

**Land To The North West Of Old Farm House
Adjoining Orchard Piece Mollington**

23/00334/F

Case Officer: Imogen Hopkin

Applicant: Mr T Hill and Ms K North

Proposal: Erection of a single dwelling, alterations to existing access off Orchard Piece, felling of 6 Category C trees

Ward: Cropredy, Sibfords And Wroxton

Councillors: Councillor Phil Chapman, Councillor George Reynolds, Councillor Douglas Webb

Reason for Referral: Called in by Councillor Douglas Webb due to high level of public interest and the site planning history

Expiry Date: 10 November 2023 **Committee Date:** 2 November 2023

SUMMARY RECOMMENDATION: APPROVE WITH CONDITIONS AND SECTION 106 AGREEMENT

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site is located at the end of the cul-de-sac Orchard Piece in the south of the village of Mollington. Historically, the site formed part of the curtilage of The Old Farmhouse to the east of the site and was used as an orchard. The site still has a number of trees on and has a rural appearance within the village. The site is accessed by a gated entrance onto Orchard Piece. The levels drop from north to south across the site. An outbuilding which was formerly used by The Old Farmhouse still stands on the site.
- 1.2. The site is located in the Mollington Conservation Area and The Old Farm House to the east of the site is a Grade II listed building. There are trees covered by a Tree Preservation Order to the immediate north of the site in close proximity to the access to the site.

2. CONSTRAINTS

- 2.1. The site is within Mollington Conservation Area, the setting of a Grade II listed farmhouse, within an Archaeological Alert Area, potentially contaminated land, and overlaps with protected species buffers.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1 The application seeks approval for a single dwelling on the site. The dwelling is positioned approximately 10m from the south boundary of the site.
- 3.2 Amended plans have been received to reduce the proposal to a 2 bedroom dwelling, with an open plan sitting, living and dining area at ground floor. The dwelling has an

eaves height of 3.5m and a ridge height of 6.4m. The plans indicate the dwelling would be local stone, natural slate with timber or aluminium windows.

3.2 Updated ecology information was provided on 19th September to inform the proposal.

4. RELEVANT PLANNING HISTORY

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

Application: 21/01481/F	Withdrawn	19/07/2021
Erection of a single dwelling (re-submission of 20/01112/F)		
Application: 20/01112/F	Withdrawn	23/06/2020
Erection of a single dwellinghouse		
Application: 18/00473/F	Refused	25/05/2018
Development of site to create 3 dwellings		

4.2. The refused application, 18/00473/F, was refused for the following reasons (summarised):

1. Loss of the curtilage listed outbuilding
2. Harm to an undeveloped gap, which contributes to the rural character of the Conservation Area
3. Access is substandard for visibility
4. Absence of an ecological survey

5. PRE-APPLICATION DISCUSSIONS

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

5.2. **21/01372/PREAPP:** The enquiry was for one dwelling on the site, including elevational drawings.

5.3. Officers advised that the broad principle of the development would be acceptable, as, in principle, the site is considered to be within the built up limits of the village. Officers highlighted elements that needed improving, such as the design and the proposal's impact on highway safety and protected species.

6. RESPONSE TO PUBLICITY

6.1. This application has been publicised by way of a Site Notice displayed near the site, expiring **2 March 2023**, by advertisement in the local newspaper expiring **9 March 2023** and by letters sent to properties adjoining the application site that the Council has been able to identify from its records. The overall final date for comments was **24 July 2023**.

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

- Privacy concerns if trees are removed and potential for overlooking
- Impact on the Conservation Area, and contrary to Conservation Area Appraisal 2010
- Demonstrable harm to an important undeveloped gap which contributes to the rural character of Mollington Conservation Area
- Harm to the visual amenity of the neighbouring Grade II listed building
- Protect areas of green space
- Change of use from agricultural, and not currently in use as a garden
- Poor visibility of existing access
- Impact on parking within Orchard Piece
- Potential for more dwellings to be sought in the future
- Flood risk
- Tree report lacks information
- Ecology report vague and makes assumptions, along with impact on wildlife
- Potential to impact watercourse
- No sewerage information provided
- Hedgerows would be impacted

6.3. The matters raised by third parties in letters of support are summarised as follows:

- Good to make use of space
- Vacant site brought back into use, and at present it is not maintained
- Would not generate extra traffic or parking issues, due to having a drive
- Benefits outweigh the disruption that would occur during construction
- Many of the objectors are not in the immediate vicinity, so would not be impacted by the development

6.4. 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. MOLLINGTON PARISH COUNCIL: **No objections** to application as submitted but raised concerns relating to biodiversity, trees, lack of transport appraisal, lack of construction management plan, harm to an undeveloped gap.
- 7.3. Awaiting updated consultation response to the amended plans.

