

Public Document Pack



Committee: Planning Committee
Date: Thursday 3 September 2015
Time: 2.00 pm
Venue: Bodicote House, Bodicote, Banbury, OX15 4AA

Membership

Councillor Colin Clarke (Chairman)

Councillor Michael Gibbard
Councillor David Hughes
Councillor Matt Johnstone
Councillor James Macnamara
Councillor Richard Mould
Councillor Nigel Randall
Councillor Barry Richards
Councillor Lawrie Stratford

Councillor Fred Blackwell (Vice-Chairman)

Councillor Chris Heath
Councillor Russell Hurle
Councillor Mike Kerford-Byrnes
Councillor Alastair Milne Home
Councillor Lynn Pratt
Councillor G A Reynolds
Councillor Trevor Stevens
Councillor Rose Stratford

Substitutes

Councillor Ken Atack
Councillor Carmen Griffiths
Councillor D M Pickford
Councillor Sandra Rhodes
Councillor Bryn Williams

Councillor Andrew Beere
Councillor Timothy Hallchurch MBE
Councillor James Porter
Councillor Nicholas Turner
Councillor Barry Wood

AGENDA

1. **Apologies for Absence and Notification of Substitute Members**
2. **Declarations of Interest**

Members are asked to declare any interest and the nature of that interest which they may have in any of the items under consideration at this meeting

3. Requests to Address the Meeting

The Chairman to report on any requests to address the meeting.

4. Urgent Business

The Chairman to advise whether they have agreed to any item of urgent business being admitted to the agenda.

5. Minutes (Pages 1 - 25)

To confirm as a correct record the Minutes of the meeting of the Committee held on 6 August 2015.

6. Chairman's Announcements

To receive communications from the Chairman.

Planning Applications

7. **Allotment Gardens west of Roebuck Inn and south east of the Blinking Owl PH, Banbury Road, North Newington (Pages 29 - 39) 14/01816/F**
8. **OS Parcel 6920 East of Oxford Road and Adjoining and South of Canal Lane, Bodicote (Pages 40 - 60) 14/01888/F**
9. **Land south west of Cotefield Business Park, Oxford Road, Bodicote (Pages 61 - 79) 14/02156/OUT**
10. **Sites D and E Graven Hill Upper Arcott Ambrosden (Pages 80 - 107) 15/00266/DISC**
11. **Outbuilding, Elephant and Castle, Humber Street, Bloxham (Pages 108 - 114) 15/00325/F**
12. **Outbuilding, Elephant and Castle, Humber Street, Bloxham (Pages 115 - 121) 15/00326/LB**
13. **OS Parcel 3235 and OS Parcel 5021 West of West End, Launton (Pages 122 - 143) 15/00392/OUT**
14. **Land Adjacent to Bicester Community College, Queens Avenue, Bicester (Pages 144 - 158) 15/01006/F**
15. **Oxford and Cherwell College, Broughton Road , Banbury (Pages 159 - 177) 15/01024/F**
16. **Land Adj To 53A Hamilton Close, Bicester (Pages 178 - 192) 15/01052/F**
17. **21 Chetwode, Banbury (Pages 193 - 199) 15/01136/F**

18. **Land Adjacent And North of St.Swithun's Church, Merton, Oxfordshire**
(Pages 200 - 223) **15/01148/OUT**
19. **Former Rosemary, Main Street, Fringford** (Pages 224 - 238) **15/01190/F**
20. **Land Adjoining And South West Of 27 Derwent Road, Bicester**
(Pages 239 - 264) **15/01295/F**

Review and Monitoring Reports

21. **Decisions Subject to Various Requirements** (Pages 265 - 268)

Report of Head of Development Management

Summary

This report aims to keep members informed upon applications which they have authorised decisions upon subject to various requirements which must be complied with prior to the issue of decisions.

An update on any changes since the preparation of the report will be given at the meeting.

Recommendations

The meeting is recommended:

- 1.1 To accept the position statement.

22. **Appeals Progress Report** (Pages 269 - 272)

Report of Head of Development Management

Summary

This report aims to keep members informed upon applications which have been determined by the Council, where new appeals have been lodged. Public Inquiries/hearings scheduled or appeal results achieved.

Recommendations

The meeting is recommended:

- 1.1 To accept the position statement.

Councillors are requested to collect any post from their pigeon hole in the Members Room at the end of the meeting.

Information about this Agenda

Apologies for Absence

Apologies for absence should be notified to

democracy@cherwellandsouthnorthants.gov.uk or 01295 221591 prior to the start of the meeting.

Declarations of Interest

Members are asked to declare interests at item 2 on the agenda or if arriving after the start of the meeting, at the start of the relevant agenda item.

Local Government and Finance Act 1992 – Budget Setting, Contracts & Supplementary Estimates

Members are reminded that any member who is two months in arrears with Council Tax must declare the fact and may speak but not vote on any decision which involves budget setting, extending or agreeing contracts or incurring expenditure not provided for in the agreed budget for a given year and could affect calculations on the level of Council Tax.

Evacuation Procedure

When the continuous alarm sounds you must evacuate the building by the nearest available fire exit. Members and visitors should proceed to the car park as directed by Democratic Services staff and await further instructions.

Access to Meetings

If you have any special requirements (such as a large print version of these papers or special access facilities) please contact the officer named below, giving as much notice as possible before the meeting.

Mobile Phones

Please ensure that any device is switched to silent operation or switched off.

Queries Regarding this Agenda

Please contact Lesley Farrell / Natasha Clark, Democratic and Elections
lesley.farrell@cherwellandsouthnorthants.gov.uk, 01295 221591 /
natasha.clark@cherwellandsouthnorthants.gov.uk, 01295 221589

Sue Smith
Chief Executive

Published on Tuesday 25 August 2015

Agenda Item 5

Cherwell District Council

Planning Committee

Minutes of a meeting of the Planning Committee held at Bodicote House, Bodicote, Banbury, OX15 4AA, on 6 August 2015 at 2.00 pm

- Present: Councillor Colin Clarke (Chairman)
Councillor Fred Blackwell (Vice-Chairman)
- Councillor Michael Gibbard
Councillor Chris Heath
Councillor David Hughes (from agenda item 13)
Councillor Russell Hurle
Councillor Matt Johnstone (from agenda item 15)
Councillor Mike Kerford-Byrnes
Councillor James Macnamara
Councillor Alastair Milne Home
Councillor Richard Mould
Councillor Lynn Pratt
Councillor Nigel Randall
Councillor G A Reynolds
Councillor Barry Richards (from agenda item 11)
Councillor Trevor Stevens (from agenda item 15)
- Substitute Members: Councillor Ken Atack (In place of Councillor Rose Stratford)
Councillor Barry Wood (In place of Councillor Lawrie Stratford)
- Apologies for absence: Councillor Lawrie Stratford
Councillor Rose Stratford
- Also Present: Councillor Douglas Webb, Local Ward Member for Kidlington North
Councillor Sandra Rhodes, Local Ward Member for Kidlington North
Councillor Carmen Griffiths, Local Ward Member for Kidlington South
- Officers: Bob Duxbury, Development Control Team Leader
Stuart Howden, Senior Planning Officer
Gemma Magnuson, Senior Planning Officer
Rebekah Morgan, Senior Planning Officer
Ross Chambers, Solicitor
Natasha Clark, Team Leader, Democratic and Elections
Lesley Farrell, Assistant Democratic and Elections Officer

45 **Declarations of Interest**

22. Garage Block Adjacent 29 Westbeech Court, Banbury.

Councillor Alastair Milne Home, Non Statutory Interest, as a member of Banbury Town Council, which had been consulted on the application.

Councillor Barry Richards, Non Statutory Interest, as a member of Banbury Town Council, which had been consulted on the application.

Councillor Colin Clarke, Non Statutory Interest, as a member of Banbury Town Council, which had been consulted on the application.

Councillor Colin Clarke, Declaration, as one of the council's appointed representatives and trustee on Banbury Charities.

Councillor Fred Blackwell, Declaration, as one of the council's appointed representatives and trustee on Banbury Charities.

Councillor James Macnamara, Declaration, as the applicant was known to him and had taught his children and he would leave the meeting for the consideration of the application..

46 **Requests to Address the Meeting**

The Chairman advised that requests to address the meeting would be dealt with at each item.

47 **Urgent Business**

There were no items of urgent business.

48 **Minutes**

The Minutes of the meeting held on 9 July 2015 were agreed as a correct record and signed by the Chairman.

49 **Chairman's Announcements**

The Chairman made the following announcements:

1. Under the Openness of Local Government Bodies Regulations 2014, members of the public were permitted to film, broadcast and report on the meeting, subject to the efficient running of the meeting not being affected.
2. The Chairman conveyed the sad news that Councillor Ann Bonner had passed away on Monday 3 August. The Committee stood for 1 minute silence in remembrance.

3. The Chairman advised members that due to the anticipated large number of applications at the next two planning committee meetings, it may be necessary for the meetings to commence at 2pm. This would be confirmed in due course.

50 **Land South of and Adjoining Bicester Services, Oxford Road, Bicester**

The Committee considered application 15/00250/OUT, an outline application for 3 No Class A1 (retail); 3 No Class A3 (café and restaurants); 1 No Class D2 (gym); surface level car park, servicing and associated works at land south of and adjoining Bicester Services, Oxford Road, Bicester for CPG Development Projects Limited.

Councillor Clarke referred to the written update and revised officer recommendation of deferral and proposed that consideration of application 15/00250/OUT be deferred to enable the applicant to undertake additional sequential assessment and to enable the Council officers to respond to detailed points raised by the applicant's highway consultants concerning highway and parking provision – especially with regards to comparative retail parking provision elsewhere within the District. Councillor Blackwell seconded the proposal.

In reaching their decision, the Committee considered the officers' report and the written update.

Resolved

That consideration of application 15/00250/OUT be deferred to enable the applicant to undertake additional sequential assessment and to enable the Council officers to respond to detailed points raised by the applicant's highway consultants concerning highway and parking provision – especially with regards to comparative retail parking provision elsewhere within the District.

51 **Land Opposite Unit 1-5 Wildmere Park, Former Plot 10, Wildmere Road, Banbury**

The Committee considered application 15/00476/F for the erection of 3 no industrial unites with B1, B2 and B8 use with trade counters at land opposite Unit 1-5 Wildmere Park, Former Plot 10, Wildmere Road, Banbury for Apperly Estates Limited.

In reaching their decision, the Committee considered the officers' report and presentation.

Resolved

That application 15/00476/F be approved, subject to the Environment Agency and Oxfordshire County Council Highways formally withdrawing their objections

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.
2. +Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the application form documents, Design and Access Statement and drawing numbers 214645-01 and 214645-03 submitted with the application and 214645-07A submitted via email on 02/07/2015 and 214645-02B submitted via email on 15/07/2015.
3. Prior to the commencement of the development hereby approved, full specification details of the parking and manoeuvring area shall be provided including pedestrian access and relationship between hard surfacing and built form including any changes in floor levels. This shall include construction, surfacing, layout, drainage and road markings, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the first occupation of the industrial units the development shall be constructed in accordance with the approved details.
4. Prior to the commencement of the development hereby approved, full details of a drainage strategy for the entire site, detailing all on and off site drainage works required in relation to the development, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the drainage works shall be carried out and completed in accordance with the approved strategy, until which time no discharge of foul or surface water from the site shall be accepted into the public system.
5. Prior to the commencement of the development hereby permitted a desk study and site walk over to identify all potential contaminative uses on site, and to inform the conceptual site model shall be carried out 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 shall be 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 that it is satisfied that no potential risk from contamination has been identified.
6. If a potential risk from contamination is identified as a result of the work carried out under condition 5, 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.

7. If contamination is found by undertaking the work carried out under condition 6, 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.
8. If remedial works have been identified in condition 7, the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 7. 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.
9. If, during development, contamination not previously identified is found to be present at the site, no further development shall be carried out until full details of a remediation strategy detailing how the unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. Thereafter the remediation strategy shall be carried out in accordance with the approved details.
10. Prior to the commencement of the development hereby approved, including any demolition, and any works of site clearance, a method statement for enhancing the biodiversity shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the biodiversity enhancement measures shall be carried out and retained in accordance with the approved details.
11. Prior to the commencement of the development hereby approved, including any demolition, and any works of site clearance, a lighting strategy, to include details of locations, designs, light spill and hours of operation shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out strictly in accordance with the approved details.
12. No removal of hedgerows, trees or shrubs shall take place between the 1st March and 31st August inclusive, unless the Local Planning Authority has confirmed in writing that such works can proceed, based on health and safety reasons in the case of a dangerous tree, or the submission of a recent survey (no older than one month) that has been undertaken by a competent ecologist to assess the nesting bird activity on site, together with details of measures to protect the nesting bird interest on the site.
13. Prior to the construction 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.
14. No removal of hedgerows, trees or shrubs shall take place between the 1st March and 31st August inclusive, unless the Local Planning Authority has confirmed in writing that such works can proceed, based on health and safety reasons in the case of a dangerous tree, or the submission of a recent survey (no older than one month) that has been undertaken by a competent ecologist to assess the nesting bird activity on site, together with details of measures to protect the nesting bird interest on the site.
15. 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 this decision notice.
16. 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. until the expiration of five years from the date of this decision notice.
17. Any showroom element of the trade counter use hereby approved shall be limited to be no more than 15% of the floorspace of the unit to which it relates unless otherwise first agreed in it writing by the Local Planning Authority

Land South Of Leycroft Barn, Somerton Road, Souldern

The Committee considered application 15/00541/F for the erection of a livestock building for the rearing and finishing of pigs at land south of Leycroft Barn, Somerton Road, Souldern of WS Deeley & Son.

Ian Pick, agent for the applicant addressed the Committee in support of the application.

In reaching their decision, the Committee considered the officers' report, presentation, written update and the address of the public speaker.

Resolved

That application 15/00541/F be 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.
- 2 Except where otherwise stipulated by condition, the application shall be carried out strictly in accordance with the following plans and documents:
 - Application Forms submitted with the application;
 - Design and Access Statement submitted with the application;
 - Drawing No's: IP/ED/01; IP/ED/02; and IP/ED/03 submitted with the application;
 - E-mail received from the applicant on 5th May 2015;
 - Waste Management Plan, Odour Management Plan and NVZ Risk Maps received from the applicant's agent by e-mail on 15th June 2015; and
 - Full Odour Impact Assessment received from the applicant's agent by e-mail on 16th July 2015.
- 3 Prior to the commencement of development, full specification details of three ridge fans within the livestock building shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the ridge fans shall be installed in the livestock building in accordance with the approved details prior the first use of the livestock building for the rearing and finishing of pigs.

Yarnton Nurseries, Sandy Lane, Yarnton, OX5 1PA

The Committee considered application 15/00645/F for the extension of existing Poly Tunnels to cover open sales space and storage area, together with the replacement of an existing substandard Poly Tunnel; plus additional parking at Yarnton Nurseries, Sandy Lane, Yarnton. OX5 1PA for Mr Richard Wallbridge.

Councillor Gibbard proposed that the application be approved and authority delegated to the Head of Development Management, in consultation with the Chairman, to determine appropriate conditions. Councillor Randall seconded the proposal.

In reaching their decision, the Committee considered the officers' report and presentation.

Resolved

That application 15/00645/F be 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.
2. Except where otherwise stipulated by condition, the application shall be carried out strictly in accordance with the following plans and documents:
 - Application Form submitted with the application;
 - Design And Access Statement submitted with the application;
 - Drawing Numbers 0279/15/4, 0279/15/5 and 0279/15/7 submitted with the application;
 - Drawing Number 0279/15/3B received from the applicant by letter on 16th June 2015; and
 - Letter dated 26th May 2015 received from the applicant on 16th June 2015.
3. Prior to the commencement of the development hereby approved, full specification details (including construction, layout, surfacing and drainage) of the parking and manoeuvring areas shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first occupation of the development, the parking and manoeuvring areas shall be provided on the site in accordance with the approved details and shall be retained unobstructed except for the parking and manoeuvring of vehicles at all times thereafter.

The Committee considered application 15/00723/F for a 70 bedroom care home at The Pits, The Mors, Kidlington for CMG (Kidlington) Limited, Kidlington Parish Council and Porthaven Properties, NO.2.

Councillor Douglas Williamson addressed the Committee as local Ward Member.

Adrian Kearley, agent for the applicant addressed the Committee in support of the application.

In reaching their decision, the Committee considered the officers' report, presentation, written update and the address of the local Ward Member and public speaker.

Resolved

That application 15/00723/F be approved, subject to:

- a) The applicants entering into an appropriate legal agreement to the satisfaction of the County Council to secure financial contributions as outlined in paragraph 5.33 of the report,
- b) the following conditions:
 - 1 That 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.
 - 2 Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the:

Transport Assessment produced by Axis and dated April 2015;
Preliminary Land Quality Risk Assessment produced by SLR and dated February 2015;
Preliminary Ecological Appraisal produced by SLR and dated February 2015;
Flood Risk and surface Water Drainage Statement produced by SLR and dated April 2015;
Design and Access Statement dated 20 April 2015;
Supplementary Design and Access Statement dated June 2015;
Landscape Design Statement produced by Alsfa and dated 13 April 2015;
Arboricultural Assessment and Protection Method Statement produced by ACS Consulting and dated 15 April 2015;
Statement of Community Involvement;
Planning Policy Statement;
Comprehensive Market Survey produced by Carterwood and dated December 2014

and the following approved plans: 14-078-100 Rev. B; 14-078-110 Rev. P; 14-078-120 Rev. P; 14-078-121 Rev. N; 14-078-135 Rev. C; 14-078-150 Rev. D; 14-078-151 Rev. D; 14-078-152 Rev. D; 14-078-160 Rev. A; 706 001 Rev. C.

- 3 Prior to the commencement of the development hereby approved, a schedule of materials and finishes for the external walls and roof(s) of the development hereby approved 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 schedule.
- 4 Prior to the commencement of the development full details of the enclosures along all boundaries of the site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved means of enclosure shall be erected, in accordance with the approved details, prior to the first occupation of the dwelling.
- 5 That no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme for landscaping the site which 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, pavements, pedestrian areas, crossing points and steps.
- 6 That all planting, seeding or turfing comprised in the approved details of landscaping shall be carried out 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; and that any trees 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 next planting season with others of similar size and species, unless the Local Planning Authority gives written consent for any variation.
- 7 Prior to the first occupation of the development hereby approved, details of refuse bins and their housing shall be submitted to and approved in writing by the Local Planning Authority. The approved bins and housing shall be provided prior to the first occupation of the building.

- 8 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.
- 9 Prior to the commencement of the development hereby approved, full details of a scheme of supervision for the arboricultural protection measures, to include the requirements set out in a) to e) below, and which is appropriate for the scale and duration of the development works, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the arboricultural protection measures shall be carried out in accordance with the approved details.
- a) Applicant to confirm in writing the contact and qualification details of the project arboriculturalist employed on behalf of the Applicant to undertake the supervising and monitoring role of relevant arboricultural issues.
 - b) The relevant persons/contractors to be briefed by the project arboriculturalist on all on-site tree related matters
 - c) The timing and methodology of scheduled site monitoring visits to be undertaken by the project arboriculturalist.
 - d) The procedures for notifying and communicating with the Local Planning Authority when dealing with unforeseen variations to the agreed tree works and arboricultural incidents
- 10 Retained Trees
- a) 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.
 - b) 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 notice.

- 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, vision splays and pedestrian provision 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.
- 12 Prior to the commencement of the development hereby approved, full details of improvements to the pedestrian route between the development and Banbury Road 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.
- 13 Prior to the commencement of the development hereby approved, full specification details (including construction, layout, surfacing and drainage) of the turning area and 32 parking spaces within the curtilage of the site, arranged so that motor vehicles (including refuse, fire tender and delivery vehicles) may enter, turn round and leave in a forward direction and vehicles may park off the highway, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. Thereafter, and prior to the first occupation of the development, the turning area and car parking spaces shall be constructed in accordance with the approved details and shall be retained for the parking and manoeuvring of vehicles at all times thereafter.
- 14 Prior to commencement of the development, full details of the number, location and design of cycle parking serving the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved scheme prior to the first occupation of the development.
- 15 The developer will submit a travel plan to the Travel Plan Team at Oxfordshire County Council, for approval before first occupation.
- 16 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.
- 17 Prior to the commencement of the development, a Construction Environment Management Plan (CEMP), which shall include details of the measures to be taken to ensure construction works do not adversely affect residential properties on, adjacent to or surrounding the site together with details of the consultation and communication to be carried out with local residents shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with approved CEMP.

- 18 Prior to the commencement of the development hereby approved, including any demolition and any works of site clearance or the translocation of any reptile, a strategy for the translocation of reptiles, which shall include the identification of receptor sites, any management scheme or landscaping and the arrangements for implementation shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the strategy shall be carried out strictly in accordance with the approved details.
- 19 No removal of hedgerows, trees or shrubs shall take place between the 1st March and 31st August inclusive, unless the Local Planning Authority has confirmed in writing that such works can proceed, based on health and safety reasons in the case of a dangerous tree, or the submission of a recent survey (no older than one month) that has been undertaken by a competent ecologist to assess the nesting bird activity on site, together with details of measures to protect the nesting bird interest on the site.
- 20 Prior to the commencement of the development hereby approved, including any demolition and any works of site clearance, the results of an updated walkover survey for badgers (no older than three months), whether a development licence is required and where necessary the location and timing of the provision of any protective fencing around setts/commuting routes or other mitigation, 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 details.
- 21 Prior to the commencement of the development hereby approved, including any demolition, and any works of site clearance, a full scheme of enhancements for biodiversity on site including locations and types of habitat boxes, timing of provision, planting and management as appropriate with reference to Section 6.5 of the Ecological Impact Assessment, prepared by SLR, dated June 2015, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the biodiversity enhancement measures shall be carried out and retained in accordance with the approved details.
- 22 Development shall not commence until a drainage strategy detailing any on and/or off site drainage works, has been submitted to and approved by, the local planning authority in consultation with the sewerage undertaker. No discharge of foul or surface water from the site shall be accepted into the public system until the drainage works referred to in the strategy have been completed".

- 23 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.
- 24 If contamination is found by undertaking the work carried out under condition 23, 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.
- 25 If remedial works have been identified in condition 24, the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 24. 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.
- 26 If, during development, contamination not previously identified is found to be present at the site, no further development shall be carried out until full details of a remediation strategy detailing how the unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. Thereafter the remediation strategy shall be carried out in accordance with the approved details.
- 27 The external lighting scheme 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 details.
- 28 That the first floor windows in the western (facing the rear garden of 222 The Moors) and eastern elevation (facing the side elevation of 214 The Moors) of the northern wing shall be glazed at all times with obscured glass that achieves a minimum of level 3 obscurity and shall be non-opening below a height of 1.7 metres taken from internal finished floor level. The window shall not thereafter be altered in any way without the prior written approval of the Local Planning Authority.

29. Prior to the commencement of the development hereby approved, full details of a scheme for acoustically insulating all habitable rooms within the dwelling(s) such that internal noise levels do not exceed the criteria specified in Table 4 of the British Standard BS 8233:2014, 'Guidance on sound insulation and noise reduction for buildings', shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first occupation of the dwelling(s) affected by this condition, the dwelling(s) shall be insulated and maintained in accordance with the approved details.

55

Manor Farm Bungalow, Hornton

The Committee considered application 15/00827/F for the demolition of existing buildings and erection of replacement dwelling, outbuildings and associated hard-standing at Manor Farm Bungalow, Hornton for Mr Finlay Scott.

In reaching their decision the Committee considered the officers' report, presentation and written update.

Resolved

That application 15/00827/F be approved, subject to the following conditions:

- 1 That the works to which this consent relates shall be begun not later than the expiration of three years beginning with the date of this consent.
- 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 and drawing nos. 1270/P01, 1270/P02, 1270/P03, 1270/P04, 1270/P05 and 1270/P06 received 23 September 2013.
- 3 Prior to the commencement of the development hereby approved, a stone sample panel (minimum 1m² in size) shall be constructed on site in natural ironstone which shall be inspected and approved in writing by the Local Planning Authority. Thereafter, the external walls of the development shall be laid, dressed, coursed and pointed in strict accordance with the approved stone sample panel.
- 4 Prior to the commencement of the development hereby approved, samples of the tile to be used in the construction of the roof of the development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the samples so approved

- 5 Prior to the commencement of the development hereby approved, full specification details (including construction, layout, surfacing and drainage) of the parking and manoeuvring areas shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first occupation of the development, the parking and manoeuvring areas shall be provided on the site in accordance with the approved details and shall be retained unobstructed except for the parking and manoeuvring of vehicles at all times thereafter.
- 6 Prior to the construction of the dwelling hereby approved, the existing means of access between the land and the highway shall be improved, laid out and constructed strictly in accordance with Oxfordshire County Council's specification and guidance.
- 7 Prior to the commencement of the development a temporary bat nesting box shall be erected as a receptor for any bats found during the works. The box shall be retained in situ until the completion of the proposed bat loft.
- 8 Within 6 months of the first use of the dwelling, the existing bungalow and garage shall be demolished and the land restored to paddock.

56 **KM4 South West Bicester Development Site, Wetherby Road, Bicester**

The Committee considered application 15/00920/F for the provision of a new temporary access road off Middleton Stoney Road to access the building compound, car parking and materials storage serving KM4 parcel at the KM4 South West Bicester Development Site, Wetherby Road, Bicester for Bovis Homes Limited.

In reaching their decision, the Committee considered the officers' report and presentation.

Resolved

That application 15/00920/F be approved, subject to the following conditions:

1. That at the expiration of 2 years from the date hereof, the use of this temporary construction access shall be discontinued, and the land reinstated as highway verge with hedge planting in accordance with a scheme, full details of which shall first be submitted to and approved in writing by the Local Planning Authority. Full details of the remediation and reinstatement works, which shall include a new hedge to the Middleton Stoney road, shall be submitted no later than 18 months from the date of this permission, to be approved in writing by the Local Planning authority prior to those remediation works commencing. The approved scheme shall be implemented in full within 6 months of the cessation of the use of this temporary construction access. Any tree, shrub or planting which, within a period of five years from the completion of the remediation works, 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.

2. Except where otherwise stipulated by condition, the development shall be carried out strictly in accordance with the following plans and documents: Application forms and drawings numbered 30472 KM4 Rev A Site Location Plan; BICE-5-1002 Vehicle Swept path Analysis; BICE-5-1003 Swept Path Analysis; BICE-5-1001 Rev H Site Compound layout Plan and BICE-5-535 Rev A Temporary Construction Access off Middleton Stoney Road.
3. The access hereby approved shall be constructed and used only in association with the construction of the approved dwellings on land parcel KM4 under application number 14/01054/REM, as outlined in red on the location plan, drawing number 30472 KM4 Rev A, only, and for no other purpose whatsoever.
4. 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.
5. Prior to the commencement of the development hereby approved, a routing agreement for HGVs using the access, intended to minimise the impact of its operation in the immediate vicinity and on the wider network, shall be submitted to and approved in writing by the Local Planning Authority
6. Prior to the commencement of the development hereby approved, a plan showing signs (i) warning all road users of the presence of Heavy Goods Vehicles using the entrance and (II) advising Heavy Goods Vehicle drivers to turn left out of the site entrance only shall be submitted to and approved in writing by the Local Planning Authority. The signage as agreed shall be erected prior to the access being first brought into use and removed from the site within 1 month of the cessation of the use of the access.
7. That prior to the commencement of the development, a dust management plan, to include the provision of vehicle wheel washing, shall be submitted to and approved in writing by the Local Planning Authority. The plan shall be brought into use and thereafter complied with during the use of the construction access.
8. Prior to the commencement of the development hereby approved, full details of the proposed fencing either side of the access shall be submitted to and approved in writing by the Local Planning Authority. The fencing shall be installed in accordance with the approved details prior to the access being first brought into use and shall be removed from the site upon cessation of the use of the access.

