

**Proposed Roundabout Access to Graven Hill and  
Wretchwick Green London Road Bicester**

**20/01830/F**

**Case Officer:** Rebekah Morgan

**Applicant:** Mr Adrian Unitt

**Proposal:** Proposed roundabout junction

**Ward:** Bicester South and Ambrosden

**Councillors:** Cllr Nick Cotter, Cllr Dan Sames and Cllr Lucinda Wing

**Reason for Referral:** Major Development

**Expiry Date:** 8 October 2020

**Committee Date:**

5 November 2020

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This application was brought to Planning Committee on the 8 October 2020 and deferred by Members for the following reasons:

1. To allow for a review of the speed limit on the A41 corridor
2. To allow for a review of the roundabout design
3. To enable further information of the replacement tree planting to be provided

Since the October Planning Committee, discussions have been undertaken between District and County Officers on matters 1. and 2. above. The previous Officer report is appended to this report and a full update will be provided to Members on these matters as part of the Written Updates to Planning Committee.

In respect of matter 3. Officers sought further information, in particular a landscape plan to show details of the proposed location for replacement trees to mitigate for those trees to be lost to accommodate the proposed roundabout. Confirmation has been provided that a minimum of 15 semi-mature trees will be planted within the extent of the red line boundary for the works to offset the loss of the Category 'B' trees required to be lost. However, and after further consideration, the applicant seeks for this matter to be dealt with by condition rather than providing additional information now. This is on the basis that the location of the trees should be considered alongside other requirements, in particular that relating to biodiversity net gain to ensure the wider ecological and biodiversity in the-landscape proposals are considered as an overall strategy. The applicant's position is that considering either independently from one another could introduce risks to achieving the outcome of the wider strategy that would and should be considered together.

On this basis, no further information is provided and Officers would direct Members to the previous assessment of this matter.

## **EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION**

### **RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS**

#### **Proposal**

The application seeks consent for major junction improvement works at the Pioneer Road junction on the A41 (also known as the Aylesbury Road) in the form of a new roundabout.

#### **Consultations**

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

- OCC Highways, Bicester Bike User Group

*Officer comment: OCC Highways have raised two technical points that they believe could be dealt with through the submission of amended drawings. Amended drawings have been submitted and we are awaiting further comments from OCC Highways.*

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

- Local Lead Flood Authority (OCC), OCC Archaeology, CDC Ecologist, CDC Environmental Protection Officer, CDC Landscape Officer, CDC Arboricultural Officer

11 letters of objection have been received and 1 letter of support has been received.

#### **Planning Policy and Constraints**

There are a number of protected species identified within the vicinity of the site and the site is within an area of archaeological interest. There is a public footpath which adjoins the A41 to the south of Wretchwick End Cottages; this is just beyond the application site boundary.

The proposed roundabout would provide access to two allocated sites: Policy Bicester 2 and Policy Bicester 12 of the Cherwell Local Plan 2031.

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
- Transport and Highways
- Design and impact on the character of the area (including impact on trees and landscaping)
- Residential amenity (including noise)
- Ecology impact

The report looks into the key planning issues in detail, and Officers conclude that the proposal is acceptable subject to 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 site comprises of a section of the A41 (and surrounding land) adjacent to the Graven Hill Development site in Bicester. The land within the red line boundary is a combination of adopted highway and land owned/controlled by the Graven Hill Development Company.
- 1.2. The section of road forms an existing T-junction at the A41 and Pioneer Road, providing an existing access to Graven Hill and the existing MOD barracks. The land is relatively flat across the site. Within the existing verge to the northwest and southeast of the existing Pioneer Road junction are a number of mature trees.

### **2. CONSTRAINTS**

- 2.1. Protected Species are identified as being present within the vicinity of the application site.
- 2.2. The site is within an area of high Archaeological interest.
- 2.3. There is a public footpath joining the A41 to the south of Wretchwick End Cottages; this is just beyond the application site boundary.

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

- 3.1. The application seeks consent for major junction improvement works at the Pioneer Road junction on the A41 (also known as the Aylesbury Road) in the form of a new roundabout.
- 3.2. The proposed roundabout includes four arms; the eastern and western arms of the A41, the northern arm to serve the future development at Wretchwick Green and the southern arm would tie into the proposed employment access road serving the Graven Hill development (The employment access road is the subject of a separate planning application 20/02415/F pending consideration). The proposal includes a reduction in the speed limit on the A41 to 40mph along the employment access application site frontage.