OTHER CONSULTEES

- 7.4. CDC ENVIRONMENTAL HEALTH: **No comments** with respect to noise, contaminated land, air quality, odour, light.
- 7.5. CDC ECOLOGY: **No objections**, based on the information received on 19th September. Requires a Section 106 agreement and conditions.
- 7.6. CDC CONSERVATION: **Comments**, including suggested amendments.
- 7.7. OCC HIGHWAYS: **No objections**, subject to conditions relating to access details and parking spaces.

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)

- BSC1 – District Wide Housing Distribution
- ESD1 – Mitigating and Adapting to Climate Change
- ESD10 – Biodiversity and the Natural Environment
- ESD15 – The Character of the Built and Historic Environment
- Villages 1 – Village Categorisation

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C23 – Retention of features contributing to conservation area
- C28 – Layout, design and external appearance of new development
- C30 – Design control
- C33 – Protection of important gaps of undeveloped land

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Cherwell Residential Design Guide (2018)
- Mollington Conservation Area Character Appraisal (2010)

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
- Residential amenity
- Highway safety
- Ecology and trees
- Other matters

Principle of development

- 9.2. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the District comprises the adopted Cherwell Local Plan 2011-2031 ('CLP 2015') and the saved policies of the Cherwell Local Plan 1996. The District's current housing land supply position of 5.4 years supply of housing for the period 2022-27 as reported in the Council's 2022 Annual Monitoring Report ('AMR'). The Council's housing policies are therefore to be considered up to date, and the 'tilted balance' does not need to be applied in assessment of this application.
- 9.3. The CLP 2015 seeks to allocate sufficient land to meet District-wide housing needs. The overall housing strategy is to focus strategic housing growth at the towns of Banbury and Bicester and a small number of strategic sites outside of these towns, whilst limiting growth in rural areas and directing it towards more sustainable villages, also aiming to strictly control development in the open countryside.
- 9.4. Also relevant is the NPPF. Paragraph 10 of the NPPF states that at its heart is a presumption in favour of sustainable development. There are three dimensions to sustainable development, as defined by the NPPF, which require the planning system to perform economic, social and environmental roles. These roles are interdependent and need to be pursued in mutually supportive ways.
- 9.5. The principle of residential development is outlined through Policy Villages 1 of the CLP 2015, which categorises villages in the district. Mollington is recognised as a Category B village, which are satellite villages associated with a larger service centre which, in this instance, is Cropredy. The policy seeks to restrict development in Category B villages, in line with their relative sustainability. It states within the built-up limits of Category B villages minor development, infilling and conversions of buildings may be considered acceptable subject to other material considerations.
- 9.6. Mollington has no bus service linking it to Cropredy (removed since the adoption of the Local Plan), the village has no school or shop and the public house only opens on occasion. However, Policy Villages 1 is part of the up-to-date Development Plan and this is the context under which this application must be considered.
- 9.7. The proposed development is not considered to be infilling. In the supporting text of Policy Villages 1, infilling is defined as 'the development of a gap in an otherwise continuous built-up frontage'. Given the size of the application site, its location in the corner of Orchard Piece and the siting of the proposed dwelling in the south of the site, it could not be argued that the development would constitute infilling.
- 9.8. For minor development to be acceptable under Policy Villages 1, the site must be located within the built-limits of the village. Historically, the site was used an orchard in relation to The Old Farm House to the east of the site. Presently, the site has a rural character. However, the site has a significantly different character to the agricultural fields to the south. When the built form of Mollington from the south looking northward,

as well as when Mollington is viewed on a map, the southern edge of the village has a fairly consistent built edge which is considered to form the edge of the village. Although the application site is an exception this, projecting into the village, it is surrounded on three sides by residential development, and is heavily treed, such that it does not have an open character.