Park Farm, Tadmarton Road, Bloxham

The Committee considered application 15/00925/F for the erection of an agricultural building for the storage of hay and straw at Park Farm, Tadmarton Road, Bloxham for AS Coles and Son.

In reaching their decision, the Committee considered the officers' report and presentation

Resolved

That application 15/00925 be 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.
- 2 Except where otherwise stipulated by condition, the development shall be carried out strictly in accordance with the following plans and drawings: 2015-441-20 and 'Site Layout'.
- 3 Prior to the commencement of the development, details of tree protection measures to be used (in accordance with BS:5837:2012 and all subsequent amendments) shall be submitted to and approved in writing by the Local Planning Authority. Such measures shall show the means of protecting retained soft landscape features on the existing embankment to the east of the site during construction works. The development shall only be carried out in accordance with the approved tree protection measures. These details are necessary prior to commencement to ensure that the trees are protected before construction work begins.
- 4 Prior to first use 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.
- 5 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.

- 6 The development hereby permitted shall be used only for the storage of hay and/or straw within the purposes of agriculture, as defined in Section 336 (l) of the Town and Country Planning Act, 1990 and for no other purpose notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 and any of its subsequent amendments.
- 7 Prior to the commencement of the development a Construction Traffic Management Plan, taking into account the points made in this report, must be submitted to and approved in writing by the Local Planning Authority. The construction works must be carried out in accordance with the details approved in the Construction Traffic Management Plan. Such a Plan is required prior to commencement of development given that it is necessary to assess the impact of construction vehicles that would inevitably result from work commencing on site.
- 8 Prior to the commencement of the development full details of the surface water drainage measures shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be brought into use until the surface water drainage measures have been installed as approved and shall be retained as such thereafter. Such details are required prior to commencement so that the approved drainage measures can be incorporated into the development.

58 **61 Evans Lane, Kidlington**

The Committee considered application 15/00971/F for an extension and alterations to form 4 no. 1-bed flats at 61 Evans Lane, Kidlington for Mr and Mrs El-Mergisi.

In introducing the report, the Development Control Team Leader provided a verbal update on the response from the Highways Liaison Officer which had been received after publication of the written update. The Highways liaison Officer had no objection to the application, subject to conditions.

Councillor Carmen Griffiths addressed the Committee as local Ward Member.

Councillor Milne Home proposed that application 15/00971/F be refused as the proposed alterations were not appropriate for this area and would impact on visual amenity. Councillor Wood seconded the proposal. The motion was duly voted on and subsequently fell.

Councillor Clarke proposed that the application be approved. Councillor Blackwell seconded the proposal.

In reaching their decision, the Committee considered the officers' report and presentation and the address of the local Ward Member.

Resolved

That application 15/00971/F be 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.
- 2 Except where otherwise stipulated by condition, the application shall be carried out strictly in accordance with the following plans and documents: Application forms, Site Location Plan, Design and Access Statement (dated 27 May 2015), 0114-1-90, 0114-1-100, 0114-1-101, 0114-1-110, 0114-1-120, 0114-2-90, 0114-2-100, 0114-2-101A, 0114-2-110, 0114-2-120.
3. The materials to be used for the proposed extensions hereby approved shall match in terms of colour, type and texture those used on the existing building.
4. Prior to first occupation of the proposed development, the existing single storey rear extension, shown to be removed on the proposed plans, shall be removed and the external appearance of the rear elevation made good.
- 5 Prior to the occupation of the flats hereby approved, the proposed means of access between the land and the highway shall be formed, laid out and constructed strictly in accordance with Oxfordshire County Council's specification and guidance.
- 6 Prior to the commencement of the development hereby approved, a plan showing car parking provision for vehicles to be accommodated within the site, shall be submitted and approved in writing by the Local Planning Authority. Thereafter, and prior to the first occupation of the development, the parking spaces shall be laid out, surfaced, drained and completed in accordance with the approved details and shall be retained for the parking of vehicles at all times thereafter.
- 7 Prior to the occupation of the flats hereby approved, vision splays measuring 2.4m x 2.4m shall be provided to each side of the access.

Land To East Of Webbs Way, Kidlington

The Committee considered application 15/00979/F for a change of use from agriculture to a private fishing lake and associated landscaping at land to the east of Webbs Way, Kidlington for Mr Colin Coles.

Councillor Douglas Williamson addressed the meeting as local Ward Member.

Councillor Sandra Rhodes addressed the meeting as local Ward Member.

Mr Martin Palmer, a local resident, addressed the meeting in objection to the application.

Mr Christian Smith, agent for the applicant addressed the Committee in support of the application.

Councillor Hughes proposed that consideration of the application be deferred to allow for a formal site visit. Councillor Reynolds seconded the proposal. The motion was duly voted on and subsequently fell.

Councillor Randall proposed the application be approved. Councillor Milne Home seconded the proposal.

In reaching their decision the Committee considered the officers' report, presentation, written update, and the addresses of the local Ward Members and public speakers.

Resolved

That application 15/00979/F be approved, subject to:

- (i) The drainage issues being satisfactorily addressed.
- (ii) 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.
 2. Except where otherwise stipulated by condition, the development shall be carried out strictly in accordance with the following plans and documents: Application forms, Planning Statement dated 28 May 2015, Letter from Abington Consulting Engineers dated 16 July 2015, Drawing No's. GPP-CC-K-15-02, W14-043-001 Rev. P1 Pond Construction, Pond Construction (Cross Sections), Pond Construction (Long Sections), GPP/CC/K/15/04 Rev. No. 1 received 02 July 2015
 3. Prior to the commencement 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 deposited material excavated to create the lake, including the bunds,
4. 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.
 5. The development hereby approved shall be carried out strictly in accordance with the recommendations and enhancement measures set out in Section 5 of the Extended Phase 1 Habitat Survey submitted with the application, which was prepared by Lockhart Garratt dated May 2015.
 6. No excavated material shall be removed from the site.
 7. Access to the site shall be taken via Webbs Way only.
 8. The fishing lake and land hereby permitted shall be used for private use only and no commercial use, including any trade, industry, business or other use whatsoever.
 9. No power-driven machinery or equipment shall be operated on site.

60 **74 - 76 Banbury Road, Kidlington**

The Chairman advised the Committee that application 15/01023/F had been withdrawn by the applicant and would therefore not be considered at the meeting.

61 **Land Adj 2 Orchard Way Bicester OX26 2EJ**

The Committee considered application 15/01055/F for 2 x 2 bedroom semi-detached dwellings at land adjacent to 2 Orchard Way, Bicester, OX26 2EJ for Mr J Prpa.

In reaching their decision, the Committee considered the officers report, presentation and written update.

Resolved

That application 15/01055/F be refused for the following reasons:

1. By reason of its design, scale, siting and layout the proposed development would fail to respect the spacious character and pattern of existing

development in the locality and would appear cramped and over-dominant within the street. Further, the proposed area of hardstanding, which would provide off-street parking for up to three vehicles, and would result in the loss of existing soft landscaping (boundary hedge), would have a detrimental impact on the character of the site and the visual amenity of the area. The proposal is therefore contrary to Policy C28 and Policy C30 of the Cherwell Council Local Plan 2015, and the relevant provisions of the National Planning Policy Framework, 2012.

2. By reason of its close proximity to the common boundary with Walnut House, and taking account of the proposed height, depth and orientation, the proposal would have an adverse overbearing impact on the occupiers of Walnut House, and would significantly interfere with the receipt of light at the neighbouring rear garden. The proposed development would therefore have a detrimental impact on the residential amenity of the occupiers of Walnut House contrary to Policy C28 and Policy C30 of the Cherwell Council Local Plan, 2015, and the relevant provisions of the National Planning Policy Framework, 2012.

62

2 Orchard Way Bicester OX26 2EJ

The Committee considered application 15/01057/F for a two storey side extension and additional off street parking at 2 Orchard Way, Bicester. OX16 2EJ for Mr J Prpa

In reaching their decision, the Committee considered the officers report, presentation and written update.

Resolved

That application 15/01057/F be refused for the following reasons:

1. The proposed side extension would, by reason of its design, size and width, result in a visually obtrusive and unsympathetic appearance and fail to relate acceptably to the character and appearance of the existing building and surrounding area. Further, the excessive level of hardstanding and parking arrangement would have a detrimental impact on visual amenity. The proposed development would therefore have a detrimental impact on the character and appearance of the existing building, street scene and surrounding area, contrary to the provisions of Policies C28 and C30 of the Cherwell District Council Local Plan, 1996 and the relevant provisions of the National Planning Policy Framework, 2012.
2. The proposed development would fail to achieve an acceptable standard of environment for future occupiers of the dwelling. The proposed number of bedrooms (9) compared to the size and layout of the proposed shared internal amenity space would not cater sufficiently for the everyday needs of future occupiers to the detriment of their residential amenity. The proposal would therefore be contrary to Policy C30 (iii) of the Cherwell District Council Local Plan, 1996 and the relevant provisions of the National Planning Policy Framework, 2012.

63 **154 Oxford Road, Kidlington**

The Chairman advised the Committee that application 15/001076/F had been withdrawn by the applicant and would therefore not be considered at the meeting.

64 **131 Oxford Road, Kidlington**

The Chairman advised the Committee that application 15/001106/F had been withdrawn by the applicant and would therefore not be considered at the meeting.

65 **Garage Block Adjacent 29 Westbeech Court, Banbury**

The Committee considered application 15/01144/F for the construction of 3 new houses and associated parking with access from Westbeech Court at a garage block adjacent to 29 Westbeech Court, Banbury for Mr Norman White. This application was a resubmission of 15/00300/F.

In introducing the report, the Development Control Team Leader gave a verbal update on correspondence that had been received after the publication of the written update. The Committee was advised that a further 18 letters and a petition objecting to the application and 1 letter in support of the application had been received. It was proposed that an additional condition relating to screening be included to address the concerns of the objectors.

Mr Nick Price, agent to the applicant addressed the committee in support of the application.

Mr Gordon Shuttle, local resident, addressed the committee in objection to the application.

Councillor Blackwell proposed refusal of application 15/01144/F as the proposed application represented overdevelopment of the site, was not in keeping with the area and was contrary to policies C28 and C30 of the Adopted Cherwell Local Plan and policy ESD13 of the Cherwell Local Plan 2011-31, with authority being delegated to the Head of Development Management to determine the exact wording. Councillor Milne Home seconded the proposal.

Resolved

That application 15/00300/F be refused for the following reason:

- 1 The proposal represents overdevelopment of the site, resulting in a cramped form of development which by reason of its size and design is detrimental to the character and appearance of the vicinity, and to the residential amenities of the residents of Westbeech Court. The proposal is thus contrary to saved Policies C28 and C30 of the Cherwell Local Plan 1996 (saved policies) and Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and the good design ethos of the National Planning Policy Framework.

66 **Decisions Subject to Various Requirements**

The Head of Development Management submitted a report which informed Members upon applications which they had authorised decisions upon subject to various requirements which must be complied with prior to the issue of decisions.

Resolved

- (1) That the position statement be accepted.

67 **Appeals Progress Report**

The Head of Development Management submitted a report which informed Members on applications which had been determined by the Council, where new appeals have been lodged, public Inquiries/hearings scheduled or appeal results achieved.

Resolved

- (1) That the position statement be accepted.

The meeting ended at 6.00 pm

Chairman:

Date:

PLANNING COMMITTEE

3 September 2015

PLANNING APPLICATIONS INDEX

The Officer's recommendations are given at the end of the report on each application.

Members should get in touch with staff as soon as possible after receiving this agenda if they wish to have any further information on the applications.

Any responses to consultations, or information which has been received after the application report was finalised, will be reported at the meeting.

The individual reports normally only refer to the main topic policies in the Cherwell Local Plan that are appropriate to the proposal. However, there may be other policies in the Development Plan, or the Local Plan, or other national and local planning guidance that are material to the proposal but are not specifically referred to.

The reports also only include a summary of the planning issues received in consultee representations and statements submitted on an application. Full copies of the comments received are available for inspection by Members in advance of the meeting.

Legal, Health and Safety, Crime and Disorder, Sustainability and Equalities Implications

Any relevant matters pertaining to the specific applications are as set out in the individual reports.

Human Rights Implications

The recommendations in the reports may, if accepted, affect the human rights of individuals under Article 8 and Article 1 of the First Protocol of the European Convention on Human Rights. However, in all the circumstances relating to the development proposals, it is concluded that the recommendations are in accordance with the law and are necessary in a democratic society for the protection of the rights and freedom of others and are also necessary to control the use of property in the interest of the public.

Background Papers

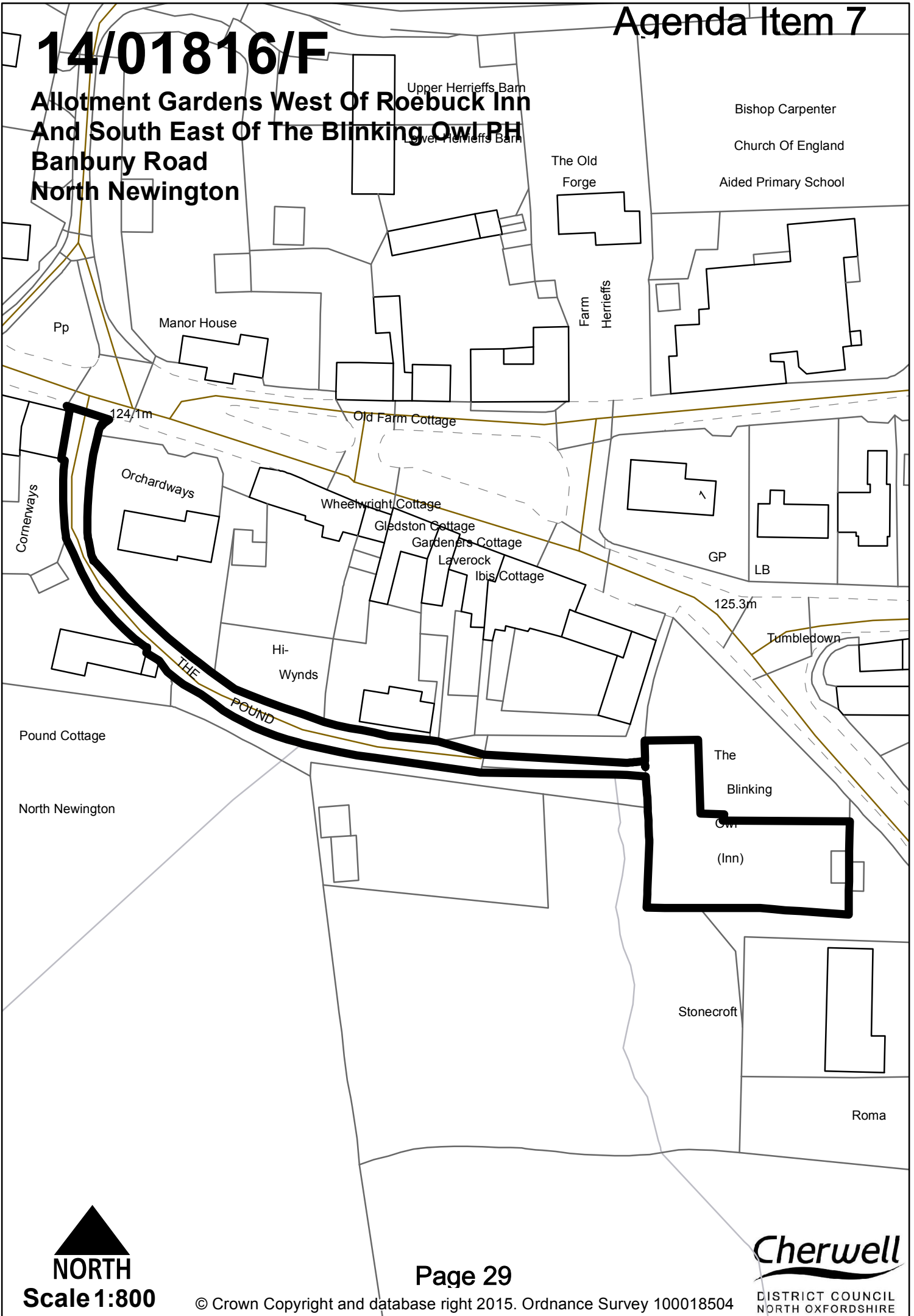
For each of the applications listed are: the application form; the accompanying certificates and plans and any other information provided by the applicant/agent; representations made by bodies or persons consulted on the application; any submissions supporting or objecting to the application; any decision notices or letters containing previous planning decisions relating to the application site.

	Site	Application No.	Ward	Recommendation	Contact Officer
7	Allotment Gardens west of Roebuck Inn and south east of the Blinking Owl PH, Banbury Road, North Newington	14/01816/F	Sibford	Refusal	Rebekah Morgan
8	OS Parcel 6920 East of Oxford Road and Adjoining and South of Canal Lane, Bodicote	14/01888/F	Bloxham and Bodicote	Approval	Caroline Ford
9	Land south west of Cotefield Business Park, Oxford Road, Bodicote	14/02156/OUT	Bloxham and Bodicote	Approval	Alex Keen
10	Sites D and E Graven Hill Upper Arncott Ambrosden	15/00266/DISC	Ambrosden and Chesterton	Approval	Alex Keen
11	Outbuilding, Elephant and Castle, Humber Street, Bloxham	15/00325/F	Bloxham and Bodicote	Refusal	Rebekah Morgan
12	Outbuilding, Elephant and Castle, Humber Street, Bloxham	15/00326/LB	Bloxham and Bodicote	Refusal	Rebekah Morgan
13	OS Parcel 3235 and OS Parcel 5021 West of West End, Launton	15/00392/OUT	Launton	Refusal	Aitchison Raffety
14	Land Adjacent to Bicester Community College Queens Avenue Bicester	15/01006/F	Bicester Town	Approval	Matthew Parry
15	Oxford and Cherwell College, Broughton Road Banbury	15/01024/F	Banbury Easington	Approval	Bob Duxbury
16	Land Adj To 53A Hamilton Close, Bicester	15/01052/F	Bicester West	Approval	Stuart Howden
17	21 Chetwode, Banbury	15/01136/F	Banbury Neithrop	Refusal	Gemma Magnuson
18	Land Adjacent And North of St. Swithun's Church, Merton, Oxfordshire	15/01148/OUT	Otmoor	Refusal	Stuart Howden

19	Former Rosemary, Main Street, Fringford	15/01190/F	Fringford	Approval	Michelle Jarvis
20	Land Adjoining And South West Of 27 Derwent Road, Bicester	15/01295/F	Bicester West	Refusal	Nathanael Stock

14/01816/F

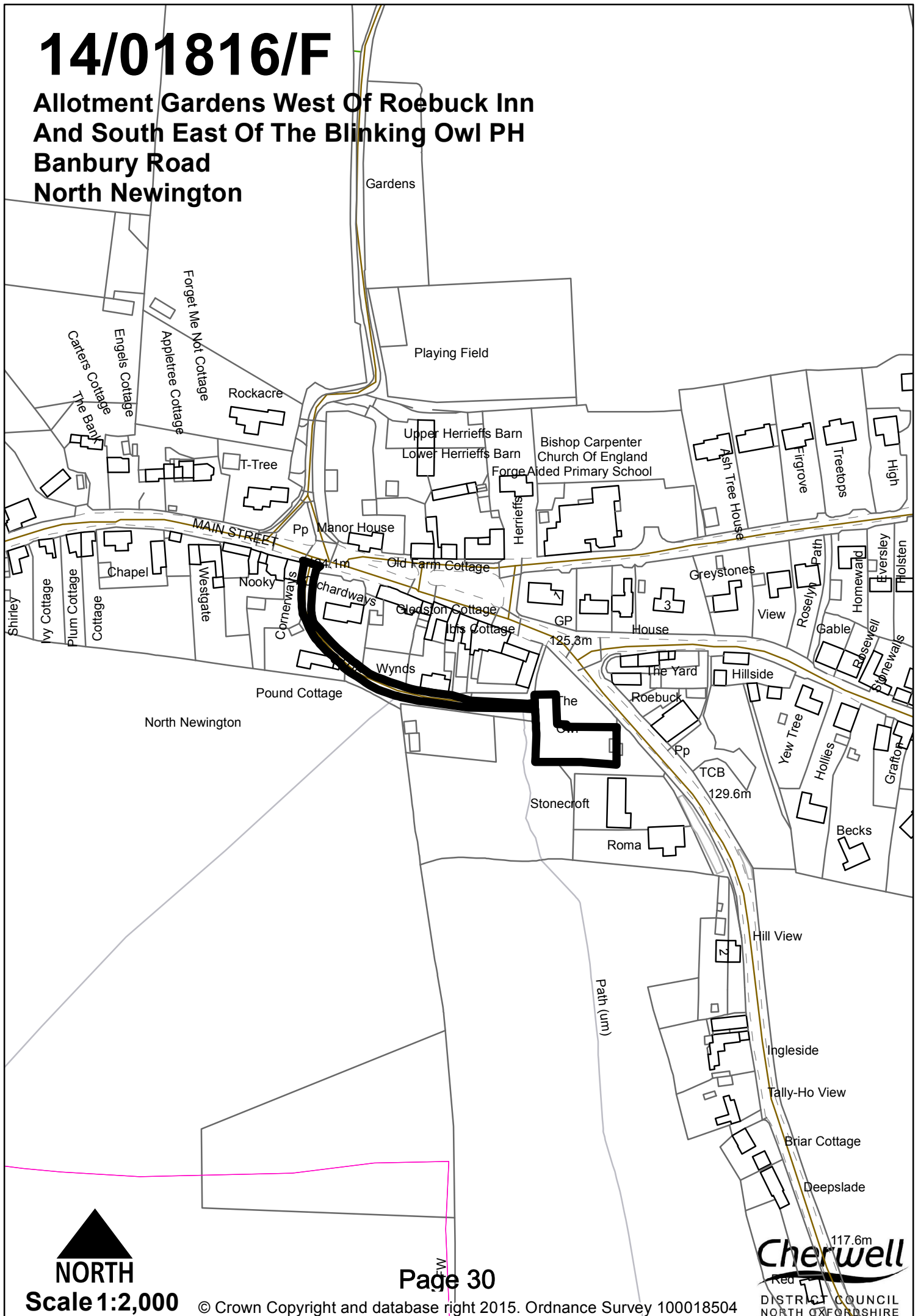
**Allotment Gardens West Of Roebuck Inn
And South East Of The Blinking Owl PH
Banbury Road
North Newington**



NORTH
Scale 1:800

14/01816/F

Allotment Gardens West Of Roebuck Inn
And South East Of The Blinking Owl PH
Banbury Road
North Newington



Scale 1:2,000



**Site Address: Allotment Gardens west of
Roebuck Inn and south east of the
Blinking Owl PH, Banbury Road, North
Newington**

14/01816/F

Ward: Sibford

District Councillor: George Reynolds

Case Officer: Rebekah Morgan

Recommendation: Refusal

Applicant: Penfield Homes Ltd (Mr Christopher McNally)

Application Description: Erection of 1 no. detached dwelling and detached garage

Committee Referral: Member
Request – Cllr Reynolds

Committee Date: 3 September 2015

1. Site Description and Proposed Development

1.1 The application site is a parcel of mainly agricultural land located within North Newington. There is a small, single storey building on the site that benefits from an industrial use (see planning history) however, the remainder of the land is still considered to be an agricultural use. A stone boundary wall runs along the boundary of the site adjacent to the Banbury Road and vehicular access is proposed via The Pound.

1.2 The application site is within the North Newington Conservation Area and there are Grade II listed buildings within the vicinity of the site.

1.3 The application seeks consent for an 'L' shaped, two storey, 3 bedroom detached dwelling and detached garage/outbuilding to be positioned on the southern side of the site.

1.4 The application was reported to Planning Committee on the 11th June 2015 where Members resolved to grant planning permission subject to granny planning permission subject to:

- a) *Officers being satisfied there is a lawful vehicular access to the proposed dwelling; and*
- b) *Conditions.*

1.5 The applicant has been unable to demonstrate to the satisfaction of your officers that there is lawful vehicular access to the serve the proposed dwelling and in accordance with the resolution on 11 June the application is being reported back to the Planning Committee.

2. Application Publicity

2.1 The application has been advertised by way of neighbour letter, site notice and press notice. The final date for comment is the 11th June 2015.

12 letters have been received. The following issues were raised:

- Planning statement incorrectly states that villagers don't want land to be used for agriculture
- The Pound has not always provided access to the site
- Vehicle movements along The Pound will not be reduced following the development
- The Pound is not suitable for construction vehicles

- Concerns that a future occupier could arrange for The Pound to be re-surfaced causing drainage issues
- Could set a precedent for further houses requiring access off The Pound
- Access is dangerous/inadequate
- Drainage
- Property within a Conservation Area
- Increased traffic will damage The Pound surface
- Banbury Road is already a busy road through the village
- Access crosses a footpath
- Impact on street scene
- Impact on neighbours view
- Potential overlooking
- Impact on Conservation Area

3. Consultations

3.1 North Newington Parish Council: The Parish Council submitted the following comments.

14/01816/F Application from agricultural to Business Use

We object to the above application on the following basis:

- There is not a business premises on the land, as there is no permanent building structure. It is our understanding that a corrugated shed is not a permanent structure and should not be classed as one.
- There is no business use on the land that has been noted by the Parish Council or by the neighbours. It is our understanding that before a conversion to business use the premises need to be in use for the purpose for a period of time. This has not been the case.
- The land does not have a right of access via the Pound as has been stated in the application.
- On the application map the Brick storage shelter to the left of the workshop does not belong to the applicant and should not be included as part of the application.

If however, the land meets the criteria for the change of use from agricultural to business use, the Parish Council also has the following comments to make regarding application **14/01758/POA**

- Right of access. The land has no right of access via The Pound. The gated area was knocked through by the applicant and is where none existed before.
- The application shows that the lane is part of the property, but this is not the case.
- The street scene of the application is disproportionate and is not an accurate representation of the land levels.
- We have concerns regarding the ridge height levels. We have also expressed concerns regarding other applications on ridge height, especially with the application overlooking so many properties so that it will be very imposing for current residents.

We also believe the planning design and access statement contains many inaccurate statements which are misleading.

1.2 states the village have been adamant that the land be used for agricultural use. This has not been the case, the animals were placed there after the applicant did not get planning permission. The land has always been an open garden and was enclosed by a stone wall all the way around.

1.3 The agricultural building described is a temporary structure made from corrugated iron. The small brick building does not belong to the land. There has been no redevelopment of the building.

3.1 The statement regarding the agricultural user and business user is misleading. There are both different sides of the same coin, one being Mr McNally and the other being Penfield Homes Ltd. This company is under the ownership of Mr McNally. Also the vehicle number do not show any basis for comparison.

3.2 The existing vehicular access is not entitled to be there. There was no vehicle right of way onto the land until the applicant knocked down a wall to allow access. According to OCC the Pound is listed as having pedestrian use only. There is a given that access is to the properties that are already built and therefore for access only. Larger vehicles do struggle to enter and exit the Pound due to the narrow nature so to state that lorries regularly enter with no problems is misleading.

The Parish Council would like to respectfully request that before any decisions are made, that the full historic application details be read in full. We would like the decision process to only be taken when all the information is available. We also feel that this application should go before the full committee, not be made by a planning officer.

Cherwell District Council Consultees

3.2 Conservation Officer: The scheme has been modified that it is now considered that the siting of the proposed dwelling and the proposed access no longer contribute significant harm to the character and appearance of the conservation area. Recommended conditions.