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

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

11/01494/OUT – Outline scheme for the redevelopment of MOD Bicester (sites C, D and E) to provide a mixed-use development including up to 1900 homes, local centre, primary school, community hall, pub/restaurant/hotel, employment uses, and associated open space and infrastructure improvement works: APPROVED subject to a legal agreement on 8 August 2014.

15/02159/OUT – Variation of Conditions 2 (approved plans), 26 (masterplan and design code), 27 (reserved matters first phase), 32, 33 (building heights), 39, 40 (construction standards), 41, 42 (housing mix), 51, 52 (highways works), 56 (lighting scheme), 58 (internal access), 68 (approved drainage strategy) of 11/01494/OUT: APPROVED 3 June 2016.

15/02266/REM - Reserved matters (access, landscape and layout) in respect of the demonstrator plots (phases 01-A and 01-B) pursuant to 11/01494/OUT: APPROVED 4 March 2016.

16/01802/OUT – Variation of Condition 30 of 15/02159/OUT - Revised Design Code and Master Plan, and Removal of Condition 35 - Housing Mix. APPROVED 21 June 2017

16/01807/REM - Reserved matters to 16/01802/OUT - Reserved matters in respect of public areas in Phase 1a and part of phase 1b. APPROVED 6 October 2017

17/02352/REM - Reserved Matters to application 16/01802/OUT - layout, scale, appearance and landscaping in respect of public areas in Phase 1b. APPROVED 8<sup>th</sup> March 2019.

18/00325/OUT - Variation of conditions 2 (plans), 28 (Phasing), 30 (building heights), 32 (Residential Construction Standards), 33 (Non-Residential Construction Standards), 38 (Landscape Habitat Management Strategy), 46 (Archaeology), 57 (Entrance works), 63 (Phase 0 Masterplan), and 71 (Phase 1 Masterplan) and removal of condition 58 (Pioneer Junction works) of 16/01802/OUT APPROVED 3<sup>rd</sup> August 2018.

19/01998/NMA – Non Material Amendment to application 18/00325/OUT – Amended levels on parameter plans as set out in the attached list. APPROVED 24<sup>th</sup> October 2019.

19/00937/OUT - Variation of Conditions 2 (plans), 28 (Phasing) and 29 (Masterplan and design code) of 18/00325/OUT - to amend the site wide phasing plan and to include proposed earlier phasing for the employment land. (Original outline reference 11/01494/OUT, amended by 15/02159/OUT, 16/01802/OUT. Outline - Redevelopment of former MOD sites including demolition of existing buildings, development of 1900 homes; local centre to include a 2 form entry primary school (class D1), a community hall of 660sqm, five local shops or facilities to include A1, A2, A3, A5 and D1 uses totalling up to 1358sqm, up to 1000sqm gross A1 uses, a pub/restaurant/hotel (class A4/A3/C1) up to 1000sqm and parking areas; employment floor space comprising up to B1(a) 2160sqm, B1(b) 2400sqm, B1(c) and B2 20520spm and B8 uses up to 66960sqm; creation of public open space and associated highway improvement works, sustainable urban drainage systems, biodiversity improvements, public transport improvements and services infrastructure. Erection of a 70400sqm fulfilment centre on 'C' site and associated on site access improvement works, hardstanding, parking and circulation areas). APPROVED 3<sup>rd</sup> January 2020.

4.2. Relevant planning history associated with the site at South East Bicester (Wretchwick Green):

16/01268/OUT – Outline application with all matters reserved apart from access for residential development including up to 1,500 dwellings, up to 7ha of employment land for B1 and/ or B8 uses, a local centre with retail and community use to include A1 and/ or A2 and/ or A3 and/ or A4 and/ or A5 and/ or D1 and/ or D2 and/ or B1, up to a 3 Form Entry Primary School, drainage works including engineering operations to re-profile the land and primary access points from the A41 and A4421, pedestrian and cycle access, circulation routes, related highway works; car parking; public open space and green infrastructure and sustainable drainage systems. APPLICATION PENDING - COMMITTEE RESOLUTION TO APPROVE SUBJECT TO S106 AGREEMENT.

## 5. PRE-APPLICATION DISCUSSIONS

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

19/00030/PREAPP Proposed Roundabout access to Graven Hill and Wretchwick Green

5.2. The District Council are supportive of the broad principle of a revised junction arrangement being provided in the location proposed, to serve the development committed to take place at both Graven Hill and Wretchwick Green. The permitted junction arrangement that forms part of the existing planning consent for Graven Hill would clearly not be sufficient to also meet the needs of Wretchwick Green. An amended solution, that meets the needs of both developments is sound infrastructure planning.

