

Case Officer: James Kirkham

Applicant: Mr Dean Jones

Proposal: 10 apartments within a scheme of 2 to 2.5 storeys

Ward: Bicester West

Councillors: Councillor Les Sibley, Councillor Fraser Webster, Councillor John Broad

Reason for Referral: Major development

Expiry Date: 20 January 2020

Committee Date: 16 January 2020

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS AND SUBJECT TO A S106 LEGAL AGREEMENT

Proposal

The current application seeks permission to erect a building on the site containing 10 apartments. The application is made in outline with all matters (appearance, layout, scale, access and landscaping) reserved.

Consultations

The following consultees have raised **objections** to the application:

- OCC Drainage

The following consultees have raised **no objections** to the application:

- OCC Highways, CDC Conservation, CDC Environmental Protection, CDC Landscape, CDC Waste and Recycling, OCC Education, Thames Waters

1 letter of objection have been received and 1 letter of comment has been received. Councillor Sibley has also made comments on the application.

Planning Policy and Constraints

The site is located within the Bicester Conservation Area and within the setting of a number of listed buildings. This includes The Old Fox Inn immediately to the south of the site and Oxford House which is located at the junction between Kings End and Queens Avenue to the south east of the site. A public right of way also exists to the north of the site which follows the footpath along Kingsclere Road.

The application has also been assessed against the relevant policies in the NPPF, the adopted Local Plan and other relevant guidance as listed in detail at Section 8 of the report.

Conclusion

The key issues arising from the application details are:

- Principle of development

- Heritage impact
- Design, and impact on the character of the area
- Highways
- Residential amenity
- Infrastructure
- Other matters

The report looks into the key planning issues in detail, and Officers conclude that the proposal is acceptable subject to a S106 and conditions.

Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and recommendations, and Members are advised that this summary should be read in conjunction with the detailed report.

MAIN REPORT

1. APPLICATION SITE AND LOCALITY

- 1.1. The application relates to an area of open land situated to the north of The Old Fox Inn (Kings End Antiques Centre) on Kings End which is a main road leading into the centre of Bicester. Kingsclere Road exists to the north of the site beyond which lie the fire station and magistrates courts. The site is laid predominately to hard standing and has been used for the display of garden ornaments for a number of years in association with the antiques centre. A vehicular access exists to the north west corner of the site onto Kingsclere Road. It is currently enclosed with high painted railings. Two lime trees are currently located on the site.

2. CONSTRAINTS

- 2.1. The site is located within the Bicester Conservation Area and within the setting of a number of listed buildings. This includes The Old Fox Inn immediately to the south of the site and Oxford House which is located at the junction between Kings End and Queens Avenue to the south east of the site. A public right of way also exists to the north of the site which follows the footpath along Kingsclere Road.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The current application seeks permission to erect a building on the site containing 10 apartments. The application is made in outline with all matters reserved (namely appearance, layout, scale, access and landscaping). Therefore, the Council is solely considering the principle of residential development and this scale of proposed development on the site.
- 3.2. However, the application has been accompanied by indicative plans which demonstrate one way in which the site could be developed to accommodate 10 apartments. This shows the provision of an L shaped building which would provide frontage onto both Kings End and Kingsclere Road. The building would be a mix of 2 and 2.5 storeys in height, although it should be noted that scale is a reserved matter. Access to the site would be retained in a similar position to the current access from Kingsclere Road and the plans show 10 parking spaces provided to the rear of the building.
- 3.3. *Timescales for Delivery:* The applicant/agent has not indicated a timescale for delivery.

4. RELEVANT PLANNING HISTORY

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

18/00689/F and 18/00690/LB – Change of use from Antiques centre to children's day care nursery, demolition of timber curtilage outbuilding and conversion of remaining curtilage outbuildings and erection of single storey pre-school playroom block – Withdrawn

02/01610/F - Construction of new single and two storey buildings to provide reception area, sales/display galleries, cafe, offices, stores and toilet facilities – Withdrawn

01/00016/LB - Internal and External Alterations (as amended by revised plans accompanying agent's letter dated 19.02.01) - Permitted

00/02523/F – Replacement of existing chain link fencing with 2.5 metre cast iron railings with vehicular access gates – Permitted

95/00923/LBD - Retrospective. Demolition of outbuildings. Demolition and rebuilding of wall - Permitted

98/01594/F and 98/01595/F - Increase height of parts of boundary wall to rear. Re-instate vehicular access new pair stained timber gates - Permitted

5. PRE-APPLICATION DISCUSSIONS

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

19/00115/PREAPP - Potential redevelopment options at Kings Avenue, Kings End, Bicester

5.2. The above sought advice on redeveloping the site for residential purposes or hotel/leisure uses. It included the Old Fox Inn as part of the development site as well and the proposals were very conceptual and vague. It was advised that the principle of residential development was likely to be acceptable however a number of heritage issues were raised alongside issues of clarification on access, parking and neighbour impact.