3.3 Ecology Officer: The piece of land involved in the proposals has some potential to support reptiles on an occasional basis which are protected from killing and injury under the Wildlife and Countryside Act 1981. I do not think a survey is necessary but should permission be granted we should include a condition designed to minimise risk of harm. In addition there is said to be building(s) on site – do you know what these consist of and what type of roofing they have? I cannot see these details in the application documents. I do not imagine that bat usage is likely to be an issue as there is some mention of corrugated iron but just to check given local records. In addition in line with guidance in the NPPF for biodiversity gain it would be beneficial in this location if the plans included some measures for bat roosting opportunities within any new dwelling. These could take the form of bat bricks or tubes within the building or a couple of raised ridge tiles or bat tiles etc..

3.4 Environmental Protection Officer: No comments received

Oxfordshire County Council Consultees

3.5 Highways Liaison Officer: No objections subject to conditions

3.6 Archaeologist: There are no archaeological constraints to this scheme.

3.7 Rights of Way Officer: I am emailing with reference to the above planning application. A public footpath runs along the western boundary of the site (North Newington Public Footpath 11) and another public footpath runs along The Pound (North Newington Public Footpath 18). These public rights of way are not mentioned in the application despite the applicant showing The Pound (footpath 18) as providing the access into the site.

Public Footpath 18 runs over The Pound and provides a right of way for the public on foot only. Anyone driving over The Pound will be exercising a private vehicular right. I understand that access to the site was originally via a narrow gateway, only wide

enough for pedestrians and it is therefore questionable as to whether a vehicular right over The Pound exists. If a private vehicular right does not exist, driving over the footpath with a vehicle would be unlawful.

The Pound is approximately 135m in length. The majority of the track has a relatively hard surface apart from a 30m section closest to the site which is currently grass. The route is particularly narrow and steep over the western section from Main Street and there is a blind bend so you are not able to see whether a vehicle is already on The Pound when entering or exiting. There are no places to pass on this section and any vehicles meeting each other would need to reverse. Any increase in traffic along The Pound is therefore of concern particularly as this is a well-used public footpath.

I am a little confused about the vehicle movements that are described in the Design and Access Statement. Under 4.4 Parking and Highway Safety it states that *'approval of the proposal will lead to a substantial reduction in vehicular movements both on and off site, and would be an obvious enhancement in road safety'*. There is currently limited damage to the grassed section of The Pound which suggests that the current vehicular movements are infrequent. Approval of the proposal is therefore likely to increase the traffic rather than reduce it and this would have a negative impact on the route.

If the decision is made to grant planning permission the grassed section of The Pound would need to be surfaced to make it suitable for vehicles. It is important that any work to the surface is in keeping with the surrounding area and we would not want to see this surfaced with tarmac. The Applicant would need to agree any proposals to alter the surface of The Pound with the Highway Authority (in this case the Countryside Access Team) and with the Landowner/s.

If permission is granted it is suggested that conditions are applied in order to protect the public footpath.

4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

Cherwell Local Plan 2011-2031 Part 1:

Villages 1:	Village Categorisation
ESD 15:	The Character of the built and historic environment

The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015.

The Plan was the subject of an independent examination conducted by an Inspector appointed by the Secretary of State. The Inspector's report was published on 12th June 2015 and the recommended main modifications required to make the Plan sound have been included in the adopted plan.

The Plan provides the strategic planning policy framework and sets out strategic site allocations for the District to 2031. Now adopted, the Plan forms part of the statutory development plan and provides the basis for decisions on land use planning affecting Cherwell District.

The Local Plan 2011-2031 – Part 1 replaces a number of the saved policies of the 1996 adopted Cherwell Local Plan. Those saved policies of the 1996 adopted Cherwell Local Plan which are retained remain part of the development plan. These are set out in Appendix 7 of the Local Plan 2011-2031.

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

The Local Plan and its associated documents are available on the Council's website: www.cherwell.gov.uk

Cherwell Local Plan 1996 (Saved Policies)

- C28: Layout, design and external appearance of new development
- C30: Design of new residential development

4.2 Other Material Policy and Guidance

National Planning Policy Framework

National Planning Practice Guidance

5. Appraisal

5.1 The key issues for consideration in this application are:

- Relevant planning history
- Principle of the development
- Visual amenity and impact on heritage assets
- Neighbouring amenity
- Highway safety
- Impact on public right of way

Relevant Planning History

5.2 **01/02095/OUT:** Erection of 1 no. dwelling and new vehicular and pedestrian access (Outline). Application withdrawn.

5.3 **02/01103/OUT:** Erection of 1 no. dwelling and new vehicular and pedestrian access (Outline). Application refused.

5.4 The above application was refused for the following reasons:

- 1) The proposed development would be contrary to Policy G2 of the Oxfordshire Structure Plan and Policies H14, C22 and C30 of the adopted Cherwell Local Plan. The development of this site for one dwelling does not constitute infill development and by virtue of the loss of this elevated and open land, which is prominent in the street scene and Conservation Area, and the likely character and appearance of any dwelling, including the significant reduction in site levels, would result in development which is unsympathetic and detrimental to the character and appearance of the site and the street scene in general and would neither preserve nor enhance the character and appearance of the Conservation Area.
- 2) The unjustified loss of the front boundary wall from its original position in order to provide access to the site would be contrary to Policy C23 of the Cherwell Local Plan and would neither preserve or enhance the character and appearance of the Conservation Area.
- 3) The proposed access would be contrary to Policy T18 of the Oxfordshire Structure Plan and Policies TR2 and TR5 of the Cherwell Local Plan as it is sub-standard in terms of visibility and the traffic generated by the proposal would result in a hazard and be detrimental to the safety of other road users.

- 5.5 **14/01758/PAO:** Change of Use from agricultural to B8 business use. Prior approval not required.
- 5.6 The above notification was submitted under the new permitted changes of use in The Town and Country Planning (General Permitted Development) (England) Order 2013 (as amended). As the building was less than 150 sqm in size, the applicant was only required to notify the council of their intent to implement a permitted change of use.
- Principle of the development**
- 5.7 *Changes in policy and housing land supply*
- When the application was reported to Planning Committee on the 11th June 2015 Members resolved that the principle of residential development was acceptable. However, there has been a material change in circumstance since the June Planning Committee in that on the 20th July 2015 Cherwell District Council formally adopted the Cherwell Local Plan 2011-2031. As a result a number of policies in the Cherwell Local Plan have been replaced, however some key policies have been retained. The current development plan policy is set out below:
- 5.8 The Council can demonstrate a 5.1 year housing land supply as set out in the Annual Monitoring Report 2014 (march 2015).
- 5.9 *Principle of new dwellings within North Newington*
- The application is for a new dwelling within North Newington which is classified as a Category C village within the Cherwell Local Plan 2011-2031 and Category C. Policy Villages 1 of the Cherwell Local Plan 2011-2031 restricts new residential development to:
- Infilling
 - Conversions
- 5.10 The Cherwell Local Plan 2011-2031 states '*Policy Villages 1 allows for the most sustainable villages to accommodate 'minor development' and all villages to accommodate infilling or conversions. The appropriate form of development will vary depending on the character of the village and development in the immediate locality. In all cases, Policy ESD 15: The Character of the Built and Historic Environment will be applied in considering applications*'.
- 5.11 The proposal is for a new build property therefore it is not a conversion. The site is agricultural in nature with only a small building to one side; although this building has a permitted industrial use (see planning history) Overall the land is in a good state.
- 5.12 The Cherwell Local Plan 2011-2031 states 'Infilling/refilling refers to the development of a small gap in an otherwise continuous built-up frontage' (Para C.264). The application site does represent a gap within the village however, it is noted that the built form is different on either side of the site. The existing gap along the road frontage is approximately 75m wide, although it is noted that the applicant does not own all of the land forming the gap.
- 5.13 Although, the proposal does not wholly comply with the definition of infilling due to the size of the gap, it does respect the linear development along the Banbury Road with the new dwelling proposed to be located adjacent to an existing dwelling. Therefore, your officers consider that it would be difficult to defend a reason for refusal at appeal based on non-compliance with the Council's definition of infilling.
- 5.14 When deciding if a 'gap' is suitable for new development, consideration must also be given to the development form and the importance of the 'gap' within the village.

- 5.15 The sub text of policy ESD 15 of the Cherwell Local Plan 2011-2031 states that new development proposals should 'Respect the traditional pattern of routes, spaces, blocks, plots, enclosures and the form, scale and massing of buildings. Development should be designed to intergrade within existing streets and public spaces, and buildings configured to create clearly defined active public frontages'. In paragraph B.271 it goes on to say 'Our rural areas will need to accommodate new development which reinforces the locally distinctive character by being sensitive in its location, scale, materials and design, reflecting the traditional pattern of development within the street settlement, balancing making best use of land with respect for established character and respecting open features that make a positive contribution. A large proportion of rural settlements fall within conservation areas, where the quality and special interest of the area is protected'.
- 5.16 The planning history highlights the importance of this site as a gap within the village that should be preserved, however, this does not rule out any development on the site, provided the important 'gap' is preserved and any development respects the character and appearance of the Conservation Area.
- 5.17 The current proposal is for a dwelling to be located towards the southeast corner of the site adjacent to the neighbouring property Stonecroft. The redline area has been amended during the course of the application to restrict the proposed residential area for the property and to deliberately exclude a large portion of the site that fronts the Banbury Road. This will ensure that any future occupier is unable to use the land at the front of the site for domestic purposes and prevent the erection of ancillary domestic buildings on that parcel of land. The amendment to the redline will help to ensure the open character and feel of the village is retained in this location. This successfully 'balances making best use of land with respect for established character and respecting open features that make a positive contribution' in accordance with policy ESD15 of the Cherwell Local Plan 2011-2031.
- 5.18 Therefore, your officers consider that in principle a well-designed dwelling could be accommodated on the site while protecting the historic settlement pattern of the village and the character of the Conservation Area in accordance with policies Villages1 and ESD15 of the Cherwell Local Plan 2011-2031
- 5.19 *Vehicular access to the site*
- The proposed vehicular access to the dwelling would utilise what appears to be an existing access along The Pound.
- 5.20 Although the Local Highway Authority has raised no objections to the proposal, this is on the assumption that access can be gained via the proposed route along The Pound.
- 5.20 The ownership of The Pound is unclear (it is relatively common for small strips of land in villages such as this not to have a registered owner) therefore the applicant has served the relevant notices required for the application to proceed.
- 5.21 A public Right of Way runs along The Pound and another crosses adjacent to the site entrance. Comments from Oxfordshire County Council's Rights of Way Officer and the neighbours have questioned if the applicant has a legal right of vehicular access to the site via The Pound.
- 5.22 Driving a vehicle across a public Right of Way is an offence under the Road Traffic Act 1988 if the person does not have a private vehicular right to use the route or doesn't have lawful authority to do so. If this is the case, the police could choose to prosecute an individual therefore preventing them from using the access and in turn, preventing the required parking and manoeuvring areas to be provided for the

- dwelling. This is a material planning consideration in that planning permission could be granted for a dwelling without the benefit of adequate vehicular access and associated of street parking, resulting in highway safety issues as a result of this displaced parking.
- 5.23 Members resolved to grant planning permission at the 11th June Planning Committee subject to officers being satisfied that there is a lawful vehicular access to the proposed dwelling.
- 5.24 Rights of vehicular access are commonly shown on deeds or can be gained through what is referred to as a prescriptive use. A prescriptive use is where lawful access is gained via long term use of the access. In the case of an access across a public Right of Way a period of 20 years or more would constitute a long term use.
- 5.25 To date, the applicant has not provided convincing evidence that a lawful right of vehicular access exists along The Pound. Documents submitted raise the issue that access can be gained through long term use, however it does not explicitly state that this is being claimed in this case. Furthermore, the applicant has failed to provide any evidence to show how long the vehicular access along The Pound has been in use. Neighbour comments made on application 02/01103/OUT suggest that the vehicular access was created in April 2001. If this were the case, the applicant would not be able to claim that a prescriptive access exists.
- 5.26 Without a lawful vehicular access to the site, it is likely that the development would result in vehicles being displaced to the public highway raising concerns regarding highway safety. The provision of parking and manoeuvring within the site is a key consideration and without the ability to guarantee its provision for the life of the dwelling, the principle of the proposal is not considered to be acceptable. Furthermore, by granting consent with the proposed access the Local Planning Authority would be knowingly encouraging occupiers/visitors of the site to commit an road traffic offence by driving a vehicle across a public Right of Way.
- 5.27 In this application the potential to provide an alternative new vehicular access off the Banbury Road has been ruled out due to the planning history and concerns regarding the potential impact on the Conservation Area, therefore vehicular access along The Pound would be the only viable option.
- 5.28 On the basis that the applicant has been unable to demonstrate that there is a lawful vehicular access to the proposed dwelling, your officers recommendation is that planning permission be refused.
- Visual amenity and impact on heritage assets**
- 5.29 In the consideration of the application at the 11th June Planning Committee Members resolved that the proposed development would not raise any design issues. There has been no material change in circumstances in terms of visual amenity and impact on heritage assets.
- Neighbouring Amenity**
- 5.30 In the consideration of the application at the 11th June Planning Committee Members resolved that the proposed development would not raise any amenity issues. There has been no material change in circumstances in terms of residential amenity.
- Engagement**
- 5.31 With regard to the duty set out in paragraphs 186 and 187 of the Framework, amendments have been sought during the application process and the applicant has been given sufficient time to provide the evidence requested by the Council. It is considered that the duty to be positive and proactive has been discharged through continual communication with the applicant.

6. Recommendation

Refusal for the following reason;

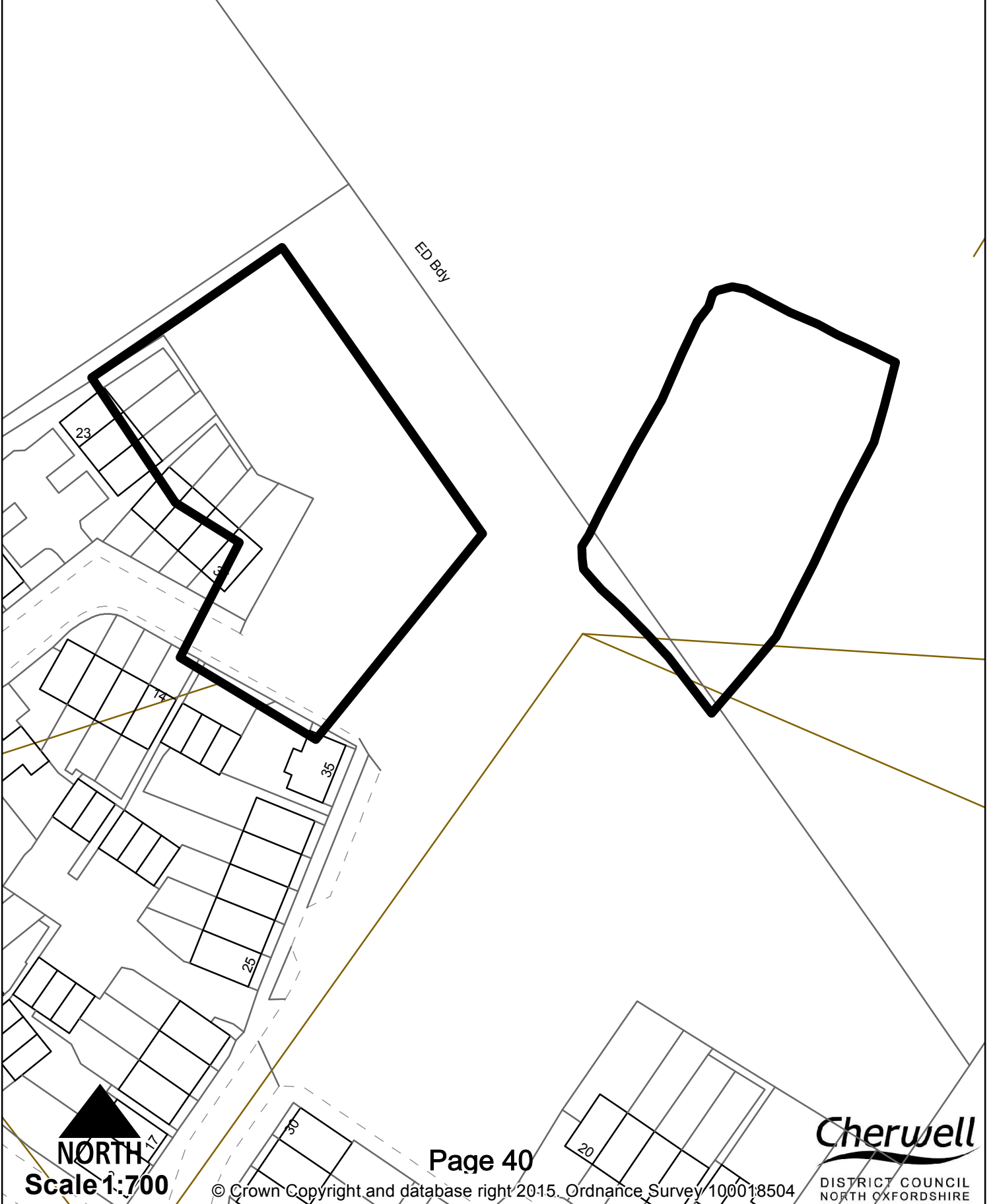
1. The Pound is a designated public Right of Way and crosses a second public Right of Way at the access point to the site and it has not been demonstrated that the applicant benefits from a lawful vehicular access to the site via The Pound. As such the development may result in parking being displaced to the public highway compromising highway safety contrary to government guidance contained within the National Planning Policy Framework.

STATEMENT OF ENGAGEMENT

In accordance with the Town and Country Planning (Development Management Procedure)(England) Order 2015 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council having worked with the applicant/agent in a positive and proactive way to seek amendments to the application and through continual communication with the applicant.

Agenda Item 8 14/01888/F

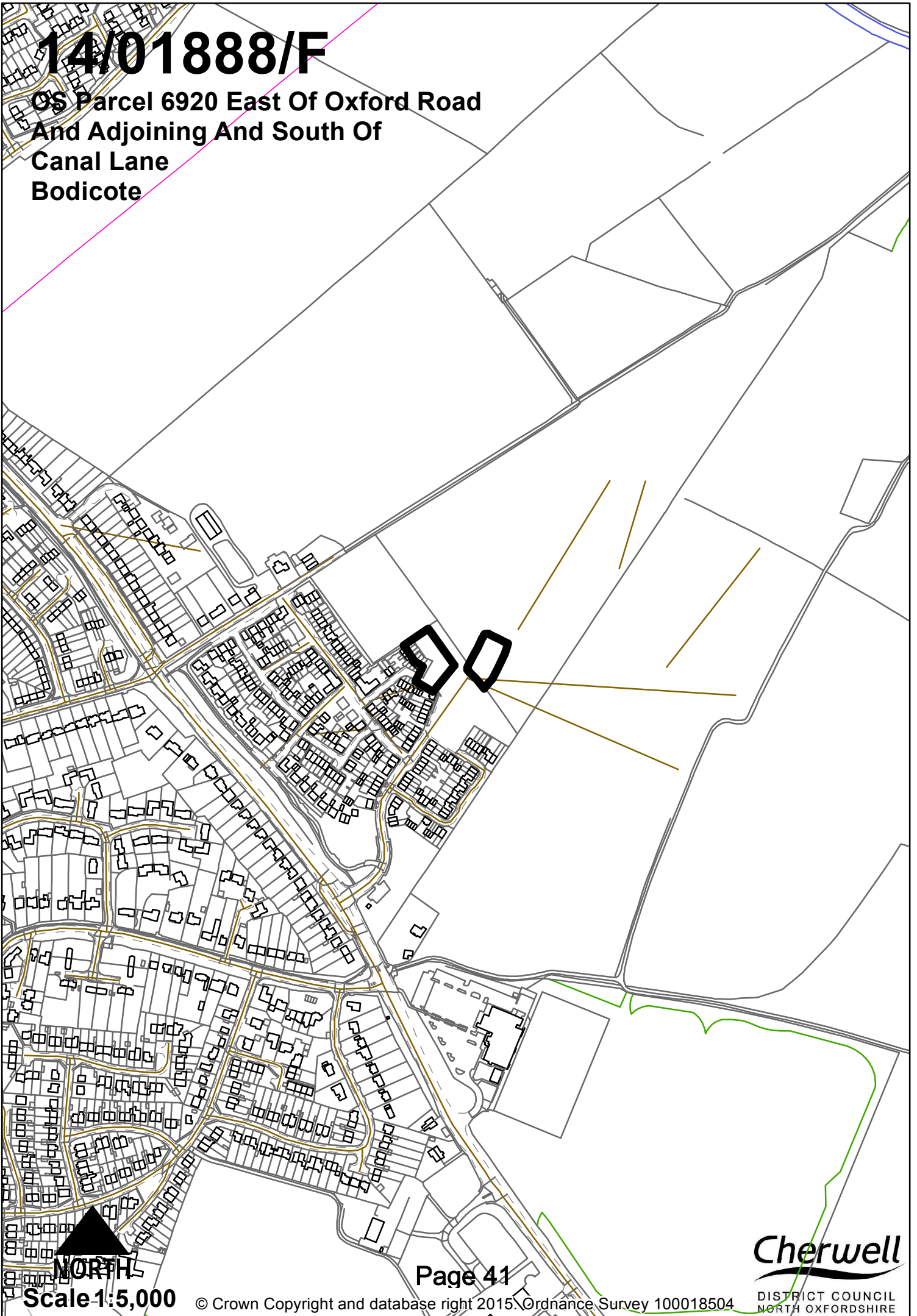
OS Parcel 6920 East Of Oxford Road
And Adjoining And South Of
Canal Lane
Bodicote



Scale 1:700

14/01888/F

OS Parcel 6920 East Of Oxford Road
And Adjoining And South Of
Canal Lane
Bodicote



Scale 1:5,000

**Site Address: OS Parcel 6920 East of
Oxford Road and Adjoining and South of
Canal Lane, Bodicote**

14/01888/F

Ward: Bloxham and Bodicote

District Councillor: Councillors Heath and Thirzie
Smart

Case Officer: Caroline Ford

Recommendation: Approval

Applicant: Taylor Wimpey Oxfordshire

Application Description: Erection of two local centre buildings – one to contain four apartments (3 X 2 bed and 1 X 1 bed) over one retail unit and a surgery and the other to contain four apartments (2 X 1 bed, 1 X 2 bed and 1 X 3 bed) over three retail units and a nursery

Committee Referral: Major

Committee Date: 3 September 2015

1. Site Description and Proposed Development

- 1.1 The site sits within the development site now known as Longford Park currently under construction on the edge of Bodicote. The site was granted outline planning permission under 05/01337/OUT on the 30 September 2009 on the completion of the required S106 agreement for up to 1070 dwellings and associated facilities. Following the grant of planning permission, a Design Code and Masterplan were approved and a number of reserved matters applications have also been approved allowing commencement of building on site. The Design Code identifies two areas that would be subject to development the Plateau (to the south of the site adjacent to Bodicote) and Haynesbridge (to the north of the site adjacent to Bankside). Within the plateau area of the site is provision for a local centre consisting of local shopping provision which is also to sit within proximity to the school, community centre and the main village centre. The site subject to this application is within the area set aside for a local centre within the Design Code.
- 1.2 In terms of site constraints, the site is within an area of high landscape value and there is some potential for the land to be contaminated, however there are no other specific site constraints. The outline application was accompanied by an Environmental Impact Assessment, which assessed the environmental implications of development on the site as a whole.
- 1.3 The proposal the subject of this application is for the local centre buildings consisting of retail units, a surgery and a building for a nursery as well as residential provision at first floor within two buildings. The proposal has been amended through the processing of the application in order to provide a scheme that now consists of the accommodation set out within the description of the development (which includes a greater number of apartments than was originally sought), and for an amended scheme which has improved the design of the buildings proposed and which overall has sought to overcome the objections and design comments originally received. Whilst the proposal is a full application, the Design Code has been a key consideration in the assessment of this proposal given the village square as a whole is an integral part of the wider site.
- 1.4 The application has been submitted as a full application for planning permission due to the proposal being a variation from that allowed for under the outline permission in terms of the planning conditions imposed at the outline stage. This being the case and because it constitutes major development, the application must be reported to Planning Committee for determination rather than being delegated (as all reserved

matters have been).

Planning History

- 1.5 The wider site is subject to an application for outline permission as below:
05/01337/OUT – Approved – OUTLINE. Residential development with associated facilities including primary school, playing fields, local shops and community facilities. 2200sq.m of employment provision (Use class B1 Business) (as amended by further information document received 10.11.05).

The timescale for submission of reserved matter proposals for the site expires in September 2015.

Reserved matters permission has been granted for a number of Parcels as below:
13/00822/REM – Approved - Reserved Matters Application - (05/01337/OUT) - 215 Units (this area of the site has been constructed and occupied).

14/00843/REM – Approved - Reserved matters to outline application 05/01337/OUT - 90 dwellings (this area of the site is under construction)

14/00917/REM – Approved - Reserved matters to outline application 05/01337/OUT - erection of 193 dwellings, access, appearance, landscaping, layout, scale, drainage and informal open space (this area of the site is under construction)

14/02148/REM – Approved - Reserved matters (outline - 05/01337/OUT) - Erection of 125 residential dwellings and their associated roads, drainage, landscaping, scale, appearance, garaging and parking

There are 3 other reserved matter proposals pending consideration for the balance of the residential units across the site.

There are also a number of applications for non-residential development across the wider site, which have either been approved or are currently pending consideration including:

- 14/00702/REM – Approved – Proposed spine road
- 14/01833/REM – Pending – Details of the proposed community park adjacent to Bankside, including play, recreation, education and biodiversity features, a footpath, and cycle network and other public amenities
- 14/01830/REM – Pending – Details of the proposed sports changing pavilion adjacent to the sports pitches, including 29 associated car parking spaces and 2 coach bays
- 14/01837/REM – Pending – Proposed community hall and youth wing, including 16 associated car parking spaces and 6 recycling bins
- 14/01835/REM – Pending – Details of the proposed village square including 44 public parking spaces and landscaped public open space
- 14/01841/REM – Pending – Proposed commercial units for B1 use adjacent to the Oxford Road, including 65 associated parking spaces
- 15/00047/REM – Pending – Proposed public house and 45 associated parking spaces

- 1.6 The wider site was subject to an Environmental Assessment which accompanied the 2005 application for outline planning permission. The current application is for full permission, therefore it has been screened separately and it is concluded that the proposal is not EIA development but that sufficient Environmental Information is before the Council in the form of the original Environmental Statement and an updated Ecological Assessment submitted pursuant to this permission.

2. Application Publicity

- 2.1 The application has been advertised by way of neighbour letter, site notice and press notice. The final date for comment was the 26th August 2015. The reason for this consultation deadline date is that at the time of the first round of consultation, there were few occupations on site, however it is understood that Parcel A (adjacent to this site) is almost now completely occupied so consultation has been undertaken to ensure that new residents are aware of this application.

At the time of writing this report 1 letter has been received. The following issues were raised:

Noise concerns during the building work
Traffic – including the proposed accommodation and the increased traffic at certain times of the day along Longford Park Road
Impact upon properties closest to the amenities
Parking is already occurring on the road and this should not increase
Has adequate parking for the uses within the village centre been taken into account?

3. Consultations

- 3.1 **Bodicote Parish Council:** First response raised no objections. Second response objected to the proposal as they object to the whole development but have nothing further to add.
- 3.2 **Banbury Town Council:** No objections raised. Second response received again raised no objections.

