Unit 7 Oxford Technology Park Technology Drive Kidlington OX5 1GN **22/01683/F**

Case Officer:	Dale Jones
Applicant:	Oxtec Developments Limited
Proposal:	Development within Use Classes E (g) (i), and/or (ii), and/or (iii), and/or B2 and/or B8 and Associated Works including Access and Parking
Ward:	Kidlington West
Councillors:	Cllr Conway, Cllr Tyson and Cllr Walker
Reason for Referral:	Major development
Expiry Date:	6 September 2022 **Committee Date:** 6 October 2022

SUMMARY OF RECOMMENDATION: DELEGATE POWERS TO GRANT PERMISSION, SUBJECT TO THE CONDITIONS SET OUT AND SUITABLE PROVISIONS TO SECURE A TRAVEL PLAN MONITORING FEE

1. APPLICATION SITE AND LOCALITY

1.1. The application site is located to the south of Langford Lane and east of Technology Drive, towards the north-western edge of the built-up area of Kidlington. It comprises Plot 7 on the 8.3ha Oxford Technology Park, which lies south of London Oxford Airport and west of the Motor Park.

1.2. The application site is part of a wider area that was identified as an area for a small scale review of the Green Belt to accommodate identified High Value Employment Needs by Policy Kidlington 1 of the adopted Cherwell Local Plan 2011-2031 Part 1. Planning permission was granted across the Oxford Technology Park site (Ref: 14/02067/OUT) for 40,362m2 flexible, hi-technology units suitable for office, research and development, laboratory, storage, and ancillary purposes. This outline permission included a condition requiring the submission of reserved matters within 3 years from the date of outline permission being granted (10/10/2016). No further reserved matter applications can therefore be made. Delivery of approved development on Plots 1, 3, and 5 of the Oxford Technology Park development are currently under construction and a hotel on Plot 2 (now known as Premier Inn Oxford Kidlington Airport) is open and trading. Development on Plot 4 (units 4a and 4b) is awaiting the completion of a S106 agreement) following being resolved to be approved at Planning Committee. These have been submitted as both reserved matter submissions and full applications.

1.3. The application site (Plot 7) comprises a 0.74ha rectangular area of flat serviced land on the east side of Technology Drive, which lies just south of the Plots 3 and Plot 5 developments on the Langford Lane frontage on the eastern side of the access road into the Technology Park with Campsfield House IRC just beyond (to the west).

1.4. To the north, on the opposite side of Langford Lane, are buildings/hangers serving London Oxford Airport and to the east is the Oxford Motor Park where a number of car dealerships are located. National Cycle Network Route 55 runs adjacent to the A44 Woodstock Road providing a direct connection from its junction with Langford Lane through to Oxford City Centre to the south.

1.5. The nearest existing bus stop is located 250m north east of the site on The Boulevard and currently serves Oxford Spires Business Park and London Oxford Airport. There are further bus stops located along Langford Lane and along the A44 Woodstock Road all of which are within a reasonable walking distance from the site.

2. CONSTRAINTS

2.1. The application site lies within the Oxford Green Belt, the London Oxford Airport Height Safeguarding Zone (development over 45m), within 330m of the Rushy Meadows SSSI and is identified as a minor groundwater Aquifer.

2.2. Previously before site allocation and remediation works, it had comprised Category 2 best and most versatile agricultural land and had also been identified as potentially contaminated, but those are no longer constraints to development.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

3.1. The proposals seek planning permission for the construction of a commercial unit within use classes E (g) (i) – (iii), B2 and B8 (Unit 7) in a new single building with an area of 3,445m2, including 2,314.2 sq. m at ground floor and 1,140.4 sq. m at mezzanine floor.

3.2. The unit will be accompanied by a parking area alongside for 75 cars (including 10 with EV charging points and 6 disabled) and 40 cycle parking spaces. The proposed building will be 10m tall over two storeys, with a very shallow pitched roof surrounded by a 1.4m parapet, giving the impression of a flat-roofed structure. It will measure 51.8m x 48.1m.

3.3. The building is described in the application Planning Support and Design & Access Statements as an industrial unit for uses within Use Classes E (g) (i)-(iii), B2 and B8 (consistent with the Local Plan allocation and outline planning consent). The building would be clad in Equitone Rainscreen Cladding Panels in three-tone grey (light, mid and dark) similar to that previously constructed on Plots 3 and neighbouring Plot 5. Glazing would extend along the facades of all four elevations, with windows positioned at both ground and first floor levels.

3.4. Vehicular and service access to the site will be taken place from the main access into the site from Langford Lane that has already been constructed and was authorised as part of the approved reserved matters.