## 6. RESPONSE TO PUBLICITY

6.1. This application has been publicised as EIA development following the submission of additional information to support the original Environmental Statement. A site notice was displayed near the site, the application was advertised in the local newspaper, and 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 **9 September 2020**, although comments received after this date and before finalising this report have also been taken into account.

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

- Increased traffic and traffic congestion
- Risk to public safety, in particular cyclists
- Increased noise and pollution
- Long-term construction disturbance
- Poor design and appearance – motor vehicle centred design
- Precedent for more junctions and traffic lights in Bicester
- Plans are insufficient for pedestrians and cyclists
- 3m is not wide enough for pedestrians and cyclists
- Plans do not include an allowance for cyclists using the road
- Opportunity to design and install a dutch style roundabout
- The timing and implementation of the roundabout are key to the delivery of housing on two development sites.

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. AMBROSDEN PARISH COUNCIL: Request the cycle way is widened to 3m wide all the way to Ploughley Road.

### CONSULTEES

7.3. OCC HIGHWAYS: **Objections** for the following reasons:

- Shared use ped/cycle facilities around the roundabout should conform to LTN 1/20 and therefore require to be segregated
- The signalised crossings should be straight across rather than staggered to minimise delay to pedestrian and cyclists.

It is anticipated that the recommended changes could be made and the objection overcome.

*Officer note: Amended drawings have been submitted and officers are awaiting further comments from the Local Highway Authority.*

7.4. LOCAL LEAD FLOOD AUTHORITY (OCC): No objection, subject to conditions. The proposed drainage strategy is predominantly reliant on Filter drains and the attenuation basin in the centre of the roundabout which is acceptable in principle.

7.5. OCC ARCHAEOLOGY: No objection subject to conditions. The site is partly covered by hardstanding and trees which would make investigations ahead of the determination of this application unfeasible and a staged programme of archaeological evaluation and mitigation will therefore need to be undertaken ahead of any development of this proposal.

7.6. CDC ECOLOGIST: No objections subject to conditions. Two responses have been received relating to the initial ecological impact assessment and the updated version that has been submitted.

Conditions have been recommended requiring a Construction Environment Management Plan (CEMP) for ecology, adherence to sections of the Ecological Impact Assessment in relation to reptiles, nesting birds and bats, licence requirement for Great Crested Newts, Mitigation measures for Great Crested Newts and the requirement for new protected species surveys to be undertaken should a period of more than two years lapse.

With regards to net gain, it is noted that documents do not appear to detail any proposed enhancements on site for biodiversity for the application. This needs to be addressed and could be dealt with via a condition requiring a biodiversity enhancement scheme.

7.7. CDC ARBORICULTURAL OFFICER: Identifies a number of trees that require removal as part of the proposal. Focusing on the category B trees, it is understood their removal cannot be prevented in order to implement the highway layout, therefore it is suggested a significant replanting plan be commissioned should permission be granted in order to mitigate removal losses.

7.8. CDC LANDSCAPE OFFICER: Since this is a revised proposal to an already approved scheme for the roundabout and it is not materially different in landscape and visual terms. No objection is raised.

7.9. CDC ENVIRONMENTAL PROTECTION OFFICER:

Noise: Satisfied with the findings of the noise assessment. Requests a condition for a Construction Environment Management Plan (CEMP).

Contaminated land: No comments.

Air quality: No comments.

Light: No comments.

7.10. BICESTER BIKE USER GROUP (BBUG): **Object**, a number of concerns are raised regarding the proposed design of the roundabout:

- Grossly over capacity for motor vehicle traffic
- Replicates previously poorly designed roundabouts in Bicester
- The over capacity makes it impossible to make adequate provision for cyclists and pedestrians
- Alternative designs have been unworkable because their capacity has been grossly under underestimated in comparison to the over estimate for vehicle movements
- Concerns with the use of ARCADY software for modelling traffic flows
- Gross over capacity calculations result in rapacious land consumption and excessive construction costs. It also encourages unlawful motor vehicle speeds once complete which could be disastrous.
- No attempt to maximise walking and cycling provision within the design.
- Suggest a Dutch style approach to the roundabout design should be considered.
- LTN 1/20 has a requirement for segregated cycle and pedestrian paths.
- Concerns are raised regarding the design process and the work commissioned by OCC to consider alternative design approaches.

