

**Case Officer:** Wayne Campbell

**Applicant:** Her Majesty's Prison & Probation Service

**Proposal:** Development of a new accommodation houseblock, new office/administration building, new workshop building, extension to existing medical office, new 'programmes/multifaith' building, and extension to existing physical recreation building; associated demolition works; extension to the prison car park; associated landscaping.

**Ward:** Launton and Otmoor

**Councillors:** Councillor Coton, Councillor Holland, and Councillor Patrick

**Reason for Referral:** Major development

**Expiry Date:** 14 April 2022

**Committee Date:** 19 May 2022

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**SUMMARY OF RECOMMENDATION: DELEGATE POWERS TO GRANT PERMISSION  
SUBJECT TO CONDITIONS AND S106**

**1. APPLICATION SITE AND LOCALITY**

- 1.1. The site is located to the southeast of Bicester between the villages of Upper Arncott and Piddington. The site is within the countryside, with neighbouring sites occupied by the Ministry of Defence and the Oxfordshire Army Cadet Force Headquarters. Generally, the site is surrounded by established trees and greenery that largely conceal the prison from the surrounding road network. The Establishment can be accessed from Patrick Haugh Road, which runs between Upper Arncott and the B4011.
- 1.2. HMP Bullingdon opened in 1992. It covers approximately 21 hectares of former Ministry of Defence land. The prison's regime is linked with Milton Keynes College and provides learning opportunities from basic skills such as English and Mathematics through to distance learning with the Open University. Training is available to trades and professions such as printing, industrial cleaning, barbering, music, hospitality and business. Work is also available throughout the prison in areas such as the laundry and farms and gardens. Currently, there are around 1100 men living at Bullingdon across 6 houseblocks.

**2. CONSTRAINTS**

- 2.1. The application site has the following constraints:
  - Within Flood Zone 1 – i.e., the land is the lowest flood risk
  - The site is located to the west of District Wildlife Site – Piddington Training Area
  - The site is located to the immediate north of the Local Wildlife Site – Site B, Arncott
  - The majority of the area outside the prison site is maintained as open fields

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

- 3.1. All the proposed building works are within the secure perimeter wall of the prison boundary. The proposal includes an additional 240-space prisoner accommodation block; a new office and administration building; new workshop building; extension to an existing medical office; a new 'programmes/multifaith' building; extension to the existing physical recreation building; and associated demolition works.
- 3.2. The proposal also includes some works outside the secure boundary of the prison in the form of the addition of 100 new parking spaces adjacent to the existing car park, on the opposite side of Patrick Haugh Road; and associated landscaping around the car park extensions, to address the increased occupancy requirements.

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

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

21/00842/CLUP – Certificate of Lawfulness for proposed installation of solar PV panels on some roofs. Permitted 3 June 2021;

19/01019/CLUE – Certificate of Lawfulness for retention of Prison accommodation block F Wing. Permitted 13 September 2019;

18/01934/CLUP – Certificate of Lawfulness for proposed blocking up of ten first floor windows along the north and east elevations. Permitted 3 January 2019;

17/01622/F – Fire upgrade works to the accommodation blocks, including external installation of eight containerised water-misting plants. Permitted 2 October 2017.

- 4.2. There were eleven earlier applications for a variety of building works to the Prison over the period 2001 – 2010 but nothing of relevance to the current proposals.

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

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

21/02023/PREAPP: Proposed new houseblock

- 5.2. The pre-application advice provided confirmed that the principle of the development was acceptable and that the design of the proposals would also be acceptable taking into consideration the use in the context of the existing Prison complex.

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

- 6.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records (amend as appropriate) and statutory consultees. The final date for comments was **31 March 2022**.

- 6.2. There were no objections, no submissions of support and no comments raised by third parties.

## **7. RESPONSE TO CONSULTATION**

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

### PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

- 7.2. ARNCOTT PARISH COUNCIL: No comments received.  
7.3. PIDDINGTON PARISH COUNCIL: No comments received.