- 9.9. In terms of the principle of development, the existing boundaries of residential development of the village, the site's close relationship to existing properties, and its heavily treed character, it is considered that the site is located within the built-limits of Mollington and therefore the principle of minor development on the site is considered to be acceptable, subject to the other material considerations discussed below. The proposed development therefore complies with Policy Villages 1 of the CLP 2015.

Design, and impact on the character of the area

- 9.10. Policy ESD15 of the CLP 2015 states that: *“New development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design. All new development will be required to meet high design standards.”*
- 9.11. Saved Policies C28 and C30 of the CLP 1996 exercise control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context as well as compatible with the existing dwelling. New housing development should provide standards of amenity and privacy acceptable to the Local Planning Authority.
- 9.12. Government guidance contained within the NPPF requiring good design states 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. Further, permission should be refused for development of poor design that fails to take the opportunities for improving the character and quality of an area and the way it functions.
- 9.13. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that special attention shall be paid in the exercise of planning functions to the desirability of preserving or enhancing the character or appearance of a Conservation Area.
- 9.14. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 9.15. The site is located within the Mollington Conservation Area and in close proximity to The Old Farm House, a Grade II listed building. The site is mentioned in the Mollington Conservation Area Appraisal as an area of undeveloped land which makes a positive contribution to the character and appearance of the area.
- 9.16. The scale of the proposed dwelling has been reduced over the course of the application, from a 3 bed dwelling to a 2 bed dwelling, with the height and length reduced in size. Its design and fenestration has also been amended. The amended proposal has an appearance similar to the apple barn appearance that the Conservation Officer suggested was necessary for the principle to be acceptable in heritage terms.

- 9.17. The Conservation Officer has not objected to the amended proposals, although noting it would be a shame to lose the existing open space. The position and height of the single dwelling is considered to be an acceptable alternative such that, while the character of the orchard would be altered, given its scale and the retention of the vast majority of the trees on the site, the proposal would result in harm that would warrant refusal of the application. The Conservation Officer has requested a range of conditions to ensure a high specification for the details of the dwelling.
- 9.18. The previous determined application, 18/00473/F, was refused on the basis of the loss of an undeveloped gap on Orchard Piece, which provides a visual link to the countryside. That application was for 3 dwellings, and would have had a more urbanising effect on the site and its surroundings than would the current proposal. Key differences between the two schemes include the amount of built development and the number of trees retained. The current proposal is a single, modest dwelling, positioned broadly centrally within the site, providing for retention of the vast majority of the trees such that it would not appear unduly obvious or incongruous. Any greater tree loss would significantly change how the site is experienced in visual terms and whether it can be considered within the built limits of the village.
- 9.19. The application includes plans to bring the adjacent curtilage listed outbuilding to the east of the site back into use. This is supported by the Conservation Officer, although they have highlighted that separate listed building consent would be required for any alterations to the building. At present, no listed building consent has been sought, although the applicant's attention could be drawn to this requirement through the inclusion of an informative note should approval be granted. The previously refused application, 18/00473/F, sought to remove the outbuilding and this harm to the heritage assets was a reason for refusal, whereas this application seeks re-use of the building, which is a benefit to the proposal.
- 9.20. For the reasons outlined, on balance, and subject to conditions relating to detailed design elements, the proposal for a single dwelling is acceptable in this location, due to its sympathetic appearance, its position set back within the site and the retention of the vast majority of trees on the site. The amended proposal would not result in harm to the designated Conservation Area, or the significance of the adjacent listed building through change to its setting.

Residential amenity

- 9.21. Policy ESD15 of the CLP 2015 states that new development proposals should consider amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation and indoor and outdoor space.
- 9.22. The Cherwell Design Guide (2017) states that a minimum distance of 22m back to back between properties must be maintained and a minimum of 14m distance is required from rear elevation to two storey side gable.
- 9.23. Concerns have been raised by neighbours regarding impact to the amenity of dwellings surrounding the site. The western boundary of the site is curved and positioned between 17m and 24m from the side wall of the proposed dwelling. Due to the position of the building, its windows and height of the building, there would be no loss of amenity to No. 4 Orchard Piece or No. 42 Chestnut Road, positioned to the west.
- 9.24. The first floor habitable room windows of the proposed dwelling face out to the open countryside to the south and north, therefore not overlooking the dwellings to the east and west. The first floor side window on the eastern elevation serves a landing and is sited 26m from the western boundary. As this is not a habitable room, and is a

considerable distance from the side boundary, there is no need to condition obscure glazing to this window.