4. RELEVANT PLANNING HISTORY

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

14/02067/OUT
Outline planning permission granted for the construction of 40,362m2 of office, research and development, laboratory, and storage business space within Use Classes E (g) (i)-(iii), B2 and B8
Permitted.

16/00533/DISC
Discharge of Conditions 6 (means of access), 10 (surface water drainage scheme), 11 (drainage strategy), 12 (air quality impact assessment), 14 (low emission transport plan), 15 (reptile method statement), 16 (method statement for enhancing tree or shrub planting, areas of species rich grassland, habitat boxes for birds) and 18 (bird control management plan) of 14/02067/OUT
Permitted.

17/00559/F
The above outline permission (14/02067/OUT) was subsequently varied (Conditions 1, 2, 3, 5, 7, 9 & 21) by this full planning permission
Permitted.

17/01542/REM
Reserved Matters approval granted for Units 1 and 3 (opposite and alongside)
Permitted.

17/02233/F
Planning permission granted for a new 3,981m2 hotel at Unit 2, which is now built and occupied as a Premier Inn
Permitted.

21/00690/REM
Slight design amendments were subsequently approved to Unit 3 last year and the development is now virtually complete
Permitted.

21/03913/F
Planning Application for Development within Use Classes E (g) (i), and/or (ii), and/or (iii), and/or B2 and/or B8 and associated works including access and parking.
Permitted. (Unit 5B).

4.2. It should be noted that a separate planning application (Ref. 22/02214/F) is pending consideration concurrently for the proposed variation of condition 2 (plans) 6 (vehicle parking layout) 16 (external Areas) of 21/03913/F - amendments to specified conditions relating to Building 5.

5. PRE-APPLICATION DISCUSSIONS

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

6. RESPONSE TO PUBLICITY

6.1. This application has been publicised by way of a site notice displayed near the site, and by advertisement in the local newspaper. The final date for comments was 2 September 2022.

6.2. One comment has been raised by a third party and is summarised as follows:

- Object to the proposals. No work has yet started on the wider Oxford Technology Park obligation to provide active travel connections to offsite locations especially a link southward along the eastern perimeter of the site to Begbroke Lane to provide a green corridor route to Kidlington centre.

  (CDC Officer note: This green corridor route is not an obligation requirement of the 2014 Outline consent, and OCC Highways have not required it for this application).

- Additionally, Transport Statement V3 (15/06/2022) contains the following inaccuracies:

- paragraph 3.1 claims transport mitigation measures have been installed
- but very little has been carried out to fulfil active travel obligations;
- paragraph 3.8 claims there is a footway along the southern side of Langford lane approx. 1.8m wide; however for most of its length the footway is less than 1.8m wide and only just wide enough for 2 people to pass each other;
- paragraph 3.10 is incorrect in saying that work is currently underway on the 2.5m wide shared-use path at the western end of Langford Lane; some siding-out of the existing path took place in June 2022 but no construction work has yet started;
- paragraph 3.11 is incorrect when it says there is an approx. 3.0m wide path on the east side of the A4260 from the junction with Langford Lane.

(Officer note: The minor inaccuracies are noted. However, they do not change the fundamental highways assessment which has been carried out by Officers and OCC as noted in the Transport and Highways section of the report below).

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. **KIDLINGTON PARISH COUNCIL**: No comments received.

CONSULTEES

7.3. **OCC HIGHWAYS**: **No objection.** OCC had initially raised some concerns regarding the quantum of electric vehicle charging points, cycle parking accessibility and with regard to the design of the accessible car parking spaces.

(CDC Officer Comment: The plans were revised and expanded the number of EV charging bays to 20 bays, which is in excess of the 19 bays required. The applicants have also clarified that 20 cycle spaces are proposed directly at ground level and the purpose of the racking mechanism is that it is an easy-to-use system. In addition, the accessible car parking spaces have also been updated to accord with the required specification requirements being 2.9m x 5.5m for access purposes. The above details including a revised site plan has been reviewed by OCC Highways Officers, who raise no objections to the revised submission, noting that this proposal is unlikely to have any significant impact on the highway in terms of safety or convenience. OCC Single Response Team have advised that should a Travel Plan be required, that a Travel Plan monitoring fee will be required. The applicants have confirmed in writing that the applicant will pay upfront (the TP monitoring fee) the day after the committee, should the Committee resolve to grant permission subject to conditions and this agreement.)