6. RESPONSE TO PUBLICITY

6.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records (amend as appropriate). The final date for comments was **22 November 2019**, although comments received after this date and before finalising this report have also been taken into account.

6.2. 1 letter of objection and 1 letter of comment has been received. The issues raised by third parties are summarised as follows:

- Impact on traffic and parking in the locality.
- The access to the site is dangerous.
- Concerns over level of parking

- Concerns over potential overlooking/loss of privacy to neighbouring property.
- The name on the plans are the same as the adjacent property and this should be changed.
- Request the boundary treatment between the application site and Kingsmead is made good prior to the sale of property.

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

7. RESPONSE TO CONSULTATION

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

COUNCILLORS

COUNCILLOR SIBLEY: Requests application be called to committee. The proposal is an over development of the site. Vehicle access to site from Kingsclere Road and/or Queens Avenue is hazardous. On street parking is an issue at the junction. Access to the Probation Centre opposite raises a number of visibility issues onto the narrow Kingsclere Road. The pedestrian crossing adjacent to the site is heavily used. The surrounding roads all suffer from traffic, congestion and air pollution issues. The Bicester School, Bicester Sport Centre, the Probation Centre, the Fire Police stations are all situated on Queens Avenue close to the application site. The T-junction of Queens Avenue and Kings End suffers from traffic congestion and is the main route into and out of the town centre. Also raises concerns regarding the refuse vehicle access and collection of household waste / recycling bins from development

CONSULTEES

- 7.2. OCC HIGHWAYS: **No objections** subject to conditions and S106 contributions. The site is located in a sustainable location. The nearest bus stop is approximately 107m away from the site with the Bicester North train station being an approximately 12-minute walk and 4-minute cycle.
- 7.3. 10 car parking bays are provided which is in line with parking standards and accepted given the sustainable location and on-street parking in the immediate vicinity of the site is restricted, it is therefore considered that this level of parking is appropriate. The vehicle crossover into the parking area will need to be extended to accommodate 2 vehicles passing.
- 7.4. Further information regarding refuse collection is required, if this is to be from within the site tracking for an 11.6m refuse vehicle will be required in addition to tracking for a large family vehicle. Cycle parking will need to be provided on site.
- 7.5. There is a cycle lane adjacent to Queens Avenue which is well used and due to be upgraded in the future. In order for pedestrians and cyclists to have safer and clearer prioritisation across the junction with Kingsclere Road a contribution has been requested for a side road entry treatment. The current situation on Kingsclere Road is that cyclists crossing to get to the cycle paths either side have to give way to vehicular traffic. A £30,000 contribution has been sought to create a side road entry treatment on Kingsclere Road which will give pedestrians and cyclists priority which will help encourage sustainable modes of transport and is in line with the local

transport strategy. The desire line for pedestrians/cyclists is in line with the existing cycle track across the road, this also allows a vehicle to turn into Kingsclere Road before having to give way which should mean traffic flow along Queens Avenue is not negatively impacted.

