

**SUPPLEMENTARY INFORMATION**

**Planning Committee**

**12 April 2018**

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*If you need any further information about the meeting please contact Aaron Hetherington, Democratic and Elections aaron.hetherington@cherwellandsouthnorthants.gov.uk, 01295 227956*

## CHERWELL DISTRICT COUNCIL PLANNING COMMITTEE

12 April 2018

### WRITTEN UPDATES

#### **Agenda Item 7 18/00249/OUT Fringford Cottage, Main St.Fringford**

- Paragraph 8.23 refers to the Old Bakery. This should refer to Bakery Cottage.
- The County Council have been provided details of the no dig road construction for the proposed access road which is required to protect the tree on the site. They have indicated that an acceptable access could be provided to the site based on the no dig construction principles subject to a suitable maintenance regime. In light of this officers are now satisfied that subject to conditions the existing trees on the site could be retained. Therefore reason for refusal 2 can be amended to remove reference to the trees and read as follows:

*2. The development proposed, by virtue of its poorly integrated relationship with existing built development, its extension beyond the built limits of the village and its visual impact on the rural character and appearance of the locality, would cause unacceptable harm to the character and appearance of the area and the rural setting of the village and would fail to reinforce local distinctiveness. It would also result in 'less than substantial' harm to the setting of the adjacent listed buildings and the harm stemming from the proposals are not considered to be outweighed by any public benefits. The proposal is therefore contrary to Policies ESD13, ESD15 and Villages 2 of the Cherwell Local Plan (2011-2031) Part 1, saved Policies C8 and C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.*

- A drafting error has also meant that the reason for refusal relating to residential amenity of Bakery Cottage was not included in the report. This is discussed in the text of the Officer report at paragraphs 8.37 to 8.39. It is therefore recommended that the below reason be added to the recommended reasons for refusal in Section 10 of the Officers report:

*5. The development proposed, by virtue of the proposed access roads close proximity to Bakery Cottage and the likely level of vehicle movements, is considered to detrimentally impact on the amenity of Bakery Cottage in terms of noise and disturbance. The proposal would therefore be contrary to Policy ESD15 of the Cherwell Local Plan and advice in the National Planning Policy Framework.*

- It is therefore recommended that the application be refused as outlined in the report and amended above.

#### **Agenda Item 8 17/01556/F Langford Lane, Kidlington**

- The legal officer has noted on the committee reports for (17/01556/F) and

(18/00108/F) the recommendations for approval wording - subject to an appropriate section 106 agreement, do not provide officers with the delegated authority to negotiate the contents of the s106 agreements. If it is the intention to delegate the power to negotiate, it might be prudent to include some wording to that effect in the resolution.

It is agreed that this is appropriate in this case

- An e-mail has been received from a neighbouring resident. In summary, the e-mail raises concerns in relation to privacy of the occupiers of the cottages to the north of the site. This matter has been addressed in the committee report. Furthermore, the e-mail notes solutions are available to reduce the environmental harm caused by the proposal. Whilst this maybe the case, as detailed in the committee report, officers consider that the social, economic and environmental benefits of the proposal outweigh the environmental harm identified, therefore the proposal constitutes sustainable development and has been recommended for approval.
- Since the committee report was published, the applicant's agent has contacted officers on two separate occasions. These e-mails can be viewed in full on the Council's website, via the online Planning Register. The e-mails predominantly focus on the matter of noise, but officers do not consider that these e-mails raise any significant new points. However, it is worthwhile highlighting that in relation to the noise survey conducted, the applicant's agent has stated that the site is leased to CEMEX, and the Canal & Rivers Trust (the applicant) has no powers to require the cessation of use for any period.
- **the recommended conditions and planning notes to be attached to the permission** are listed below:

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 following plans and documents:

- Application form submitted with the application;
- Planning Statement submitted with the application;
- Heritage Appraisal by Canal & Rivers Trust dated July 2017 submitted with the application;
- Heritage Impact Assessment and Justification Statement submitted with the application;
- Transport Report by H2O Urban submitted with the application;
- Drawing Number 22074-STL-P\_001 submitted with the application;
- Drawing Numbers: 22074-STL-P\_005 Revision B; 22074-STL-P\_006 Revision A; 22074-STL-P\_010 Revision A; 22074-STL-P\_011 Revision A; 22074-STL-P\_020 Revision A; 22074-STL-P\_021 Revision A; 22074-STL-P\_022 Revision A; 22074-STL-P\_023 Revision A; 22074-STL-P\_030 Revision A; 22074-STL-P\_035 Revision A; 22074-STL-P\_040 Revision A; 22074-STL-P\_041 Revision A; 22074-STL-XX-XX-DR-L-ZZZZ-09001 Revision PL04;

22074-STL-XX-XX-DR-L-ZZZZ-09401 Revision PL04; 22074-STL-XX-XX-DR-L-ZZZZ-09402 Revision PL04; 22074-STL-XX-XX-DR-L-ZZZZ-09403 Revision PL04; and 22074-stl-XX-XX-SP-L-4080-SP002 Revision PL04 received from the applicant's agent by e-mail on 7<sup>th</sup> November 2017; and

- Design and Access Statement by Stride Treglown dated July 2017 received from the applicant's agent by e-mail on 7<sup>th</sup> November 2017.

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. Prior to the commencement of the development hereby approved above slab level, samples of the materials to be used in the construction of the external walls, roofs and outbuildings (including brick sample panels for the dwellings, to demonstrate brick type, colour, texture, face bond and pointing), shall be submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details.

Reason: To preserve the significance of the Langford Lane Wharf Conservation Area, to ensure and retain the satisfactory appearance of the completed development and to comply with Policy ESD15 of the Cherwell Local Plan Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

4. Prior to the commencement of the development hereby approved above slab level, 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 and approved in writing by the Local Planning Authority. Thereafter the doors, windows and rooflights shall be installed within the building in accordance with the approved details.

Reason: To preserve the significance of the Langford Lane Wharf Conservation Area, to ensure and retain the satisfactory appearance of the completed development and to comply with Policy ESD15 of the Cherwell Local Plan Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

5. Prior to the demolition of the British Waterways Building adjoining the south east boundary wall of the site, a method statement for the demolition of the British Waterways building shall be submitted to and approved in writing by the local planning authority. The method statement shall include details of how the boundary wall is to be retained. The development shall be carried out in accordance with the approved details.

Reason: To preserve the significance of the Langford Lane Wharf Conservation Area, to ensure the satisfactory appearance of the completed development and to comply with Policy ESD 15 of the Cherwell Local Plan Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

6. Prior to the commencement of the development hereby approved, full details of the means of access between the land and the highway and the parking and manoeuvring areas (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 Policy ESD15 of the Cherwell Local Plan Part 1 and Government guidance contained within the National Planning Policy Framework.

7. A surface water drainage scheme for the site will need to be submitted with a planning application. This will be based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development. The scheme shall subsequently be implemented in accordance with the approved details prior to the first occupation of the development, or such other timetable as has been submitted to and agreed in writing by the Local Planning Authority.

Reason: To ensure satisfactory drainage of the site in the interests of public health, to avoid flooding of adjacent land and property and to comply with Policy ESD6 and ESD7 of the Cherwell Local Plan Part 1 and Government guidance contained within the National Planning Policy Framework.

8. Prior to commencement of the development hereby approved, a Construction Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved Construction Traffic Management Plan shall be implemented and operated in accordance with the approved details.

Reason: In the interests of highway safety and the residential amenities of neighbouring occupiers in accordance with Policy ESD15 of the Cherwell Local Plan Part 1 and Government guidance contained within the National Planning Policy Framework.

9. Notwithstanding the pedestrian access shown in plan 22074-STL-XX-XX-DR-L-ZZZZ-09001 Revision PL04 received from the applicant's agent on , full details of the path to Langford Lane shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in strict accordance with the approved plan.