7.4. **OCC LEAD LOCAL FLOOD AUTHORITY**: Raised an objection due to drainage concerns. However, this can be addressed through the use of a pre-commencement condition, which has since been agreed by the (OCC) LLFA and the applicants and added to this report.

7.5. **CDC BUILDING CONTROL: No objection**. Comment – Means of escape to be in accordance with Approved document B volume 2.

7.6. **CDC ECOLOGY**: **No objections** subject to conditions.

7.7. **CDC ENVIRONMENTAL HEALTH: No objections**.

7.8. **NATURAL ENGLAND: No objections.**

8. RELEVANT PLANNING POLICY AND GUIDANCE

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

8.2. The Cherwell Local Plan 2011-2031 - Part 1 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 2015)

- PSD1 – Presumption in favour of Sustainable Development
- SLE1 – Employment Development
- SLE4 – Improved Transport & Connections
- ESD1 – Mitigating and Adapting to Climate Change
- ESD2 – Energy Hierarchy and Allowable Solutions
- ESD3 – Sustainable Construction
- ESD4 – Decentralised Energy Systems
- ESD5 – Renewable Energy
- ESD6 – Sustainable Flood Risk Management
- ESD7 – SuDS
- ESD8 – Water Resources
- ESD10 – Biodiversity and the natural environment
- ESD14 – Oxford Green Belt
- ESD15 – The Character of the Built and Historic Environment
- ESD17 – Green Infrastructure
- Policy Kidlington 1 – Accommodating High Value Employment Needs
- INF1 – Infrastructure Provision

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C28 – Layout, design and external appearance of new development
- C30 – Design control over new development
- C32 – Provision of facilities for disabled people
- ENV1 – Development likely to cause detrimental levels of pollution

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF) (2021)

- Planning Practice Guidance (PPG)
- National Design Guidance 2019
- CDC Planning Obligations SPD 2018

9. APPRAISAL

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

- Principle of development
- Transport & Highway Impact
- Design Principles and Layout
- Drainage
- Ecology & Biodiversity
- Energy Efficiency & Sustainability
- Planning Obligations/other matters

Principle of Employment Development

Assessment

9.2. The application site lies within the Oxford Green Belt where restrictive policies apply at national and local level through the National Planning Policy Framework (NPPF) and the CLP 2015. Policy ESD14 confirms that proposals within the Green Belt will be assessed in accordance with the NPPF.

9.3. Notwithstanding this, the CLP 2015 does set out a need for small scale review of the Green Belt and refers to the Oxford Technology Park site within policy Kidlington 1 as one of the locations where small-scale review could accommodate high value employment development subject to site specific design and place shaping principles. The intended review and amendments to the Green Belt envisaged through policy Kidlington 1 have not been progressed despite some time having passed since the adoption of the CLP 2015.

9.4. The application site forms part of a larger allocated site in the adopted CLP 2015 under Policy Kidlington 1. This policy brings forward high-value employment needs development on land to the northwest of Kidlington and adjacent London Oxford Airport as a strategic allocation for hi-tech employment development and associated infrastructure. The whole site was granted outline planning permission for the construction of 40,362m2 of office, research and development, laboratory, and storage business space within Use Classes E (g) (i)-(iii), B2 and B8 in 2016 (Ref: 14/02067/OUT) with the consent subsequently varied with a modified full permission in 2017 (Ref: 17/00559/F). Furthermore, approximately two-thirds of the allocated site has already been developed in a similar manner to that now proposed on this plot. Units 5A & 5B, Oxford Technology Park, being those units most recent approved for similar uses under application (Ref. 21/03913/F), which were considered at committee in May 2022 and subsequently approved, subject to a travel plan monitoring fee and conditions.

Conclusion

9.5. The proposed development is for a further phase of development of the supported Oxford Technology Park (OTP) that has already significantly commenced. This in itself is also a very special circumstances' justification for supporting further development at the already established OTP that itself remains on Green Belt land.

9.6. Having regard to the above rationale, the proposed development will accord entirely with the Local Plan employment site allocation and given the history of the site (inclusive of recent permission, including Unit 5 most recently) and the clear intention of the Council to review the Green Belt at this location, the proposal in this case will not cause significant or demonstrable harm with respect to other Plan policies and is therefore in principle considered acceptable. The proposal therefore accords with the requirements of the NPPF, Policies ESD14 and Kidlington 1 of the Local Plan Part 1.

Transport and Highways

Policy Context

9.7. Paragraph 111 of the NPPF states 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*". Policy ESD15 of the CLP 2015 states, amongst other matters, that new development proposals should: be designed to deliver high quality safe…places to live and work in. Policy SLE4 of the CLP 2015 requires new developments to maximise opportunities for access to sustainable modes of travel and seeks improvements to the highway network to mitigate significant adverse impact of traffic generation resulting from new development.