Cherwell District Council Consultees

- 3.3 **Urban Design Officer:** Comments were provided by the Urban Design Officer in relation to the village centre as a whole in terms of the original submission. It was highlighted that the Code requires the area as a whole to act as one of the most important spaces at Longford Park. The required scale (3 storey) is highlighted, the need for key buildings, the position of buildings on the site and the need for consideration as to the relationship of the built form and open space combine to make a space. Concerns raised that the proposal had significant design issues and that there were variances with the Code.
- 3.4 **Housing Officer:** Initial response advised that he had no objection to the proposed mixed use development. Whilst this is a full application, the wider Bankside development must be taken into account when considering the impact of the proposed residential as part of this application. The applicant has proposed 5 flats above shops, which should incur an affordable housing provision. However given the affordable housing provision being delivered across the various Bankside parcels currently either under construction or under consideration, it is felt that to secure affordable rented housing as part of this application is not appropriate. The type of properties do not suit a comprehensive management approach from an RP given they are located above the shops, as well as future use issues which may be constrained by a leasehold agreement with the RP. Shared ownership of these units could be an option but only if all units were under that tenure. Therefore he is content to not require an affordable housing contribution in this exceptional and unique circumstance.
- 3.5 **Arboricultural Officer:** There are no trees on site which will be affected by the proposals. Details of any new tree and hedge planting are required.

- 3.6 **Landscape Officer:** Initial response advised that the village square should be considered as a whole and the area lacks detail and design.
- 3.7 **Ecology:** The submitted ecological report is sufficient to cover this area. The works should adhere to the mitigation measures outlined in section 6.1 of the ecological report. In addition it is expected that there should be biodiversity enhancements for these buildings. Although the ecological report states that enhancements are covered elsewhere, there is no information in relation to these smaller applications. What will be planted around the buildings? There are opportunities that could be taken and planting should maximise benefits from biodiversity. The inclusion of some bird boxes preferably within the fabric of the buildings to ensure their retention is a recommendation. Conditions are recommended.
- 3.8 **Environmental Protection Officer:** No objection with regard to land contamination and a planning note is recommended.

Oxfordshire County Council Consultees

3.9 **Initial Oxfordshire County Council response:**

Transport: Objection raised based on construction traffic, parking (allocated for the residential units and of a sufficient size), cycle parking (none shown and required), drainage (lack of details), servicing, the lack of tracking for servicing vehicles, no refuse storage demonstrated and the layout (discrepancies between different plans).

Travel Plans Team: A framework travel plan is required, either to feed into an existing plan or a new document. The individual retail units, nursery and surgery will require full travel plans and a monitoring fee will also be required.

3.10 **Second Oxfordshire County Council response:**

Transport: Objection raised and some issues originally raised in relation to the lack of the provision of cycle parking, the lack of information relating to refuse storage and the lack of information relating to parking allocation for the residential units have not been addressed. Due to the constraints of the site, these must be addressed prior to determination as it must be clear that the development works and that these matters can be sensibly accommodated.

There are still some discrepancies in relation to the proposal and the approved spine road layout, which needs to be addressed. The tracking of vehicles in and out of the two yards was reviewed as part of the spine road application. Because it could not be shown that large vehicles (which typically deliver to convenience stores) could enter and exit the yard for the convenience store and surgery premises due to the constraints of the spine road, it was agreed that a service bay capable of accommodating large articulated lorries could be located on the spine road outside the front of the building. This has not been shown on the layout plan. The plan should be revised to show the route that the deliveries will take into the store once offloaded. As there is no access path from the front to the back of the store, the only alternative seems to be on the footway around the corner and into the service yard, but this could interfere with pedestrians and people waiting at the bus stop, so would not be acceptable. With regard to the retail and nursery building, the developer has asserted that no vehicle larger than a 7 tonne panel van would be used, and tracking has been provided to show that this can enter and exit from the spine road and turn around within the service yard.

It is assumed that parking within the rear yards is for the residential units and staff; however these spaces have not been allocated. The layout plan should be revised to

show the allocations. Gates need to be shown onto the yard to the rear of the nursery and this parking area should be protected to ensure it is protected from use for the nursery drop off given this would be suitable within a service yard. Access arrangements for the nursery are needed.

This development should have secure cycle parking for residents and staff. Bin Storage needs to be indicated.

The same travel plan comments are made as to the original response and it is further advised that the framework travel plan must set out a servicing and delivery plan which individual occupiers will need to adhere to and reflect in their travel plans. This must set out the maximum sizes of vehicles that can be used, acceptable times for delivery (so as not to interfere with peak times for other uses) and routes to be taken through the development.

- 3.11 **Councillor Mark Cherry:** Is there going to be adequate parking provided for this area? Furthermore, will there be a viable or subsidised bus service in place to get elderly people to the doctors surgery who do not drive. Will a legal agreement be needed?

Other Consultees

- 3.12 **Thames Water:** No objection with regard to sewerage or water infrastructure capacity. Planning note recommended in relation to water pressure. Second response provided the same advice
- 3.13 **Environment Agency:** The proposal has been assessed as having a low environmental risk and so no objections are raised.

4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

Adopted Cherwell Local Plan 2011-2031

SLE2: Securing Dynamic Town Centres
ESD15: The Character of the Built and Historic Environment
Banbury 4: Bankside Phase 2

Adopted Cherwell Local Plan 1996 (Saved Policies)

C28: Layout, design and external appearance of new development
C30: Design of new residential development

4.2 Other Material Policy and Guidance

National Planning Policy Framework

Planning Practice Guidance

Non Statutory Cherwell Local Plan:
Policy H10: Banbury Urban Extension: Land off Bankside

5. Appraisal

- 5.1 The key issues for consideration in this application are:

- Relevant Planning History and principle of the development
- Compliance with the Design Code
- Design and Visual impact
- Neighbour impact
- Highway safety
- Ecology

Relevant planning history and principle of the development

- 5.2 The application site forms part of the wider mixed use development at Bankside, Bodicote/ Banbury (now known as Longford Park). Outline planning permission was granted, subject to conditions and a Section 106 Agreement for up to 1070 dwellings with associated facilities including primary school, playing fields, local shops and community facilities. 2200sq.m of employment provision in September 2009 (05/01337/OUT refers). The local centre is considered to be a supporting use that meets the increased needs of the new residents.
- 5.3 The site was allocated for development by Policy H10 of the Non Statutory Cherwell Local Plan, which stated that development in this location would be acceptable providing a number of criteria were met including the need for the development (vii) to 'provide the opportunity for an appropriate range of local shopping facilities...'. The accompanying text advises that 'a fine grained mixed use centre will include small scale (i.e. no single employment unit being larger than 500 square metres) employment generating development and a mix of land uses, including local retail and primary health care facilities, adjacent to the public transport route on Oxford Road. Retail development of a scale greater than that to serve the day to day needs of the neighbourhood will not be acceptable'. It has always been anticipated therefore that a local centre would be provided on this land.
- 5.4 The newly adopted Cherwell Local Plan 2011-2031, includes Policy SLE2, which seeks to secure dynamic town centres by focussing retail and other main town centre uses towards the town centres of Banbury and Bicester, however it allows for the provision of new local centres containing a small number of shops of a limited size within the housing allocations on strategic sites within the Plan. Whilst the permitted Longford Park site is not allocated in the plan (an extension to it is – Banbury 4 – Bankside Phase 2, which is identified as benefitting from the provision of new services and facilities within Phase 1), the principle of local centres on strategic sites is supported by current adopted local policy.
- 5.5 The NPPF includes the presumption in favour of sustainable development and explains the three dimensions to sustainable development being, it's economic, social and environmental roles. It encourages sustainable economic development to deliver the homes, business and thriving local places that the Country needs and it seeks to promote healthy communities by ensuring that planning decisions 'plan positively for the provision and use of shared space, community facilities (such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments'. It is considered therefore that national policy is supportive of local service provision and that this has a role in making new developments and communities sustainable places.
- 5.6 The outline planning permission included a condition to restrict the A1 retail units to one unit of a suitable size to accommodate a convenience store of between 200m² and 400m² and two other units of no more than 150m². It allowed for a maximum of 4 other A1 retail units to be provided of no more than 150m². It stated that they must not be amalgamated or mezzanines inserted. There was also a planning condition on the outline permission to allow for residential development within the mixed use area (no more than 75% of the proposed floor space and no less than 50% of the overall

floor area). The S106 for the site requires the local shopping area to be marketed from the date of the first occupation any dwelling within Area B (the Plateau as a whole) until the date of first occupation of 1000 dwellings. It also requires the construction of the units to be within a reasonable timescale agreed with the District Council with the prospective purchaser/ tenant identified by the marketing.

- 5.7 As explained, the proposal varies from the outline permission in terms of the compliance with the planning condition (in terms of floor space). One unit is provided to be of a size suitable for a convenience store (381m²) with three other retail stores (each of 95m²). These units all comply with the outline permission condition. A nursery unit is also proposed (of 322m²) and a surgery (of 186m²) – these uses are also required to be marketed. It is considered that the uses proposed and the floor space for each are reasonable, represent a small scale local provision that will support the future residents on this site and which will support the sustainable nature of this site. The proposal has considered other aspects of the outline permission (for example in terms of the height restriction – no building is more than 12m in height) and the Design Code.
- 5.8 It is therefore considered that the general principle of this proposal in terms of providing the local provision of a small number of shops and other facilities is acceptable in principle.
- 5.9 The application as currently submitted proposes ‘retail’ units and the plans are marked as such. A retail use falls within Class A1 of the Use Classes Order and this use is acceptable within a mixed use area due to it commonly being low impact in terms of impact upon nearby residential properties. There are a number of uses that fall within A1 including shops, hairdressers, sandwich shops etc. therefore it is possible for a successful local centre to result. However it is common for local centres to include other uses such as restaurants/ hot food takeaways. In this case, no information has been provided in relation to how any of these type of A3/ A5 uses would be accommodated (in terms of ventilation for example and the small retail units are very small in size). Therefore, it is considered appropriate to impose a condition to restrict the use of the units to A1, which would also mean that permitted development rights could not be used to change the use of the building without permission. Should there be interest in using a unit in the future for a different use, then planning permission would be required and an assessment of that use could be made at that point. A condition is recommended to stop the small units being amalgamated or mezzanine floors inserted to ensure that the number of retail units remains as proposed and to keep them to a scale that is reasonable in terms of serving the local community. It is also considered appropriate to restrict the use of the nursery and surgery units to a D1 use for the same reasons.
- 5.10 The Environmental Statement assessed development across the site as a whole including the implications of local retail provision on this site and it did not identify any significant social and economic issues with this. The information contained within the Environmental Statement is considered to be up to date for the purposes of considering this application and the ecological assessment submitted will be considered later in this assessment.

Compliance with the Design Code

- 5.11 Whilst the application has been made for full planning permission, the site is an integral part of the wider site granted outline planning permission and so the Design Code has been the starting point for the consideration of this application. The site sits within an area of the site known as the ‘Plateau’ according to the Design Code. The Code indicates a local centre and village square that is one of the most important spaces at Longford Park with greater building heights to create a sense of enclosure to the civic space. It advises that the distribution of uses requires consideration as this will influence movement patterns and the block structure of the whole area. In

respect to the non-residential building within the village centre, the Code advises that the aim is for the buildings to create a civic frontage to the square, with at least part of the building frontage to sit on the back of the pavement line. Pedestrian desire lines should be prioritised rather than rear parking courts and active frontage with windows that overlook the square are encouraged.

- 5.12 The applicant has looked at the village centre as a whole and the uses therein however has submitted a number of separate applications rather than one cohesive proposal for the whole area. This has caused challenges in terms of assessing all proposals in terms of meeting the Design Code requirements as a whole, however Officers are satisfied that on balance and following the submission of a landscaping scheme for the area as a whole for this current application, it is possible to consider this application (for the local centre buildings) as a separate proposal. Whilst there are outstanding matters to be resolved in relation to this proposal and the rest of the local centre area, it is considered that amendments can resolve the outstanding concerns and that overall the local centre will be a successful place with parking, landscaping and a civic space provided that will comply with the Code overall.
- 5.13 The proposal has also made changes to the layout of uses within the area as a whole compared to the distribution of uses indicated within the Design Code. This has involved relocating the community centre, the retail provision and the ecumenical land (but remaining within and related to the village centre as a whole) and the principle of this amendment in the distribution of uses is considered to be acceptable.

Design and Visual impact

- 5.14 Not only is there a Design Code that the proposal must be assessed against, there is also the need for Local and National Planning Policy to be considered. The NPPF makes it clear that good design is a key aspect of sustainable development. It states that Local Planning Authorities must aim to ensure that developments establish a strong sense of place, to function well and add to the overall quality of the area and to respond to local character and history. At the local level, saved policy C28 of the Adopted Cherwell Local Plan 1996 states that 'control will be exercised over all new development, including conversions and extensions to ensure that the standards of layout, design and external appearance, including choice of materials are sympathetic to the character of the urban or rural context of that development'. Policy ESD15 of the Adopted Cherwell Local Plan 2011-2031 advises that design standards for new development whether housing or commercial development are equally important, and seeks to provide a framework for considering the quality of built development and to ensure that we achieve locally distinctive design which reflects and respects the urban or rural landscape and built context within which it sits.
- 5.15 As described the buildings have been designed with regard to the Design Code and what this seeks to achieve in relation to the village centre as a whole. The design of the buildings has been amended through the processing of this application in order to achieve a suitable proposal for this site in the view of Officers. The scale and height of the buildings has been increased over the original scheme, which allows for the sense of enclosure sought by the Code to be achieved. Both of the proposed buildings have a relatively formal arrangement and appearance (taking into account the parapets that are proposed as well as the balanced fenestration and the entrance features and store frontages that are proposed), but one which it is considered will be an acceptable form of development in the village centre and which is designed to be suitable for the mixed use that it will accommodate (both retail and residential). Both buildings will have their principle accesses to all units from the village square and active frontage is provided with windows overlooking the square. The positioning of the buildings is considered to be acceptable with the western building being close to the back edge of the footway and the eastern building being set slightly back to allow for some landscaping, which it is considered will be beneficial to the area as a whole. The outside space to the rear of the buildings is tight, however will provide some

servicing, parking (for staff and residents of the apartments only) and some limited outside space for the nursery building. Landscaping within the wider village centre area is to be considered under the separate application for the village square (14/01835/REM). As explained, it would have been more desirable for the village centre as a whole to be considered as one application, however the applicant has chosen to submit the applications separately and the proposal must be determined on its merits. Officers are satisfied that as all applications are being considered at the same time and so are being assessed as a whole area, the overall visual impact including landscaping can be appreciated and understood.

- 5.16 The building proposed to the east of the village centre (proposed to contain the nursery) has a wide span to its northern elevation (at around 16m) and this is proposed to be broken up by a projecting side gable feature. In principle the addition of this to break up the wide span is considered appropriate, however its current arrangement with the projection being a minimal distance has resulted in a rather contrived roof form when viewed from the front and amendments have been sought and are awaited to address this. Otherwise, the building design is considered acceptable for the function that it will be used for – commercial at ground floor and residential predominantly at first floor (other than the nursery element at first floor). The rear elevation and servicing yard of the building can be largely screened from view by way of boundary enclosures and the first floor rear elevation is considered to be acceptable visually where views are gained above the boundary enclosures.
- 5.17 The building proposed to the west of the village centre (to contain the convenience store and surgery provision) also has a rather wide span to both side elevations. However in respect to the side elevation fronting the spine road junction, this is broken up by the store frontage for the convenience store and which then wraps around to the front elevation to give a glazed corner to the building. The other side elevation forming the side of the surgery is less well resolved being largely blank with two obscure windows, however the site to the west of this has permission for residential development through the outline permission (but which is outside the ownership of the Consortium) and so it is reasonable to be mindful of what could be built in this area of the site including that this could ultimately obscure some of the side elevation of this building. The front elevation of the building is generally considered to be acceptable and again the rear elevation and rear servicing can be largely screened from view by way of a boundary enclosure with the first floor of this building being considered acceptable (albeit this elevation will be prominent, despite its slightly angled position to users approaching the Village Centre from the Oxford Road entrance to the site).
- 5.18 As explained, it is considered that the design of the proposed buildings for the local centre area are generally acceptable in their amended form (subject to the receipt of amended plans) and that the proposal complies with the Design Code in order to contribute to the village centre being the most important area at Longford Park that will function as a successful core for the community. Officers consider that the proposal complies with policy C28 of the Adopted Cherwell Local Plan 1996 and Policy ESD15 of the Adopted Cherwell Local Plan 2011-2031.

Neighbour Impact

- 5.19 Saved Policy C30 of the adopted Cherwell Local Plan requires design control to be exercised to ensure that proposals provide standards of amenity and privacy acceptable to the Local Planning Authority. This is consistent with the NPPF, which expects as one of its core planning principles that planning should seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Policy ESD15 of the recently adopted Cherwell Local Plan also advises that consideration must be given to the amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation and indoor and outdoor space.

- 5.20 As this is a development site and the Design Code identifies the Village Centre for mixed uses within this area, Officers have been mindful of this when considering the layout and design of the residential development that sits within proximity to the local centre buildings. In respect to the proposed western building, the building itself is no less than 24m from the rear elevation of the properties in Robins Way and so it is not considered that there would be any serious impact by way of loss of light, loss of privacy or over dominance. Within this 24m area is the servicing yard and a small number of parking spaces (that it is understood will be secured) for staff and visitors and this has some potential to cause concerns by way of noise and disturbance both to residents in Robins Way and the flats themselves. As this building contains one convenience store of 381m² it is considered unlikely that there would be a significant number of large vehicles servicing this unit and a service bay has been accommodated to the site frontage off the spine road to serve the largest vehicles. The number of parking spaces to the rear of the building is relatively small in number and as this area should be secure and for use by residents and staff, this is likely to cause less potential for disturbance than a general car parking area. Whilst this building is repositioned from where the Design Code anticipated and so the impact on the properties within Robins Way is different, as the assessment has shown, the impact is considered to be acceptable. In any event, this impact would have needed to have been assessed upon the neighbours that would have sat alongside the Design Code position for one of the buildings for local centre uses and it is unlikely there would have been any significant difference in impact. There are 4 apartments proposed within this building. There should be no impact caused between or to the amenity of the residents in Robins Way from the proposed flats because of the distances involved and there should not be amenity issues between the flats themselves.
- 5.21 In respect to the proposed eastern building, the building is situated to the west of residential units within Parcel C and at its closest point will be around 8m to the side of the nearest dwelling (8 Songthrus Road) which will include windows to its side elevation and with the nursery garden in between. This relationship is close and there may be some impact to this neighbour by way of loss of some evening sunlight and over dominance taking into account the buildings ridge height of 11.2m at this point, however, Officers have concluded that this relationship is acceptable. The relationship with occupiers of both flat blocks in Parcel C will be acceptable as the distance between the proposed building and those flat blocks is greater (at least 14m) and the buildings do not sit directly adjacent to each other (other than in one location at the side of the nursery to the flats, however the relationship is considered to be acceptable). The servicing and parking arrangements for this building is provided to the rear and the impacts by way of noise and disturbance for both surrounding housing and the flats themselves within the building is considered to be no different than that assessed for the other local centre building (particularly as this building can only be served by large vans due to the constraints within this area). The position of the flats within the building should not cause impact to surrounding residential properties and it is unlikely there will be impact caused between the flats themselves.
- 5.22 As explained above, the use is proposed to be restricted to A1 and D1 uses, which are generally uses that are suitable within a residential area due to their low potential for noise and disturbance. It is considered overall taking into account the use of the retail units as well as the buildings themselves that are proposed that the proposal will provide an acceptable standard of amenity for all future occupiers and users of this site, both within the proposed buildings and occupiers of the new dwellings on Longford Park. It is therefore considered that the proposal complies with Policy C30 of the adopted Cherwell Local Plan and the NPPF in this regard.

Highway Safety

- 5.23 There are a number of outstanding highway safety issues as set out within the

County Council's response as Highway Authority. These matters have been raised with the applicant and amendments are expected in order that these can be resolved and the objection removed. Members will be updated on this matter at committee. Essentially there is a need for the drawings for this area of the site to align with those approved for the spine road (which includes a service bay within the village square for large delivery vehicles), the need for deliveries that may be received at the front of the site to be moved to the rear of the building safely (which is also a design point), the need for parking to be allocated and secured and the need for cycle parking to be provided for staff and residents within the red line site area for each application. It is expected that these issues can be resolved through the submission of amended plans. The Highway Authority require the provision of travel plans and these are requested prior to the occupation of any unit within this building and require a travel plan monitoring fee to sit alongside this. This is recommended as a planning condition. The village square area has 44 shared parking spaces which are to serve all of the uses within this area of the site and there have been concerns raised in relation to whether this is sufficient. This area is controlled through the design code in terms of the space that is available and where it is stated that no less than 35 parking spaces should be provided, therefore the parking area provides over that expected but it is anticipated that at certain peak times of the day this area will be busy. The use of travel plans in relation to the commercial activities within the local shopping area is therefore considered to be important and a planning note is proposed to sit alongside the condition to provide additional information in relation to what is expected.

Ecology

- 5.24 NPPF – Conserving and enhancing the natural environment requires that “the planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government’s commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures” (para 109)
- 5.25 The application is accompanied by an ecological assessment which was completed for the spine road application but which covers this site. The report identifies that there is some potential for adverse impacts on nesting birds, roosting bats, reptiles and badgers. A number of mitigation measures have been put forward to reduce the likelihood of harm or ensure it is carried out in a legal manner. A condition is therefore recommended to secure these mitigation measures. The comments from the Council’s Ecologist in relation to mitigation measures are noted and a planning condition is recommended to seek a scheme of ecological enhancements. There is an opportunity for some ecological enhancement on the site itself.
- 5.26 Consequently it is considered that art.12(1) of the EC Habitats Directive has been duly considered in that the welfare of any protected species found to be present at the site and surrounding land will continue and be safeguarded notwithstanding the proposed development. The proposal therefore accords with the National Planning Policy Framework -Conserving and enhancing the natural environment and Policy C2 of the adopted Cherwell Local Plan.

Other matters

- 5.27 The site sits close to a hedgerow to the west of the site between the site and land that is outside of the ownership of the Consortium. The protection of this hedgerow has been queried with the applicant due to the proximity of the building and it has been advised that a 1m ransom strip is to be provided between the land to be conveyed and the existing hedgerow on the boundary with the Church Land. Foundations would have to be designed accordingly and the hedge protected during construction. A condition can be used to control this point. Otherwise there are no other trees that are likely to be affected. In terms of proposed landscaping, the village centre as a whole

is being reviewed and comments have been sent and amendments are awaited. It is considered that should this not be finally resolved by the time a decision can be issued then a planning condition could be used to require a landscaping scheme, however it is anticipated that this matter will be resolved in the near future.

- 5.28 The comments from the Council's Affordable Housing Team were based on the original submission for five flats rather than the amended scheme for eight. The general principle of the comments made in relation to the fact that affordable housing is being delivered across the site as well as there being the likelihood that Registered Providers would find this type of accommodation problematic to manage, means that it is considered reasonable that this particular scheme does not provide any of the proposed units as affordable.
- 5.29 In respect to drainage, this is a matter that is being dealt with across the wider site both in terms of surface water and foul. This site would be connected into that wider scheme, however it is unclear though this application how this would happen as per the Oxfordshire County Council Drainage advice (as Lead Local Flood Authority). This matter can be dealt with by planning condition in the view of Officers.
- 5.30 All planning applications must be subject to a time limit condition within which the development must begin. As this is a full application it needs to be subject to a time limit. The S106 for the site requires the local shopping area to be marketed from the date of the first occupation of the development until the date of first occupation of 1000 dwellings as explained above. Given this is a full application it has been identified that the applicant must link the current application to the outline and the accompanying S106 so that they continue to be bound by the clauses therein. As such, the applicant will continue to be bound to the need for the local shopping area to be marketed (the Consortium of house builders are the current applicant and they will not ultimately develop the local shopping area). It is considered therefore that the timescale for the commencement of the development must be mindful of the marketing that needs to be undertaken which is based upon numbers of occupations. It is therefore considered that it is reasonable to allow a five year time period for the commencement of the development in this particular case. As mentioned, the application must be linked to the outline S106 and this linking agreement is progressing through the legal process. The County Councils requested travel plan monitoring fee can be secured through this process.
- 5.31 As has been mentioned through this report, there are a number of amendments that have been requested, most notably in relation to design amendments, highway matters and landscaping. It is hoped that amendments will have been received before committee and that comments from consultees will be obtained in order that a full update can be provided. Should this not be possible, it is recommended that Members delegate the final decision of this application to the Head of Development Management in consultation with the Chairman of the Planning Committee on the basis that the amendments are made to his satisfaction, with the relevant objections withdrawn. This may involve the need to add/ amend conditions to control elements of the scheme as necessary when the final response from consultees such as the Highway Authority has been received.

Engagement

- 5.32 With regard to the duty set out in paragraphs 186 and 187 of the Framework, no problems or issues have arisen during the application. It is considered that the duty to be positive and proactive has been discharged as Officers have worked with the applicant to negotiate an appropriate and acceptable scheme for this site and have allowed time for this work to be undertaken.

Conclusion

- 5.33 As has been discussed, the proposal is considered to be acceptable in principle in

relation to the position of the buildings on the site, the changes that have been made in terms of what the Design Code seeks to achieve and the overall design and impact upon the amenity of the surrounding area and nearby neighbours. The proposal is considered to be acceptable in all other respects as discussed and is recommended for approval as set out.

6. Recommendation

Approval, subject to:

- a) The applicants entering into a linking agreement to link this application proposal to the legal agreement pursuant to 05/01337/OUT to ensure the proposal remains bound by the clauses of the outline S106 and;
- b) The receipt of amended plans to the satisfaction of the Head of Development Management in consultation with the Chairman of the Planning Committee and the removal of objections and;
- c) the following conditions (including the addition/ amendment of conditions to suit any accepted amended plans):

1. The development to which this permission relates shall be begun not later than the expiration of five 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 condition, the development shall be carried out strictly in accordance with the following plans and documents:

To be added following receipt of satisfactory amended plans.

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

3. Prior to the construction of the foundations of the buildings hereby approved, and notwithstanding the submitted details, a revised schedule of the materials and finishes for the external walls and roof(s) of the development 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 materials.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

4. Prior to the construction of the foundations of the buildings hereby approved, samples of all roofing materials shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the samples so approved.

Reason - To ensure that the development is constructed and finished in materials which are in harmony with the building materials used in the locality and to comply with Policy C28 of the adopted Cherwell Local Plan and

Government guidance contained within the National Planning Policy Framework.

5. Prior to the construction of the foundations of the buildings hereby approved, a stone sample panel (minimum 1m² in size) shall be constructed on site in natural ironstone, which shall be inspected and approved in writing by the Local Planning Authority. Thereafter, the external walls of the development shall be laid, dressed, coursed and pointed in strict accordance with the approved stone sample panel.

Reason - To ensure that the development is constructed and finished in materials which are in harmony with the building materials used in the locality and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

6. Prior to the construction of the foundations of the buildings hereby approved, a brick sample panel, to demonstrate brick type, colour, texture, face bond and pointing (minimum 1m² in size) shall be constructed on site, inspected and approved in writing by the Local Planning Authority. Thereafter, the external walls of the development shall be constructed in strict accordance with the approved brick sample panel.

Reason - To ensure that the development is constructed and finished in materials which are in harmony with the building materials used in the locality and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

7. Prior to the commencement of the development, full details of the doors and windows 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 and windows shall be installed within the building in accordance with the approved details.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

8. Prior to the commencement of the development hereby approved, full details of the enclosures along all boundaries and within the site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved means of enclosure, in respect of those dwellings which they are intended to screen shall be erected, in accordance with the approved details, prior to the first occupation of those dwellings.