- 7.6. Request conditions on travel information packs, cycle parking, full details of access and swept path analysis.
- 7.7. CDC CONSERVATION: **No objections** but considerable attention will be required relating to design at reserved matters stage. The area was historically outside of the built up limits of Bicester. However, the area has since been built up on all sides and there is no remaining significance to this open space. The significance lies in the contribution the site makes to the setting of The Fox Inn Public House and the character and appearance of the conservation area in this gateway location. The Fox Inn is noted as a positive landmark in the conservation area appraisal. The proposal needs to retain the strong building lines and ensure the listed building remains the dominant building in the streetscape. The sketch plan is considered to be positive and responds well to the site context; however, care will need to be taken over the depths of the buildings and [floor] levels during reserved matters.
- 7.8. CDC ENVIRONMENTAL PROTECTION: **No objections** subject to conditions. Request a noise report be conditioned to ensure the internal noise environment from traffic noise and the surrounding uses is acceptable. Also request Air Quality Impact Assessment on the nearby Kings End Air Quality Management Area and provision made for electric vehicle charging points.
- 7.9. CDC LANDSCAPE OFFICER: **Comment.** The proposal appears visually in keeping. The size of the development triggers the provision of a LAP but there is no space on site. Therefore an off-site contribution should be sought. Landscaping should be provided to the rear of the site.
- 7.10. CDC WASTE AND RECYCLING: **No objections.** Bin collection would be taken from Kingsclere Road so the bin area needs to be close to this.
- 7.11. CDC SPORTS AND RECREATION: **No objection.** Request contributions towards indoor and outdoor sports provision, community halls and public art.
- 7.12. CDC PLANNING POLICY: **No comments.**
- 7.13. OCC DRAINAGE: **Objection.** Insufficient drainage, flood risk, SuDS usage information provided to enable a full technical assessment of the proposal.
- 7.14. OCC EDUCATION: **No objections**
- 7.15. THAMES WATER: **No objections.** The waste water network and sewage treatment works have capacity for the proposed development. Request informative as development is located within 15m of underground waste water assets. Also request informative if it is proposed to discharge ground water into public sewer.

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
- SLE4: Improved Transport and Connections
- BSC2: The Effective and Efficient Use of Land – Brownfield Land and Housing Density
- BSC10: Open Space, Outdoor Sport and Recreation Provision
- BSC11: Local Standards of Provision – Outdoor Recreation
- ESD1: Mitigating and Adapting to Climate Change
- ESD2: Energy Hierarchy
- ESD3: Sustainable Construction
- ESD6: Sustainable Flood Risk Management
- ESD7: Sustainable Drainage Systems
- ESD15: The Character of the Built and Historic Environment
- INF1: Infrastructure

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C28: New development design
- C30: Design Control
- ENV1: Pollution Control
- ENV12: Contamination

Other Material Planning Considerations

National Planning Policy Framework (The Framework)
Planning Practice Guidance (NPPG)
Cherwell DC New Residential Design Guide SPD (2018)
Developer Contributions SPD
The Planning (Listed Buildings and Conservation Areas) Act 1990

9. APPRAISAL

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

- Principle of development
- Heritage impact
- Design, and impact on the character of the area
- Residential amenity
- Highways
- Infrastructure
- Other matters

Principle of Development

9.2. There are no adopted Local Plan policies relating specifically to housing development within Bicester. However, the CLP 2015 states that housing growth will be directed towards the urban areas of Banbury and Bicester. Paragraph B88 of the CLP 2015 states: *“By focussing development in and around the towns of Bicester and Banbury we aim to ensure that the housing growth which the District needs only*

takes place in the locations that are most sustainable and most capable of absorbing this new growth”.

- 9.3. The application site is positioned within the built up limits of Bicester in proximity of the town centre and has good access to public transport links, local shops and amenities. It is therefore considered to be a sustainable urban location, which in principle is suitable for residential development. It is also a brownfield site which Policy BSC2 of the CLP 2015 encourages the reuse of in sustainable locations. The existing use of the site is not protected by local or national planning policy. In this context the development of the site for residential development is therefore considered to be acceptable in principle, with overall acceptability subject to other considerations discussed below.

Heritage Impact

Legislative and policy context

- 9.4. The site is within Bicester Conservation Area and affects the setting of a number of Grade II listed buildings including the Old Fox Inn immediately to the south of the site.
- 9.5. 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.*
- 9.6. 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.
- 9.7. Conservation Areas and Listed Buildings are designated heritage assets, and Paragraph 193 of the NPPF states that: *when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.* Policy ESD15 of the CLP 2031 Part 1 echoes this guidance.

Assessment

- 9.8. The application site is currently a hard surfaced yard with railings around it and was previously use for the sale of garden ornaments and antiques and is not considered to positively contribute towards the character and appearance of the area. The Conservation Officer has noted that this area of land subject to the application historically laid outside of the built up area of Bicester but the surrounding area is now built up and there is not considered to be any historic significance relating to this open space which would be lost as part of the proposal. The main issue in this case is therefore the impact on the setting of the nearby listed buildings and the character and appearance of the Conservation Area in this gateway location.
- 9.9. The Bicester Conservation Area Appraisal (CAA) notes *‘the historic character and appearance of the area is defined by the intermix of terraces of vernacular stone-built dwellings and more polite and formal rendered ones which create strong buildings lines, either fronting straight onto the back of the pedestrian pavement or*

separated by a short strip of garden, on both sides of the road'. The CAA goes onto note that The old Fox Inn and Numbers 4-6 King's End provide visual enclosure to the area and identifies the Fox Inn as a positive landmark.