Assessment

9.8. The Oxford Technology Park is located approximately 9.5km to the north of Oxford City Centre, to the south of Langford Lane, between the A44 and A4260. The A44 provides access to the A34 to the south of the site. National Cycle Network Route 55 runs adjacent to the A44 Woodstock Road providing a direct connection from its junction with Langford Lane through to Oxford City Centre to the south.

9.9. The Oxford Technology Park site access junction with Langford Lane has recently been constructed and includes both a footway on one side of the road and a segregated cycleway on the opposite side of what is now known as Technology Drive. As the junction has been designed to accommodate the total quantum of development permitted by the outline consent (14/02067/OUT), and the quantum of this proposed development (as well as that already permitted and built) does not exceed the parameters of the outline consent, it is considered that the access arrangements into the technology park site are suitable to accommodate the development now being proposed. For the purpose of clarity, the total related trip generation is within that which had previously been assessed as acceptable through the outline permission (14/02067/OUT), and the number of trips predicted are considered to be a negligible increase on the local road network.

9.10. Vehicular and service access to the site will be taken place from the main access into the site from Langford Lane that has already been constructed and was authorised as part of the approved reserved matters. Visibility from the plot access junction is suitable, given the linear nature of the spine road and OCC Highway have not objected to the access proposals or its parking and turning arrangements. OCC had initially asked for details of the accessible parking sizes. Accordingly, the applicants amended the plans (proposed site plan) to demonstrate that the accessible parking would be policy requirement with regarding to provision of the additional manoeuvring spaces required by the accessible parking spaces, which has been reviewed and found to be acceptable by OCC Highways Officers.

9.11. Car parking has been proposed based on the OCC standard for office use (one space per 30m2) (75 spaces in all, inclusive of the 6 disabled spaces). OCC highway officers have raised no objections to the quantity or quality of car parking

proposed. As noted above, the applicants have amended the designs slightly to demonstrate that the accessible car parking spaces would be adequately sized and meet the design requirements of being 2.9m x 5.5m to be considered a disabled space with space for manoeuvrability.

9.12. Mitigation measures including public transport improvements and footway enhancements were previously secured through the outline consent in order to enhance sustainable transport options to the site. These have been implemented in full.

9.13. Electric vehicle charging points are proposed to serve this development, providing 20 bays. In order to promote the take up of electric vehicle use, the Council promotes the installation of ducting to allow for future expansion of EV charging rather than retrofitting at a later date. This can be conditioned. OCC highways have not raised any concerns with regard to the quantum of provision.

9.14. A cycle shelter (for 40 cycles) is shown to the frontage of the proposed building. The shelter is a double-stacked, semi-covered unit. OCC have not confirmed their acceptance of the proposed shelter, they state that it is not ideal and that 'Sheffield' type stands are the most accessible for all. However, it is noted that the shelter proposed mirrors the shelters that have been approved elsewhere with the Technology Park.

Conclusion

9.15. The proposals are considered to be in accordance with policies SLE4 of the CLP 2015 as well as national planning policy set out within the NPPF in this regard.

Design Principles and Layout

Legislative and policy context

9.16. The National Planning Policy Framework 2021 confirms that the Government attaches great importance to the design of the built environment, and notes that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

9.17. Paragraph 134 of the NPPF states that development that is not well designed should be refused, especially, where it fails to reflect local design policies and government guidance on design taking into account any local design guidance and supplementary planning documents such as design guides and codes. Weight should be given to development which reflects local design policies and guidance and supplementary planning documents such as design guides and codes; and/or outstanding or innovative designs which promote high levels of sustainability or help raise the standard of design more generally in an area so long as they fit in with the overall form and layout of their surroundings.

9.18. At the local level Policy ESD15 of the CLP 2015, states that new development proposals should: be designed to improve the quality and appearance of an area and the way it functions...contribute positively to an area's character and identity by creating or reinforcing local distinctiveness…(and) respect the traditional pattern of routes, spaces, blocks, plots, enclosures and the form, scale, and massing of buildings. Saved Policies C28 and C30 of the CLP 1996 reinforce this.

9.19. Policy Kidlington 1 is relevant and advises (inter alia) that key site specific design requirements will include (but are not limited to: Design for buildings that create a gateway with a strong sense of arrival including when arriving from the airport, a well designed approach to the urban edge, which achieves a successful transition

between town and country environments, development that respects the landscape setting of the site and a comprehensive landscaping scheme to enhance the setting of buildings onsite and to limit visual intrusion into the wider landscape.