### CONSULTEES

- 7.4. OCC MINERALS AND WASTE: **No objections.**
- 7.5. CDC LAND DRAINAGE: **No objections.** However, advise that there are areas of surface water flood risk within the site where water can pond if not readily drained.
- 7.6. CDC LEGAL SERVICES RIGHTS OF WAY OFFICER: **No objections.**
- 7.7. THAMES WATER: **No objection** subject to a suggested condition and a request that the Prison authority contact Thames Water with respect to their wayleave or easement rights. That can be added as an Informative to the decision notice.
- 7.8. INTERNAL DRAINAGE BOARD: **No objection.**
- 7.9. ANGLIAN WATER: **No comments.**
- 7.10. OCC HIGHWAYS: **No objection** subject to S106 contribution towards public transport services and conditions
- 7.11. LEAD LOCAL FLOOD AUTHORITY: **Objection.**
- 7.12. THAMES VALLEY POLICE (DESIGN ADVISOR): No comments received.
- 7.13. CDC HEALTH PROTECTION: No comments received.
- 7.14. CDC ENVIRONMENTAL PROTECTION: No comments received.
- 7.15. CDC PLANNING POLICY: No comments received.
- 7.16. ENVIRONMENT AGENCY: No comments received.
- 7.17. WESTERN POWER: No comments received.
- 7.18. SOUTHERN GAS NETWORK: No comments received.
- 7.19. SEVERN TRENT WATER: No comments received.

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

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

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

- PSD1 - Presumption in Favour of Sustainable Development
- ESD1 – Mitigating and Adapting to Climate Change
- ESD2 – Energy Hierarchy and Allowable Solutions
- ESD3 – Sustainable Construction
- ESD5 – Renewable Energy
- ESD6 – Sustainable Flood Risk Management
- ESD7 – SuDS
- ESD8 – Water Resources
- ESD10 – Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13 – Landscape Protection
- ESD15 – The Character of the Built and Historic Environment

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

- C8 – Sporadic Development
- C28 – Layout, design and external appearance of new development
- C30 – Design
- ENV1 – Pollution Control

- 8.3. Other Material Planning Considerations
- National Planning Policy Framework (NPPF)
  - Planning Practice Guidance (PPG)

## **9. APPRAISAL**

- 9.1. The key issues for consideration in this case are:
- Principle of development
  - Design, and impact on the character of the area
  - Highway implications
  - Drainage
  - Ecology impact
  - Sustainable development

### Principle of Development

#### *Policy Context*

- 9.2. Planning law requires that planning decisions are made in accordance with the Development Plan unless material considerations indicate otherwise. Paragraph 12

of the National Planning Policy Framework (NPPF) makes clear that it does not change the statutory status of the development plan as the starting point for decision making. Proposed development that conflicts with the development plan should be refused unless other material considerations indicate otherwise.

- 9.3. The NPPF sets a presumption in favour of sustainable development and a positive approach to planning as a means of supporting the country's economic and housing growth, whilst protecting the environment.
- 9.4. Paragraph 96 of the NPPF states that to ensure faster delivery of other public service infrastructure such as further education colleges, hospitals and criminal justice accommodation, local planning authorities should also work proactively and positively with promoters, delivery partners and statutory bodies to plan for required facilities and resolve key planning issues before applications are submitted. As this application seeks to provide additional accommodation within the prison boundary this paragraph is a material consideration.
- 9.5. The Development Plan comprises saved policies in the 1996 adopted Cherwell Local Plan (CLP 1996) and the 2015 adopted Cherwell Local Plan (CLP 2015). The policies important for determining this application are referenced above. Key policy in terms of principle is PSD1 - Presumption in Favour of Sustainable Development. Under this Policy it states that in considering applications *the Council will take a proactive approach to reflect the presumption in favour of sustainable development contained in the National Planning Policy Framework*. The Policy continues by stating that *applications that accord with the policies in this Local Plan (or other part of the statutory Development Plan) will be approved without delay unless material considerations indicate otherwise*.

#### *Assessment*

- 9.6. This application seeks planning permission for a number of new buildings within the prison grounds to allow for an improved prison service both in terms of facilities on the site and inmate provision. The use of the site as a prison has a long and established history and the type of accommodation is not something which can be provided outside the prison site. As such, the proposed development for more intensive prison use within the prison grounds (240 extra inmates within a new accommodation block and associated other works) is considered acceptable in terms of principle.
- 9.7. Notwithstanding this point the development also includes the provision of additional car parking with the extension of the existing car parking area located to the immediate north of the main prison buildings. The provision of the additional car parking is to address the additional accommodation on the site and the increase in staff to be employed on the site with a stated increase in staff from 650 full time posts to 747 members of staff as a result of the development.
- 9.8. Although it is accepted that the prison is served by a bus service by Stagecoach, it also has to be accepted that the staff will work shifts which would not necessarily be covered by the times of the buses and therefore there is a need to ensure adequate parking is provided on site. For this reason, the principle of the additional 102 parking spaces is considered acceptable.

