related in scale and kind to the development.</p>
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Secondary Education	£3,360,870 index linked BCIS All in TPI 327	To be agreed – careful phasing of the payments will be needed to assist with the viability issues	<p><b>Necessary</b> – Secondary school provision for the site will be provided for via a new secondary school planned as part of the southern section of the NW Bicester development. The whole allocation requires a new secondary school. The school will be delivered in phases and it is expected that the development will contribute towards the building of the initial 600 place secondary school. As the development would result in additional secondary school children, it is necessary for the development to contribute towards additional capacity to meet the demand arising from the development.</p> <p><b>Directly related</b> – The development would result in additional secondary school children and pupil places would be required for them. The contribution sought would therefore be directly related to the resulting population from the development.</p> <p><b>Fairly and reasonably related in scale and kind</b> – The County Council's costs are based upon the number of secondary pupils expected to be generated multiplied by the estimated per pupil cost of a new secondary school. The contribution is therefore fairly and reasonably related in scale and kind to the development.</p>
Special Educational Needs	£260,249 index linked BCIS All in TPI 327	To be agreed – careful phasing of the payments will be needed to	<b>Necessary</b> – Government guidance is that Local Authorities should secure developer contributions to special education provision commensurate with the need arising from the development. Approximately half

		<p>assist with the viability issues</p>	<p>of pupils with Education Needs and Disabilities are educated in special schools. Evidence relating to Oxfordshire demonstrates that the County needs more special school places which is intended to be achieved through a mixture of new schools and expansion of existing schools. As the development would result in an increased population, it is necessary for the development to contribute to increased SEN provision.</p> <p><b>Directly related</b> – The development would result in additional secondary school children and pupil places would be required for them. The contribution sought would therefore be directly related to the resulting population from the development.</p> <p><b>Fairly and reasonably related in scale and kind</b> – The County Council’s costs are based upon the number of pupils expected to require education at a special school generated by the development multiplied by the estimated per pupil cost of a new secondary school. The contribution is therefore fairly and reasonably related in scale and kind to the development.</p>
<p>Sports Pitches and Maintenance</p>	<p>£1,307,389.78 index linked CPIX from December 2022</p>	<p>To be agreed – careful phasing of the payments will be needed to assist with the viability issues</p>	<p><b>Necessary</b> – The increase in population generates the need for additional outdoor sport capacity. Pitch space is identified within the Masterplan to serve the NW Bicester site and so contributions are sought towards the capital cost of the provision of sports pitches and their ongoing maintenance. Policy BSC10 seeks to ensure that proposals for new development contribute to open space, sport and recreation provision</p>

			<p>commensurate to the need generated by the proposals. The contribution sought is therefore necessary to make the development acceptable.</p> <p><b>Directly related</b> – The contribution is based upon the costs identified in the Council’s Developer Contributions SPD as a per dwelling cost. The development would generate additional population who would create demand for outdoor sport space. As such, the proposed contribution is directly related to the development.</p> <p><b>Fairly and reasonably related in scale and kind</b> – As set out, the contribution is based upon the costs set out in the Council’s Developer Contributions SPD as a per dwelling cost. As the contribution sought would be based upon the dwellings proposed, it is fairly and reasonably related in scale and kind to the development.</p>
Burial Ground	£6,520.65 index linked CPIX from December 2022	To be agreed – careful phasing of the payments will be needed to assist with the viability issues	<p><b>Necessary</b> – The existing Bicester cemetery is close to being unable to accommodate further burials. The NW Bicester Masterplan identifies land for a burial ground and in order to ensure there is adequate burial space to meet the needs of the growing community, contributions towards the ability to provide additional burial space are required. The contribution is therefore necessary.</p> <p><b>Directly related</b> – The development would result in an increased population, a proportion of which would</p>

			<p>require burial space. The contribution sought is based upon the costs of providing burial space and is therefore directly related to the development.</p> <p><b>Fairly and reasonably related in scale and kind</b> – A contribution based upon a per dwelling rate has been calculated and therefore the contribution is based upon the number of dwellings proposed. It is therefore fairly and reasonably related to the proposed development.</p>
<p>Landscape and play area provision and ongoing management and maintenance</p>			<p><b>Necessary</b> to meet the needs generated from the proposal and to ensure long term maintenance in accordance with Policy BSC10 and BSC11 of the Cherwell Local Plan Part 1 2011-2031 and advice in the Developer contributions SPD.</p> <p><b>Directly related</b> the development generates a need for open space and play provision and in turn this requires ongoing management and maintenance. As such, this requirement is directly related to the development.</p> <p><b>Fairly and reasonably related in scale and kind</b> the level of provision would be based upon the policy and guidance provisions adopted by the Council including specifically for NW Bicester which requires at least 40% Green Infrastructure. On this basis, the requirement is fairly and reasonably related in scale and kind to the development.</p>



Community Management Organisation	£306,350.36 index linked CPIX from December 2022	To be agreed – careful phasing of the payments will be needed to assist with the viability issues	<p><b>Necessary</b> – Policy Bicester 1 refers to the need for the submission of proposals to support the setting up and operation of a financially viable Local Management Organisation by the new community to allow locally based long term ownership and management of facilities in perpetuity. The need for a contribution is to support the development of the early stage CMO that was started on the Elmsbrook site as the Exemplar phase of the NW Bicester site. The proposal would enable long term governance arrangements to be put in place and to ensure the site is socially sustainable. It is therefore a contribution that is necessary to make the development acceptable in planning terms.</p> <p><b>Directly related</b> – the proposal is for residential development on the NW Bicester site and therefore as part of the wider requirements around community governance, the requirement is for the site to contribute and benefit from the CMO. It is therefore directly related to the development.</p> <p><b>Fairly and reasonably related in scale and kind</b> – the contribution is based upon the costs envisaged to run the CMO originally calculated, but reduced to a third of the cost to account for a 10 year period rather than a 30 year period as it was originally costed for due to viability reasons. The contribution is therefore fairly and reasonably related in scale and kind to the development.</p>
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Community Facility Maintenance	£255,426.59 index linked CPIX from December 2022	To be agreed – careful phasing of the payments will be needed to assist with the viability issues	<p><b>Necessary</b> – to meet the needs generated from the proposal and to ensure long term maintenance in accordance with Policy BSC10 and BSC11 of the Cherwell Local Plan Part 1 2011-2031 and advice in the Developer contributions SPD.</p> <p><b>Directly related</b> – the development generates a need for community facilities, allotments and certain other open space provision and in turn this requires ongoing management and maintenance. As such, this requirement is directly related to the development.</p> <p><b>Fairly and reasonably related in scale and kind</b> – The contribution sought was calculated based upon the level of maintenance required and then used to calculate a per dwelling contribution. As such, the level of contribution is fairly and reasonably related in scale and kind to the development.</p>
Bus Provision and infrastructure	£696,118 index linked PRI-X from December 2020	To be agreed – careful phasing of the payments will be needed to assist with the viability issues	<p><b>Necessary</b> the NW Bicester site is required to be served by public transport and this was identified as part of the NW Bicester Access and Travel Strategy. It is necessary for the development to make a proportionate contribution to the cost of the public transport necessary to support the development.</p> <p><b>Directly related</b> the development would generate population who would require access to a bus service and therefore a contribution to enhance provision is directly related to the development.</p>

			<p><b>Fairly and reasonably related in scale and kind</b> the contribution sought is proportionate to the cost of the bus service identified as being necessary for the development north of the railway line. It is therefore fairly and reasonable related in scale and kind to the development.</p>
Pedestrian and cycle infrastructure	£362,465 index linked Baxter from December 2020	To be agreed – careful phasing of the payments will be needed to assist with the viability issues	<p><b>Necessary</b> the proposal would increase the level of population to the north of the site and it is important that sustainable transport options are enhanced. The contribution would be towards a scheme to make improvements to cycle routes between the site and the town centre/ station. The contribution is necessary to assist in improving sustainable transport options.</p> <p><b>Directly related</b> the development would generate population who would require sustainable transport options including cycling and walking routes. The contribution is therefore directly related to the development.</p> <p><b>Fairly and reasonably related in scale and kind</b> the contribution sought is proportionate to the cost of the scheme to provide for cycle route improvements and therefore it is fairly and reasonably related in scale and kind to the development.</p>
Pedestrian/ cycle bridge	£15,000 (indexation TBC)	To be agreed – careful phasing of the payments will be needed to	<p><b>Necessary</b> it is necessary for the development to be connected to the development to the south to provide for walking and cycling links and for sustainable modes</p>

		assist with the viability issues	<p>of transport to be preferable to the private car. The contribution would be necessary to support this aim.</p> <p><b>Directly related</b> the infrastructure would be required from this site and that to the south to enable sustainable connections. As such, it is directly related to the development.</p> <p><b>Fairly and reasonably related in scale and kind</b> the contribution is based upon what was offered by the applicant and OCC have confirmed that this should be secured to contribute towards a bridge in this location. In the absence of another requested contribution, that offered is considered to be fairly and reasonably related in scale and kind to the development.</p>
Rights of Way	£50,000 index linked Baxter from July 2021	To be agreed – careful phasing of the payments will be needed to assist with the viability issues	<p><b>Necessary</b> it is necessary to provide opportunities for leisure/ health walking and connections to the nearby village of Bucknell for residents of the wider NW Bicester north of the railway. The routes would be easily accessible by residents of this site and it is therefore necessary for the contribution to be paid.</p> <p><b>Directly related</b> the proposal would generate population who would put additional demand on existing and demand for new public rights of way. As such a contribution to make improvements would be directly related to the development.</p> <p><b>Fairly and reasonably related in scale and kind</b> the contribution has been calculated based upon a desk</p>

			estimate of the costs of the improvements but is based upon a proportionate contribution from development to the north of the site. The contribution sought is therefore fairly and reasonably related in scale and kind to the development.
Improvements to the junction of Charlotte Avenue and B4100	£47,289 index linked Baxter from December 2020	To be agreed – careful phasing of the payments will be needed to assist with the viability issues	<p><b>Necessary</b> the development would have an impact upon this junction in the absence of improvements to it. A contribution is sought to enable a scheme to be designed and modelled in conjunction with the upgraded B4100/ A4095 junction. It is therefore a necessary contribution to mitigate the impact of the development and in the context of the wider NW Bicester site.</p> <p><b>Directly related</b> the transport assessment identifies that additional demand would be placed on this junction due to its proposed access arrangements and therefore the requirement for a contribution is directly related to this development.</p> <p><b>Fairly and reasonably related in scale and kind</b> the proposed contribution would be a proportionate contribution to the cost of the works necessary to support the development and therefore it is fairly and reasonable related in scale and kind to the development.</p>

Improvements to the junction of B4100 and the A4095	£278,330 index linked Baxter from December 2020	TBC	<p><b>Necessary</b> this and the works to the junction above were identified as part of the transport assessment carried out to inform the NW Bicester Access and Travel Strategy which supports the NW Bicester SPD. The site is part of the wider NW Bicester development north of the railway and therefore a proportionate contribution to mitigate the impacts of development on local road junctions is necessary to mitigate the impact of the development.</p> <p><b>Directly related</b> the transport assessment identifies that additional demand would be placed on this junction and therefore the requirement for a contribution is directly related to this development.</p> <p><b>Fairly and reasonably related in scale and kind</b> the proposed contribution would be a proportionate contribution to the cost of the works necessary to support the development and therefore it is fairly and reasonable related in scale and kind to the development.</p>
Local Road Improvements TBC	£100,000 index linked TBC	To be agreed – careful phasing of the payments will be needed to assist with the viability issues	<p><b>Necessary</b> the development would have an impact upon the local road network and therefore improvements have been identified to mitigate this impact. The contribution would therefore be necessary to make the development acceptable.</p> <p><b>Directly related</b> the contribution is directly related to making local road improvements on routes to serve the</p>

			<p>development. As such, it is directly related to the development.</p> <p><b>Fairly and reasonably related in scale and kind</b> the contribution is based upon what was offered by the applicant and OCC have confirmed that this should be secured to contribute towards local road improvements. In the absence of another requested contribution, that offered is considered to be fairly and reasonably related in scale and kind to the development.</p>
Bicester Leisure Centre	£344,635.95 index linked BCIS from December 2022	To be agreed – careful phasing of the payments will be needed to assist with the viability issues	<p><b>Necessary</b> additional population would result from the development (and cumulatively from NW Bicester as a whole) and therefore additional pressure would be placed upon the leisure centre serving Bicester. It is therefore necessary for the development to make a proportionate contribution towards the costs of improving facilities at the leisure centre to serve the demands of the development.</p> <p><b>Directly related</b> the requirement to improve swimming pool facilities at the leisure centre arises from the growth of the town to which this development contributes. As such, the contribution sought is directly related to the development.</p> <p><b>Fairly and reasonably related in scale and kind</b> the contribution is based upon the rates set out in the Council's Developer Contributions SPD which sets out a rate per person to increase swimming pool capacity. The proposal is therefore proportionate and fairly and</p>

			reasonably related in scale and kind to the development.
Strategic Highway contribution	£3,117,646 (Indexation TBC)	To be agreed – careful phasing of the payments will be needed to assist with the viability issues	<p><b>Necessary</b> the NW Bicester development cumulatively requires the provision of strategic highway infrastructure. It is therefore necessary for the development to make its proportionate contribution towards the strategic infrastructure required.</p> <p><b>Directly related</b> the development is situated on the NW Bicester site which cumulatively requires strategic infrastructure to mitigate its impact. It is therefore directly related to the development.</p> <p><b>Fairly and reasonably related in scale and kind</b> the proposed contribution would be a proportionate contribution to the cost of the works necessary to support the development and therefore it is fairly and reasonable related in scale and kind to the development.</p>
S106 Monitoring	CDC - £10,000 OCC - TBC	On completion of the S106	The CDC charge is based upon its recently agreed Fees and Charges Schedule which sets out that for developments over 251 dwellings that a bespoke charge will be based upon the number of obligations and triggers with a minimum charge of £10,000. Bearing in mind the viability of the development, the minimum charge is required. The need for a monitoring fee is to ensure that the Council can appropriately monitor that the development is complying with its S106



			including the high standards sought at the site and taking into account the complex nature of the site.
Library Services	£28,073 index linked BCIS TPI 327	To be agreed – careful phasing of the payments will be needed to assist with the viability issues	<p><b>Necessary</b> a new library has been provided in Bicester and part of the cost of the project was forward funded in advance of contributions being received from the development. It is therefore necessary for the development to make a contribution towards the cost of forward funding the delivery of Bicester library.</p> <p><b>Directly related</b> the development would increase demand upon the Bicester library, the new provision for which was forward funded. As such, a contribution towards the cost of the project is directly related to the development.</p> <p><b>Fairly and reasonably related in scale and kind</b> OCC have sought a contribution based upon the remaining contribution to be secured divided by the housing growth remaining for Bicester to give a per dwelling cost plus a contribution towards increasing the core book stock held by the local library by 1.2 items per additional resident. The contribution is therefore proportionate and fairly and reasonably related in scale and kind to the development proposed.</p>
Secondary School Land Contribution	£299,970 index linked RPIX from November 2020	To be agreed – careful phasing of the payments will be needed to	<b>Necessary</b> - The proposed secondary school is on land which forms part of a planning application which sits to the south of the site. The County Council therefore expect the development to contribute proportionately

		assist with the viability issues	<p>towards the cost of the land and it is therefore a necessary contribution.</p> <p><b>Directly related</b> – The proposed development will generate additional secondary school pupils and as a new school is required, a land contribution is requested to facilitate this. As such, the contribution sought is directly related to the development.</p> <p><b>Fairly and reasonably related in scale and kind.</b> The cost sought is based upon the estimated per pupil cost of land for a new secondary school. This is multiplied by the number of secondary school pupils expected to be generated to give a contribution sought. It is therefore fairly and reasonably related in scale and kind.</p>
Household Waste Recycling Centres	£49,799	To be agreed – careful phasing of the payments will be needed to assist with the viability issues	<p><b>Necessary</b> the comprehensive kerbside collections in place in each district are only able to accept smaller, more common types of waste. Larger, ad hoc items like furniture or large electricals need to be taken to an HWRC for management. Households make around 4 visits to an HWRC each year and are regarded by residents as an important service. Without a contribution to HWRCs, the development would have an unacceptable impact on existing facilities. It is anticipated that the proposed development will provide housing for approximately 1,263 new residents. If each household makes four trips per annum the development would result in an additional 5,052 HWRC visits per year. A contribution is therefore considered to</p>

			<p>be necessary to make the development acceptable in planning terms.</p> <p><b>Directly related</b> a contribution towards additional HWRC capacity is needed because of the demand that the development will create. The current network of sites is at capacity and without changes, the pressure from increased development will result in a failure of them to adequately serve Oxfordshire residents. Contributions are requested to mitigate the increased burden that proposed development will have on the HWRC network in Oxfordshire and thus the contribution requested is directly related to the development.</p> <p><b>Fairly and reasonably related in scale and kind</b> the calculation is proportionate to the increased demand placed on HWRCs by this development. The calculation breaks down the capital costs associated with providing HWRC infrastructure. As the whole network is currently at capacity and additional development will impact on the service, contributions are required from all developments. The cost/ household has been calculated on a square metre basis.</p>
Cultural Wellbeing Strategy	Nil		<p><b>Necessary</b> in order to embed a cultural wellbeing approach, to support the creation of sustainable development by contributing to the wellbeing, health and enjoyment of people, a cultural wellbeing strategy is required. This would enable strategies to be embedded to ensure cultural wellbeing elements to be incorporated into areas of the site infrastructure and for</p>

		<p>projects working with the community to be proposed. The strategy is therefore necessary to make the development acceptable in planning terms.</p> <p><b>Directly related</b> the approach to be negotiated would be directly related to the circumstances of each application.</p> <p><b>Fairly and reasonably related in scale and kind</b> the approach to be negotiated and the level of provision within each site would be agreed such that it is fairly and reasonably related in scale and kind to the development proposed bearing in mind its scale.</p>
Developer Led Monitoring	Nil	<p><b>Necessary</b> In order to ensure that the development is meeting the high standards sought across NW Bicester, to learn from the site and to allow improvements to future phases of the development, long term monitoring of the Eco-Town Standards is required. As such, it is necessary to secure a scheme of monitoring from this site.</p> <p><b>Directly related</b> the monitoring is directly related to the development itself.</p> <p><b>Fairly and reasonably related in scale and kind</b> the monitoring to be undertaken would be proportionate to the development itself and therefore is fairly and reasonably related in scale and kind to the development.</p>

Skills and Training	Nil		<p><b>Necessary</b> Policy Bicester 1 states that an economic strategy is to be produced to support planning applications demonstrating how access to work will be achieved. The CDC Planning Obligations SPD sets out the type of development and the thresholds on development that will trigger the requirement for the provision of a stated number of apprenticeships as part of an Employment and Skills Training Plan. In order for the development to contribute to this, it is necessary for a Training and Employment Plan to be submitted to secure apprenticeship starts.</p> <p><b>Directly related</b> the request is directly related to the development as the development itself is a vehicle to support an on-going programme of skills, training and apprenticeships. The apprenticeship starts would be directly related to the construction of the development itself.</p> <p><b>Fairly and reasonably related in scale and kind</b> the number of apprenticeship starts will be considered and will be proportionate and therefore fairly and reasonably related in scale and kind to the development. The requirement for a TEP would also increase the skills opportunities on site.</p>
Affordable Housing – within a minimum range of 10-15% with further details delegated to Officers to resolve working with the Strategic Housing team	Nil		<p><b>Necessary</b> Policy BSC3 of the Cherwell Local Plan Part 1 2011-2031 requires the provision of affordable housing on sites that propose 11 or more dwellings at a level of at least 30% of the new housing. This is due to Cherwell’s high level of need for affordable housing.</p>

			<p>The Policy enables promoters of development to provide an ‘open book’ financial analysis of proposed developments where they consider proposals to be unviable. The detailed viability negotiations and proposed solution are set out in the appraisal of the Officer report. It is necessary to secure a level of affordable housing which can be viably accommodated to make the development acceptable in planning terms.</p> <p><b>Directly related</b> the affordable housing would be provided on site in conjunction with open market housing and is therefore directly related to the development.</p> <p><b>Fairly and reasonably related in scale and kind</b> whilst the proposed level of affordable housing would not meet the Policy required level, this is due to a viability process which is ongoing to thoroughly interrogate the applicant’s submission. Officers intend to seek as much affordable housing as can viably be delivered. The level to be secured would therefore be fairly and reasonably related in scale and kind to the development taking into account the financial viability of the scheme.</p>
<p>Construction standards (or to be covered by Condition)</p>	<p>Nil</p>		<p><b>Necessary</b> the achievement of a minimum level of construction standard is important to ensure that the scheme responds to the Policy requirements for the site. This requirement is necessary to make the development acceptable in planning terms but is a matter which could potentially be dealt with via planning</p>

		<p>condition or through other S106 requirements (such as below). Officers would seek to negotiate this further to ensure that all matters required to secure policy compliance (bearing in mind the viability position) are appropriately secured.</p> <p><b>Directly related</b> this requirement is directly related to the development as it is a requirement of the Policy related to NW Bicester and would be an integral part of the scheme itself.</p> <p><b>Fairly and reasonably related in scale and kind</b> the requirement is fairly and reasonably related in scale and kind to the development as it is a requirement of the Policy related to NW Bicester and would be an integral part of the scheme itself.</p>
<p>Zero Carbon Strategy – to calculate how each phase could contribute towards the true zero carbon standard and use the £576,309 (index linked BCIS from 1Q 2022) could be used to result in additions beyond FHS</p>		<p><b>Necessary</b> Policy Bicester 1 requires development to be constructed to Zero Carbon standards (as defined). The proposal is expected to fall short of this standard (but to be built to Future Homes Standard as a minimum). However, should the specifics of the proposal mean that the required standard can be secured viably, then it would need to be. As such, a zero-carbon strategy to demonstrate how each would contribute to the required standards would be necessary to make the development acceptable in planning terms. The contribution identified would enable additional benefits beyond achieving the Future Homes Standard to be secured and a process for ensuring this would be available per phase, including</p>

			<p>how it would be utilised would also need to be included within the strategy. This element would also be necessary to make the development acceptable in planning terms.</p> <p><b>Directly related</b> the requirement is directly related to the development as it is a requirement of the Policy related to NW Bicester and would be an integral part of the scheme itself.</p> <p><b>Fairly and reasonably related in scale and kind</b> the requirement is fairly and reasonably related in scale and kind to the development as it is a requirement of the Policy related to NW Bicester and would be an integral part of the scheme itself. Whilst the contribution offered would not necessarily be sufficient to ensure TZC, it has been taken into account via the viability process. The viability mechanism may increase the level of funding available following the delivery of policy compliant levels of affordable housing.</p>
<p>Viability Review Mechanism</p>			<p>A viability review mechanism would be an important part of ensuring that regular reviews of the viability of the scheme are undertaken to ensure that should additional value be generated by a more optimum scheme that might be brought forward at the reserved matters stage, that this can be captured and ensure that the actual proposals in terms of achieving additional affordable housing and reaching the true zero carbon/ sustainability standards can be accounted for. This would be an upward only review process meaning that</p>



			<p>the minimum level of infrastructure secured at the outline stage would not be lost but that where additional value is generated, that this would be used to secure additional affordable housing up to a maximum of a policy compliant level. Should further value be identified then Officers would recommend that this be used on site to further improve the build standards</p>
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Agenda Item 9  
**21/00517/F**

**Land Used For Motorcross  
Stratford Road A422  
Wroxton  
OX15 6HX**



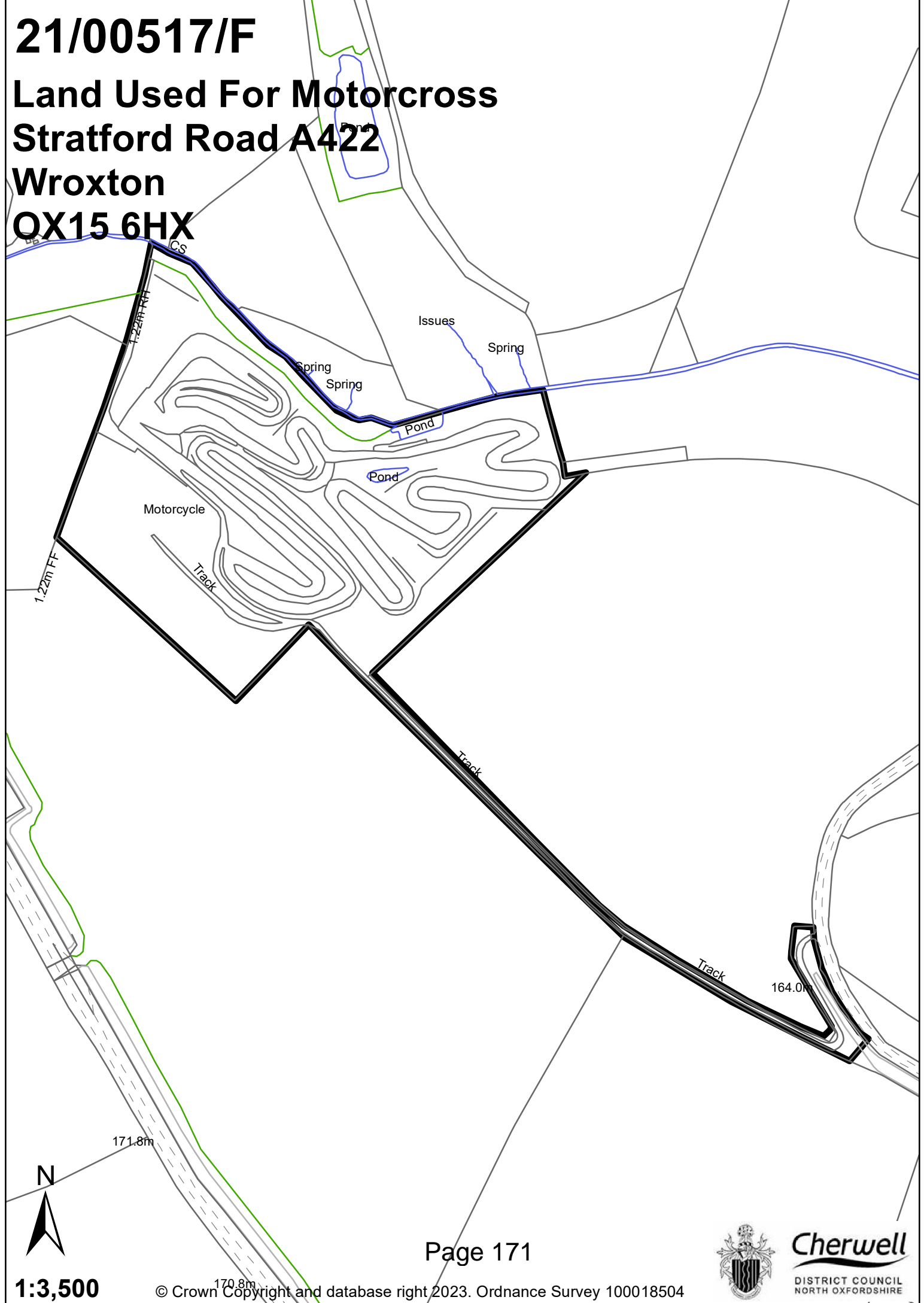
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# 21/00517/F

## Land Used For Motorcross Stratford Road A422

### Wroxton

### OX15 6HX

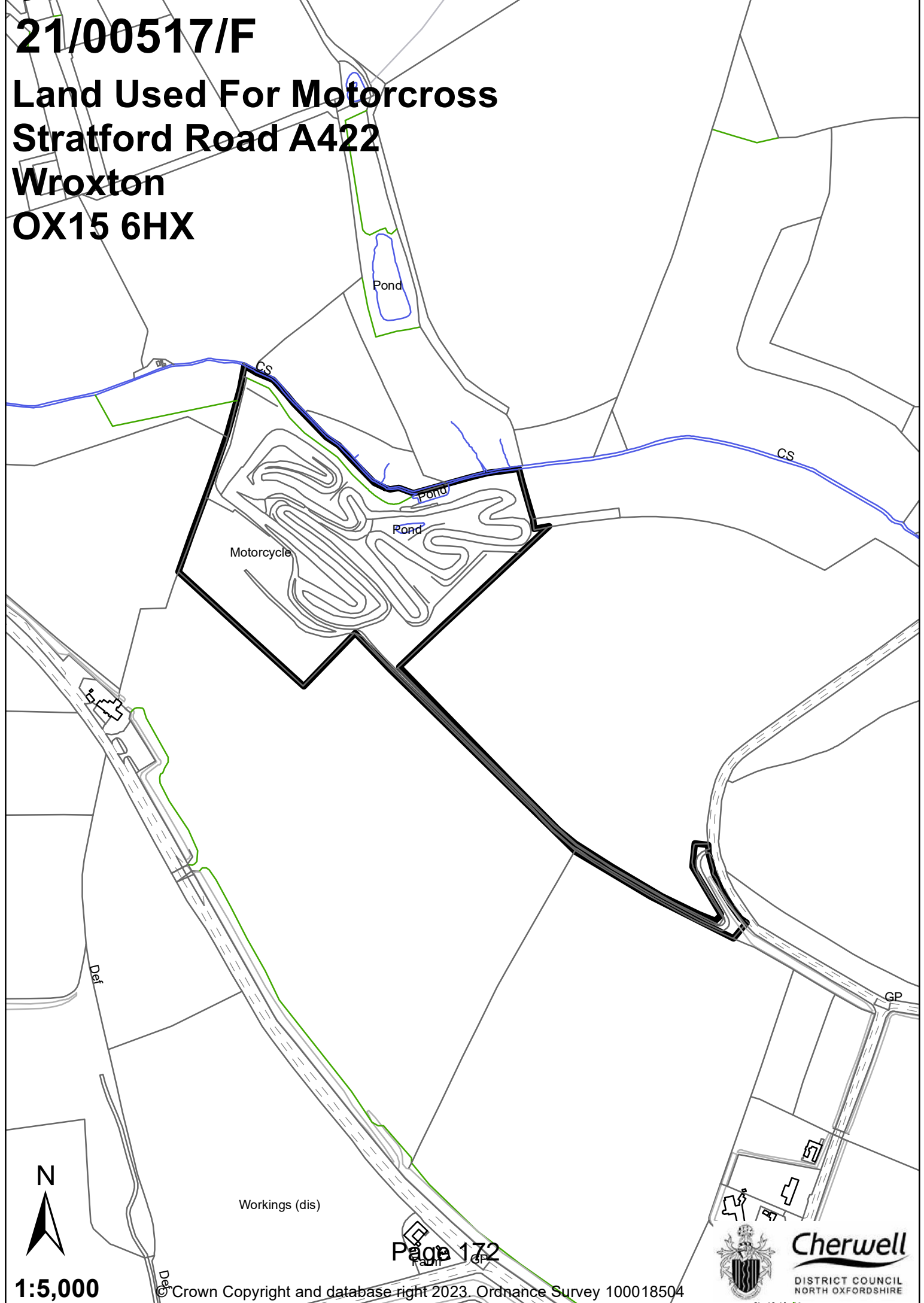


**21/00517/F**

**Land Used For Motorcross  
Stratford Road A422**

**Wroxton**

**OX15 6HX**



**1:5,000**

Workings (dis)

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**Case Officer:** Gemma Magnuson

**Applicant:** Hedges & Kerwood

**Proposal:** Creation of a motocross track and soft landscaping scheme and the change of use of agricultural land to hold moto-cross events including set-up, take down and private practice sessions, with associated camping site, for up to 65 days per year and agricultural grazing (retrospective)

**Ward:** Cropredy, Sibfords and Wroxton

**Councillors:** Cllr Chapman, Cllr Reynolds, and Cllr Webb

**Reason for Referral:** To update Members on progress following the resolution to grant planning permission and seek approval of Members prior to issuing the decision

**Expiry Date:** 22 June 2021

**Committee Date:** 09 March 2023

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## **1. PURPOSE OF REPORT**

- 1.1. This application was reported to Cherwell District Council Planning Committee on 17 June 2021 where the Council formally resolved to grant planning permission subject to:
  1. No responses being received before the expiry of the consultation period that raise new material issues that, in the view of the Assistant Director for Planning and Development, have not been dealt with in the assessment of the application.
  2. The resolution of objections from the Lead Local Flood Authority, the Council's Ecology Officer and Berks, Bucks and Oxon Wildlife Trust.
  3. Conditions (and any amendments to those conditions as deemed necessary) as set out in the appended printed minutes.
- 1.2. A copy of the original Committee report and written updates referred to have been appended to this report.
- 1.3. The purpose of the report is to
  - (i) update Committee on the position of the Lead Local Flood Authority ("the LLFA"), the Council's Ecology Officer and Berks, Bucks and Oxon Wildlife Trust ("BBOWT"),
  - (ii) to inform Members regarding a change to the blue line on the site location plan, and
  - (iii) to seek Members' approval on altered wording of conditions that the Assistant Director for Planning and Development proposes to attach to the decision.
- 1.4. As the Planning Committee has already made a formal resolution, it is not the purpose of this report to return the application to the Committee for full reconsideration. The

focus of this report is those items set out in the resolution as reported at para 1.1 above.

## **2. WHAT HAS HAPPENED SINCE JUNE 2021**

- 2.1. It is now almost two years since Members resolved to grant retrospective planning permission for the creation of a motocross track, together with associated landscaping and camping site, and the use of the site for motocross events including set-up, take down and private practice sessions for up to 65 days per year, with agricultural grazing. Since this time, Officers have been in discussions with the applicant and relevant consultees in order to seek to overcome the objections that were outstanding when the original resolution was passed on 17 June 2021.
  - 2.2. Officers now consider that all of the requirements from the original resolution have been met. Due to the length of time that had passed and an amendment to the blue line area on the site location plan, Officers are returning the item to Committee prior to the issuing of the decision. In addition, and although covered within the resolution, officers seek Members' agreement to the proposed changes to the conditions and the wording of further conditions added pursuant to the resolution of consultee objections.
  - 2.3. Each requirement of the original resolution has been dealt with in turn:
    1. **No responses being received before the expiry of the consultation period that raise new material issues that, in the view of the Assistant Director for Planning and Development, have not been dealt with in the assessment of the application.**
  - 2.4. The consultation period expired on 18 June 2021 and no further responses were received between the Planning Committee meeting on 17 June 2021 and 18 June 2021. Officers therefore consider this requirement has been met.
  - 2.5. However, due to a change in a blue line plan referred to at para 1.3 above, a further period of consultation was undertaken and these are addressed below.
    2. **The resolution of objections from the Lead Local Flood Authority, the Council's Ecology Officer and Berks, Bucks and Oxon Wildlife Trust.**
- Lead Local Flood Authority
- 2.6. Paragraph 7.14 of the Committee report advised that Oxfordshire County Council Drainage, as Lead Local Flood Authority (the LLFA), objected to the application as a detailed surface water management strategy had not been submitted.
  - 2.7. The author of the original Flood Risk Assessment (FRA) liaised with the LLFA regarding their concerns. Officers received an email from the LLFA on 23 February 2022 advising that after having reviewed all the relevant documentation they had no objection to the application. They advised that there are no works being carried out to increase impermeable areas to the site. The submitted FRA (Lidar-Logic, Report LL071 - February 2021) shows that the existing drainage system on site will be retained and ongoing maintenance is carried out through the year by Wroxton Motocross. Therefore, as long as the maintenance regime as per the FRA is carried out, the LLFA has no objection to the application.
  - 2.8. The response from the LLFA informed the wording for condition 2, that is a new condition, requiring the development to be carried out in accordance with the approved drainage system detailed in the FRA prepared and submitted by Lidar-Logic, reference Report LL071 - February 2021.

### CDC Ecology Officer

- 2.9. Paragraph 7.6 of the Committee report advised that the CDC Ecology Officer considered the information submitted with the application to be insufficient in relation to ecology enhancement and great crested newt mitigation. Paragraph 9.70 of the Committee report explained that the Ecology Survey submitted with the application had failed to demonstrate that the proposal would not cause harm to any protected species or habitat, which is reasonably likely to be present and affected by the development.
- 2.10. However, paragraph 9.71 of the Committee report went on to explain that a Great Crested Newt Survey and Habitat Enhancement Map, Ecological Enhancement Measures and Great Crested Newt Mitigation Measures had been submitted, upon which a two week re-consultation had commenced at the time of writing. It was considered that, provided the additional information addressed the objections raised by the CDC Ecologist and BBOWT, the refusal of the application on ecological grounds would not be warranted, hence the recommendation to Committee that authority was delegated to Officers to resolve the outstanding issues.
- 2.11. The initial response from the CDC Ecologist was received on 28 June 2021 and raised concerns regarding the proposed ecological enhancement measures and great crested newt mitigation measures. The applicant submitted additional information in July 2021, with the CDC Ecologist responding in October 2021 to request the submission of a Landscape Ecology Management Plan ('LEMP') to resolve outstanding landscape issues and further information regarding baseline habitats for the biodiversity metric. It was considered that a reasonable net gain was possible, although this would heavily depend on the management of the habitats and operational procedures employed on site. Any LEMP should also include monitoring to ensure that there are regular checks by an ecologist so that any adjustments could be made to the management of habitats as required. There did, however, remain concern regarding the feasibility of the proposed enhancement.
- 2.12. With regard to the great crested newts, the CDC Ecologist referred to the applicant's Ecologist suggestion of the installation of a barrier alongside the pond, although there was a lack of clarity as to how this barrier would impact upon the intended use of this pond as a silt trap, and there was concern regarding the impact upon the aquatic habitat of the pond. It was therefore suggested that the opinion of Natural England was sought on the matter.
- 2.13. The applicant responded to these points through the submission of a Great Crested Newt Mitigation measures document dated 11 March 2022. This document included reasonable avoidance measures to minimise the risk of an offence occurring and confirmed that, as long as these measures were fully implemented, no Conservation of Habitats and Species Regulations derogation Licence should be necessary.
- 2.14. The CDC Ecologist confirmed on 25 April 2022 that the Great Crested Newt Mitigation Plan should protect the newts on site and avoid an offence occurring, suggesting the addition of a monitoring visit for the mitigation ponds created after a year.
- 2.15. There remained an outstanding issue with regard to the accuracy of the Biodiversity Metric Calculation, something that had been raised by BBOWT on 25 July 2022 and drawn to the attention of the CDC Ecologist. BBOWT had also raised concern regarding the use of phrases "have been recommended" or "has identified", as opposed to "will take place" or similar, in the Design and Access Statement and Flood Risk Assessment that do not give sufficient surety to ensure that all of the measures would be both put in place, and maintained for the duration of the existence of the motocross site.

- 2.16. The CDC Ecologist confirmed on 02 August 2022 her agreement with BBOWT with regard to the potential impact on the biodiversity of the Sor Brook and Horley Local Wildlife Site, and the requirement to secure mitigation and protective measures for the brook using unambiguous terms for the duration of the tracks use and beyond. The CDC Ecologist also thanked BBOWT for drawing attention to the anomaly in the Biodiversity Metric Calculation and requested a copy of the metric to be submitted. The CDC Ecologist noted that should the net gain prove to be sufficiently lower than projected then it may be necessary to go off site.
- 2.17. On 22 September 2022, the applicant submitted a Biodiversity Metric Calculation that confirmed that net gain would need to be provided off site and a revised Ecological Enhancement Measures document dated September 2022. The ecological enhancement would now include an area of modified grassland with a nectar rich arable margin in the field to the east of the motocross site. This off-site enhancement would be within land that is owned and controlled by the applicant, although due to the scale of the original site location plan the blue line area did not include the entirety of the land. A revised site location plan was therefore sought and received that included this land.
- 2.18. The CDC Ecologist confirmed on 20 December 2022 that the new full metric that had been submitted was acceptable, aside from relatively small discrepancies between the metric and the enhancement measures document. The off-site habitat enhancement would need to be secured for the lifetime of the operation of the track, and management and achievement of the conditions should be monitored and reviewed through a biodiversity gain scheme to ensure that net gain is achieved.
- 2.19. The CDC Ecologist continued to concur with BBOWT with regard to the ambiguous wording in some of the documentation regarding the control of run off into the brook, and the potential impact of this on the Local Wildlife Site, although considered that this could be resolved with a condition requiring the submission of an overarching document detailing what action would be taken on site in this regard. A later request from the CDC Ecologist requiring the submission of a scheme for external lighting strategy via condition was received on 23 February 2022, in order to avoid potential impacts upon nocturnal wildlife of light spill into the wooded areas and stream.
- 2.20. The CDC Ecologist is therefore content with matters relating to ecological enhancement and great crested newt mitigation, subject to conditions, thus overcoming the original objection to the scheme.

#### Berks, Bucks and Oxon Wildlife Trust (BBOWT)

- 2.21. Paragraph 7.18 of the Committee report explained that BBOWT had commented that it would object to any increase in the extent of the track or increase in events. Further, there should be less exposed soil overall and certainly no increase, and that they advocate requirements to be made for biodiversity net gain at 20% to be achieved on site.
- 2.22. On 20 May 2022 Officers wrote to BBOWT to clarify the extent of the proposed development and explain that amended Ecological Enhancement Measures had been received following the Committee meeting (July 2021) including a biodiversity net gain of 60% in habitat units and nearly 74% in hedgerow units. In addition, that revised Great Crested Newt Mitigation Measures had been received, dated 11 March 2022, with which the CDC Ecologist was now content, and that the FRA had now been agreed by the LLFA. A number of conditions were also suggested.



2.23. BBOWT responded to this letter on 25 July 2022 advising that whilst the conditions would go some way to addressing their concerns, the following outstanding issues remained:

- Potential impact on the biodiversity of the Sor Brook and on Horley Local Wildlife Site, which lies downstream from the Sor Brook, requiring conditions to ensure that the for the duration of the existence of the motocross that management to protect the Sor Brook is maintained and that measures can be taken by the planning authority to require action if the protection of the Sor Brook is not maintained.
- Ambiguous wording through the use of phrases “have been recommended” or “has identified” as opposed to “will take place” or similar in the Design and Access Statement and Flood Risk Assessment that do not give sufficient surety to ensure that all of the maintenance measures would be both put in place, and maintained for the duration of the existence of the motocross site.
- Anomaly in the biodiversity net gain metric spreadsheet and ecological enhancement measures.