Detailed and lengthy comments on all of the above points have been made in the submission and considered by the Local Highway Authority. A full copy of the comments can be viewed online.

## **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
- ESD15 - The Character of the Built and Historic Environment
- BICESTER 2 – Graven Hill
- BICESTER 12 – South East Bicester

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

- C28 – Layout, design and external appearance of new development
- ENV1 – Development likely to cause pollution

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)

- Planning Practice Guidance (PPG)
- Connecting Oxfordshire: Local Transport Plan 2015-2031
- Cycle Infrastructure Design: Local Transport Note 1/20 (July 2020)
- 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:

- Environmental Impact Assessment
- Principle of development
- Transport and Highways
- Design and impact on the character of the area (including impact on trees and landscaping)
- Residential amenity (including noise)
- Ecology impact

### Environmental Impact Assessment

9.2. This application is a “subsequent application” in respect of the Environmental Impact Assessment Regulations 2017, and the application has therefore been screened under Regulations 6 and 9 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended).

9.3. Having undertaken this consideration, it is concluded that the Environmental Statement (ES) submitted to support the original planning application 11/01494/OUT and addendum to the ES which was submitted in support of application 18/00325/OUT remain adequate to assess the environmental effects of the development.

9.4. The PPG advises ‘The Local Planning Authority should take into account the information in the Environmental Statement, the responses to consultation and any other relevant information when determining a planning application’. Proper consideration of these matters is integrated into the assessment of the application under the relevant sections below.

### Principle of Development

9.5. Section 9 of the National Planning Policy Framework (Promoting sustainable transport) requires ‘transport issues to be considered at the earliest stages of plan making and development proposals, so that any potential of the development on transport networks can be addressed’ (para 102).

9.6. Policy Bicester 2 (Graven Hill) and Policy Bicester 12 (South East Bicester) of the Cherwell Local Plan 2031 each allocate strategic development sites that will deliver a significant amount of housing and employment uses on the southern side of Bicester. The two allocated sites are located to the southwest and northeast of the A41 respectively. It is anticipated that the spine road for Wretchwick Green (South East Bicester development) will join the A41 opposite the Pioneer Road junction which serves Graven Hill. The need for highway improvements at the junction have been identified to mitigate the highways impacts of the two allocated sites.

- 9.7. A similar roundabout located slightly to the northeast of the A41, formed part of the planning application for Wretchwick Green (16/01268/OUT) as part of its access arrangements. The application has a planning committee resolution to approve the proposal subject to conditions and a Section 106 legal agreement. Furthermore, the Graven Hill outline application (see outline consents within planning history) also demonstrated the need for a roundabout at this junction.
- 9.8. This proposal has been submitted to ensure the timing of the delivery of the roundabout meets the needs of the Graven Hill development. The roundabout has been re-positioned so that it can be developed on highway land and land owned/controlled by Graven Hill Development Company.
- 9.9. The need for a roundabout to upgrade the Pioneer Road junction and the principle of the development has been established within the Wretchwick Green application. Whilst the Wretchwick Green application is still pending, in combination with the planning history for Graven Hill, it demonstrates that highway improvement works at this junction are essential to mitigate the impacts of the two allocated development sites. Therefore, the principle of development comprising of highway improvements works at the Pioneer Road junction is considered to be acceptable.

## Transport and Highways

### *Policy context*

- 9.10. Paragraph 108 of the National Planning Policy Framework states: *'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; and*
  - c) Any significant impacts from the development on the transport network (in terms of capacity or congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree'*
- 9.11. Paragraph 109 of the National Planning Policy Framework states: *'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'*.
- 9.12. Policy SLE4 of the Cherwell Local Plan 2031 states *'All development where reasonable to do so, should facilitate the use of sustainable modes of transport to make the fullest possible use of public transport, walking and cycling. Encouragement will be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Development which is not suitable for the roads that serve the development and which have a severe traffic impact will not be supported'*.
- 9.13. Policy Bicester 2 (Graven Hill) of the Cherwell Local Plan 2031 sets out infrastructure needs for the development including *'Access and Movement – contribution to improvements to the surrounding local and strategic road networks. New points of access between the site and Bicester'*.
- 9.14. Policy Bicester 12 (South East Bicester – Wretchwick Green) of the Cherwell Local Plan 2031 sets out infrastructure needs for the development including *'Access and*

*Movement – contributes to improvements to the surrounding local and strategic road networks. Safeguarding of land for future highway capacity improvements to peripheral routes’.*