- 9.10. The current application is made in outline so the plans submitted are only indicative at this stage. However, the indicative plans show the provision of an L shaped building adjacent to the northern and eastern boundaries of the site, which would be in keeping with the traditional arrangement of buildings in the locality with strong linear buildings lines adjacent to the roads.
- 9.11. The indicative sketch elevation plans provided show the provision of a traditionally designed and detailed building which would also be in keeping with the positive characteristics of this part of the Conservation Area and would respond appropriately to the context of the site. The Conservation Officer has raised some concern over the plan depth of the building; however, while important, this issue would be considered at reserved matters stage.
- 9.12. The scale of the building is also indicated to be a mix of 2 and 2.5 storeys, which is considered acceptable in this locality given there are a mix of 2, 2.5 and 3 storey properties in the locality.
- 9.13. The proposal would lead to the loss of two trees, which are currently located on the site; however, these are set back from the road frontage and given the presence of other more imposing trees in the street scene are not considered to significantly contribute to the character and appearance of the locality. No objection has been raised to their loss and their form and appearance is rather unbalanced. Whilst their loss is not ideal it is not considered that this would justify refusal of the application.
- 9.14. Overall the proposal, subject to careful design considerations at reserved matters stage, is considered to preserve the character and appearance of the Conservation Area and the setting of the listed building.

Design and layout

Policy Context

- 9.15. Government guidance contained within the NPPF towards achieving well-designed places states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. The NPPG goes on to note that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Further, Paragraph 130 of the NPPF states that 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.
- 9.5. Paragraph 127 of the NPPF states that planning decisions should ensure that developments:
- Will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
 - Are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
 - Are sympathetic to local character and history, including the surrounding built environment and landscape setting
 - 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;

9.16. Policy ESD15 of the Cherwell Local Plan Part 1 states that: *“New development proposals should:*

- *Respect the traditional pattern 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.”*

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

9.18. The Cherwell Residential Guide SPD (2018) builds on the above policies and provides a framework to deliver high quality locally distinctive development.

9.19. 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.

Assessment

9.20. As noted above the indicative layout and elevation plans are considered to respond positively to the context and respect the character and appearance of the area. Full details of this alongside materials would be considered at reserved matters stage however given the heritage constraints of the site high quality finishes would be required.

9.21. Officers consider that the plans demonstrate successfully how 10 apartments could be accommodated on site. The final size and mix of flats would be subject to reserved matters approval having regard to the constraints of the site and may result in the provision of smaller units to reduce the depth and footprint of the building.

9.22. The indicative layout means that the parking serving the site would be largely screened by the proposed building and would therefore not dominate views from the public realm and this is a further positive of the scheme in this location characterised by strong building lines.

9.23. Concerns have been raised by the Highway Engineer and the public regarding bin collection. Officers has discussed this matter with the Council’s Waste Team who have stated that collection would take place from Kingsclere Road. At reserved matters stage the details and siting of the bin store and bin collection point would need to take account of this.

9.24. The scale of the proposal triggers the requirement for a local area of play on the site in accordance with Policy BSC11 of the CLP 2015. However, given the restricted size of the site this is not possible and is not shown on the indicative layout plans. Officers consider that if it were insisted on this being provided on site it would make the site very difficult to develop given its constraints. Therefore, and taking into account that the development only just meets this threshold and includes a number of 1 bedroom flats, an off-site contribution to the improvement of existing provision of play space in the locality is proposed to be secured through a legal agreement in accordance with the Developer Contributions SPD.

Amenity

Policy

- 9.25. Policy ESD15 of the CLP 2015 (Part 1) requires new development to consider the amenity of both existing and future occupants, including matters of privacy, outlook, natural light, ventilation, and indoor and outdoor space.
- 9.26. Saved Policy ENV1 of the CLP 1996 state development which is likely to cause materially detrimental levels of noise, smell, fumes or other types of environmental pollution will not normally be permitted.