2.24. On 22 September 2022, the applicant submitted a Biodiversity Metric Calculation that confirmed that net gain would need to be provided off site and a revised Ecological Enhancement Measures document dated September 2022. The ecological enhancement would now include an area of modified grassland with a nectar rich arable margin in the field to the east of the motocross site. This off-site enhancement would be within land that is owned and controlled by the applicant, although due to the scale of the original site location plan, the blue line area did not include the entirety of the land. A revised site location plan was therefore sought and received that included this land.

2.25. BBOWT was re-consulted on this amended information and a response was received on 19 October 2022. BBOWT requested the following:

- That conditions are used to ensure that, in the event the authority are minded to approve the application, the measures set out in the revised net gain metric spreadsheet, the ecological enhancement measures and off-site habitat enhancement map are implemented and maintained.
- That the requirements for regular management of the site with regard to drainage, and the securing of an appropriate exit strategy management plan for when the site ceases use as a motocross site, are secured via condition and ensure that for the duration of the existence of the motocross that management to protect the Sor Brook is maintained and that measures can be taken by the planning authority to require action if the protection of the Sor Brook is not maintained.
- That conditions or otherwise are used to ensure that the measures to manage surface water run-off, set out in the Design and Access Statement and Flood Risk Assessment, would be put in place and maintained for the duration.

2.26. On 31 January 2023 Officers sent BBOWT a list of draft conditions that were considered to incorporate their requests. BBOWT responded on 10 February 2023 advising that it considered the conditions to be reasonable and had no further comments.

2.27. The draft conditions that were sent to BBOWT have since been revised further in an attempt to improve enforceability, and to seek additional information that had been omitted from the draft list, such as the requirement for a revised scheme for the

management of the drainage of the site to remove ambiguous wording and ensure compatibility with the ecological measures on site, and to seek an external lighting strategy at the request of the CDC Ecologist. The conditions have not, officers consider, been altered in such a way as to weaken their requirements with regard to the specific concerns of BBOWT.

- 2.28. The requirements of the CDC Ecologist and BBOWT have informed the wording for conditions 3, 5, 8, 10 and 11.
- 2.29. Condition 3 requires the development to be carried out in accordance with the Ecological Enhancement Measures dated September 2022 and Mitigation Measures for Great Crested Newts dated 11 March 2022.
- 2.30. Condition 5 requires the submission of an External Lighting Strategy in order to avoid light spill impacting upon nocturnal wildlife.
- 2.31. Condition 8 requires the submission of an Exit Strategy Management Plan to specify works to be undertaken and an on-going management regime to be implemented at the site when activities cease, in order to avoid silt entering the watercourse and protect the biodiversity of the Sor Brook and Horley Local Wildlife Site.
- 2.32. Condition 10 requires the submission of a revised maintenance regime with regard to the drainage of the site within three months of the date of the decision. An informative note states that the revised maintenance scheme should detail specific steps that will be carried out as part of the maintenance of the site without ambiguity, in order to address concerns relating to ambiguous wording and to avoid incompatibilities between the landscaping scheme, the ecological enhancement measures and great crested newt mitigation measures (e.g. the timing of silt removal and erection of barriers).
- 2.33. Condition 11 requires the submission of a revised landscaping scheme detailing retained and proposed planting, a Schedule of Landscape Maintenance and Landscape Amenity Plan in order to seek further details of the proposed landscaping, ensure compatibility with the ecological enhancement measures and secure the long-term management and monitoring of the landscaping, to include consideration of the restoration of the land once the motocross use ceases.
- 2.34. The objections from the LLFA, CDC Ecologist and BBOWT are therefore considered to have been satisfactorily overcome – subject to the recommended conditions.

**3. Conditions (and any amendments to those conditions as deemed necessary) as set out in the appended printed minutes.**

- 2.35. Since the resolution of Committee to grant retrospective planning permission for the development, the wording of the conditions has been amended and additional conditions have been included. Officers consider that the amended and additional conditions strengthen the position of the Council with regard to their enforceability, and that they meet the requirements of the LLFA, CDC Ecologist and BBOWT in overcoming their original objections to the scheme.
- 2.36. The final set of conditions are included in the recommendation at section 6.

**3. RESPONSE TO PUBLICITY**

- 3.1. Due to the change made to the blue line on the site location plan, that is its increase to cover a wider area than that indicated on the original site location plan, Officers considered it prudent to re-publicise the application via site notice and neighbour

letter. The final date for comments was **14 February 2023**. 48 responses were received in total; 44 objecting to the application and 4 commenting.

3.2. The comments raised by third parties, which relate mainly to matters already considered by Planning Committee and not to the matters subject of the resolution, are summarised as follows:

- Visual impact – planting will not screen, little confidence it will be maintained
- Noise impact – planting will not screen
- Ecological impact
- Protected species
- Club from South Wales booked in July 2023 – not for local use
- Unauthorised widening of gateway
- No use of circuit until planning process is complete
- Centred on commercial proposition
- Littering on race days
- If approved, implies Cherwell has no real interest in decreasing use of fossil fuels or carbon footprint – generating carbon
- Damage to local roads
- Require stringent conditions
- Drainage – watercourse damage, silting has already occurred, abstracting water from pond, creation of syphon pond , damming stream
- Lack of detail on landscaping
- Cherwell needs to take same approach as other authorities with regard to motocross
- Conditions need to be monitored
- Undesirable precedent
- Already have to contend with quarry/tip expansion
- Large volume of traffic
- Devalue properties
- Contrary to Policy
- Impact on setting of Area of Outstanding Natural Beauty
- Inconsistency in presented information
- Comments on draft conditions – inadequate/ambiguous – suggested revised wording
- Number of gaps in statutory requirements
- No Banbury Motocross Club anymore – no local riders or events
- Replace with electric bikes
- Had no idea motocross location existed
- How will conditions be enforced?

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

#### **4. RESPONSE TO CONSULTATION**

4.1. Due to the blue line on the site location plan covering a wider area than that indicated on the original site location plan, Officers considered it prudent to undertake re-consultation. Note, the Ecology Officer and BBOWT were re-consulted when the off-site habitat enhancement had originally been proposed and so were not included in this re-consultation.

4.2. 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

- 4.3. HORLEY PARISH COUNCIL: **objects** to the application on the following grounds:

*This subject has been raised at Horley Parish Council level by residents of the village. The Parish Council remain to be persuaded that the planned 'soundproofing' will be effective in lowering/dismissing the noise pollution the village has encountered in the past from the current site.*

- 4.4. HORNTON PARISH COUNCIL: **objects** to the application on the following grounds:

*In relation to the specific amendments submitted by the track, in the Parish Council's view, they are wholly inadequate and will do very little to address the track's damage to wildlife and the environment. Given the past environmental record (e.g. open plastic incineration) we are sceptical that there is sufficient commitment to long term management of any such scheme.*

- 4.5. SHENINGTON WITH ALKERTON PARISH COUNCIL: **objects** to the application on the following grounds:

*Continue to object in the strongest terms dur to blight caused by noise at the events – more noise than uses of karting track to west of our village. Concern that the application is made in retrospect – disregard for legal requirements. Dismay at destruction of part of Ironstone Downs, a valued landscape and area of tranquillity. Landscape Officer concerns, applicant now seeking to further avoid requirements of planning system by failing to comply with conditions. Highways around the area do not support volume of traffic. Applicant seems to scorn principle of democracy and proceed solely in self interest. Urge Planning Committee to reject any proposal to proceed on grounds that applicant seems to have failed to demonstrate any understanding of the impact of proposal on local communities, neither have they shown good faith towards the rule of law.*

- 4.6. WROXTON AND BALSCOTE PARISH COUNCIL: no comments received at time of writing.

#### OTHER CONSULTEES

- 4.7. BRITISH HORSE SOCIETY: no comments received at time of writing.

- 4.8. CAMPAIGN TO PROTECT RURAL ENGLAND: **objects** to the application on the following grounds:

*Continue to strongly object for original reasons expressed in letter dated 07 April 2021 that cannot be addressed by ongoing proposal and its updated documents. Area of rural countryside has been destroyed without planning approval, landowner blatantly ignored authority of the Council and its Planning Committee. Conditions are vague and ambiguous in a number of respects. Given disregard of applicant for Council authority and laissez-faire approach taken to enforcement, it is major concern that once permission has been granted applicant will feel little compunction to comply with conditions, nor will Council supervise or enforce against failure to do so. Landscape Officer has indicated failure to supply necessary level of response and reassurance in respect of landscape requirements, failed to employ someone of adequate expertise, failed to provide sufficient analysis or detail, failed to address list of short comings and requirements to allow proposal to proceed. Further demonstrates overall level of bad faith that applicant has thus far demonstrated. Contrary to principle of democracy – overlooking large number of concerns in favour of individual local landowner who has shown no regard for neighbours. Noise pollution.*

- 4.9. RAMBLERS ASSOCIATION: no comments received at time of writing.

4.10. OCC SINGLE RESPONSE: do not have any comments for this amendment.

4.11. OCC RIGHTS OF WAY: no comments received at time of writing.

4.12. CDC ARBORICULTURE: **comment** as follows:

*Landscape plan shows where trees are proposed but no detail as to species/size etc. Offsite enhancement map only shows flower rich margin/plot creation area, all other features show in legend are largely off the map.*

4.13. CDC ENVIRONMENTAL HEALTH: no comments received at time of writing.

4.14. CDC LANDSCAPE: **comment** as follows:

*Landscaping plan does not address the entire area of application site, nor provide sufficient detail and reassurance that site is going to be adequately screened. LVA requires amendments to justify reasoning behind landscape proposals and landscape management plan. 10-year landscape management plan required to ensure the successful establishment of the landscaping, including the offsite habitat enhancement.*

4.15. CDC RECREATION AND LEISURE: no comments received at time of writing.

4.16. CDC LAND DRAINAGE: **comment** as follows:

*No further substantive comments, applicant requires consents under Section 23 Land Drainage Act for all works on and discharges to the watercourse, in addition to planning or other consents that may be given.*

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

4.18. The comments of Hornton, Horley and Shenington with Alkerton Parish Councils relate to matters already considered by the Planning Committee on 17 June 2021 and not to matters in the scope of the Committee's resolution.

## 5. CONCLUSION

5.1 The requirements of the original Committee resolution on 17 June 2021 have now been met. Due to the extent of alterations to the blue line on the site location plan and wording of the original conditions, Officers seek approval from Planning Committee that they are content with the decision being issued as recommended.

## 6. 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)**

TIME LIMITS AND GENERAL IMPLEMENTATION CONDITIONS

### Approved Plans

1. Except where otherwise stipulated by conditions attached to this permission, the development shall be in accordance with the application forms and the following plans and documents: Design and Access Statement dated February 2021,

Planning Statement dated February 2021, Ecological Appraisal dated January 2021, Flood Risk Assessment dated February 2021 reference Report LL071, Transport Statement dated February 2021, Wroxton MotoCross Circuit - Mitigation Measures for Great Crested Newts by Chris Seabridge & Associated Ltd dated 11 March 2022, Biodiversity Metric 3.1 dated 09 September 2022, Ecological Enhancement Measures by Chris Seabridge & Associates Ltd dated September 2022, Drawing No's: KERWOOD PL-01 Rev. 0, KERWOOD PL-02 Rev. 1, KERWOOD PL-03 Rev. 2, SU2192 2D-1, SU2192 2D-2, SU2192 2D-3, SU2192 2D-4

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.

### **Drainage System**

2. Except where otherwise stipulated by conditions attached to this permission, the development hereby permitted shall be carried out in accordance with the approved drainage system detailed in the Flood Risk Assessment prepared and submitted by Lidar-Logic, reference Report LL071 - February 2021.

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

### **Ecological Enhancements**

3. Except where otherwise stipulated by conditions attached to this permission, the development hereby permitted shall be carried out in accordance with the recommendations set out in the Wroxton Motocross Circuit – Ecological Enhancement Measures by Chris Seabridge & Associates Ltd dated September 2022, and The Wroxton MotoCross Circuit - Mitigation Measures for Great Crested Newts by Chris Seabridge & Associated Ltd dated 11 March 2022 unless otherwise agreed in writing by the Local Planning Authority. The 'Reasonable Avoidance Measures' set out in the Mitigation Measures for Great Crested Newts by Chris Seabridge & Associated Ltd dated 11 March 2022 shall be followed at all times that the site is in use for the development hereby approved.

Reason - In the interests of wildlife and nature conservation and to ensure compliance with Policy ESD10 of the Cherwell Local Plan 2011- 2031 Part 1 and Government guidance within the National Planning Policy Framework.

**CONDITIONS REQUIRING APPROVAL OR COMPLIANCE BEFORE FIRST USE OF MOTORCROSS SITE**

### **Schedule of Activity and Events**

4. (a) Prior to the first use of the motocross site hereby approved, a schedule of proposed activity and events for the remainder of the calendar year in which it is first used shall be submitted to and agreed in writing by the Local Planning Authority; and  
  
(b) Prior to 31 December of each year, a schedule of proposed activity and events for the following calendar year shall be submitted to and agreed in writing by the Local Planning Authority.

The motocross site hereby approved shall be operated in accordance with the schedules agreed under this condition, unless otherwise agreed in writing by the Local Planning Authority.

The submitted schedule shall include details of each event, including:

- the intended programme of track use including practicing and racing;
- likely number of participants and spectators, and
- a written supporting statement demonstrating how the proposed programme of events has been designed to ensure that there are periods of inactivity between race events.

Notwithstanding the details of any agreed schedule, practice or race days upon the site shall not exceed 20 days in any calendar year. The total number of days that the site is used for motocross purposes shall not exceed 65 days in any calendar year.

Reason – In the interests of highway safety, the general amenity of the area, the living conditions of local residents, and to comply with saved Policies ENV1 of the Cherwell Local Plan 1996, Policies SLE4 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

*Informative:*

*You are advised that there is an expectation that there will be a maximum of 6 race days within any 3 month period. Any schedule of proposed activity and events submitted under this condition that seeks to secure approval of a programme that fails to accord with this frequency should set out:*

- (i) why this is necessary; and
- (ii) what mitigations are proposed to protect the amenity of local residents.

*The Local Planning Authority's assessment of any submission made under this condition shall be circulated to the Ward Members for the Cropredy, Sibfords and Wroxton Ward, and Hornton Parish Council, Wroxton and Balscote Parish Council, Sherington with Alkerton Parish Council and Horley Parish Council.*

### **External Lighting**

5. Prior to the first use of the motocross site hereby approved, an External Lighting Strategy shall be submitted to and approved in writing by the Local Planning Authority. The external lighting shall be installed in accordance with the approved strategy prior to the first use and retained as such thereafter.

Reason - In the interests of wildlife and nature conservation and to ensure compliance with Policy ESD10 of the Cherwell Local Plan 2011- 2031 Part 1 and Government guidance within the National Planning Policy Framework.

**CONDITIONS REQUIRING APPROVAL OR COMPLIANCE BEFORE FIRST USE OF MOTORCROSS SITE FOR PRACTICE OR COMPETITIVE RACING**

### **Access Details**

6. Prior to the first use of the motocross site hereby approved for practice or competitive racing, full details of the means of access between the land and the highway, including position, layout, construction, drainage and vision splays have

been submitted to and approved in writing by the Local Planning Authority. The details required by this condition shall include the formation of a kerbed bellmouth junction where the site access road meets the unnamed public highway between Wroxton and Hornton, and the surfacing of the area alongside the carriageway, opposite to the site entrance, which has been worn away by vehicles making the turn into and out of the site. The means of access and vision splays shall be constructed in strict accordance with the approved details prior to any practice or competitive racing and shall be retained and maintained as such thereafter.

Reason - In the interests of highway safety and to comply with Policies SLE4 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

### **Spectator and Access Strategy**

7. Prior to the first use of the motocross site hereby approved for practice or competitive racing, a Spectator and Access Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Spectator and Access Strategy shall include:
- How the calendar of events would be regulated
  - An event ticketing strategy
  - A vehicle permitting strategy

The site shall not be used for practice or competitive racing other than in accordance with the approved Spectator and Access Strategy.

Reason - In the interests of general amenity and to comply with saved Policy ENV1 of the Cherwell Local Plan 1996, Policies SLE4 and ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

### **Exit Strategy Management Plan**

8. Prior to the first use of the motocross site hereby approved for practice or competitive racing (and notwithstanding the details set out within the Wroxton Motocross Circuit – Ecological Enhancement Measures by Chris Seabridge & Associates Ltd dated September 2022, The Wroxton Motocross Circuit - Mitigation Measures for Great Crested Newts by Chris Seabridge & Associated Ltd dated 11 March 2022 or the Flood Risk Assessment prepared and submitted by Lidar-Logic reference Report LL071 - February 2021, and maintenance regime approved pursuant to the requirements of Condition 10 of this permission) an Exit Strategy Management Plan (ESMP) shall be submitted to and agreed in writing by the Local Planning Authority. The purpose of this ESMP is to specify the works to be undertaken and ongoing management regime to be implemented at the site when activities cease in order to protect the biodiversity of the Sor Brook and the Horley Local Wildlife Site from silt migrating downstream.

The submitted ESPM must include:

- i. Landscaping Scheme: This shall detail positions for the re-instatement of grass cover across the site, planting of additional hedgerows and scrub along land contours. The scheme shall identify the planting arrangements and timings, together with details of inspection and maintenance protocols and responsibilities to ensure the identification and then timely replacement of any dead, dying or diseased landscaping elements for a minimum period of five years from the point of initial planting.



- ii. **Monitoring and Management Plan:** A scheme for the monitoring and management of the site once motocross activities cease, to include provisions to ensure that silt ponds are cleaned out on a set schedule in a manner that is compatible with the landscaping of the site and ecological mitigation and enhancement measures.

Where no submission has been made to the Local Planning Authority to discharge condition 4(b) prior to 31 December, the commencement of the agreed Exit Strategy Management Plan (ESMP) shall be triggered. Thereafter the agreed ESMP shall be implemented in full unless a new schedule of proposed activities and events for that calendar year has been submitted to and agreed in writing by the Local Planning Authority under the terms of condition 4(b).

Reason - In the interests of wildlife and nature conservation and to ensure compliance with Policy ESD10 of the Cherwell Local Plan 2011- 2031 Part 1 and Government guidance within the National Planning Policy Framework.

### **Parking Provision**

9. Prior to the first use of the motocross site hereby approved for practice or competitive racing, a plan showing parking provision for a specified number of vehicles to be accommodated within the site shall be submitted to and approved in writing by the Local Planning Authority. The parking area approved by this condition shall be provided in accordance with the approved details prior to the first use of the motocross site for practice or competitive racing and shall remain unobstructed and retained for the parking of vehicles at all times thereafter. The number of vehicles using the approved parking area shall not exceed the number specified upon the approved plan at any time.

Reason - In the interests of highway safety, to ensure the provision of off-street vehicular parking and to comply with Policies SLE 4 and ESD 15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

**CONDITIONS REQUIRING APPROVAL OR COMPLIANCE WITHIN THREE MONTHS**

### **Revised Drainage Maintenance Regime**

10. Within three months of the dates of this decision (and notwithstanding the details contained within the Flood Risk Assessment prepared and submitted by Lidar-Logic reference Report LL071 - February 2021) a revised maintenance regime shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the maintenance regime shall be carried out in accordance with the approved details at all times that the site is in use for motocross purposes.

Reason - To ensure that the principles of sustainable drainage are incorporated into this proposal in a manner that is compatible with the landscaping of the site and ecological mitigation and enhancement measures, and to ensure compliance with Policy ESD7 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance within the National Planning Policy Framework.

*Informative:*

*The revised maintenance regime shall detail specific steps that will be carried out as part of the maintenance of the site without ambiguity. The applicant should*

*ensure that maintenance regime is compatible with the proposed landscaping, ecological enhancement measures and great crested newt mitigation measures*

**CONDITIONS REQUIRING APPROVAL OR COMPLIANCE BEFORE PLANTING SEASON**

**Revised Landscaping Scheme**

11. Prior to the first full planting season after the date of this permission (mid-November to end of March) (and notwithstanding any details shown with the Ecological Enhancement Measures by Chris Seabridge & Associates Ltd dated September 2022) a revised landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme for landscaping the site shall include:

- a. details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas,
- b. details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,
- c. A Schedule of Landscape Maintenance for a minimum period of five years, to include the timing of the implementation of the schedule and procedures for the replacement of failed planting,
- d. A Landscape Amenity Plan, to include the timing of the implementation of the plan, long term design objectives (to include consideration of the restoration of the land), management responsibilities, maintenance schedules and procedures for the replacement of failed planting for all landscape areas. The Landscape Amenity Plan shall also include provisions to ensure that the existing hedgerow on the south-east boundary adjacent to the access trackway of the site shall be retained and properly maintained at a height of not less than three metres, and that sections of the hedgerow that die or are damaged are replaced.

The details approved under points a. b. c. and d. of this condition shall be implemented in the first full planting season (mid-November to end of March) following their approval and shall be carried out in accordance with the most up to date and current British Standard.

The Schedule of Landscape Maintenance shall be carried out in full accordance with the implementation details agreed pursuant to point c. above.

The Landscape Amenity Plan shall be carried out in full accordance with the implementation details agreed pursuant to point d. above.

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

Reason – To safeguard the character and appearance of the area, and the surrounding landscape in a manner that is compatible with the ecological enhancement measures being secured at the site to comply with Policies ESD10, ESD13 and ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

**ONGOING REGULATORY CONDITIONS TO BE COMPLIED WITH AT ALL TIMES**

**Restriction on use**

12. There shall be no use of the track or set-up or take down of events on the first Bank Holiday Monday in May of each year.

Reason – In the interests of highway safety and to comply with Policies SLE 4 and ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

**Noise and Operating Hours**

13. The noise levels at or from the site shall not exceed 96dB(A) and the track shall only be used for motocross purposes between the hours of 9:00am and 6:00pm.

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

**Vision Splays**

14. The vision splays shown in the plans approved pursuant to the requirements of Condition 6 of this permission shall not at any time be obstructed by any object, structure, planting or other material of a height exceeding 0.6m measured from the carriageway level.

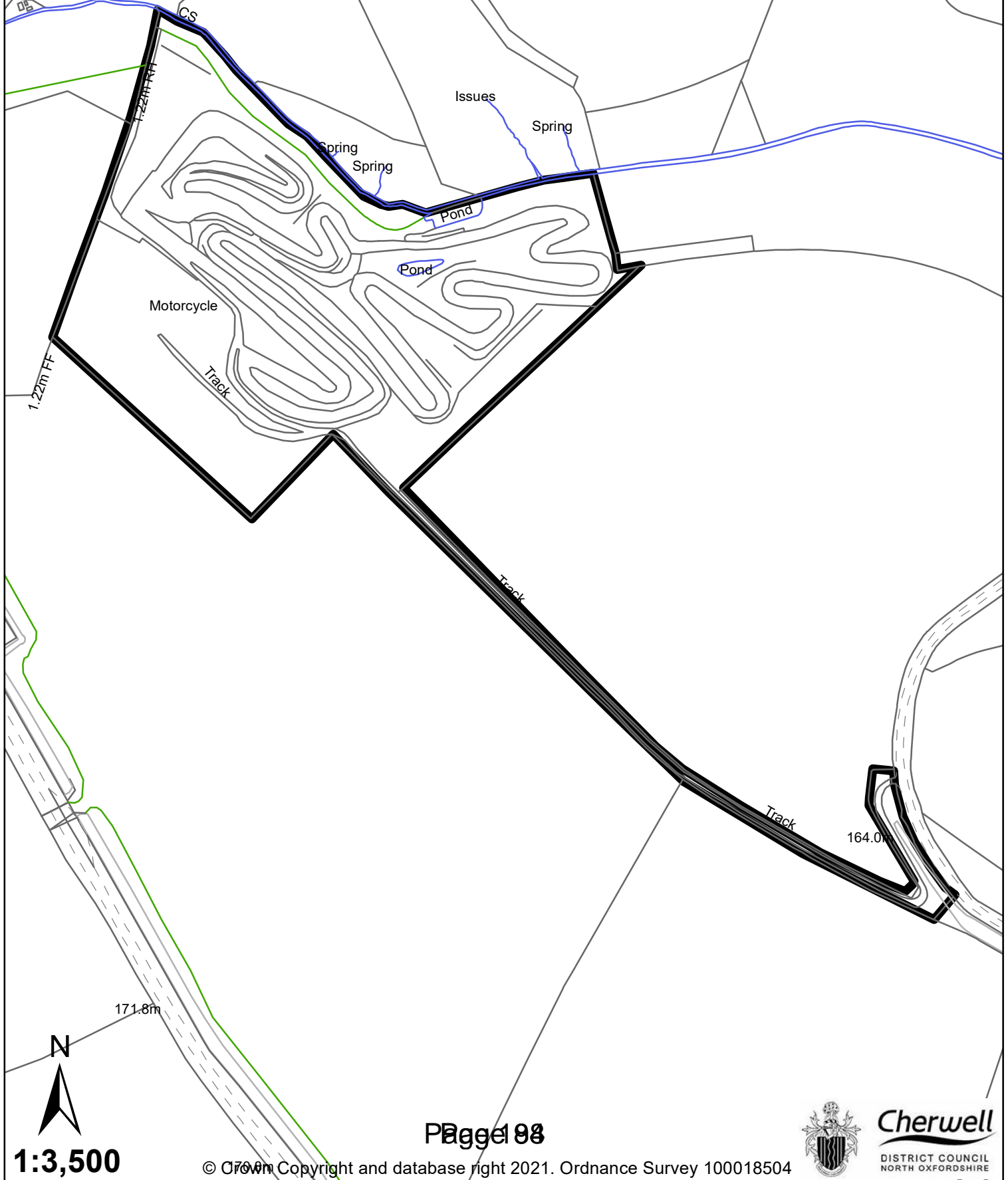
Reason - In the interests of highway safety and to comply with Policies SLE4 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

CASE OFFICER: Gemma Magnuson

# Agenda Item 9 21/00517/F

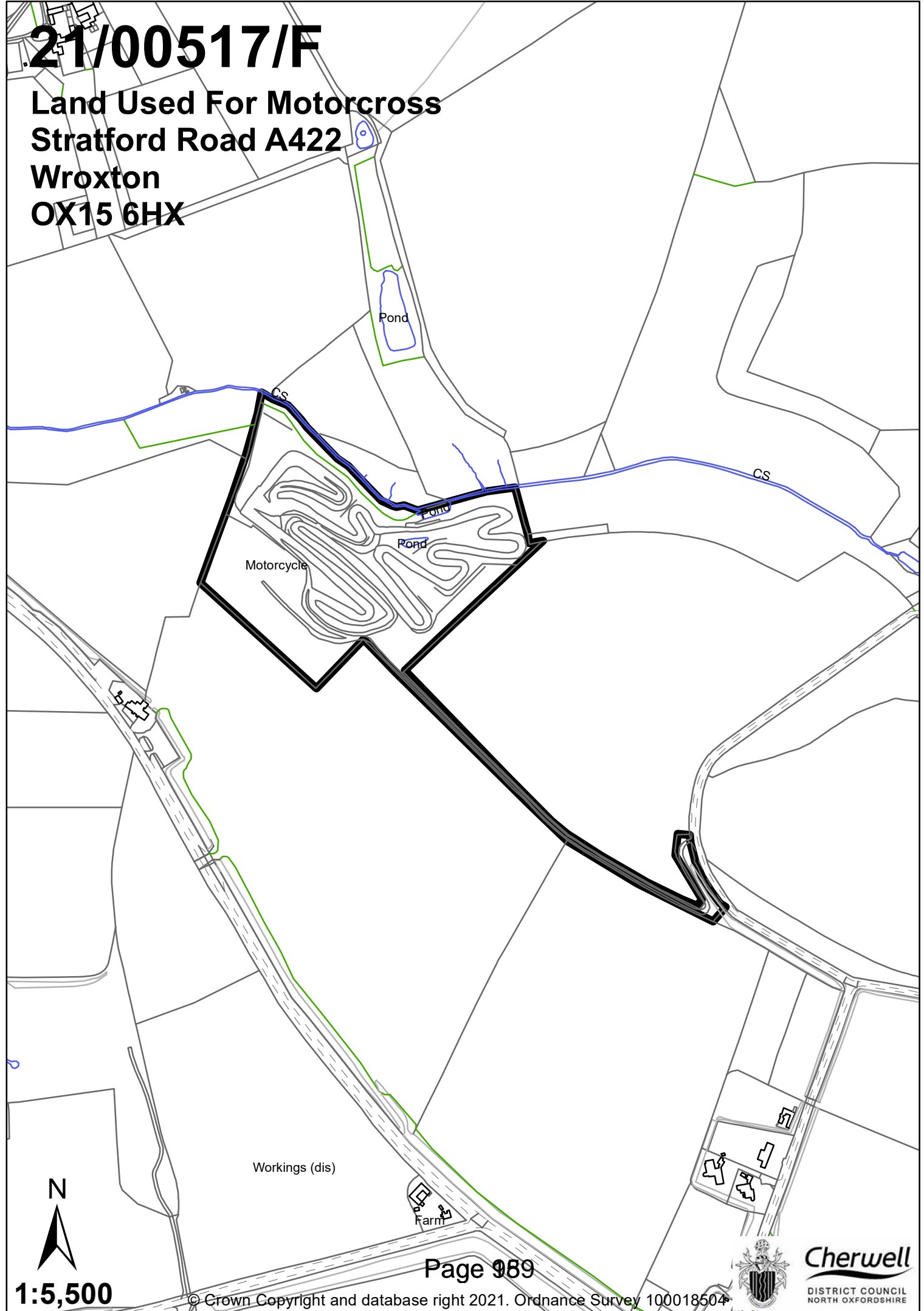
## APPENDIX 1

**Land Used For Motorcross  
Stratford Road A422  
Wroxton  
OX15 6HX**



# 21/00517/F

Land Used For Motorcross  
Stratford Road A422  
Wroxton  
OX15 6HX



1:5,500



**Case Officer:** George Smith

**Applicant:** Hedges & Kerwood

**Proposal:** Creation of a motocross track and soft landscaping scheme and the change of use of agricultural land to hold moto-cross events including set-up, take down and private practice sessions, with associated camping site, for up to 65 days per year and agricultural grazing (retrospective)

**Ward:** Cropredy, Sibfords And Wroxton

**Councillors:** Cllr Chapman, Cllr Reynolds, and Cllr Webb

**Reason for Referral:** Level of public interest

**Expiry Date:** 22 June 2021

**Committee Date:** 17 June 2021

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**SUMMARY OF RECOMMENDATION: DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT TO GRANT PERMISSION SUBJECT TO:**

- 1) THE EXPIRY OF THE CURRENT CONSULTATION PERIOD ON 18 JUNE 2021, AND CONFIRMATION THAT AT THE CLOSE OF THIS CONSULTATION PERIOD NO RESPONSES HAVE BEEN RECEIVED THAT RAISE NEW MATERIAL ISSUES THAT, IN THE VIEW OF THE ASSISTANT DIRECTOR, HAVE NOT BE DEALT WITH IN THE ASSESSMENT OF THE APPLICATION AS SET OUT ABOVE;**
- 2) THE RESOLUTION OF THE OBJECTIONS FROM:  
(i) THE LEAD LOCAL FLOOD AUTHORITY;  
(ii) THE COUNCIL'S ECOLOGY OFFICER; AND  
(iii) BBOWT  
INCLUDING THE AUTHORITY FOR ADDITIONAL CONDITIONS TO BE ADDED AS REQUIRED TO SECURE ANY NECESSARY MITIGATION MEASURES); AND**
- 3) SUBJECT TO THE CONDITIONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY):**

**1. APPLICATION SITE AND LOCALITY**

- 1.1. The application site is occupied by a motocross track, accessed off the unnamed lane to the east.
- 1.2. The track is located in open countryside, being c.1km from the southern edge of Hornton, c.2.8km from the western edge of Wroxton, c2.6km from the eastern edge of Horley, c1.7km from the northern edge of Balscote and c1.2km from the eastern edge of Alkerton. There are several out-of-settlement dwellings in closer proximity, the closest being Hornton Grounds (550m).

## **2. CONSTRAINTS**

- 2.1. The application site is partially within a Conservation Target Area and partially within a NERC Act S41 Habitat – namely Lowland Mixed Deciduous Woodland. The Traditional Orchards Habitat is located nearby. The site is bound on the western side by a footpath (339/18/10). Another footpath (255/4/10) runs close to the entrance to the site from the west. The site sits on potentially contaminated land and naturally elevated arsenic, which are common features across the Cherwell District.

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

- 3.1. This application seeks use of the parcel of land for motocross purposes for 65 days per year. This would include 24 event days i.e. the application if approved would not grant permission for 65 event days. The 65 days would include the 24 events, as well as set-up and set-down days either side of an event.
- 3.2. The Transport Statement explains in more detail the nature of the use. A typical event is held on Sunday, with an average rider entry of 160-200, and most riders arriving with immediate family and support crew on the Saturday before the event day. The majority of campers are said to arrive between 5pm and 8pm. The report estimates that 180-220 people would typically camp.
- 3.3. The Transport Statement sets out that, during a Club event, there may be around 600 – 800 people on site over the course of race day, travelling in 250 – 350 vehicles
- 3.4. The Transport Statement sets out that a National event are said to occur once or twice a year and can attract a maximum of 320 competitors and 1,300 to 1,500 people in total. A National event can attract around 400 – 600 vehicles, depending upon how many people travel together in each one.

## **4. RELEVANT PLANNING HISTORY**

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

20/02126/CLUE: Certificate of Lawfulness of Existing Use for the use of the land for a mixed use of agriculture and as a motocross track with race meetings for up to 24 days a year (excluding set up, preparation, clear up and private practice sessions) – Withdrawn

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

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

## **6. RESPONSE TO PUBLICITY**

- 6.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was **3 June 2021**, although comments received after this date and before finalising this report have also been taken into account.
- 6.2. Officers have counted the number of objections received as 172 and the number of letters in support to be 11. Four representations have been recorded as *comments*. The representations made by third parties are summarised as follows:

## Objection

### Principle of development

- The application does not provide any material/substantive information in respect of the claims that the proposals support local policy
- Up until 2017 the track was operated within the 14-day permitted development limited but have not done so since. It should be reinstated to this 14-day use.
- There is no access via public transport and poor walking and cycling routes, which would not reduce need to travel by private vehicle, not offering alternative travel modes.
- Provision of this facility is not needed as four other similar developments and approved sites are within easy travel distance
- Does not support tourism as people camp and do not spend money in local area or mix with local villagers
- It is only a commercial success for the landowner rather than local community
- Could harm local B&Bs and pubs
- Sheep have never been seen grazing at the track
- Track operators have continued to flaunt regulations through this planning application process
- Is suitable as a local club, reverting back to its former use. Is not suitable to be an international track.
- Several third-party representations have raised concern that the track would hold motocross racing or practice on 65 days of the year and made comments on this basis. Whilst the proposal seeks 24 race or practice days, several have raised this ambiguity as a concern.
- There is no local need for the facility.
- At what point does this go from farm diversification to being the primary business.

### Landscape and visual impact (including heritage)

- Approval would result in further expansion
- This area is valued for its tranquillity and beauty, something the track is ruining.
- Contrary to the LVIA, the current track does not use natural landform as there has been extensive excavation and raising of the land in many areas. LVIA report contains various misinformation.
- Cherwell District Council themselves have sought to protect the Ironstone Downs in their own Local Plan.



- The landscape assessment identifies that the site is currently in poor condition and the works have been done to a poor standard and further remediation is required to put the site in good condition.
- Track did not used to be visible but can now be seen from 3 different roads and the footpath adjacent. This is as a result of bigger jumps and more prominent features such as railings.
- The resulting highways, visual, and noise impact that would arise from the proposal on the nearby AONB would outweigh its public benefit, contrary to paragraph 172 of the NPPF.
- Events look like a large music festival.

### Noise

- Unfavourable wind direction increases the perceived level of noise, which is the norm rather than the exception due to prevailing wind.
- Was tolerated by locals prior to 2016, but increase in size and the events are now starting earlier, finishing later, are noisier as the size of bikes have increased, and the number of events has virtually doubled
- Causes stress and annoyance for people who want to enjoy peace and quiet in gardens. Note in summer this is particularly vexatious as it is often necessary to keep windows and doors open to keep the house cool. Impacts on mental health and drives people to go away for the weekend.
- Rather than an occasional disturbance a Motocross event can affect a whole weekend if the wind is blowing in a certain direction as the noise is so loud it is not a pleasant experience to be outside in the garden.
- Noise on occasional weekends was tolerable, but noise is now incessant.
- Third party took several noise meter readings in 2019 and have records to show sound levels frequently between 65dB and 95dB during race time.
- Questioning of the usefulness of the noise survey being undertaken on a practice day in the off-season. Evidence is potentially deliberately misleading.
- It may be that measurements of noise are beneath the British Standards and WHO indicative level of 50 decibels, but this may not be the most appropriate measure in an environment with much lower levels of ambient noise.
- Noise nuisance to Indian Queen restaurant and instances of anti-social behaviour.
- The Council's Environmental Health Officer appears not to have taken account of other data provided, outside of the applicant's report. Applicant's report is incorrect on the noise effect.
- Additional screening would not make the noise impact acceptable.

### Highways

- Increased vehicle movements, vans and cars going over speed limit through villages of Wroxton, Hornton, the A422 and surrounds.
- There has been an increase in vehicle movements in the locality over a number of years more generally, due to other developments (Hornton Quarry, Banbury expansion etc.)
- Up to 200 vehicles are camped there at weekends impacting on entry and exit on narrow country lanes. Objections to positioning of site entrance
- This road should never be blocked by heavy traffic, which it certainly would be if this planning permission were approved. Limits access for emergency service vehicles
- Would eventually cause death or serious injury
- Access to the site and the surrounding roads should be reviewed and improved if this application is approved. The windy country roads are not suitable for the development. Vehicles travelling to track has led to potholes and damaged verges.
- Unsafe to walk along footpath adjacent to track on race days. Also, a risk to cyclists and children.
- Damage to surrounding roads from the large vehicles and camper vans that are associated with the use. Small roads are unsuitable for 100+ larger vehicles all arriving for weekend use
- Mud is dragged out onto the road from the access

### Ecology

- Effect on local wildlife and countryside
- This whole valley forms part of the Northern Valleys Conservation Target Area (NVCTA). The NVCTA is an important wildlife site which has been targeted specifically for biodiversity conservation. Cherwell District Council's (CDC) Local Plan 2040 states that CTAs would be the most important areas to target for biodiversity improvement. Locating large BMX track capable of hosting international motocross events in this CTA is clearly contrary to that ambition.
- Track would have a significant detrimental impact on biodiversity in areas surrounding the site and the loss of at least some of the red list/internationally threatened species in the area.
- The area surrounding the proposed site is richly biodiverse, holding healthy remnant populations of farmland birds, mammals and plants which have experienced huge declines with the industrialisation of agriculture, which continues today. Many of these species are internationally threatened, indicating that this area has International Conservation Importance and must be protected from development.
- The potential risk to contamination from fuel leaks, chemical toilets and general waste of the Sor Brook, including the potential downstream impact to wildlife.

- It is just a few hundred metres from a Site of Special Scientific Interest, managed by the Banbury Ornithological Society, where many rare species of bird can be found including the curlew. The noise pollution from the track may prevent birds from staying in this area as they are sensitive to noise.
- Ecology walk over survey undertaken at massively suboptimal season. Report points at potential for GCN as well as protected species including bats, but no mitigation/compensation is identified.
- Policy ESD11 - insufficient information has been provided to show the proposal adheres with the policy; demonstrating the proposal does not conflict with the aims of the conservation target area as well as identifying constraints and opportunities for biodiversity enhancement.

### Pollution

- Diesel fuelled vans travelling large distances to get to event
- Believe the CDC should not be supporting further expansion of a sport which is potentially detrimental to the health of the participants and local people. These are not 'essential' emissions.
- Litter from track including plastic helmet visors are found nearby to track and lining the tributary of Sor Brook, having an impact on ecology also.
- Rubbish is stored or burnt on site.
- Littering along Wroxton main road
- In contravention of Government stated objectives to reduce CO2 emissions which are proven to adversely affect climate

### Drainage

- there have been breaches of the Land Drainage Act in that unauthorised works have happened in damming and draining the watercourse
- Drainage and pollution of the water levels threaten the surrounding area.

### Other

- Disregard for planning and process
- Implies weekday events as well as weekends
- Devalues properties
- Why CDC has allowed this Wroxton Motocross development to get to this point without adequate planning permission.

### **Support**

- Safe and accessible motorsport facilities is key to avoid illegal riding and driving on roads
- Benefits to physical and mental health

- Supports local businesses
- Oxfordshire has insufficient motorsport facilities relative to size
- Additional screening would reduce the noise impact

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. HORNTON PARISH COUNCIL: **Objects** – for reasons summarised below:

- Unjustified and unsustainable form of development in a rural location – contrary to the provisions and aims of SLE1, SLE4 and ESD1 of the Local Plan
- Development is an alien feature within the rural landscape, out of scale and character within setting. Detrimental visual impact on rural character and appearance of locality, including adverse disturbance for wildlife habitats and species and harm to the rights of way amenity and open rural landscape of the area – contrary to Policies ESD13 and ESD15.
- Adverse traffic congestions on Friday – Sunday, with hundreds of vehicles using the narrow local lane network. The proposals are therefore contrary to saved Policies TR10 and C31 of the 1996 LP and ESD15 of the CLP 2015.
- The change of use cannot be to a mixed agricultural use as the vast majority of the racetrack is bare mud and could not support sheep grazing.
- The application form, Design and Access Statement and technical submissions contain numerous factual inaccuracies.
- A Hornton Parish Council commissioned “Expert Witness Statement” from Air Photo Services Ltd Report, taking evidence from aerial and satellite photography and Lidar data, concluded that between 2012 and 2020; the racing track was lengthened by over 500m (33%), the track area and bare earth features increased by over 1500sqm and the average width of the track increased from 11.08m to 12.15m.
- A Hornton Parish Council commissioned “Noise Impact Assessment Review” from Clarke Saunders Acoustics has been submitted, which considers that the applicants Noise Impact Assessment does not address many key requirements, concluding that it cannot be relied upon to describe the community impact of the proposals.
- The Parish Council have provided a list of events, stating that greater events had taken place (or at least been planned) than the applicant asserts, with 26 events having been listed in 2019.