- 9.15. Local Transport Note 1/20 (LTN 1/20) provides guidance and good practice for the design of cycling infrastructure, in support of the Cycling and Walking Investment Strategy. The scope of the document is limited to design matters.
- 9.16. LTN 1/20 states *‘The guidance contains tools which give local authorities flexibility on infrastructure design and sets a measurable quality threshold to achieve when designing cycle schemes. It sets out five core design principles for cycle schemes: Coherent, direct, safe, comfortable and attractive.*

#### *Assessment*

- 9.17. The proposal is for a new four-arm roundabout on the A41, that would provide a second access into the Graven Hill site (forming the main access for the employment land within the Graven Hill development), and access into the Wretchwick Green development.
- 9.18. The roundabout that formed part of the Wretchwick Green proposal (set out in application 16/01268/OUT) would no longer be required if this proposal proceeds. The design makes provision for a connection from the Wretchwick Green development site.
- 9.19. The application has been submitted with an accompanying transport assessment.
- 9.20. As set out above, the principal of a roundabout in this location (to provide the necessary highway improvements to mitigate the two allocated development sites) has been established in both the previous Graven Hill planning applications and the Wretchwick Green planning application.
- 9.21. With regards to the design, the Local Highway Authority have provided the following detailed comments:

*‘The proposed design conforms to DMRB standards (as set out in the Transport Assessment) in terms of its geometry, and is appropriate for the current speed limit, notwithstanding the proposal for the speed limit to be reduced to 40mph along the Graven Hill frontage. It is important to note that OCC would not be able to accept a design that was not in accordance with current speed limits. The design has also been modelled to show that it can provide sufficient traffic capacity in 2031 with acceptable levels of queueing and delay.*

*Vehicle swept path analysis provided with the application demonstrates that the turning movements of the largest HGVs can be accommodated without the need to overrun kerbs.*

*Signalised crossings are proposed on all of the arms of the junction, to cater for pedestrian and cycle movements. Whilst they involve a small detour from the desire line, they are positioned as close to the roundabout as possible for safety, in accordance with guidance. The small time advantage to pedestrians and cyclists of placing the crossings closer to the roundabout would be outweighed by the safety risk caused by drivers exiting the roundabout not giving way.*

- 9.22. The Local Highway Authority are content with the general design approach and design that has been submitted. Overall, this approach will provide a safe and

accessible solution for all highway users. The comments go on to highlight two areas where minor amendments are required:

*'The form of crossing also conforms to the latest Government guidance on Cycle Infrastructure Design (LTN 1/20), which was published on 27 July 2020. However, consideration should be given to making the staggered crossing on the A41 W arm into a single phase, to minimise delay to pedestrians and cyclists. I would like to see this tested.*

*The width of the shared use facility at the roundabout does not conform to LTN 1/20, which requires segregation between pedestrians and cyclists. It should be amended to conform to LTN 1/20 and to be consistent with the facilities planned on the new roads leading into Graven Hill and Wretchwick Green. Sufficient space should be allowed for pedestrians and cyclists to wait at the crossings without obstructing the path of passing pedestrians and cyclists.*

- 9.23. The Local Highway Authority consider that both of these points can be overcome through the submission of amended drawings. Amended drawings have now been submitted to address the points raised further comments from the Local Highway Authority are awaited and an update will be provided to the committee.
- 9.24. A final point notes the existing shared use footway/cycleway along the western side of the A41 is substandard and the Local Highway Authority have aspirations to widen this. However, it is acknowledged this area is outside the scope of the application, so until such a time when the improvements are made, the new facilities will need to tie in safely, with warning signs if necessary.
- 9.25. The Bicester Bike User Group (BBUG) have submitted a lengthy representation which raises a number of concerns with the proposed design. Primarily, the concerns centre around a view that the design is based on an over estimated capacity requirement which in turn results in an over engineered design. Criticism has been raised regarding the modelling method used by the applicant's consultants and the assumptions that have been inputted into the models.
- 9.26. There has been ongoing correspondence throughout the application process between the Local Highway Authority and BBUG's representative. The Local Highway Authority has provided a table of further comments to specifically address the issues being raised by BBUG. It concludes that the opinion of the Local Highway Authority Officer is that *'the proposed design (with the changes that have been requested) offers high quality, safe pedestrian and cycle infrastructure which will encourage walking and cycling by all users, and is suitable within the context of the location on a busy, strategic junction on the edge of Bicester'*.
- 9.27. BBUG and some of the public comments have suggested a 'Dutch Style' roundabout should be considered which gives priority to pedestrians and cyclist. Neither the Council nor the Local Highway Authority can insist that an applicant submit an alternative design; our role is to assess the submitted proposal and consider if it suitably addresses the highway issues.
- 9.28. The Local Highway Authority's role within the planning application process is to act as a technical consultee with expert knowledge on matters relating to highways and transport. Subject to some minor amendments, the Local Highway Authority is advising that the design is an acceptable and safe solution to the required junction improvements.