#### *Conclusion*

- 9.9. This application seeks planning permission for a series of new buildings and extensions to existing buildings within the secure boundary walls on this prison site as well as an extension to the surface carparks located outside the secure area of the prison. The new development would be for use by the prison as part of the

improvements to the service on the site. The site has a long history of providing secure accommodation which could not be provide elsewhere in this area. The principle of the development is therefore considered acceptable.

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

#### *Policy context*

9.10. Section 12 of the National Planning Policy Framework covers the issue over design and is clear that good design is a fundamental to what the planning and development process should achieve. Paragraph 130 of the NPPF highlights, amongst other things, that planning policies and decisions should ensure that developments:

*a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*

*b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*

*c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*

*e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and*

*f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.*

9.11. Policy ESD15 of the Adopted Local Plan Part 1 states that 'new development proposals should:

- Contribute positively to an area's character and identity by creating or reinforcing distinctiveness and respecting local topography, including skylines, valley floors, significant trees, historic boundaries, landmarks, features or views;
- Respect the traditional pattern, routes, spaces, blocks, enclosures and (inter alia) create clearly defined active public frontages.

9.12. Policy ESD13 of the Cherwell Local Plan Part 1 states that: "Development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided. Proposals will not be permitted if they would:

- Cause undue visual intrusion into the open countryside;
- Cause undue harm to important natural landscape features and topography;
- Be consistent with local character;
- Harm the setting of settlements, buildings, structures, or other landmark features;
- Harm the historic value of the landscape.

9.13. Saved Policy C28 of the Cherwell Local Plan 1996 exercises control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context and Saved Policy C8 seeks to limit sporadic development beyond the built limits of settlements.

### *Assessment*

- 9.14. The application seeks planning permission for a mix of new development within the secure prison boundary. In terms of scale the new development will be a mix of single-storey and two-storey ancillary buildings and a four-storey star-shaped accommodation block building on the site. The single storey buildings will provide a new office accommodation, a medical centre extension, and a separate property store building on the site.
- 9.15. The two-storey buildings will comprise a new workshop building, a new multi-faith building, as well as an extension to the physical recreation building. With regard to the larger building on the site, this will be a new four-storey accommodation block which will provide accommodation of up to 247 inmate beds. This building will be in the form of a cross created by four projection wings from a central core. All new buildings and extensions will be provided with pitched roof designs. Overall, the additional floor area created on the site is stated as 9,704sqm although a total of 1,500sqm will also be lost as part of demolition works to facilitate the new build and extensions. The scale of the proposed buildings will be comparable with the other 3-storey accommodation blocks and the other 1, 2 and one 4-storey buildings already on site.
- 9.16. In terms of construction, all new buildings and extensions on the site will be constructed from materials similar to those elsewhere within the prison site with reinforced concrete block, brick, metal cladding and metal profile roof panels. As such, the design of the proposed development when viewed within the prison grounds will appear in character with the prison site.
- 9.17. With regards to the impact of the development on the wider area outside the secure enclosure of the site, it has to be acknowledged that the central area of the prison site is enclosed by a tall perimeter wall which, for obvious security reasons is to a significant height. Due to this security wall, the proposed development will not be readily visible from outside the site from public vantage points. Notwithstanding this point, it is accepted that the four-storey accommodation block will be one of the largest building on the site, and it is likely that parts of the roof could be visible from the car park area as well as from the access road Patrick Haugh Road to the north of the prison and from a short stretch of the B4011 to the east of the prison. However, as both those roads are screened by significant landscaping between the roads and the security wall, only glimpse views would be possible above the wall when viewed from the public highway.

### *Conclusion*

- 9.18. It is considered that in terms of design and location of the buildings and extensions on the site that the proposals will have no adverse impact on the area. Furthermore, the design of the new development will match the style and character of existing buildings on the site. For these reasons it is considered that in terms of design and appearance the proposal represents an acceptable form of development and complies with the adopted policies.