Assessment

- 9.27. The layout submitted is only indicative so it is difficult to make a full assessment of the impacts of the development on residential amenity as these would be subject to consideration in the reserved matters application where layout and appearance would be fully considered. However, the residential nature of the proposal is considered to be compatible with the surrounding land uses which are a mix of residential and commercial uses.
- 9.28. The property that would be most significantly impacted upon by the proposal is Kingsmead to the west of the site. This is a residential dwelling and has several first floor bedroom windows facing over the site. The proposal would lead to an increase in overlooking to this property through the provision of first and second floor windows looking towards the garden and windows on this property. However, it is considered that given the distance between this property and the indicative position of the building, with careful consideration given to the position of habitable windows on the elevation of the proposed building facing Kingsmead, a significant loss of privacy or overlooking could be prevented to ensure an acceptable level of amenity is maintained for this property having regard to the urban location. The proposal would also impact on the outlook to these windows to some extent; however, it is considered that an acceptable solution could be found having regard to the size of the site and the position of the windows.
- 9.29. The proposal would also impact on the amenity of the Old Fox Inn as it would be set back from the front elevation of this building and project to the rear. However, this property is in commercial use so is less sensitive to change and given the distance to the windows on the rear of the Old Fox Inn the impacts are not considered to be materially harmful.
- 9.30. The site lies on a busy main road and is also located adjacent to a number of noise generating uses such as the fire station. In order to ensure that a good standard of amenity is provided for future occupiers of the development the Council's Environmental Protection Officer has requested that a noise report be provided alongside the reserved matters to ensure that appropriate internal noise levels are achieved for the proposed flats.
- 9.31. Overall, on balance, the proposal is considered to be acceptable in regard to the impact on neighbouring properties and proposed occupants, subject to careful consideration at reserved matters stage.

Highways

Policy

- 9.32. Policy ESD15 of the Cherwell Local Plan Part 1 states that: "New development proposals should be designed to deliver high quality safe, attractive, durable and healthy places to live and work. Development of all scales should be designed to improve the quality and appearance of an area and the way it functions." Policy SLE4 states that: "*All development where reasonable to do so, should facilitate the*

use of sustainable modes of transport (and) development which is not suitable for the roads that serve the development and which have a severe traffic impact will not be supported.” The NPPF advises that development should provide safe and suitable access for all and development should only be prevented or refused on transport grounds where the residual cumulative impacts are severe.

Assessment

- 9.33. The application site has frontage to both Kings End (to the east) and Kingsclere Road (to the north) which is a road serving the residential area and the fire station. An access to the existing site currently exists from Kingsclere Road in the north west corner of the site adjacent to the property known as Kingsmead. This access is currently gated and has been used in the past to access the yard area for customers and the business. Double yellow lines exist along Kingsclere Road between the access to the site and Kings End.
- 9.34. Means of access is a reserved matter for a future application. However, the indicative layout shows the access being located in a similar location to the existing access onto Kingsclere Road. The Local Highway Authority (LHA) has raised no objection to the siting of the access in this location on highway safety grounds and it is considered that subject to detail it would provide a safe and convenient access into the site for residents to use. The width of the access would need to be wide enough to accommodate 2 way traffic.
- 9.35. The proposed development is for 10 apartments within the built up limits of Bicester. Given the scale of the proposal the traffic generation from the development is likely to be modest in the context of the existing traffic. No objection has been raised from the LHA on the grounds of traffic impact and it is also important to note that the NPPF advises that development should only be prevented on traffic grounds when the impacts are severe which is not considered to be the case in this application.
- 9.36. The indicative layout shows the provision of 10 parking spaces (1 for each flat). The LHA advises this is acceptable having regard to the site's sustainable location near to the centre of Bicester and bus and train connections. Furthermore, it is noted that there are parking controls in the locality which would prevent on street parking in these areas. Officers agree with this assessment. In order to encourage more sustainable forms of travel from future residents' cycle parking provision is proposed to be conditioned.
- 9.37. The LHA has requested full details of the access to be controlled by condition. However, such matters would be considered under the reserved matters application detailing the access. Likewise, the request for a swept path analysis for a modern family vehicle to enter and leave the site would be considered under the reserved matters application relating to layout. Therefore, these conditions are not necessary.
- 9.38. The LHA notes that there is an existing cycle lane adjacent to Queens Avenue which runs to the east of the site. This is due to be upgraded in the future and in order to promote cycling and walking the LHA requests a contribution of £30,000 to create a side road entry treatment on Kingsclere Road which would give pedestrians and cyclists priority crossing Kingsclere Road which would help encourage use of walking and cycling. The desire line for pedestrians/cyclists is in line with the existing cycle track across the road; this also allows a vehicle to turn into Kingsclere Road before having to give way which should mean traffic flow along Queens Avenue is not negatively impacted. The applicant has agreed to this contribution.
- 9.39. Overall the proposals are considered acceptable in highway safety terms in light of current policy subject to conditions and planning obligations as set out above.