Assessment

9.20. With regard to the existing context, the application site is flat and is not within a sensitive landscape. The site is surrounded on its north, east and west side by other built development, much of which is relatively functional in appearance with the use of simplistic materials, including the hangers at Oxford Airport to the north of the site and the new hotel and neighbouring commercial development also to the north and the car showrooms to the east of the site, which are all similar to the current development proposals.

9.21. The proposed development comprises a single rectangular building sited perpendicular to the main spine road through the technology park site. The design of the building is consistent with the appearance of the buildings recently constructed on Plots 1 and 3 and typical of a modern commercial development comprising large areas of glazing with grey panelling in varying shades (similar to the approved neighbouring Unit 5). The building has been designed to be constructed with a shallow pitched roof behind a low parapet giving the impression of a flat roof, which is again consistent with the adopted design approach within the Technology Park.

9.22. In terms of scale, the building would be two-storey in height, consistent with the other commercial buildings on Plots 1 and 3 and the hotel on Plot 2 (also similar with the design and scale approved at Unit 5). This creates a uniformity of scale, design, and material finish within the Oxford Technology Park site. The layout, scale and appearance of the proposed building is therefore considered acceptable in the context and would be consistent with the design principles established on the Technology Park.

9.23. The landscape scheme for the site is also consistent with the principles agreed and approved through the outline consent for the wider technology park including the retention and enhancement of the existing mature hedgerow to the eastern boundary and the planting of street trees along the main spine road. Full details will be required by planning condition.

9.24. Boundary treatment information has been submitted and is considered to be satisfactory and includes (inter alia) provision of security fencing to align with the neighbouring units, with the details needing to be secured by condition. Areas for recycling (bin storage) are also shown in the car park layout but details of the appearance of these areas (structures) have not been submitted and will therefore need to be conditioned.

Conclusion

9.25. Given the above, it is considered that proposal is in accordance with Policies ESD15 and Kidlington 1 of the Cherwell Local Plan Part 1, saved Policies C28 and C30 of the Cherwell Local Plan 1996 and Government guidance contained within the NPPF.

Flood Risk and Drainage

Legislative context

9.26. 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.

9.27. Policies ESD 6 and ESD 7 of the CLP 2015 together resist new development where it would increase flood risk or be unduly vulnerable to flooding. They also seek to ensure that the proposals incorporate sustainable drainage systems in order to prevent increased risk of flooding. Policy Kidlington 1 identifies the need for the provision of sustainable drainage including SUDs.

Assessment

9.28. Flood risk and drainage on this site have been considered and addressed under the original outline consent 14/02067/OUT, which agreed the drainage strategy and principles for the Technology Park site as a whole. The application site lies within Flood Zone 1. As such, technical matters regarding Sustainable Urban Drainage (SuDS) have been addressed and conditions discharged under separate consents. Nevertheless, conditions are recommended to ensure that the development is carried out satisfactorily.

9.29. A Flood Risk Assessment & Drainage Strategy for the whole Oxford Technology Park site was submitted and approved as part of the original outline planning permission (Ref: 14/02067/OUT) with the Environment Agency confirming on 1st May 2015 their satisfaction with the proposals detailed in the Baynham Meikle Partnership Ltd report subject to condition discharges (Conditions 10 and 11). Condition 10 (surface water drainage scheme) and condition 11 (drainage strategy) were subsequently discharged on 12th April 2017, with confirmation given that the Flood Risk Assessment & Drainage Strategy (Ref: NSB/12076, dated February 2015), the Engineering Appraisal (Ref: 159/017, dated November 2013) and the SuDS Maintenance Plan (Ref: GL/12076, dated February 2017) were all acceptable. The LLFA have raised some concern regarding drainage, however, as a solution, the LLFA and the applicants have since agreed to the imposition of a planning condition to secure detailed of a surface water drainage scheme.

Conclusion

9.30. In light of the agreent to the pre-commencement draiange condition, the proposals are considered to be satisfactory in this regard, in accordance with the requirements of policy ESD6 and ESD7 of the CLP 2015.

Ecology & Biodiversity

Legislative context

9.31. 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.

9.32. 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.

9.33. 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.

9.34. 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.

Policy Context

9.35. 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.

9.36. 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.

9.37. 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.

9.38. Policy ESD10 of the CLP 2015 lists measures to ensure the protection and enhancement of biodiversity and the natural environment, including a requirement for relevant habitat and species surveys and associated reports to accompany planning applications which may affect a site, habitat or species of known ecological value.