### Highway implications

#### *Policy context*

- 9.19. Paragraph 110 of the NPPF states that in assessing specific applications for development, it should be ensured that:

*a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;*

- b) safe and suitable access to the site can be achieved for all users; and*
- c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.*

In addition to this, paragraph 111 highlights that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

- 9.20. Policy ESD15 of the CLP 2015 states that: *new development proposals should be designed to deliver high quality safe, attractive, durable and healthy places to live and work. Development of all scales should be designed to improve the quality and appearance of an area and the way it functions.*
- 9.21. Policy SLE4 states that: *all development where reasonable to do so, should facilitate the use of sustainable modes of transport (and) development which is not suitable for the roads that serve the development and which have a severe traffic impact will not be supported.*

#### *Assessment*

- 9.22. Along with the proposed development within the secure area of the prison site, this application also seeks permission for an increase in the car park located to the north of the main prison entrance building. The proposal is for the extension of the existing car parking area in this location from 356 spaces to 458. The parking will include an increase in disabled parking from 6 to 123 spaces while the number of cycle parking spaces will remain at 24. All parking will be maintained as surface parking with the increase in the car park. The additional parking spaces will be provided in two extensions to the existing car park. The first will be a small extension to the south in an area of landscaping and will provide an additional 57 spaces with the second extended area being to the east of the main car park and behind the social centre to provide an additional 48 spaces.
- 9.23. As noted in the paragraphs above the main proposal is for the increase in floor area on the prison site, which will require an increase in the number of staff at the prison by an additional 97 posts. The increase in accommodation will also result in a higher number of visitors to the prison and as such the demand upon parking will also increase and hence the need to extend the car parking provision at the prison. Although it is accepted that the prison site is located and served by a bus service, it has to be acknowledged that staff will work shift patterns which would not always allow access to and from the site by public transport. Furthermore, there are limited pedestrian access routes serving the prison being in a slightly isolated location away from the main villages of Upper Arncliffe and Piddington. For these reasons adequate parking provision needs to be provided at the site.
- 9.24. As highlighted under paragraph 111 of the NPPF *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.* In this instance the Highway Authority has confirmed no objections subject to conditions and the applicant make a contribution of £125,000 towards public transport services under a S106 agreement. With no highway safety objection, it is considered that due to the semi-isolated location and nature of the site, the increase in the car parking provision is considered acceptable in this instance.



## Drainage

### *Policy content*

- 9.25. Section 14 of the NPPF covers the issue of meeting the challenge of climate change, flooding and coastal change. Paragraph 163 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.*
- 9.26. Paragraph 165 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
- 9.27. Policy ESD7 of the CLP 2015 requires the use of Sustainable Drainage Systems (SuDS) to manage surface water drainage systems. This is with the aim to manage and reduce flood risk in the District.

### *Assessment*

- 9.28. The site is situated wholly within Flood Zone 1, which is land which has a less than 1 in 1,000-year probability of river flooding.
- 9.29. Nevertheless, the application is supported by a Flood Risk Assessment as well as details of a SuDS scheme around the site to allow for adequate drainage of the site and to accommodate the additional floor area. The applicant also confirms that the foul and surface water drainage from the existing buildings to be refurbished will be connected into the existing foul and surface water network separate to the drainage for the new build. As a result of the design the applicant is of the view that no flooding of the drainage system will occur during a 1 in 30-year storm event (in accordance with Ciria 753, The SUDS Manual). Furthermore, the applicant has also confirmed that no flooding of adjacent properties, land or main accesses will occur during a 1 in 200-year storm event inclusive of an additional 30% for climate change (in accordance with Ciria 753, The SUDS manual). Notwithstanding this the applicant has also confirmed that given the low risk of surface water flooding identified in and across the site, it is recommended best practice for the finished floor levels of the site to be elevated above surrounding ground levels by a minimum of 300mm where practicable to address any residual risk of surface water flooding. It is also considered that due to

the nature of the site, that it is likely that a drainage system will address the on-site surface water flood risk.

- 9.30. In considering the details submitted, no comments have been raised by the Internal Drainage Board but an objection has been received from the Local Lead Flood Authority on the grounds of a lack of information relating to surface water drainage. Thames Water have also suggested an inability of the existing water network infrastructure to accommodate the needs of this development proposal without further information being provided. Notwithstanding this point, Thames Water has not objected to the proposals but stated that in the event that planning permission is granted that a suitably worded condition should be attached which requires no occupation of any new development until all water network upgrades required to accommodate the additional demand to serve the development have been completed; or a development and infrastructure phasing plan has been agreed with Thames Water to allow development to be occupied. Thames Water has also requested that in the event that permission is granted that an Informative is added to the decision notice which highlights that a Groundwater Risk Management Permit from Thames Water will be required for discharging groundwater into a public sewer which is to be agreed with Thames Water prior to any discharge into the main system.
- 9.31. As highlighted in the comments of Thames Water, the applicant will need to discuss the details of the final drainage connection with Seven Trent and reach an agreement on what if any changes to the infrastructure are required, to allow the development to connect to the current system. There is no objection raised to the proposal by Thames Water. With regards to the objection raised by the LLFGA it is considered that the additional information required could be provided by a suitably worded condition and at the time of drafting this report confirmation of this was sought from the LLFA. Based on this and the no objections raised to the application by Thames Water, it is considered that subject to the necessary infrastructure being in place there is no drainage reason to warrant a refusal in this instance.