Infrastructure

- 9.40. Policy INF1 of the CLP 2015 states that: *“Development proposals will be required to demonstrate that infrastructure requirements can be met including the provision of transport, education, health, social and community facilities.”*
- 9.41. Policy BSC11 of the CLP 2015 states that: *“Development proposals will be required to contribute to the provision of open space, sport and recreation, together with secure arrangements for its management and maintenance. The amount, type and form of open space will be determined having regard to the nature and size of development proposed and the community needs generated by it. Provision should usually be made on site in accordance with the minimum standards of provision set out in ‘Local Standards of Provision – Outdoor Recreation’. Where this is not possible or appropriate, a financial contribution towards suitable new provision or enhancement of existing facilities off site will be sought, secured through a legal agreement.”* Policy BSD12 requires new development to contribute to indoor sport, recreation and community facilities.
- 9.42. The Developer Contributions Supplementary Planning Document (SPD) sets out the position in respect of requiring financial and onsite contributions towards ensuring the necessary infrastructure or service requirements are provided to meet the needs of development, and to ensure the additional pressure placed on existing services and infrastructure is mitigated. This is the starting point for negotiations in respect of completing S106 Agreements.

Assessment

- 9.43. Where on and off-site infrastructure/measures need to be secured through a planning obligation (i.e. legal agreement) they must meet statutory tests set out in regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended). These tests are that each obligation must be:
- a) Necessary to make the development acceptable in planning terms;
 - b) Directly related to the development;
 - c) Fairly and reasonably related in scale and kind to the development.
- 9.44. Where planning obligations do not meet the above statutory tests, they cannot be taken into account in reaching a decision. In short, these tests exist to ensure that local planning authorities do not seek disproportionate and/or unjustified infrastructure or financial contributions as part of deciding to grant planning permission. Officers have had regard to the statutory tests of planning obligations in considering the application and Members must also have regard to them to ensure that any decision reached is lawful.
- 9.45. Having regard to the above, in the event that Members were to resolve to grant planning permission, the following items would in officers’ view need to be secured via a legal agreement with both Cherwell District Council and Oxfordshire County Council in order to secure an appropriate quality of development as well as adequately mitigate its adverse impacts:

Cherwell District Council

- The site is located in an urban area where Policy BSC11 of the CLP 2015 requires the provision of a general green space and a local area of play (LAP) for developments of 10 or more dwellings. Given the constrained nature of the site there is limited space to provide this on site. Therefore, an off-site contribution of £2306.86 per 2 bed flat is sought to upgrade play

areas in the locality of the site in accordance with the Developer Contributions SPD.

- Outdoor sports provision – A contribution towards the development of outdoor tennis courts at Whitelands Farm Sports Ground in Bicester for which Cherwell District Council currently have planning permission approved. The need for the provision of further tennis courts in Bicester was identified in the November 2018 Sports Studies. Figure based on 10 dwellings, the figure of £2017.03 per dwelling accounts for 2.49 persons per dwelling. This figure has been adjusted to an average of 1.85 persons per dwelling given the smaller size of units proposed - £1498.60 x 10 dwellings = £14,985.97
- Indoor Sport & Recreation Seeking a contribution towards the expansion and improvements at Bicester Leisure Centre. The 2018 Sports Studies identified the need for increased pool and fitness provision at Bicester Leisure Centre by the end of 2031. (£335.32 x 1.85) x 10 dwellings = £6203.42
- Community Halls Provision - A contribution towards the refurbishment of the main hall at Kingsmere Community Centre =£8494.65

9.46. OCC Education has stated that whilst the proposal will increase demands placed on local services given the scale of the development and the low number of pupils expected to be generated the impact is expected to be minimal and no contribution is requested in this respect

