

Case Officer: Rebekah Morgan

Applicant: Created Life Three (Bicester) Ltd

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

Ward: Launton and Otmoor

Councillors: Councillor Coton, Councillor Holland and Councillor Patrick

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

Expiry Date: 23 May 2022

Committee Date: 19 May 2022

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

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

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

UPDATE REPORT

1. DESCRIPTION OF AMENDED DETAILS

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

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

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

2. ADDITIONAL CONSULTATION RESPONSES

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

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

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

Shared use or segregated paths

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

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

Crossing provision

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

Future highway schemes – Eastern corridor

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

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

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

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

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

Summary

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

3. APPRAISAL

Highway Safety

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

Flood Risk and drainage

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

Other Matters

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

4. PLANNING BALANCE AND CONCLUSION

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

5. RECOMMENDATION

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

(i) THE ENVIRONMENT AGENCY REMOVING THEIR OBJECTION

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

(iii) THE COMPLETION OF A PLANNING OBLIGATION UNDER SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990, AS SUBSTITUTED BY THE PLANNING AND COMPENSATION ACT 1991, TO SECURE THE FOLLOWING (AND ANY AMENDMENTS AS DEEMED NECESSARY):

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

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

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

1. In the absence of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement the Local Planning Authority is not satisfied that the proposed development provides for appropriate highway mitigation works required as a result of the development and necessary to make the impacts of the development acceptable in planning terms, contrary to Government Guidance contained with the National Planning Policy Framework.

CONDITIONS

Time Limit

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

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

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents:
 - Application form
 - Planning Statement
 - Design and Access Statement
 - Transport Statement
 - Travel Plan
 - Flood risk assessment and additional supporting information
 - Drainage Strategy
 - Ecological report and additional supporting information
 - Archaeological and heritage assessment
 - Noise assessment
 - Site investigation report and non-intrusive desk study
 - Climate Change and Sustainability Policy Matrix, and Bicester Greggs Drive Thru – Commentary on Energy Policy Prepared by Martin Thornley - Thornley & Lumb Partnership Ltd Issue 01 – 04.11.21

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

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

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

Reason – To ensure the satisfactory appearance of the completed development and to comply with Policy ESD 15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

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

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

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

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

6. No development shall take place until a Construction Travel Management Plan (CTMP) has been submitted to and approved in writing by the Local Planning Authority. The CTMP shall include the following:

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

Reason – In the interests of highway safety and to mitigate the impact of construction vehicles on the surrounding network, road infrastructure and local residents, particularly at peak traffic times, in accordance with guidance contained in the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

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

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

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

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

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

Reason – In order to promote sustainable modes of travel.

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

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

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

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

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

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

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

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

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

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

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

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

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

Planning Notes

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

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

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

Agenda Item 9

21/02286/F

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

Additional information received

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

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

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

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

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

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

Officer comments:

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

Additional Representations received

Bicester Bike Users' Group:

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

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

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

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

Officer response:

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

Recommendation

Remains as per the published agenda report subject to:

- i. Amendments to Condition 2 (Plans):

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

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

1. APPLICATION SITE AND LOCALITY

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

2. CONSTRAINTS

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

3. DESCRIPTION OF PROPOSED DEVELOPMENT

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

4. RELEVANT PLANNING HISTORY

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

21/02345/SO

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

08 July 2021 – Screening Opinion not requesting EIA

13/00372/OUT

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

17 June 2013 – Approved

10/00324/OUT

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

25 August 2011 – Application withdrawn

09/01659/REM

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

20 May 2011 – Approved

05/01563/OUT

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

19 March 2007 – Appeal allowed.

5. PRE-APPLICATION DISCUSSIONS

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

6. RESPONSE TO PUBLICITY

6.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was **30 August 2021**.

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

Comments in support:

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

Comments of objection:

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

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

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

7. RESPONSE TO CONSULTATION

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

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

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

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

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

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

CONSULTEES

7.4. ENVIRONMENT AGENCY: **Object**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8. RELEVANT PLANNING POLICY AND GUIDANCE

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

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

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

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

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

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

8.3. Other Material Planning Considerations

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

9. APPRAISAL

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

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

Principle of Development

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

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

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

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

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

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

Design and Character of the Area

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

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

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

Heritage Impact

- 9.24. Conservation Areas and Listed Buildings are designated heritage assets, and Paragraph 199 of the NPPF states that: when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Policy ESD15 of the CLP 2015 Part 1 echoes this guidance.
- 9.25. The site is close to the boundary of the RAF Bicester Conservation Area, however the intervening land is developed (care home and commercial development) and the proposed site would not be viewed within the context of the Conservation Area.
- 9.26. The Council's Conservation Officer has not raised an objection to the proposal and has advised the development would not impact on the setting of the RAF Bicester Conservation Area as the proposed development would be screened by the large warehouse development which sit between the site and the Conservation Area.
- 9.27. The proposal is not considered to have a detrimental impact on the setting of the Conservation Area. In this regard, the proposal complies with government guidance contained within the NPPF and Policy ESD15 of the Cherwell Local Plan 2015.