Reason - To ensure the satisfactory appearance of the completed development, to safeguard the privacy of the occupants of the existing and proposed dwellings and to comply with Policies C28 and C30 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

9. Prior to the commencement of the development hereby approved, a plan showing full details of the finished floor levels in relation to existing ground levels on the site for the proposed local centre buildings 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 C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

10. Before any of the units in the Longford Park 'Local Centre' are first occupied the whole of the estate roads and footpaths of that phase, shall be laid out, constructed, lit and drained and if required temporary or permanent traffic calming to the Oxfordshire County Council's Specifications.

Reason - In the interests of highway safety, to ensure a satisfactory standard of construction and layout for the development and to comply with Government guidance contained within the National Planning Policy Framework.

11. Prior to the commencement of the development hereby approved, full specification details (including construction, layout, surfacing and drainage) of the proposed vehicular accesses, driveways, turning areas, parking and manoeuvring areas shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first occupation of the development, the parking and manoeuvring areas shall be provided on the site in accordance with the approved details and shall be retained unobstructed except for the parking and manoeuvring of vehicles at all times thereafter.

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, full details of the access vision splays, including layout and construction shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first occupation of Longford Park 'Local Centres' the vision splays shall be constructed in accordance with the approved details and the land and vegetation within the vision splays shall not be raised or allowed to grow above a maximum height of 0.6m above carriageway level.

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

13. No development shall commence on site for the development until a Construction Traffic Management Plan providing full details of the phasing of the development has been submitted to and approved in writing by the Local Planning Authority (in consultation with the Local Highway Authority) prior to the commencement of development. This plan is to include wheel washing facilities, a restriction on construction & delivery traffic during construction and a route to the development site. The approved Plan shall be implemented in full during the entire construction phase and shall reflect the measures included in the Construction Method Statement received.

Reason - In the interests of highway safety and to safeguard the amenities of the occupants of the adjacent dwellings during the construction period and to comply with Policy ENV1 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

14. Prior to the first occupation of any unit hereby approved, a Travel Plan, prepared in accordance with the Department of Transport's Best Practice

Guidance Note "Using the Planning Process to Secure Travel Plans" and its subsequent amendments, shall be submitted to and approved in writing by the Local Planning Authority for that particular unit. Thereafter, the approved Travel Plan shall be implemented and operated in accordance with the approved details.

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

15. Prior to the commencement of the development hereby approved, a detailed scheme for the surface water and foul sewage drainage of the development (which shall demonstrate how this scheme relates to the wider site drainage) shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, and prior to the commencement of any building works on the site the approved surface water drainage scheme shall be carried out and prior to the first occupation of any building to which the scheme relates the approved foul sewage drainage scheme shall be implemented. All drainage works shall be laid out and constructed in accordance with the Water Authorities Association's current edition "Sewers for Adoption".

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 ENV1 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

16. The development hereby approved shall be carried out strictly in accordance with the mitigation measures set out in section 6 of the May 2014 ecological assessment report by Aspect Ecology.

Reason - To ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy C2 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

17. Prior to the construction of the foundations of the dwellings, garages and carports hereby approved, including any demolition, and any works of site clearance, a method statement for enhancing biodiversity on this Parcel shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the biodiversity enhancement measures shall be carried out and retained in accordance with the approved details.

To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy C2 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

18. Prior to the construction of the foundations of the buildings 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 the location and type of root barriers to be installed

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

19. 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 C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

20. 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. The AMS shall identify all tree protection measures required and any special treatment required for foundations within proximity of any retained tree. 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 C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

21. a) 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.

b) 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 this

consent.

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

22. The units marked as 'Retail units 1-3 and unit A' on drawing numbers 1419 300 K and 1419 400 G shall be used only for purposes falling within Class A1 specified in the Schedule to the Town and Country Planning (Use Classes) (England) Order 1987 (as amended) and for no other purpose(s) whatsoever.

Reason - In order to maintain the character of the area and safeguard the amenities of the occupants of the adjoining premises in accordance with Policies C28 and C31 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

23. The A1 retail units hereby approved shall not be amalgamated or mezzanines inserted.

Reason – In order to ensure that the retail units are of a suitable size and type to meet the day to day needs of the residents of the proposed development and to comply with Government guidance contained within the National Planning Policy Framework.

24. The units marked as 'Nursery and Surgery' on drawing numbers 1419 300 K and 1419 400 G shall be used only for purposes falling within Class D1 specified in the Schedule to the Town and Country Planning (Use Classes) (England) Order 1987 (as amended) and for no other purpose(s) whatsoever.

Reason - In order to maintain the character of the area and safeguard the amenities of the occupants of the adjoining premises in accordance with Policies C28 and C31 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

Planning Notes

1. Pursuant to condition 14 and the requirement for Travel Plans, the applicant is advised that the travel plan must include a servicing and delivery plan which individual occupiers will need to adhere to and reflect in their travel plans. This must set out the maximum sizes of vehicles that can be used, acceptable times for delivery so as not to interfere with peak times for other users or cause disturbance and routes to be taken through the development.
2. Attention is drawn to a Legal Agreement related to this development or land which has been made pursuant to Section 106 of the Town and Country Planning Act 1990, Sections 111 and 139 of the Local Government Act 1972 and/or other enabling powers.
3. The applicant shall draw to the attention of the Local Planning Authority the presence of any unsuspected contamination encountered during development. In the event of contamination to land, water or environment being encountered, no development shall continue until a programme for investigation and/or remedial work, to be performed by a competent person, has been submitted in writing and approved by the Local Planning Authority. No part of the development shall be occupied until remedial, monitoring and certification of works have been undertaken and a remediation and validation reports submitted to and approved by the Local Planning Authority. For further

information please contact the Council's Environmental Protection Officer.

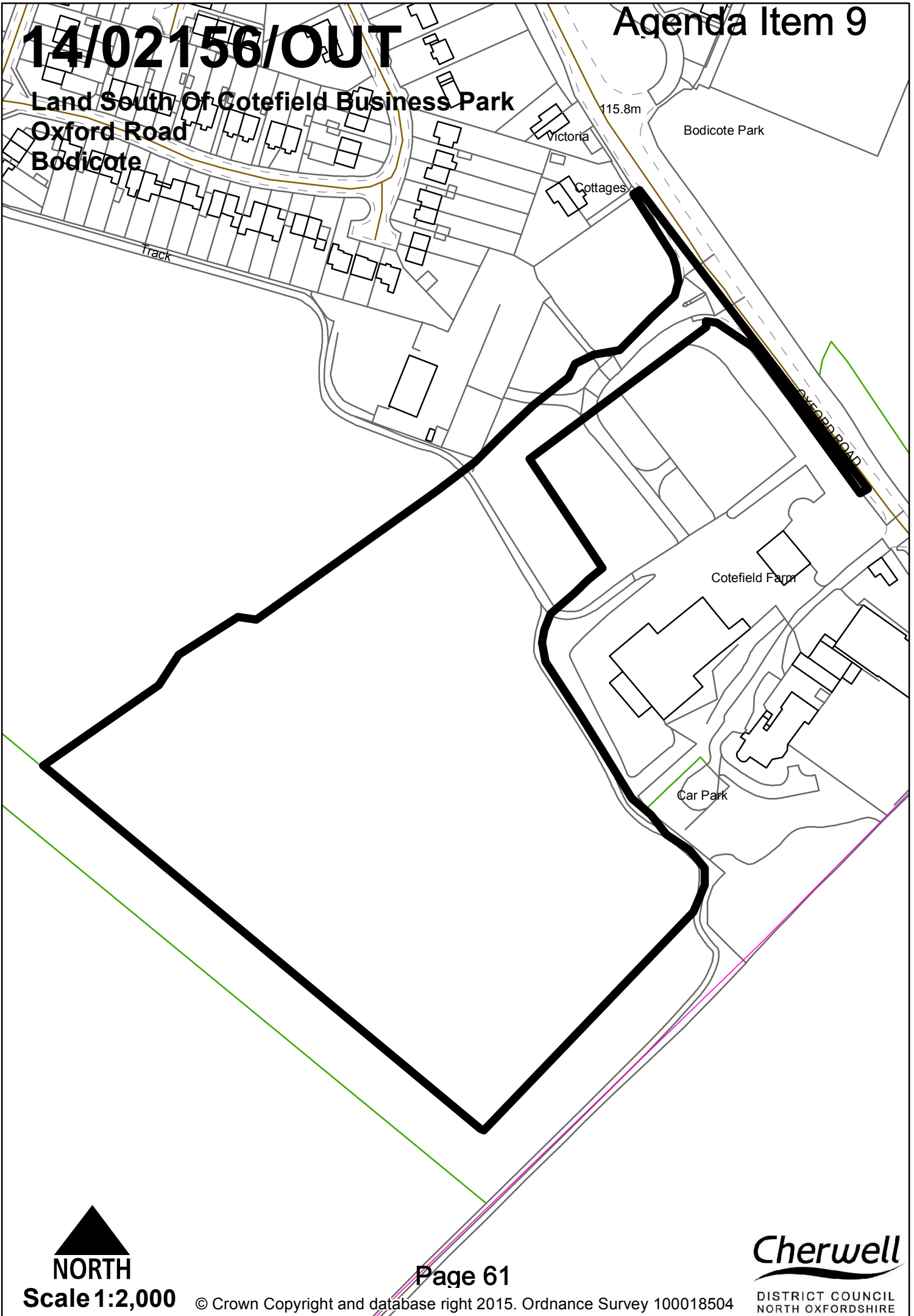
STATEMENT OF ENGAGEMENT

In accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No 2) Order 2012 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council having worked with the applicant/agent in a positive and proactive way as Officers have worked with the applicant to negotiate an appropriate and acceptable scheme for this site and have allowed time for this work to be undertaken.

14/02156/OUT

Agenda Item 9

Land South Of Cotefield Business Park
Oxford Road
Bodicote

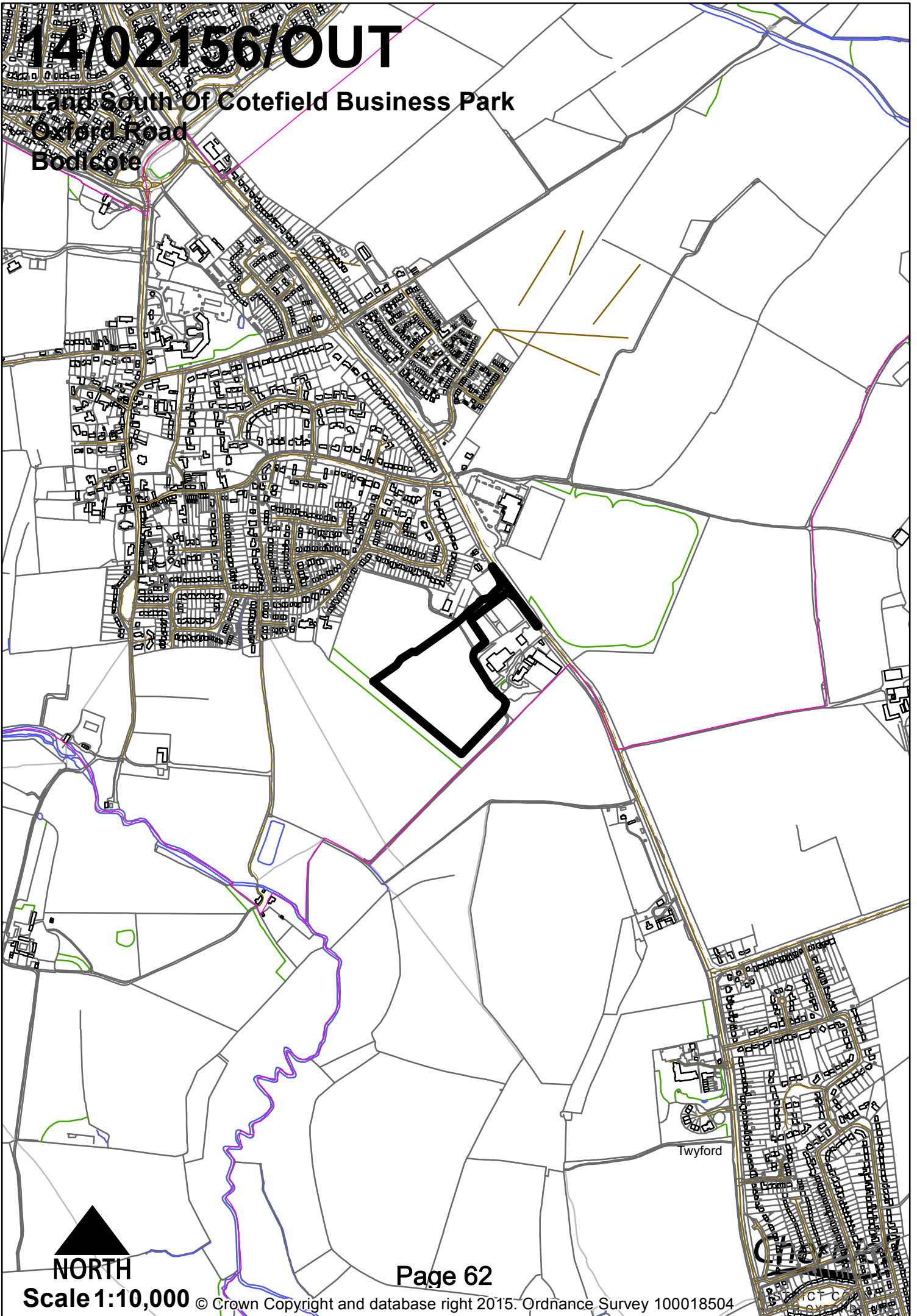


NORTH

Scale 1:2,000

14/02156/OUT

Land South Of Cotefield Business Park
Oxford Road
Bodicote



NORTH

Scale 1:10,000

**Site Address: Land south west of
Cotefield Business Park, Oxford Road,
Bodicote**

14/02156/OUT

Ward: Bloxham and Bodicote

District Councillors: Chris Heath, Lynda Thirzie
Smart

Case Officer: Alex Keen

Recommendation: Delegate to the Head of
Development Management to approve subject to
conditions and subject to completion of a satisfactory
planning obligation

Applicant: Mr O Wells

Application Description: Outline – up to 95 homes (appearance, landscaping and layout reserved)

Committee Referral: Major Development

Committee Date: 03 September 2015

1. Site Description and Proposed Development

Site Description

- 1.1 The site is some 4.5ha of agricultural land which forms the southern part of a larger field, to the south of Bodicote village. Cotefield Nurseries (a garden centre open to the public) and Cotefield Business Park (comprising 5 units in a variety of commercial uses) lie to the east of the site, between the site and the A4260. Cotefield House, a former country house now subdivided into flats, also lies to the east. There is single shared point of access off the A4260.
- 1.2 The character of the area is edge-of-settlement and predominantly rural. The field is part of a shallow valley, with the land rising to the north and south. There is a single Oak tree and a single Sycamore tree in the centre of the application site. A modern (post-war) housing estate development lies to the north of the field, with fields to the south and west. A mature (approximately 25 metre wide) tree belt screens the site along the southern and western boundaries of the field. There is an existing agricultural access in the north-west corner of the field, and to the north-east corner, off Molyneux Drive.
- 1.3 The site is in an area of archaeological interest, and there are public rights of way passing to the south and west of the site. The site is classified as Grade II agricultural land, which is 'best and most versatile agricultural land' for planning purposes.
- 1.4 Outline planning permission was granted on appeal for 82 dwellings on the northern part of the field. Reserved matters approval was subsequently granted on 10 April 2013. This planning permission was implemented in April 2014 with the laying of foundations to a plot at the northern end of the site. However development has not progressed since then.

Proposed development

- 1.5 The proposal is for outline permission for up to 95 dwellings, with access and scale being considered. Appearance, landscaping and layout would be subject to reserved matters applications, if outline permission is granted.

- 1.6 An Illustrative Masterplan accompanies the application and shows one way in which the site could be developed. Vehicular access would be via the existing shared access off the A4260, and is shown as a spur leading south from the approved access road to the northern housing site. The primary road would follow a broadly circular route within the site, with secondary roads leading off to the north and south.
- 1.7 The existing Oak tree would be retained as the focal point of a central area of open space, which would be laid out along a north-west/south-east axis to align with the open space of the approved northern housing site. A combined LAP/LEAP is shown provided adjacent the Oak tree. Cycle routes are indicated to be provided, connecting to the wider cycle network via the northern housing site.
- 1.8 The applicant proposes the creation of new footpath links along the southern and western boundaries of the site connecting to the existing footpath network, along with enhancements to the existing public rights of way that pass close to the site.
- 1.9 With regard to scale, the applicant has indicated the following:
- 2 three storey buildings to be provided at the site entrance, approximately 11.5 metres high
 - The remainder to be a mix of 2 and 2½ storey buildings, between 9 and 10.5 metres high

The final distribution, design and size of buildings would be agreed at reserved matters stage.

- 1.10 The following documents have been submitted in supported of the application:
- Planning Statement
 - Design & Access Statement
 - Flood Risk Assessment
 - Landscape, Townscape and Visual Appraisal
 - Noise Assessment
 - Ecology Desk Study and Phase I Habitat Survey
 - Bat Activity and Dusk Emergence Survey
 - Draft Written Scheme of Investigation for Archaeological Excavation
 - Geophysical Survey and Archaeological Evaluation
 - Arboricultural Impact Assessment
 - Phase I Environmental Risk Assessment
 - Transport Assessment

- 1.11 The applicant has indicated a willingness to enter into a s106 agreement to secure contributions to mitigate the infrastructure and other impacts of the development, subject to such contributions being justified and necessary. This includes the provision of 35% affordable housing.

2. Application Publicity

- 2.1 The application has been advertised by way of neighbour letter, site notice and press notice. The final date for comment was the 12 February 2015. 2 responses have been received, and in summary the following issues have been raised:
- The site is not a sustainable location to extend Bodicote village as it is too remote from the village, and is too far from Twyford.
 - The proposal will further degrade the countryside around Banbury.
 - The local road network is congested and the proposed development will add

- to these problems, with increased risks to highway safety
- Existing planned housing development has not been built out yet
- The development will impact on drainage and increase the risk of flooding to neighbouring properties, and along the Sor Brook/River Thames
- Local infrastructure cannot support the development; local schools are already over-subscribed

3. Consultations

3.1 BODICOTE PARISH COUNCIL: **object** for the following reasons:

- The site is not identified for development in the Local Plan 2011-2031
- The site is outside the built-up area of Bodicote village and would be contrary to policies H13 and H18 of the Local Plan 1996
- The proposal would cause undue visual intrusion into the countryside and impact on areas judged to have a high level of tranquillity, contrary to policy ESD13 of the new Local Plan
- There are already traffic problems along Oxford Road and these will undoubtedly worsen as a result of planned development in the area, including the housing approved on the site to the north of the current proposal. This will increase traffic chaos and cause highway safety problems
- The relationship between the approved and proposed housing developments would be awkward. If the District Council is minded to approve the development, then “phase 1” and “phase 2” should be brought together more effectively

Cherwell District Council Consultees

3.2 PLANNING POLICY: **no objections in principle** commenting that the site has been identified as potentially suitable for development in the Strategic Housing Land Availability Assessment (SHLAA) Update 2014, subject to the implementation of the approved development to the north of the site. Moreover the site is included in the 2014 Annual Monitoring Report (AMR) as contributing 95 dwellings to the Council’s 5 year housing land supply.

Planning Policy officers advise that the site is in a sustainable location with access to community facilities and services such as a nursery, primary school, food shop, village hall and public house. Although there are extant permissions for residential development in Bodicote, it is noted that Policy Villages 2 of the Cherwell Local Plan 2011-2031 Part 1 directs an additional 750 dwellings to be delivered at the Category A villages, of which Bodicote is one.

Nevertheless Planning Policy officers caution that development of the site without development of the approved housing to the north would result in a poorly integrated form of development, on the periphery of the village. In addition the application needs to demonstrate that the proposal is acceptable in all other respects including integration into the existing landscape and the relationship to the neighbouring business park.

3.3 URBAN DESIGN: **issues need to be addressed** to ensure a suitable design response can be achieved at reserved matters stage. In summary these are:

- The relationship of the development to the business park, along the eastern boundary of the site. A buffer of some sort may be required to mitigate the potential noise and visual impacts of the business park
- The relationship of the development to the approved scheme (ref: 11/00617/OUT), along the north-west boundary of the site, is improved on the

scheme discussed at pre-application stage. However the configuration of access roads remains awkward and does not make efficient use of land. This should be reconsidered and ideally access taken direct from the access to the approved scheme.

- Greater variation in the density and mix of building types is preferred across the scheme; more consideration needs to be given to streetscenes, to demonstrate a clear hierarchy of streets and spaces. Also further consideration needs to be given to townscape with particular attention to key views and vistas into, out of, and through the site.
- The distribution of storey heights seems uncoordinated. 2.5 storey units adjacent the landscape buffer does not seem a sensitive response to this edge, and although some 3 storey units may be appropriate, a sense of scale/enclosure would better be achieved with linked units.
- Although the proposed green link through the development is positive, the design could be rationalised. A greater continuity of enclosure along the green route would be welcomed, along with further consideration/detail as to where footpath links connect off-site.

The Illustrative Layout was amended and revised details of scale were received in response to these comments.

3.4 HOUSING: **no objections** advising that the full on site affordable housing contribution required by policy BSC3 of the Cherwell Local Plan 2011-2031 is being offered, and the proposed housing mix is acceptable. The affordable housing should be clustered in groups of no more than 15 units and dispersed throughout the site, and should be built to agreed standards (e.g HCA's Design and Quality Standards).

3.5 ANTI-SOCIAL BEHAVIOUR: **no objections** commenting that the Noise Assessment submitted with the application demonstrates that with appropriate mitigation (to address the potential noise impact from road traffic on the A4260 and from the business park) the site is suitable for residential development. However this is predicated on the assumption that B2 (general business) uses are not permitted on the business park.

3.6 LANDSCAPE: **no objections** subject to a legal agreement to secure contributions to the following:

- Commuted sum toward the maintenance of existing hedgerows on the site of £35.78 per m²
- Provision of a combined LAP/LEAP and commuted sum toward maintenance of £122, 889.10
- Provision of informal open space and commuted sum toward maintenance of £25.07 per m²

The Landscape Officer comments that a coherent interface between the approved and proposed developments will need to be provided as currently there appears to be an inefficient use of land with duplication of access roads. In addition a link to the right of way to the south of the site should be provided, and the open space at the site entrance needs to be imaginatively developed.

3.7 RECREATION AND HEALTH: **contributions requested** to community halls and community development, in accordance with the Council's draft SPD for Planning Obligations. A contribution of £21, 998.32 is sought toward the enhancement of existing community facilities, to meet the additional demand anticipated from the development, and a contribution of £22, 968.12 is sought toward community events and publicity (such as residents' newsletters) to promote community integration.

In addition, a contribution toward public art is sought of £150 per dwelling.

- 3.8 WASTE AND RECYCLING: **no objections** subject to a contribution of £67.50 per dwelling to provide Waste and Recycling services to the development
- 3.9 TREES: **no objections** subject to conditions requiring submission and approval of an Arboricultural Method Statement (including a tree protection plan), the retention and protection of veteran trees, and the submission and approval of details of tree planting pits.

Oxfordshire County Council Consultees

- 3.10 TRANSPORT: **no objections** subject to conditions requiring approval of full details, and subsequent provision of, the means of access between the land and the public highway, the parking and manoeuvring areas, and pedestrian links from the site to Oxford Road and to Molyneux Drive, along with the approval and implementation of a Travel Plan. In addition a legal agreement to secure the following is required:
- An amount per dwelling towards the Banbury Transport Strategy, calculated in line with the draft SPD for Planning Obligations
 - £862 per dwelling towards improving the frequency of bus services in the Bodicote area
 - £10,000 to improve the existing Weeping Cross bus stops on the A4260 Oxford Road
 - £1240 toward the cost of monitoring the Travel Plan
 - Cycle improvements to connect to the cycle network north of Broad Gap
 - A requirement to provide the proposed new walking routes and maintain them in perpetuity

In raising no objections, OCC Transport officers acknowledge that the proposal would contribute to cumulative transport impacts in the area giving rise to the need for transport improvements, and would also contribute towards congestion on the local network. However the applicant's willingness to make contributions to the Banbury Transport Strategy, and towards improving public transport and cycle connections, are welcomed and are considered adequate to make the transport impacts of the development acceptable.

With regard to the safety of vehicles exiting onto the A4260, OCC Transport officers accept that modelling cannot accurately predict the potential for lengthy delays to occur (which could result in an increase in unsafe manoeuvres). Furthermore, it is acknowledged that there is not a consistent pattern of accidents locally that involve traffic failing to give way from a minor road where queuing occurs. Therefore this is not considered sufficient reason to object to the proposal on highway safety grounds.

In respect of the Illustrative Layout, OCC Transport officers advise that the pedestrian/cycle route through the centre of the development should be suitable for shared use in all weathers and should be as direct as possible. In addition footpath connections should be provided to the surrounding rights of way network, and vehicle tracking should be provided at reserved matters stage.

- 3.11 ARCHAEOLOGY: **no objections** subject to a condition requiring a programme of archaeological investigation to be carried out in accordance with the submitted Written Scheme of Investigation (WSI).
- 3.12 EDUCATION: **no objections** subject to a legal agreement to secure the following:
- £733, 774 towards the future expansion to 2 form entry of the new Longford Park Primary School
 - £433, 637 towards the expansion of secondary school capacity at Warriner

School, Bloxham

- £19, 815 toward the expansion of special educational needs provision in the area, at Frank Wise School

OCC advise that these contributions are necessary to ensure the expansion of education facilities to meet the needs of the development

- 3.13 PROPERTY: **no objections** subject to a condition requiring the provision of fire hydrants in accordance with the requirements of the Fire & Rescue Service.

S106 contributions toward libraries, waste management, museums, youth services and adult day care are not being sought solely due to the restriction on pooling contributions imposed by regulation 123 of the Community Infrastructure Regulations 2010 (as amended).

Other Consultees

- 3.14 ENVIRONMENT AGENCY: **no objections**, advising that the responsibility for assessing surface water drainage proposals now rests with the Lead Local Flood Authority (LLFA).

- 3.15 THAMES WATER: **no objections** subject to conditions requiring the submission, approval and implementation of a foul and surface water drainage strategy, and requiring the submission and approval of a Water Network Impact Study. In addition informatives are recommended regarding the presence of a Thames Water main crossing the site, and regarding the minimum water pressure that should be designed into the development.

- 3.16 THAMES VALLEY POLICE (INFRASTRUCTURE): **contributions requested** to mitigate the impact of the development on Police services. This includes contributions to new/extended premises, vehicles, officer training and equipment. A contribution of £17,640.75 is requested, calculated on the basis of the anticipated population size of the development.

4. Relevant National and Local Policy and Guidance

4.1 DEVELOPMENT PLAN POLICY

Cherwell Local Plan 2011-2031 Part 1: The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20 July 2015.

The Plan was the subject of an independent examination conducted by an Inspector appointed by the Secretary of State. The Inspector's report was published on 12th June 2015 and the recommended main modifications required to make the Plan sound have been included in the adopted plan.

The Plan provides the strategic planning policy framework and sets out strategic site allocations for the District to 2031. Now adopted, the Plan forms part of the statutory development plan and provides the basis for decisions on land use planning affecting Cherwell District.

The Local Plan 2011-2031 – Part 1 replaces a number of the saved policies of the 1996 adopted Cherwell Local Plan. Those saved policies of the 1996 adopted Cherwell Local Plan which are retained remain part of the development plan. These are set out in Appendix 7 of the Local Plan 2011-2031.