Reason: In the interests of sustainability, to ensure a satisfactory form of development and in accordance with Policies PSD1, SLE4 and ESD15 of the Cherwell Local Plan Part 1 and Government guidance contained within the National Planning Policy Framework.

10. Prior to the first occupation of the development hereby approved, a Travel Information Pack shall be submitted to and approved by the Local Planning Authority. Thereafter and upon occupation the first residents of each dwelling shall be provided with a copy of the approved Travel Information Pack.

Reason: In the interests of sustainability, to ensure a satisfactory form of development and in accordance with Policies PSD1, SLE4 and ESD15 of the Cherwell Local Plan Part 1 and Government guidance contained within the National Planning Policy Framework.

11. 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 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 landscape and to comply with Policy ESD15 of the Cherwell Local Plan Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

12. Prior to the commencement of the development hereby approved, and notwithstanding the soft landscaping details within Drawing Numbers: 22074-STL-XX-XX-SP-L-4080-SP001-Outline Soft Landscape Specification Revision PL04 dated 26th October 2017 and 2074-STL-XX-XX-DR-L-ZZZZ-09140 Revision PL04 received from the applicant's agent by e-mail on 7th November 2017, a soft 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,

Thereafter, the development shall be carried out in strict accordance with the approved soft landscaping scheme.

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 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

13. 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 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

14. Prior to the first occupation of the development hereby approved, a landscape management plan, to include the timing of the implementation of the plan, long term design objectives, management responsibilities, maintenance schedules and procedures for the replacement of failed planting for all landscape areas, other than for privately owned, domestic gardens, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the landscape management plan shall be carried out in accordance with the approved details.

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 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

15. Prior to the commencement of the development hereby approved, a plan

showing full details of the existing and proposed site levels, including a cross section of the swale shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved finished floor levels plan.

Reason - To ensure that the proposed development is in scale and harmony with its neighbours and surroundings and to comply with Policy ESD 15 of the Cherwell Local Plan Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

16. Prior to the commencement of the development hereby approved, including any demolition and any works of site clearance, a Construction Environmental Management Plan (CEMP), which shall include details of the measures to be taken to ensure that construction works do not adversely affect biodiversity, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved CEMP.

Reason: To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy ESD10 of the Cherwell Local Plan Part 1 and Government guidance contained within the National Planning Policy Framework.

17. Prior to the commencement of development hereby approved above slab level, an external lighting scheme shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the lighting scheme shall be carried out in accordance with the approved details.

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

18. If the demolition of the buildings hereby approved does not commence by June 31<sup>st</sup> 2018. A revised bat survey shall be undertaken prior to the commencement of the development to establish changes in the presence, abundance and impact on bats. The survey results, together with any necessary changes to the mitigation plan or method statement shall be submitted to and approved in writing the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.



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

19. Prior to the commencement of the development hereby approved, full details of a scheme for the location of bat and bird boxes shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the occupation of any building, the bat and bird 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 Part 1 and Government guidance contained within the National Planning Policy Framework.

20. Prior to the commencement of the development hereby permitted, a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals shall be documented as a report undertaken by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place unless the Local Planning Authority has given its written approval that it is satisfied that the risk from contamination has been adequately characterised as required by this condition.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with saved Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

21. If contamination is found by undertaking the work carried out under condition 20, prior to the commencement of the development hereby permitted, a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with DEFRA and the Environment Agency's '*Model Procedures for the Management of Land Contamination, CLR 11*' and submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval of the scheme of remediation and/or monitoring required by this condition.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with saved Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

22. If remedial works have been identified in condition 21, the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 21. A verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with saved Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

23. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reasons: To protect and prevent the pollution of controlled waters from potential pollutants associated with current and previous land uses in accordance with saved Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

24. 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 and its subsequent amendments, the approved dwelling(s) shall not be extended, nor shall any structures be erected within the curtilage of the said dwelling(s), without the prior express planning consent of the Local Planning Authority.