*Conclusion*

- 9.29. Subject to amended drawings to overcome the two points raised by the Local Highway Authority, the proposal will provide an adequate and safe means of access to the two allocated development sites. The Local Highway Authority have considered the detailed points raised by third parties and still consider the roundabout design, as proposed, makes adequate and safe provision for all users (including pedestrians and cyclists).
- 9.30. It is expected that amendments can be made to overcome the two technical points raised by the Local Highway Authority prior to the determination of the application. Therefore, subject to the receipt of satisfactory amendments, the proposal is considered to be acceptable and to comply with Government Guidance contained within the National Planning Policy Framework and Policy SLE4 of the Cherwell Local Plan 2031.

Design and impact on the character of the area (including impact on trees and landscaping)

- 9.31. Policy ESD15 of the Cherwell Local Plan 2031 seeks high quality design for developments and supports the efficient use of land and infrastructure, through appropriate land uses, mix and density/development intensity.
- 9.32. Policy SLE4 of the Cherwell Local Plan 2031 supports the implementation of the proposals in the Movement Strategies and Local Transport Plan to deliver key connections, to support modal shift and to support more sustainable locations for employment and housing growth.
- 9.33. As set out in the section above, the provision of a roundabout on the A41 is necessary to mitigate the impacts of both the Graven Hill and Wretchwick Green sites. The roundabout will serve both of these developments (circa 3200 dwellings and employment uses), whilst continuing to serve a key transport route in/out of Bicester. As such, the roundabout will be a significant piece of highway infrastructure, which is large in size.
- 9.34. The design of the roundabout is typical for this type of infrastructure and will come with all the normal paraphernalia such as safety railings, traffic signals and signage. Due to the nature of highway infrastructure, it is important the roundabout is visible from all approaches and is not hidden by landscaping for highway safety reasons.
- 9.35. Due to the scale of the roundabout (and the need for it to be contained within the existing highway boundary and land currently owned/controlled by the Graven Hill Development Company), the proposal requires the removal of approximately 50 trees, including a large proportion on the western side of the A41.
- 9.36. The Council's arboricultural officer has considered the proposal and stated the trees are made up of a mixture of Category B, C and U trees. Category C and U trees are of the lowest quality and it is stated they should not pose a constraint to the development. Category B trees are of moderate quality or value capable of making a significant contribution to the area for 20 or more years. Focussing on the category B trees (15 in total), it is acknowledged that the removal is necessary in order to implement the highway layout, and therefore it is recommended that a re-planting scheme is conditioned to mitigate the impacts of the development.
- 9.37. Due to the nature of highway infrastructure, the roundabout will be visible as you approach it from all directions, however it will not appear out of keeping as this type of structure is expected in this context. Overall, the design of the proposal is considered to be appropriate in terms of visual impact on the wider area. Officers

therefore conclude that the proposal complies with Policy ESD15 and SLE4 of the Cherwell Local Plan 2031.

#### Residential amenity (including noise)

- 9.38. The proposed roundabout is providing highway improvements to the existing highway network to mitigate the impacts of two large development sites that have been allocated within the Cherwell Local Plan 2031.
- 9.39. The nearest existing residential properties are located to the southeast adjacent to the A41. Both of the allocated developments include the provision of a significant number of dwellings, however the parcels of land closest to the proposed roundabout will be subject to reserved matters applications at a later stage, so the exact position of the dwellings are unknown.
- 9.40. The Council's Environmental Protection Officer has raised no objections in terms of potential impacts of noise. Although the proposed roundabout is envisaged to be a busy junction, this was anticipated with the allocation of the development sites. Both developers will be able to consider the position of the roundabout and main road when designing layouts to mitigate any potential noise.
- 9.41. The existing dwellings (to the southeast) are located adjacent to the A41 (an existing busy road) and the proposed roundabout is not considered to generate noise levels that would be detrimental to the occupiers of those dwellings. Furthermore, a condition is recommended to require the submission of a Construction Environment Management Plan (CEMP) which will include details of working hours for the proposed construction work.
- 9.42. The proposal would make amendments to the existing highway network and would not generate additional noise levels that would be detrimental to residential amenity. Therefore, the proposal is considered to be acceptable and to comply with Policy ESD15 of the Cherwell Local Plan 2031 in this regard.