Planning law requires that applications for planning permission must be determined in

accordance with the development plan unless material considerations indicate otherwise. The policies of the new Local Plan most relevant to this application are:

PSD1:	Presumption in favour of sustainable development
SLE4:	Improved transport and connections
BSC1:	District wide housing distribution
BSC3:	Affordable housing
BSC4:	Housing mix
ESD3:	Sustainable construction
ESD10:	Protection and enhancement of biodiversity and the natural environment
ESD13:	Local landscape protection and enhancement
ESD15:	The character of the built and historic environment
Villages 1	Village categorisation
Villages 2	Distributing growth across the rural areas
INF1:	Infrastructure

The Local Plan and its associated documents are available on the Council's website: www.cherwell.gov.uk

Cherwell Local Plan 1996 (saved policies)

H18:	New dwellings in the countryside
C15:	Prevention of coalescence of settlements
C28:	Layout, design and external appearance of new development
C30:	Design of new residential development
ENV1:	Development likely to cause detrimental levels of pollution
ENV12:	Contaminated land
TR1:	Transportation funding

4.2 OTHER MATERIAL POLICY AND GUIDANCE

National Planning Policy Framework (NPPF): in particular paragraph 17 'Core planning principles' and sections 4 'Promoting sustainable transport', 6 'Delivering a wide choice of high quality homes', 7 'Requiring good design' and 11 'Conserving and enhancing the natural environment'

Planning Practice Guidance (PPG): in particular the sections on design, housing, transport, and noise

CDC Draft Planning Obligations SPD 2011

Oxfordshire Strategic Housing Market Assessment (SHMA) 2014

Strategic Housing Land Availability Assessment (SHLAA) update 2014

Annual Monitoring Report (AMR) 2014

5. Appraisal

5.1 The key issues for consideration in this application are:

- Relevant Planning History
- Principle of development
- Design and impact on the character of the area

- Access and transport impacts
- Residential amenity
- Flood risk and drainage
- Biodiversity and trees
- Archaeology
- Sustainable construction
- Affordable housing
- Infrastructure impacts

Relevant Planning History

5.2 The application site

13/00059/SO - Screening Opinion - Proposed development of up to 100 residential units EIA NOT REQUIRED 9 September 2013

5.3 The northern site

11/00617/OUT – outline planning application for up to 82 dwellings ALLOWED ON APPEAL 26 March 2012

12/01802/REM – reserved matters to 11/00617/OUT APPROVED 10 April 2013

5.4 Cotefield House

13/01466/F – Conversion of 2 ground floor apartments into 6. Includes the renovation of existing ancillary buildings APPROVED 7 February 2014.

Cotefield Business Park

09/00580/F – Use of units (3A – 3B) for the sale of goods by auction for up to 30 days per year APPROVED 23 June 2009. This permission includes a condition which makes the permission personal to the applicant.

06/00593/F – Alterations and change of use of agricultural building number 5 to B8 storage and distribution APPROVED 29 June 2006. This permission includes a condition restricting the times at which the premises can be operational.

02/01212/F – Extension to play centre building APPROVED 26 July 2002.

01/01707/F – Change of use of B1/B8 building to play centre and installation of mezzanine APPROVED 21 February 2002.

00/01795/F – Change of use of potato storage building to use for B1 (business) and B8 (storage and distribution) APPROVED 30 October 2000. This permission includes conditions restricting the time at which the premises can be operational, restricting outdoor storage and/or operation of goods, materials, plant and equipment, and limiting the level of noise than can be generated by the operation of any plant, equipment and machinery

Principle of development

- 5.4 Bodicote is identified as a Category A village in Policy Villages 1 of the recently adopted Cherwell Local Plan 2011-2031 Part 1. Category A villages are the district's most sustainable settlements outside the towns of Banbury and Bicester, and Policy Villages 2 of the Local Plan states that: *a total of 750 homes will be delivered at Category A villages. This will be in addition to the rural allowance for small site 'windfalls' and planning permissions for 10 or more dwellings as at 31 March 2014.*

- 5.5 The extant permission for 82 dwellings on the land immediately to the north of the application site (ref: 11/00617/OUT) was granted prior to 31 March 2014 and so does not count towards the rural allocation of 750 under Policy Villages 2.
- 5.6 The site is identified in the SHLAA update 2014 (site ref: BO022) as: *potentially developable for 95 dwellings upon full implementation of the development to the north*. In assessing the suitability of the site the SHLAA concludes that it is: *contained by the Cotefield Farm employment buildings and the screen planting to the south and west, providing a clearly defined limit to the extent of built development at Bodicote*. The site is also identified in the AMR for 2014 as a deliverable site contributing to the allocation of 750 under Policy Villages 2 and contributing to the Council's 5 year housing land supply, although this is without prejudice to the determination of the current planning application.
- 5.7 It is the case that neither the SHLAA update 2014 nor the AMR for 2014 allocate the application site for development. However Bodicote is one of the largest and most sustainable of the Category A villages with a good range of services and community facilities within walking distance of the site, and with opportunities to promote and enhance sustainable transport options such as cycling and regular bus services. Furthermore as noted in the SHLAA update 2014, the site is well contained and screened by mature planting and existing built development, and if developed it would provide a clearly defined and defensible limit to the built extent of Bodicote village. However, in order to deliver a sustainable form of development that is properly integrated with the existing built environment it is essential that the site is not developed in isolation, without the approved housing development to the north being progressed any further.
- 5.8 Paragraph 17 of the NPPF states that: *every effort should be made to objectively identify and then meet the housing, business and other development needs of an area (and) plans should...set out a clear strategy for allocating sufficient land which is suitable for development in their area*. Paragraph 49 of the NPPF states that: *housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites*. Paragraph 14 of the NPPF explains that the presumption in favour of sustainable development means: *approving development proposals that accord with the development plan without delay unless material considerations indicate otherwise*.
- 5.9 The application site and the approved housing development to the north are in the same ownership. As such it is possible to ensure by way of a legal agreement that that the proposal is not implemented without the approved housing development being progressed to completion, and in any case the applicant has indicated that work is expected to recommence on the approved housing development later this year. Therefore the proposal is considered to accord with the strategy for meeting the housing needs of the District as set out in the Cherwell Local Plan 2011-2031 Part 1, and is considered acceptable in principle under Policy Villages 2 of the Local Plan, subject to other material considerations being acceptable also as assessed below.

Design and impact on the character of the area

- 5.10 Paragraph 56 of the NPPF states that: *the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development (and) is indivisible from good planning*. Paragraph 61 goes on to explain that: *securing high quality and inclusive design goes beyond aesthetic considerations. Therefore planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and*

historic environment.

- 5.11 Policy ESD13 of the Cherwell Local Plan states that: *development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided.* Policy ESD15 of the Cherwell Local Plan states that: *new development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design.* This includes a requirement for new development to: *contribute positively to an area's character and identity by creating or reinforcing local distinctiveness and respecting local topography and landscape features.*
- 5.12 The application site is part of a field which currently contributes to the rural setting and character of Bodicote village, and its development for housing would undoubtedly alter this character. However the northern part of the field is already planned to be developed for 82 houses, and the field is enclosed by commercial buildings to the east and a mature planting belt to the south and west. Views into the site from the surrounding countryside are therefore limited, and the site is read in the context of its relationship to the existing and planned housing to the north, and the commercial buildings to the east.
- 5.13 The proposed development would not extend beyond the planting belt or beyond the limits of the existing buildings to the east, and would read as a logical extension of the approved housing development to the north. It would appear well-contained and would provide a clear and defensible limit to the built form of Bodicote village. Therefore it is the opinion of officers that although the development of this site for housing would cause some local landscape harm, this harm is limited and would be outweighed by the benefits of providing additional housing to meet the District's housing needs, in accordance with the strategy of the new Cherwell Local Plan.
- 5.14 The retention and long-term maintenance of the existing mature planting belt can be secured by way of a s106 legal agreement, so ensuring the wider landscape impacts of the development are acceptable.
- 5.15 With regard to the design and appearance of the proposed development, although details of the layout, landscaping, and appearance are reserved matters and so are not for detailed consideration at this stage, the Council must nevertheless be satisfied that acceptable details could be achieved. The proposed Indicative Layout shows one way in which the development could take place. The internal road layout is particularly important as it provides the framework for the development, as is the interface and relationship along the northern boundary of the site to the approved housing development.
- 5.16 The Indicative Layout shows a looser, more informal road layout than that of the approved housing development to the north, with scope for subtle variations in building lines and a more irregular, organic placement of individual buildings. This is considered appropriate for an edge of village development and should facilitate a sensitively designed layout at reserved matters stage that responds to the rural character and context of the site. The proposal to create a green corridor through the centre of the development, with the focal point being a greenspace and play area centred on a retained veteran Oak tree, should further reinforce local distinctiveness and provide connectivity through to the approved development.
- 5.17 The relationship to the approved development along the northern boundary of the site will require careful treatment, to ensure successful integration between the two phases, and a number of possible options have been explored with the applicant. The approved development is for dwellings fronting the southern boundary with the application site, but accessed off shared private drives. As such it would not be acceptable or desirable (in highway terms) for the proposed development to also

show dwellings accessed off these drives.

- 5.18 To address this, and to avoid duplication of access roads, the Indicative Layout suggests dwellings fronting the northern boundary but with vehicular access to the rear. Front gardens and pedestrian access would be provided at the interface with the approved development, with the intention being to create the appearance of a single, unified streetscene.
- 5.19 Officers are not entirely convinced that the current arrangement shown on the Indicative layout is successful as it could appear somewhat contrived and raises design issues such as the treatment of the rear elevations of garages fronting onto this space. Nevertheless officers consider the general intent of creating a unified streetscene is appropriate to ensure proper integration, and are satisfied that subject to requiring approval of details of the layout of internal access routes at reserved matters stage, an acceptable layout and appearance can be achieved.
- 5.20 With regard to scale, this is not a reserved matter and so needs to be considered in the assessment of this outline application. The applicant has indicated a mix of 2 and 2.5 storey buildings, with two 3 storey buildings at the site entrance. Taking into account the rural edge-of-village context of the development, officers consider that the predominant scale should be 2 storey, although some 2.5 storey would be acceptable at carefully chosen locations, to provide visual interest and to reinforce legibility within the development (e.g. at the site entrance, at key viewpoints, and around the central greenspace). 3 storey development should be an exception, but with careful design could be appropriately used to create a gateway building at the entrance to the site. A condition regulating the amount of 2.5 and 3 storey development that would be acceptable is considered necessary, to ensure a final form of development that responds appropriately to its context.
- 5.21 The detail of individual building heights, widths and depths is largely dependent on the final layout and appearance of the development, and so can be appropriately dealt with at reserved matters stage.

Access and transport impacts

- 5.22 Paragraph 32 of the NPPF states that planning decisions should take account of whether: *safe and suitable access to the site can be achieved for all people (however) development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.* Paragraph 35 states that developments should be located and designed where practical to: *give priority to pedestrian and cycle movements, and have access to high quality public transport facilities (and) create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians.*
- 5.23 Likewise Policy SLE4 of the new Cherwell Local Plan states that: *all development where reasonable to do so, should facilitate the use of sustainable modes of transport to make the fullest possible use of public transport, walking and cycling...development which is not suitable for the roads that serve the development and which have a severe traffic impact will not be supported.*
- 5.24 A number of concerns have been raised about the impact of allowing additional development accessed off the A4260, in particular the potential for residual cumulative adverse impacts on the local road network when considered with other planned developments in the area. Potential problems highlighted include congestion on the local road network and the risk of traffic queuing to enter or exit onto the A4260 performing unsafe manoeuvres.
- 5.25 OCC Transport officers originally objected to the application on the grounds that the

submitted Transport Assessment had not demonstrated that the transport needs of the development could be accommodated safely and efficiently on the local transport network, and on the grounds that the priority junction onto the A4260 was not adequate and would lead to excessive delays at peak times.

- 5.26 In response the applicant revised the Transport Statement, and having considered the revised Statement OCC Transport officers are now satisfied that the transport impacts of the development can be made acceptable. This is based on the applicant's willingness to make a financial contribution toward the implementation of the Banbury Transport Strategy which seeks to deliver strategic transport improvement schemes in Banbury, and a recognition that the site is in a reasonably sustainable location with opportunities to connect to and enhance sustainable transport options such as local and regional bus services and cycle routes. These benefits can be secured by way of a s106 legal agreement.
- 5.27 With regard to the adequacy of a priority junction onto the A4260 and the potential for excessive queuing times, OCC Transport officers concede that there is not sufficient evidence to demonstrate that this problem would occur, or would increase the risk to highway safety.
- 5.28 With regard to accessibility and connectivity to and within the site, it is noted that the applicant proposes enhancements to the local rights of way network and proposes the provision of cycle and footpath links between the development and the existing cycle and footpath networks. It is considered that these enhancements can be secured by a combination of conditions and planning obligations, and the consideration of further details at reserved matters stage.
- 5.29 Therefore, in the absence of any other evidence to the contrary and taking into account the advice given at Paragraph 32 of the NPPF, officers consider that the transport impacts of the development can be made acceptable and it would not be justified to refuse planning permission on transport grounds in this case.

Residential amenity

- 5.30 Paragraph 17 of the NPPF states that planning should: *always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings*. With particular regard to the potential for noise and disturbance, Paragraph 123 of the NPPF states that planning should aim to: *avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development*.
- 5.31 Layout is a reserved matter, and it is achieving a satisfactory layout that will primarily ensure that an acceptable amenity is provided for future occupants of the development by ensuring the relationship between neighbouring dwellings minimises the potential for adverse impacts in respect of overlooking, loss of privacy, overshadowing and loss of light. Having regard to the Illustrative Layout, officers do have reservations about whether 95 dwellings can be accommodated in such a way as to meet in every respect the Council's guidance in respect of separation distances. However the application is for "up to" 95 dwellings, which means that a lesser number could be approved at reserved matters stage, if this was found to be necessary to achieve a good standard of amenity. In addition, the Council's guidance should not be applied rigidly but should take individual circumstances into account. Therefore officers are satisfied that a layout can be agreed at reserved matters stage that is acceptable in residential amenity terms.
- 5.32 With regard to the relationship to the existing commercial uses at the adjacent business park, the planning history for the business park along with the applicant's own evidence and the case officer's observations on site indicate that there are no B2

(general industrial) uses either permitted or being carried out unlawfully at the business park. The uses that are permitted (B1 business and B8 storage and distribution) are not considered to be of type or scale incompatible with residential development, and the Council's Anti-Social Behaviour officer has not raised concerns in this regard.

- 5.33 In respect of the potential for noise disturbance to result from traffic using the A4260, the Council's Anti-Social Behaviour officer is satisfied that this could be adequately addressed by noise mitigation, as proposed in the Noise Assessment submitted with the planning application.
- 5.34 Therefore, subject to a condition requiring appropriate noise mitigation to be provided in accordance with the submitted Noise Assessment, officers are satisfied that the proposed development can be made acceptable in this respect.

Flood risk and drainage

- 5.35 Paragraph 103 of the NPPF states that: *when determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere.* The site is in Flood Zone 1, which is the zone of lowest flood risk. A Flood Risk Assessment has been submitted in support of the application, and this concludes that the risk of flooding is low and that the incorporation of SuDS (sustainable drainage systems) into the development is adequate to mitigate any potential increase in surface water flooding, either on site or elsewhere.
- 5.36 Neither the Environment Agency nor Thames Water have objected to the development, and although Thames Water are concerned about whether the existing sewerage infrastructure has capacity to accommodate the additional flows resulting from the development, they appear satisfied that this can be addressed by condition. Therefore, and in the absence of any evidence to the contrary, officers are satisfied that the potential impacts of the development in terms of flood risk and drainage can be made acceptable.

Biodiversity and trees

- 5.37 Paragraph 99 of Circular 06/05 states that: *it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.* Likewise Section 40 of the Natural Environment and Rural Communities Act 2006 (NERC 2006) states that: *every public authority must in exercising its functions, have regard...to the purpose of conserving (including restoring/enhancing) biodiversity.*
- 5.38 Detailed ecological survey work, including a Phase 1 Habitat Survey and a Bat Activity Survey, has been submitted with the application. The Phase 1 Habitat Survey concludes that whilst no protected or notable species were recorded as present on the site at the time of the survey, the site has potential to support protected species in particular bats, breeding birds, and invertebrates. It recommends further survey work in respect of bats, and recommends measures to avoid and mitigate the possible adverse impacts on birds and invertebrates.
- 5.39 The Bat Activity Survey found evidence that the site is used by low numbers of bats, predominantly *common pipistrelle*, but found no evidence of bat roosts. The survey concludes that the proposal would: *retain the majority of the habitats found to be of value to bats during the survey* including the veteran Oak tree, the perimeter planting belt, and a small area of woodland to the eastern corner of the site. A number of recommendations are made to preserve and enhance biodiversity, including

minimising the amount of artificial light spill, maintaining green corridor links through the site and to the veteran Oak tree, using native species in the landscaping scheme, creating areas of species rich grassland, and the provision of bat and bird boxes.

- 5.40 The Council's Ecology officer was consulted on the application but has not commented or objected to the proposed development or the findings of the ecological survey work. Officers have no other reason or evidence to disagree with the conclusions of the ecological survey work and conditions can be used to ensure the recommended mitigation and enhancement measures are incorporated into the detailed design of the development. Therefore, subject to these conditions, the development is considered to have an acceptable impact on biodiversity.
- 5.41 With regard to trees, there are no statutorily protected trees on the site. However there are a number of trees, including some veteran trees, present on the site which have both amenity and ecological value. The majority of these trees, including a veteran Oak tree in the centre of the site, are proposed to be retained.
- 5.42 An Arboricultural Impact Assessment has been submitted with the application and this provides a thorough assessment of the quality and health of the trees on site. It also recommends various measures to ensure the retained trees are adequately protected during construction.
- 5.43 The Council's Tree officer has not objected to the development and is satisfied that the most significant trees would be retained in the development. Therefore, subject to a condition requiring the submission and approval of an Arboricultural Method Statement, the impact of the development on trees is considered acceptable.

Archaeology

- 5.44 The OCC Archaeology officer has advised that there is evidence of archaeological remains surviving on site, as reported in the submitted archaeological investigation reports. However they advise that a condition requiring a programme of archaeological work to be submitted, approved and then implemented is adequate to ensure the impacts on archaeological remains are acceptable. Therefore the development is considered acceptable in this respect.

Sustainable construction

- 5.45 Policy ESD3 of the new Cherwell Local Plan states that: *all new residential development will be expected to incorporate sustainable design and construction technology to achieve zero carbon development through a combination of fabric energy efficiency, carbon compliance and allowable solutions in line with Government policy.* In respect of water efficiency, it also states that Cherwell District is in an area of water stress and so developments should achieve a limit of 110 litres/person/day.

The supporting text to Policy ESD3 explains that its requirements are to be applied flexibly, but with the onus on the developer to demonstrate why the requirements cannot be met. It is considered that this can be addressed by way of a condition requiring the submission, approval and then implementation of a sustainable construction strategy detailing the measures to be incorporated into the development to satisfy the requirements of Policy ESD3. Therefore officers are satisfied that the development can be made acceptable in this respect also.

Affordable housing

- 5.46 The Oxfordshire Strategic Housing Market Assessment (SHMA) 2014 identifies a significant need for affordable housing in Cherwell District. Paragraph 50 of the NPPF states that where local authorities have identified a need for affordable housing they

should: *set policies for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified.*

- 5.47 Policy BSC3 of the new Cherwell Local Plan states that in the rural areas (which includes Bodicote): *all proposed developments that include 11 or more dwellings (gross)...will be expected to provide at least 35% of new housing as affordable homes on site.* It goes on to state that: *all qualifying development will be expected to provide 70% of the affordable housing as affordable/social rented dwellings and 30% as other forms of intermediate affordable homes.*
- 5.48 The Planning Statement submitted with the application confirms that the applicant is willing to provide 35% affordable housing on site, comprising of a housing mix that has been negotiated and agreed with the Council's Housing officers. The provision of this affordable housing can be secured by way of a s106 legal agreement. Therefore officers are satisfied that the development will comply with the requirements of Policy BSC3 and will make an important contribution to meeting affordable housing need in the District.

Infrastructure impacts

- 5.49 The consultation response has identified that the development is likely to have an impact on community services and infrastructure including the local transport network, education and community facilities. It has also identified that the development is likely to create demand for recreation and play facilities.
- 5.50 Policy INF1 of the new Cherwell Local Plan states that: *development proposals will be required to demonstrate that infrastructure requirements can be met including the provision of transport, education, health, social and community facilities.* Paragraph 203 of the NPPF states that: *Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations.*
- 5.51 However this is qualified by Paragraph 204 of the NPPF which states that: *planning obligations should only be sought where they (are) necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonable related in scale and kind to the development.* These tests are replicated in regulation 122 of the Community Infrastructure Regulations 2010 (as amended). In addition, regulation 123 of the CIL Regulations imposes a cap on the number of pooled contributions that can be secured by way of a planning obligation.
- 5.52 Officers consider contributions to transport, education, community halls, open space and play areas would be necessary and justified to make the development acceptable in planning terms. The developer has indicated a willingness to enter into a s106 legal agreement to secure these contributions and to ensure the infrastructure impacts of the development are adequately mitigated, subject to any contributions sought being compliant with the CIL Regulations. Negotiations have commenced on a legal agreement and therefore officers are satisfied that subject to satisfactory completion of the legal agreement, the infrastructure impacts of the development can be made acceptable.
- 5.53 With regard to the contributions requested to public art, community events and publicity, and to Thames Valley Police, these contributions are not considered to be compliant with the CIL Regulations and so are not necessary or justified to make the development acceptable in planning terms.

Engagement

- 5.54 With regard to the duty set out in paragraphs 186 and 187 of the Framework, officers

have worked positively and proactively with the applicant to address the issues that have arisen during the application, to enable a positive recommendation to the Planning Committee to be made. Therefore it is considered that the duty to be positive and proactive has been discharged.

Conclusion

- 5.55 The proposal is considered acceptable in principle under Policy Villages 2 of the Cherwell Local Plan 2011-2031: Part 1, which provides for an allocation of 750 new homes at the Category A villages across the plan period. Bodicote is one of the larger and most sustainable of the Category A villages, with access to a wide range of community services and facilities, along with opportunities to maximise the use of sustainable transport modes. However this is subject to the approved housing development to the north of the application site being constructed, so as to ensure proper integration into the village.
- 5.56 The site is well contained by existing buildings to the east and mature planting to the south and west, providing screening from the surrounding countryside and resulting in the proposed development reading as a logical and defensible limit to the built form of the village. Acceptable details of layout, scale and appearance can be secured by condition and at reserved matters stage, to ensure a high quality form of development that integrates well with the existing (and planned) natural and built environment. The harm to the rural character, quality and appearance of the area and the wider landscape would be limited.
- 5.57 Although the development is likely to generate additional traffic on the local road network with potential impacts on congestion and traffic flows and peak hours, the residual cumulative impact is not considered severe and can be adequately mitigated by s106 contributions to road infrastructure improvements, and by measures to promote the use of and enhance sustainable transport modes such as cycling and public transport. Acceptable details of access to and within the site, including parking, can be secured by condition.
- 5.58 The impacts of the development are, or can be made, acceptable in all other respects including providing a satisfactory standard of amenity for future residents, mitigating the flood risk, drainage, archaeological and arboricultural impacts of the development, and securing measures to preserve and enhance biodiversity on the site. On-site contributions to affordable housing, open space and play facilities, along with off-site contributions to education and community halls, can be secured by way of a s106 legal agreement.
- 5.59 Therefore the proposed development is considered to comply with Policies PSD1, SLE4, BSC1, BSC3, BSC4, ESD3, ESD10, ESD13, ESD15, Villages 1, Villages 2 and INF1 of the Cherwell Local Plan 2011-2031: Part 1, saved Policies C15, C28, C30, ENV1, ENV12 and TR1 of the Cherwell Local Plan 1996, and the guidance and policy contained in the NPPF and the PPG.

6. Recommendation

Delegate to the Head of Development Management to **approve**, subject to conditions and subject to completion of a satisfactory planning obligation to secure the following:

- a) The implementation of the development to be tied to the implementation of the development approved under planning application ref: 11/00617/OUT
- b) Contributions to:

- i) Affordable housing
- ii) Strategic transport improvements
- iii) Bus service improvements
- iv) Cycle network improvements
- v) Public footpath improvements
- vi) Primary education services
- vii) Secondary education services
- viii) Community hall improvements
- ix) Provision of on-site public open space and play facilities
- x) Long term maintenance of on-site public open space and play facilities
- xi) Long-term maintenance of existing hedgerows and planting belts
- xii) Long-term maintenance of on-site SuDS

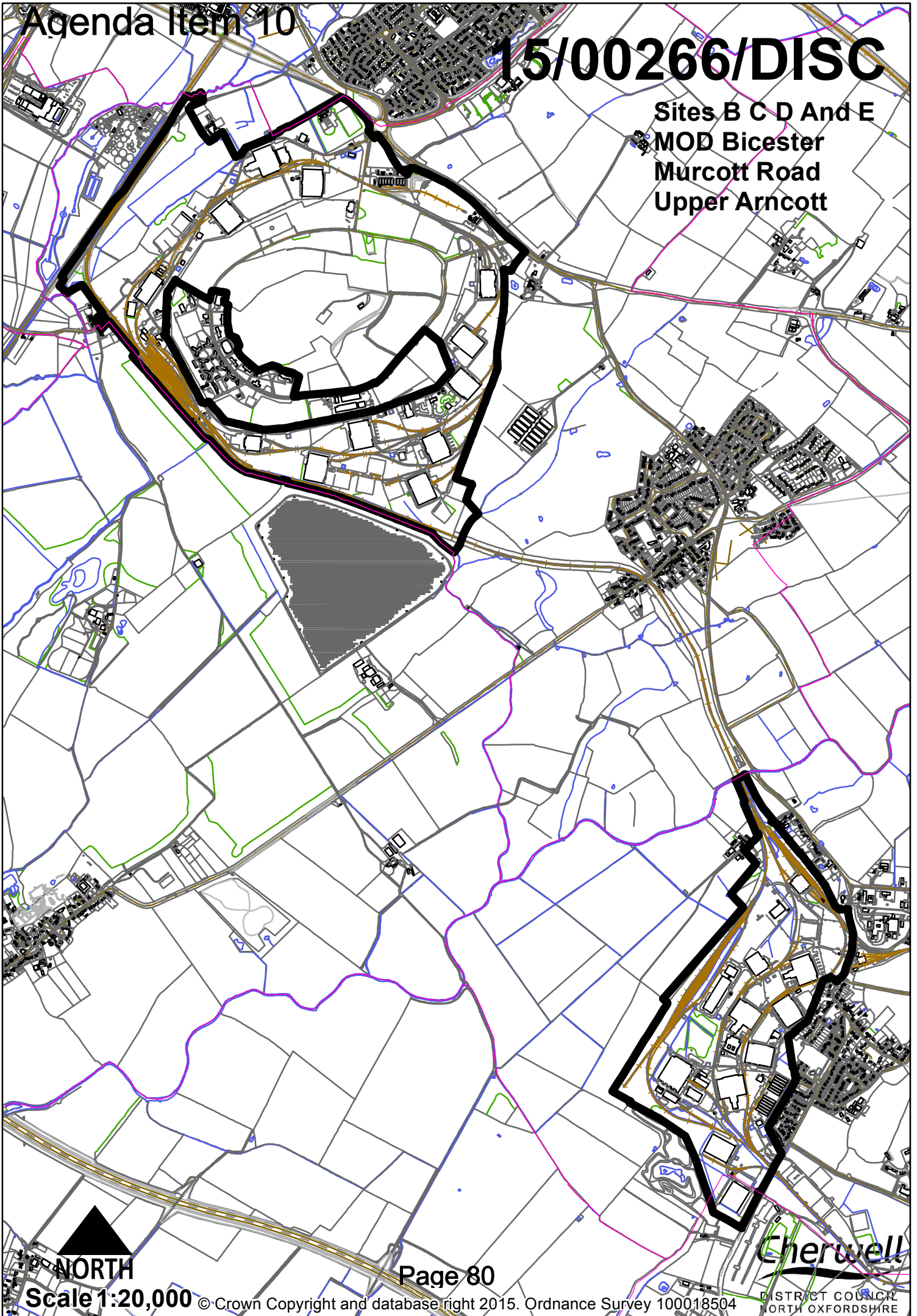
Conditions

The precise wording of the recommended conditions is currently being negotiated with the applicant in accordance with Government guidance in the PPG, and as requested by the applicant. A complete list of recommended conditions will be provided in the written updates, in advance of the Planning Committee meeting.