7.3. WROXTON AND BALSCOTE PARISH COUNCIL: **Objects** – for reasons summarised below:

- Brings no benefit to the local economy as competitors and guests stay in caravans on-site and are likely to self-cater.
- Disbenefits in terms of noise, increased traffic, damage to verges and anti-social behaviour
- Wroxton and Balscote residents in general accepted the original intention of the operation for the first 35 years or so i.e. recreational activities for local people on several weekends annually. However, the nature of the activity has changed, increasing in size and frequency and interfering significantly with the local environment
- Wroxton and Balscote Parish Council would support strict conditions imposed limiting the number of racing/practice days, to the prior acceptable volume of activity. Conditions should also protect immediate environmental requirements i.e. litter, toilets and protection of watercourses.

7.4. SHENINGTON AND ALKERTON PARISH COUNCIL: **Objects** – for reasons summarised below:

- Noise nuisance to parish residents. 65 days is unreasonable, the applicant should request a more reasonable level of activity. The Parish Council would like to see calendar coordinated with Shenington Kart Club as the noise complaints are received for this as well.

7.5. HORLEY PARISH COUNCIL: **Objects** – for reasons summarised below:

- Increased intensity of the use of the site.
- Parish Council are concerned about increased number of events to 65 days per year, over one per week.
- Noise pollution is a major concern which can already be heard throughout the village – increasing if this is approved.
- Parish Council has received individual complaints from residents in the village regarding existing site.

#### CONSULTEES

- 7.6. CDC ECOLOGY: **Comments** – that the information is currently insufficient in relation to ecology enhancement and great crested newt mitigation
- 7.7. CDC ENVIRONMENTAL HEALTH: **No objections** – on grounds of noise, contaminated land, air quality, odour or light.
- 7.8. CDC LANDSCAPE: **Comments** that a landscaping scheme and management/mitigation measures are required.
- 7.9. CDC ARBORICULTURE: **Comments** – that the landscaping plan as submitted requires further clarifications.
- 7.10. CDC DRAINAGE: **Comments** – that the Flood Risk Assessment is acceptable in hydraulic terms. Comments that the watercourse could be affected by ecology in regard to siltation and loss of amenity to allow fish/invertebrate passage along the watercourse, however they note that they are not qualified to comment on this aspect.

- 7.11. CDC SPORT AND LEISURE: **Comment** – that there is insufficient evidence which demonstrates that the provision meets a local need, or that its increased use addresses deficiencies in provision.
- 7.12. OCC HIGHWAYS: **No objections** – subject to conditions for; means of access improvements, vision splays to be non-obstructed, provision of two pairs of passing places and for the submission of an Event Traffic Management Plan.
- 7.13. OCC RIGHTS OF WAY: **No objections** – subject to condition relating to fence along western boundary.
- 7.14. OCC DRAINAGE: **Objections** – as a detailed surface water management strategy has not been submitted.
- 7.15. CAMPAIGN TO PROTECT RURAL ENGLAND: **Objects** – due to impact on tranquillity of area
- 7.16. COTSWOLD NATIONAL LANDSCAPE: **Neither support nor object**
- 7.17. ENVIRONMENT AGENCY: **Comments** – that application falls outside remit
- 7.18. BERKS, BUCKS & OXON WILDLIFE TRUST (BBOWT): **Comments** – that they would object to any increase in the extent of the track or increase in events. Comment that there should be less exposed soil overall, particularly next to the brook, and certainly no increase. They advocate requirements to be made for biodiversity net gain, stating this should be at a 20% level, to be achieved on site. A series of recommendations are made.

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

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

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

- PSD1: Presumption in Favour of Sustainable Development
- SLE1: Employment Development
- SLE3: Supporting Tourism Growth
- SLE4: Improved Transport and Connections
- BSC10: Open Space, Outdoor Sport and Recreation Provision
- ESD1: Mitigating and Adapting to Climate Change
- ESD2: Energy Hierarchy and Allowable Solutions
- ESD3: Sustainable Construction
- ESD4: Decentralised Energy Systems
- ESD5: Renewable Energy
- ESD6: Sustainable Flood Risk Management
- ESD7: Sustainable Drainage Strategy
- ESD8: Water Resources

- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD11: Conservation Target Areas
- ESD13: Local Landscape Protection and Enhancement
- ESD15: The Character of the Built Environment

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

- TR7: Minor roads
- C8: Sporadic development in the open countryside
- C28: Layout, design and external appearance of new development
- C30: Design control
- ENV1: Pollution control

#### Other material considerations

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

## **9. APPRAISAL**

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

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

#### Principle of Development

##### *Policy Context*

9.2. The application is retrospective and was submitted as the result of an enforcement investigation. The current application is being put forward by the applicant to regularise the existing motocross facility. The applicant states that the track has been in situ since 1981. However, the track has gradually expanded from an informal local facility to one capable of hosting international events. Figures 1 to 4 below show the gradual expansion of the track over the last 20 years.

Area

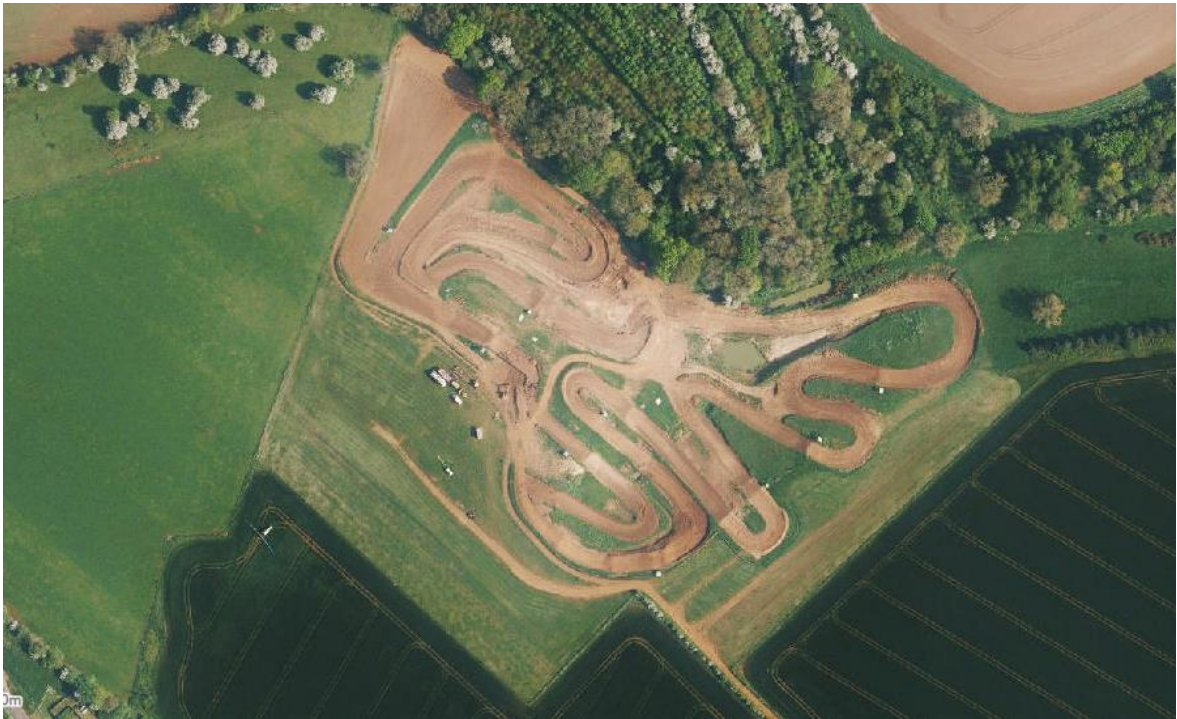


**Figure 1 – 1999 aerial photography**



**Figure 2 – 2009 aerial photography**





**Figure 3 - 2014/15 aerial photography**



**Figure 4 – 2019 aerial photography**

- 9.3. Policy BSC 12 of the CLP 2015, which governs the provision of community sporting and recreational facilities states *'Ensuring that development proposals contribute towards the provision of new or improved facilities where the development would generate a need for sport, recreation and community facilities which cannot be met by existing provision.'*
- 9.4. Policy BSC 10 of the CLP 2015 states that the Council will ensure there is sufficient quantity and quality of, and convenient access, to open space, sport and recreation through protecting existing sites and through addressing deficiencies in provision

through enhancement to existing sites or securing new provision. In determining the nature of new provision, the Council will be guided by the evidence base and consult with parish and town councils. The supporting text notes that development which result in the loss of facilities will be assessed in accordance with the NPPF and will not be permitted unless the Council is satisfied that a suitable alternative site of at least equivalent community benefit in terms of quantity and quality is provided in an agreed time period. Paragraph B.161 notes that sites for new provision will also be identified in the Local Plan Part 2 (now the review of the Local Plan).

- 9.5. The NPPF at paragraph 80 states that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.
- 9.6. The NPPF at paragraph 83 states that planning decisions should enable sustainable rural tourism and leisure developments which respect the character of the countryside.
- 9.7. NPPF paragraph 84 states that planning decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. It states in these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable.
- 9.8. Paragraph 86 and 87 of the NPPF state that Local Planning Authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre.
- 9.9. The NPPF advises that the access to a network of high-quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities and paragraph 97 of the NPPF states existing open space, sports and recreation buildings and land, should not be built on unless:
  - a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements, or
  - b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location, or
  - c) the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.

#### *Assessment*

- 9.10. This application seeks use of the parcel of land for motocross purposes for 65 days per year, with 24 days where the track is used. The site is outside of a sustainable settlement and set in a rural context. Given the location, nature of the development and lack of public transport links the proposed development would be heavily reliant on the use of the private motor vehicle to access the facility via the route of minor rural roads.
- 9.11. It is relevant to assess whether the use is a 'Main Town Centre Use' as defined by the NPPF. The NPPF definition names sport and recreation, as well as leisure.

Whilst one might ordinarily deduce that the motocross track could be a leisure use, those two things are intended to be different, i.e. this is under sport and recreation rather than leisure. The question is then whether it's a "more intensive" sports and recreation use, (including cinemas, restaurants, drive-through restaurants, bars and pubs, night-clubs, casinos, health and fitness centres, indoor bowling centres, and bingo halls). As this motocross use is not similar to those listed within the NPPF, Officers would conclude that that it is not a main town centre use. It is also not a use that could reasonably be expected to be provided in the town centre due to its nature.

- 9.12. The Council's Sport and Leisure Team states that there is insufficient evidence to demonstrate that the provision meets a local need, or that its increased use addresses deficiencies in provision. Officers agree with this view and recognise based on the submitted information that the facility holds national events and draws participant from across the country, rather than providing a local need. Therefore, Policies BSC10 and BSC12 of the CLP 2015 are not necessarily met.
- 9.13. The applicant contends that the track can currently operate under permitted development right allowances. However, Officers consider the land is not returned to agricultural use whilst the track is not being used for motocross events, and that a permanent change of use has taken place, in particular because there has been operational development, for instance through the formation of track jumps, which require planning permission.
- 9.14. As per section 171B of the Town and Country Planning Act 1990, development involving a change of use (other than to a single dwellinghouse) is immune from enforcement action should no action be taken within 10 years of such a breach. The parcel of land has been used for motorsport purposes for approximately 40 years and but for track expansion having taken place in the preceding 10 years a lawful development certificate would likely have been granted. The use of the majority of the site for motocross purposes, but for two small sections in the east and northeast, is considered to be well established. The lawful development certificate application was subsequently withdrawn and the applicant invited to submit a full planning application.
- 9.15. On this basis, your officers are satisfied that the development is acceptable in principle.

#### *Conclusion*

- 9.16. The site is not sustainably located, but a similar facility could be achieved here within permitted development rights. The nature of the use means that it is not likely compatible with a location within or at the edge of a settlement. The principle of the development is therefore considered acceptable; its overall acceptability is dependent on the proposal not causing material harm in other respects. These are outlined in more detail below.

#### Design and landscape and visual impact

##### *Policy Context*

- 9.17. Policy ESD13 of the CLP 2015 advises that development will be expected to respect and enhance local landscape character and a number of criteria are highlighted including that development is not expected to cause visual intrusion into the open countryside, must be consistent with local character and must not harm the setting of settlements, buildings or structures.

- 9.18. Policy ESD15 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.
- 9.19. 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. Saved Policy C8 seeks to resist sporadic development in the open countryside. The accompanying text for Saved Policy C8 includes that development in the countryside must be resisted if its attractive, open, rural character is to be maintained. The NPPF at paragraph 170 states that planning decisions should recognise the intrinsic character and beauty of the countryside.
- 9.20. National Planning Policy Framework, Section 12 'Achieving well-designed places', paragraph 127 states that planning decisions should:
- (a) function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
  - (b) be visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
  - (c) be sympathetic to local character and history, including the surrounding built environment and landscape setting,
  - (d) establish or maintain a strong sense of place.
- 9.21. Paragraph 130 states permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of the area and the way it functions.

#### *Assessment*

- 9.22. The application is supported by a Landscape and Visual Impact Assessment (LVIA). The site is solely within the Northamptonshire Uplands, Cotswolds and Chilterns character area. This landscape type includes pastoral and wooded landscapes associated with the steep slopes and valleys of small streams and main rivers.
- 9.23. The Landscaping Scheme identifies that the site is on agricultural land in the open countryside, with land undulating and sloping down to a small valley with a small stream running along the valley floor.
- 9.24. The site's position within the valley means that it is not readily visible from the majority of public vistas in the locality. The site is clearly visible from the footpath (339/18/10) which runs along the north-western boundary of the site.
- 9.25. The applicant's LVIA notes that the Motocross track is an established landscape feature in the landscape, with events and races having been held for approximately 40 years throughout the year. It adds that the track has been specially designed so as to reflect the existing site levels which make the track a popular and challenging race circuit.

- 9.26. As noted above, much of the development at least in terms of its size and area has occupied the site for 40 years. Much of the development would have been immune from enforcement action under the 10-year rule.
- 9.27. Officers note that the site has developed more significantly over the last 3-5 years, with the track now longer and wider, with additional jumps and green space reduced within the track confines. There is no doubt that the motocross track has a landscape impact, being clearly visible from the footpath to the east and in several other vistas, including local roads. The track is not visible from any settlement, due to topography and distance.
- 9.28. The track associated infrastructure, i.e. toilets and marshal huts also have a visual impact, but this is infrastructure that is clearly related to the use of the site for these purposes. They are structures which are not particularly large so, although visible from some public vantage points, they are not considered intrusive.
- 9.29. The caravans and motorhomes, which occupy the camping area during an event, also have a visual impact. They occupy a portion of the site to the south and east of the track. Were planning permission to be granted for this application, caravans/motorhomes could occupy the site for 65 days per year.
- 9.30. The Council's Landscape Officer had raised no objections to the proposal as originally submitted but states that it is essential to achieve the appropriate standard of landscaping for this development, and that the landscape proposals must indicate:
- Planting positions of all trees with projected canopy growth at 25 years to ensure a continuously linked canopy
  - A double-staggered row hedgerow with planting distances indicated
  - Trees and shrub supplied sizes of all the shrubs
  - Planting and 2-year aftercare specification.
  - A management and maintenance plan for 15 years.
  - The access track to the site must be landscaped with native trees and hedgerows to ensure its use is screened on busy race days.
  - Latin names of trees and shrubs.
  - Tree pit planting details.
- 9.31. Subject to a suitable landscaping scheme and management and maintenance plans being submitted, which can be sought via condition, Officers are satisfied that the landscape impact of the proposed motocross track, associated infrastructure and the occasional occupation of the camping area can be successfully mitigated against.
- 9.32. The applicant has latterly submitted a revised landscape plan, contained within the Ecological Enhancement Measures documentation. As this alters the existing landscaping provision that our Landscape Officer had commented on, planning officers considered this warranted re-consultation. The recommendation to Planning Committee reflects this consultation.

*Conclusion*

- 9.33. Subject to conditions and no new issues being raised by consultees, the development subject of this application is considered to be acceptable in visual and landscape terms, compliant with Policy ESD13 and ESD15 of the CLP 2015 and relevant paragraphs of the NPPF.

#### Heritage Impact

- 9.34. The site is approximately 1km from the nearest Conservation Area boundary.
- 9.35. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that in carrying out its functions as the Local Planning Authority in respect of development in a conservation area: *special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.*
- 9.36. Conservation Areas are designated heritage assets, and paragraph 193 of the NPPF states that: *when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.* Policy ESD15 of the CLP 2015 echoes this guidance.
- 9.37. Given the nature of the proposal and its distance from Conservation Area boundaries of nearest villages, Officers are satisfied that the proposal does not result in harm to the setting or significance of heritage assets. The proposal is therefore considered acceptable on these grounds.

#### Residential impact

##### *Policy*

- 9.38. Policy ESD15 advises of the need for new development to consider the amenity of both existing and future development. Local Plan Saved Policy ENV1 of CLP 1996 states development likely to cause materially detrimental levels of noise, vibration or other types of environmental pollution will not normally be permitted.

##### *Assessment*

- 9.39. The track is located c.1km from the southern edge of Hornton, c.2.8km from the western edge of Wroxton, c2.6km from the eastern edge of Horley, c1.7km from the northern edge of Balscote, c1.2km from the eastern edge of Alkerton.
- 9.40. There are other out of settlement dwellings located closer to the site, including, but not exclusively; Meddoms Farm Barn (c.900m), Manor Farm (c.750m), Hornton Grounds (c.550m), The Dairy Cottage (c.700m), Wroxton Hall (c.700m), Heath Farm (c.700m) and Langley House (c.900m).
- 9.41. Given the nature of activity and proximity to neighbours, no third party is considered materially harmed in terms of loss of light, outlook or privacy.
- 9.42. The Council's Environmental Health Officer (EHO) notes the concerns raised around disposal of waste through burning but advises this will be dealt with by the Environmental Protection team outside of the planning process.
- 9.43. Furthermore, the EHO notes that the activities at the site do not trigger a requirement for an air quality assessment.

- 9.44. The applicant has submitted a Noise Impact Assessment (NIA) from Parker Jones Acoustics. The report sets out that noise emissions, when the track is in typical use of 20-30 bikes at a time, levels reach 29-33 decibels in the south and central parts of Hornton, increasing to 37 decibels in the northern part of the village where ground levels are higher. Noise levels are at 44-46 decibels at isolated properties closer to the track than Hornton and are at around 32 decibels at the outskirts of Alkerton and Balscote. The report concludes that, whilst noise from the Motocross is audible, it is not so significant as to be considered a statutory noise nuisance, i.e. it is at or below the LOAEL (Lowest Observed Adverse Effect Level), which is a sound above 50 decibels.
- 9.45. It is noted that Hornton Parish Council has objected on the grounds of noise nuisance and several third-party representations have objected on these grounds. Hornton Parish Council has conducted an independent Noise Impact Assessment Review, from Clarke Saunders Acoustics. This concludes that the Parker Jones Acoustics NIA is 'highly suspect' and, in some cases, 'fundamentally flawed' in its calculations and reasoning. The HPC consultant also questions the validity of the applicant's report due to the readings being taken on a practice day rather than a race day, together with a lack of consideration relating to the directivity (i.e. orientation of the machines).
- 9.46. The Council's EHO has commented on this application, offering no objections. The EHO undertook their own noise measurements of three full race events in 2019. The EHO acknowledges that the NIA was undertaken on a practice day but notes that the measurements are consistent with the findings of Council Officers in 2019. The EHO notes that, whilst directivity is an important factor in determining noise levels on or close to the subject, the distance of nearest receptors in this case, together with the continuous change of direction as the bikes travel around the track, means that this is not an important factor in this case.
- 9.47. Your Officers see no reason to disagree with the assessment made by the EHO in this case and on the basis of the advice given do not consider that a refusal reason on these grounds of an unacceptable noise nuisance could be sustained. Therefore, for the level of activity proposed, Officers consider that the proposal is acceptable in this regard.

#### *Conclusion*

- 9.48. For the reasons set out, the proposed development would not have a significant detrimental impact upon residential amenity in terms of reduction in privacy, impact upon light, light pollution, air quality and noise and vibration which cannot be mitigated via a planning condition. The proposal is therefore considered acceptable in terms of residential impact, compliant with Policy ESD15 of the CLP 2015 and relevant paragraphs of the NPPF.

#### Highway safety

- 9.49. Strategic objective 13 of the CLP 2015 aims to reduce the dependency on the private car as a mode of travel and to increase opportunities for travelling by other modes. Policy ESD1 also aims to mitigate the impact of development on climate change by delivering development that seeks to reduce the need to travel and which encourages sustainable travel options including walking, cycling and public transport to reduce the dependence on private cars.
- 9.50. Regarding the access to the site, the Local Highway Authority (LHA) recognises that motocross events have been taking place here for a number of years, so the principle of the access to the highway is well established. However, given the size

and quantity of vehicles that now use this access, the LPA considers that the entrance must be formalised with a kerbed bellmouth junction and asphalt surfacing. This can be conditioned.

- 9.51. Regarding traffic, the LHA notes that congestion can occur on connecting roads to and from the A422. The LHA states that this is not necessarily a road safety issue and is relatively short term in duration and thus cannot reasonably form an objection. The number of visitors would also be capped by the space available within the site for parking/camping. Your Officers have considered factors which could mitigate queuing or congestion on the highway, for instance an access management condition. However, we do not consider that such a condition would meet the tests of paragraph 55 of the NPPF. We note that OCC Highways have suggested that this condition *could* be imposed, but do not state that this is *required* to make the development acceptable.
- 9.52. OCC Highways also advise that a passing place condition *could* be required should members see this as necessary, to mitigate against highway impacts at peak times. Again, OCC Highways have not stated that this condition is necessary for the development to be acceptable.
- 9.53. The OCC Rights of Way Officer considers that a fence shall be erected on the western boundary, to ensure that members of the public do not enter the site from this side. This matter can be controlled via condition.
- 9.54. Overall, the proposal is considered not to have a severe detrimental impact on the highway network or safety of its road users, subject to conditions. The proposal is thus considered in accordance with Policy ESD15 of the CLP 2015 and relevant paragraphs of the NPPF.

#### Ecology Impact

##### *Legislative context*

- 9.55. 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.
- 9.56. 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.
- 9.57. 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.



- 9.58. 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.
- 9.59. The Regulations require competent authorities to consider or review planning permission, applied for or granted, affecting a European site, and, subject to certain exceptions, restrict or revoke permission where the integrity of the site would be adversely affected. Equivalent consideration and review provisions are made with respects to highways and roads, electricity, pipelines, transport and works, and environmental controls (including discharge consents under water pollution legislation).

#### *Policy Context*

- 9.60. Paragraph 170 of the NPPF states that planning policies and decisions should contribute to and enhance the natural and local environment by (amongst others): a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils; and d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 9.61. Paragraph 175 states that when determining planning applications, local planning authorities (LPAs) should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.
- 9.62. Paragraph 180 of the NPPF states that planning decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should (amongst others) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.
- 9.63. 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.

- 9.64. These policies are both supported by national policy in the NPPF and also, under Regulation 43 of Conservation of Habitats & Species Regulations 2017, it is a criminal offence to damage or destroy a breeding site or resting place, unless a licence is in place.
- 9.65. The Planning Practice Guidance dated 2014 post-dates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that LPAs should only require ecological surveys where clearly justified, for example if there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.

#### *Assessment*

- 9.66. Natural England's Standing Advice states that an LPA only needs to ask an applicant to carry out a survey if it's likely that protected species are:

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

It also states that LPAs can also ask for:

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

- 9.67. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site is close to a stream and there are a number of mature trees and hedgerows within and adjacent the site, and therefore has the potential to be suitable habitat for bats, breeding birds, badgers, reptiles, great crested newts, water voles and invertebrates.
- 9.68. In order for the LPA to discharge its legal duty under the Conservation of Habitats and Species Regulations 2017 when considering a planning application where EPS are likely or found to be present at the site or surrounding area, LPAs must firstly assess whether an offence under the Regulations is likely to be committed. If so, the local planning authority should then consider whether Natural England (NE) would be likely to grant a licence for the development. In so doing the authority has to consider itself whether the development meets the 3 derogation tests listed above.
- 9.69. In respect of planning applications and the Council discharging of its legal duties, case law has shown that if it is clear/ very likely that NE will not grant a licence then the Council should refuse planning permission; if it is likely or unclear whether NE will grant the licence then the Council may grant planning permission.
- 9.70. The Council's Ecologist and BBOWT have raised objections related to the information submitted with the application. The Ecology Survey submitted with the application fails to demonstrate that the proposal would not cause harm to any protected species or its habitat which is reasonably likely to be present and affected by the development. At present the proposal is therefore contrary to Policy ESD10 of the CLP 2015, advice contained in the PPG and NE's Standing Advice, and section 15 of the National Planning Policy Framework.

9.71. That said, the applicant has latterly carried out a Great Crested Newt survey and has submitted a Habitat Enhancement Map, Ecological Enhancement Measures and Great Crested Newt Mitigation Measures, on which a two week re-consultation has commenced. Providing that the additional information addresses the objections raised by the Council's Ecologist and BBOWT, then officers consider that a refusal of the current application on ecological grounds would not be warranted. The recommendation to Planning Committee reflects this.

#### *Conclusion*

9.72. At present, Officers are not satisfied that the development has shown to be acceptable on ecology grounds. Officers therefore request that authority is delegated to Officers to resolve this outstanding issue.

#### Flood risk and drainage

9.73. A Flood Risk Assessment and drainage strategy is submitted with the application in line with the requirements of Policy ESD6 of the CLP 2015 and the NPPF. Policy ESD7 of the Local Plan requires the use of Sustainable Urban Drainage Systems to manage surface water drainage systems. This is all with the aim to manage and reduce flood risk in the District.

9.74. The site is located in Flood Zone 1, which has the lowest probability of flooding and is considered to be appropriate for such facilities.

9.75. The LLFA has commented on the application and states that the FRA submitted with the application has failed to demonstrate that the development would provide adequate drainage on the site to ensure that the development does not lead to problems of surface water flooding both on the site and to adjoining sites.

9.76. The applicant has provided further clarification. This information has been published on the Council's website and officers have initiated a two week consultation on the additional information submitted.

9.77. Providing that the additional information addresses the objections raised, then a refusal of the application on flood risk and drainage grounds would not be warranted in this case. Officers seek delegated authority to resolve this outstanding issue.

#### Sustainability and Mitigating Climate Change

##### *Policy*

9.78. Sustainability, particularly in the context of meeting the challenge of climate change, is one of the key issues at the heart of the NPPF and is also sought by Policies ESD1 to ESD5 of the CLP 2015. The proposal must therefore demonstrate how it achieves sustainable objectives, including the need to show how it promotes sustainable modes of transport, including walking and cycling, along with utilising sustainable construction methods and measures to reduce energy consumption.

9.79. Local Plan Policy ESD1: Mitigating and Adapting to Climate Change requires developments to be designed to reduce carbon emissions and use resources more efficiently including water. ESD1 contains the requirement to reduce the need to travel and encourage sustainable travel options including walking, cycling and public transport. It also promotes the use of decentralised and renewable or low carbon energy where appropriate.

- 9.80. Policy ESD2 of the CLP 2015 requires developments to achieve carbon emissions reductions by use of an energy hierarchy as follows:
- Reduce energy use, in particular by the use of sustainable design and construction measures
  - Supplying energy efficiently and give priority to decentralised energy supply
  - Make use of renewable energy
  - Make use of allowable solutions
- 9.81. Local Plan Policy ESD3 relates to Sustainable Construction. It requires developments to achieve BREEAM level Very Good and to maximise both energy demand and energy loss, passive solar lighting and natural ventilation and resource efficiency. The policy supports the incorporation of recycled and energy efficient materials and locally sourced building materials. It also calls for a reduction in waste and pollution and requires developers to make adequate provision for the recycling of waste. The policy also covers sustainable drainage methods. The reduction of the impact on the external environment and the maximising of opportunities for cooling and shading are key requirements.
- 9.82. Local Plan Policy ESD4 covers Decentralised Energy Systems and promotes the use of such systems providing either heating or heating and power to all new developments.
- 9.83. ESD5: Renewable Energy states that the Council supports renewable and low carbon energy provision wherever any adverse impacts can be addressed satisfactorily. The potential local environmental, economic and community benefits of renewable energy schemes will be a material consideration in determining planning applications.

#### *Assessment*

- 9.84. The use of the site for a motocross use is long established. It is hoped that the evolution of the electric vehicles would allow in the future for electric bikes to participate, in line with local and national directives. However, bearing in mind the long-established use, it would not be reasonable for such a condition to be inserted on any planning permission given.
- 9.85. There is also very little built development on site (i.e. only marshal huts and a shelter for portable toilets). Therefore, sustainable construction and renewable energy principles do not apply.

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

- 10.1. The overall purpose of the planning system is to seek to achieve sustainable development as set out in the NPPF. The three dimensions of sustainable development must be considered in order to balance the benefits against the harm. Section 38(6) of the Planning and Compulsory Act 2004 requires planning applications to be determined against the provisions of the development plan unless material considerations indicate otherwise.
- 10.2. The principle of the motocross track development is considered acceptable, and the development has no significant impact in heritage terms, and subject to conditions is acceptable in terms of highway safety, residential amenity and landscape impact. The development has impacts on ecology and drainage / flood risk which need to be

resolved. The proposal has some benefits in terms of sport and recreation, though it contributes little to the local economy. However, subject to resolution of the ecology and drainage issues, the adverse impacts of the development do not demonstrably outweigh the benefits and officers therefore recommend that planning permission be granted subject to resolution of outstanding matters relating to ecology and drainage.

## **11. RECOMMENDATION**

### **RECOMMENDATION – DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT TO GRANT PERMISSION SUBJECT TO:**

**1) THE EXPIRY OF THE CURRENT CONSULTATION PERIOD ON 18 JUNE 2021, AND CONFIRMATION THAT AT THE CLOSE OF THIS CONSULTATION PERIOD NO RESPONSES HAVE BEEN RECEIVED THAT RAISE NEW MATERIAL ISSUES THAT, IN THE VIEW OF THE ASSISTANT DIRECTOR, HAVE NOT BE DEALT WITH IN THE ASSESSMENT OF THE APPLICATION AS SET OUT ABOVE;**

**2) THE RESOLUTION OF THE OBJECTIONS FROM:**

- (i) THE LEAD LOCAL FLOOD AUTHORITY;**
- (ii) THE COUNCIL’S ECOLOGY OFFICER; AND**
- (iii) BBOWT**

**INCLUDING THE AUTHORITY FOR ADDITIONAL CONDITIONS TO BE ADDED AS REQUIRED TO SECURE ANY NECESSARY MITIGATION MEASURES); AND**

**3) SUBJECT TO THE CONDITIONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY):**

#### CONDITIONS

1. The site shall not be used for motocross purposes for more than 65 days in any calendar year and that 65 days shall be comprised of no more than 24 days on which the motocross track is used (that is, for racing or practising) in any calendar year. The site shall not be used for motocross purposes for more than 18 days in any three-month period and in that three month period the motocross track shall not be used (that is, for racing or practising) for more than 6 days.

Reason – In the interests of highway safety, the general amenity of the area, the living conditions of local residents, and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

2. There shall be no further practising or competitive racing unless and until full details of the means of access between the land and the highway, including, position, layout, construction, drainage and vision splays have been submitted to and approved in writing by the Local Planning Authority. The means of access shall be constructed in strict accordance with the approved details prior to any further practising or competitive racing and shall be retained and maintained as such thereafter.

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

3. The vision splays shown in the plans approved pursuant to the requirements of Condition 2 of this permission shall not be obstructed by any object, structure, planting or other material of a height exceeding 0.6m measured from the carriageway level.

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

4. There shall be no further practising or competitive racing unless and until a landscaping scheme has been submitted to the Local Planning Authority. The scheme for landscaping the site shall include: -
  - (a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas,
  - (b) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation.

Reason – To safeguard the character and appearance of the area, and the surrounding landscape, and to comply with Policies ESD13 and ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

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

Reason - To safeguard the character and appearance of the area, and the surrounding landscape, and to comply with Policies ESD13 and ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

6. Within three months of the date of this planning permission, a schedule of landscape maintenance for a minimum period of two years, to include the timing of the implementation of the schedule and procedures for the replacement of failed planting shall be submitted to the Local Planning Authority.

The development shall not take place other than in accordance with the landscape maintenance schedule approved pursuant to the requirements of this condition.

Reason - To safeguard the character and appearance of the area, and the surrounding landscape, and to comply with Policies ESD13 and ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

7. There shall be no further practising or competitive racing unless and until a landscape amenity plan, to include the timing of the implementation of the plan, long term design objectives, management responsibilities, maintenance schedules and procedures for the replacement of failed planting for all landscape areas has been submitted to and approved in writing by the Local Planning Authority. The site shall not be used for the purposes stated in the application description other than in strict accordance with the approved details.

Reason - To safeguard the character and appearance of the area, and the surrounding landscape, and to comply with Policies ESD13 and ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

8. No retained tree shall be cut down, uprooted, damaged or destroyed, nor shall any retained tree be pruned in any manner, be it branches, stems or roots, other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority. All tree works shall be carried out in accordance with BS3998: Recommendations for Tree Works.

If any retained tree is cut down, uprooted, destroyed or dies, another tree shall be planted in the same place in the next planting season following the removal of that tree, full details of which shall be firstly submitted to and approved in writing by the Local Planning Authority.

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

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

9. The existing hedgerow adjacent to the access trackway of the site shall be retained and properly maintained at a height of not less than three metres, and if any hedgerow plant dies within five years from the completion of the development it shall be replaced and shall thereafter be properly maintained in accordance with this condition.

Reason - In the interests of the visual amenities of the area, to provide an effective screen to the proposed development and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

10. Notwithstanding the details submitted, there shall be no further practising or competitive racing no development shall take place until a Detailed Design, Surface Water Management Strategy and associated management and maintenance plan of surface water drainage for the site using sustainable drainage methods has been submitted to and approved in writing by the Local Planning Authority. There shall be no further practising or competitive racing unless and until the approved drainage system has been implemented in accordance with the approved Detailed Design

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure compliance with Policy ESD7 of the Cherwell Local Plan

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

11. Notwithstanding the details submitted, there shall be no further practising or competitive racing until further ecological surveys have been carried out (in optimum conditions) and the results and mitigation measures have been submitted to and approved in writing by the Local Planning Authority. There shall be no further practising or competitive racing unless and until the approved mitigation measures have been implemented and the said measures shall be retained as such thereafter.

Reason: In the interests of wildlife and nature conservation and to ensure compliance with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance within the National Planning Policy Framework.

CASE OFFICER: George Smith



## Appendix 2

wording should be that *the recommend dation is that outline planning permission be approved in this instance.*

### Recommendation

Remains as per the officer report with the changes to conditions 11 and 12.

### Agenda Item 9

**21/00517/F – Land Used for Motocross, Stratford Road A422, Wroxton, OX15 6HX**

### Additional representations received

- 1) Hornton Parish Council ('HPC') has made further comments, urging refusal of the application, drawing attention to the outstanding matters, and making requests for the imposition of additional conditions in the event the planning application is approved. These suggested conditions relate to restrictions on the number of active days to 20 per year with no more than 5 per quarter (officers recommend 24 and 6 respectively), no more than 2 per month between May and September, no use of the track on the first Bank Holiday Monday of each year, restrictions on the running of motorbike engines to between 9am and 4pm, exploring decibel limits, and obtaining noise measurements closer to the track. HPC has also requested conditions to restrict changes to the circuit, prohibit further permanent structures, restrict the boundary of the circuit, restrict the number of vehicles on the site at any one time and to require three months' notice of any fixtures and bookings. HPC also requests a temporary stop of all activity until conditions are discharged and requests that compliance with conditions is enforced.
  - i) The local highway authority ('LHA') has commented on HPC's representation, and advises that a May Day event restriction could be reasonably required by condition. Alternatively, they suggest that a condition could be in place to ensure that motocross events to only take place on Sunday and for the site to be vacated by Sunday evening.
  - ii) The Council's Environmental Protection team has commented on HPC's representation, reiterating that EP officers have no objections to the development on noise grounds, but that an hours of event condition could reduce local concern. They state that 24 event days is reasonable to require by condition. The EP team states that if the guideline level (96dB(A) at trackside) is adhered to, then no further monitoring is required.
- 2) Hornton Parish Council has responded to the LHA's comments made on 4<sup>th</sup> June, stating that there are errors and omissions in the LHA's response, including failure to mention narrow roads from Wroxton and underplaying of blind bends near gateway of track. HPC states that the assumption made that there are one or two national events per year is untrue. HPC add that one of the passing places mentioned in the comments is a weak bridge and is not suitable for heavy vehicles to use. HPC also note that vehicle speeds can reach 60mph.
- 3) Hornton Parish Council has commented that the application counters the principles of the CDC Climate Action Framework.
- 4) Hornton Parish Council has commented on the applicant's "*Mitigation Measures for Great Crested Newts*" document, raising concerns that the measures suggested will

not avoid, mitigate or compensate against any danger or harm against Great Crested Newts.

- 5) Hornton Parish Council has submitted a rebuttal of the Environmental Health Officer's comments. Their comments focus on the days on which the EHO took sound readings of events in the Hornton village. HPC states on 15.09.2019 it was a Girls National event, on which they state that different bikes are used to male/adult bikes which are larger. HPC states that the readings on 22.09.2019 were taken from a schoolboy scrambling event, with children on small bikes. HPC states that the third reading, taken on 20.10.2020 [assumed 20.10.2019], was not southerly and therefore the noise impact was reduced.
- 6) Further third-party objections have been received, contesting elements of the committee report, making objections to additional ecological information received, responding to the further LHA representation and suggesting conditions should the planning committee be minded to grant permission.

#### **Officer comment**

- 1) Compliance with conditions and the question of whether activity would need to stop are matters for the Council's Planning Enforcement team. Conditions relating to further growth and expansion do not meet the tests for conditions – they do not relate to the development subject of the current application and are not reasonable or necessary, as further permission would be required for any further development, including any material changes in levels across the site. Officers' view is that conditions can reasonably be imposed to restrict use of the site on bank holidays and to restrict the number of vehicles attending the site.
- 2) There is no evidence that the LHA has not considered all matters in hand. The development is considered acceptable in highway safety terms, subject to conditions.
- 3) Your Officers have considered sustainability and climate change in paragraphs 9.78 – 9.85 of the committee report (beginning on page 117).
- 4) A further consultation response from the Council's Ecologist is yet to be received. At this time officers are unable to confirm whether the "*Mitigation Measures for Great Crested Newts*" document alleviates previous concerns raised.
- 5) HPC's comments that the noise levels of those events were lower than other events are not evidenced. Officers acknowledge that the applicant's Noise Impact Assessment submitted with the application provides a modelled noise level in different scenarios, including in the case of a large event (40 bikes on track) and in the case that there are strong southerly winds. Officers therefore consider that the development is acceptable in terms of noise and therefore in residential amenity terms.
- 6) The neighbour objections received do not raise any new issues that have not been previously considered, or which are not otherwise explained in points 1 – 5 above.

#### **Change to recommendation**

As per published report, but with additional conditions as set out below:

12. Except where otherwise stipulated by conditions attached to this permission, the development shall be retained strictly in accordance with the application forms and the following plans and documents:

- PI 01
- PI 02
- SU2192 2D-1
- SU2192 2D-2
- SU2192 2D-3
- SU2192 2D-4

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.

13. There shall be no use of the track or set-up or take down of events on the first Bank Holiday Monday in May of each year.

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

14. There shall be no further practising or competitive racing unless and until a plan showing parking provision for vehicles to be accommodated within the site have been submitted to and approved in writing by the Local Planning Authority. The site shall not be used other than in accordance with the approved details, and the number of vehicles parking within the site shall not exceed this capacity.

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

15. The noise levels at or from the site shall not exceed 96dB(A) and the track shall only be used for motocross purposes between the hours of 9:00am and 6:00pm.

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

16. There shall be no further practising or competitive racing unless and until a spectator and access strategy has been submitted to and approved in writing by the Local Planning Authority. The spectator and access strategy shall include: -

- How the calendar of events would be regulated
- An event ticketing strategy
- A vehicle permitting strategy

The site shall not be used other than in accordance with the approved details thereafter.

Reason - in the interests of general amenity and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

And Condition 2 to be amended as follows:

There shall be no further practising or competitive racing unless and until full details of the means of access between the land and the highway, including position, layout, construction, drainage and vision splays have been submitted to and approved in writing by the Local Planning Authority. The details required by this condition shall include the formation of a kerbed bellmouth junction where the site access road meets the unnamed public highway between Wroxton and Hornton , and the surfacing of the area alongside the carriageway, opposite to the site entrance, which has been worn away by vehicles making the turn into and out of the site. The means of access shall be constructed in strict accordance with the

approved details prior to any further practising or competitive racing and shall be retained and maintained as such thereafter.

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

### **Agenda item 10**

#### **21/01330/F – Symmetry Park, Morrell Way, Ambrosden**

#### **Additional Representations received**

Environment Agency – object to the application because it involves the use on non-mains foul drainage.

CDC Tree Officer – the tree officer has noted that an arboricultural report has not been submitted.