Assessment

9.39. 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

9.40. 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').

9.41. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site is close to the Rushy Meadows SSSI to the east. The ecological impact of the development has already been considered under the original outline consent including the submission of further information by condition.

9.42. The site has now been cleared and prepared for development and consists of a 'clean' site. The existing mature hedgerow to the eastern boundary would not be affected by proposals and there are no buildings or trees to be removed or altered to facilitate the proposed development.

9.43. Having considered Natural England's Standing Advice and taking account of the site constraints and history of the site, it is considered that the site has limited potential to contain protected species and any species present are unlikely to be adversely affected by the proposed development. The ecological impact of the development of the technology park site has already been considered and no further formal survey is required. The Councils Ecologist has reviewed the application and had raised no objections noting as the site remains cleared and has not re-vegetated, a walkover survey will not be required. In addition, the ponds have been recently surveyed for GCN and they are absent therefore they are unlikely to be impacted by the development. Subject to conditions, no objections are therefore raised.

9.44. Conditions will be imposed to ensure compliance with details already approved in respect of ecology and biodiversity will be imposed and is considered sufficient to address the risk of any residual harm.

Conclusion

9.45. The proposals are considered to be satisfactory in this regard, in accordance with the requirements of policy ESD10 and ESD11 of the CLP 2015 and taking into account Natural England Standing Advice.

Energy Efficiency and Sustainability

Policy Context

9.46. The NPPF confirms that the purpose of the planning system is to contribute to the achievement of sustainable development, and policies relevant to sustainability are set out throughout the NPPF.

9.47. Policy ESD 5 of the CLP 2015 requires new commercial development of over 1,000m2 floorspace to provide for significant on-site renewable energy provision unless robustly demonstrated to be undeliverable or unviable. Policy ESD 4 of the

CLP 2015 also requires a feasibility assessment to be carried out for such developments to determine whether Combined Heat and Power (CHP) could be incorporated. Policy ESD 3 of the CLP 2015 also requires that all new non-residential development shall meet at least BREEAM 'Very Good' standard. Kidlington Village 1 requires a demonstration of climate change mitigation and adaptation measures including exemplary demonstration of compliance with the requirements of Policies ESD1-5.

Assessment

9.48. The application does not include an Energy or Sustainability Statement to address how the development would seek to comply with Building Regulations and policies ESD1-5 of the CLP 2015 and the achievement of BREEAM 'Very Good' standard.

9.49. Given the type of development proposed and limited constraints on the site, it is considered that there would be reasonable opportunities for the development to incorporate improvements to the building fabric and the installation of high efficiency equipment to secure environmental improvements to the built form in addition to the utilisation of renewable energy sources such as solar panels and Air Source Heat Pumps. As such, it is recommended that planning conditions be added to ensure that a Sustainability and Energy Statement is provided, outlining how sustainability will be built into the approved development including the provision of significant on-site renewable energy provision and that the proposed development is constructed to meet at least BREEAM 'Very Good' standard.

9.50. The applicants have also advised that the following energy efficiency and sustainable building design measures will be incorporated:

- All lighting specified is high efficiency LED
- Heating and comfort cooling provision to the office spaces is provided by a refrigerant based, variable refrigerant flow with heat recovery offering COPs (coefficients of performance in excess of 4)
- Ventilation to office spaces incorporates a heat recovery system capable of achieving 80% heat recovery coupled with low SFPs
- To assist in the recovery of heat from ventilation systems all ductwork is specified to be insulated with high performance insulation Green Guide A+ rated.
- Building envelope leakage rates specified are in excess of the Building Regulation requirements with a target of $4.0m^3 / m^2$ @ 50Pa
- Building U values target values equal or better than minimum standards required by Part L 2013 of the Building Regulations
- All of the above elements have resulted in the building achieving a BER of $12.3kgCO_2 / m^2$ / annum against a target of $16.7\ kgCO_2 / m^2$ / annum (i.e. the building performance in terms of the CO2 emissions is almost 30% more efficient than the relevant target)
- The energy performance of the fixed Mechanical and electrical services meets the mandatory credit requirements for ENE-01, *"BREEAM Excellent"*
- Electrical installations are configured to allow for the future installation and connection of a PV array
- Energy monitoring systems are specified to comply with BREEAM requirements.

Conclusion

9.51. Subject to the imposition of suitable conditions, Planning Officers are satisfied that the proposed development will be able to be designed to achieve sustainability through construction in accordance with the requirements of policies ESD 3, ESD 4 and ESD 5 of the CLP 2015 and adhere with the provisions of the NPPF.