#### Ecology Impact

##### *Legislative context*

- 9.43. 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.
- 9.44. 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.
- 9.45. 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.

9.46. 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.

9.47. 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*

9.48. 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.

9.49. 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.

9.50. 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.

9.51. 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.

- 9.52. 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.
- 9.53. 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.
- 9.54. The Planning Practice Guidance dated 2014 post dates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that Local Planning Authorities should only require ecological surveys where clearly justified, for example if there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.

#### *Assessment*

- 9.55. Natural England's Standing Advice states that an LPA only needs to ask an applicant to carry out a survey if it's likely that protected species are:

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

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

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

- 9.56. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site contains 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.
- 9.57. In order for the local planning authority to discharge its legal duty under the Conservation of Habitats and Species Regulations 2017 when considering a planning application where EPS are likely or found to be present at the site or surrounding area, local planning authorities must firstly assess whether an offence under the Regulations is likely to be committed. If so, the local planning authority should then consider whether Natural England would be likely to grant a licence for the development. In so doing the authority has to consider itself whether the development meets the 3 derogation tests listed above.
- 9.58. 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.

- 9.59. The application is supported by a detailed protected species survey which concluded that as a result of this ecology impact assessment and based on the Development plans received to date, GCN have been identified as an IEF and roosting bats have been identified as a potential IEF which are anticipated to be affected by the proposed development.
- 9.60. It goes on to state that further surveys for roosting bats and consultation with Natural England with regard to GCN mitigation requirements will be undertaken during the determination period of the application and detailed within an updated version of the report. An updated report has been submitted and considered by the Council's Ecologist.
- 9.61. The reports conclude that to ensure legal and planning policy compliance, mitigation measures will be provided as part of the scheme. The Council's ecologist has recommended conditions requiring a Construction Environment Management Plan (CEMP) for ecology, adherence to sections of the Ecological Impact Assessment in relation to reptiles, nesting birds and bats, licence requirement for Great Crested Newts, Mitigation measures for Great Crested Newts and the requirement for new protected species surveys to be undertaken should a period of more than two years lapse.
- 9.62. The Council's Ecologist has highlighted the requirement for net biodiversity gain to be provided on all developments. At present these have not been demonstrated for this stand-alone application and therefore a condition is recommended to address this issue.
- 9.63. 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.

#### Other matters

- 9.64. Drainage: The Local Lead Flood Authority has raised no objection to the proposal subject to a condition requiring full details of a surface water drainage scheme to be submitted. Their detailed comments state:

*'The proposed drainage strategy is predominantly reliant on Filter drains and the attenuation basin in the centre of the roundabout which is acceptable in principle.*

*Kerb drainage is being proposed to drain parts of the highway. This has not been detailed but combined kerb drainage must be designed out wherever possible, especially on a roundabout. Other methods such as dropped kerbs must be considered.*

*Further detailed information is required at the detailed design stage including cross sections of the drainage features and full calculations up to the 1 in 100 year plus 40% climate change event to demonstrate that all water will be collected and managed appropriately post construction.*

- 9.65. This approach, using a condition, is considered appropriate as drainage details will also need to be agreed with the Local Highway Authority road agreements team. Therefore, it is likely that further tweaks may be required as that process progresses, and a condition will allow the final agreed scheme to be captured. In principle the proposed roundabout is not considered to have a detrimental impact in terms of flooding or drainage.
- 9.66. Archaeology: The site is located in an area of considerable archaeological interest and the proposed access and roundabout are likely to encounter further aspects of these features. The County Council Archaeologist notes that *'the site is however partly covered by hardstanding and trees which would make investigations ahead of the determination of this application unfeasible and a staged programme of archaeological evaluation and mitigation will therefore need to be undertaken ahead of any development of this proposal'*.
- 9.67. A condition is recommended requiring the applicant to maintain a staged programme of archaeological investigation during the construction works.
- 9.68. Air quality and noise: It is noted the Council's Environmental Protection Officer has made no comment nor raised an objection on the basis of air quality or noise. The proposed roundabout was an anticipated piece of highway infrastructure necessary when Policy Bicester 2 and Policy Bicester 12 of the Cherwell Local Plan were allocated. The roundabout will form part of the existing highway network and will be located a suitable distance from residential properties. As such the proposal complies with saved Policy ENV1 of the Cherwell Local Plan 1996.