9.25. The dwelling would not be located in close proximity to any existing dwelling and the site is well screened from the public domain by mature vegetation. Given the separation distances, existing vegetation, and no habitable first floor side facing windows, the currently proposed dwelling is considered to not cause harm to the amenities of neighbours. The proposed development therefore complies with Policy ESD15 of the CLP 2015, Saved Policy C30 of the CLP 1996 and Government guidance contained within the NPPF.

Highway safety

9.26. The NPPF (Para. 110) advises that in assessing specific applications for development, it should be ensured that:

- *appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;*
- *safe and suitable access to the site can be achieved for all users; and*
- *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.*

9.27. Both Policies ESD15 of the CLP 2015 reflect the provisions and aims of the NPPF. 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”.

9.28. The Local Highway Authority has not objected to the application, and has requested conditions relating to the visibility of the entrance of the site and to ensure the proposal provides 2 parking spaces.

9.29. The proposal provides 3 parking spaces, which is in excess of the 2 spaces required at rural dwellings, as outlined by Highways Officers. This can be resolved through the condition.

Ecology and trees

9.30. The NPPF requires that planning decisions should look to protect and enhance valued landscapes, recognising the intrinsic character and beauty of the countryside and further minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures; contributing to the Government’s commitment to halt the overall decline in biodiversity; these aims are echoed in Policy ESD10 of the CLP 2015.

9.31. The Ecology Officer originally objected to the scheme, as there was insufficient information provided to demonstrate the application could be carried out lawfully, which posed a risk to European Protected Species. Updated Ecology information was submitted through the course of the application, which the Ecology Officer is satisfied overcomes the original objection. They have required an agreement so that any off-site land proposed to fulfil the biodiversity net gain requirement is tied to the development.

- 9.32. The Officer has recommended conditions relating to the Biodiversity Habitat Management Plan submitted with the application, details of appropriate lighting and and CEMP for biodiversity to be conditioned. There are also conditions within the Naturespace Certificate that are required to be included verbatim.
- 9.33. The site has had a Preliminary Ecological Survey and provided an additional biodiversity net gain metric for the Ecology Officer to assess. The Ecology Officer has objected to the scheme, and raised in both their comments that the site is a red zone for the European Protected Species Great Crested Newts and is within 50m of a pond that has been assessed to be of good quality to support great crested newts. The comments from the Ecology Officer require confirmation that further information would be required to be submitted to confirm that the development can be carried out lawfully, therefore posing a risk to a European Protected Species, with no mitigation, compensatory habitat, receptor site or licensing route identified.
- 9.34. The additional information is required to be submitted, as it goes to the heart of the permission in determining whether it could be feasibly carried out or not. In the absence of the additional information confirming there would be no risk and with mitigation plans for the great crested newt, the application is required to be refused on this basis.
- 9.35. The site includes a number of protected trees, some of which are proposed to be felled as part of the development. There have been no comments received from the Arboricultural Officer. If the application were to be approved, a condition could be imposed for landscaping or additional planting.

Other matters

- 9.36. A number of neighbours have raised concerns regarding the flooding to the site and neighbouring dwellings as a result of the development. The site lies within Flood Zone 1, which is an area shown to have less than a 0.1% change of flooding of water in any year. There could be conditions relating to water drainage and foul sewage for an approval to ensure satisfactory drainage of the site and avoid any chance of flooding. Therefore, the proposed development is acceptable in this regard and any refusal on this basis could not be substantiated at appeal.

10. PLANNING BALANCE AND CONCLUSION

- 10.1 The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 requires that the three dimensions to sustainable development (economic, social and environmental) are not undertaken in isolation, but are sought jointly and simultaneously.
- 10.2 The broad principle of development in this location is acceptable, as the site is considered to be within the built-up limits of the village, subject to the retention of the majority of the trees on the site as proposed here. Given its design and siting the proposal as amended is considered acceptable in relation to the visual impact and neighbour amenity. The proposal is acceptable in highway safety terms subject to conditions. The information submitted demonstrates the application to be acceptable in ecology terms, subject to a Section 106 legal agreement and relevant conditions. As such, the proposal is acceptable and can be recommended for approval.