CDC Ecology – no issues raised with the ecological documents submitted or protective/avoidance measures to be taken for protected species but recommends that additional information be provided in respect of the submitted CEMP.

#### **Officer comments**

With regards to the objection from the EA. The discharge of foul drainage will be subject to a separate consenting regime with the statutory authority (EA). The applicant has confirmed that they are in discussion with the EA to secure environmental permits to discharge to the watercourse and are confident of resolving the matter.

Within the wider Symmetry Park site, other units have been permitted to discharge to on site package treatment works and then to surface water as is also proposed within this site.

The approach to the use of Private Sewage Treatment Plant has been consistent throughout the construction of the Park, and was approved at the 2016 Hybrid stage (15/02316/OUT), for Unit B (18/0091/F), the DPD Parcel Depot (20/00530/F) and the extant planning permission (19/00388/F).

On this basis, officers would not wish to recommend the refusal of planning permission.

In respect of the comment made by the Council's tree officer, the baseline arboricultural report for the site accompanied the outline planning application for the site. The current application is supported by a robust landscape scheme which demonstrates that no trees are to be removed and there is considerable structural planting of new trees within the site.

As such, it is considered that this matter has been satisfactorily addressed and that the submission of further reports would not be necessary.

The comments of the Council's ecology officer are noted. The applicant has submitted a CEMP to support the application in order to reduce the imposition of pre-commencement conditions. The applicant has been made aware of the ecology officer's comments and the need to revise the submitted CEMP. If a satisfactory CEMP has not been submitted prior to the issue of the planning consent, then a condition will be imposed to secure the required information as follows;

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

There were no proposed pre-committee site visits.

26 **Land North Of Railway House, Station Road, Hook Norton**

The Committee considered application 21/00500/OUT for the erection of up to 43 new homes, access from Station Road and associated works including attenuation pond at Land North of Railway House, Station Road, Hook Norton for Greystoke Land Limited.

Janeen Wilson representing Hook Norton Parish Council, addressed the Committee in objection to the application.

Killian Garvey representing the applicant, addressed the Committee in support of the application.

It was proposed by Councillor Kerford-Byrnes and seconded by Councillor Brown that application 21/00500/OUT be refused, contrary to the officer recommendations, as the harm of the application outweighed the benefit.

On being put to the vote the motion was carried and the application was refused.

It was subsequently proposed by Councillor Brown and seconded by Councillor Corkin that, as no Section 106 agreement had been agreed, this should be added as a second reason for refusal. On being put to the vote the motion was carried.

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

### **Resolved**

- (1) That application 21/00500/OUT be refused contrary to the officer recommendation for the following reasons (with the exact wording of the reasons for refusal delegated to the Assistant Director Planning and Development):
  - (i) Landscape impact
  - (ii) Lack of S106 agreement to secure necessary infrastructure

27 **Land Used For Motocross, Stratford Road A422, Wroxton, OX15 6HX**

The Committee considered application 21/00517/F a retrospective application for the creation of a motocross track and soft landscaping scheme and the change of use of agricultural land to hold motocross events including set-up, take down and private practice sessions, with associated camping site, for up

to 65 days per year and agricultural grazing at land used for Motocross, Stratford Road (A422), Wroxton, OX15 6HX for Hedges & Kerwood.

Local Ward Member, Councillor Phil Chapman addressed the meeting.

Martin Leay on behalf of Hornton Parish Council and John Offord, Chairman of Hornton Parish Council addressed the Committee in objection to the application.

Fred Quatermain, on behalf of the applicant, addressed the Committee in support of the application.

It was proposed by Councillor Perry and seconded by Councillor Broad that application 21/00517/F be approved subject to additional conditions in relation to track usage, the exact wording to be delegated to the Assistant Director Planning and Development in consultation with the local Ward Members for Cropredy, Sibfords and Wroxton.

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

It was proposed by Councillor Reynolds and seconded by Councillor Brown that application 21/00517/F be approved subject to an amendment of condition 1 to limit the total number of days the track could be used for racing or practising to be no more than 20 days in any calendar year where the motocross track is used for racing or practising with the timings and frequency of these 20 days to be agreed in consultation with the Ward Members for the Cropredy, Sibfords and Wroxton Ward, and the Applicant.

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

### **Resolved**

- (1) That authority be delegated to the Assistant Director for Planning and Development to grant permission for application 21/00517/F subject to:
  - 1) No responses being received before the expiry of the consultation period ending 18 June 2021 that raise new material issues that, in the view of the Assistant Director, have not been dealt with in the assessment of the application
  - 2) The resolution of the objections from:
    - (i) The lead local flood authority;
    - (ii) The council's ecology officer; and
    - (iii) Berks, Bucks and Oxon Wildlife Trust
  - 3) The following conditions (and any amendments to those conditions as deemed necessary):

CONDITIONS

1. The site shall not be used for motocross purposes for more than 65 days in any calendar year and that 65 days shall be comprised of no more than 20 days on which the motocross track is used (that is, for racing or practising) in any calendar year. The timing and frequency of these 20 days to be agreed in consultation with the Ward Members for Cropredy, Sibfords and Wroxton Ward, and the Applicant. The site shall not be used for motocross purposes for more than 18 days in any three-month period and in that three month period the motocross track shall not be used (that is, for racing or practising) for more than 6 days.

Reason – In the interests of highway safety, the general amenity of the area, the living conditions of local residents, and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

2. There shall be no further practising or competitive racing unless and until full details of the means of access between the land and the highway, including, position, layout, construction, drainage and vision splays have been submitted to and approved in writing by the Local Planning Authority. The details required by this condition shall include the formation of a kerbed bellmouth junction where the site access road meets the unnamed public highway between Wroxton and Hornton , and the surfacing of the area alongside the carriageway, opposite to the site entrance, which has been worn away by vehicles making the turn into and out of the site. The means of access shall be constructed in strict accordance with the approved details prior to any further practising or competitive racing and shall be retained and maintained as such thereafter.

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

3. The vision splays shown in the plans approved pursuant to the requirements of Condition 2 of this permission shall not be obstructed by any object, structure, planting or other material of a height exceeding 0.6m measured from the carriageway level.

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

4. There shall be no further practising or competitive racing unless and until a landscaping scheme has been submitted to the Local Planning Authority. The scheme for landscaping the site shall include: -

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

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

Reason – To safeguard the character and appearance of the area, and the surrounding landscape, and to comply with Policies ESD13 and ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

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

Reason - To safeguard the character and appearance of the area, and the surrounding landscape, and to comply with Policies ESD13 and ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

- 6. Within three months of the date of this planning permission, a schedule of landscape maintenance for a minimum period of two years, to include the timing of the implementation of the schedule and procedures for the replacement of failed planting shall be submitted to the Local Planning Authority.

The development shall not take place other than in accordance with the landscape maintenance schedule approved pursuant to the requirements of this condition.

Reason - To safeguard the character and appearance of the area, and the surrounding landscape, and to comply with Policies ESD13 and ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

- 7. There shall be no further practising or competitive racing unless and until a landscape amenity plan, to include the timing of the implementation of the plan, long term design objectives, management responsibilities, maintenance schedules and procedures for the replacement of failed planting for all landscape areas has been submitted to and approved in



writing by the Local Planning Authority. The site shall not be used for the purposes stated in the application description other than in strict accordance with the approved details.

Reason - To safeguard the character and appearance of the area, and the surrounding landscape, and to comply with Policies ESD13 and ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

8. No retained tree shall be cut down, uprooted, damaged or destroyed, nor shall any retained tree be pruned in any manner, be it branches, stems or roots, other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority. All tree works shall be carried out in accordance with BS3998: Recommendations for Tree Works.

If any retained tree is cut down, uprooted, destroyed or dies, another tree shall be planted in the same place in the next planting season following the removal of that tree, full details of which shall be firstly submitted to and approved in writing by the Local Planning Authority.

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

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

9. The existing hedgerow adjacent to the access trackway of the site shall be retained and properly maintained at a height of not less than three metres, and if any hedgerow plant dies within five years from the completion of the development it shall be replaced and shall thereafter be properly maintained in accordance with this condition.

Reason - In the interests of the visual amenities of the area, to provide an effective screen to the proposed development and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

10. Notwithstanding the details submitted, there shall be no further practising or competitive racing no development shall take place until a Detailed Design, Surface Water Management Strategy and associated management and maintenance plan of surface water drainage for the site using sustainable drainage methods has been submitted to and approved in writing by the Local Planning Authority. There shall be no

further practising or competitive racing unless and until the approved drainage system has been implemented in accordance with the approved Detailed Design

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

11. Notwithstanding the details submitted, there shall be no further practising or competitive racing until further ecological surveys have been carried out (in optimum conditions) and the results and mitigation measures have been submitted to and approved in writing by the Local Planning Authority. There shall be no further practising or competitive racing unless and until the approved mitigation measures have been implemented and the said measures shall be retained as such thereafter.

Reason: In the interests of wildlife and nature conservation and to ensure compliance with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance within the National Planning Policy Framework.

12. Except where otherwise stipulated by conditions attached to this permission, the development shall be retained strictly in accordance with the application forms and the following plans and documents:

- PI 01
- PI 02
- SU2192 2D-1
- SU2192 2D-2
- SU2192 2D-3
- SU2192 2D-4

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.

13. There shall be no use of the track or set-up or take down of events on the first Bank Holiday Monday in May of each year.

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

14. There shall be no further practising or competitive racing unless and until a plan showing parking provision for vehicles to be accommodated within the site have been submitted to and approved in writing by the Local Planning Authority. The site shall not be used other than in accordance

with the approved details, and the number of vehicles parking within the site shall not exceed this capacity.

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

15. The noise levels at or from the site shall not exceed 96dB(A) and the track shall only be used for motocross purposes between the hours of 9:00am and 6:00pm.

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

16. There shall be no further practising or competitive racing unless and until a spectator and access strategy has been submitted to and approved in writing by the Local Planning Authority. The spectator and access strategy shall include: -

- How the calendar of events would be regulated
- An event ticketing strategy
- A vehicle permitting strategy

The site shall not be used other than in accordance with the approved details thereafter.

Reason - in the interests of general amenity and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

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### **Symmetry Park Morrell Way Ambrosden - 1330**

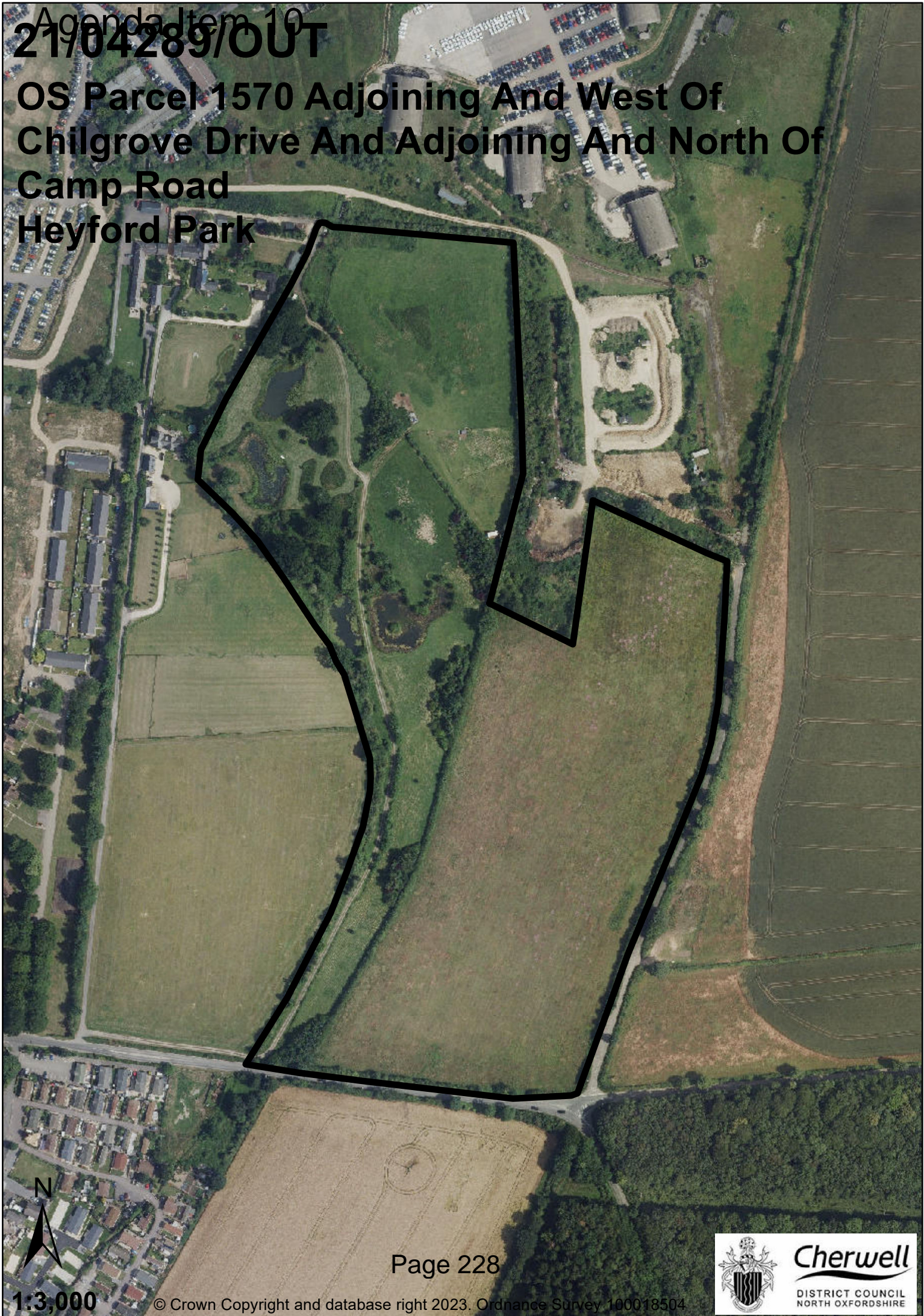
The Committee considered application 21/01330/F for 23,195sqm of logistics floor space within Class B8 of the Town and Country Planning Use Classes Order 1987, including ancillary Class E(g)(i) (offices) (1,750 sqm), erection of security gatehouse (24sqm), security fence, sprinkler tank and pump house, accessed from the existing Symmetry Park estate road; associated site infrastructure including external service yard, lorry parking, landscaping, amenity open space including 10m green corridor with 3m foot path and cycle link to wider Bicester 12, storm water drainage infrastructure and private sewage treatment plant at Symmetry Park, Morrell Way, Ambrosden for Tritax Symmetry (Bicester Reid) Limited.

Debbie Jones, agent for the application, addressed the Committee in support of the application.

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

Agenda Item 10  
**21/04289/OUT**

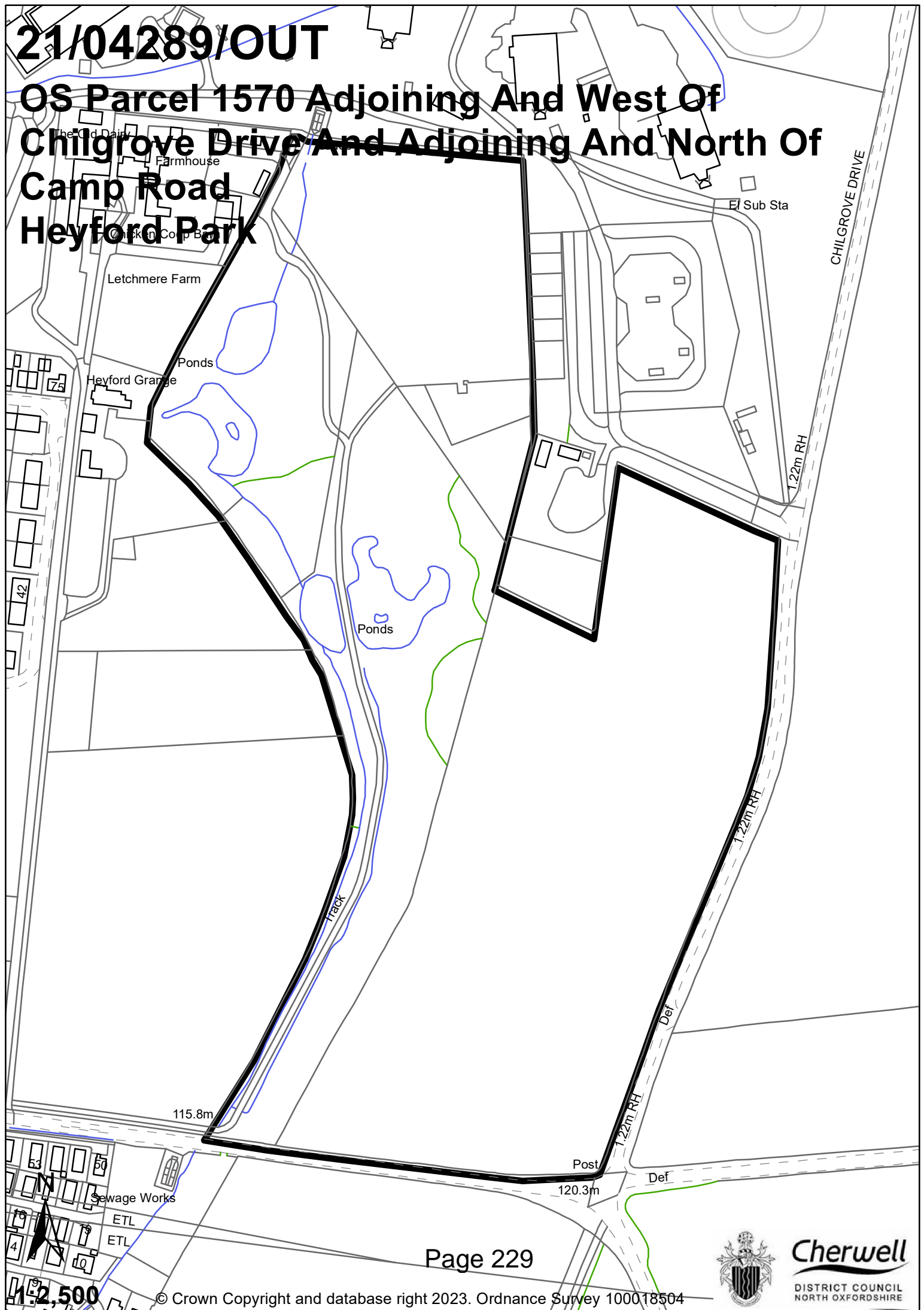
**OS Parcel 1570 Adjoining And West Of  
Chilgrove Drive And Adjoining And North Of  
Camp Road  
Heyford Park**



**1:3,000**

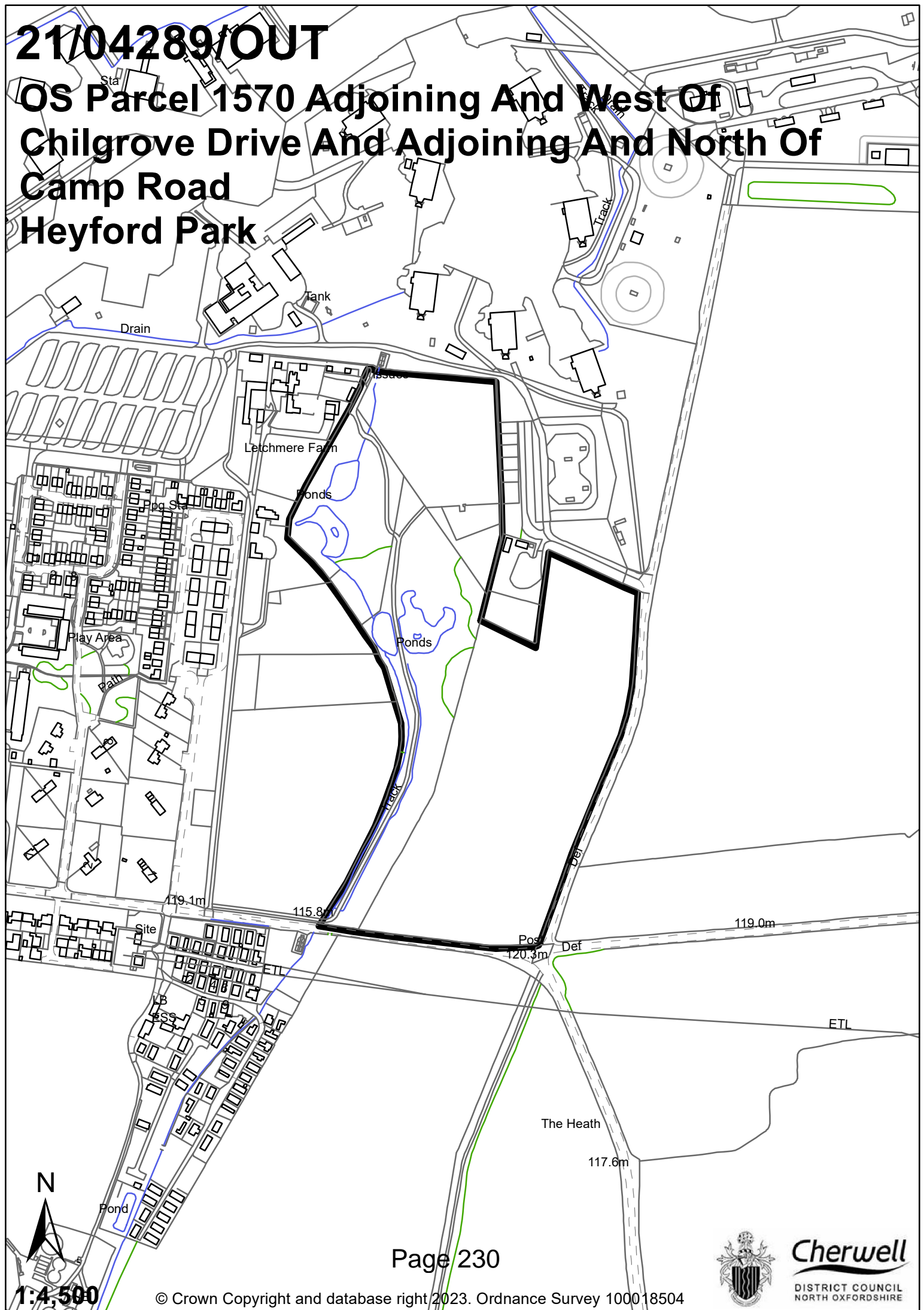
# 21/04289/OUT

## OS Parcel 1570 Adjoining And West Of Chilgrove Drive And Adjoining And North Of Camp Road Heyford Park



# 21/04289/OUT

## OS Parcel 1570 Adjoining And West Of Chilgrove Drive And Adjoining And North Of Camp Road Heyford Park



**OS Parcel 1570 Adjoining And West Of Chilgrove  
Drive And Adjoining And North Of Camp Road  
Heyford Park**

**21/04289/OUT**

**Case Officer:** Katherine Daniels

**Applicant:** K & S Holford, A & S Dean, N Giles & A Broadberry

**Proposal:** Outline planning application for the erection of up to 230 dwellings, creation of new vehicular access from Camp Road and all associated works with all matters reserved apart from Access

**Ward:** Fringford & Heyfords

**Councillors:** Cllr P. Clarke, Cllr Corkin and Cllr Barry Wood

**Reason for Referral:** Major development

**Expiry Date:** 4 July 2022

**Committee Date:** 9 March 2023

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**SUMMARY RECOMMENDATION: GRANT OUTLINE PERMISSION SUBJECT TO  
CONDITIONS AND S106 LEGAL AGREEMENT**

**1. APPLICATION SITE AND LOCALITY**

- 1.1. The application site is located to the eastern edge of Heyford Park, which is currently predominantly being built out by Dorchester Living. The site is located to the north of Camp Road and to the west of Chilgrove Drive. The site is not within the Conservation Area of Heyford Park, nor within the designated Development Plan allocation. The land does however relate well to the remainder of the planned development at Heyford Park, with approved residential development immediately to the west, the planned future permanent access-way to the Flying Field commercial areas using Chilgrove Drive immediately to the east and the Flying Field area just to the north.
- 1.2. The site is an irregular shape, which comprises two fields that are separated by a hedgerow and post and wire fence. The boundary of the site to the south, along Camp Road comprises a mixture of hedgerows and trees. This is the same as the eastern boundary with Chilgrove Drive. The site to the west is currently undeveloped but will be developed in the future as part of a Development Plan Policy Villages 5 allocation and in accordance with Planning Committee resolutions to grant planning permissions.
- 1.3. There are currently three outstanding applications on the land to the west. Two applications (15/01357/F & 21/03523/OUT) have resolutions to approve, subject to the completion of a S106. Another application has been submitted to the Council for determination on the same site (22/03063/F) in a slightly modified form. This application is currently being considered. The ground undulates within the site, and has several green features, including ponds and a watercourse. The airfield is located to the north of the site.

## 2. CONSTRAINTS

- 2.1. The application site is close to existing known biodiversity on adjoining land, which is likely to also feature on site and is within an area of an archaeological alert area. The proposal is also located close to the RAF Upper Heyford Conservation Area.

## 3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The proposal is for the construction of up to 230 dwellings, creation of new vehicular access from Camp Road, and all associated works. The application includes the provision of a masterplan, which includes 2 parcels of residential development and a green infrastructure level.

## 4. RELEVANT PLANNING HISTORY

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

<b>Application: 15/00474/OUT</b>	Application	17 December 2020
	Withdrawn	

OUTLINE - Demolition of the southern bomb stores and associated structures and site clearance, with the subsequent construction of employment development (Use Classes B1a up to 8,000sqm, B1b/c up to 18,000sqm, B2 up to 9,000sqm and B8 up to 30,000sqm) with associated building/structures, vehicle access to Chilgrove Drive, highway improvements, internal access road, pedestrian linkages, service areas and parking, utilities and infrastructure, landscaping and associated other works.

<b>Application: 21/03523/OUT</b>	Resolution to
	approve

Outline planning application for the erection of up to 31 dwellings, public open space, landscaping, associated parking, vehicular access and ancillary works (all matters reserved except means of access)

<b>Application: 15/01357/F</b>	Resolution to
	approve

Full planning application for the erection of 89 dwellings, public open space, landscaping, associated parking, vehicular access and ancillary works.

<b>Application: 22/03063/F</b>	Undetermined
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Erection of 126 dwellings with access from Camp Road, provision of public open space and associated infrastructure.

## 5. PRE-APPLICATION DISCUSSIONS

- 5.1. A Pre-Application (21/01745/PREAPP) was submitted as part of the application process and no formal response was given.

## 6. RESPONSE TO PUBLICITY

- 6.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties



immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was **11 June 2022**.

6.2. The only third-party comment received has come from Dorchester Living, developers of the adjacent RAF Upper Heyford site and their comments are summarised as follows:

- Heyford Park is the subject of an allocation for a comprehensive mixed-use development within Policy Villages 5 of the Adopted Cherwell Local Plan 2011-2031. Whilst the application site abuts the “areas with potential for development” it is not allocated for development.
- the current application is a speculative response to the LPAs current housing land supply situation.
- a single vehicular access would be formed onto Camp Road without any associated vehicular, pedestrian or cycle linkages to adjoining development. The result would be an insular, self-contained, island of residential development poorly related to the established pattern of development at Heyford Park.
- The site retains an intrinsic agricultural character comprising pasture enclosed by hedgerows with wet corridor and trees and so would not ‘benefit’ from ‘reconstruction’.
- Given the agricultural function of the site with wet corridor as noted in the LVIA, and that it lies outside of and displays a contrasting landscape character to the former airbase, it is considered that the LVIA places undue reliance on dated coarse-grained mapping and underplays the inherent landscape value of the site.
- formation of the new junction with Camp Road will require removal of notable sections of hedgerow which is at odds with the LVIA, which relies on the screening effects of the established hedgerow to diminish visual effects on Camp Road receptors.
- A review of the Photosheets reveal several anomalies that cast doubt on the understanding of the location and extent of the site and proposed development and robustness of the visual assessment. A higher level of visualisation is required to support and demonstrate visual effects so that the local planning authority and the public can corroborate the findings of the LVIA and make informed decisions. At present, it is considered that the LPA cannot safely make a determination on the submitted information.
- the submitted TA contains a number of material omissions,
- the site contributes to the significance of the Conservation Area by reinforcing its military character and sense of isolation. Given that the proposals will see development brought right up to the boundary of the Conservation Area, in a location which is currently characterised as open agricultural land, this will inevitably have an impact on the setting and thus significance of the Conservation Area.
- The design of new structures needs to draw on the prevailing military character of the Conservation Area. The proposals fall far short of this and would be incongruous additions to the setting of the Conservation Area.
- If additional housing were to be required at Heyford Park, there are less-sensitive locations within the wider vicinity of the Conservation Area, which would have a much less stark impact on the open character of the surrounds of the Conservation Area which should be considered first

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. Heyford Park Parish Council: no objections but requests:

- Access to S106 funding for land to be passed to the PC for a play area/public park, or
- A small plot of land for an amenity space or play area, or on which a parish council office or small community building could be built.
- that traffic calming measures are installed on the Camp Road where the road to the new development accesses it.
- that a defibrillator be installed in a central place on the new development, that is accessible to the public at all times.

7.3. Lower Heyford Parish Council: objects as the traffic model is flawed in their opinion. They also support the MCNPF objection.

7.4. Mid-Cherwell Neighbourhood Plan Forum objects

- Contrary to CLP Policy Villages 5 - in that it is not allocated for development and greenfield
- Loss of greenfield land and biodiversity - a loss of open countryside, green space, biodiversity and ecological assets of high value to the residents of Heyford Park contrary to Local Plan policies ESD 10 and ESD 13.
- Loss of local landscape character. As well as ESD13, Mid-Cherwell Neighbourhood Plan policy PD3 "Development adjacent to Heyford Park" focusses on avoiding coalescence with surrounding settlements. Development would damage local landscape character, including several of the criteria set out in para 3.2.20, in particular: loss of access to the countryside for the inhabitants of the settlement (of Heyford Park), and harm to the setting of and rural character of the settlement.
- Incorrect Traffic Assessment - based on the flawed Bicester Traffic Model therefore no determination should take place until this is corrected.

7.5. Somerton Parish Council Objects

- Loss of Greenfield site and biodiversity
- Incorrect traffic assessment

### CONSULTEES

7.6. CDC - Planning Policy, Conservation and Design Team made an in-principal objection:

- In conclusion, the proposed development is contrary to the adopted development plan as the application site is not allocated for development in the Plan. However, as the Council cannot [at the time of writing] demonstrate a five-year housing land supply, in accordance with the NPPF, any assessment of the residential proposals will need to apply the 'tilted balance'. Due regard should be had as to the implications for the comprehensive masterplan. The proposal should not undermine the Policy Villages 5 development principles. The proposal will need to be considered carefully

against Local Plan and Mid-Cherwell Neighbourhood Plan policies to determine the sustainability and impacts including the visual impact, the impact on the landscape, natural and historic environment and on infrastructure and traffic generation.

7.7. CDC - Environmental Health and Licensing:

- Noise - satisfied with report and recommend condition.
- Contaminated Land - satisfied with report and recommend condition.
- Air Quality - satisfied with report and recommend condition.
- Odour and Light - No comments.

7.8. CDC - Recreation and Leisure: Contributions required towards:

- Community Hall Facilities: £262,967.90
- Outdoor Sport Provision £463,916.90
- Indoor Sport Provision £192,037.76
- Public Art £51,520.00
- Community Development Worker £16,938.68 for 1 year
- Community Development Fund £10,350.00

7.9. CDC - Landscape: The LVIA is comprehensive and proportionate and am in general agreement with its findings and conclusions. Provision or contributions should be provided to:

- Mature Tree (Arb. assessment) – £280.04 per tree
- Hedgerow (Arb. assessment) - £12.65 per linear metre
- Woodland (Arb. assessment) - £46.97 per square metre
- Ponds - £41.40 per square metre
- Attenuation Basin (Illustrative Masterplan) - £66.05 per square metre
- New Woodland (Illustrative Masterplan) - £35.02 per square metre
- Informal Open Space (Illustrative Masterplan) - £12.65
- LAP - £36,135.03
- LEAP/NEAP Combined - £540,048.31
- Site/LEMP monitoring x 2 visits per year x 15 years - £15,000
- Landscape Services' management of site/LEMP monitoring consultants at 10% - £1,500

7.10. Thames Water (TW):

- **No objection** as surface water will not be discharged to public network (LLFA approval still required) and no objection to foul water sewerage capacity.
- Thames Water has identified an inability of the existing water network infrastructure to accommodate the needs of this development proposal and request condition if permission is granted.
- development is located within 5m of a strategic water main and TW do not permit the building over or construction within 5m, Condition requested

7.11. Environment Agency: **No objection**

7.12. Natural England: **No objection:** Standing advice to be interpreted by Council Ecologist. Recommend SUDs condition to ensure there will be no deterioration in water quality in Thames Basin (Weston Fen SSSI is mentioned downstream)

7.13. Nature Space Partnership: Support the recommendation of the Ecological Impact Statement, Heyford Park North Ecological Impact Assessment (EclA), Ramm Sanderson Ecology Ltd, December 2021 to acquire a GCN licence to mitigate impact from this development either from CDC District License or NSP

- 7.14. Thames Valley Police: Request contributions towards provision of infrastructure to mitigate the impact of development: In summary this is:
- policing new growth in the area equates to £41,407
  - set up costs equate to £2190
  - Automatic Number Plate Recognition (ANPR) Cameras - £5,500
  - Premises - £25,826
- 7.15. Oxford Clinical Commissioning Group: as there are insufficient Consulting rooms to cope with increased population growth as a direct result of the increase in dwellings, a contribution of £82,800 towards refurbishment of refurbishing and reconfiguring an annex of Bicester Health Centre (annex known as the Julier Centre) is requested.
- 7.16. Oxfordshire County Council-Transport: **No objection** subject to, s106 and s278 agreements and conditions including:
- A highway works contribution will be required
  - A public transport services contribution will be required.
  - A Construction Traffic Management Plan will be required.
  - A full Residential Travel Plan will be required.
- 7.17. Oxfordshire County Council- Lead Local Flood Authority - **No objection** subject to conditions relating to surface water drainage
- 7.18. Oxfordshire County Education:  
A 1.5 form entry school is planned to accommodate the pupils generated by the parcels of land in the Heyford Park masterplan. As this school is expected to be filled by these parcels, it would need to be expanded to 2 forms of entry in order to accommodate the pupils generated by this proposed development.
- As a result of permitted development at Heyford Park, it will be necessary to expand secondary capacity at Heyford Park School. This development would be expected to contribute to the expansion in a proportionate manner.
- No objection subject to a s106 contribution towards:
- Primary and nursery education £1,604,630
  - Primary School Land Contribution £151,640
  - Secondary education £1,195,632 327
  - SEN £125,637
- 7.19. Oxfordshire County Infrastructure:  
A new library has been provided in the Franklins Yard development in Bicester. Part of the cost of the project was forward funded in advance of contributions being received from development. A contribution is required from this development toward repaying the cost of forward funding the delivery of Bicester library. The full requirement for the provision of library infrastructure and supplementary core book stock in respect of this application requires a contribution of £24,668.
- 7.20. Oxfordshire County Archaeology:  
In accordance with the National Planning Policy Framework (NPPF 2021) paragraph 189, we recommend that, prior to the determination of this application the applicant should therefore be responsible for the implementation of an archaeological field evaluation.

## 8. RELEVANT PLANNING POLICY AND GUIDANCE

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

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

- Policy PSD 1: Presumption in Favour of Sustainable Development
- Policy SLE 4: Improved Transport and Connections
- Policy BSC 1: District Wide Housing Distribution
- Policy BSC 2: The Effective and Efficient Use of Land – Brownfield Land and Housing Density
- Policy BSC 3: Affordable Housing
- Policy BSC 4: Housing Mix
- Policy BSC 10: Open Space, Outdoor Sport and Recreation Provision
- Policy BSC 11: Local Standards of Provision – Outdoor Recreation
- Policy BSC 12: Indoor Sport, Outdoor Sport and Recreation Provision
- Policy ESD 1: Mitigating and Adapting to Climate Change
- Policy ESD 2: Energy Hierarchy and Allowable Solutions
- Policy ESD 3: Sustainable Construction
- Policy ESD 4: Decentralised Energy Systems
- Policy ESD 5: Renewable Energy
- Policy ESD 6: Sustainable Flood Risk Management
- Policy ESD 7: Sustainable Drainage Systems
- Policy ESD 8: Water Resources
- Policy ESD 15: The Character of the Built and Historic Environment
- Policy ESD17: Green Infrastructure
- Policy INF 1: Infrastructure
- Policy Villages 5: The Former RAF Upper Heyford

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

- Policy C8: Sporadic development in the open countryside
  - Policy C28: Layout, design and external appearance of new development
  - Policy C30: Design control
- 8.3. Under Section 38 of the Planning and Compulsory Purchase Act 2004, a Neighbourhood Plan that has been approved at referendum also forms part of the statutory development plan for the area. In this case, the application site falls within the Mid Cherwell Neighbourhood Plan Forum and the following Policies of the Neighbourhood Plan are relevant:
- PD3: Development adjacent to Heyford Park
  - Policy PD4: Protection of Views and Vistas
  - Policy PD5: Building and Site Design

- Policy PD6: Control of Light Pollution
- Policy PH1: Open Market Housing Schemes
- Policy PH3: Adaptable Housing
- Policy PH4: Extra-care Housing
- Policy PH5: Parking, Garaging and Waste Storage Provision

#### 8.4. Other Material Planning Considerations:

- RAF Upper Heyford Conservation Appraisal 2006 (UHCA)
- CDC-Developer Contributions SPD - February 2018
- Oxfordshire Local Transport Plan: Connecting Oxfordshire (2015- 2031)
- 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
- Impact on the Character and appearance of the locality and designated heritage assets
- Residential amenity
- Ecology impact
- Highway Safety
- Flooding

#### Principle of Development

##### *Policy Context*

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

##### *Development Plan*

9.3. The Development Plan for this area comprises the adopted Cherwell Local Plan 2011-2031 Part 1 ('CLP 2015'), the saved policies of the Cherwell Local Plan 1996 and the Mid Cherwell Neighbourhood Plan.

9.4. Policy PSD1 of the CLP 2015 embeds a proactive approach to considering development proposals to reflect the presumption in favour of sustainable development. It states, 'The Council will always work proactively with applicants to jointly find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area'.

9.5. The CLP 2015 seeks to allocate sufficient land to meet district-wide housing needs. The Plan states, 'The most sustainable locations for growth in the District are considered to be Banbury, Bicester and the other larger Category A villages as identified in Policies Villages 1 and Villages 2 as these settlements have a range of

services and facilities, reducing the need to travel by car'. In addition to the Category A villages, the other two allocated growth locations are the two largest villages of Heyford Park and Kidlington.

- 9.6. Policy BSC1 states that Cherwell District will deliver a wide choice of high quality homes by providing for 22,840 additional dwellings between 1 April 2011 and 31 March 2031. 1,106 completions were recorded between 2011 and 2014 leaving 21,734 homes to be provided between 2014 and 2031.
- 9.7. Paragraph E.10 of the Plan states, 'Housing delivery will be monitored to ensure that the projected housing delivery is achieved. The District is required by the NPPF and the NPPG (to maintain a continuous five-year supply of deliverable (available, suitable and achievable) sites as well as meeting its overall housing requirement'.
- 9.8. Paragraph E.19 of the Local Plan states, "If the supply of deliverable housing land drops to five years or below and where the Council is unable to rectify this within the next monitoring year there may be a need for the early release of sites identified within this strategy or the release of additional land. This will be informed by annual reviews of the Strategic Housing Land Availability".
- 9.9. At the time of application submission, the District housing land supply figure stood at just 3.7-years, which meant that NPPF paragraph 11d applied and housing policies in the Development Plan were rendered out of date and a presumption was given in favour of sustainable developments. The Council's latest assessment of housing land availability is its 2022 AMR, which states that with a shift to the standard methodology for assessing housing need rather than the former Oxfordshire Growth Deal assessment of need, the District had a 5.4-year supply of housing land. Also of relevance in this instance is the 'HELAA' published in 2018. This is a technical rather than a policy document but provides assessments of potentially deliverable or developable sites; principally to inform plan-making. The application site features as site HELAA217 and was considered suitable or achievable for housing and stated:

Greenfield site outside the built-up limits but partly within the boundary of the former RAF Upper Heyford strategic allocation (Policy Villages 5) in the adopted Local Plan (July 2015). Overlaps with HELAA220, HELAA222, HELAA223 and HELAA288. The site does not fall within Areas of Search A and B being considered in the Partial Review of the Local Plan for Oxford's unmet housing needs. The northern part of the site abuts the former RAF Upper Heyford strategic allocation and its Conservation Area. The north western boundary abuts Letchmere Farm which along with the trees form a natural edge to the former RAF site. The south western parcel falls within the strategic allocation and abuts that part of the RAF Conservation Area north of Camp Road. The site's southern boundary is formed by Camp Road and the east one by Chilgrove Drive. The site is relatively contained. In the central part of the site and running south to north there are water features including water courses and ponds and a farm track leading to Letchmere Farm. The proposed Heath District Wildlife Site with its area of NERC Act S41 habitats (deciduous woodland) lies to the south east of the site on the opposite side of the cross roads between Camp Road and Chilgrove Drive. The site (together with an area of land adjacent to the northwest) was considered in the Upper Heyford Landscape Sensitivity and Capacity Assessment (18/08/2014). The LSCA indicated that there was medium to high capacity for residential development up to Camp Road in the south, Chilgrove Drive to the east and Larsen Road to the west as long as existing site boundary vegetation was maintained, and suitable separation maintained with Letchmere Farm to maintain the setting of the property. The LSCA also indicated medium potential for low key light industrial development within the site subject to careful design and appropriate mitigation on the site perimeter. There is no additional capacity for the part of the site within the Villages 5 allocation. The remaining part of

the site could potentially be suitable as it could provide a logical extension to the residential dwellings to the west subject to adequate integration with the strategic allocation, preserving the setting of Letchmere Farm and responding to the heritage, landscape and ecological priorities of the Conservation Area and the proposed Heath DWS to the southeast of the site. Development could be contained without opening up a wider area of countryside. The site promoter suggests that 245 dwellings could be accommodated based on 30 dph. However, it is considered that the site could accommodate 180 dwellings based on 20 dph on 9 ha which is based on the density of the adjacent allocation site but also excluding the ponds in the northern part of the site and the western part within the strategic allocation. The site could also be potentially suitable for low key employment uses subject to design and addressing the heritage, landscape and ecological constraints. (2018 HELAA, Appendix 4).