Reason: To preserve the significance of the Langford Lane Wharf Conservation Area, to ensure and retain the satisfactory appearance of the completed development and to comply with Policy ESD15 of the Cherwell

Local Plan Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

25. Notwithstanding the provisions of Class A of Part 2, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 and its subsequent amendments, no gate, fence, wall or other means of enclosure shall be erected, constructed or placed on the site without the prior express planning consent of the Local Planning Authority.

Reason: To preserve the significance of the Langford Lane Wharf Conservation Area, to ensure and retain the satisfactory appearance of the completed development and to comply with Policy ESD15 of the Cherwell Local Plan Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework

## **PLANNING NOTES**

1. With regard to surface water drainage it is the responsibility of a developer to make proper provision for drainage to ground, water courses or a suitable sewer. In respect of surface water it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not permitted for the removal of groundwater. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. The contact number is 0800 009 3921. This is to ensure that the surface water discharge from the site shall not be detrimental to the existing sewerage system.
2. Thames Water would recommend that petrol / oil interceptors be fitted in all car parking/washing/repair facilities. Failure to enforce the effective use of petrol / oil interceptors could result in oil-polluted discharges entering local watercourses.
3. Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.
4. Due to the presence of protected species and because the Oxford Canal lies adjacent to the site, the Environment Agency pollution prevention guidelines should be followed to avoid pollution of the canal.
5. In relation to condition 19 the Council's Ecology Officer has noted the most effective type of boxes are integrated swift bricks within the walls of the new buildings and the swift conservation officer or the Council's Ecology Officer would be happy to provide further information regarding appropriate locations.
6. In relation to the targeted programme of interpretative historic building survey proposed for the BWB building to the south west of the site, it is recommended that the result of this are submitted to the Historic Environment Record at Oxfordshire County Council.

7. Your attention is drawn to the need to have regard to the requirements of UK and European legislation relating to the protection of certain wild plants and animals. Approval under that legislation will be required and a licence may be necessary if protected species or habitats are affected by the development. If protected species are discovered you must be aware that to proceed with the development without seeking advice from Natural England could result in prosecution. For further information or to obtain approval contact Natural England on 0300 060 3900.
8. Birds and their nests are fully protected under the Wildlife and Countryside Act 1981 (as amended), which makes it an offence to intentionally take, damage or destroy the eggs, young or nest of a bird whilst it is being built or in use. Disturbance to nesting birds can be avoided by carrying out vegetation removal or building work outside the breeding season, which is March to August inclusive.
9. Bats are a highly mobile species which move between a number of roosts throughout the year. Therefore all works must proceed with caution and should any bats be found during the course of works all activity in that area must cease until a bat consultant has been contacted for advice on how to proceed. Under the Wildlife & Countryside Act 1981 (as amended) and the Habitat and Species Regulations 2010 it is illegal to intentionally or recklessly disturb, harm or kill bats or destroy their resting places.
10. In relation to condition 15, the swale will need to be consistent with the drainage plan requested under condition 7
11. In relation to condition 8 the Construction Traffic Management Plan (CTMP) should incorporate the following in detail:
  - The CTMP must be appropriately titled, include the site and planning permission number.
  - Routing of construction traffic and delivery vehicles is required to be shown and signed appropriately to the necessary standards/requirements. This includes means of access into the site.
  - Details of and approval of any traffic management needed during construction.
  - Details of wheel cleaning/wash facilities – to prevent mud etc, in vehicle tyres/wheels, from migrating onto adjacent highway.
  - Details of appropriate signing, to accord with the necessary standards/requirements, for pedestrians during construction works, including any footpath diversions.
  - Contact details of the Project Manager and Site Supervisor responsible for on-site works to be provided.
  - The use of appropriately trained, qualified and certificated banksmen for guiding vehicles/unloading etc.
  - No unnecessary parking of site related vehicles (worker transport etc) in the vicinity – details of where these will be parked and occupiers transported to/from site to be submitted for consideration and approval. Areas to be shown on a plan not less than 1:500.
  - Layout plan of the site that shows structures, roads, site storage, compound, pedestrian routes etc.
  - Local residents to be kept informed of significant deliveries and liaised with through the project. Contact details for person to whom issues should be raised with in first instance to be provided and a record kept of these and subsequent resolution.