11. RECOMMENDATION

THAT PERMISSION IS APPROVED, SUBJECT TO THE FOLLOWING CONDITIONS:

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.

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the application forms and the following plans and documents:

- Location/Block Plan, drawing number 5624.01 Rev B
- Proposed Floor Plans/Roof Plan, drawing number 5624.02 Rev C
- Proposed South and West Elevations, drawing number 5624.03 Rev D
- Proposed North and East Elevations, drawing number 5624.04 Rev C
- Tree Constraints Plan, drawing number 11548 Tcp 01
- Mollington Topographical Survey, drawing number 1215 1319 1
- Renovation of Existing Outbuilding, drawing number 5624.05
- Arboricultural Impact Assessment
- Ecological Report
- Biodiversity Net Gain Feasibility Study
- Biodiversity Net Gain Feasibility Study – Appendix 1
- Biodiversity Net Gain Feasibility Study – Appendix 2
- Biodiversity Net Gain Feasibility Study – Appendix 3
- NSP Certificate
- Biodiversity Impact Map v1

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. No development shall commence above slab level unless and until a stone sample panel (minimum 1m² in size) has been constructed on site and has been inspected and approved in writing by the Local Planning Authority. The new stonework to be used in the construction of the external walls of the new dwelling hereby approved shall be laid, dressed, coursed and pointed in strict accordance with the approved stone sample panel, and shall be retained as such thereafter.

Reason – In the interests of the character and appearance of the area and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

4. No development shall commence above slab level unless and until samples of the slate to be used externally in the construction of the roof of the new buildings hereby approved have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in strict accordance with the sample approved and shall be retained as such thereafter.

Reason – To ensure the satisfactory appearance of the completed development and to preserve the character and appearance of the area and designated heritage asset, to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy

Framework.

5. No development shall commence above slab level unless and until a schedule of any external materials not included within Condition 3 or 4 have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in strict accordance with the sample approved and shall be retained as such thereafter.

Reason – To ensure the satisfactory appearance of the completed development and to preserve the character and appearance of the area and designated heritage asset, to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

6. Prior to their installation in the development, full details of the doors, windows and rooflights hereby approved, at a scale of 1:20 including a cross section, cill, lintel and recess detail and colour/finish, shall be submitted to an approved in writing by the Local Planning Authority. The doors and windows shall not be installed within the building other than in accordance with the approved details and shall be retained as such thereafter.

Reason – To ensure the satisfactory appearance of the completed development and to preserve the character and appearance of the area, to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

7. Prior to the first occupation of the development hereby approved, a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme for landscaping the site shall include:-

- (a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas,

- (b) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,

- (c) details of the hard surface areas, including pavements, pedestrian areas, reduced-dig areas, crossing points and steps,

- (d) details of boundary treatments.

The development shall be carried out in strict accordance with the approved landscaping scheme and the hard landscape elements shall be carried out prior to the first occupation/use of the development and shall be retained as such thereafter.

Reason – In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

8. All planting, seeding or turfing comprised in the approved details of landscaping

shall be carried out in accordance with BS 4428:1989 Code of Practice for general landscape operations (excluding hard surfaces), or the most up to date and current British Standard, in the first planting and seeding seasons following the occupation of the building(s) or on the completion of the development, whichever is the sooner. Any trees, herbaceous planting and shrubs which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the current/next planting season with others of similar size and species.

Reason – In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

9. No retained tree shall be cut down, uprooted, damaged or destroyed, nor shall any retained tree be pruned in any manner, be it branches, stems or roots, other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority. All tree works shall be carried out in accordance with BS3998: Recommendations for Tree Works.

If any retained tree is cut down, uprooted, destroyed or dies, another tree shall be planted in the same place in the next planting season following the removal of that tree, full details of which shall be firstly submitted to and approved in writing by the Local Planning Authority.

In this condition a “retained tree” is an existing tree which shall be retained in accordance with the approved plans and particulars; and paragraphs (a) and (b) shall have effect until the expiration of five years from the date of the decision.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

10. Prior to the commencement of the development hereby approved, an Arboricultural Method Statement (AMS), undertaken in accordance with BS:5837:2012 and all subsequent amendments and revisions shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, all works on site shall be carried out in accordance with the approved AMS.