- 9.10. Policy Villages 1 of the CLP 2015 provides a framework for housing development in the rural areas of the district and groups villages into three separate categories (A, B and C). The categorisation of villages was informed by a defined range of sustainability criteria (CLP 2015 para C.255). Upper Heyford does not form part of the rural categories, as it does have its separate Policy (Policy Villages 5).
- 9.11. Policy Villages 2 of the CLP 2015 states, 'A total of 750 homes will be delivered at Category A villages. This will be in addition to the rural allowance for small site 'windfalls' and planning permissions for 10 or more dwellings as at 31 March 2014'. This Policy notes, 'Sites will be identified through the preparation of the Local Plan Part 2, through the preparation of the Neighbourhood Plan where applicable, and through the determination of applications for planning permission'.
- 9.12. Policy Villages 2 states that in identifying and considering sites, particular regard will be given to the following criteria:
- 'Whether the land has been previously developed land or is of less environmental value';
  - 'Whether significant adverse impact on heritage and wildlife assets could be avoided';
  - 'Whether development would contribute in enhancing the built environment';
  - 'Whether best and most versatile agricultural land could be avoided';
  - 'Whether significant adverse landscape and visual impacts could be avoided';
  - 'Whether satisfactory vehicular and pedestrian access/egress could be provided';
  - 'Whether the site is well located to services and facilities';
  - 'Whether necessary infrastructure could be provided';
  - 'Whether land considered for allocation is deliverable now or whether there is a reasonable prospect that it could be developed within the plan period';
  - 'Whether land the subject of an application for planning permission could be delivered within the next five years';
  - 'Whether development would have an adverse impact on flood risk'.



- 9.13. Policy Villages 5 relates to the former RAF/USAF Upper Heyford, which has a development area of 520ha, and a settlement of approx. 1,600 dwellings rising to about 2,800 under existing approvals, and the supporting necessary infrastructure including primary and secondary schools, commercial uses and employment opportunities. The original development of the site was for development of a brownfield site. This policy now includes areas of greenfield land.

#### Mid Cherwell Neighbourhood Plan

- 9.14. Policy PD3 relates to development adjacent to Heyford Park and any development adjacent to the designated strategic area shall prevent coalescence. Development on the application site would not cause coalescence. Policy PD4 does not identify any important views or vistas across the application site.

#### National Planning Policy Framework

- 9.15. A key material consideration is the National Planning Policy Framework (NPPF) which sets out the Government's planning policy for England. The NPPF is supported by Planning Practice Guidance (PPG).

- 9.16. 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.

- 9.17. So that sustainable development is pursued in a positive way, the NPPF includes a 'presumption in favour of sustainable development' (para. 10). Paragraph 11 states that applying the presumption to decision-making means:

- approving development proposals that accord with an up-to-date development plan without delay; or
- where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites), granting permission unless:
  - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed;
  - ii. or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

The position in which the most important policies are considered to be out-of-date because of the absence of a five-year housing land supply is often referred to as the 'tilted balance'.

- 9.18. Paragraph 12 advises, 'The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local Planning Authorities may take decisions that depart from an up-to-date development plan, but

only if material considerations in a particular case indicate that the plan should not be followed.’

- 9.19. Section 5 of the NPPF covers the issue of delivering a sufficient supply of homes and states, ‘To support the Government’s objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay’.
- 9.20. Paragraph 74 highlights the need for Local Planning Authorities (LPAs) to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years’ worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old (unless these strategic policies have been reviewed and found not to require updating as in Cherwell’s case). The supply of specific deliverable sites should, in addition, include a buffer - 5% in Cherwell’s current circumstances (moved forward from later in the plan period).

#### Housing Land Supply

- 9.21. Cherwell’s housing land supply as reported in the Council’s 2021 Annual Monitoring Report (AMR) concluded that the District had a 3.5-year supply for the next five year period 2022-2027 commencing on the 1 April 2022. This is reviewed annually and currently the housing land supply position is calculated as 5.4-year supply of housing for the period 2022-2027.
- 9.22. This updated figure is contained within the Agenda to the Council’s Executive meeting on 6 February. This is largely the result of applying the standard method housing need figure of 742 homes per year from 2022 rather than the Local Plan figure of 1,142 from 2011. The paper states at paragraph 3.26, ‘... economic conditions are challenging, and it is important that officers continue to seek Local Plan compliant housing delivery to maintain supply and deliver the district’s planned development. Having a 5-year land supply position does not mean that development allowed for the Local Plan should halt. Indeed, not progressing planning development considered to be acceptable could undermine the land supply position.’

#### *Assessment*

- 9.23. The application seeks planning permission for the development of the two fields to provide up to 230 dwellings with associated green infrastructure and open space. The development is an undeveloped greenfield site, which will have a physical and visual relationship with the development at Heyford Park. The site will be bounded by development to the west and to the north. In addition there is a barrier with open countryside to the east, which is separated by Chilgrove Road, which is planned to be upgraded to form the principal access route into the Upper Heyford Flying Field. The site is not allocated within the Policy Villages 5 area, however the site adjoining is allocated land, which has a resolution to grant planning permission subject to a S106, so the development will not be a standalone development but would relate well to the established and future planned form of Heyford Park, contained between residential development to the west and Chilgrove Road to the east.
- 9.24. The District’s Spatial Strategy is to focus most of the growth in the District towards locations within or immediately adjoining the main towns of Banbury and Bicester. Although Heyford Park is not part of these towns, it is clear from the Development Plan Policy Villages 5 growth allocations that as developed Heyford Park is

becoming one of the most sustainable settlements, along with the two towns and Kidington. It is one of the four main strategic locations for accommodating growth needs. The existing settlement has a number of existing facilities, including community centre, shops, pharmacy, restaurant, bowling alley, pub, hotel, schools etc. Additional facilities are proposed in line with the overall Masterplan for the site. The site would result in a natural continuum with the existing development, and would 'round off' Heyford Park, given Chilgrove Road to the east, and Camp Road to the south.

- 9.25. Other matters relevant for consideration of the scale of the development, include the impact on local infrastructure, impact on the character and appearance of the locality, flooding, highway impacts and ecology are considered elsewhere in this report.
- 9.26. Further consideration has to be had to the three strands of sustainability, including economic impact, social and environmental. The economic benefits of the scheme include jobs both directly and indirectly through the construction of the development. The proposal will provide needed market and affordable dwellings on the edge of a settlement, in close proximity to local community facilities. In addition, the proposal seeks to provide green infrastructure which all adds to the social strand of sustainability. The green infrastructure will not only assist with the social strand, but the environmental strand of sustainability. The proposal would provide a Biodiversity Net Gain (BGN). The proposed development meets the requirement of sustainable development as set out in paragraph 10 of the NPPF.

#### *Conclusion*

- 9.27. Overall, whilst consideration of the matters detailed in the sections below is required to reach an overall conclusion of the acceptability of the development, the broad principle of the construction of 230 dwellings and associated infrastructure is considered acceptable.

#### Impact on the Character & appearance of the locality & designated heritage assets

##### *Legislative and policy context*

- 9.28. The site affects the setting of a Conservation Area, which Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that in carrying out its functions as the Local Planning Authority in respect of development in a conservation area: *special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.*
- 9.29. Conservation Areas and Listed Buildings are designated heritage assets, and Paragraph 193 of the NPPF states that: *when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.* Policy ESD15 of the CLP 2031 Part 1 echoes this guidance.
- 9.30. The Government attaches great importance to the design of the built environment within the NPPF. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. It goes onto note that planning decisions should contribute to and enhance the local environment by recognising the intrinsic character and beauty of the countryside. It also states that development should function well and add to the

overall quality of the area and by sympathetic to local character and history, including the surrounding built environment and landscape setting.

- 9.31. Saved Policy C8 seeks to resist new sporadic development in the open countryside. Saved Policy C28 of the CLP 1996 states that control will be exercised over all new development to ensure that standards of layout, design and external appearance are sympathetic to the character of the context of that development. Furthermore, saved Policy C30 of CLP 1996 states control will be exercised to ensure that all new housing development is compatible with the appearance, character, layout, scale and density of existing dwellings in the vicinity.
- 9.32. Policy ESD13 of the CLP 2015 states that development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided. It goes on to state that proposals will not normally be permitted if they would cause undue visual intrusion into the open countryside, cause undue harm to important natural landscape features, be inconsistent with local character, or harm the setting of settlements or buildings.
- 9.33. Policy ESD15 of the CLP 2015 highlights the importance of the character of the built and historic environment. This Policy states, amongst other things, that successful design is founded upon an understanding and respect for an area's unique built, natural and cultural context. New development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design. The Policy continues by stating that new development proposals should, amongst other things, contribute positively to an area's character and identity by creating or reinforcing local distinctiveness and respecting local topography and landscape features, including skylines, valley floors, significant trees, historic boundaries, landmarks, features or views. Development should also respect the traditional pattern of routes, spaces, blocks, plots, enclosures and the form, scale, and massing of buildings. Development should be designed to integrate with existing streets and public spaces, and buildings configured to create clearly defined active public frontages.
- 9.34. PD4 of the Mid-Cherwell Neighbourhood Plan seeks to protect important views and vistas. Proposals should not harm Conservation Area, however, if there is harm, the harm has to be outweighed by the benefits.
- 9.35. The Cherwell Residential Guide SPD (2018) builds on the above policies and provides a framework to deliver high quality locally distinctive development.

#### *Assessment*

- 9.36. The site forms part of a parcel of land that was assessed in the HELAA (Feb 2018), which is outlined above in paragraph 9.10. This considers that the site could be developed without opening the development further into the open countryside beyond.
- 9.37. The application was accompanied by a Landscape and Visual Impact Assessment (LVIA) as well as a detailed Design and Access Statement. The application was also accompanied by a Masterplan for the site.
- 9.38. The Masterplan indicates residential development would be located to the eastern and north parts of the application site with green infrastructure to west and northwest following the floodplain. The proposed residential areas are in blocks, and a gap proposed between Chilgrove Road and the proposed dwellings. There would

be one access proposed off Camp Road, with an additional pedestrian access to the south-eastern corner of the site. The Masterplan is, however, only indicative.

- 9.39. The Council's Landscape Officer has commented on this application and is in general agreement with the LVIA findings and conclusions. The Landscape Officer has raised concerns regarding the Masterplan for the site and the tree belt and its relationship to rear gardens.
- 9.40. The LVIA concludes that there would be a minor adverse impact during the construction phase and year 1 and would be a minor beneficial impact at year 15. Given the site's relationship with the former airbase and the existing Heyford Park development, the proposal would not be uncharacteristic with the local landscape. The site is well-contained, and with appropriate landscaping would not have an adverse impact on the character and appearance of the landscape setting.
- 9.41. The site is located on the eastern edge of Heyford Park, rather than the western edge which restricts development coalescing with Upper Heyford Village. There is sufficient distance between the site and Ardley, a mile-and-a-half to the northeast.
- 9.42. The impact on the designated heritage (Conservation Area) asset needs to be considered. The site does not lie within the CA but it is approximately 60m away. Therefore, consideration has to be had to its overall setting. The Conservation Officer has raised concerns that there would be a harmful impact to the setting of the Conservation Area given the distance to the application site. That could be reduced with a correct layout and design. Although there is an indicative masterplan for the site, this could be altered at the reserved matters stage to lessen the impact on the designated heritage assets. The overall harm to the heritage assets is considered less than substantial. Therefore, the public benefits of the proposal will have to be weighed against the level of harm caused in accordance with paragraph 202 of the NPPF.
- 9.43. There are several public benefits, including boosting the supply of housing for the locality, including affordable dwellings in a sustainable location. The proposal would also support economic growth. Although the impact could be reduced at the reserved matters, it would likely still lead to less than substantial harm, but the public benefits already mentioned would in your Officers opinion outweigh the harm caused to the designated heritage assets.

#### *Conclusion*

- 9.44. Although there would be some harmful impact on the designated heritage assets, this harm is considered less than substantial, and the public benefits (as highlighted above) would, on balance, outweigh the harm caused. In addition, the impact could be mitigated by appropriate landscaping, as well as layout. This could be readily controlled at the reserved matters stage.
- 9.45. It is considered that the proposal, provided the overall layout and design of the dwellings are satisfactory, would blend in with the character and appearance of the locality and would be seen in conjunction with the wider Heyford Park development and the former airbase. Overall, Officers consider the scheme complies with the above-mentioned policies.

#### Ecology Impact

#### *Policy Context*

- 9.46. Policy ESD10 of the CLP Part 1 2011-2031 requires the protection and enhancement of biodiversity and the natural environment and this includes the protection of trees and hedgerows, an assessment of the potential to cause harm to protected species or habitats, and to achieve a net gain for biodiversity. Policy Bicester 1 also refers to the need to achieve a net gain for biodiversity. Biodiversity is also a development principle important in meeting the eco-town standards to achieve a net gain and to mitigate and enhance.
- 9.47. There are also Legislative requirements set out in The Conservation of Habitats and Species Regulations 2017 which must be taken into account in considering development proposals where habitats or species might be encountered.
- 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.

#### *Assessment*

- 9.49. The applicants have submitted an Ecological Assessment as part of the application documents. A Biodiversity Impact Assessment has also been provided, which shows that a biodiversity net gain is achievable within the site. Notwithstanding that evidence, the Council's ecologist has raised some concerns that this may be too ambitious unless public access to parts of the green space is sufficiently managed.
- 9.50. The Ecologist also recommends that several surveys should be undertaken prior to the commencement of development, including mitigation strategies, particularly including a Red Kite Survey and a Water Vole Survey. The Ecologist also recommends several conditions relating to lighting, a CEMP and a LEMP.
- 9.51. The ecological survey indicates that a license would be entered into to mitigate against the impact on Great Crested Newts (GCN). Naturespace are content that a GCN licence is supported. The applicants would either be content with a licence from Natural England or Cherwell District Council's District Licence.

#### *Conclusion*

- 9.52. The Council's Ecologist is satisfied that subject to the imposition of planning conditions to secure mitigation and improvements, that the proposed development would be acceptable in respect to the impact upon any habitats or protected species and that they would be safeguarded. The Council's duty under the Conservation and Habitats and Species Regulations 2017 is therefore met and has been discharged.
- 9.53. A BNG has been demonstrated as being achievable, although that would need to be controlled by the way of a Landscape Ecology Management Plan to ensure such net gain was achieved and managed appropriately.
- 9.54. On this basis, the proposal is considered acceptable in ecological terms and compliance would be possible with the above planning policies.

## Highway Safety

### *Policy Context*

- 9.55. The NPPF confirms that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe. Development proposals should promote sustainable transport, ensure safe and suitable access can be achieved and mitigate any significant impacts to an acceptable degree.
- 9.56. Policy SLE4 of the Cherwell Local Plan Part 1 2011-2031 also requires development to facilitate the use of sustainable transport and confirms that new development must mitigate offsite transport impacts. At NW Bicester, and as confirmed by Policy Bicester 1 and the NW Bicester SPD through a series of development principles, the achievement of modal shift, infrastructure to support sustainable transport and for development to facilitate the provision of new strategic infrastructure (including contributions towards it) are clear requirements

### *Assessment*

- 9.57. The applicants provided a Transport Assessment as part of the submission of the proposed development. Oxfordshire County Council as Local Highway Authority (LHA) has been consulted on the application and have considered the submission. The LHA does not have an objection to the proposal; however, this is subject to a S106 contribution relating to highway works, public transport services, travel plan monitoring, an obligation for a S278, and conditions.

### *Conclusion*

- 9.58. It is considered that the proposed development would not have a negative impact on the road network given the comments from the LHA.
- 9.59. On this basis, the proposal is considered acceptable in highway terms and compliance would be possible with the above planning policies.

## Drainage and Flood Risk

### *Policy Context*

- 9.60. The NPPF states at paragraph 167 that *when determining applications, Local Planning Authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood risk assessment.* Paragraph 169 also requires that *major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate.*
- 9.61. Policy ESD6 refers to Sustainable Flood Risk Management and sets out that flood risk will be managed and reduced with vulnerable development to be located in areas with lower risk of flooding. Policy ESD7 sets out that all development will be required to use sustainable drainage systems for the management of surface water flooding.

## *Assessment*

- 9.62. The applicants have provided a Flood Risk Assessment to accompany the application. The FRA finds the site is located with Flood Zone 1, which is at limited risk of flooding.
- 9.63. The proposed mitigation strategy for the site includes development levels for all the dwellings are set at 150mm above the surrounding ground level and to include foul water from the development will be drained separately to clean water. A Sustainable Urban Drainage System (SuDS) would also be included.
- 9.64. Following the submission of further information, the Lead Local Flood Authority (LLFA) has no objection to the proposed development, provided that a surface water drainage scheme is submitted and approved in writing by the Local Planning Authority. This is required to be submitted prior to the commencement of any development. Also prior to first occupation, details of the construction of the SuDS and maintenance details should be submitted to the LPA.
- 9.65. The Environment Agency have raised no objection to the proposal. Cherwell District Council Land Drainage has raised concerns regarding the impact on Gallos Brook, where the flood plain has not yet been modelled or mapped. This risk will need to be mitigated if any such areas lie outside the fluvial flood plain. This can be controlled by way of planning condition.
- 9.66. *Conclusion*
- 9.67. Given the comments from the LLFA, Environmental Agency and the Council's Land Drainage Engineer it is anticipated that a surface water drainage scheme will be achievable, and the above-mentioned Policies would be complied with.

## Other Matters

### *Environmental Matters*

- 9.68. With respect to environmental considerations, Policy ENV1 of the Cherwell Local Plan 1996 states that development which is likely to cause materially detrimental levels of noise, vibration, smell, smoke, fumes or other types of environmental pollution will not normally be permitted. The policy states that the Council will seek to ensure that the amenities of the environment and in particular the amenities of residential properties are not unduly affected by development proposals that may cause environmental pollution including that caused by traffic generation. Policy ENV12 of the Cherwell Local Plan 1996 relates to contaminated land and states that development on land which is known or suspected to be contaminated will only be permitted if adequate measures can be taken to remove any threat of contamination to future occupiers of the site.
- 9.69. The NPPF includes requirements around conserving and enhancing the Natural Environment. Paragraph 174 identifies that decisions should prevent new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability. Paragraph 183 relates to ground conditions. Decisions should ensure a site is suitable for its proposed use, taking into account existing ground conditions. Paragraph 185 relates to the impact of developments on noise. Developments should mitigate and reduce to a minimum potential adverse impact.



- 9.70. The Environmental Health Officer has considered the application and its accompanying supporting documents. The EHO does not have an objection to the proposal, provided conditions are imposed for a Construction Environment Management Plan, and a contamination condition.
- 9.71. Overall, provided suitably worded conditions are imposed to secure construction management plan and details on contamination, the proposed development is unlikely to result in undue harm to the environment.
- 9.72. The OCC Archaeologist has commented on this application and has confirmed that the site has been subjected to an archaeological evaluation and the proposals would need further investigation. This could be controlled by way of planning condition.

#### *Conditions and S106*

- 9.73. A S106 Legal agreement would be required to be entered into to secure mitigation resulting from the impact of the development both on and off site. This would ensure that the requirements of Policy INF1 of the CLP 2031 Part 1 could be met, which seeks to ensure that the impacts of development upon infrastructure including transport, education, health, social and community facilities (as relevant) can be mitigated. The Authority is also required to ensure that any contributions sought meet the following legislative tests, set out at Regulation 122 of the Community Infrastructure Regulations 2011 (as amended):
- Necessary to make the development acceptable in planning terms;
  - Directly relate to the development; and
  - Fairly and reasonable related in scale and kind to the development
- 9.74. The table at Appendix 1 sets out the required Heads of Terms and the justification for those requests.
- 9.75. Planning Conditions should only be imposed where they are necessary, relevant to planning and to the development permitted, enforceable, precise and reasonable in all other respects (para 56). Tweaks may be required to the conditions to reflect queries that have been raised and following further comments/amendments during the S106 negotiation stage.

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

- 10.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan comprises a number of relevant Policies and they are considered up to date for the purpose of considering this proposal.
- 10.2. The NPPF is a material consideration. This confirms that there is a presumption in favour of sustainable development and that economic, social, and environmental objectives should be sought mutually. The presumption in favour of sustainable development is set out at paragraph 11, which confirms that for decision taking, development proposals that accord with an up-to-date development plan should be approved without delay.

- 10.3. Whilst the application site is not allocated for development, Heyford Park is deemed a sustainable settlement location at which to accommodate development and development of the land would relate well to surrounding development and represent a natural rounding off. Some detriment would be caused to nearby heritage assets, but the extent of harm would be less than substantial and could be mitigated. Similarly, other impacts could all be mitigated and controlled by condition.
- 10.4. Overall, the balance of beneficial impacts would outweigh the identified harmful impacts, therefore planning permission ought to be granted.

## 11. RECOMMENDATION

**DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT, OR AN OFFICER NOMINATED BY THEM, 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):**

**FURTHER RECOMMENDATION: IF THE SECTION 106 AGREEMENT/ UNDERTAKING IS NOT AGREED/COMPLETED AND THE PERMISSION IS NOT ABLE TO BE ISSUED, IT IS FURTHER RECOMMENDED THAT THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT IS GIVEN DELEGATED AUTHORITY TO REFUSE THE APPLICATION FOR THE FOLLOWING REASON:**

1. **In the absence of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement, the Local Planning Authority is not satisfied that the proposed development provides for appropriate infrastructure contributions required as a result of the development and necessary to make the impacts of the development acceptable in planning terms, to the detriment of both existing and proposed residents and workers and contrary to policy INF 1 of the Cherwell Local Plan 2015, CDC's Planning Obligations SPD 2018 and Government guidance within the National Planning Policy Framework.**

### CONDITIONS

#### **Time Limit**

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

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

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

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

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

CASE OFFICER: Katherine Daniels

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

Planning obligation			Regulation 122 Assessment
Detail	Amounts (all to be Index linked)	Trigger points	
Affordable Housing	Policy Compliant	Construct all of the Affordable Housing dwellings in a phase prior to the use or Occupation of 85% of the Market dwellings in that phase.	<p><b>Necessary –</b> TBC</p> <p><b>Directly related –</b> TBC</p> <p><b>Fairly and reasonably related in scale and kind –</b> TBC</p>
OCCG	£82 800		<p><b>Necessary –</b> TBC</p> <p><b>Directly related –</b> TBC</p> <p><b>Fairly and reasonably related in scale and kind –</b></p>

			TBC
Thames Valley Police Contribution	<ul style="list-style-type: none"> <li>• policing new growth in the area equates to £41,407</li> <li>• set up costs equate to £2190</li> <li>• Automatic Number Plate Recognition (ANPR) Cameras- £5,500</li> <li>• Premises- £25,826</li> </ul>		<p><b>Necessary –</b> TBC</p> <p><b>Directly related –</b> TBC</p> <p><b>Fairly and reasonably related in scale and kind –</b> TBC</p>
Contribution towards Public Art	£51 520	Before first occupation	<p><b>Necessary –</b> TBC</p> <p><b>Directly related –</b> TBC</p> <p><b>Fairly and reasonably related in scale and kind –</b> TBC</p>
Outdoor Sports Provision	£493 916.90		<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

			<p>growth associated with the development in accordance with Policy BSC12, INF1 and advice in the Developer Contribution SPD</p> <p><b>Directly related</b> – The future occupiers will place additional demand on existing facilities.</p> <p><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.</p>
Indoor Sports Provision	£192 037.76	The requirement to agree a scheme prior to implementation and then ongoing timescales to monitor the development	<p><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</p> <p><b>Directly related</b> – The future occupiers will place additional demand on existing facilities.</p> <p><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</p>

			and number of occupants.
Community Development Worker	£16 938.68 for one year		<p><b>Necessary-</b> TBC</p> <p><b>Directly Related –</b> TBC</p> <p><b>Fairly and Reasonably related in scale and kind-</b></p> <p>TBC</p>
Community Development Fund	£10 350		<p><b>Necessary-</b> TBC</p> <p><b>Directly Related –</b> TBC</p> <p><b>Fairly and Reasonably related in scale and kind-</b> TBC</p>
Training and Employment Plan to secure 9 apprenticeship starts	NIL	TEP to be submitted for approval prior to the implementation of the development. Arrangements to reflect those within the previous S106 for the site	<p><b>Necessary –</b></p> <p>TBC</p> <p><b>Directly related –</b> The request is directly related to the development as the development itself is a vehicle to support an on-going programme of skills, training and apprenticeships. The apprenticeship starts would be directly related to the construction of the development itself.</p> <p><b>Fairly and reasonably related in scale and kind –</b>The number is considered</p>

			proportionate and therefore fairly and reasonably related in scale and kind to the development. The requirement for a TEP would also increase the skills opportunities on site.
Landscape	<ul style="list-style-type: none"> <li>• Mature Tree (Arb. assessment) – £280.04 per tree</li> <li>• Hedgerow (Arb. assessment) - £12.65 per linear metre</li> <li>• Woodland (Arb. assessment) - £46.97 per square metre</li> <li>• Ponds - £41.40 per square metre</li> <li>• Attenuation Basin (Illustrative Masterplan) - £66.05 per square metre</li> <li>• New Woodland (Illustrative Masterplan) - £35.02 per square metre</li> <li>• Informal Open Space (Illustrative Masterplan) - £12.65</li> <li>• LAP - £36,135.03</li> <li>• LEAP/NEAP Combined -</li> </ul>	TBC	<p><b>Necessary</b> – TBC</p> <p>.</p> <p><b>Directly related</b> –</p> <p>TBC</p> <p><b>Fairly and reasonably related in scale and kind</b> –</p> <p>TBC</p>



	<p>£540,048.31</p> <ul style="list-style-type: none"> <li>• Site/LEMP monitoring x 2 visits per year x 15 years - £15,000</li> <li>• Landscape Services' management of site/LEMP monitoring consultants at 10% -£1,500</li> </ul>		
A public transport contribution towards bus services Heyford Park	£260 590	TBC or delegated authority is sought to enable officers to negotiate this	<p><b>Necessary –</b></p> <p>The contribution is necessary to provide sustainable transport options to the site and as part of the overall public transport strategy for Heyford Park.</p> <p><b>Directly related –</b></p> <p>The proposal provides for residential which should be reasonably accessible via public transport modes to ensure occupiers have options to use sustainable modes of transport. It is therefore directly related to the development.</p> <p><b>Fairly and reasonably related in scale and kind –</b></p> <p>The level is at an established rate and based on number of dwellings.</p>

<p>Travel Plan Monitoring contribution towards the cost of monitoring the framework and individual travel plans over the life of the plans</p>	<p>£1 426 indexed linked from December 2021 (RPI-x)</p>		<p><b>Necessary –</b></p> <p>The site will require a framework travel plan. The fee is required to cover OCCs costs of monitoring the travel plans over their life.</p> <p><b>Directly related -</b></p> <p>The contribution is directly related to the required travel plans that relate to this development. Monitoring of the travel plans is critical to ensure their implementation and effectiveness in promoting sustainable transport options.</p> <p><b>Fairly and reasonably related in scale and kind –</b></p> <p>The amount is based on standard charging scales which are in turn calculated based on the Officer time required at cost.</p>
<p>Highway works</p>	<p>TBC</p>	<p><b>TBC</b></p>	<p><b>Necessary -</b></p> <p>TBC</p> <p><b>Directly related -</b></p> <p>TBC</p> <p><b>Fairly and reasonably related in scale and kind -</b></p>

			TBC
Primary and Nursery Education	£1604630		<p><b>Necessary -</b></p> <p>TBC</p> <p><b>Directly related -</b></p> <p>TBC</p> <p><b>Fairly and reasonably related in scale and kind -</b></p> <p>TBC</p>
Primary School Land Contribution	£151,640		<p><b>Necessary –</b></p> <p>TBC</p> <p><b>Directly related –</b></p> <p>TBC</p> <p><b>Fairly and reasonably related in scale and kind –</b></p> <p>TBC</p>
Secondary Education	£1,195,632		<p><b>Necessary –</b></p> <p>TBC</p> <p><b>Directly related –</b></p>

			TBC Fairly and reasonably related in scale and kind – TBC
SEN	£125 637		Necessary – TBC Directly related – TBC Fairly and reasonably related in scale and kind – TBC
Libraries	£24 668		Necessary – TBC Directly related – TBC Fairly and reasonably related in scale and kind – TBC

CDC and OCC Monitoring Fee	CDC: £1500  OCC: TBC		The CDC charge is based upon its agreed Fees and Charges Schedule
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Agenda Item 11  
**23/00065/OUT**

**Os Parcel 0006 Adjoining North Side Of  
Ells Lane  
Bloxham**



**1:1,000**

# 23/00065/OUT

## Os Parcel 0006 Adjoining North Side Of Ells Lane Bloxham

111.2m



Wykham View Stables

Track

119.7m

6

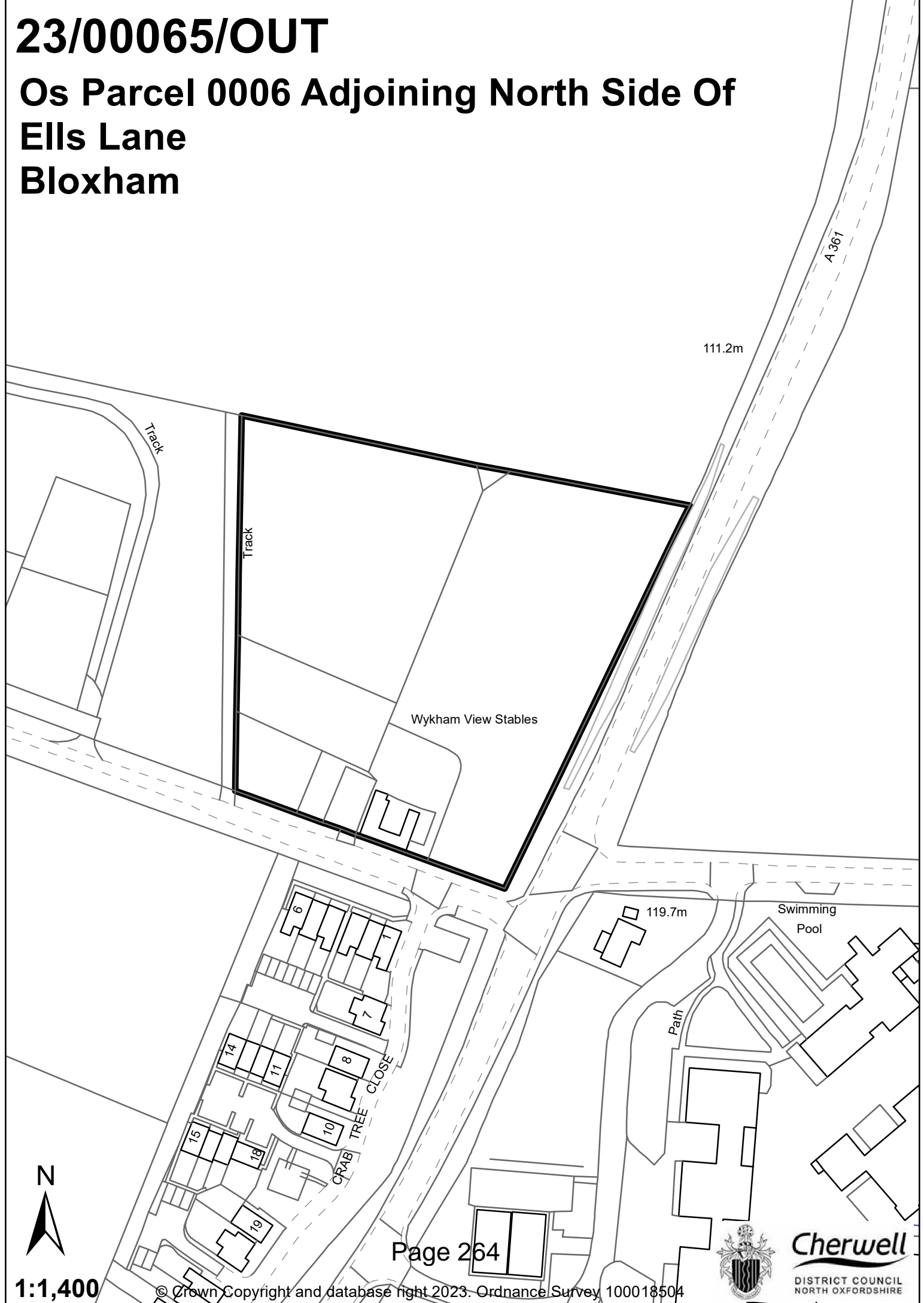
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# 23/00065/OUT

## Os Parcel 0006 Adjoining North Side Of Ells Lane Bloxham



Wykham View Stables

111.2m

A 361

Track

Track

Swimming Pool

119.7m

Path

CRAB TREE CLOSE

6  
7  
8  
10  
11  
14  
15  
18  
19





**Case Officer:** Nathanael Stock

**Applicant:** Deeley Homes

**Proposal:** Outline planning permission for up to 30 dwellings including access off Ells Lane and demolition of the existing stabling on site - All Matters Reserved except for access

**Ward:** Adderbury, Bloxham and Bodicote

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

**Reason for Referral:** Major development of 10+ dwellings

**Expiry Date:** 11 April 2023

**Committee Date:** 9 March 2023

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**SUMMARY RECOMMENDATION: REFUSE PERMISSION**

**1. APPLICATION SITE AND LOCALITY**

- 1.1. The application site is comprised primarily of fields in a mix of agricultural and equestrian use, with trees and hedgerow vegetation to its perimeter especially on its eastern boundary adjacent the A361. The site, which is mainly Grade 1 agricultural land, is accessed via Ells Lane, a classified road, immediately to the south. No public rights of way cross the site or are affected by the proposal. The site slopes up from east to west and particularly from north-east (c.117m AOD) to north-west (122.8m AOD); the steeper slopes are closer to the A361.
- 1.2. The site, which in total measures approx. 1.37 ha, is bounded to the east by the A361, to the south by Ells Lane, and to the west and north by open countryside, with trees and other vegetation lining the latter boundaries.

**2. CONSTRAINTS**

- 2.1. None additional to that mentioned in Section 1 of this report

**3. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 3.1. The current application seeks outline consent for the erection of up to 30 dwellings and associated infrastructure, with means of access to be assessed. Access is proposed to be taken north from Ells Lane.
- 3.2. The application is accompanied by a location plan, various drawings including a topography survey, access drawings, parking survey zones and restriction drawings, drainage strategy, landscape strategy and proposed illustrative site plan ('PI003 D'), along with the following documents: a Design & Access Statement, Planning Statement, Statement of Community Involvement, Education Assessment, Agricultural Land Classification Assessment, land contamination assessment, Transport Statement, Flood Risk Assessment, Drainage Strategy, Air Quality Assessment, Ecological Appraisal, Landscape and Visual Assessment, Arboricultural Impact Assessment, and Biodiversity Net Gain Plan/Metric.

#### 4. RELEVANT PLANNING HISTORY

- 4.1. There is no relevant planning history to the site, though there was a planning application in 2015 for a similar scale of development on land south of Ells Lane adjacent to Crab Tree Close that was withdrawn prior to consideration by Planning Committee.

#### 5. PRE-APPLICATION DISCUSSIONS

- 5.1. The following pre-application discussions have taken place with regard to this proposal:
- 5.2. 22/02329/PREAPP – up to 30 dwellings – advised that the proposal was unacceptable in principle given its location at some distance from the village centre, loss of Grade 1 agricultural land, visual and landscape impacts including to the character of Ells Lane, archaeology, and lack of primary education capacity, and bearing in mind the Council's ability to demonstrate a five year housing land supply

#### 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 **28 February 2023**.

- 6.2. Letters of objection have been received from 45 separate households. The comments raised by third parties are summarised as follows:

- Impact on the village – speeding cars, pollution and noise
- Location – those living on the outskirts tend to drive to the local shops rather than walk
- Visual/environmental impact – more unattractive buildings, more trees disappearing; impact on the beautiful countryside that surrounds the village; loss of agricultural land; the applicant proposes a 2m footpath on the northern side of Ells Lane – it is not clear if the intention is to pave over the existing drainage ditch along Ells Lane, or to reduce the width of the carriageway to 3m.
- Contrary to the Bloxham Neighbourhood Plan, which must be upheld to sustain any trust within the Bloxham community and their district council. The proposal is beyond the northern limit of the village boundary created by Ells Lane and Bloxham Grove - there has been no development other than conversions/extensions on land north of these roads. Would not comprise infill. Para 11d of the NPPF should not apply in the case of this application because Bloxham has a Neighbourhood Plan; the site is beyond the built up limits of the village and is not allocated for development; speculative development should not take precedence over Neighbourhood Plans and Local Plans.
- Contrary to the Cherwell Local Plan – Policy Villages 2 and saved policy H18.
- Contrary to the NPPF – paras 79, 174.

- Need – Bloxham does not need any more houses; there are enough houses being built along Salt Way up to the Bloxham/Banbury Road; there has been so much development over the years in Bloxham / overdevelopment of the village; the application is yet another opportunistic land grab / speculative development proposal
- Infrastructure – the village does not have the services to cope; children in the village are being sent to other schools as our village schools are full, the GP is not taking new patients nor is the dentist (the chemist is also at maximum capacity); impact on the local electrical infrastructure (power cuts would become a regular feature); utilities, transport; employment; cultural / social centre facilities
- Ells Lane – very poor condition; single lane width in places, not big enough for the additional traffic; not safe; impact on walkers using Ells Lane
- Highway safety – volume of traffic, which will only increase with the new school being built adj the Warriner; it is a prime pick up and drop off location for The Warriner; the junction with Ells Lane is already a major bottleneck; access would be difficult as it is situated on a junction and near to existing development where there is already traffic congestion; would put an already busy and accident prone junction under more pressure; acknowledged that some road structure changes have been made, but by no means does this solve the problem only slightly reduce it;
- Road Safety Foundation report (Sept 2015) which places the stretch of the A361 between Chipping Norton and Banbury - the main road through Bloxham - as the 8th most dangerous road in the country, with the report identifying 46% of the accidents being cyclists or pedestrians and the situation has worsened in the 4 years since the report was issued.
- Impact for refuse vehicles – The cul-de-sac access is long and sinuous . this will be difficult for refuse collection and servicing / deliveries as these vehicles would need to reverse the full length (inadequate turning head)
- Archaeology – the site is of archaeological interest (EOX2056)
- Flood risk – losing more land than floods so the road would be flooded even more; water run off from the site would add to flooding problems across the A361/the flood plain at Bloxham Mill
- Drainage - impact on the local drainage and sewerage system
- Implications – would push the village closer to Banbury and open up development for the other side of The Grove and Ells Lane; approval here would set an undesirable precedent for more houses to be built, joining the village with the expanding conurbation of Banbury;
- Alternatives – how about rejuvenating the centre of Banbury instead. There are so many brownfield sites where buildings are falling into ruin and the infrastructure exists within Banbury

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. BLOXHAM PARISH COUNCIL: **Objects** on the following grounds

- This development does not comply with the Policies in the Bloxham Neighbourhood Development Plan 2015 – 2031, made 2016. This Plan is valid and was referenced in a Planning Inspectorate appeal decision dated 9th February 2023.
- The Cherwell District Council's Housing Land Supply Statement (February 2023) states that the Council can demonstrate a 5-year housing land supply of 5.4 years (2022 -2027). Given this statement, "tilted balance" is not relevant and should not be applied to this application.
- This development is not indicated as a strategic site in the Cherwell District Local Plan 2011 – 2031 and has not previously been highlighted as a potential development site or included as part of the 2040 review.
- The site is located outside the built form of the village, within an area of agricultural land and open countryside. Allowing this application would set a precedence for residential developments to the North of Ells Lane and Bloxham Grove.
- In a response to a Banbury planning application 22/03868/OUT, dated 07.02.23, Cherwell District Council's Planning Policy make the following comments, which it would not be unreasonable to apply to this application:

"The application site, if developed, will extend the current built up limits of Banbury into open countryside. The site is not allocated for development in the development plan. The proposals are therefore contrary to saved policies C8 and H18."

#### OTHER CONSULTEES

7.3. OCC HIGHWAYS: No comments received to date

7.4. OCC ARCHAEOLOGY: **objections / comments:**

The site lies in an area of archaeological interest and potential, immediately north of a site, which during predetermination archaeological evaluation, recorded evidence of an Early – Middle Iron Age settlement. The resulting conditioned archaeological excavation recorded evidence from the Mesolithic, Neolithic and Bronze Age, which suggested that there could be earlier prehistoric settlement activity in the area. The NPPF 2021 paragraph 194 requires the applicant to describe the significance of any heritage assets which might be affected by the development, with the historic environment record being consulted at the minimum.

An archaeological desk-based assessment will need to be submitted along with any planning application for the site in line with the National Planning Policy Framework (NPPF 2021) paragraph 194. This assessment will need to be undertaken in line with the Chartered Institute for Archaeologists standards and guidance for desk-based assessments including the submission of an appropriate written scheme of investigation to agree the scope of the assessment.

The Desk Based Assessment will need to be supported by a geophysical survey. This investigation must be undertaken in line with the Chartered Institute for Archaeologists standards and guidance for archaeological evaluation including the submission and agreement of a suitable written scheme of investigation.

The results of the DBA and geophysical survey will be taken into account when determining whether further archaeological work needs to be taken.