### Ecology Impact

#### *Legislative context*

- 9.32. 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.
- 9.33. 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.
- 9.34. 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.

9.35. 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.

9.36. The Regulations require competent authorities to consider or review planning permission, applied for or granted, affecting a European site, and, subject to certain exceptions, restrict or revoke permission where the integrity of the site would be adversely affected. Equivalent consideration and review provisions are made with respects to highways and roads, electricity, pipelines, transport and works, and environmental controls (including discharge consents under water pollution legislation).

#### *Policy Context*

9.37. 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.

9.38. 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.

9.39. 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.

9.40. 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.

9.41. 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.

- 9.42. 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.
- 9.43. 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*

- 9.44. 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')
- 9.45. The application is supported by a detailed ecology assessment of the application site. The report highlights that an ecological survey and appraisal of the site and proposed development was undertaken in October 2021. The survey was also supported by a search of Bioscan's own in-house archives and available online resources, such as the government's MAGIC website, and information supplied by the Thames Valley Environmental Records Centre.
- 9.46. The report outlines that the proposed development site is not covered by any statutory or non-statutory nature conservation designations, and there are no potentially affected designated sites in the local landscape. The report highlights that no confirmed evidence of specially protected species being resident within the areas studied was found. In particular, no evidence of badgers was found, and the no reptiles of any species were recorded during the detailed survey. In terms other species the report notes that Dormouse is fully protected under the Conservation of Habitats and Species Regulations 2017 (as amended) and whilst no conclusive evidence of this species was found, an unconfirmed nest was recorded and it would be prudent to adopt a precautionary approach at this stage that assumes this species is present. It is therefore recommended that further checks of these tubes be carried out in November.
- 9.47. The static bat detector surveys confirmed three bat species together with bats of the Myotis, Plecotus and Nyctalus genera. Whilst it is difficult to be confident as to which species of Myotis bat were detected, analysis of these calls suggests the likely detection of Daubenton's bat *Myotis daubentonii* and also Natterer's bat *Myotis*

nattereri. Of these, soprano pipistrelle and noctule are a species of principal importance. The most frequently detected species was common pipistrelle, which accounted for approximately 75% of all the bat registrations, with 8% of calls from soprano pipistrelle bats, 4% were from *Myotis* bats and 9% were from noctule bats. This mix of registrations suggests the survey area may be of higher importance to bats within the local area and it is reasonable to attributed it a value at up to the local (e.g. Parish) level. Notwithstanding this, although the proposals would result in the removal of an area of meadow and amenity grassland, given the extent foraging habitat that would remain this impact is unlikely to significantly denude this value.

- 9.48. With regards to natural habitat the report highlights that the majority of the habitats were found to contain species and assemblages of plant species that are common and widespread throughout much of lowland Britain. The presence of a grassland likely to be remnant lowland meadow is, however, significant in the context of land use planning as it is a Section 41 priority habitat and therefore a material consideration for the local planning authority. The greatest impact on the area of lowland meadow is as a result of the new car parking located to the north of the main site. The loss of such habitat should therefore be justified, and the mitigation hierarchy adopted to first avoid, then mitigate and lastly compensate for any impact. The origin of the impact on this habitat is the need to create additional parking at the prison to support the expanded prisoner capacity. It is understood that space within the prison landholding for this is limited, and wholly avoiding an impact on this grassland is not possible. Nevertheless, following initial discussions with applicant the parking area was reconfigured and space for some additional parking was found elsewhere. This resulted in some 781 sqm of lowland meadow that was proposed to be removed, now being retained.
- 9.49. 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.
- 9.50. 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.
- 9.51. 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.