Statement of Engagement

In accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council having worked with the applicant/agent in a positive and proactive way as set out in the application report.

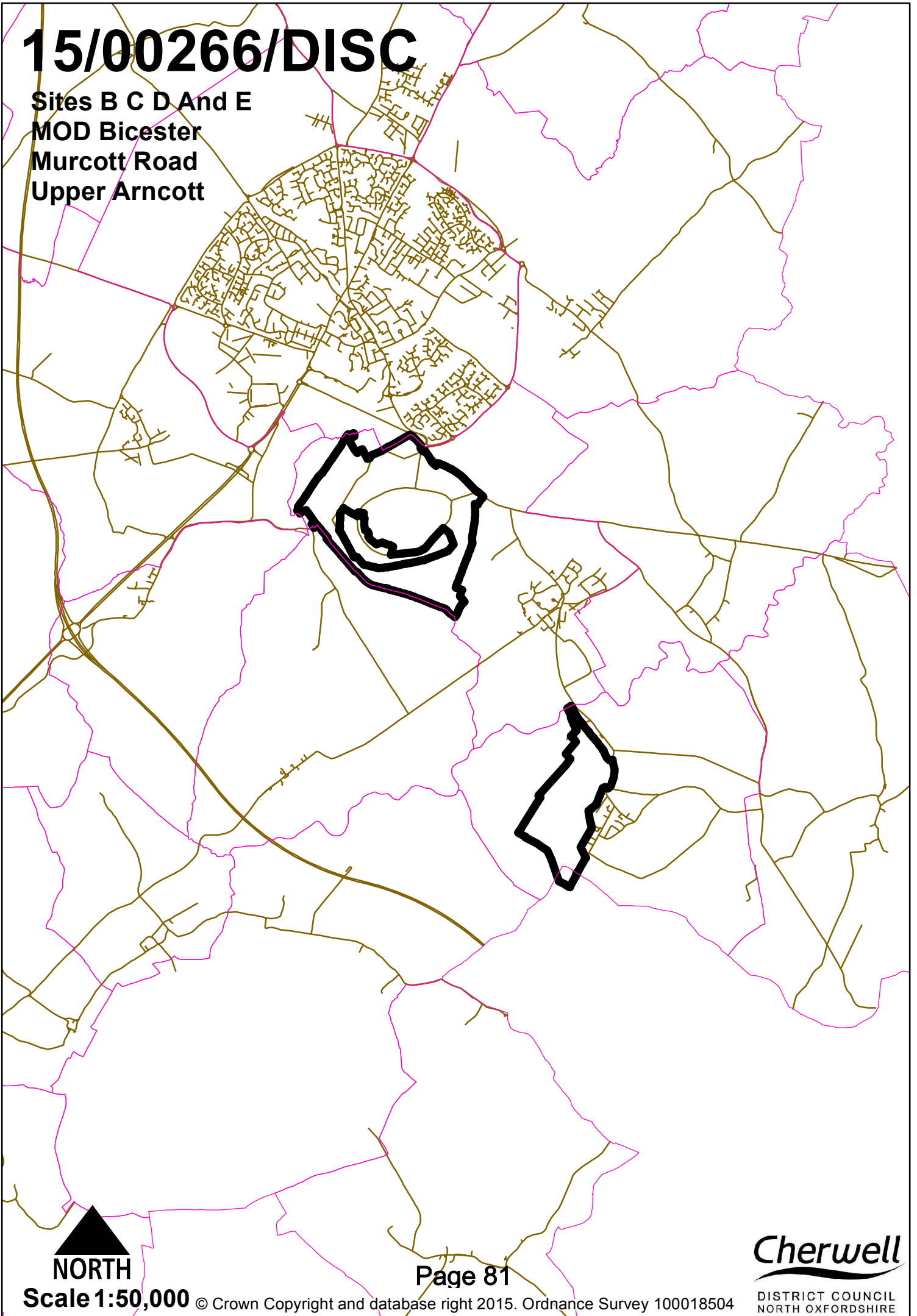
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15/00266/DISC

Sites B C D And E
MOD Bicester
Murcott Road
Upper Arcott



NORTH

Scale 1:50,000

Ward: Ambrosden and Chesterton

District Councillor: Lynn Pratt

Case Officer: Alex Keen

Recommendation: Delegate to the Head of Development Management to approve the Masterplan and Design Code, subject to:

- A) Receipt of a satisfactory plan showing the location of bus stops, and;
- B) Minor amendments to the street design principles sufficient to address OCC Transport concerns , and;
- C) Inclusion of an additional section in the Design Code detailing sustainable construction methods

Applicant: Graven Hill Village Development Company

Application Description: Discharge of conditions 26 (masterplan and design code), 30 (phasing plan), 31 (M40 junction improvements), 37 (district heating feasibility), 48 (strategic landscape scheme), 61 (relief road safeguarding zone), 62 (foul water drainage), 65 (surface water drainage) and 67 (surface water drainage) of outline planning permission 11/01494/OUT

Committee Referral: The details submitted in respect of condition 26 raise important issues of design in respect of a site of strategic planning importance to the District

Committee Date: 03 September 2015

1. Site Description and Proposal

- 1.1 The application site is part of an existing MoD logistics, commodities and service operations base at Graven Hill, to the south of Bicester. It comprises a mix of mainly post-war commercial and industrial buildings located around the perimeter of Graven Hill, and accessed via a network of internal roads and private railways. The principal access to the site is off the A41 Aylesbury Road to the north, with the private railway network connecting to the Oxford to Bicester rail line to the west of the site. There is woodland, grassland and agricultural land within the site and Graven Hill itself is a landmark natural feature in the surrounding landscape.
- 1.2 Outline planning permission (ref: 11/01494/OUT) was granted in August 2014 for the redevelopment of the site including the demolition of existing buildings and the erection of up to 1900 new homes along with a local centre comprising a primary school, community hall, shops and retail services, employment development comprising a mix of B1 (light industrial), B2 (general industrial) and B8 (storage and distribution) uses, and associated public open space, highway works, sustainable drainage systems etc. It is anticipated that the majority of the new homes will be delivered as self-build or custom-build housing.
- 1.3 St. David's Barracks and the existing railheads to the south of Graven Hill are outside the application site boundary and are not presently proposed to be redeveloped.

- 1.4 The current application is seeking approval of various details required to be submitted under conditions of the outline planning permission. It is intended that the majority of the details will be determined by officers, in accordance with the scheme of delegation. However the design code and masterplan submitted in respect of condition 26 is considered to raise important design issues, and it is condition 26 only which is the subject of this report.
- 1.5 The design code and masterplan will set the framework and guiding design principles which all subsequent applications for reserved matters approval will be expected to follow. Furthermore it is intended that compliance with the design code and masterplan will be the main requirement of the Local Development Order (LDO) that is being prepared to facilitate the delivery of the self-build plots.
- 1.6 An LDO is a type of planning permission granted by the Local Planning Authority. Government Guidance advises that LDOs are intended to streamline the planning process by removing the need for developers to make a planning application to a Local Planning Authority. The Council's Executive agreed a draft LDO for consultation at its meeting on 6 July 2015. The report to Executive and the draft LDO are attached as Appendix A to this report.
- 1.7 The masterplan consists of the following documents:
- Masterplan Development Document (dated 29.06.15)
 - Proposed Masterplan (Dwg. No: A-L-010 Rev G)
 - Proposed Masterplan Northern Area (Dwg. No: A-L-011 Rev H)
 - Adoption Strategy (Dwg. No: A-L-014)
 - Building Heights Plan (Dwg. No: A-L-030 Rev I)
 - Proposed Land Use Plan (Dwg. No: A-L-040 Rev N)
 - Road Hierarchy Plan (Dwg. No: 406 Rev A07)
 - Street Hierarchy Summary (dated 29.07.15)
 - Road Type Sections (Dwg. No: A-L-510 Rev G)
 - Constraints Parameter Plan (Dwg. No: A-L-020)
 - Strategic Landscape and Habitat Masterplan (dated June 2015)
- 1.8 The design code deals with the northern area of the site only, which is the proposed residential development, local centre and community facilities, and is divided into two sections. The first section sets out the vision and rationale for the development, summaries the overriding design principles, and outlines the self-build process. The second section sets out the design requirements in detail, as applicable to the various different component character areas within the development.

2. Application Publicity

- 2.1 The application has been published on the Council's online planning register. Two objections have been received from residents of Wretchwick Farm Cottages, which lie to west of the application site. In summary they raise the following concerns:
- They were not notified about the previous applications
 - The route of the access road proposed to serve the employment area does not appear logical having regard to the existing topography of the site
 - The proposed employment area access road would be in close proximity to their properties, with potential for regular noise and disturbance from commercial traffic
 - The route of the access road is proposed to be safeguarded for a possible relief road; if approved this would become the main option for any future relief road and would seriously affect the amenity and enjoyment of their properties

- The route of the access road would affect wildlife, including protected species such as Great Crested Newts and rare birds and butterflies
- The nearest dwellings would overlook Wretchwick Farm Cottages with a resultant loss of privacy
- Wretchwick Farm Cottages are heritage listed

An alternative route for the employment area access road is proposed, set further into the site and more closely aligned to the route of the existing access road.

3. Consultations

3.1 CDC URBAN DESIGN CONSULTANT: **no objections** but in summary makes the following observations/comments:

- Much of the advice given at pre-application stage appears to have been taken on board
- The issue of whether to separate the landscape and built environments may need further discussion as the code uses/reinforces the role of the public realm to set the character. A thematic approach should be considered to add an element of differentiation within the site
- The palette of materials appears somewhat conservative
- More detail/clarity should be provided re: building lines and the importance of active facades on corner-turning plots
- A bus route to the employment area should be considered
- More detail on the format/content of the plot passport would be welcome as this will be the distillation of the code for most plot purchasers
- There is a need to build in a 'lessons learnt' review process, so that the code can be amended/adjusted as necessary in response to learning from implementation
- Thought should be given to how disputes would be resolved in the event that plot purchasers wish to depart from the design code

3.2 OCC TRANSPORT: **final comments awaited**. However negotiations are ongoing regarding a number of outstanding issues. In summary these are:

- Road widths: OCC require roads which will have two way buses either now or in the future to be 6.75m wide. OCC consider that 6.0m wide (as proposed) to hamper progress of the bus service and undermine reliability. Streets with one way bus movement can be 6.0m wide. OCC are also concerned more generally that narrower road widths will lead to maintenance issues (e.g. clipped kerbs and damage to other highway features).
- Primary streets: in addition to the concerns about road width, OCC comment that junction radii should be 6.0m minimum not maximum.
- Secondary Streets: on the basis these could serve up to 300 homes, OCC consider 4.8m width is too narrow – they advise it should be 5.5m and where there is the temporary bus route (assuming one way) it should be 6m. Junction radii should be 4.0m minimum.
- Tertiary Street 01 and 02, Rural Lanes: where these serve up to 25 properties, OCC advise the road width should be a minimum of 5.5m rather than 4.8m. In this case it will be acceptable for there to be no footways but there will need to be maintenance margins on both sides (to allow the maintenance of road edging and installation of lighting and other necessary street furniture e.g. signs). These will need to be a minimum of 0.6m wide. The junction radii need to be a minimum of 4.0m. These streets will need to be lit with OCC approved columns and lanterns.
- Vehicle tracking: On the tracking drawings there appear to be a number of locations where large vehicles get very close to the edge of the highway

and/or over swing off the highway. Including over verges, parking spaces etc. OCC are particularly concerned that the highway edge and other pieces of street furniture such as signs and verges and lamp columns might get damaged more often than normal.

- Bus stops: OCC believe it is very important that locations of bus stops are included in the design code and masterplan at this stage.

3.3 CDC LANDSCAPE: **no objections** but makes the following comments/observations in respect of the design code:

- Front boundary treatment: I have some concerns about visual integration along roadways in the development which are comprised of individual properties. I would prefer to see one hedge species specified in a particular area rather than a choice.
- Village greens: If the village greens are to be used for markets and social gatherings as stated on p12 then the grass needs to be close cut not left long. Long grass is more suitable on some of the larger open spaces.
- Village Centre: I would like to see more detail about the character of the village centre. It is especially important to provide adequate parking which does not dominate the spaces created or look as though it is an add-on.
- Tree-lined boulevards: these are welcome but will need to be designed alongside Highways specification for street lighting which seems to state no trees within 10m of each column which is restricting.
- Trees: I would like to see lists of indicative tree species for different areas of the site to provide local character.

Further information is requested in respect of the strategic landscape scheme.

3.4 CRIME PREVENTION AND DESIGN ADVISER: **no comments**

4. Relevant National and Local Policy and Guidance

4.1 Cherwell Local Plan 2011-2031 Part 1

BSC4:	Housing Mix
ESD13:	Local Landscape Protection and Enhancement
ESD15:	Character of the Built and Historic Environment
Policy Bicester 2:	Graven Hill

4.2 Cherwell Local Plan 1996 (saved policies)

C28:	Layout, design and external appearance of new development
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4.3 The National Planning Policy Framework (NPPF) in particular paragraph 17 “core planning principles” and sections 4 “promoting sustainable transport” and 7 “requiring good design

4.4 Planning Practice Guidance (PPG), in particular the section on design

5. Appraisal

5.1 Condition 26 requires that: *Prior to the submission of reserved matters for Graven Hill, a master plan and design code shall be provided covering at least such matters as the distribution of land uses, character areas, forms of buildings, street hierarchy, measures to support sustainable travel, strategic landscape, building typology,*

materials, servicing, parking and sustainability features. The Design Code shall be approved in writing prior to the submission of reserved matters and thereafter the reserved matters shall be made in accordance with the agreed Code. The reason for the condition is: To ensure high quality development in accordance with Policy C28 of the Adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

- 5.2 Paragraph 56 of the NPPF states that: *the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.* With regard to masterplans, paragraph 032 of the PPG on design explains that: *Masterplans can set out the strategy for a new development including its general layout and scale and other aspects that may need consideration. The process of developing masterplans will include testing out options and considering the most important parameters for an area such as the mix of uses, requirement for open space or transport infrastructure, the amount and scale of buildings, and the quality of buildings.*
- 5.3 With regard to design codes, paragraph 036 of the PPG on design explains that these are: *a type of detailed design guidance that is particularly useful for complex scenarios involving multiple parties in long-term development. A code can be a way of simplifying the processes associated with new development to give more certainty to all those involved and help to make high quality places...Preparing a good code is about finding a balance between technical specificity and a succinct description of what is required. Some of the best and most effective codes are very short...To promote speed of implementation, avoid stifling responsible innovation and provide flexibility, design codes should wherever possible avoid overly prescriptive detail and encourage sense of place and variety (unless local circumstances can clearly justify a different approach).*
- 5.4 The assessment of whether the submitted masterplan and design code is acceptable to discharge condition 26 shall be made in the context of this guidance, with particular regard to each of the matters listed in condition 26 as follows:

Land uses

- 5.5 The submitted Land Use Plan demonstrates a distribution of land uses that is broadly in accordance with that considered and approved in the outline planning permission. The main employment area (comprising a mix of industrial and business uses) is shown to be located to the south-east of the site with the residential development shown located to the north of the site. A village centre is shown with a primary school, community centre and sports fields close by, and large areas of public open space are shown distributed throughout the site, including allotment gardens to the north-west. Officers are satisfied that this is an appropriate strategy for managing the distribution of land uses across the development.

Character areas, forms of buildings, street hierarchy, building typology and materials

- 5.6 The submitted Design Code identifies 12 “character components” across the residential (northern) part of the site. The Code explains that these character components are grouped into those that will deliver an “urban structure” and those that will deliver a “rural structure”.
- 5.7 The urban structure includes the village centre focused around two village greens linked by a high street, the primary perimeter road running east-west and incorporating features retained from the existing railway network, a tree-lined boulevard serving as a secondary road leading west out of the village centre, and a network of community streets and urban lanes.

- 5.8 The rural structure includes open spaces, parks, green corridors, and a network of rural lanes on the perimeter of the development fronting onto those spaces.
- 5.9 For each character component, the Code identifies a number of design criteria, or constraints, which will be applied to deliver the desired character. In all areas baseline criteria are applied such as identifying the maximum build zone, the maximum build height, boundary heights, and the points of vehicular access.
- 5.10 In the village centre and along the primary and secondary routes and along the rural lanes (the outward face of the development) additional restrictions will apply such as materials palettes, specific boundary treatments, and a fixed front façade position. The primary and secondary routes in particular would have a fixed, strong building line with terracing along the tree-lined boulevard, whilst minimum building heights are also specified in the village centre. However even within these areas 'signature' plots are identified where only the baseline criteria will apply, to encourage design innovation at focal points in the development.
- 5.11 The rationale behind this coding approach is to achieve a balance between providing a clear and legible street hierarchy with the principal routes appearing the most formal and consistent in appearance, whilst allowing design freedom for individual plot purchasers, so supporting a self-build method of delivery.
- 5.12 There is no doubt that this coding approach provides a significant amount of design flexibility with potential for a wide range of building types to be developed varying in size, shape, form, design quality and appearance. However officers consider this approach is appropriate in the context of facilitating self-build development, and are satisfied that the additional design restrictions to be applied in sensitive areas and along primary routes should help create legibility and develop a sense of place that responds appropriately to the existing environment.
- 5.13 The intention to retain and incorporate, where possible, existing built features such as sections of the existing railway, water towers, and concrete ponds into the public realm is welcomed in this respect, and should contribute to creating a unique sense of place that draws on the history of the site. Likewise the additional design restrictions that would apply to the outward face of the development, along with maximum building heights that are consistent with the building height restrictions imposed by other conditions of the outline planning permission, should ensure that the wider landscape impacts of the development are acceptable.
- 5.14 Importantly it is made clear in the Code that it will apply to the first phase of development only and will be subject to review and amendment as necessary prior to commencement of subsequent phases. This is sensible in view of the innovative nature of self-build development in the UK, and will allow for the Code to be refined in response to lessons learnt as the development progresses.

Strategic landscape

- 5.15 In the context of the above, officers consider ensuring a high quality public realm will be especially important to creating a sense of place and to reinforcing character across the development.
- 5.16 The Masterplan documents (including the land use plan) show the distribution of strategic open space across the site including the location of parks, allotments, areas of woodland and meadow, play areas, sports pitches, attenuation ponds, and other amenity spaces. This distribution is considered an acceptable strategy to inform the detailed landscape design as it shows existing features (e.g. woodlands, meadows, ponds) retained and incorporated as key features in the development, with new

landscape features sensitively designed and located to provide a network of accessible green corridors and open spaces throughout the site.

- 5.17 For each character component, the Code identifies a number of guiding principles that will inform the design, planting, treatment, lighting and maintenance of the public realm including public open spaces. These principles seek to ensure the use of high quality materials, and promote incorporating soft landscaping into the design of streets and boundary treatments wherever possible, drawing inspiration from the existing rural landscape character of Graven Hill. In particular perimeter roads and streets fronting onto open space are to be designed so as to provide a soft edge to the development that blends with the landscape, with lighting kept to a minimum and pavements/cycle ways passing through the landscape instead of running immediately alongside the highway.
- 5.18 It is noted that the Council's Landscape officer would prefer to see further detail in respect of the strategic landscaping. However full details of landscaping are required to be provided as a reserved matter, and officers are satisfied that the level of detail provided to discharge condition 26 is adequate and appropriate as a strategy for the general distribution and approach to designing a high quality public realm.

Measures to support sustainable travel, and servicing and parking

- 5.19 The submitted Masterplan and Design Code incorporate various measures to promote sustainable travel including locating community facilities and buildings such as the primary school, community hall and sports pitches within easy walking distance of the village centre, providing a network of cycle paths with links to the wider cycle network, requiring the provision of cycle parking facilities across the site, and designing the primary and secondary routes to accommodate bus services.
- 5.20 With regard to servicing and parking, the Masterplan and Design Code show that parking for at least two cars would be required to be provided on the majority of the residential plots. Where on plot parking is not provided (e.g. in the case of apartments and terrace housing along the tree-lined boulevard) private parking courts are shown. In addition provision is made for unallocated on-road parking in residential areas throughout the development.
- 5.21 In the village centre, on road parking provision is shown on the Masterplan along with space for servicing the rear of the commercial units. There is also space shown for spill-out activity along the frontages to the commercial units. Parking and access to serve the sports pitches, the school, community centre and allotments is also shown on the Masterplan along with a drop-off point for buses serving the primary school.
- 5.22 It is the case that OCC Transport officers have raised a number of concerns about road widths, the lack of footpath and street lighting provision on some road types, visibility splays and vehicle tracking at junctions, and the need for the locations of bus stops to be identified on the masterplan. OCC officers have also raised concerns about the increased maintenance liability they consider would arise from narrower streets, with a greater likelihood of verges being clipped and pavements and street furniture damaged.
- 5.23 Paragraph 042 of the PPG section on design states that: *In many cases shortcomings in street design reflect the rigid application of highway engineering standards in terms of road hierarchies, junction separation distances, sight lines and turning radii for service vehicles. The result is often a sense of sprawl and formlessness and development which contradicts some of the key principles of urban design. Imaginative and context-specific design that does not rely on conventional standards can achieve high levels of safety and amenity.*

- 5.24 The street design principles used in the masterplan and design code draw on Government guidance contained in Manual for Streets, and have been applied so as to achieve a balance between facilitating traffic movement and connectivity, whilst creating a unique sense of place that responds well to the existing environment. Officers consider this to be an appropriate and acceptable design strategy in the context of Paragraph 042 of the PPG.
- 5.25 Furthermore it is important to note that full details of the internal access roads are required to be provided as a reserved matter, and other conditions of the outline planning permission require approval of full details of the pedestrian, cycle and vehicle routes, vision splays, and vehicle tracking to be provided and agreed prior to construction of each phase. Taking into account the PPG advice about the need for flexibility, officers consider many of the specific concerns raised by OCC Transport officers are best addressed at this detailed design stage.
- 5.26 A meeting has taken place with the developer and OCC Transport officers present, during which it was agreed that a balance needs to be struck between providing certainty as to the guiding principles which will inform the detailed design of streets, and flexibility to provide the best design solution at the reserved matters stage. Minor amendments to the street design principles are to be following this meeting, and are expected to be received in advance of the Planning Committee meeting. These amendments, along with any further comments received from OCC Transport, will be reported in the written updates.
- 5.27 With regard to bus routes and road widths, as already noted these have been designed in accordance with the guidance contained in Manual for Streets. In addition the bus routes planned to be provided in the first phase of development are envisaged to be one way only and so the proposed width of 6 metres should be adequate in this respect. It would be unreasonable to require the road width to be designed (as requested by OCC) to accommodate two way bus traffic in the future when currently there is no realistic or planned prospect of this level of service being provided through the first phase of development. In addition the design code will be reviewed and amended as necessary prior to subsequent phases where two way bus traffic will need to be accommodated.
- 5.28 Concerns about potential maintenance costs are not considered to be sufficient reason to conclude the submitted details are unacceptable in planning terms.
- 5.29 A plan showing the location of bus stops is close to being agreed by OCC officers and the developer, and is expected to be submitted prior to the Planning Committee meeting; progress on this will be addressed in the written updates.

Sustainability features

- 5.30 The submitted Masterplan and Design Code do not explicitly address this matter, except for detailing measures to promote sustainable transport options and detailing the incorporation of sustainable drainage features into the strategic landscaping. However officers have agreed with the developer the inclusion of an additional section in the Design Code detailing sustainable construction methods to be applied across the development, including on self-build plots. The developer has committed to providing this in advance of the Planning Committee meeting. Officers are satisfied that this would be adequate to discharge the requirements of condition 26.

5.31 Other matters

The concerns raised by neighbours of the development regarding the layout and proximity of the proposed employment area access road to their properties are noted.

However this layout was proposed and considered in detail as part of the outline planning application, and is shown on the approved plans listed under condition 2 of the outline planning permission. As such it would not be justified in planning terms to require the developer to make substantial amendments to the masterplan in response to these concerns, given the layout of the access road has already been assessed and found acceptable.

- 5.32 The matter of the safeguarding zone proposed for a south eastern relief road shall be addressed separately in the assessment and determination of the details submitted to discharge condition 61 of the outline planning permission. Likewise the issues raised regarding the potential impact on biodiversity and protected species were considered in detail at the outline planning stage and are addressed by other conditions of the outline planning permission.

6. Conclusion

- 6.1 The submitted Masterplan and Design Code is considered to provide an acceptable strategy and framework for guiding detailed design proposals that come forward at reserved matters stage. It provides sufficient detail to deliver an integrated and legible form of development with its own unique and attractive sense of place, and that responds well to the defining characteristics and qualities of the existing environment. Conversely it provides flexibility and freedom for self builders to express their individuality whilst providing an appropriate degree of certainty as to the relationships between plots and the vision for the character and quality of the development as a whole. It also provides flexibility for the development to adapt and respond to the challenges of delivering self build development on a large scale.
- 6.2 Although various concerns have been raised by OCC Transport officers regarding the detailed design of streets, subject to minor amendments to the street design principles contained in the masterplan and design code, it has been agreed that these concerns are more appropriately addressed at the detailed design stage, to provide flexibility in achieving the best design solution.

7. Recommendation

Delegate to the Head of Development Management to approve the Masterplan and Design Code, subject to:

- D) Receipt of a satisfactory plan showing the location of bus stops, and;
- E) Minor amendments to the street design principles sufficient to address OCC Transport concerns , and;
- F) Inclusion of an additional section in the Design Code detailing sustainable construction methods

Statement of Engagement

In accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council having worked with the applicant/agent in a positive and proactive way as set out in the application report.

Cherwell District Council

Executive

6 July 2015

Graven Hill Local Development Order

Report of Head of Development Management

This report is public

Purpose of report

To seek the agreement of Executive to consult on the draft Local Development Order (LDO) prepared by officers in respect of Phase 0 and part of Phase 1 of the redevelopment of Graven Hill

1.0 Recommendations

- 1.1 To agree the draft LDO attached at Appendix A to this report for the purpose of public consultation.
- 1.2 To agree the statement of reasons for preparing the LDO attached at Appendix B to this report.
- 1.3 To agree to carry out consultation on the draft LDO as required by Article 38 of The Town and Country Planning (Development Management Procedure) Order 2015.
- 1.4 To note that the Head of Development Management will adopt a screening opinion in respect of the LDO as required by Regulation 29 of The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (as amended)
- 1.5 To agree to receive a report back to a future meeting on the outcome of the consultation process.