Other matters

9.47. The Lead Local Flood Authority has objected to the application on the basis that insufficient information has been provided in respect of surface water drainage, flood risk and use of Sustainable Urban Drainage Systems (SUDS). Policy ESD7 of the CLP 2015 requires the use of SUDS in new development to manage surface water runoff. In this case the application is made in outline with all matters reserved for future applications. Therefore, the provision of SUDS could be designed into the scheme at a detailed layout stage and the layout of the site could be altered at a later stage if deemed justified. Furthermore, the site is situated in the lowest flood risk area, is not identified on the Environment Agency maps as being at risk of surface water and is already largely laid to hard standing. Given these factors it is considered that this matter could be dealt with by condition to require the submission of a drainage strategy alongside the reserved matters. This would ensure adequate regard would be had for surface water drainage and the provision of SUDS in determining the application.

9.48. The site is located immediately adjacent to the Bicester Air Quality Management Area (AQMA). The proposed development has the potential to attract more traffic to the area so therefore may impact on air quality. However, the development is modest in size and the traffic generation is likely to be limited in the existing context. The Environmental Protection Officer has requested an Air Quality Impact Assessment be conditioned to fully understand the impact of the development on air quality and seek to mitigate it where appropriate. A condition is therefore recommended in this respect to fully understand this.

9.49. A condition in regard to the installation of Electric Vehicle charging infrastructure in order to make resident parking places EV ready for future demand is also proposed. The NPPF and Policies SLE4 and ESD1 of the CLP 2015 encourage and support the incorporation of measures into new development that promote more sustainable

forms of transport and to reduce carbon emissions. It is considered reasonable and necessary for this to be secured through a condition of any permission given.

- 9.50. Policy ESD1 of the CLP 2031 states that measures should be taken to mitigate the impact of development within the District on climate change, and Policy ESD2 of the CLP 2031 seeks to achieve carbon emission reductions. Policy ESD3 of the CLP 2031 encourages sustainable construction methods. The reference to allowable solutions in Policy ESD2 and 'zero carbon' are no longer being pursued by the government so are no longer relevant. However, the water usage requirements of ESD3 are still required to be met and can be conditioned. In regard to energy efficiency the Council now seeks to secure in excess of that required under the 2013 Building Regulations. Full details of these can be controlled through a condition.
- 9.51. The site is currently laid to hardstanding and has limited ecological value. The NPPF and Policy ESD10 of the CLP 2015 both seek to secure net gains in biodiversity. In this case landscaping and built in features could be used to help achieve this. A condition is proposed in this respect.
- 9.52. Thames Water has confirmed that existing infrastructure has capacity to accommodate the development.
- 9.53. The neighbouring property has requested that the applicant makes good the boundary treatment between the application site and their property prior to selling the property. This is a private matter between the parties and not a matter the local planning authority can require.

10. PLANNING BALANCE AND CONCLUSION

- 10.1. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. This requires that the three dimensions to sustainable development (economic, social and environmental) are not undertaken in isolation, but are sought jointly and simultaneously. The proposed development would lead to the creation of several new dwellings in a geographically sustainable location and would also reuse previously developed land. The proposal would preserve the significance of the impacted heritage assets and would also bring some modest social and economic benefits associated with the provision and construction of new dwellings. Careful consideration will be required of a number of matters including residential amenity, heritage and design at reserved matters stage. Overall when viewed as a whole the proposal is considered to comply with the Development Plan and is considered to constitute sustainable development.

11. RECOMMENDATION

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

- a) Payment of £30,000 towards provision of cycle route improvements along Queens Avenue
- b) Payment of £2,306.86 per 2 bedroom flat to upgrade play area(s) in the vicinity of the site
- c) Payment of £14,985.97 for provision of outdoor sports provision

- d) Payment of £6,203.42 for indoor sports provision
- e) Payment of £8,494.65 for community halls

FURTHER RECOMMENDATION: THE STATUTORY DETERMINATION PERIOD FOR THIS APPLICATION EXPIRES ON 20th JANUARY 2020 IF THE SECTION 106 AGREEMENT/UNDERTAKING IS NOT COMPLETED AND THE PERMISSION IS NOT ABLE TO BE ISSUED BY THIS DATE AND NO EXTENSION OF TIME HAS BEEN AGREED BETWEEN THE PARTIES, IT IS FURTHER RECOMMENDED THAT THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT IS GIVEN DELEGATED AUTHORITY TO REFUSE THE APPLICATION

CONDITIONS

Time Limits

1. No development shall commence until full details of the access, 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).