### Sustainable construction

#### *Policy Context*

- 9.52. Section 14 of the NPPF covers the issue of meeting the challenge of climate change, flooding and coastal change. Paragraph 150 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 151 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.*

#### *Development Plan*

- 9.53. Policy ESD1 of the CLP 2015 covers the issue of Mitigating and Adapting to Climate Change and includes criteria under which application for new development will be considered. Included in the criteria is the requirement that development will incorporate suitable adaptation measures to ensure that development is more resilient to climate change impacts. These requirements will include the consideration of, *taking into account the known physical and environmental constraints when identifying locations for development. Demonstration of design approaches that are resilient to climate change impacts including the use of passive solar design for heating and cooling. Minimising the risk of flooding and making use of sustainable drainage methods and reducing the effects of development on the microclimate (through the provision of green infrastructure including open space and water, planting, and green roofs).*
- 9.54. With regards to Policy ESD 2, this covers the area of Energy Hierarchy and Allowable Solutions. The policy seeks to achieve carbon emission reductions, where the Council will promote an 'energy hierarchy' as follows: *Reducing energy use, in particular by the use of sustainable design and construction measures. Supplying energy efficiently and giving priority to decentralised energy supply. Making use of renewable energy Making use of allowable solutions.* Any new development will be expected to take these points into account and address the energy needs of the development.
- 9.55. Policy ESD 3 covers the issue of Sustainable Construction and states amongst other things that *all new residential development will be expected to incorporate sustainable design and construction technology to achieve zero carbon development through a combination of fabric energy efficiency, carbon compliance and allowable solutions in line with Government policy.* The Policy continues by stating that *Cherwell District is in an area of water stress and as such the Council will seek a higher level of water efficiency than required in the Building Regulations, with developments achieving a limit of 110 litres/person/day.* The Policy continues by stating that *all development proposals will be encouraged to reflect high quality design and high environmental standards, demonstrating sustainable construction methods including but not limited to: Minimising both energy demands and energy loss. Maximising passive solar lighting and natural ventilation. Maximising resource efficiency Incorporating the use of recycled and energy efficient materials. Incorporating the use of locally sourced building materials. Reducing waste and pollution and making adequate provision for the recycling of waste. Making use of sustainable drainage methods. Reducing the impact on the external environment and maximising opportunities for cooling and shading (by the provision of open space and water, planting, and green roofs, for example); and making use of the embodied energy within buildings wherever possible and re-using materials where proposals involve demolition or redevelopment.*
- 9.56. Policy ESD5 covers the issue of Renewable Energy and relates to all residential developments for more than 100 dwellings and non-domestic developments above 1000sqm. The policy states, inter-alia that where feasible, site renewable energy

provision will be required as part of the development unless an alternative solution would deliver the same or increased benefit.

### *Assessment*

- 9.57. This application seeks planning permission for a series of new buildings on this prison site along with a few extensions to and refurbishment of existing units on the site. The applicant has confirmed that in terms of the new build elements, they will be aiming to achieve the BREEAM 'Outstanding' target and meeting the Net Zero Carbon Strategy standard set out in the London Energy Transformation Initiative (LETI) Climate Energy Design Guide standard stipulated by the Ministry of Justice. Renewable measures will be incorporated into the design and this can be seen on the elevation plans, which clearly show the use of PV solar panels on a number of roofs and the use of air source heat pumps.
- 9.58. In conclusion, it is considered that the design of the new build both in terms of the extensions and the new buildings on the site will be built to a high standard in terms of sustainable construction. Measures will also be used across the site to reduce the environmental impact of the development in terms of the build and use of the site, which complies with the requirements of the NPPF and adopted Local Plan policies.

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

- 10.1. This application seeks planning permission for a number of extensions to existing buildings and for new buildings on this prison site. The accommodation is required to allow for an extension in the use of the prison site and to provide improved facilities within the site. The application also seeks permission for the extension of the existing surface car park to the immediate north of the main entrance to the secure part of the prison.
- 10.2. The use of the site as a prison has a long history and as the development is for additional prison-related accommodation, which could not be provided outside the walls of the prison, for this reason; it is considered that the principle of this development is acceptable.
- 10.3. In terms of design, the development will be of comparable size and use comparable materials to that used elsewhere on the prison site and therefore will not appear out of place. Notwithstanding this point, due to the high security wall around the prison the majority of the new development will not be visible from outside the site and therefore will have no impact on the area when viewed from the public highway. The only potential part of a building to be seen would be that of the roof of the four-storey accommodation block to be provided in the north section of the site. However, again due to the boundary wall, the highway landscaping belts together with the position of the building in the site, the impact of this element is likely to be very limited. For these reasons the development within the secure site will have no adverse impact on the area surrounding the prison.
- 10.4. The car park to the north of the main site will be visible as further development on the site. It is accepted that part of the new car park will result in a loss of an area of lowland habitat, however, the justification is warranted in this instance and there is no alternative location. The provision of the car park will result in an increase in the urban area around the site but that would not be to an extent which would warrant a refusal and is an area of development required to support the increased use within the prison site. Furthermore, there is no highway objection to the development in terms of highway safety issues.