- Any temporary access arrangements to be agreed with and approved by Highways Depot.
- Details of times for construction traffic and delivery vehicles, which must be outside network peak and school peak hours.

12. In relation to condition 7 the drainage scheme should include:

- Discharge Rates
- Discharge Volumes
- Maintenance and management of SUDS features (including details of who will be responsible for maintaining the SUDS & landowner details)
- Sizing of features – attenuation volume
- Infiltration tests to be undertaken in accordance with BRE365
- Detailed drainage layout with pipe numbers (to include direction of flow)
- SUDS (list the suds features mentioned within the FRA to ensure they are carried forward into the detailed drainage strategy)
- Network drainage calculations (to prove that the proposals will work)
- Phasing plans
- Flood Risk Assessment

13. A Section 278 agreement will be required to deliver off-site highway improvement works including a footway between site and Langford Lane.

14. The applicant's and/or the developer's attention is drawn to the requirements of the Control of Pollution Act 1974, the Environmental Protection Act 1990 and the Clean Air Act 1993, which relate to the control of any nuisance arising from construction sites. The applicant/developer is encouraged to undertake the proposed building operations in such a manner as to avoid causing any undue nuisance or disturbance to neighbouring residents. Under Section 61 of the Control of Pollution Act 1974, contractors may apply to the Council for 'prior consent' to carry out works, which would establish hours of operation, noise levels and methods of working.

15. Planning permission only means that in planning terms a proposal is acceptable to the Local Planning Authority. Just because you have obtained planning permission, this does not mean you always have the right to carry out the development. Planning permission gives no additional rights to carry out the work, where that work is on someone else's land, or the work will affect someone else's rights in respect of the land. For example there may be a leaseholder or tenant, or someone who has a right of way over the land, or another owner. Their rights are still valid and you are therefore advised that you should seek legal advice before carrying out the planning permission where any other person's rights are involved.

**Agenda Item 10 17/02429/F The Nursery, Evenley Rd. Mixbury**

- OCC Highways have confirmed that they have no objection to the application given the low levels of vehicle activity.

**Agenda Item 11 and 12 18/00098/F/18/00099/LB**

**Park Farm Barn, Deddington**

- Members have received direct a lengthy representation and photographs from the applicants agent. Any necessary response from the case officer will be given verbally at the meeting.

**Agenda Item 13 18/00108/F Unit 5 Chalker Way, Banbury**

- The views of the legal officers on the draft unilateral undertaking are awaited. It is **recommended** that the Interim Director Planning and Regeneration be delegated authority to issue the consent upon the provision of an appropriate legal undertaking.
- **Amended planting plans** have been received and can be **added to condition 2**. The Council's Landscape Architect has confirmed that these revisions are acceptable. Consequently **condition 4 can be amended** to cross-refer to these plans
- Letter received from applicants agent re condition 9

*The permitted building for Unit 5 (as approved by Reserved Matters approval reference 15/02206/REM) could be implemented at any time without the need for further ecological surveys – as condition 10 on Outline planning permission 14/00180/OUT for Phase 2 (which includes Unit 5) was approved by decision letter dated 23/01/17 – attached).*

*All pre-commencement conditions for Unit 5 as approved under Outline planning permission 14/00180/OUT and Reserved Matters approval 15/02206/REM have been discharged. The existence of an extant consent that can be implemented without further approval of the LPA is a highly material consideration as to the reasonableness of imposing condition 9 on the application to be determined on 12<sup>th</sup> April 2018 (Charlotte Watkins agrees with this position, email dated 12/03/18 attached).*

*I understand you concur with my considerations and will accordingly update the Committee tomorrow on the basis of the condition is not necessary or reasonable. I do agree it would be entirely reasonable to impose an informative on a grant of planning permission to draw to the attention of the Applicant the duties and responsibilities under the Wildlife and Countryside Act 1981*

- The above situation is noted and agreed. **Recommend omission of condition 9 and addition of planning note**