- 7.5. CLINICAL COMMISSIONING GROUP – **Comments:** Bloxham Surgery has “significant” capacity issues - Insufficient Consulting rooms to cope with increased population growth as a direct result of the increase in dwellings. This PCN area is already under pressure from nearby planning applications, and this application directly impacts on the ability of the Bloxham surgery in particular, to provide primary care services to the increasing population. Primary Care infrastructure funding is therefore requested to support local plans to surgery alterations or capital projects to support patient services. The funding will be invested into other capital projects which directly benefit this PCN location and the practices within it if a specific project in the area is not forthcoming. Financial contribution requested of £25,920
- 7.6. CDC LANDSCAPING – No objections in respect of landscape and visual impact; tends to agree with the submitted LVA in respect of the evaluation of potential landscape effects. Notes some omissions or deficiencies in the LVA but that these do not affect his overall conclusions.

Financial contributions requested for any Section 106 agreement:

LAP	£36,135.03
Public Open Space	£12.65/sqm
Hedge Maintenance	£26.60/lm
Mature Tree Management	£280.04/tree
Swale Maintenance	£120.32/lm
Balancing Pond Maintenance	£66.05/sqm

- 7.7. CDC ARBORICULTURE – **Comments:**

The AIA highlights mitigative replanting of the x5 individual trees plus x1 group of trees Category C removals, however, these are not shown on the AIA.

The submitted AIA does not reference- Location and installation of services/ utilities/ drainage.

The AIA highlights protective measures which will be afforded however, as is the nature of an AIA this doesn't provide the full level of detail expected in an AMS.

Prior to commencement an arboricultural method statement in line with BS5837:2012 is to be submitted for review, outlining protective measures, and working practices to allow retention of the trees.

A scheme for landscaping

1) a scaled plan showing all existing vegetation and landscape features to be retained and trees and plants to be planted;

2) location, type and materials to be used for hard landscaping including specifications, where applicable for:

a) permeable paving

- b) tree pit design
  - c) underground modular systems
  - d) Sustainable urban drainage integration
  - e) use within tree Root Protection Areas (RPAs);
- 3) a schedule detailing sizes and numbers/densities of all proposed trees/plants;
  - 4) specifications for operations associated with plant establishment and maintenance that are compliant with best practise.

#### 7.8. CDC ECOLOGY – **Comments**

An ecological appraisal has been submitted which is generally acceptable in scope. There are no major protected species issues on site which cannot be overcome with mitigation. Some of the trees may need checking for bats prior to removal, vegetation clearance would need to be outside the bird nesting season and there will need to be a mitigation scheme in place for swallows which are confirmed as nesting within the stables.

The assessment of great crested newts determined that an offence was likely. I note that there is little suitable terrestrial habitat on site; however, I would have recommended that they pursue a district licence for great crested newts to ensure any issues ongoing are covered under the scheme. As it stands a mitigation scheme for great crested newts will need to be conditioned to ensure they will not be impacted by construction or operation of the site.

The applicants have submitted a biodiversity gain plan. The development would entail the loss of grassland on site. This is largely proposed to be compensated for by the creation of a small buffer of grassland and swales to the East. The biodiversity metric shows a small net gain in habitats of less than 1.5%. This falls some way short of CDC's corporate target of a minimum of 10% net gain in line with the Environment Act and emerging legislation.

In addition, I have some reservations as to whether the grassland could be managed to the condition stated given it is the only public space on site, there is not an additional open space within easy walking distance and access to footpaths involve walking along the road. This area of land therefore will need to serve as both 'kick-about' space, general amenity space and as the dog walking area. I do not agree that this will have minimal footfall. There could be upwards of 60 + people walking over it everyday. In my opinion 'fairly poor' may be a more realistic score than 'moderate' condition for the modified grassland, neutral grassland and even the 'heathland and scrub category' in this area unless it is to be managed by ecological specialists or access is restricted. Changing the condition of even one of these created habitat types from moderate to fairly poor leads to a clear loss for biodiversity which demonstrates the necessity for a higher level of net gain as contingency. Should permission be granted a LEMP should be conditioned which guarantees a net gain of 10% will be achieved from the proposals with demonstration of how this will be managed for a minimum of 30 years. This should be discussed further as without this I do not believe a net gain will be achieved. Any LEMP should also include integrated measures for bats and birds within the dwellings such as bat access panels and swift bricks.

A CEMP for biodiversity will be required and a lighting strategy also.

7.9. CDC ENVIRONMENTAL HEALTH – **No objections** subject to conditions on air quality, noise and contaminated land

7.10. CDC STRATEGIC HOUSING – **Comments:**

This proposal is for the development of 30 new homes, on the outskirts of the village of Bloxham. Due to this being a rural settlement 35% affordable housing is required in order to comply with Local Plan Policy BSC3: Affordable Housing with a tenure split of 70% rented and 30% affordable home ownership.

The development will be expected to primarily meet the needs of households with a local connection to Bloxham, and thereafter the wider Cherwell area – taking fully into account the Bloxham Neighbourhood Plan 2015 – 2031.

The applicant has not submitted a schedule of the proposed housing types and sizes, Strategic Housing wish to make the following comments:

The total number of units proposed is 30, with 11 as affordable housing [which meets the 35% required by policy]

Size and type: Whilst this Outline application does not delve into the make-up of the number and tenure of the affordable units, our indicative mix would look something akin to:

Social Rented: 3 x 1b2pF, 2 x 2b4pH, 2 x 3b5pH, 1 x 4b6pH

First Homes: 2 x 3b5pH, 1 x 4p7pH

The reasoning behind this specific mix is based upon the data from the Housing Register, to best meet the housing needs of our district.

As per the Developer Contributions SPD, all the affordable units are required to meet the NDSS requirements as a minimum, for all the affordable units to be totally tenure-blind, and to not be clustered into large groups, where is reasonable for the shape of the site.

Arrangements with the Registered Provider taking on the affordable housing units would need to be agreed with the council.

Tenure: Cherwell District Council is following Government guidance regarding First Homes, therefore 25% of the affordable provision is required as First Homes. This equates to 3 dwellings out of 11 affordable on this development (rounding 2.75 up to 3).

We expect the rented dwellings to all be Social Rented, unless it can be demonstrated that this is unviable.

Accessible & adaptable properties: The Developer Contributions SPD requires that 50% of the rented dwellings meet M4(2) requirements and 1% meet M4(3) requirements. Whilst 1% is less than one dwelling, it would contribute significantly to meeting pressing needs if one rented dwelling could be delivered to full wheelchair standard. This team welcome discussions with the applicant regarding this provision.

7.11. OCC EDUCATION – **no objections** at this time, in this instance; has reviewed the data and advises that the position has changed in Bloxham since previous applications where OCC Education objected. The data appears to show that the Bloxham housing built in the 2010s has now had its peak impact on primary school

numbers. There was a large cohort starting school in 2022, but now pressure on the school is forecast to ease over the next few years.

OCC Education would not now be objecting to the proposed scale of development but reserves its position in the case of development proposals larger than the one subject of this application.

However, OCC Education will seek s106 contributions (sums TBC) towards education impacts of this proposal, including Bloxham Primary School (capital works required to complete the expansion of the school).

#### 7.12. THAMES WATER – **no objections**

7.13. THAMES VALLEY POLICE – **Comments.** Thank you for consulting me on the above planning application. I do not object to this application, subject a condition to require Secured by Design Silver accreditation.

### 8. RELEVANT PLANNING POLICY AND GUIDANCE

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

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

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

- PSD1: Presumption in Favour of Sustainable Development
- SLE4: Improved Transport and Connections
- BSC1: District Wide Housing Distribution
- BSC2: The Effective and Efficient Use of Land – Brownfield land and Housing Density
- BSC4: Housing Mix
- BSC10: Open Space, Outdoor Sport and Recreation Provision
- BSC11: Local Standards of Provision – Outdoor Recreation
- BSC12: Indoor Sport, Recreation and Community Facilities
- ESD1: Mitigating and Adapting to Climate Change
- ESD2: Energy Hierarchy and Allowable Solutions
- ESD3: Sustainable Construction
- ESD6: Sustainable Flood Risk Management
- ESD7: Sustainable Drainage Systems (SuDs)
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13: Local Landscape Protection and Enhancement
- ESD15 - The Character of the Built and Historic Environment
- Villages 1: Village Categorisation
- Villages 2: Distribution Growth Across the Rural Areas
- INF1: Infrastructure

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



- H18: New dwellings in the countryside
- C5: Protection of ecological value and rural character of specified features of value in the district
- C8: Sporadic development in the open countryside
- C28: Layout, design and external appearance of new development
- C30: Design of new residential development
- C33: Protection of important gaps of undeveloped land
- ENV1: Environmental pollution
- ENV12: Potentially contaminated land
- TR1: Transportation funding

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 Bloxham Neighbourhood Plan and the following Policies of the Neighbourhood Plan are considered relevant:

- BL2 – Types of new development permitted
- BL5 – Parking standards for existing residential development
- BL6 and BL7 – Adaptation to climate change
- BL9 – Residential amenity
- BL11 – Residential design

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)
- Developer Contributions SPD (February 2018)
- Infrastructure Delivery Plan (IDP) Update (December 2017)
- Countryside Design Summary (1998)
- Cherwell Design Guide SPD (July 2018)
- Oxfordshire Wildlife & Landscape Study 2004
- Annual Monitoring Report (2021 AMR) (December 2021)
- Annual Monitoring Report (2022 AMR) (February 2023)
- Oxfordshire County Council: Local Transport Plan 4 (2015-2031)
- Cherwell District Council Housing & Economic Land Availability Assessment (February 2018)

## **9. APPRAISAL**

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

- Principle of development
- Impact on the character and appearance of the area
- Heritage impact
- Residential amenity
- Highway safety
- Drainage and flood risk
- Biodiversity impact
- Loss of agricultural land

- Pollution control
- Community infrastructure impact
- Education provision in Bloxham
- Affordable housing

### Principle of Development

#### *Policy Context*

- 9.2. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. 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.

#### *Development Plan*

- 9.3. The Development Plan for this area comprises the adopted Cherwell Local Plan 2011- 2031 ('CLP 2015'), the saved policies of the Cherwell Local Plan 1996, and the Bloxham Neighbourhood Plan.
- 9.4. 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, while also recording the need within the rural areas to meet local and district wide needs. 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.
- 9.5. 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.*
- 9.6. 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.*
- 9.7. Policy Villages 1 of the CLP 2015 provides a framework for housing growth in the rural areas of the District and groups villages into three separate categories (A, B and C), with Category A villages being considered the most sustainable settlements in the District's rural areas. These villages have physical characteristics and a range of services within them to enable them to accommodate some limited extra housing growth. Bloxham is designated as a Category A village.
- 9.8. Policy Villages 2 states that sites will be identified through the preparation of the Local Plan Part 2 (no longer taking place) and through the determination of applications for planning permission (and sets out the criteria for those) but also through the preparation of Neighbourhood Plans. Policy BL2 of the Neighbourhood Plan reflects Policy Villages of the CLP 2015 in being supportive of new development within the built up limits of the village.

9.9. 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 and visual 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'.*

9.10. 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.*

*National Planning Policy*

9.11. 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.

9.12. 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).*

9.13. Paragraph 11 defines the presumption in favour of sustainable development for decision-taking 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.*
- 9.14. 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.*
- 9.15. 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.*
- 9.16. 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*
- 9.17. 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).
- 9.18. The application site was not submitted for review in the HELAA. However, the HELAA's conclusions in respect of sites referenced HELAA097 and HELAA099 provide a useful guide:
- 9.19. The conclusion for HELAA099 – on Ells Lane – is that the site is considered *"unsuitable for development as [it] has a poor and incongruous relationship with the form and pattern of the existing settlement. Development would impact on views of Hobb Hill from the north and the works required to Ells Lane to provide satisfactory*

*access to development on the site is likely to have an adverse effect on the character and appearance of the area. There is a made neighbourhood plan... Not a suitable site."*

- 9.20. The conclusion for HELAA097 – directly east of the application site – is that the site is considered *"unsuitable for development as [it] is detached from the existing village and therefore would not form a cohesive village extension. Development would not be appropriate due to the significant potential landscape and visual impacts... There is a made neighbourhood plan."*

#### *Housing Land Supply*

- 9.21. Cherwell's housing land supply as reported in the Council's 2021 Annual Monitoring Report ('AMR') concluded that the District had a 3.5 year supply for the next five year period 2022-2027 commencing on 1 April 2022. This is reviewed annually and the Council's 2022 AMR, as agreed by the Council's Executive meeting on 6 February, concludes that the district has a 5.4 year supply of housing for the period 2022-2027.

- 9.22. This updated figure is largely the result of applying the standard method housing need figure of 742 homes per year from 2022 rather than the Local Plan figure of 1,142 from 2011. The report to Executive states at paragraph 3.26, *"...economic conditions are challenging and it is important that officers continue to seek Local Plan compliant housing delivery to maintain supply and deliver the district's planned development. Having a five year land supply position does not mean that development allowed for by the Local Plan should halt. Indeed, not progressing planned development considered to be acceptable could undermine the land supply position"*.

- 9.23. In addition, the 2022 AMR, also agreed at Executive on 6 February 2023 confirms that, *"during the 2021/22 there were 184 dwellings completed at Category A Villages that contribute to the Policy Villages 2 requirement of 750 dwellings. Since 2014 there has now been a total of 703 completions with a further 165 under construction totalling 868 dwellings. A further 48 dwellings are likely to be built out..."*

#### *Assessment*

- 9.24. This application seeks planning permission for the development of a paddock for a scheme of 30 dwellings. The site is an undeveloped green field site that, given its physical and visual relationship to the existing built form, is outside of the existing built form of Bloxham village and therefore within the countryside. The site is bounded by countryside to the west and north by highways to the east and south with mature landscaping to the eastern (A361) boundary, albeit that the site rises steadily away from this boundary.

- 9.25. The Council's updated housing supply position means that the relevant development plan policies are up to date and that development proposals must be assessed in accordance with the Development Plan. The site is not allocated for development in any adopted or emerging policy document forming part of the Development Plan.

- 9.26. The Local Plan does not allocate specific, non-strategic sites. Policy BL1 of the Neighbourhood Plan does allocate land for development and Policy BL2 states that any other new housing within the Plan period must be within the built limits of the village, comprising either conversion, infilling or minor development.

- 9.27. Policy Villages 2 (PV2) of the CLP 2015 intended to 750 dwellings for the rural area and provides criteria against which individual proposals are required to be assessed as set out above.
- 9.28. The central purpose of the PV2 was to allocate some housing to the rural areas, recognising that even with a housing strategy focused on the urban areas there would be a need to identify “sites for housing across the rural areas to meet local needs in sustainable locations”. The delivery of development granted permission under Policy Villages 2 is monitored in the Annual Monitoring Report (AMR).
- 9.29. The 2022 AMR reports that 703 dwellings have now been completed at Category A villages, with a further 165 under construction (running total 868) and 48 likely to be built out i.e. sites where part of the development has been completed (running total 916). In addition, there are approvals for a further 314 not yet commenced (running total 1230).
- 9.30. The Tappers Farm (Bodicote) 2019 appeal decision (which applied the same logic as the Launton appeal decision a year earlier) provides a useful steer as to how the decision taker should apply PV2. At the time of the Tappers Farm decision, 271 dwellings had been delivered at Category A villages under PV2, with a further 425 under construction, and an annual delivery rate of 54 dwellings per year from PV2, which would have resulted in the delivery of 750 homes by 2028. The Tappers Farm Inspector stated,
- “There will undoubtedly be a point where there will be a situation that will result in the material increase over the 750 dwellings figure and at that time there will be some planning harm arising from the figure being exceeded, for example harm to the overall locational strategy of new housing in the district. There is no substantive evidence before me to demonstrate that this is the case in this appeal. Clearly, when considering any subsequent schemes however, this matter will need to be carefully scrutinised.”*
- 9.31. As noted above, 703 dwellings have now been delivered at Category A villages under PV2 and a further 213 dwellings are under construction across 10 different sites. The delivery rate in 2021-2 was 184 dwellings, the average annual delivery rate having risen to 78 dwellings per year and 134 dwellings per year over the last 4 years. It is reasonable to expect all of these 213 dwellings to be delivered – there are none so far in the plan period at Category A villages that once commenced have not been completed – and therefore the total number of dwellings delivered under PV2 will exceed the total of 750 set out in the policy.
- 9.32. Whilst the NPPF states the requirement to have a 5 year supply is not a cap on development, the housing policies of the Development Plan are the starting point for decision taking and afforded full weight. Applying the conclusions of the Launton and Tappers Farm inspectors, it is considered that that point has been reached where planning harm would be caused to the overall locational strategy of new housing in the district through further permissions at unsustainable / unsuitable locations.
- 9.33. Bloxham is one of the larger Category A villages, ranks 2<sup>nd</sup> after Kidlington in terms population size and has a range of services. As such the provision of housing at Bloxham in principle is considered sustainable. However, in this instance the site is at some distance from the village centre and would be located at more than 800m (15mins) walking distance from the majority of the amenities in the village centre (e.g. food shop, post office, primary school, GP surgery, public house). The post

office / Londis, the nearest of these, would be at 820 metres from the entrance to your site. Only the secondary school (approx. 320m) is within walking distance.

- 9.34. For these reasons, it is considered that the proposal would not be well connected to existing development, and future occupiers would be overly reliant on the use of the private motor vehicle, which would not be in the best interests of sustainable development. This weighs significantly against the proposal.

#### *Conclusion*

- 9.35. The latest housing supply figure for the district is calculated at 5.4 years. Whilst the NPPF states the requirement to have a 5 year supply is not a cap on development, the housing policies of the Development Plan are the starting point for decision taking and afforded full weight. While the planning balance will be weighed at the end of this report, the provision of housing at a Policy Village 1 village (a sustainable settlement) weighs in favour of the development, but the site's distance from the village centre and therefore relatively poor sustainability credentials weigh against the proposal.

#### Impact on the character and appearance of the area

##### *Policy*

- 9.36. Policy ESD15 of the CLP 2015 provides guidance as to the assessment of development and its impact upon the character of the built and historic environment. It seeks to secure development that would complement and enhance the character of its context through sensitive siting, layout and high-quality design meeting high design standards and complementing any nearby heritage assets.
- 9.37. BSC2 of the CLP 2015 states that new housing should be provided on net development areas at a density of at least 30 dwellings per hectare unless there are justifiable reasons to lower the density. 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.
- 9.38. PV2 of the CLP 2015 states that in considering sites for residential development in Category A villages, particular regard will be given to '*whether development would contribute in enhancing the built environment*' and '*whether significant adverse landscape and impacts could be avoided*'
- 9.39. Saved Policies C28 and C30 of the CLP 1996 exercise control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context. New housing development should be compatible with the appearance, character, layout, scale and density of existing dwellings in the vicinity. Saved Policy C33 of the Local Plan states that, "the Council will seek to retain any undeveloped gap of land which is important....in preserving a view or feature of recognised amenity or historical value".
- 9.40. Section 12 of the NPPF is clear that good design is a fundamental to what the planning and development process should achieve. Paragraph 130 of the NPPF states that planning decisions should ensure that developments:
- will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;

- are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change

9.41. The quantum of development proposed would give a density of c.22 dwellings per hectare which although lower than the requirements of Policy BSC2 is more aligned to the density of residential development to the south and reflective of its relatively remote, rural location, and hence more in keeping with the character of the site's surroundings.

*Assessment*

9.42. The site is in open countryside and contributes to the rural character, quality and amenity of the area, in particular the rural character and setting of Bloxham village. Its open character and extensive views of the historic village and surrounding countryside also contributes to the amenity value and enjoyment of the various public rights of way either crossing or passing in close proximity to the site.

*Impact On wider landscape*

9.43. The Landscape and Visual Assessment (LVA) submitted with the application has considered the potential impacts on the landscape character and amenity of the site and surrounding area, and concludes limited visual impact on the wider landscape.

9.44. The Council's landscape officer tends to agree with the LVA in respect of the evaluation of potential landscape effects. The landscape officer notes omissions e.g. there does not appear to be a section in the LVA on the methodology or adherence to the guidance of GLVIA3 or current Landscape Institute guidelines, and queries the selection of some of the LVA's chosen viewpoints (e.g. no. 6), but does not disagree with the overall conclusions quoted above and does not object to the application on grounds of landscape impact.

9.45. Overall, it is considered that subject to hedgerow planting on the site's north and western boundaries the proposal would not adversely affect the wider landscape.

*Impact on immediate landscape and setting of village*

9.46. Whilst long range views of the development may not result in an adverse impact on the wider landscape, it remains the case that the site lies outside the built-up limits of the village, would extend development into the countryside and as such is contrary to saved policies in the adopted Local Plan for protection of the countryside. Officers consider this to be a significant and demonstrable harm to be taken into account in the planning balance.

9.47. In addition, it is considered that, having regard to its location, residential development at this site would have a poor and incongruous relationship with the form, character and pattern of the existing settlement. Whereas the Crab Tree Close is directly adjacent to, and relates well to the Banbury Road, the application site lies to the north Ells Lane and relates much more to the countryside than to the built form of the village. Its development would therefore have an adverse effect on the character and appearance of the countryside.



- 9.48. This impact would be emphasised by the proposed improvement works required to Ells Lane which, it is considered, would in themselves have a detrimental impact on the character and appearance of the area.
- 9.49. The development therefore would not contribute in enhancing the built environment and would result in significant adverse local impact on the landscape. Therefore, the proposal conflicts with Policies ESD13, ESD15 and Villages 2 of the Cherwell Local Plan 2011-2031, saved Policy C33 of the Cherwell Local Plan 1996 and Government guidance in the National Planning Policy Framework. This weighs significantly against the development.

#### *Quantum of Development/Play Space*

- 9.50. All matters other than access are reserved; this includes layout; however, an indicative site layout plan has been submitted with the application to show the site could be developed for 30 dwellings – albeit the site layout plan shows 28 dwellings. The development would not relate well to Ells Lane or to the development at Crab Tree Close south of Ells Lane; 10 of the 28 dwellings are shown in a linear pattern along the site's western edge, the last of those very close to the site's northern boundary and another 8 dwellings are shown in a linear pattern along the site's northern edge. While the indicative layout makes an efficient use of land in this respect, it would present a harsh, urban edge to the development which would not help it to integrate with its surroundings.
- 9.51. In addition, some of the dwellings are inappropriately close, e.g. Plots 10 and 11 in the north-western corner, and plots 5/6 and 27. These relationships would not be acceptable and so an alternative layout would be required. At the current time, therefore, it is not clear that 28 dwellings could be achieved on the site, and it is noted that the application is for up to 30 dwellings. This somewhat weighs against the proposals.
- 9.52. Due to the scale of the development the scheme would need to provide a play area in the form of a LAP as required under Policy BSC11 of the 2015 CLP.
- 9.53. It is considered that the level of open space / play area is in accordance with the adopted policy. The Council's landscape officer comments on what the indicative layout/submission shows in this respect and has provided guidance which would need to be followed in any future detailed design, including its location in the layout.

#### Heritage impact

##### *Legislative and policy context*

- 9.54. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that in carrying out its functions as the Local Planning Authority in respect of development in a conservation area: *special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.*
- 9.55. Likewise, Section 66 of the same Act states that: *In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority...shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.* Therefore, significant weight must be given to these matters in the assessment of this planning application.
- 9.56. Conservation Areas and Listed Buildings are designated heritage assets, and Paragraph 193 of the NPPF states that: *when considering the impact of a proposed*

*development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Policy ESD15 of the CLP 2015 echoes this guidance.*

- 9.57. PV2 states that in identifying and considering sites for development regard will be had to whether significant adverse impact on heritage or wildlife assets could be avoided.

#### *Impact on Listed Buildings and Conservation Area*

- 9.58. In this instance, the proposed development would undoubtedly diminish the countryside setting of the historic village, in views along one of the primary routes into the village, but would not have a significant impact on either the designated Bloxham Conservation Area or any listed buildings, and overall the proposal is considered acceptable in this regard.

#### *Archaeology*

- 9.59. However, the site is located in an area of archaeological interest adjacent to a Middle Iron Age settlement site, and it is considered that further information, in the form of an archaeological evaluation, would need to be provided ahead of the determination of any planning permission for the site in order that the impact on any surviving features can be assessed.
- 9.60. Paragraph 194 of the NPPF states that: *'where a site...has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation'*. The County Council Archaeologist has advised that there is high potential for significant archaeological remains to survive on site which could be damaged or destroyed by the development, and has advised that an archaeological field evaluation should be carried out prior to determination, to determine the extent of any remains and the weight that should be attached to the preservation.
- 9.61. However, no such field evaluation has been submitted and therefore officers consider there is insufficient information to establish if the archaeological impacts of the development can be made acceptable. This conflicts with PV2 and this weighs significantly against the proposal.

#### Residential amenity

- 9.62. Having regard to the Illustrative Masterplan, it is considered that there would be sufficient separation between the area proposed to be developed and existing and planned neighbouring dwellings to enable acceptable details of layout, scale and appearance to be agreed at reserved matters stage, without undue harm (e.g. overshadowing, an overbearing impact, or loss of privacy) resulting to the amenity of neighbours.
- 9.63. With regard to the amenity of the proposed residents, as noted earlier in this report the gross density would be 22 dwellings per hectare, although net density – taken from the indicative layout – would be approx. 30 dwellings per hectare, based on a developable area of 0.99 ha. With the caveat if para 9.50 above, it is considered an acceptable density to ensure that a satisfactory standard of amenity (e.g. distances between facing windows, outdoor amenity space) can be provided.

9.64. Overall, having regard to the above, and subject to the provisos noted above, the proposal is considered acceptable in residential amenity terms and would thus comply with CLP Policy C28 and CLP Policy ESD15. This weighs in favour of the proposal.

#### Highway safety

9.65. Concerns have been raised by the Parish Council and local residents with regard to the proposal's potential transport impacts, in particular the impact of additional traffic flows on the local road network.

9.66. The local highway authority (LHA) advises that, subject to conditions requiring access details, visibility splays, estate roads, drainage strategy and construction traffic management plan, and a Section 278 agreement to provide for various off site highway improvements (inc. localised widening of carriageway including new access and 'Speed Limit Review' (60mph/30mph relocation) involving Traffic Regulation Order), the proposal is acceptable in highway safety terms.

9.67. Officers have no reason or evidence to disagree with the conclusions and advice of OCC Highways, and therefore the proposal is considered acceptable in transport terms subject to conditions and completion of a satisfactory Section 106 legal agreement, as recommended in OCC Highways' response.

#### Flood risk and drainage

9.68. Concern has been raised about surface water drainage and the potential for the development to increase the risk of surface water flooding in the area, in particular on the highway.

9.69. A detailed Flood Risk Assessment has been submitted with the application, and having considered this information neither the Environment Agency nor Thames Water have objected to the development and appear satisfied that a satisfactory drainage scheme can be agreed. Therefore, subject to conditions to ensure a detailed foul and surface water drainage scheme is submitted, agreed and implemented, officers consider the proposal would be acceptable in this respect.

#### Biodiversity impact

9.70. Paragraph 99 of Circular 06/05 states that, "it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision". Likewise Section 40 of the Natural Environment and Rural Communities Act 2006 (NERC 2006) states that, "every public authority must in exercising its functions, have regard...to the purpose of conserving (including restoring/enhancing) biodiversity".

9.71. A detailed Ecological Appraisal has been submitted with the application. The Council's Ecology officer has not objected to the application and it is therefore considered that, subject to conditions to ensure the mitigation and enhancement measures proposed in the Ecological Appraisal and recommended by the Ecology officer are implemented, the development is considered to have an acceptable impact on biodiversity.

### Loss of agricultural land

- 9.72. The Council's records indicate that the proposal would result in the loss of Grade 1 agricultural land, classed as best and most versatile agricultural land.
- 9.73. Policy Villages 2 states that in identifying and considering sites, particular regard will be given to *'Whether best and most versatile agricultural land could be avoided'*;
- 9.74. Paragraph 174 of the NPPF states that, "decisions should [recognise] the intrinsic character and beauty of the countryside...and the economic and other benefits of the best and most versatile agricultural land". Footnote 58 states that, "where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of higher quality".
- 9.75. It is the case that most of the agricultural land surrounding Bloxham village is classified as best and most versatile, and as such any new housing development on the edge of the village is likely to result in some loss of best and most versatile agricultural land. However, most of the agricultural land is either Grade 2 or 3a rather than Grade 1.
- 9.76. Given that more than 750 dwellings would be provided at the category A villages under PV2 of the CLP 2015 and it has not been demonstrated that there are no other sites in the District which would be preferable in terms of using areas of poorer quality agricultural land, officers are not convinced that the loss of a further significant area of best and most versatile agricultural land is either necessary or desirable in this case. The development therefore conflicts with Policy Village 2 due to the unjustified loss of best and most versatile agricultural land. This weighs against the proposal.

### Pollution control

- 9.77. Having regard to the long-established agricultural use of the land and the elevated levels of naturally occurring arsenic in the area, there is a risk of ground contamination on this site. However, conditions requiring a full ground contamination survey to be carried out and mitigation measures proposed and implemented as necessary, officers are satisfied that this risk does not present an overriding constraint on development.
- 9.78. Officers are satisfied on the basis of the information submitted with the application that there are unlikely to be significant adverse impacts in respect of air quality and pollution associated with the proposed development.

### Community infrastructure impact

- 9.79. Having regard to the scale and residential nature of the proposed development, it is considered that the proposal is likely to place additional demand on existing community services and infrastructure in the local area including schools, community halls, public transport and public rights of way, health facilities, waste services, and public open space. The consultation responses have provided evidence that this would indeed be the case, with requests for contributions to be secured via a Section 106 legal agreement, to mitigate the impacts of the development in this respect.
- 9.80. Policy INF1 of the CLP 2015 states that: "Development proposals will be required to demonstrate that infrastructure requirements can be met including the provision of

transport, education, health, social and community facilities". Contributions can be secured via a Section 106 legal agreement provided they meet the tests of Regulation 122 of The Community Infrastructure Levy Regulations 2010 (as amended), which states that planning obligations should be: "(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".

- 9.81. Although the applicant has indicated a willingness to enter into a Section 106 agreement to secure the necessary planning obligations, a signed completed agreement is not in place that would be acceptable to meet the anticipated infrastructure requirements of the development. Therefore, officers cannot be satisfied that the infrastructure impacts of the development can be made acceptable in this case.

#### Education provision in Bloxham

- 9.82. Paragraph 95 of the NPPF makes clear that the Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities, and that great weight should be given to the need to expand schools to maintain, or widen choice in education.
- 9.83. With particular regard to primary education in Bloxham, Bloxham Primary School has been expanded to the full extent of its site capacity. In recent years, it has been concluded that further population growth in the village is likely to mean that not all children who live within the catchment will be able to secure a place at the school.
- 9.84. However, *at this time*, in this instance, the County Council (OCC) advises that it has no objection to the proposed scale of development, subject to financial contributions towards education as part of a Section 106 agreement. OCC reserves its position on future and/or larger proposals.
- 9.85. With regard to secondary education provision in Bloxham, expansion of secondary school capacity in the area would be necessary as a direct result of housing development. This area feeds to the Warriner School, which is regularly oversubscribed, and effectively full.
- 9.86. Without expansion of the Warriner School, housing development would adversely impact on the operation of parental preference and result in a loss of amenity to young people already living in the area, who would be less likely to secure a place at their first preference school as a direct result. As such it would go against the intention of para 95 of the NPPF by reducing the choice of school places available to meet the needs of existing and new communities.
- 9.87. If the Warriner School is not expanded, children who would otherwise have attended the school would be displaced to other schools in nearby Banbury. These schools currently have spare places, but these places will be filled as a result of the population growth which is already evident in the local primary schools. Secondary school capacity in Banbury will need to be expanded as these higher pupil numbers feed through, and therefore should the schools also be required to accommodate growth as a result of housing development in Bloxham, the scale of expansion would be greater as a consequence. Expansion of secondary school capacity either at the Warriner School or at schools in Banbury is therefore necessary to ensure the needs of the current and future populations can be met, and to ensure the council can meet its statutory duty to ensure sufficient school places.

- 9.88. At this time and in the case of the scale of development proposed here, it is considered that the effects on primary and secondary provision can be met through financial contributions secured via Section 106 agreement.

#### Affordable housing

- 9.89. For a development of 30 dwellings, 11 AH units would be needed in order to achieve the requisite 35% AH provision. The Council's Housing Officer advises on the required tenure split and mix (see section 7 of this report), and comments that a range of house types will be expected for the AH provision, the detail of which would be determined at reserved matter stage should the outline application be approved. The provision of affordable housing weighs significantly in favour of the proposal.

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

- 10.1. 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. 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.

#### *Positive benefits - Economic*

- 10.2. The proposals would provide a short-term benefit through creation of construction jobs and would also support facilities and employment in businesses, shops and services within the area. Given the small-scale nature of the development these should also be afforded limited positive weight.

#### *Social*

- 10.3. The proposals would provide affordable housing at a tenure providing housing for those in need and a significant social benefit. Significant weight is to be afforded to the social benefits of the proposed housing with very significant weight afforded to the benefits of affordable housing.
- 10.4. Through s106 contributions the proposals would result in support for a range of community-based infrastructure in the area to a level expected by policy on-site recreation and play facilities.

#### *Environmental*

- 10.5. The proposals also commit to a minimum of 10% biodiversity net gain, which also carries positive weight, although the Council's ecology officer advises that it is unlikely this would be achieved on site.
- 10.6. The proposals commit to the provision of a sustainable construction methods, which should be given positive weight.

#### *Negative impacts*

- 10.7. The development would result in impacts on the area in terms of noise and disturbance as the development is completed. There would also be disruption through the implementation of the traffic mitigation. This is minimised through the development and implementation of construction management plans; however, some disturbance is expected. This carries moderate negative weight.
- 10.8. Bloxham is a sustainable location with a range of services, public transport links and employment opportunities. However, the site is at some distance from the village centre and would be located at more than 800m (15mins) walking distance from the majority of the amenities in the village centre and thus future occupiers would be overly reliant on the use of the private motor vehicle, which would not be in the best interests of sustainable development. Substantial weight is attached to the site being an unsustainable location for development of this scale and the conflict with Policies PSD and ESD1 of the CLP 2015 and the key objectives of the NPPF.
- 10.9. The application site is positioned beyond the existing built-up limits of the village and is an area of countryside. Moderate weight is therefore attached to the effect of the proposal on the character and appearance of the countryside through the development of greenfield land.
- 10.10. The site has a poor and incongruous relationship with the form and pattern of the settlement, the engineering works required to Ells Lane would result in significant and demonstrable harm to the character and appearance of the area and the proposal would result in the loss of Grade 1 agricultural land. Significant weight is attached to these effects.
- 10.11. In addition, there is insufficient information to properly assess the potential archaeological impacts of the development, and there is no signed completed legal agreement that would be acceptable to secure the necessary planning obligations to mitigate the anticipated infrastructure impacts of the development and the provision of affordable housing.
- 10.12. The site is not allocated in the Development Plan and for the reasons set out in this report the proposal would be contrary to the Council's housing strategy, as set out in Policies BSC1, Villages 1 and Villages 2 of the CLP 2015 and Policies BL1 and BL2 of the Bloxham Neighbouring Plan, (whilst the village is sustainable, the location of the site is not, and the development has adverse visual impact, loss of versatile agricultural land, impact on archaeology – contrary to PV2) on to which significant weight is also attached.
- 10.13. On the basis that the Council is able to demonstrate a five-year supply of land of housing, the housing policies of the Development Plan are the starting point for decision taking and afforded full weight.
- 10.14. Overall, and in accordance with the NPPF, the adverse effects are considered to significantly and demonstrably outweigh the proposal's benefits and the proposed development is considered to represent unsustainable development and planning permission should therefore be refused, for the reasons given below.

## **11. RECOMMENDATION**

### **REFUSAL FOR THE REASONS SET OUT BELOW:**

1. By reason of its location, the proposal would have a poor and incongruous relationship with the form, character and pattern of the existing settlement. Its development would therefore have an adverse effect on the character and appearance of the countryside. This harm would be emphasised by the

proposed improvement works to Ells Lane - required to make the highway safe for additional residential development – which would in themselves have a detrimental impact on the character and appearance of the area. Therefore, the proposal conflicts with Policies ESD13, ESD15 and Villages 2 of the Cherwell Local Plan 2011-2031, saved Policy C33 of the Cherwell Local Plan 1996 and Government guidance in the National Planning Policy Framework.

2. By reason of its location more than 800m walking distance from the village centre and any key amenities in the village (e.g. food shop, post office, primary school, GP surgery, public house), the proposal would be poorly connected to existing development, such that future occupiers would not have a realistic choice of means of travel, and would have an adverse impact on the character of the area. Therefore, the proposal conflicts with Policies ESD1, ESD15 and Villages 2 of the Cherwell Local Plan 2011-2031, saved Policies C28 and 30 of the Cherwell Local Plan 1996 and Government guidance in the National Planning Policy Framework.
3. By reason of the siting and size of the development and the resulting loss of grade 1 agricultural land, and taking into account the Council's ability to demonstrate an up-to-date 5.4 year housing land supply across the District and having delivered in excess of 750 dwellings at Category A villages under Policy Villages 2, and the lack of evidence to demonstrate that there are no other sites in Category A villages in the District which would be preferable in terms of using areas of poorer quality agricultural land to meet the District's housing needs, the proposal is considered to result in the unnecessary and unjustified loss of best and most versatile agricultural land. Therefore, the proposal conflicts with Policies BSC2 and Villages 2 of the Cherwell Local Plan 2011-2031 and Government guidance in the National Planning Policy Framework.
4. By reason of the site's location in an area of known archaeological interest with high potential for significant archaeological deposits to survive on site, in the absence of a detailed and adequate archaeological field evaluation the Local Planning Authority cannot be satisfied that the proposal would not result in unacceptable and unavoidable harm to archaeological assets. Therefore the proposal conflicts with Policies ESD15 and Villages 2 of the Cherwell Local Plan 2011-2031 and Government guidance in the National Planning Policy Framework.
5. In the absence of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement the Local Planning Authority is not satisfied that the proposed development provides for appropriate infrastructure contributions required as a result of the development and necessary to make the impacts of the development acceptable in planning terms, to the detriment of both existing and proposed residents and workers and contrary to policy INF 1 of the Cherwell Local Plan 2015, CDC's Planning Obligations SPD 2018 and Government guidance within the National Planning Policy Framework.