- 10.5. The applicant has demonstrated that the site will be served by a new SUDs scheme to address the increased drainage requirements on the site. No objections have been raised subject to further details being provided to Thames Water, as stipulated by a condition and informative.
- 10.6. As this is a new build on the site, the applicant has confirmed that the development will be built to a high specification which will include a contribution towards the Net Zero Carbon Strategy for HMP Bullingdon, as defined by the Ministry of Justice. The measures to be used include PV solar panels on the roofs and the installation of air source heat pumps. The applicant has therefore complied with Local Plan Policies ESD1, ESD2 and ESD3.

## 11. RECOMMENDATION

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

### S106 HEADS OF TERMS

- £125,000 towards public transport services
- Monitoring fees – TBC

### CONDITIONS

#### **Time Limit**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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

2. The development shall not be carried out otherwise than in complete accordance with the approved plans 535804-BHK-ZZZ-ZZ-DR-A-001-S4-D0100\_P02, 535804-BHK-ZZZ-ZZ-DR-A-020-S4-D0100\_P03, 535804-BHK-ZZZ-ZZ-DR-A-021-S4-D0100\_P03, 535804-BHK-ZZZ-ZZ-DR-A-100-S4-D0100\_P07, DR-A-1200\_P01, DR-A-1201\_P01, DR-A-1202\_P01, DR-A-1203\_P01, DR-A-1204\_P01, DR-A-1205\_P01, DR-A-3920\_P01, DR-A-4000\_P01, DR-A-4001\_P01, DR-A-4002\_P01, DR-A-4003\_P01, DR-A-4004\_P01, DR-A-4005\_P01, DR-A-4006\_P01, DR-A-3100\_P01, DR-A-3101\_P01, DR-A-30206\_P01, DR-A-3100\_P01, 535804-6462-BHK-051-ZZ-DR-A-0700-S4-D0100\_P01, 535804-6462-BHK-051-ZZ-DR-A-0120-S4-D0100\_P03, 535804-6462-BHK-051-GF-DR-A-0100-S4-D0100\_P04, 535804-6462-BHK-051-MZ-DR-A-0102-S4-D0100\_P02, 535804-6462-BHK-051-ZZ-DR-A-0110-S4-D0100\_P03, 535804-6462-BHK-051-R1-DR-A-0101-S4-D0100\_P04, 535804-6462-BHK-050-ZZ-DR-A-0120-S4-D0100\_P02, 535804-6462-BHK-050-GF-DR-A-0100-S4-D0100\_P03, 535804-6462-BHK-050-R1-DR-A-0101-S4-D0100\_P03, 535804-6462-BHK-050-ZZ-DR-A-0110-S4-D0100\_P02, 535804-6462-BHK-053-ZZ-DR-A-0700-S4-D0100\_P01, 535804-6462-BHK-053-ZZ-DR-A-0120-S4-D0100\_P03, 535804-6462-BHK-053-ZZ-DR-A-0110-S4-D0100\_P03, 535804-6462-BHK-053-GF-DR-A-0100-S4-D0100\_P05, 535804-6462-BHK-053-01-DR-A-



0101-S4-D0100\_P05, 535804-6462-BHK-053-02-DR-A-0103-S4-D0100\_P02, 535804-6462-BHK-053-R1-DR-A-0102-S4-D0100\_P04, 535804-6462-BHK-024-ZZ-DR-A-0700-S4-D0100\_P01, 535804-6462-BHK-024-ZZ-DR-A-0120-S4-D0100\_P03, 535804-6462-BHK-024-GF-DR-A-0100-S4-D0100\_P04, 535804-6462-BHK-024-01-DR-A-0101-S4-D0100\_P04, 535804-6462-BHK-024-MZ-DR-A-0103-S4-D0100\_P02, 535804-6462-BHK-024-R1-DR-A-0102-S4-D0100\_P04, 535804-6462-BHK-024-ZZ-DR-A-0110-S4-D0100\_P03, 535804-6462-BHK-055-ZZ-DR-A-0700-S4-D0100\_P01, 535804-6462-BHK-055-ZZ-DR-A-0120-S4-D0100\_P03, 535804-6462-BHK-055-ZZ-DR-A-0100-S4-D0100\_P04, 535804-6462-BHK-055-02-DR-A-0102-S4-D0100\_P02, 535804-6462-BHK-055-R1-DR-A-0101-S4-D0100\_P04, 535804-6462-BHK-055-ZZ-DR-A-0110-S4-D0100\_P03, 535804-6462-BHK-026-ZZ-DR-A-0700-S4-D0100\_P01, 535804-6462-BHK-026-ZZ-DR-A-0120-S4-D0100\_P03, 535804-6462-BHK-026-GF-DR-A-0001-S4-D0100\_P02, 535804-6462-BHK-026-GF-DR-A-0100-S4-D0100\_P05, 535804-6462-BHK-026-01-DR-A-0002-S4-D0100\_P02, 535804-6462-BHK-026-01-DR-A-0101-S4-D0100\_P04, 535804-6462-BHK-026-R1-DR-A-0102-S4-D0100\_P04, 535804-6462-BHK-026-ZZ-DR-A-0110-S4-D0100\_P03, 535804-6462-BHK-052-00-DR-A-0100-S4-D0100\_P03, 535804-6462-BHK-ZZZ-ZZ-SK-C-4200-S4-D0100\_P01, 535804-6462-BHK-ZZZ-ZZ-SK-C-4201-S4-D0100\_P01 received 20/12/2021 unless a non-material or minor material amendment is approved by the Local Planning Authority under the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).