Planning Obligations

9.52. Policy INF1 of the CLP 2015 requires that development proposals demonstrate that infrastructure requirements can be met including the provision of transport, education, health, social and community facilities.

9.53. Where a development would give rise to potential adverse on and off-site impacts, it is sometimes necessary for mitigatory infrastructure or funding to be secured through a planning obligation (S106 agreement). Obligations within a S106 agreement must meet statutory tests set out in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended). Where planning obligations do not meet the statutory tests, they cannot be taken into account in reaching a decision.

9.54. Contributions towards highway improvements were previously secured through the outline consent 14/02067/OUT including improvements to cycleway infrastructure and bus service provision along Langford Lane.

9.55. In responding to this application, OCC have raised no objection and have not requested any linking agreement, as the highway improvements previously secured through the original outline permission have now been implemented. Nevertheless, a Travel Plan Monitoring Fee is required to ensure that the proposed development adherers with the principles of sustainable development. The applicants have agreed to pay this up-front before the decision is issued (post committee).

10. PLANNING BALANCE AND CONCLUSION

10.1. Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 require that planning applications be determined against the provisions of the development plan unless material considerations indicate otherwise.

10.2. The proposed development represents positive economic investment in a sustainable location supporting the overall development of the wider Oxford Technology Park site.

10.3. It is acknowledged that the site remains within the Oxford Green Belt although it is anticipated through CLP 2015 policy Kidlington 1 that this would be amended. However, development of the site has been supported through the granting of outline planning consent. Development has since commenced on the application site and the site now represents a ready development site with the necessary infrastructure to support the growth of the technology park for high value employment uses.

10.4. It is considered that the proposals assessed within this application would constitute an acceptable form of development. Subject to appropriate conditions it is considered that the proposals would cause no significant harm to highway safety, residential amenity or visual amenity, sustaining the character of the site and its setting whilst providing new commercial floorspace in keeping with that approved for the wider Technology Park.

10.5. It is considered that the proposals are broadly consistent with the provisions and aims of the above-mentioned Development Plan policies. The proposals are therefore considered to be acceptable in all other regards and **conditional approval is recommended.**

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 SUITABLE PROVISIONS BEING IN PLACE TO SECURE THE TRAVEL PLAN MONITORING FEE

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.

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:
2732-01-PL3 – Location Plan Proposed
2732-02-PL2 – Location Plan
2732-03-PL5 – Proposed Site Plan
2732-10-PL4 – Ground Floor Plan
2732-11-PL5 – First Floor Plan
2732-12-PL1 – Roof Plan
2732-14-PL4 – West & South Elevations
2732-15-PL4 – North & East Elevations
2732-100-PL3 – Cycle Locations
2732-101-PL2 – Bin Storage & Recycling
2732-102-PL3 – Fence Plan
2732-05-PL4 – Proposed Hard Landscaping Plan
Planning & Economic Statement by Savills, received by the Local Planning Authority in May 2022
Design & Access Statement by Savills, received by the Local Planning Authority in May 2022
Transport Statement, by Vectos, dated May 2022

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. The levels of noise emitted by fixed plant and equipment operated on the site shall not exceed the levels set out in table 7.1 of the Noise Assessment Report produced by Peter Brett and dated December 2014 and approved under outline planning permission Ref: 14/02067/OUT.

Reason: In order to safeguard the amenities of the area and to comply with Policy ENV1 of the Cherwell Local Plan 1996.

4. The floorspace hereby approved is permitted to be used for uses in classes E(g) (i) and/or (ii) and/or (iii) and B2 of the Town and Country Planning (Use Classes) Order 1987 (as amended). Uses in Class B8 of the Town and Country Planning (Use Classes) Order 1987 (as amended) are also permitted but only where they are ancillary to the function of an individual Class E(g) or B2 operation.

   Reason: This permission is only granted in view of the very special circumstances and needs of the applicant, which are sufficient to justify overriding normal planning policy considerations and to comply with Policies Kidlington 1 and ESD 14 of the Cherwell Local Plan 2015 and Government Guidance contained within the National Planning Policy Framework.

5. Prior to the commencement of the development hereby approved, a Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the Local Planning Authority.