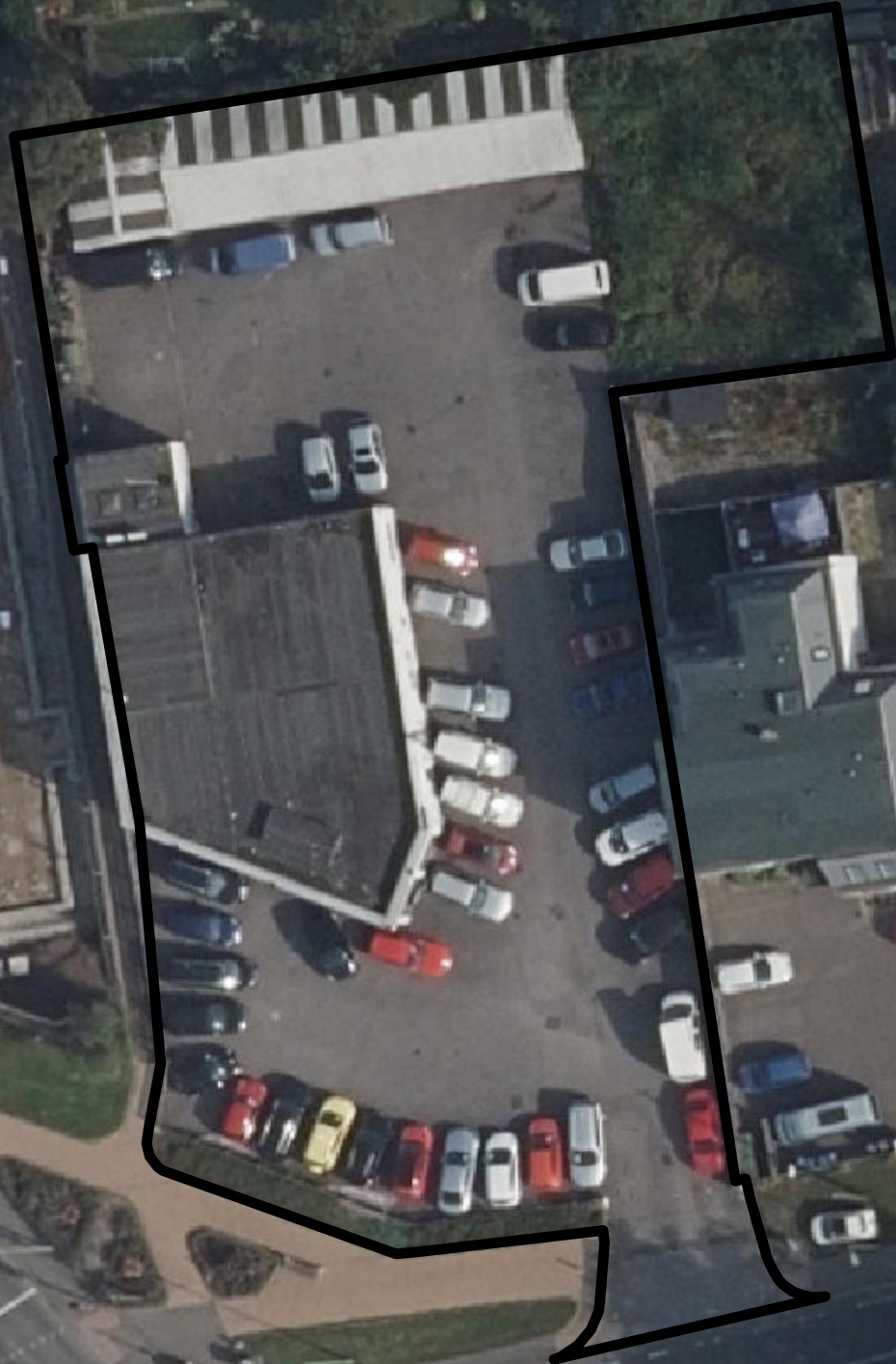
CASE OFFICER: Nathanael Stock



22/00017/F

Agenda Item 12

Kidlington Garage  
1 Bicester Road  
Kidlington  
OX5 2LA



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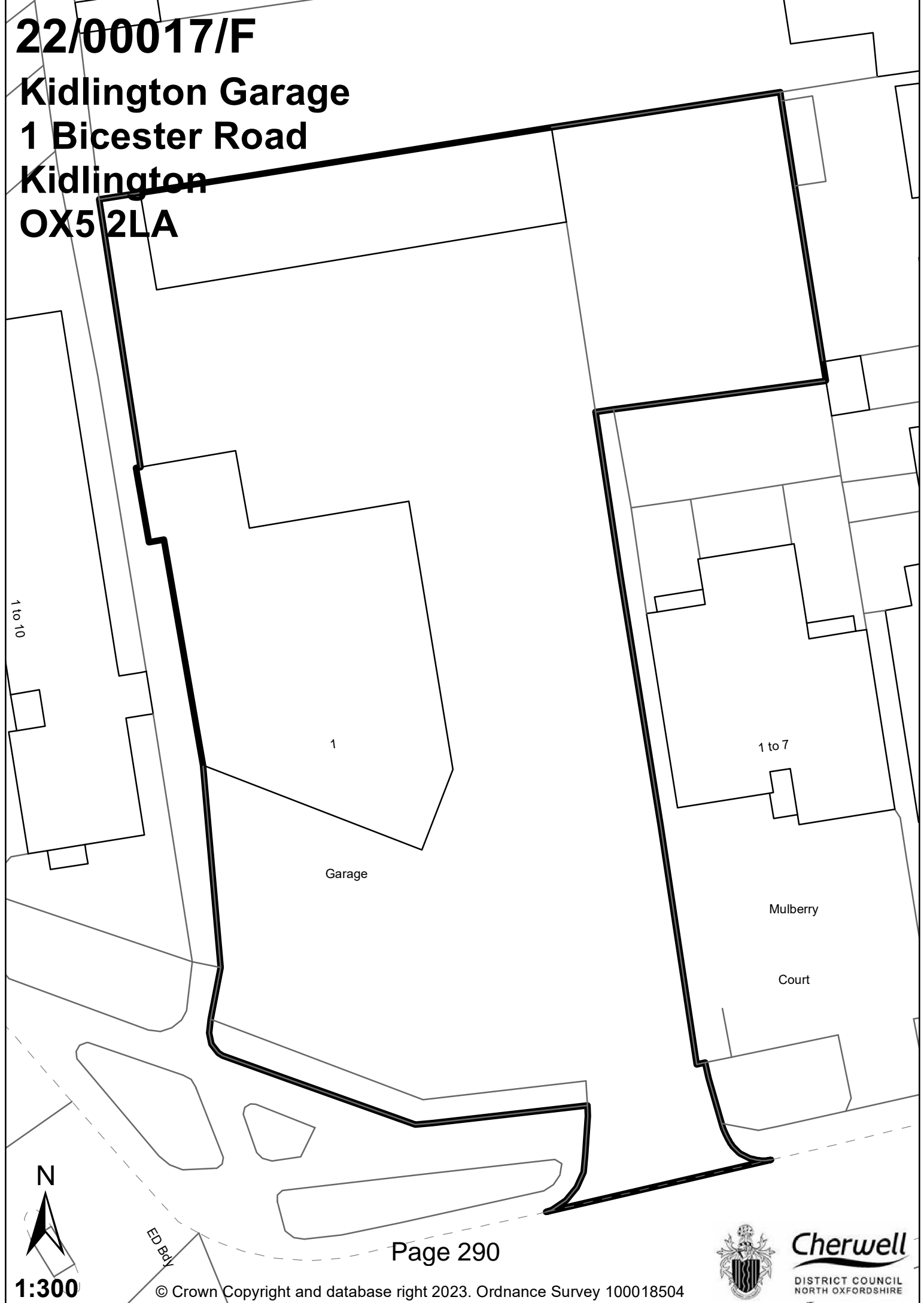
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**1 Bicester Road**

**Kidlington**

**OX5 2LA**



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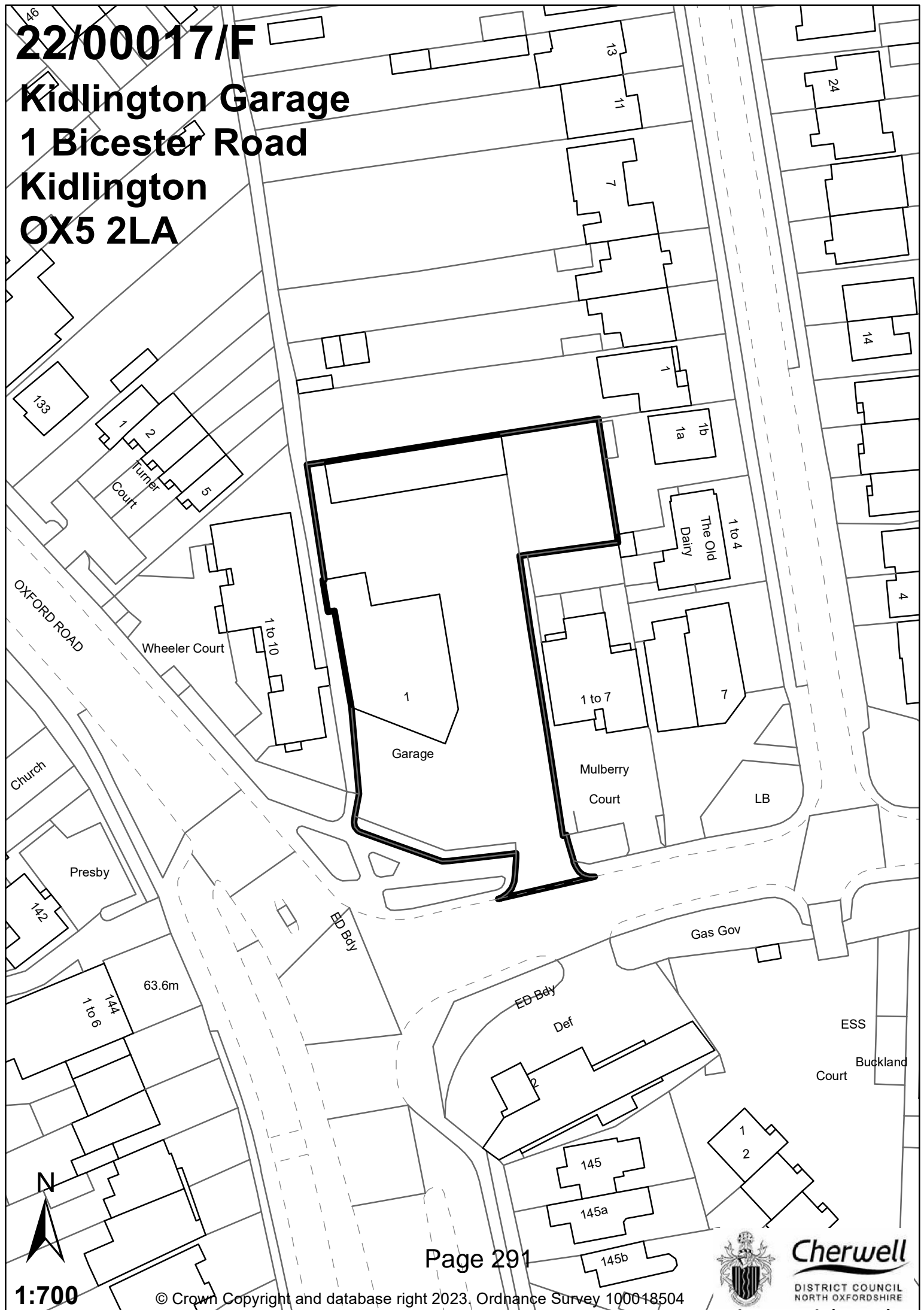
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22/00017/F

**Kidlington Garage**  
**1 Bicester Road**  
**Kidlington**  
**OX5 2LA**



**Case Officer:** Tom Webster

**Applicant:** Sweetcroft Homes

**Proposal:** Demolition of existing vehicle showroom and associated garages. Erection of 2 new housing blocks containing total of 15 flats including car parking and ancillary supporting uses with landscaping

**Ward:** Kidlington East

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

**Reason for Referral:** Major development

**Expiry Date:** 9 September 2022

**Committee Date:** 9 March 2023

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## **1. REASON FOR REVERSION TO PLANNING COMMITTEE**

- 1.1. Previously, the application was presented at Planning Committee on the 14 July 2022 with a recommendation for approval. The Members of Planning Committee resolved to support the proposal subject to an appropriate S106 Agreement being completed and signed.
- 1.2. The S106 Agreement was to include an obligation that would secure an off-site affordable housing contribution that is the equivalent of 5 on-site affordable housing units (35% Affordable Housing).
- 1.3. However, subsequently, in November 2022, the applicant submitted a viability appraisal (prepared by Savills). This viability appraisal concluded that the off-site affordable housing contribution for 5 units would equate to £609k, and that the applicant could not afford to pay this amount, or even a smaller sum, without making the scheme unviable.
- 1.4. This Viability Appraisal was then (February 2023) independently assessed by Bidwells, who, whilst reaching a different opinion to Savills on the Residual Land Value, concluded that the scheme, at present, could not viably pay the full off-site affordable housing contribution, or even a smaller affordable housing sum.
- 1.5. In short, the level of off-site affordable housing contribution the Council anticipated receiving, in line with Policy BSC3 of the Cherwell Local Plan 2011-2031 Part 1, as it stands, has been reduced from £609k down to £0 (35% provision down to 0%). As this scenario represents a significant departure from what was discussed and agreed at Planning Committee, it is considered necessary for this application to be brought back for further consideration by Planning Committee.
- 1.6. It should be noted that the applicant, following a request from officers, has agreed for a viability review mechanism to be included in the S106 Agreement to establish if an off-site affordable housing contribution can be delivered at a later date.

- 1.7. The Planning Committee report presented on the 14 July 2022, appended to this report, sets out the site description, proposed development, consultation responses. It also contains the full assessment of the proposal against the relevant Development Plan policies.
- 1.8. One consultation comment has been received since the 14 July Planning Committee. This comment was from the Housing Officer who wanted to establish if any Registered Providers (RPs) would prefer for the affordable housing to be provided on-site instead of a commuted sum. This research was undertaken and the response from the RPs was that they would prefer a commuted sum.

## 2. APPRAISAL

- 2.1. The key issues for consideration in this report are:
  - Affordable Housing Provision and the use of a Viability Review Mechanism in the S106 Agreement
- 2.2. The Council is acutely aware that housing delivery is a top planning priority for England, and the Council shares the Government's objective of increasing housing delivery. House prices are arguably one of the most significant issues facing the South East and there is also a significant need for affordable housing in Kidlington: it experiences homelessness and a reliance on temporary accommodation, and the market and rental prices are high.
- 2.3. Therefore, it is of critical importance that affordable housing, where a scheme is viable, is delivered as part of all major residential developments in Kidlington, either on-site or through an off-site contribution.
- 2.4. This approach is in line with the Government guidance set out in paragraph 63 of the NPPF. This paragraph states that *"where a need for affordable housing is identified, planning policies should specify the type of affordable housing required, and expect it to be met on-site unless:*
  - a) *off-site provision or an appropriate financial contribution in lieu can be robustly justified; and*
  - b) *the agreed approach contributes to the objective of creating mixed and balanced communities.*
- 2.5. Paragraph 65 of the NPPF also makes it clear that where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership, unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups.

- 2.6. In this instance, 10% affordable home ownership would not exceed the level of affordable housing in Kidlington and would, instead, contribute to reducing the shortfall in affordable housing provision.
- 2.7. This need for affordable housing in Kidlington is why Policy BSC3 of the Cherwell Local Plan 2011-2031 Part 1 requires residential development with 11 dwellings or more, in 'Kidlington', to deliver 35% affordable housing provision.
- 2.8. However, in line with Government guidance, there is policy provision in the Local Plan that allows for the applicants to submit an 'open-book' viability assessment, where the viability of the scheme is a concern.
- 2.9. Paragraph 6 of BSC3 also allows for reduced amount of affordable housing to be delivered if it is demonstrated that the viability of a scheme would be compromised through affordable housing provision. It states:
- “Where development is demonstrated to be unviable with the affordable housing requirements, further negotiations will take place. These negotiations will include consideration of: the mix and type of housing, the split between social rented and intermediate housing, the availability of social housing grant/funding and the percentage of affordable housing to be provided.”*
- 2.10. Since the resolution to grant planning permission at Planning Committee on the 14 July 2022, the applicant has raised concerns over their ability to provide an off-site affordable housing contribution and submitted a viability appraisal (written and prepared by Savills). The Council sought an independent review of this viability appraisal and instructed Bidwells to undertake this work. Bidwells reached the same conclusion as Savills which is that the proposal is currently not in a position to provide an off-site affordable housing contribution.
- 2.11. It should be noted, however, that property market has experienced significant changes (in house prices and build costs) in recent years. Therefore, the viability of a scheme may be notably different by the time it is implemented, due to uncertainties in relation to aspects of a viability assessment at the application stage, and the potential for changes to market conditions.
- 2.12. In view of the changeable nature of the property market, the practice of reviewing development viability to ensure that proposals are based on an accurate assessment of viability (at the point of delivery) has become well established across the country.
- 2.13. Moreover, given the pressing need for affordable housing in Kidlington, it is vital that the Council tries to ensure that the appropriate amount of affordable housing is provided in line with Policy BSC3. It is on this basis that Officers informed the applicant that a viability review mechanism should be included in the Section 106 Agreement. The applicant has agreed to having a viability review mechanism in the S106 Agreement.

- 2.14. Officers note in the two viability appraisals (Savills and Bidwells) that the build programme for the 15 units, is 18 months, post site clearance. Therefore, a reasonable trigger point for the viability review mechanism would be 9 months after implementation of the scheme.
- 2.15. According to Bidwells' viability appraisal (paragraph 3.2.3), due to the location of the site, they would expect a modest number of pre-sales to take place. If that is the case, then those sales would give the best comparable data for new build flat prices, in the viability review. As the construction work would also be under away, the actual build costs would be known as well.
- 2.16. The applicant has agreed to this 9-month post implementation trigger point. The viability review will relate to affordable housing only and, as such, would be an upwards only viability review. The S106 developer contributions have been agreed by the applicant and the scheme is considered to be viable with those contributions, but not with the off-site affordable housing contribution.

### **3. PLANNING BALANCE AND CONCLUSION**

- 3.1. This assessment aims to provide an overview of the material change in position regarding affordable housing provision, and the need for a viability review mechanism.
- 3.2. It sets out why officers consider the viability review mechanism to be necessary for the application to be granted planning permission.
- 3.3. Therefore, Members are respectfully asked to support the Officer recommendations, for the reasons given, and to resolve to grant permission for the development subject to the recommendation below.

### **RECOMMENDATION**

**DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT, OR AN OFFICER NOMINATED BY THEM, TO GRANT PERMISSION, SUBJECT TO**

- 1. THE CONDITIONS SET OUT BELOW (FULL WORDING IS SET OUT IN THE ORIGINAL COMMITTEE REPORT AND WRITTEN UPDATE) (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY) AND**
- 2. 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 HEADS OF TERMS SET OUT AT APPENDIX 1 OF THE ORIGINAL COMMITTEE REPORT (EXCEPT FOR AFFORDABLE HOUSING CONTRIBUTION) AND INCLUDING VIABILITY REVIEW MECHANISM SET OUT AT PARAGRAPH 2.14 ABOVE.**

### **FURTHER RECOMMENDATION:**

**IF THE APPLICANT DOES NOT AGREE TO SIGN A S106 AGREEMENT TO CONTAIN THE MATTERS SET OUT AT PARAGRAPH 2.14 OR IF THE SECTION 106 AGREEMENT/UNDERTAKING IS NOT COMPLETED AND THE PERMISSION IS NOT ABLE TO BE ISSUED BY THE STATUTORY DETERMINATION DATE**

**WHICH IS CURRENTLY 9 SEPTEMBER 2022 AND NO EXTENSION OF TIME HAS BEEN AGREED BETWEEN THE PARTIES, IT IS FURTHER RECOMMENDED THAT THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT, OR AN OFFICER NOMINATED BY THEM, IS GIVEN DELEGATED AUTHORITY TO REFUSE THE APPLICATION BASED UPON THE LACK OF A COMPLETED S106 AGREEMENT REQUIRED TO SECURE THE NECESSARY INFRASTRUCTURE TO MITIGATE THE IMPACTS OF THE DEVELOPMENT WITH REFERENCE TO POLICY THAT REQUIRES MITIGATION TO BE SECURED, AND FAILURE TO SATISFY THE AFFORDABLE HOUSING POLICY)**

Case Officer: Tom Webster



# Appendix

**Kidlington Garage 1 Bicester Road Kidlington OX5 2LA**

**22/00017/F**

**Case Officer:** Samantha Taylor

**Applicant:** Sweetcroft Homes

**Proposal:** Demolition of existing vehicle showroom and associated garages. Erection of 2 new housing blocks containing total of 15 flats including car parking and ancillary supporting uses with landscaping

**Ward:** Kidlington East

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

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

**Expiry Date:** 11 April 2022

**Committee Date:** 14 July 2022

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## **SUMMARY OF RECOMMENDATION: DELEGATE POWERS TO GRANT PERMISSION, SUBJECT TO CONDITIONS AND SECTION 106 LEGAL AGREEMENT**

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

- 1.1. The application site is located fairly centrally, within the residential area of Kidlington. The site and its context is formed of relatively modern buildings with residential properties, outbuildings and garages forming the character of the area. There are some smaller areas of commercial buildings within the local area. Building heights vary in this location, with some more recent developments adjacent measuring 3 storeys in height.
- 1.2. The application site was most recently used as a commercial car sales garage. There are two single storey buildings which exist on the site. One is located at the centre of the site and was used as an office and showroom with the other building located at the rear of the site used for storage.

### **2. CONSTRAINTS**

- 2.1. The application site is within the largely residential area of Kidlington. The site is in an area of potentially contaminated land. A public footpath runs immediately to the west of the site (FP265/5/10).

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

- 3.1. The application seeks full planning permission for the demolition of the existing garage and the erection of two apartment blocks comprising 15 units, with associated landscaping, parking and other infrastructure.

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

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

CHS.725/92

Continuance of use to allow car sales and display from the whole site area.

Approved.

11/0149/OUT

Demolition of existing dwelling and construction of building containing 7 apartments and parking, access and ancillary works.

Approved.

12/00149/REM

Reserved matters pursuant to application 11/01419/OUT

Approved.

18/01388/F

Demolition of existing vacant workshop and show room buildings. Erection of two and three storey building to provide 10no. dwellings (8x 2-bed and 2x-1 bed). Provision of off-street car parking, secure cycle storage and covered refuse/recycling store – resubmission of 18/00130/F

Approved.

18/00130/F

Demolition of existing vacant workshop and show room buildings. Erection of two and three storey building to provide 10no. dwellings (8x 2-bed and 2x-1 bed). Provision of off-street car parking, secure cycle storage and covered refuse/recycling store

Withdrawn.

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

5.1. 20/02874/PREAPP – Pre-Application Enquiry - Demolition of existing vehicle showroom and construction of new flat blocks providing 20 no. units. Acceptable in principle subject to massing and detailed design.

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

6.1. This application has been publicised by way of 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 **3 February 2022**.

6.2. Objections have been raised from 7 addresses. The comments raised by third parties are summarised as follows:

6.3. Materially relevant comments which can be considered when determining the application:

- An unacceptable loss of privacy to adjacent residential properties as a result of the creation of window openings and potential overlooking;
- The height of Block A is significantly higher than adjacent properties;
- The design fails to break the massing of the building due to the size and external appearance of the building, which is harmful to the local context;
- Insufficient parking leading to congestion and traffic issues;
- Appropriate contributions towards traffic improvements should be secured;

- Appropriate provision for the charging of elective cars should be made;
- An acceptable location for the air source heat pump should be used to ensure that there is not harm arising from noise or visual harm on the amenity of adjacent residents;
- Insufficient details regarding the fence/boundary treatment to be provided;
- Request that an energy plan for renewable sources should be required;
- A suitable landscaping scheme should be provided in conjunction with ecological improvements;
- Loss of light would have an unacceptable impact on the amenity of adjacent residents;
- Unacceptable impact on traffic and travel implications;
- Potential for birds on site;

6.4. Comments which are not materially relevant and cannot be considered when determine the application:

- Request for comments to be read in conjunction with comments made on a different application;
- Land ownership disputes – an amended site location and block plan has been received, notice has been served on other landowners as the applicant has identified and detailed on the application form. Should any issues arise regarding land ownership, these would be identified through the S106 process and appropriate amendments south if required.
- Potential for asbestos to be present on site;

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

## 7. RESPONSE TO CONSULTATION

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

### PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

7.2. KIDLINGTON PARISH COUNCIL: **Objects**, agree with comments made by neighbours particularly in regard to parking. In addition, the Parish Council raises concerns in regards to land ownership disputes;

*Officer Comments: Noted, as outlined above, land ownership disputes are not a material consideration of the planning application. The applicant has amended the site location and block plans to include land within their ownership. Notice has also been served on the site owners identified as detailed on the application. Should any issues arise regarding land ownership, these would be identified through the S106 process and appropriate amendments sought if required.*

### CONSULTEES

7.3. OCC HIGHWAYS: **No objections** subject to S106 contributions sought in regards to a Traffic Regulation Order, recommended planning conditions and informative.

- 7.4. OCC Highways confirm that the use of the existing access is suitable with acceptable visibility. The site is within walking distance of Kidlington village centre and its local services and Oxford Parkway station is accessible by foot, cycle or bus, which also serves Oxford City Centre and Headington Hospitals.
- 7.5. The Highways Officer notes that the car parking provision is less than optimum however, this quantum has been widely accepted in many similar developments in Kidlington due to the high sustainability of the location in transport terms. Whilst there may be some overspill parking on to the local highway network, the highways officer has confirmed that a contribution to a Traffic Regulation Order to secure double yellow lines would overcome this concern.
- 7.6. All parking spaces provided should have EV charging infrastructure, in accordance with the Oxfordshire Electric Vehicle Infrastructure Strategy, a condition is requested. Some concerns regarding the acceptability of the access road for refuse collection is noted. The Highways Officer confirms that the 15 flat will generate less traffic than the existing approved car showroom and garage use.
- 7.7. Conditions have been requested in relation to the provision of cycle parking, delivery of car parking, estate accesses, driveways and turning areas plans and electric vehicle charging points.
- 7.8. LOCAL LEAD FLOOD AUTHORITY: **Objection**, a flood risk assessment has not been conducted for the site and a detailed drainage scheme has not been provided.

*Officer comments: due to the size of the application site being under 1 hectare (site measures 0.225 ha) and the location with flood zone 1 a flood risk assessment is not required in support of the application. Full drainage details can be secured by way of appropriate planning condition.*

- 7.9. OCC EDUCATION: Contributions are not being sought from this development.
- 7.10. ARCHAEOLOGY: There appears to be no invasive impact upon any known archaeological sites or features.

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

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

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

- PSD1 – Presumption in Favour of Sustainable Development
- Villages 1 – Village Categorisation
- BSC1 – District Wide Housing Distribution
- BSC2 – The Effective and Efficient Use of land – Brownfield Land and Housing Density
- BSC3 – Affordable Housing
- BSC4 – Housing Mix

- SLE4 – Improved Transport and Connections
- ESD1 – Mitigating and Adapting to Climate Change
- ESD2 – Energy Hierarchy and Allowable Solutions
- ESD3 – Sustainable Construction
- ESD4 – Decentralised Energy Systems
- ESD5 – Renewable Energy
- ESD6 – Sustainable Flood Risk Management
- ESD7 – Sustainable Drainage Systems
- ESD10 – Protection and Enhancement and the Natural Environment
- ESD15 - The Character of the Built and Historic Environment

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

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

#### 8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Cherwell Residential Design Guide (SPD) 2018
- Developer Contributions (SPD) 2017
- Kidlington Framework Masterplan 2016
- Conservation of Habitats and Species Regulations 2017

### **9. APPRAISAL**

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

- Principle of development
- Design, and impact on the character of the area
- Residential amenity
- Highway Safety
- Drainage
- Landscaping
- Ecology impact
- Planning Obligations
- Other Matters

#### Principle of Development

9.2. The principle of residential development in Kidlington is assessed against Policy Villages 1 in the CLP 2015, with Kidlington being recognised as a Category A village, one of the most sustainable settlements in the District's rural areas and having physical characteristics and a range of services to enable it to accommodate some limited extra housing growth. Within Category A villages, residential development will be restricted to the conversion of non-residential buildings, infilling and minor development comprising small groups of dwellings on sites within the built-up area of the settlement.

9.3. The application site is located in an established residential area within Kidlington and contains two detached single storey buildings used for care sales and garage. The application seeks planning permission for the demolition of these buildings and their replacement with two blocks comprising 15no. apartments.

9.4. In determining the acceptability of the principle of new dwellings regard is paid to Government guidance contained within the NPPF. This explains that the purpose of

the planning system is to contribute to the achievement of sustainable development. This is defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs.

- 9.5. Paragraph 10 of the NPPF states that, so sustainable development is pursued in a positive way, at the heart of the NPPF is a presumption in favour of sustainable development. Paragraph 11 states that applying the presumption to decision-making means:
- approving development proposals that accord with up-to-date development plan without delay; or
  - where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (this includes, for applications involving the provision of housing, situations where the Local Planning Authority cannot demonstrate a five-year supply of deliverable housing sites), granting permission unless:
    - i. the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed;
    - ii. or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.
- 9.6. The position in which the most important policies are considered to be out-of-date because of the absence of a five-year housing land supply is often referred to as the 'tilted balance'. Cherwell's position on five-year housing land supply is set out in the 2021 Annual Monitoring Report (AMR). The AMR presents a 3.5 year supply position for 2022-2027. According to the AMR, an additional 2,255 homes would need to be shown to be deliverable within the current 2022-2027 five-year period to achieve a five year supply as required by the NPPF.
- 9.7. However, paragraph 12 of the NPPF advises that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. In February 2021, the primacy of development plans in the planning system was reaffirmed by a Court of Appeal ruling on two appeals by land promoter Gladman, which emphasised that, where a council lacks the required five-year housing land supply, this may tilt the balance in favour of proposed residential schemes but it does not render grants of planning permission automatic.
- 9.8. The provision of additional housing within an existing residential area located in a sustainable Category A village weighs in favour of this proposal which has the potential of increasing the District's housing supply and therefore helps to address the current shortfall, albeit one providing one additional dwelling in this instance. However, any development proposal would need to be assessed against the other policies of the Development Plan.
- 9.9. The proposed development can therefore be considered acceptable in principle, with overall acceptability subject to compliance with the relevant Development Plan policies and the NPPF.

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

##### *Policy Context*

- 9.10. Guidance contained within paragraph 126 of the NPPF covering good design states that *good design is a key aspect of sustainable development, is indivisible from good*

*planning, and should contribute positively to making places better for people. Further, permission should be refused for development of poor design that fails to take the opportunities for improving the character and quality of an area and the way it functions.*

9.11. Saved Policy C28 of the CLP 1996 exercises control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context.

9.12. Policy ESD15 of the CLP 2015 provides guidance as to the assessment of development and its impact upon the character of the built and historic environment. It seeks to secure development that would complement and enhance the character of its context through sensitive siting, layout and ensuring a high-quality design.

9.13. Paragraph 130 of the NPPF states that planning decisions should ensure that developments:

*a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*

*b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*

*c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*

*d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;*

*e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; 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.*

9.14. Section 6.4 of the Cherwell Residential Design Guide (SPD) 2018 relates to Scale. It advises the building scale should respond to local context and proposed character. As a principle for scale, it states "*Taller buildings may be appropriate in town centre locations, but individual buildings should be designed to fit comfortably with the general urban form*".

#### *Assessment*

9.15. In terms of the design of the buildings, concerns were raised through the pre-application process in regard to the height, massing and scale of the proposal. In response the number of units for which permission is sought has been reduced from 20 units to 15 units.

9.16. It is acknowledged that public representatives are concerned with the overall height of the buildings and the impact this would have on the street scene. Concerns have also been raised in regard to the design and external materials to be used, within the local context.

- 9.17. Block A is proposed to be a three storey apartment building. This block is the larger of the two and is situated towards the front of the site facing Bicester Road. Across the three levels are 12 no. units, with 4 no. flats on each floor.
- 9.18. Block B is a single storey block comprising 3no. units, adjacent to the northern boundary at the rear of the site. Given the context of this building with surrounding residential gardens and properties, this block has a more diminutive form.
- 9.19. Both apartment blocks use a contemporary flat roof design, with materials and design details used to minimise the massing and form of the building, whilst creating visual interest. This is achieved through creating steps in the form, use of different brickwork colours and large openings/balconies where appropriate.
- 9.20. Block A is situated adjacent to properties along Bicester Road at the front of the site. The building would be slightly taller (9.5 metres height) than the adjacent buildings at Wheeler Court and Mulberry Court, but not to an extent that would be out-of-keeping with the adjacent developments at Wheeler Court and Mulberry Court. Both of these developments are relatively recently constructed.
- 9.21. Block B is a single storey building situated on part of the site that contains an existing single storey storage building. The design is consistent with the approach to Block A, uses contemporary design details including a flat roof. This approach is consistent with the character of properties adjacent to the site.
- 9.22. The contemporary design of the buildings accords with the style of the adjacent buildings at Wheeler Court and Mulberry Court, which utilise similar changes in materials to break-up the built form, balconies and contemporary design features.

#### *Summary*

- 9.23. Overall, Officers consider that the design of the proposed buildings would be in-keeping with the surrounding streetscene and would not result in harm to the visual amenities of the area, thus complying with Saved Policies C28 and C30 of the CLP 1996 and Policy ESD15 of the CLP 2015.

#### Residential amenity

##### *Policy context*

- 9.24. Saved Policy C30 of the CLP 1996 requires that a development must provide standards of amenity and privacy acceptable to the Local Planning Authority. Policy ESD15 of the CLP 2015 highlights, amongst other things, that new development should *consider the amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation, and indoor and outdoor space.*
- 9.25. The Cherwell Residential Design Guide (2017) states that a minimum distance of 22m back to back, between properties must be maintained and a minimum of 14m distance is required from rear elevation to two storey side gable. First floor habitable room windows must not be within 7m of neighbouring property.

##### *Assessment*

##### *Relationship and Impacts with Existing Residential Properties*

- 9.26. Several of the public representations received have objected on the basis of the proposal causing unacceptable harm to their amenity through a loss of privacy by way of overlooking and loss of light.



- 9.27. On the eastern elevation, Block A contains secondary windows to the living room and kitchen space on the first and second floor of the properties. As outlined in the Cherwell Residential Design Guide, first floor habitable rooms must not be within 7m of a neighbouring property. There is a separation distance of 9.3m. However, there is a potential for overlooking as the floor plans for Mulberry Court show that the windows at the front of building adjacent to the boundary with Block A serve habitable bedrooms. As such, it is considered reasonable and necessary to impose a condition requiring the windows in the side elevation facing Mulberry Court to be obscurely glazed. This retains the reasonable amenity for new occupants of Block A by retaining the secondary window and limits the loss of privacy to existing residents at Mulberry Court.
- 9.28. In regard to the west elevation of Block A, the building has been designed such that there are no windows on this side of the building, and therefore no potential for overlooking along this side of the property. However, the building is situated approximately 5.5 to 6 m away from the east elevation of Wheeler Court which does contain windows which face on to the west elevation of Block A. Whilst this is not ideal, the floor plans approved for Wheeler Court show that, at the centre point of the building where there are windows, these serve a bathroom which is not a habitable room. At the front of the site, there are windows on the first and second floor at Wheeler Court which serve the habitable open plan living space. However, these rooms contain several windows, with two on the front, one of which leads to balcony. Each side elevation of this room at Wheeler Court contains at least 1 window. As such, there are at least 4 windows serving the open plan living space. As such, Officers consider that whilst there would be some harm caused through a loss of light, this would not be so substantial to warrant a refusal given the number of windows serving the space and the opportunity for daylight.
- 9.29. It is noted that concerns have been raised with the potential for overlooking between properties along Blenheim Road and Block A due to the three storey height of the building and habitable windows on the rear elevation. However, the separation exceeds the design guide requirements, measuring in excess of 50 metres to the closest rear elevation and without a direct relationship. As such, Officers consider there would not be harm to the privacy of residents along Blenheim Road as a result of windows on the rear elevation of Block A.
- 9.30. Block B is a single storey building located at the rear of the site, in the position of an existing single storey storage building. There are windows at the rear of the block which serve habitable bedrooms and bathroom spaces. There is a separation of approximately 1.2m before the boundary is reached with the garden of no.1 Blenheim Road. There are no surrounding residential properties that have a direct outlook on to the rear of Block B. As such, there is not potential for harm arising due to overlooking between habitable rooms. It is acknowledged that residents have raised concerns with regards to the possible removal of the boundary treatment between the rear of Block B and the garden of no. 1 Blenheim Road. Whilst the details of boundary treatments have not been provided, a condition securing the submission of these details is recommended. A standard 1.8m high close boarded boundary treatment would be sufficient in order to mitigate any harm

#### *Future Occupants and Outdoor Amenity Space*

- 9.31. Concerns have also been raised regarding the adequacy of the proposed provision of outdoor amenity space. An area of approximately 125m<sup>2</sup> of amenity space is to be provided at the rear of the site, adjacent to Block B. In addition, the apartments which front Bicester Road benefit from an enclosed balcony space. Whilst the amenity space is limited in scale and balconies have not been provided for all of the apartments, it is considered that an acceptable provision of amenity space has been provided. That said, there are parks within Kidlington that are accessible to the public and the lack of

such space is not considered to result in such a poor quality living environment that would warrant the refusal of the application.

### *Summary*

- 9.32. Overall, Officers acknowledge that the relationship of the west elevation of Block A in relation to the windows serving the eastern side elevation of Wheeler Court is not ideal. However, given the provision of alternate windows in the habitable living space of Wheeler Court, Officers consider that it would not be reasonable to refuse the application on amenity grounds in this aspect.
- 9.33. Subject to obscure glazing to the front eastern elevation windows serving the living spaces of the proposed apartments within Block A and a conditions securing suitable boundary treatments to the rear of the site, Officers consider that the proposal would not give rise to unacceptable to harm to residential amenity. Therefore, the proposal would comply with policy ESD15 of the Cherwell Local Plan and saved policy CLP30 of the 1996 Local Plan and advice with the Cherwell Residential Design Guide.

### Highway Safety

#### *Policy context*

- 9.34. Policy ESD15 of the CLP 2015 states, amongst other matters, that new development proposals should: be designed to deliver high quality safe places to live and work in.
- 9.35. Paragraph 108 of the NPPF states that in assessing specific applications for development, it should be ensured that:
- *appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;*
  - *safe and suitable access to the site can be achieved for all users; and*
  - *any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.*
- 9.36. In addition, paragraph 109 highlights that *development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.*

#### *Assessment*

- 9.37. Several concerns have been raised with regards to the parking provision proposed at the site, and the potential impact on highway safety. One parking space is to be provided per property plus three visitor spaces one of which is a disabled space. Whilst this is below OCC's standards, the Local Highway Authority (LHA) has confirmed this approach has been used in numerous occasions within developments based in Kidlington due to the high transport sustainability of the site and has therefore raised no objection to the parking proposed. Further to this, the LHA has raised no objections to the proposals, with the Highways Officers recommended conditions included as part of the recommendation on the application.
- 9.38. Furthermore, the LHA has requested a financial contribution towards additional double yellow line provision, in the form of a Traffic Regulation Order. This is considered reasonable and necessary to make the development acceptable to reduce unacceptable parking on the street.
- 9.39. The site is in a highly sustainable location, with frequent bus services within close proximity to the site. Further to this, there are a number of nearby amenities close to the site, and there are good levels of cycling infrastructure nearby. The application

includes suitable cycle parking provision, subject to additional details required by condition relating to the specific stand details. This would further promote the use of sustainable forms of travel and can be secured by an appropriately worded condition.

- 9.40. The LHA request for an electrical charging condition has not been imposed due to changes to Building Regulations.
- 9.41. Given the above, it is therefore considered the proposals comply with Policy ESD15 of the CLP 2015 and Government guidance contained within the NPPF and would therefore be acceptable in highway safety terms.

### Drainage

#### *Policy Context*

- 9.42. The NPPF states at paragraph 163 that when determining applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood risk assessment.
- 9.43. Policies ESD 6 and ESD 7 of the CLP 2015 together resist new development where it would increase flood risk or be unduly vulnerable to flooding. They also seek to ensure that the proposals incorporate sustainable drainage systems in order to prevent increased risk of flooding.

#### *Assessment*

- 9.44. It is acknowledged by Officers that there are objections due to the lack of drainage information in support of the application. The site lies within Flood Zone 1 the area at lowest risk of flooding, and therefore a Flood Risk Assessment was not required in support of the application. The applicant's Design and Access statement acknowledges that a SuDS compliant drainage scheme will be required to serve the proposal; however, it is considered that this could be secured by way of a suitably worded condition attached to any permission granted.
- 9.45. Having regard to the above, and that the site contains an existing building, it is considered that sufficient drainage details could be secured by way of a suitably worded condition and therefore the proposed development is considered acceptable in drainage terms and in accord with Policies: ESD6 and ESD7 of the CLP 2015.

### Landscaping

- 9.46. The application includes areas of amenity space and landscaping. However, details of the specific landscaping to be provided have not been submitted as part of the application. As such, it is considered reasonable and necessary to provide details of the landscaping and its management to ensure that the proposals are suitable in the context of the site. These details could be secured by way of a suitably worded condition and therefore the proposed development is considered acceptable in drainage terms and in accord with Policy ESD15 of the CLP 2015.

### Ecology Impact

#### *Legislative context*

- 9.47. 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.

- 9.48. 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.
- 9.49. 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.
- 9.50. 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.
- 9.51. The Regulations require competent authorities to consider or review planning permission, applied for or granted, affecting a European site, and, subject to certain exceptions, restrict or revoke permission where the integrity of the site would be adversely affected. Equivalent consideration and review provisions are made with respects to highways and roads, electricity, pipe-lines, transport and works, and environmental controls (including discharge consents under water pollution legislation).

#### *Policy Context*

- 9.52. Paragraph 170 of the NPPF states that Planning policies and decisions should contribute to and enhance the natural and local environment by (amongst others): a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils; and d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 9.53. Paragraph 175 states that when determining planning applications, local planning authorities (LPAs) should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and

around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

- 9.54. Paragraph 180 of the NPPF states that planning decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should (amongst others) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.
- 9.55. 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.
- 9.56. Policy ESD11 is concerned with Conservation Target Areas (CTAs), and requires all development proposals within or adjacent CTAs to be accompanied by a biodiversity survey and a report identifying constraints and opportunities for biodiversity enhancement.
- 9.57. 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.
- 9.58. The Planning Practice Guidance dated 2014 post dates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that LPAs should only require ecological surveys where clearly justified, for example if there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.

#### *Assessment*

- 9.59. Given the site's context within a built residential area of Kidlington and the existing garage/showroom there is limited potential for protected species on site. However, Policy ESD10 of the Local Plan requires new developments within the District should achieve a net gain in biodiversity through the protection, enhancement or creation of new biodiversity measures on site.
- 9.60. Accordingly, it is reasonable and necessary to include a condition requiring the submission of a biodiversity enhancement scheme.
- 9.61. In addition, it is noted that public comments have raised concerns with the presence of nesting birds on or in close proximity to the site. As such, a condition is recommended which restricts the clearance of the site during nesting season unless other provisions are agreed with the Local Planning Authority.

#### Planning Obligations

- 9.62. A S106 Legal agreement will be required to be entered into to secure mitigation resulting from the impact of the development both on and off site. This would ensure that the requirements of Policy INF1 of the CLP 2015 can be met, which seeks to ensure that the impacts of development upon infrastructure including transport, education, health, social and community facilities can be mitigated. The Authority is also required to ensure that any contributions sought meet the following legislative

tests, set out at Regulation 122 of the Community Infrastructure Regulations 2011 (as amended):

- Necessary to make the development acceptable in planning terms;
- Directly relate to the development; and
- Fairly and reasonable related in scale and kind to the development

9.63. The table at Appendix 1 sets out the required Heads of Terms and the justification for those requests.

### Other Matters

#### *Land Ownership Dispute*

9.64. It is noted that many of the representations received related to concerns regarding the ownership of the amenity space to be provided at the rear of the site. Following these comments, the applicant has advised they have taken advice from a solicitor and amended their site location plan accordingly to now show the correct land ownership for the site.

9.65. Whilst land ownership disputes are not materially relevant to the consideration of the application, there are procedural matters that are associated with land ownership that must be adhered to, in order for the application to be valid.

9.66. The role of the Local Planning Authority in land ownership is to ensure that where the applicant does not own all of the land within the red-edged site location plan, appropriate notices are served on any landowners. Accordingly, the applicant has signed Certificate B of the application forms, stating that they are not the sole owner of the land and have listed the other parties that have been notified of the planning application. This list amounts to four additional interested parties, with notice having been served on 8 December 2021.

9.67. The amended plans show that an area of land between the rear of Mulberry House and the proposed amenity space has been removed from the red edged site location and block plans, therefore, is no longer included within the proposed development site. There is an area of land which remains to eastern side of the proposed Block A and the rear of Mulberry House and its curtilage that is proposed to remain as amenity space serving the development. This is considered sufficient, in combination with the balconies and other areas of amenity space on the site, to serve thr needs of future residents. ....