Compliance with Plans

4. 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 and Site Location Plan (shown on drawing number 1925 001)

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.

Finished floor levels

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

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

Detailed Drainage Scheme

6. As part of any reserved matters for layout and prior to the development commencing, detailed designs of the proposed surface water drainage scheme including details of implementation, maintenance and management shall be submitted to and approved in writing by the local planning authority. Those details shall include:

- a) Information about the design storm period and intensity, critical storm duration (1 in 30 & 1 in 100 (+40% allowance for climate change), discharge rates and volumes (both pre and post development), temporary storage facilities, means of access for maintenance, the methods employed to delay and control surface water discharged from the site, and the measures taken to prevent flooding and pollution of the receiving groundwater and/or surface waters;
- b) Any works required off-site to ensure adequate discharge of surface water without causing flooding or pollution (which should include refurbishment of existing culverts and headwalls or removal of unused culverts where relevant);
- c) Flood water exceedance routes, both on and off site;
- d) A timetable for implementation;
- e) Site investigation and test results to confirm infiltrations rates; and
- f) A management and maintenance plan, in perpetuity, for the lifetime of the development which shall include the arrangements for adoption by an appropriate public body or statutory undertaker, management and maintenance by a Residents' Management Company or any other arrangements to secure the operation of the surface water drainage scheme throughout its lifetime.

No building hereby permitted shall be occupied until the sustainable drainage scheme for this site has been completed in accordance with the approved details. The sustainable drainage scheme shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan.

Reasons: To ensure that the proposed development can be adequately drained and to manage the flood risk on or off the site resulting from the proposed development in accordance with Policy ESD6 and ESD7 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance within the National Planning Policy Framework.

Noise Report

7. Prior to any works commencing above slab level a report should be provided and approved in writing by the local planning authority that shows that all habitable rooms within the proposed residential flats above the commercial units

will achieve the noise levels specified in BS8233:2014 (Guidance on sound insulation and noise reduction for buildings) for indoor ambient noise levels. Any noise sources from the nearby garage and commercial premises that might impact on the proposed development will need to be identified and assessed with the requirements of British Standards BS4142:2014 – Method for Rating and Assessing Industrial and Commercial Sound. Thereafter, and prior to the first occupation of the dwellings affected by this condition, the development shall be carried out in strict accordance with the approved details and recommendations.

Reason: To ensure the creation of a satisfactory environment free from intrusive levels of noise and to comply with Policy ESD15 of the Cherwell Local Plan Part 1 (2015), Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Air Quality

8. As part of the reserved matters for layout or scale, an Air Quality Impact Assessment which considers the potential impact of extra traffic from the development on the local air quality, including the nearby Bicester Air Quality Management Area, and has regard to the Cherwell District Councils Air Quality Action Plan shall be submitted and approved in writing by the local planning authority. This should include a damage cost calculation and any proposed mitigation. Prior to the first occupation of the development the agreed mitigation shall be provided in accordance with the approved details.

Reason: To mitigate any significant impacts on air quality and to comply with Policy ESD15 of the Cherwell Local Plan Part 1 (2015), Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Energy Statement

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

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

Biodiversity enhancement

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

provision. Thereafter, the biodiversity enhancement measures shall be carried out and retained in accordance with the approved details.

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

Electric charging points infrastructure

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

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

Cycle Parking

12. No dwelling of the development hereby permitted shall be occupied until cycle parking has been provided in accordance with a plan showing the number, location and design of cycle parking for the dwellings which shall have first been submitted to and approved in writing by the Local Planning Authority. The cycle parking shall thereafter be permanently retained and maintained for the parking of cycles in connection with the development.

Reason: To ensure appropriate levels of cycle parking are available at all times to serve the development, and to comply with Government guidance contained within the National Planning Policy Framework

Travel Information Packs

13. Prior to the first occupation of the development hereby approved a Residential Travel Information Pack for future residents shall be submitted and approved in writing by the Local Planning Authority. The approved Residential Travel Information Pack shall then be distributed to all new residents at the point of occupation.

Reason: To ensure all residents are aware of the travel choices available to them and to encourage sustainable forms of transport in accordance with Policy SLE4 and ESD1 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance within the National Planning Policy Framework.

Water usage

14. 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.

Unexpected contamination

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

Reason: To ensure that any ground and water contamination is 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.

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