   The CTMP will include a commitment that construction traffic will not arrive or leave the site through Kidlington and that delivery or construction vehicles will only arrive or leave between 9.30 and 16.30. The CTMP should follow Oxfordshire County Council's template, if possible. This should identify:

   a) The routing of construction vehicles and management of their movement into and out of the site by a qualified and certified banksman;
   b) Access arrangements and times of movement of construction vehicles (to minimise the impact on the surrounding highway network);
   c) Details of wheel cleaning/wash facilities to prevent mud, etc., from migrating on to the adjacent highway;
   d) Contact details for the Site Supervisor responsible for on-site works;
   e) Travel initiatives for site related worker vehicles;
   f) Parking provision for site related worker vehicles;
   g) Details of times for construction traffic and delivery vehicles, which must be outside network peak and school peak hours; and
   h) Engagement with local residents.

   Thereafter, the approved CTMP shall be implemented and operated in accordance with the approved details.

   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 time, andto comply with Policies SLE4 and ESD15 of the Cherwell Local Plan 2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

6. The vehicle parking layout shown on plans 2732-03 PL5 and 2732-05 PL4 shall be laid out prior to occupation of the approved development. Thereafter, the areas shall be retained solely for the purpose of parking, turning, and manoeuvring.

   Reason: In the interests of highway safety.

7. No development shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development including appropriate infiltration testing in accordance with BRE 365, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The drainage strategy should demonstrate:

- Surface water run-off generated up to and including 1 in 100 year (including a 30% allowance for climate change) critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event;
- Surface water runoff will be managed so that it does not contaminate controlled waters.

The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

Reason: To prevent the increased risk of flooding, both on and off site.

8. Prior to the first occupation of the development hereby approved, 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:
   - As built plans in both .pdf and .shp file format;
   - Photographs to document each key stage of the drainage system when installed on site;
   - Photographs to document the completed installation of the drainage structures on site;
   - Photographs to document the completed installation of the drainage structures on site;
   - 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 in accordance with Policy ESD8 of the Cherwell Local Plan 2015 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.

9. No external lights/floodlights shall be erected on the land without the prior express consent of the Local Planning Authority.

   Reason: To ensure that the development does not unduly affect operations at London Oxford Airport and in order to safeguard the amenities of the area and to comply with Government guidance contained within the National Planning Policy Framework and Policy ENV1 of the Cherwell Local Plan 1996.

10. Notwithstanding the hard landscaping proposals submitted, prior to the commencement of any development above slab level, a scheme for soft landscaping the site shall be submitted to and approved in writing by the local planning authority. The landscaping scheme shall include:
    1) details of proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas and written specifications (including cultivation and other operations associated with plant and grass establishment, i.e., depth of topsoil, mulch etc.
    2) details of the hard landscaping including hard surface areas, pavements, pedestrian areas, and any steps etc.

    The approved scheme shall be implemented by the end of the first planting season following occupation of the development.

    Reason: To ensure that a satisfactory landscape scheme is provided in the interest of well-planned development and visual amenity and to accord with Policy ESD15 of

the adopted Cherwell Local Plan 2015 and saved Policy C28 of the adopted Cherwell Local Plan 1996 and Government guidance within the National Planning Policy Framework.

11. Prior to the commencement of the development hereby approved, a Sustainability and Energy Statement, outlining how sustainability will be built into the approved development including a scheme to allow for significant renewable energy provision and to allow for the easy expansion of the EV charging shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first use of the development, these sustainability measures will be implemented in accordance with the approved details.

    Reason: To ensure sustainable construction and reduce carbon emissions and to comply with Policies ESD1, ESD2, ESD3, ESD4 and ESD5 of the Cherwell Local Plan Part 1 and Government guidance contained within the National Planning Policy Framework.

12. The development hereby permitted shall be constructed to meet at least BREEAM 'Very Good' standard.

    Reason: In order to comply with Policy ESD3: Sustainable Construction of the Cherwell Local Plan 2015.

13. No goods, materials, plant, or machinery shall be stored, repaired, operated or displayed outside the buildings hereby approved unless otherwise approved in writing by the Local Planning Authority.

    Reason: In order to safeguard the visual amenities of the area in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Saved Policy C28 of the Cherwell Local Plan 1996.

14. Prior to first occupation a Framework Travel Plan for the wider site shall be submitted to and approved in writing by the Local Planning Authority. The development shall be operated in accordance with the approved Travel Plan thereafter.

    Reason: To encourage the use of sustainable modes of transport.

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

- Use of protective fences, exclusion barriers and warning signs

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

16. No development shall commence unless and until a detailed scheme for the surface water drainage serving the development, including details of the timing of implementation, has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved surface water drainage scheme shall be carried out in accordance with the approved details and timings.

Reason: To ensure satisfactory drainage of the site and to avoid flooding of adjacent land and property and to ensure compliance with policy ESD7 of the Cherwell Local Plan 2011-2031 Part 1 and Government Guidance within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.