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

- 10.1. This application addresses a significant need for highway infrastructure improvements to mitigate the impacts of two strategic allocated sites within the Cherwell Local Plan 2031 (Bicester 2 and Bicester 12). The proposed roundabout is considered to be of an adequate design to mitigate traffic impacts and will provide safe access for all users of the highway.
- 10.2. The design and visual impacts are considered to be appropriate given the context and nature of the development and it would not have a detrimental impact on residential amenity. The proposal is acceptable in terms of impact on ecology, drainage, archaeology, noise and air quality.
- 10.3. The information in the ES and the consultation responses received have been taken into account in considering this application and preparing this report.
- 10.4. Given consideration to the detailed assessment set out above, the proposal is considered to be acceptable and complies with Government Guidance contained within the National Planning Policy Framework, Policies PSD1, SLE4, ESD15, Bicester 2 and Bicester 12 of the Cherwell Local Plan 2031 and Policies C28 and ENV1 of the Cherwell Local Plan 1996.

## **11. RECOMMENDATION**

**RECOMMENDATION – DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT TO GRANT PERMISSION SUBJECT TO THE LOCAL HIGHWAY AUTHORITY REMOVING THEIR OBJECTION AND SUBJECT TO THE CONDITIONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY)**

### 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:
  - Covering letter
  - Application forms
  - Drawing number WIE11386-RBT-90-001 Rev A01 – [Red line boundary]
  - Drawing number WIE11386-145-03-001-A41 Rev A02 – [Pioneer General Arrangement Drawing]
  - Drawing number WIE11386-145-92-500-001 – [Roundabout Drainage Strategy]
  - Arboricultural Impact Assessment
  - Archaeological Mitigation Strategy
  - Drainage Strategy
  - Ecological Impact Assessment
  - Transport Assessment
  - Noise Assessment
  - Landscape and Visual Impact Assessment
  - Air Quality Assessment

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

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

The approved CEMP: Biodiversity shall be adhered to and implemented throughout the construction period strictly in accordance with the approved

details, unless otherwise agreed in writing by the Local Planning Authority.

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

4. The development hereby permitted shall be carried out in accordance with the recommendations set out in paragraphs 5.14, 5.16 and 5.19-5.24 of the Ecological Impact Assessment by Watermans Infrastructure and Environmental Limited dated September 2020 unless otherwise agreed in writing by the Local Planning Authority.

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

5. 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 [bats/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.

6. Prior to the commencement of the development hereby approved, including any demolition and any works of site clearance, a method statement and mitigation strategy for Great crested newts to cover all works not included under an EPSL, and which shall include timing and manner of works, exclusion fencing, the location and design of alternative ponds/habitats together with the timing of their provision as required, 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 details.

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

7. If the development hereby approved does not commence within 2 years of the date of this decision. A revised Ecological Impact Assessment shall be undertaken prior to the commencement of the development to establish changes in the presence, abundance and impact on protected species. The survey results, together with any necessary changes to the mitigation plan or method statement shall be submitted to and approved in writing the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.

Reason – To ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy ESD10 of the

Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

8. Prior to the commencement of the development hereby approved, including any demolition, and any works of site clearance, full details of a scheme for biodiversity net gain (minimum 10% net gain) 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 conserve and enhance biodiversity in accordance with Government guidance contained within the National Planning Policy Framework.

9. Construction shall not begin until a detailed surface water drainage scheme for the site, in accordance with the approved Watermans Drainage Strategy WIE11386-101-TN-1-1-2 June 2020, has been submitted to and approved in writing by the planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. 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 microdrainage calculations for all events up to and including the 1 in 100 year plus 40% climate change;
- A Flood Exceedance Conveyance Plan;
- Detailed design drainage layout drawings of the SuDS proposals including cross section details;
- Detailed maintenance management plan in accordance with Section 32 of CIRIA C753 including maintenance schedules for each drainage element; and
- Details of how water quality will be managed during construction.

Reason – To prevent environmental and amenity problems arising from flooding and to accord with Sections 14 and 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.

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 the NPPF (2019)

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 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 (2019).

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

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

13. Highways conditions – We are still awaiting final comments from the Local Highway Authority including details of any recommended conditions.

**Planning Notes:**

1. **EIA Subsequent Application** - In accordance with Regulations 3 and 8 of The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (as amended), Cherwell District Council as Local Planning Authority in this case, is satisfied that the environmental information already before it remains adequate to assess the environmental effects of the development and has taken that information into consideration in determining this conditions application.

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