Residential Amenity

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

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

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

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

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

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

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

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

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

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

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

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

Highway Safety

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

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

Flood Risk and Drainage

- 9.48. Section 14 of the NPPF covers the issue of meeting the challenge of climate change, flooding and coastal change. Paragraph 167 of which states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:
- a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;
 - b) the development is appropriately flood resistant and resilient;
 - c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
 - d) any residual risk can be safely managed; and
 - e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.
- 9.49. Paragraph 169 of the NPPF continues by stating that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should:
- a) take account of advice from the lead local flood authority;
 - b) have appropriate proposed minimum operational standards;
 - c) have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and
 - d) where possible, provide multifunctional benefits.
- 9.50. Policy ESD 7 of the CLP 2015 highlights that all development will be required to use sustainable drainage systems (SuDS) for the management of surface water run-off.
- 9.51. The application site is mainly located within Flood Zone 3 with small parts of the site located in Flood Zones 1 and 2. The flood zones are defined as follows:

Flood zone 1

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

Flood zone 2

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

Flood zone 3

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

Flood zone 3b

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

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

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

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

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

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

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

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

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

Ecology Impact

- 9.59. Paragraph 174 of the NPPF states that Planning policies and decisions should contribute to and enhance the natural and local environment by (amongst others): a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils; and d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 9.60. Paragraph 180 states that when determining planning applications, local planning authorities should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.
- 9.61. Paragraph 185 of the NPPF states that planning decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should (amongst others) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.
- 9.62. Policy ESD10 of the Cherwell Local Plan 2011-2031 lists measures to ensure the protection and enhancement of biodiversity and the natural environment, including a requirement for relevant habitat and species surveys and associated reports to accompany planning applications which may affect a site, habitat or species of known ecological value.
- 9.63. Policy ESD11 is concerned with Conservation Target Areas (CTAs), and requires all development proposals within or adjacent CTAs to be accompanied by a biodiversity survey and a report identifying constraints and opportunities for biodiversity enhancement.
- 9.64. These policies are both supported by national policy in the NPPF and also, under Regulation 43 of Conservation of Habitats & Species Regulations 2017, it is a criminal offence to damage or destroy a breeding site or resting place, unless a licence is in place.
- 9.65. The Planning Practice Guidance dated 2014 post-dates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that Local Planning Authorities should only require ecological surveys where clearly justified, for example if there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.
- 9.66. Natural England's Standing Advice states that an LPA only needs to ask an applicant to carry out a survey if it's likely that protected species are:

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

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

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

- 9.67. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site is close to a stream and there are a number of mature trees and hedgerows within and adjacent the site, and therefore has the potential to be suitable habitat for bats, breeding birds, badgers, reptiles, great crested newts, water voles and invertebrates.
- 9.68. In order for the local planning authority to discharge its legal duty under the Conservation of Habitats and Species Regulations 2017 when considering a planning application where EPS are likely or found to be present at the site or surrounding area, local planning authorities must firstly assess whether an offence under the Regulations is likely to be committed. If so, the local planning authority should then consider whether Natural England would be likely to grant a licence for the development. In so doing the authority has to consider itself whether the development meets the 3 derogation tests listed above.
- 9.69. In respect of planning applications and the Council discharging of its legal duties, case law has shown that if it is clear/ very likely that Natural England will not grant a licence then the Council should refuse planning permission; if it is likely or unclear whether Natural England will grant the licence then the Council may grant planning permission.
- 9.70. The application was supported by a protected species survey and supporting ecological information. Following initial comments from the Council's Ecologist, additional information including a revised biodiversity assessment and a revised Biodiversity Metric calculator were submitted.
- 9.71. Officers are satisfied, on the basis of the advice from the Council's Ecologist and the absence of any objection from Natural England, and subject to conditions, that the welfare of any European Protected Species found to be present at the site and surrounding land will continue and be safeguarded notwithstanding the proposed development and that the Council's statutory obligations in relation to protected species and habitats under the Conservation of Habitats & Species Regulations 2017, have been met and discharged.
- 9.72. With regards to biodiversity net gain (BNG), the revised Biodiversity Metric 2.0 now demonstrates a biodiversity net gain of approximately 18% can be achieved on the site and this exceeds the Council's corporate target of 10% as set out in the 2020-2022 Community Nature Plan. Conditions including a Landscape and Ecological Management Plan (LEMP) have been recommended to ensure the BNG is achieved and managed on the site.

Energy Efficiency and sustainable construction

- 9.73. Section 14 of the NPPF covers the issue of meeting the challenge of climate change, flooding and coastal change. Paragraph 154 states that new development should be

planned for in ways that: a) avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaptation measures, including through the planning of green infrastructure; and b) can help to reduce greenhouse gas emissions, such as through its location, orientation and design. Any local requirements for the sustainability of buildings should reflect the Government's policy for national technical standards. Paragraph 155 continues by stating, amongst other things, that in order to help increase the use and supply of renewable and low carbon energy and heat, plans should: c) identify opportunities for development to draw its energy supply from decentralised, renewable or low carbon energy supply systems and for co-locating potential heat customers and suppliers.

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

Environmental Impacts

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

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

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

10. PLANNING BALANCE AND CONCLUSION

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