9.68. From the information provided from the applicant and the public representatives, the area of amenity space to be included appears to fall within the ownership of one of the parties which have been served notice. Therefore, appropriate notice has been served on the interest parties and the Authority is satisfied that there is a reasonable opportunity for the development to come forward as proposed.

9.69. Should planning permission be granted, a S106 agreement would be required to be signed by all parties who have an interest on the land. At this point, land registry plans are checked in relation to agreeing the S106 obligations. Should a land owner been identified that has not been served the correct notice, appropriate action would at this point be taken.

## 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.
- 10.2. The delivery of housing is high on the Government and District Council's agendas. Having regard to the above, the proposal will secure additional housing provision, in particular having regard to the Council's lack of a five-year housing land supply and other material planning consideration, the proposal is on balance considered acceptable.

## 11. RECOMMENDATION

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

S106 Head of Terms:

As set out in the table at Appendix 1.

Conditions:

**Time Limit**

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

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

**Compliance with Plans**

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

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.

**Landscaping**

3. A scheme for landscaping the site shall be provided to and approved in writing by the Local Planning Authority which shall include:-
- (a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas and written specifications (including cultivation and other operations associated with plant and grass establishment i.e. depth of topsoil, mulch etc),

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

(c) details of the hard landscaping including hard surface areas, pavements, pedestrian areas and steps.

(d) Full details of all means of enclosures

Such details shall be provided prior to the development progressing above slab level or such alternative time frame as agreed in writing by the developer and the Local Planning Authority. The development shall be carried out in accordance with the approved details and the hard landscape elements shall be carried out prior to the first occupation of the development and shall be retained as such thereafter.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building(s) or on the completion of the development, whichever is the sooner; and that any trees and shrubs which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent for any variation.

Reason: To ensure that 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.

#### **Materials Details**

4. No development shall commence above slab level unless and until full details of the materials to be used in the construction of the external walls and roof of the building (including samples) as well as how these materials are to be applied on building have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved details and shall be retained as such thereafter.

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

#### **Door and Window Details**

5. No development shall commence above slab level except for demolition unless and until full details of the doors and windows hereby approved, at a scale of 1:20 including a cross section, cill, lintel and recess detail and colour/finish, have been submitted to and approved in writing by the Local Planning Authority. Thereafter the doors and windows shall be installed within the building in accordance with the approved details and shall be retained as such thereafter.

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



### **Vehicular Access Details**

6. No development shall commence except for demolition unless and until full specification details of the vehicular accesses, driveways and turning areas to serve the dwellings, which shall include construction, layout, surfacing, lighting and drainage, have been submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the first occupation of any of the dwellings, the access, driveways and turning areas shall be constructed in accordance with the approved details.

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

### **Parking Space Provision**

7. No dwelling shall be occupied until car parking space to serve that dwelling has been provided according to details that have been submitted to and agreed in writing by the Local Planning Authority. All car parking shall be retained unobstructed except for the parking and manoeuvring of vehicles at all times thereafter, unless otherwise agreed in writing beforehand by the local planning authority.

Reason: To ensure appropriate levels of car parking are available at all times to serve the development, and to comply with Government guidance contained within the National Planning Policy Framework.

### **Surface Water Drainage Details**

8. No development shall commence except for demolition unless and until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall also include:

- Discharge Rates
- Discharge Volumes
- Maintenance and management of SUDS features
- Sizing of features - attenuation volume
- Infiltration in accordance with BRE365
- Detailed drainage layout with pipe numbers
- SUDS - (in a treatment train approach to improve water quality)
- Network drainage calculations
- Phasing
- Flood routes in exceedance

Reason: To ensure satisfactory drainage of the site in the interests of public health, to avoid flooding of adjacent land and property and to comply with Policies ESD6 and ESD7 of the Cherwell Local Plan (2011-2031) Part 1 and Government guidance contained within the National Planning Policy Framework.

### **Site Contamination**

9. Further contamination risk assessment is required in accordance with paragraph 10.3.2 of the submitted Geo-Environmental Site Investigation, BRD3473-OR2-A report. Prior to the commencement of the development hereby permitted, the further assessment recommended at paragraph 10.3.2 shall be undertaken to inform the remediation strategy proposals. This shall be documented as a report undertaken by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place unless the Local Planning Authority has given its written approval that it is satisfied that the risk from contamination has been adequately characterised as required by this condition.

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

10. If contamination is found by undertaking the work carried out under condition 9, prior to the commencement of the development hereby permitted, a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval of the scheme of remediation and/or monitoring required by this condition.

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

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

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

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

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

### **Cycle Storage**

13. Prior to the first occupation of the dwellings hereby approved, full design details of the cycle storage area, including elevations and materials, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved cycle storage area shall be erected in accordance with the approved details, prior to the first occupation of those dwellings.

Reason: To encourage sustainable modes of transport, to ensure the satisfactory appearance of the completed development and to comply with Policies ESD1 and ESD 15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

### **Waste Management**

14. Prior to the occupation of the development hereby approved, a waste management strategy including details of how waste would be collected from the site, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out and maintained in accordance with the approved details.

Reason: In order that proper arrangements are made for the disposal of waste, in the interests of highway safety and in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

### **Biodiversity Enhancement**

15. No development shall commence, including any demolition, and any works of site clearance, unless and until a method statement for enhancing the biodiversity on the site has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the biodiversity enhancement measures shall be carried out and retained in accordance with the approved details.

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

### **Boundary Treatments**

16. No development shall commence above slab level except for demolition unless until details of the boundary treatments have been submitted to and approved in writing by the Local Planning Authority. Thereafter, boundary treatments shall be implemented prior to the occupation of any unit on the site and retained in accordance with the approved details.

Reason: In order that proper arrangements are made for the disposal of waste, in the interests of highway safety and in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

### **Site Clearance outside of Nesting Season**

17. All site clearance (including the removal of any vegetation or works to hedgerows) should be timed so as to avoid the bird nesting season, this being during the months of March until July inclusive unless alternative provisions have been previously agreed in writing by the Local Planning Authority

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

### **Noise Levels to Habitable Rooms**

18. Prior to the development commencing, except for demolition, a report should be provided and approved in writing by the local planning authority that shows that all habitable rooms within the dwelling will achieve the noise levels specified in BS8233:2014 (Guidance on sound insulation and noise reduction for buildings) for indoor and external noise levels (if required then the methods for rating the noise in BS4142:2014 should be used, such as for noise from industrial sources). Thereafter, and prior to the first occupation of the dwellings affected by this condition, the dwellings shall be insulated and maintained in accordance with the approved details.

Reason: In the interests of the residential amenities of the area and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

### **Construction Environment Management Plan**

19. No development shall commence unless and until a Construction Environment Management Plan (CEMP), which shall include details of the measures to be taken to ensure construction works do not adversely affect residential properties on, adjacent to or surrounding the site together with details of the consultation and communication to be carried out with local residents has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with approved CEMP

Reason: In the interests of the residential amenities of the area, to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework

### **External Lighting**

20. Prior to the first use of the development hereby approved details of the external lighting and security lighting including the design, position, orientation and any screening of the lighting shall be submitted to and approved in writing by the Local Planning Authority. Prior to the first use of the development hereby approved the lighting shall be installed and operated in accordance with the approved scheme at all times thereafter.

Reason: In the interests of the residential amenities of the area, to ensure and retain the satisfactory appearance of the completed development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

### **Obscure Glazing to Eastern Windows of Block A**

21. The windows at ground floor, first floor and second floor level in the eastern side elevation that serve the habitable living areas of flats 1, 5 and 9 as shown on the Sketch Units – Block A Plans 18112-PP-002-A shall be permanently retained with

purpose made obscure glazing and shall be top opening only at 1.7m above the floor level of the room in which the window is installed.

Reason: To safeguard the amenity of the occupiers at Mulberry Court, former 3 Bicester Road, to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

**APPENDIX 1 – Heads of Terms for Section 106 Agreement/Undertaking**

<b>Planning Obligation</b>			
<b>Detail</b>	<b>Amounts (all to be index linked)</b>	<b>Trigger Points</b>	<b>Regulation 122 Assessment</b>
Off-site Affordable housing	Tbc but would be equivalent to the cost of providing 5 affordable units on site which is 35% of the total, to be delegated to Officers	Tbc but likely prior to the occupation of any unit on site to be delegated to Officers	<p><b>Necessary</b> – as would provide housing for those who are not able to rent or buy on the open market pursuant to Policy BSC3 of the Cherwell Local Plan</p> <p><b>Directly Related</b> – the affordable housing would be provided off-site due to relatively small-scale of the proposal and requirements for registered providers to take on affordable housing on site. The requirement is directly generated from the proposal, above the affordable housing threshold set out in Policy BSC3.</p> <p><b>Fairly and reasonably related in scale and kind</b> – the contribution will be based upon the Cherwell Local Plan requirement for the percentage of affordable housing and the associated cost of providing this off-site.</p>
Off-site outdoor sports facilities provision at Stratfield Brake	£5,557.76	Prior to the occupation of any unit on site	<b>Necessary</b> - the proposed development will lead to an increase in demand and pressure on existing

Off-site indoor sports facilities provision at Kidlington and Gosford Leisure Centre	£3160.56	Prior to the occupation of any unit on site	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.
Community Hall Facilities	£11,128.00	Prior to the occupation of any unit on site	<p><b>Directly Related</b> – the future occupiers will place additional demand on existing facilities.</p> <p><b>Fairly and reasonably related in scale and kind</b> – calculations have been based on the final mix of housing proposed and the likely number of occupants as set out in the Developer Contributions SPD.</p>
Waste and Recycling Facilities	£1,665	Prior to the occupation of any unit on site	<p><b>Necessary</b> – the dwellings will require adequate recycling facilities and waste collections for future occupants and in accordance with the advice in the Developer Contributions SPD.</p> <p><b>Directly Related</b> – the need for these comes from the provision of new residential accommodation</p> <p><b>Fairly and reasonably related in scale and kind</b> – costs in accordance with the advice in the Developer Contribution SPD.</p>
Traffic Regulation Order	£6,255	Likely prior to the occupation of any unit on site, to be delegated to Officers	<b>Necessary</b> – the proposal will place an additional demand on street parking and further management through the provision of double yellow rules around

			<p>Oxford Road/Bicester Road are required to mitigate any harm from off-site parking</p> <p><b>Directly Related</b> – the need for this arises from the provision of new residential accommodation and a reduction in on-site parking below OCCs standards.</p> <p><b>Fairly and reasonably related in scale and kind</b> – the costing of this TRO is directly related to the scale of additional yellow lines that required as a result of the scale of the proposed development and reduction in parking below the standard required.</p>
Requirement to monitor the development through the construction and post occupancy stages	N/A	The requirement to agree a scheme prior to implementation and then ongoing timescales to monitor the development	<p><b>Necessary</b> – in order to ensure that the development is meeting the high standards sought across the district.</p> <p><b>Directly related</b> – the monitoring is directly related to the development itself</p> <p><b>Fairly and reasonably related in scale and kind</b> – the monitoring to be undertaken would be proportionate to the development itself and therefore is fairly and reasonably related in scale and kind to the development.</p>
CDC and OCC Monitoring Fees	CDC - £1,500	On completion of S106	The CDC charge is based upon its recently agreed Fees and Charges Schedule which set



	OCC- TBC		<p>out that for developments of 10-100 dwellings that a bespoke charge will be based upon the number of obligations and triggers with a minimum charge of £1,000. A registration charge of £500 is also applicable. As the development has relatively few obligations and triggers for CDC, the minimum charge plus the registration charge is required. The need for a monitoring fee is to ensure that it can appropriately monitor that the development is complying with its S106 including the high standards sought at the site and taking into account the context of the site.</p>
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Agenda Item 13  
**22/03821/F**

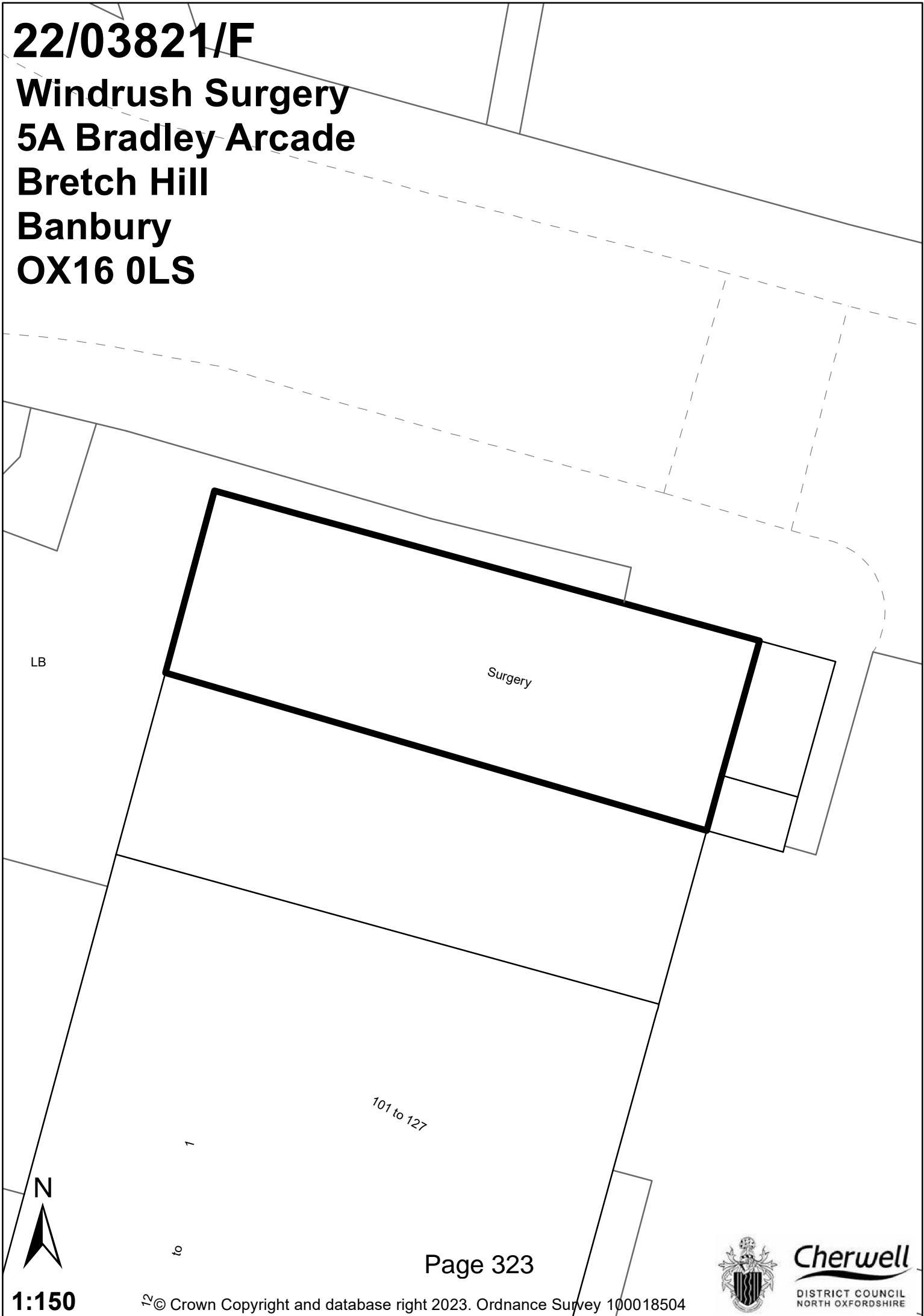
**Windrush Surgery  
5A Bradley Arcade  
Bretch Hill  
Banbury  
OX16 0LS**



**1:300**

**22/03821/F**

**Windrush Surgery  
5A Bradley Arcade  
Bretch Hill  
Banbury  
OX16 0LS**



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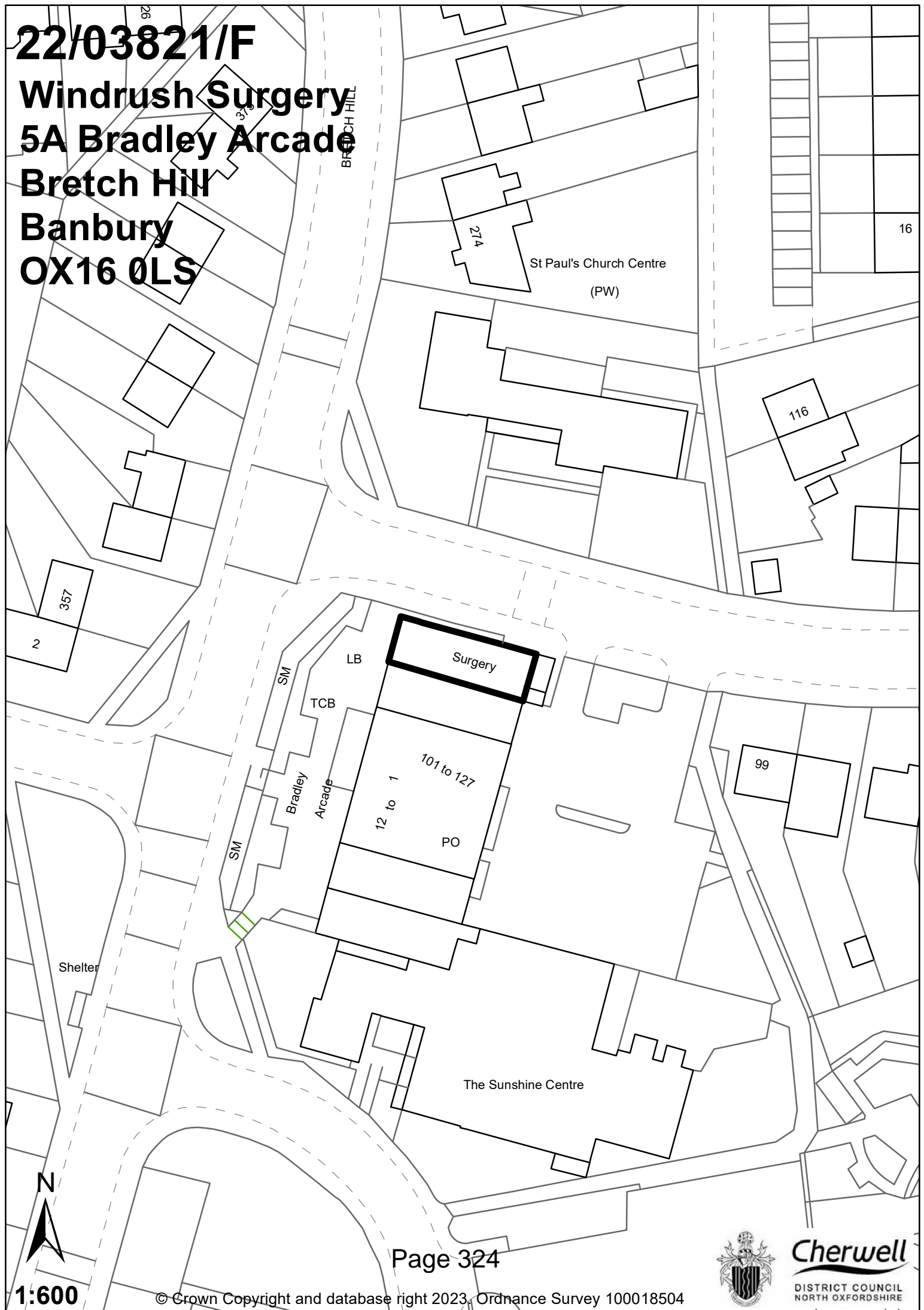


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**22/03821/F**

**Windrush Surgery  
5A Bradley Arcade  
Bretch Hill  
Banbury  
OX16 0LS**



**Case Officer:** Michael Sackey

**Applicant:** Mr F Sharma

**Proposal:** Change of Use of former doctors surgery to Class E to facilitate the expansion of the Londis shop and for minor internal alterations

**Ward:** Banbury Ruscote

**Councillors:** Cllr Cherry, Cllr Watkins and Cllr Woodcock

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

**Expiry Date:** 13 March 2023

**Committee Date:** 09.03.2023

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

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

1.1. The application relates to 5A Bradley Arcade, which is part of a three-storey building with retail units and a doctor's surgery at the ground floor level and flats on the upper floor levels. The site is located in Banbury, the building is not listed or within a Conservation Area.

### **2. CONSTRAINTS**

2.1. There are no site specific constraints to affect the application's assessment.

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

3.1. The current application is for the change of use of the former doctors' surgery to facilitate the expansion of the existing Londis shop adjacent to the property. The proposal also involves minor internal alterations.

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

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

**Application: 07/01895/OUT** Permitted 2 January 2008

Outline - Development comprising of B1 and B2 uses (previous permission 00/02338/OUT)

### **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 **14 February 2023**, although comments received after this date and before finalising this report have also been taken into account.
- 6.2. No comments have been raised by third parties.

## 7. RESPONSE TO CONSULTATION

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

### TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

- 7.2. BANBURY TOWN COUNCIL: **no objections**

### OTHER CONSULTEES

- 7.3. OCC HIGHWAYS: **no objections**
- 7.4. WARD COUNCILLOR (Banbury Ruscote): **Consulted on (29.12.2023); no comments received.**
- 7.5. CDC BUILDING CONTROL: **no objections, a full plans application will be required for the proposals.**
- 7.6. CDC ENVIRONMENTAL HEALTH: **no objections**

## 8. RELEVANT PLANNING POLICY AND GUIDANCE

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

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

- ESD15: The Character of the Built and Historic Environment
- PSD1: Presumption in Favour of Sustainable Development

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

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

### 8.3. Other Material Planning Considerations

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

## 9. APPRAISAL

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

- Principle of the change of use
- Other matters

#### Principle of change of use

##### *Policy*

9.2. Government guidance contained within 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.

9.3. Policy PSD1 contained within the CLP 2015 echoes the NPPF's requirements for 'sustainable development' and that planning applications that accord with the policies in the Development Plan will be approved without delay unless material considerations indicate otherwise.

9.4. The NPPF 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'* (NPPF, Para. 12). Cherwell District Council has an up-to-date Local Plan which was adopted on 20th July 2015. The presumption in favour of sustainable development, as advised by the NPPF, will therefore need to be applied in this context.

##### *Assessment*

9.5. The application is accompanied by a cover letter setting out that the applicant is the tenant of the Londis store, leasing the units from Cherwell District Council, and proposes to expand the operation of the Londis Store, which would include the expansion of the Post Office Counter to provide an improved facility for local residents. The cover letter states that the proposed internal alterations include the introduction of a doorway access between the existing store and the unit previously used as a doctor's surgery.

9.6. The applicant's agent has also submitted information during the course of the application confirming that the existing unit operated on a part time basis, closed during lockdown in 2020 and did not re-open. The unit has been vacant since 2020 and the agent advised that the building has been advertised since 2022.

9.7. The Council's Interim Estates Surveyor has also confirmed that the property has been marketed since June 2022 and has attracted no interest from medical providers.

9.8. Prior to the 2020/1 amendments of the Use Classes Order, the existing use was Class D1 and the proposed use Class A1; this change of use would have required planning permission.

9.9. However, under the Use Classes Order amended in 2020/21, the existing use and the proposed use both fall within Class E. While Class E is subdivided, that is, the

existing use is Class E(e.) and the proposed use is Class E(a), any change of use within Class E does not amount to development and may take place without planning permission, unless there have been any conditions placed on any planning permission relating to the site which restrict the use. In this instance there are no such conditions and therefore the proposed retail use is to be considered acceptable.

#### Other matters

- 9.10. The only proposed external alterations relate to the new (extended) Londis advertisement above the existing openings on the north and west elevations. This is not included in the description of development, does not form part of the current application and may require separate advertisement consent.
- 9.11. The proposed internal alterations do not amount to development and therefore do not require planning permission.
- 9.12. In light of the above, the proposals are considered not to have any implications for visual or residential amenity or local highway safety.

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

- 10.1. The proposed development is acceptable in principle, would respect the character and visual amenities of the area, and would not result in harm to residential amenity or highway safety. The proposal therefore complies with Policies PSD1 and ESD15 of the CLP 2015, saved Policies C28 and ENV1 of the CLP 1996 and the relevant paragraphs of the NPPF. Therefore, the application is recommended for approval subject to appropriate conditions.

### **11. RECOMMENDATION**

That permission is granted, subject to the following conditions.

#### **Time Limit**

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

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

#### **Compliance with Plans**

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out in accordance with the following plans and documents: Site location plan 1:1250, Elevations/Proposed, Ground floor/Proposed and CAR PARK 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.

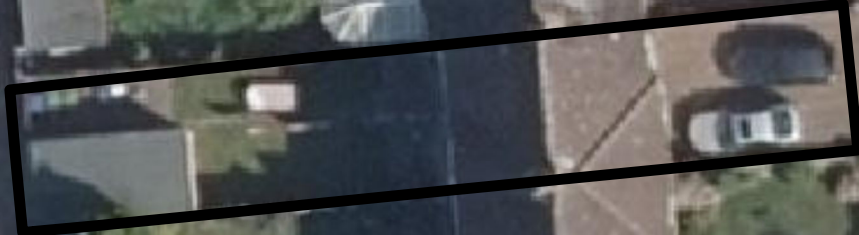
CASE OFFICER: Michael Sackey



**22/03180/F**

Agenda Item 14

**4 Grimsbury Square  
Banbury  
OX16 3HX**



**1:300**



**22/03180/F**

**4 Grimsbury Square**

**Banbury**

**OX16 3HX**

GRIMSBURY SQUARE



**1:200**



**22/03180/F**

**4 Grimsbury Square  
Banbury  
OX16 3HX**



GRIMSBURY SQUARE

GRIMSBURY SQUARE

Grimsbury Square Gardens



**1:600**



**Case Officer:** Jordan Campbell

**Applicant:** Ms Fazal Bibi

**Proposal:** Single storey rear extension

**Ward:** Banbury Grimsbury and Hightown

**Councillors:** Cllr Beere, Cllr Biegel and Cllr Moon

**Reason for Referral:** Application submitted by a member of staff acting as agent, advisor or consultant

**Expiry Date:** 10 March 2023

**Committee Date:** 9 March 2023

## **SUMMARY RECOMMENDATION: GRANT PERMISSION**

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

1.1. The application relates to a semi-detached, two-storey dwelling facing eastwards onto Grimsbury Square, bounded by residential neighbours to either side and by an access lane to the rear/west serving the backs of various properties.

### **2. CONSTRAINTS**

2.1. The application dwelling is not a listed building, nor is the site located within a conservation area. There are no site-specific constraints relevant to the assessment of this application.

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

3.1. The applicant seeks planning permission for a single storey rear extension

### **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 **12 December 2022**.

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

- Concerns raised that construction works may block and prevent access to the shared rear access

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. BANBURY TOWN COUNCIL: **No objections**

### OTHER CONSULTEES

7.3. n/a

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

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

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

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

- 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 / amenity

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Cherwell Residential Design Guide (2018)
- CDC Home Extensions and Alterations Design Guide (2007)

## **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

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

- 9.2. The proposed extension would be set to the rear and set down in height from the existing dwelling and given its scale, form and siting would be a subservient addition to the dwelling. Therefore, and while it may be visible in glimpsed views from the north/north-west, it would not significantly or adversely affect the character or appearance of the area. The materials proposed would match those of the existing dwelling.

### Residential amenity

- 9.3. Given its scale and siting the proposal would not materially affect neighbours to the east of the site or to the west/rear. The extension would be set off the boundary with the neighbour to the south and given this spatial relationship and its scale and siting the proposal would not adversely affect the living conditions of this neighbour either through loss of light, privacy or outlook.
- 9.4. The proposed extension would, however, abut the boundary with the neighbour to the north and would have an impact on this neighbour's light and outlook, including to the neighbour's conservatory which is directly north of the proposed extension. That said, regard is had to the depth (3.25m), eaves height (2.35m), relatively low roof pitch and that the proposed extension would not project rearward of the conservatory, indeed it would not project as far as the conservatory. In addition, the affected neighbour has not objected to the application.
- 9.5. Overall, on balance, it is considered that the proposal would not adversely affect the living conditions of neighbouring occupiers either through loss of light, privacy or outlook.

### Highway safety

- 9.6. No additional bedrooms have been added to the site as a result of the proposed development. Thus, it is considered there would be no significant adverse impact to the safety of the local highway network or any requirement for the provision of additional off-street parking at the site, and the proposal is therefore acceptable in this regard.

## **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**

**GRANT PERMISSION, SUBJECT TO THE CONDITIONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY)**

**Time Limit**

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

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

**Compliance with Plans**

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out in accordance with the information contained within the application form and drawings numbered P.01 and P.02

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.

CASE OFFICER: Jordan Campbell

# Agenda Item 15

## Cherwell District Council

### Planning Committee

9 March 2023

### 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) 22/02210/F – 2 Cottage View, Great Close Road, Yarnton, Kidlington, OX5 1QW**

Remove existing garage and rear extension; erection of new single and two storey extensions to provide new garage and additional living space - re-submission of 21/04246/F.

Officer Recommendation: Refusal  
Method of determination: Written Representation  
Start Date: 26/01/2023  
Appeal Reference: 23/00056/REF

**b) 22/02534/F – 46 Dashwood Avenue, Yarnton, Kidlington, OX5 1NJ**

Officer Recommendation: Refused  
Method of Determination: Written Representation (Fast Track)  
Start Date: 26/01/2023  
Appeal Reference Number: 23/00055/REF

Render existing house and retrospective application for front boundary treatment including dwarf wall, pillars, posts, and metal railings.



**c) 22/03009/F – 2 Old Chapel Close, Kidlington, OX5 2HN**

Two Storey Side Extension.

Officer Recommendation: Refusal  
Method of Determination: Written Representation  
Start Date: 09/02/2023  
Appeal Reference Number: 23/00058/F

**d) 22/02121/F – 10 Austin Way, Ambrosden, Bicester, OX25 2DA**

RETROSPECTIVE - Driveway Fence - To restore the property to the intended specification as agreed at the planning stage with the developer. This would take the form of a fence adjacent to the driveway. Side Fence - to replace the existing side fence with a fence of same or lower height, plus a gate to allow a degree of privacy and safety near the highway.

Officer Recommendation: Refusal  
Method of Determination: Written Representation  
Start Date: 02/02/2023  
Appeal Reference Number: 23/00057/REF

**e) 22/01908/TEL56 - Street Record, Lucerne Avenue, Bicester**

Proposed 5G telecoms installation: H3G street pole and additional equipment cabinets.

Officer Recommendation: Refusal  
Method of Determination: Written Representation  
Start Date: 13/02/2023  
Appeal Reference Number: 23/00059/REF

### **3.2 New Enforcement Appeals**

**a) 21/00078/ENF – Cherwell Concrete – Bagnalls Haulage Ltd, Bagnalls Coal Yard, Station Road, Enslow, Kidlington, OX5 3AX**

Without planning permission, the material change of use of the land to a concrete batching plant and the erection of associated apparatus including a conveyor, corrugated enclosure, hoppers and storage tanks.

Officers Recommendation: Enforcement Notice  
Method of Determination: Written Representation  
Start Date: 09/02/2023  
Appeal Reference Number: 23/00061/ENF

**b) 21/00078/ENF – Mr & Mrs Murphy – Bagnalls Haulage Ltd, Bagnalls Coal Yard, Station Road, Enslow, Kidlington, OX5 3AX**

Without planning permission, the material change of use of the land to a concrete batching plant and the erection of associated apparatus including a conveyor, corrugated enclosure, hoppers and storage tanks.

Officers Recommendation: Enforcement Notice  
Method of Determination: Written Representation

### 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  
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 new buildings 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  
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 new buildings 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  
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  
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: Application not determined

Method of determination: Written Representations

Start Date: 21.06.2022

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

Appeal reference: 22/00038/REF

**g) 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

Appeal reference: 22/00040/REF

**h) 22/00173/CLUP – 15 Arncott 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

Appeal reference: 22/00023/REF

**i) 22/01488/OUT - OS Parcel 5616 South West Of Huscote Farm And East Of Daventry Road, Banbury.**

Construction of up to 140,000 sq m of employment floorspace (use class B8 with ancillary offices and facilities) and servicing and infrastructure including new site accesses, internal roads and footpaths, landscaping including earthworks to create development platforms and bunds, drainage features and other associated works including demolition of the existing farmhouse.

Officers Recommendation: Application not yet determined.

Method of determination: Public Inquiry.  
Hearing Date: 11 April – 20 April 2023  
Hearing Venue: Banbury Town Council  
Start Date: 21/12/2022.  
Appeal Reference: 22/00053/NON

**j) 21/02573/F – Waverley House, Queens Avenue, Bicester, OX26 2PY**

Demolition of existing building and erection of building to form 48 numbered apartments together with landscaping, car parking, bin stores, secure cycle parking and associated infrastructure.

Officer Recommendation: Refusal  
Method of Determination: Hearing  
Hearing Date: 18<sup>th</sup> April 2023  
Hearing Venue: To Be Arranged  
Start Date: 24/01/2023  
Appeal Reference: 23/00054/REF

**3.4 Forthcoming Public Inquiries and Hearings between 12<sup>th</sup> February and 9<sup>th</sup> March 2023**

None.

**3.5 Appeal Results**

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

**a) 21/03177/F – The Planning Inspector allowed the appeal by Albion Land 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 at Land West of Howes Lane, Bicester.**

Method of determination: Hearing  
Appeal reference: 22/00045/REF

The Inspector identified that the main issue is whether the proposed development would accord with the Council's development strategy for employment land and housing.

The Inspector found that:

- The Masterplan is embodied within the SPD rather than the Local Plan and therefore it is not part of the development plan and therefore carries comparatively reduced weight.
- Funding for the SLR has been re-allocated to elsewhere in the District and there is no further funding allocated for the SLR. There is no certainty that the SLR will be delivered in the foreseeable future. Whilst the Council stated that they are seeking contributions from developers of other sites within the masterplan area towards the SLR, given the importance of the

SLR in the masterplan, the uncertainty of its funding and therefore its delivery, the weight attributed to the SPD is further reduced.

- The outline permission for 150 dwellings on the site expired in December 2022 and therefore could not be implemented.
- The Residential Viability Report submitted by the Appellant during the appeal process concludes that there would be a substantial viability deficit driven primarily by the abnormal site costs which include road works and the 'true' zero costs of the Eco Town. The Council accepted that there was a need to be more flexible with policy requirements particularly with respect to affordable housing, environmental requirements and eco town build standards. As such, although it was not independently assessed by the Council, the conclusions of the report reflect the Council's experience in this respect. Therefore, even if a transport impact assessment found that a scheme for housing on the site without the SLR would not result in a severe impact, there is no realistic prospect that a policy compliant housing development could be delivered on the site within the next five years. Since housing on the site is not deliverable, the proposal for change of use of the site would not adversely affect the existing housing land supply position for the next five years.

While it is possible that the cost of achieving the net zero requirements could reduce in the future, there is no certainty in this respect. Therefore, together with the uncertainty of the delivery of the SLR, the deliverability of policy compliant housing on the site in the long term is also in doubt. Therefore, the harm that would result from the proposed change of use of the site and resulting conflict with Policy Bicester 1 would be limited.

The benefits of the proposed employment units include a significant number of job opportunities which could be delivered early in the plan period. This would contribute towards the employment requirements set out in Policy Bicester 1 and provide economic benefits during and after construction. The significant benefits compared with the limited harm that would result from the Development Plan conflict are a material consideration which indicate a decision other than in accordance with the development plan.

**b) 21/03925//LB – The Planning Inspector dismissed the appeal by Mr Peter Vance for a proposed single storey extension and installation of a Solar Panels to southern roof slope at Urina Cottage, Chapel Lane, Adderbury, OX17 3LZ.**

Method of determination: Written Representations  
Appeal Reference: 22/00050/REF

The Inspector identified the main issues as whether the proposed development/works would preserve the grade II listed Urina Cottage or its setting and any features of special architectural or historic interest that it possesses and whether the scheme would preserve or enhance the Adderbury Conservation Area.

The inspector found that the extension proposed had a much larger footprint than that it would replace and would further erode the original long and narrow plan form of the property. Moreover, its roof would have a large lantern, flat roof and hipped roof elements giving it a complicated appearance which would be in stark contrast with the traditional architectural form of the grade II listed building.

Regarding the Solar Panels, the inspector found that the proposed panels would have a highly modern appearance and would cover the majority of the large south facing roof slope of the existing first floor extension. Through their scale and highly contemporary appearance they would have a dominant and visually conflicting effect on the listed building. Consequently, the proposed solar panels would have the effect of drawing attention away from the simple traditional architectural detailing of the heritage asset

- c) 22/01585/F – The Planning Inspector allowed the appeal by Mr John Humphreys for a change of use of grass verge/land within the appellant’s ownership to enclosed residential garden area. Erect 1.8m high close board fencing set back from pavement to match existing rear to boundary fencing at 6 Willow Road, Banbury, Oxon, OX16 9EY.**

Method of determination: Written Representation.  
Appeal Reference: 22/00046/REF

The Inspector identified the main issues as the effect of the proposed development on the character and appearance of the area.

The inspector found that the appeal site was small and due to the position of an adjacent wall, it is largely concealed from wider views on Maple Close. Also, the site is not readily visible from wider views on Willow Road, other than from a distance at the entrance to the lane. Accordingly, having regard its size and position in the lane, enclosing the grass verge would not be damaging to the openness experienced at either end of the lane, and it would not detract from the pockets of larger green spaces that add value to the character and appearance to the area. The timber fence would also be of a height that would be comparable to the walls and fences in the immediate vicinity. The comparable height of the fence together with its short length and setback ensures it would not appear as a dominate feature to the users of the lane.

- d) 22/10188/F – The Planning Inspector allowed the appeal by Mr Lee Maskery for the proposed for a Single storey front porch extension and incorporation of garage to provide a utility room and study at 2A Strawberry Hill, Bloxham, Banbury, Oxon, OX15 4NW.**

Method of determination: Written Representation.  
Appeal Reference: 22/00048/REF

The Inspector identified the main issue as the effect of the proposal on the street scene.

The inspector found that the proposed addition would be neither obtrusive nor incongruous and it would fit comfortably in its setting. The Council’s Home Extensions & Alterations Design Guide (2007) acknowledges that extensions to the front of houses can disrupt the pattern of the buildings in the street and obscure the original elevation and so they are generally discouraged. However, he found find no material conflict with this guidance, nor the advice on porches contained in the Cherwell Residential Design Guide Supplementary Planning Document (2018). Although the Council focus on the scale of the proposed porch, as being ‘unusually large’, the porch is but one element of the existing forward projection and a similar component of the proposed extension.

In light of these conclusions the inspector allowed the appeal.

- e) **21/03452/TEL56 – The Planning Inspector dismissed the appeal by CK Hutchison Networks (UK) Ltd for a 15M Phase 8 Monopole coupled with wraparound cabinet at base and associated ancillary works at Station Road, Kirtlington.**

Officer recommendation: Refused (Delegated)  
Method of determination: Written Representations  
Appeal reference: 22/00021/REF

The Planning Inspector identified the main issue as whether the proposed development would preserve or enhance the character or appearance of the Conservation Area.

In conclusion the inspector stated that whilst there would be economic and social benefits associated with the upgrading of telecommunication systems in this area. These aspects weigh favourably but to an extent. He is satisfied that the proposed development would cause harm to the Conservation Area by failing to preserve or enhance its character and appearance and this assessment must be matters of considerable importance and weight. In addition, the development would also be contrary to the Development Plan and Framework.

- f) **22/01404/F – The Planning Inspector allowed the appeal by Mrs T Sharif for a Single storey rear extension and part double storey rear extension at 83 Mold Crescent, Banbury.**

Officer recommendation: Refusal (Delegated)  
Method of determination: Householder (Fast Track)  
Appeal reference: 22/00049/REF

The Planning Inspector identified the main issue as the location of No.83 Mold Crescent in the middle of a terrace of three dwellings and the effect of the proposal on the neighbours at nos. 81 and 85 Mold Crescent, in regard to resulting loss of outlook and light.

In reviewing the Appeal, the Inspector used the Cherwell District Council Home Extensions & Alterations Design Guide as a general guide, and the development plan as a whole, having particular regard to saved Policies C28 and C30 of the Cherwell Local Plan (1996) and Policy ESD 15 of the Cherwell Local Plan (Part 1) (2015).

In terms of the first-floor extension, the design guide points to the acceptability of two storey extensions on the common boundary of up to 2.4 metres in length. Here the proposal is 3.0 metres but set in from each boundary. In such circumstances an assessment of the effect on a neighbour's light and amenity is required based on an angle of 45 degrees taken horizontally from the mid-point of the nearest habitable room window.

In the case of no. 85, the criterion would be met. However, for no. 81 there would be a marginal encroachment of 645mm in relation to a first-floor window. Given that the rear of the dwellings has an open south-easterly aspect, and good length gardens, he considered that the effect of the infringement would be marginal. **Page 343** worst and neither dwelling would

experience a significant loss of amenity.

It was found that the proposal as a whole, would not appear imposing and overbearing, resulting in loss of outlook and light, and that there would be no adverse effect on the neighbours at nos. 81 and 85 Mold Crescent. As such, there would be no tangible conflict with the aims of the design guide based on the site-specific circumstances noted.

## **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](mailto: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](mailto: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, Performance & Insight Team Leader, 01295 221556  
[Celia.Prado-Teeling@Cherwell-dc.gov.uk](mailto: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, Performance & Insight Team Leader, 01295 221556

[Celia.Prado-Teeling@Cherwell-dc.gov.uk](mailto:Celia.Prado-Teeling@Cherwell-dc.gov.uk)

## 7.5 Decision Information

### Key Decision:

Financial Threshold Met: No

Community Impact Threshold Met: No

### Wards Affected

All

### Links to Corporate Plan and Policy Framework

Business Plan Priorities 2022-2023:

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

### Lead Councillor

Councillor Colin Clarke, Portfolio Holder for Planning

### Document Information

None

### Background papers

None

### Report Author and contact details

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