Reason: To clarify the permission and for the avoidance of doubt.

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

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

4. The development hereby permitted shall be carried out in accordance with the recommendations set out in Ecological Appraisal of the HMP Prison Bullingdon by Bioscan (UK) Ltd dated November 2021 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. The development shall proceed in accordance with the Flood Risk Assessment reference 20305-HYD-XX-XX-FP-FR-0005 prepared by Hydrock received 20/12/2021 accompanying the application unless otherwise previously approved in writing by the Local Planning Authority.

Reason: To protect the development and its occupants from the increased risk of flooding in accordance with Policy ESD6 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government advice in Section 14 of the National Planning Policy Framework.

6. 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.

7. The proposed extension to the car park shall be provided in accordance with the approved plans before first occupation of the development hereby permitted. The additional parking shall thereafter be retained for use in connection with the development for those purposes only.

Reason: In the interests of highway safety, to ensure the provision of adequate off-street car parking to comply with Government guidance in Section 12 of the National Planning Policy Framework.

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

Reason: In the interests of promoting sustainable transport modes in accordance with Government advice in the National Planning Policy Framework.

9. No development shall take place, including any works of demolition until a Construction Method Statement has been submitted to, and approved in writing by the Local Planning Authority. The statement shall provide for at a minimum:
- a) The parking of vehicles of site operatives and visitors;
  - b) The routeing of HGVs to and from the site;
  - c) Loading and unloading of plant and materials;
  - d) Storage of plant and materials used in constructing the development;
  - e) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
  - f) Wheel washing facilities including type of operation (automated, water recycling etc) and road sweeping;
  - g) Measures to control the emission of dust and dirt during construction;
  - h) A scheme for recycling/ disposing of waste resulting from demolition and construction works;
  - i) Delivery, demolition and construction working hours;

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

Reason: To ensure the environment is protected during construction in accordance with Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

10. Prior to the first occupation of the development hereby approved, a Travel Plan, prepared in accordance with the Department of Transport's Best Practice Guidance Note "Using the Planning Process to Secure Travel Plans" and its subsequent amendments (and a Travel Plan Statement setting out how this phase will contribute to the overall site wide Travel Plan), shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved Travel Plan shall be implemented and operated in accordance with the approved details.

Reason - In the interests of sustainability, to ensure a satisfactory form of development and to comply with Policies SLE4 and ESD1 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

11. Prior to the commencement of the development hereby approved, full details of a drainage strategy for the entire site, detailing all on and off site drainage works required in relation to the development, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the drainage works shall be carried out and completed in accordance with the approved strategy, until which time no discharge of foul or surface water from the site shall be accepted into the public system.

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

#### INFORMATIVE

1. A Groundwater Risk Management Permit from Thames Water will be required for discharging groundwater into a public sewer. Any discharge made without a permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 1991. We would expect the developer to demonstrate what measures he will undertake to minimise groundwater discharges into the public sewer. Permit enquiries should be directed to Thames Water's Risk Management Team by telephoning 020 3577 9483 or by emailing [trade.effluent@thameswater.co.uk](mailto:trade.effluent@thameswater.co.uk). Application forms should be completed online via [www.thameswater.co.uk](http://www.thameswater.co.uk). Please refer to the Wholesale; Business customers; Groundwater discharges section. 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.