Reason - To ensure the continued health of retained trees/hedges and to ensure that they are not adversely affected by the construction works, in the interests of the visual amenity of the area, to ensure the integration of the development into the existing built environment and to comply with Policy C28 of the adopted Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

11. Prior to the commencement of the development hereby approved, full details of the means of access between the land and the highway, including, position, layout, construction, drainage and vision splays shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the means of access shall be constructed and retained in accordance with the approved details.

Reason – In the interests of highway safety and to comply with Government guidance contained within the National Planning Policy Framework.

12. Prior to the commencement of the development hereby approved, a plan showing car parking provision for 2 spaces to be accommodated within the site, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the parking spaces shall be laid out in accordance with the approved details and shall be constructed from porous materials or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the site and the car parking spaces shall be retained in accordance with this condition for the parking of vehicles at all times thereafter.

Reason - In the interests of highway safety, to ensure the provision of off-street car parking and to comply with Government guidance contained within the National Planning Policy Framework.

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

The approved CEMP: Biodiversity shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

Reason - To conserve and enhance biodiversity and prevent the spread of non-native species in accordance with Government guidance contained within the National Planning Policy Framework.

14. Prior to the commencement above slab level of the development hereby approved, full details of a scheme for the location of bat, bird, owl and invertebrate boxes on the dwelling shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the occupation of any building, the bat, bird, owl and invertebrate boxes shall be installed on the site 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 the National Planning Policy Framework.

15. No development hereby permitted shall take place except in accordance with the terms and conditions of the Council's Organisational Licence (WML-OR112, or a 'Further Licence') and with the proposals detailed on plan "Land formerly

known as 'Beggar's Boy Cottage': Impact Plan for great crested newt District Licensing (Version 1)", dated 13th September 2023.

Reason - In order to ensure that adverse impacts on great crested newts are adequately mitigated and to ensure that site works are delivered in full compliance with the organisational licence (WML-OR112, or a 'Further Licence'), section 15 of the National Planning Policy Framework, Circular 06/2005 and the Natural Environment and Rural Communities Act 200

16. No development hereby permitted shall take place except in accordance with Part 1 of the Great Crested Newt Mitigation Principles, as set out in the District Licence WML-OR112 (or a 'Further Licence'), and in addition in compliance with the following:

- Works which will affect likely newt hibernacula may only be undertaken during the active period for amphibians.

Reason - In order to ensure that adverse impacts on great crested newts are adequately mitigated and to ensure that site works are delivered in full compliance with the Organisational Licence (WML-OR112, or a 'Further Licence'), section 15 of the National Planning Policy Framework, Circular 06/2005 and the Natural Environment and Rural Communities Act 200

17. Notwithstanding the provisions of Classes A to E (inc.) of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting or amending that order with or without modification) the approved dwelling shall not be extended, nor shall any structures be erected within the curtilage of the said dwelling, without the grant of further specific planning permission from the Local Planning Authority.

Reason – In the interests of the character and appearance of the area and in the interests of sustainable development and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Informative: It is recommended that the NatureSpace Best Practice Principles are taken into account and implemented where possible and appropriate.

Informative: It is essential to note that any works or activities whatsoever undertaken on site (including ground investigations, site preparatory works or ground clearance) prior to receipt of the written authorisation from the planning authority (which permits the development to proceed under the District Licence WML-OR112, or a 'Further Licence') are not licensed under the great crested newt District Licence. Any such works or activities have no legal protection under the great crested newt District Licence and if offences against great crested newt are thereby committed then criminal investigation and prosecution by the police may follow.

Informative: It is essential to note that any ground investigations, site preparatory works and ground / vegetation clearance works / activities (where not constituting development under the Town and Country Planning Act 1990) in a red zone site authorised under the District Licence but which fail to respect controls equivalent to those detailed in the planning condition above which refers to the NatureSpace great crested newt mitigation principles would give rise to separate criminal liability under the District Licence, requiring authorised developers to comply with the District Licence and (in certain cases) with the GCN Mitigation Principles (for which Natural England is the

enforcing authority); and may also give rise to criminal liability under the Wildlife & Countryside Act 1981 (as amended) and/or the Conservation of Habitats and Species Regulations 2017 (as amended) (for which the Police would be the enforcing author

Case Officer: Imogen Hopkin