2.0 Introduction

- 2.1 Executive previously considered a report setting out the benefits and disadvantages of LDOs, and giving the reasons why officers recommended that an LDO should be prepared in respect of the redevelopment of Graven Hill, at its meeting on 2 March 2015.
- 2.2 The main reason given for preparing a LDO in respect of Graven Hill was to facilitate the delivery of self-build dwellings on the site. It was envisaged that a LDO would achieve this by simplifying the planning process whilst providing certainty that individuality and variety in design would be supported within the parameters set by the Masterplan and Design Code, to be approved under the outline planning permission (ref: 11/01494/OUT).

- 2.3 Executive resolved to agree the principle of preparing a LDO in respect of Phase 0 and Phase 1a.

3.0 Report Details

The Draft LDO

- 3.1 In response to the resolution of Executive to agree the principle of preparing a LDO, officers have prepared a draft for consultation which is attached at Appendix A to this report.
- 3.2 The draft LDO permits the following classes of development:
- Class A:* The erection or construction of a dwellinghouse that is either a custom build or self build dwellinghouse, pursuant to the outline planning permission for the redevelopment of the site (ref: 11/01494/OUT).
- Class B:* The enlargement, extension or alteration of a dwellinghouse that has been erected or constructed under the Order
- Class C:* The provision of buildings etc. incidental to the enjoyment of a dwellinghouse that is being erected or constructed under the Order
- 3.3 The development which would be permitted by the Order would be subject to limitations and conditions as detailed under Schedule 2 of the draft Order, including a requirement to apply for confirmation as to whether the development complies with the Masterplan and Design Code approved under the outline planning permission.
- 3.4 The procedure for applying for confirmation of compliance with the Masterplan and Design Code is detailed at Schedule 3 of the draft Order. A formal 'confirmation of compliance' procedure is considered essential to provide certainty for plot purchasers, the Council, and the general public that development proposals comply with and so can proceed under the LDO. Without formal confirmation, there is a higher risk of development proceeding that at a later date is found not to comply with the LDO. Such development would be unauthorised and would be liable to planning enforcement action.
- 3.5 It is important to note that 'confirmation of compliance' does not mean the Council would be assessing and critiquing the design quality *per se* of development proposals. Rather the Council would be checking and verifying that development proposals comply with the limitations and conditions of the LDO and so would be permitted by the LDO.
- 3.6 Officers recognise that it is important the 'confirmation of compliance' procedure is made as simple as possible for self builders to use. To this end officers are in discussions with the Graven Hill Development Company to agree arrangements for applications and decisions to be administered and communicated via the Development Company's site office.
- 3.7 Other limitations and conditions include restrictions to ensure new development does not cause undue harm to the amenities of existing residents, for example by restricting side facing windows overlooking neighbouring properties and restricting the depth of buildings projecting beyond the rear of existing buildings.

- 3.8 Self builders would also be required to complete developments within 3 years of receiving confirmation of compliance, to ensure developments are completed in a timely fashion and to avoid prolonged construction work blighting the development as a whole and the amenity of other residents.
- 3.9 The LDO would be time limited and would be in force for a period of 5 years from the date of adoption. This is in accordance with the Government's Planning Practice Guidance which advises that: *Local Development Orders in fast-developing areas may be time-limited so that they can be easily revised and updated in the future.* A time limit is particularly important in this case because of the large scale and phased delivery of the development and because there are no existing examples of LDOs for large scale self build developments nationally in the U.K from which to learn best practice.
- 3.10 Five years is considered reasonable to provide certainty for prospective plot purchasers that development proposals can be implemented under the LDO, whilst providing a timely opportunity for the Council to review the implementation of the LDO in practice.
- 3.11 Officers have prepared the draft LDO having regard to the restrictions on adopting a LDO contained in The Town and Country Planning (Development Management Procedure) Order 2015, The Town and Country Planning Act 1990 (as amended), and The Conservation of Habitats and Species Regulations 2010 (as amended), and are satisfied that those restrictions do not apply in this case.

Statement of Reasons

- 3.12 A statement of reasons for making the Order, as required by Article 38 of The Town and Country Planning (Development Management Procedure) Order 2015, is attached as Appendix B to this report.

Consultation on the draft LDO

- 3.13 Under Article 38 of The Town and Country Planning (Development Management Procedure) Order 2015, where a Local Planning Authority has prepared a draft LDO it must consult on that draft LDO giving a period of not less than 28 days for representations to be made.
- 3.14 When considering what modifications should be made to the draft Order or whether it should be adopted, the Local Planning Authority must take into account all representations made in relation to the draft Order.
- 3.15 If Executive agrees the draft LDO and statement of reasons attached as Appendices A and B to this report, subject to adopting a screening opinion as detailed at paragraphs 3.16 to 3.18 of this report, officers will proceed to consult on the draft LDO, as required under Article 38.

EIA Regulations

- 3.16 The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 ('the EIA Regulations') set out the procedure for assessing the likely environmental impacts of major development. The EIA Regulations set out the types of development that are caught by the assessment procedures. If development is caught by the EIA Regulations, planning permission cannot be granted until the environmental impacts have been assessed in an Environmental Statement, consulted upon and taken into account in reaching a decision.

- 3.17 The outline planning permission for Graven Hill (ref: 11/01494/OUT) was EIA development and the application was accompanied by an Environmental Statement.
- 3.18 There is a requirement for the Council to adopt a screening opinion prior to making a LDO under Regulation 29 of The Town and Country Planning (Environmental Impact Assessment) the EIA Regulations. The Council will likely adopt a screening opinion to the effect that the Graven Hill development is EIA development as defined by the EIA Regulations. With any subsequent applications for EIA development, the original Environmental Statement can be updated and refreshed with any new evidence, rather than preparing a whole new Environmental Statement. This must then be consulted upon and taken into account when deciding to adopt the LDO and this process can be undertaken in parallel.
- 3.19 The consultation process in respect of LDOs is set out in articles 38 and 41 of the Town and Country Planning (Development Management Procedure) (England) Order 2015. A local planning authority must consult on the draft LDO and reasons for making the order with relevant interested parties such as Parish Councils, Natural England, Historic England, Environment Agency and Thames Water for a period not less than 28 days. The outcome of the consultation process will be reported to Executive in September. It is expected that the Design Code and Masterplan will be submitted to discharge the conditions attached to the outline planning permission by the 30th June 2015. It is intended that the Design Code and Masterplan will be reported to a special Planning Committee at the end of July.

4.0 Conclusion and Reasons for Recommendations

- 4.1 The draft Local Development Order would facilitate and encourage self build and custom build housing at Graven Hill by simplifying the planning process whilst providing certainty that individuality and variety in design would be supported within the parameters set by the Masterplan and Design Code to be approved under the outline planning permission.
- 4.2 It is therefore recommended that Executive agree the draft LDO and the statement of reasons for making the LDO. Officers can then proceed to preparing and adopting a screening opinion in respect of the LDO, before carrying out consultation on the draft LDO as required by legislation.

5.0 Consultation

- 5.1. Councillor Michael Gibbard (Lead Member for Planning)
- 5.2. EC Harris and JP Planning on behalf of the Graven Hill Development Company

6.0 Alternative Options and Reasons for Rejection

- 6.1 The following alternative options have been identified and rejected for the reasons as set out below.

Not to agree the draft LDO. Delivering the development through the traditional reserved matters route would not facilitate the desired level of individuality and variety in design.

7.0 Implications

Financial and Resource Implications

- 7.1 The Council has entered into a Planning Performance Agreement (PPA) with the Graven Hill Development Company to ensure that the Council is adequately resourced to carry out the work necessary to prepare and consult on the LDO.

Comments checked by: Paul Sutton

Legal Implications

- 7.2 The Council is required to consult on the draft LDO prior to adoption

Comments checked by: Nigel Bell

8.0 Decision Information

Key Decision

Financial Threshold Met? No

Community Impact Threshold Met? Yes

Wards Affected

All Bicester Wards, Launton

Links to Corporate Plan and Policy Framework

A District of Opportunity, in particular:

- Securing employment-generating development with necessary transport/other infrastructure
- Meeting local performance targets in terms of speed of determination of all forms of application

Lead Councillor

Councillor Michael Gibbard

Document Information

Appendix No	Title
A	Draft LDO
B	Draft Statement of Reasons

Background Papers	
None	
Report Author	Alex Keen, Principal Planning Officer
Contact Information	01295 221812 alex.keen@cherwell-dc.gov.uk



Graven Hill Phase 1

Local Development Order 2015

Cherwell District Council, in exercise of the powers conferred on the Council as local planning authority by sections 61A-61D of and Schedule 4A of The Town and Country Planning Act 1990 (as amended), and pursuant to Article 38 of The Town and Country Planning (Development Management Procedure) Order 2015, makes the following Order:

Citation, commencement and application

1. (1) This Order may be cited as the Graven Hill Phase 1 Local Development Order 2015 and comes into force on.....
 - (2) This Order applies to the land at Graven Hill Bicester outlined in red on the plan included as Schedule 1 to the Order.
 - (3) Subject to the Council's power to revoke this Order under section 61A(6) of the Act, this Order will remain in force for a period of 5 years from the date the Order comes into force
 - (4) Nothing in this Order removes, cancels, or otherwise makes void the national permissions granted by the General Order.

Interpretation

2. (1) In this Order –

“access” has the same meaning as in the Procedure Order

“the Act” means The Town and Country Planning Act 1990 (as amended)

“appearance” has the same meaning as in the Procedure Order

“construction” means the carrying out of building or engineering operations in, on, over or under land and “construct” and “constructed” shall be construed accordingly

“completion” means that to all intents and purposes the dwellinghouse has been completed and is either occupied or capable of being occupied as a dwellinghouse, and “complete” and “completed” shall be construed accordingly

“the Council” means Cherwell District Council

“confirmation of compliance” means a formal written notification of the local planning authority confirming that a proposed development complies with the Masterplan and Design Code approved under the outline planning permission

“custom build” means development carried out for and on behalf of, or in partnership with, an individual or group of individuals who upon completion intend to occupy the development and who will become a freehold owner, or

owner of a long lease of not less than 99 years duration, of the development and “custom built” and “custom builder” shall be construed accordingly

“developer” someone constructing a dwelling either through self build or custom build

“development” has the same meaning as in section 55 of the Act

“dwellinghouse” does not include a building containing one or more flats, or a flat contained within such a building

“erection” means the carrying out of operations to erect a structure or building on or over land

“General Order” means The Town and Country Planning (General Permitted Development) Order 2015 and any subsequent amendment to that Order

“highway” has the same meaning as in the Highways Act 1980 (as amended)

“landscaping” has the same meaning as in the Procedure Order

“layout” has the same meaning as in the Procedure Order

“Masterplan and Design Code” means the master plan and design code required to be approved under condition 26 of the outline planning permission

“original dwellinghouse” means the dwellinghouse as so built at the time of first occupation as a dwellinghouse

“outline planning permission” means the planning permission dated 08 August 2014 granted by the Council pursuant to the application for outline planning permission dated 29 September 2011 and allocated reference number 11/01494/OUT, and any subsequent planning permission granted pursuant to an application under section 73 of the Act relating to that outline planning permission

“the Procedure Order” means The Town and Country Planning (Development Management Procedure) Order 2015 and any subsequent amendment to that Order

“scale” has the same meaning as in the Procedure Order

“self-build” means development carried out by an individual or group of individuals who upon completion intend to occupy the development and who will become a freehold owner, or owner of a long lease of not less than 99 years duration, of the development and “self built” and “self builder” shall be construed accordingly

Permitted development

3. (1) Planning permission is hereby granted for the classes of development described as permitted development in Schedule 2.

(2) Any permission granted by paragraph (1) is subject to any relevant exception, limitation or condition specified in Schedule 2.

(3) Nothing in this Order permits development contrary to any condition imposed by any planning permission granted or deemed to be granted under Part 3 of the Act otherwise than by this Order.

(4) The permission granted by Schedule 2 does not apply if—

(a) in the case of permission granted in connection with an existing building, the building operations involved in the construction of that building are unlawful;

(b) in the case of permission granted in connection with an existing use, that use is unlawful.

(5) The permission granted by Schedule 2 does not authorise any development which creates an obstruction to the view of persons using any highway used by vehicular traffic, so as to be likely to cause danger to such persons.

(6) Where a person uses electronic communications for making any application required to be made under any Class of Schedule 2, that person is taken to have agreed—

(a) to the use of electronic communications for all purposes relating to that person's application which are capable of being effected using such communications;

(b) that the address for the purpose of such communications is the address incorporated into, or otherwise logically associated with, that person's application; and

(c) that the deemed agreement under this paragraph subsists until that person gives notice in writing revoking the agreement (and such revocation is final and takes effect on a date specified by the person but not less than 7 days after the date on which the notice is given).

Adopted by Cherwell District Council on...

The Common Seal of
Cherwell District Council
was affixed hereunto in
the presence of:

Authorised Signatory

Schedule 1 – Land to which this Order applies

Schedule 2 – Permitted Development

Class A – the erection or construction of a dwellinghouse

Development Permitted

A. The erection or construction of a dwellinghouse, including access and landscaping, pursuant to the outline planning permission

Development Not Permitted

A.1 Development is not permitted by Class A if –

- (a) the dwellinghouse is not a custom build or self build dwellinghouse;
- (b) the dwellinghouse is to be erected or constructed on land that is not identified for development as a dwellinghouse in the Masterplan and Design Code approved under the outline planning permission; or
- (c) the dwellinghouse does not comply with the Masterplan and Design Code approved under the outline planning permission

Conditions

A.2 Development is permitted by Class A subject to the following conditions –

- (a) Prior to development commencing, the developer must apply to the Local Planning Authority for a determination as to whether the development complies with the Masterplan and Design Code approved under the outline planning permission and the provisions of Schedule 3 of this Order apply in relation to that application
- (b) The principal elevation of the dwellinghouse must front a highway
- (c) Any upper-floor window located in a wall or roof slope forming a side elevation of the dwellinghouse and facing a boundary with a neighbouring dwelling that is either occupied or is being erected or constructed must be —
 - (i) obscure-glazed, and
 - (ii) non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed
- (d) Any part of the dwellinghouse that would –
 - (i) have more than a single storey; and
 - (ii) would be within 2 metres of the boundary with a neighbouring dwelling that is either occupied or is being erected or constructed

must not extend beyond the rear wall of the neighbouring dwelling by more than 3 metres

- (e) Any hard surface to be provided on land between a wall forming the principal elevation of the dwellinghouse and the highway must either be made of porous materials, or provision made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwellinghouse
- (f) Development under Class A must be completed within a period of 3 years starting with the confirmation of compliance date

Class B – the enlargement, extension or alteration of a dwellinghouse

Development Permitted

B. The enlargement, extension or alteration of a dwellinghouse erected or constructed under Class A of this Order

Development Not Permitted

B.1 Development is not permitted by Class B if –

- (a) the enlargement, extension or alteration does not comply with the Masterplan and Design Code approved under the outline planning permission; or
- (b) the enlarged part of the dwellinghouse would have more than a single storey and would be –
 - (i) within 2 metres of the boundary with a neighbouring dwelling that has received either confirmation of compliance or planning permission; and
 - (ii) would extend beyond the rear wall of the neighbouring dwelling by more than 3 metres

Conditions

B.2 Development is permitted by Class B subject to the following conditions –

- (a) Prior to development commencing, the developer must apply to the Local Planning Authority for a determination as to whether the development complies with the Masterplan and Design Code approved under the outline planning permission and the provisions of Schedule 3 of this Order apply in relation to that application
- (b) Any upper-floor window located in a wall or roof slope forming a side elevation of the dwellinghouse and facing a boundary with a neighbouring dwelling that has received either confirmation of compliance or planning permission must be –
 - (i) obscure-glazed, and

- (ii) non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed

Class C – buildings etc incidental to the enjoyment of a dwellinghouse

Development Permitted

C. The provision within the curtilage of a dwellinghouse that is being erected or constructed under Class A of this Order of –

(a) any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such; or

(b) a container used for domestic heating purposes for the storage of oil or liquid petroleum gas

Development Not Permitted

C.1 Development is not permitted by Class C if –

- (a) the dwellinghouse has been completed;
- (b) the development EITHER does not comply with the Masterplan and Design Code approved under the outline planning permission OR any of the following criteria would apply:
 - (i) the total area of ground covered by buildings, enclosures and containers within the curtilage (other than the dwellinghouse that is being erected or constructed) would exceed 50% of the total area of the curtilage (excluding the ground area of the dwellinghouse that is being erected or constructed);
 - (ii) any part of the building, enclosure, pool or container would be situated on land forward of a wall forming, or proposed to form, the principal elevation of the dwellinghouse that is being erected or constructed;
 - (iii) the building would have more than a single storey;
 - (iv) the height of the building, enclosure or container would exceed –
 - (i) 4 metres in the case of a building with a dual-pitched roof
 - (ii) 2.5 metres in the case of a building, enclosure or container within 2 metres of the boundary of the curtilage of the dwellinghouse, or
 - (iii) 3 metres in any other case;
 - (v) the height of the eaves of the building would exceed 2.5 metres;
 - (vi) it would include the construction or provision of a verandah, balcony or raised platform;

- (vii) it relates to a dwelling or a microwave antenna; or
- (viii) the capacity of the container would exceed 3, 500 litres

Conditions

C.2 Development is permitted by Class C subject to the following conditions –

- (a) Prior to development commencing and where any of the criteria at Paragraph C.1(b) of this Class would apply, the developer must apply to the Local Planning Authority for a determination as to whether the development complies with the Masterplan and Design Code approved under the outline planning permission and the provisions of Schedule 3 of this Order apply in relation to that application

Interpretation of Class C

C.3 For the purposes of Class C, “purpose incidental to the enjoyment of the dwellinghouse as such” includes the keeping of poultry, bees, pet animals, birds or other livestock for domestic needs or personal enjoyment of the occupants of the dwellinghouse

Schedule 3 – Procedure for Confirmation of Compliance under Schedule 2

(1) The following provisions apply where under this Order a developer is required to make an application to the Local Planning Authority for a determination as to whether the development complies with the Masterplan and Design Code approved under the outline planning permission.

(2) The application must be accompanied by—

- (a) a written description of the proposed development, which must include any building or other operations;
- (b) a plan indicating the site and showing the proposed development;
- (c) a plan or plans showing the details of access, appearance, landscaping, layout and scale of the proposed development;
- (d) the developer's contact address, contact telephone number; and
- (e) the developer's email address if the developer is content to receive communications electronically

(3) The local planning authority may refuse an application where, in the opinion of the Authority—

- (a) the proposed development does not comply with, or
- (b) the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with,

any conditions, limitations or restrictions specified in this Order as being applicable to the development in question.

(4) Where the Local Planning Authority refuses an application under paragraph (3), for the purposes of section 78 (appeals) of the Act such a refusal is to be treated as a refusal of an application for approval.

(5) The development must not begin before the occurrence of one of the following—

- (a) the receipt by the applicant from the Local Planning Authority of a written notice of their determination that the development complies with the Masterplan and Design Code approved under the outline planning permission;
- (b) the expiry of 28 days following the date on which the application under sub-paragraph (2) was received by the Local Planning Authority without the authority notifying the applicant as to whether confirmation of compliance is given or is refused.

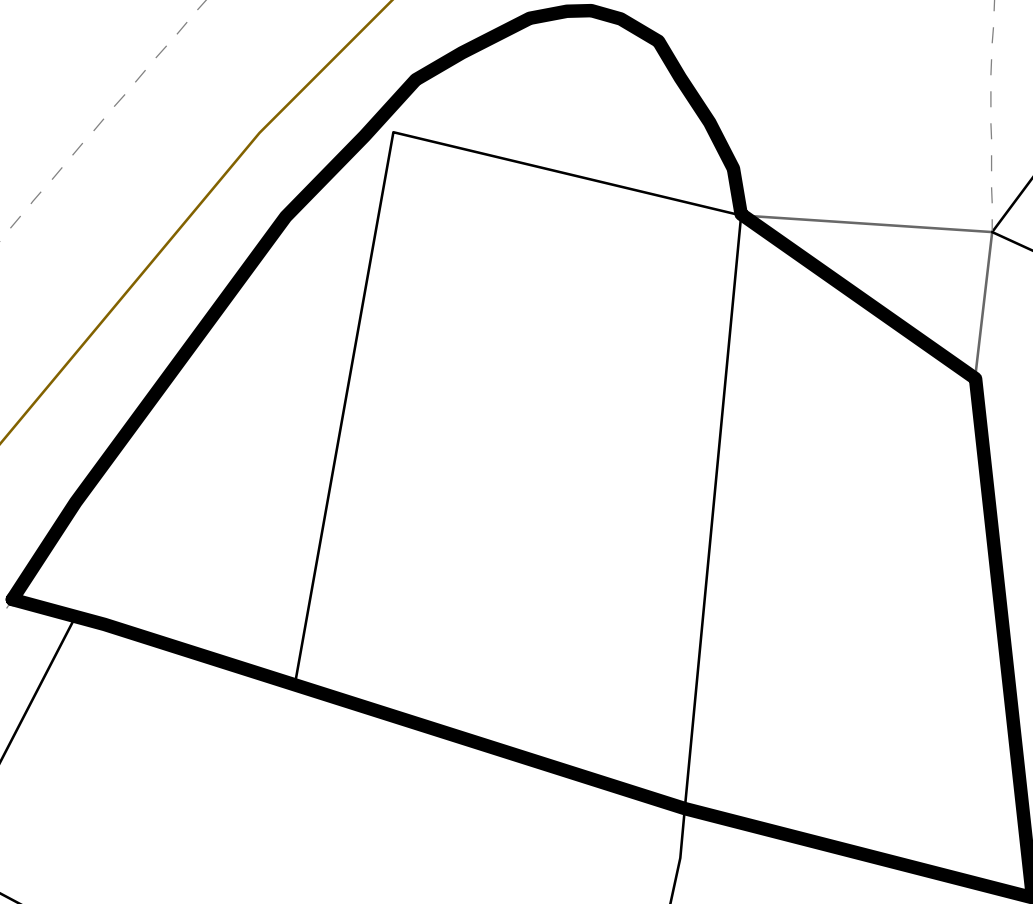
(6) The development must be carried out in accordance with the details provided in the application referred to in sub-paragraph (2) unless the Local Planning Authority and the developer agree otherwise in writing.

Agenda Item 11

15/00325/F

Outbuilding
Elephant And Castle
Humber Street
Bloxham

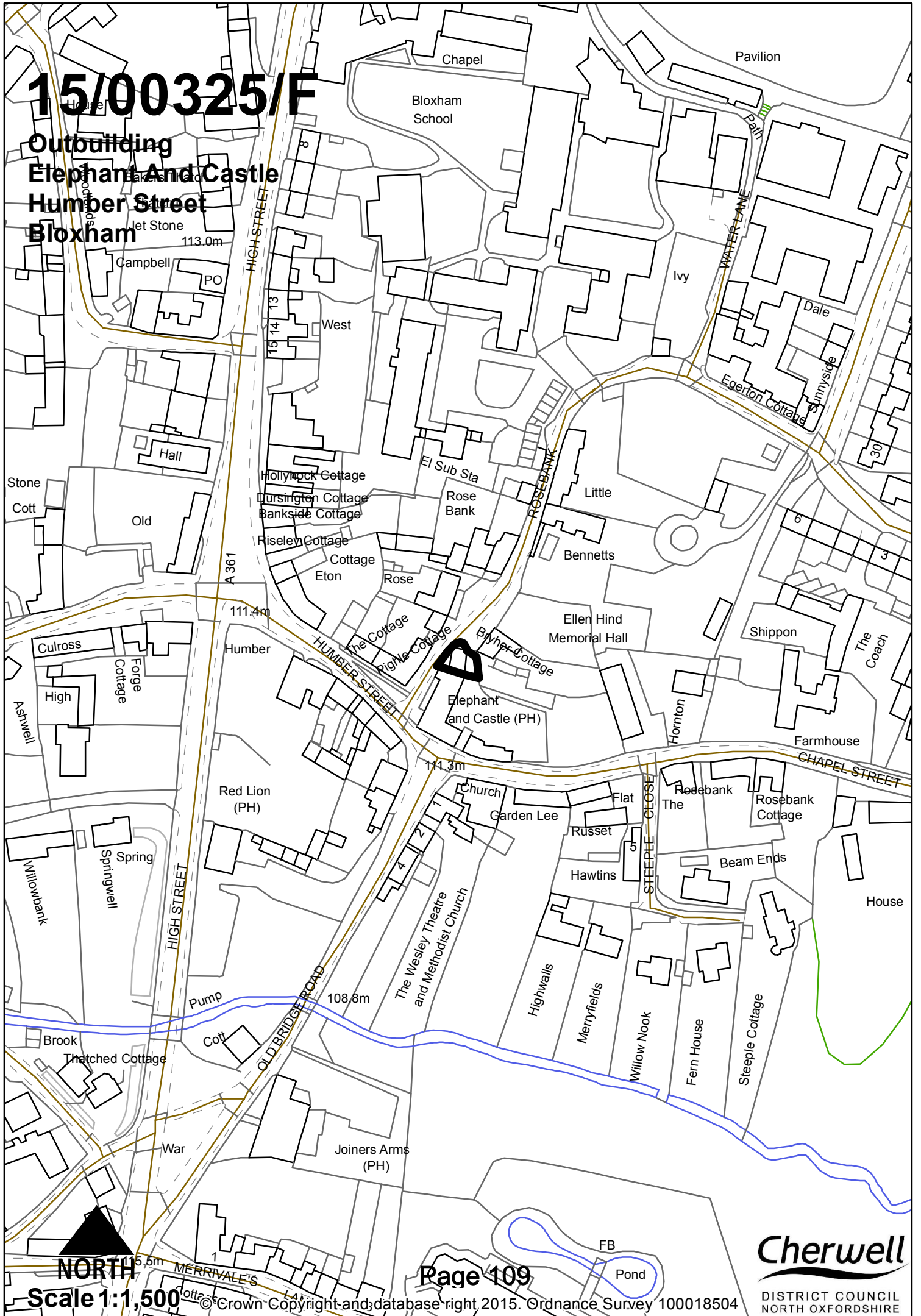
Piggle Cottage



NORTH
Scale 1:100

15/00325/F

Outbuilding Elephant And Castle Humber Street Bloxham



NORTH

Scale 1:1,500

Site Address: Outbuilding, Elephant and Castle, Humber Street, Bloxham

15/00325/F

Ward: Bloxham and Bodicote

District Councillor: Chris Heath and Lynda Thirzie-Smart

Case Officer: Rebekah Morgan

Recommendation: Refusal

Applicant: Mr James Clarke (Hook Norton Brewery)

Application Description: Change of use of outbuilding to residential accommodation. Removal of bread oven and repairs to building.

Committee Referral: Member Request – Cllr Chris Heath

Committee Date: 3 September 2015

1. Site Description and Proposed Development

- 1.1 The Elephant and Castle is a large imposing pub situated on the corner of Humber Street, Chapel Street and Rose Bank. The pub is a grade II listed building and is constructed from ironstone, with a slate roof. This particular application relates to a two storey outhouse to the north of the main part of the pub, which is currently in a poor state of repair and used mainly for storage.
- 1.2 The site is within the Bloxham Conservation Area, in proximity to other listed buildings and may have some archaeological interest.
- 1.3 The application seeks consent to convert the outbuilding to an independent dwelling. The works would include the removal of a large bread oven and both internal and external repair works to the building.

2. Application Publicity

- 2.1 The application has been advertised by way of neighbour letter, site notice and press notice. The final date for comment was the 23rd April 2015.

1 letter has been received. The following comment was made:

We know that swifts nest in the outbuilding. Given the recent significant decline in swift numbers which can be caused by the loss of swifts' nest places as a result of building repairs and alterations, any repairs which are permitted should leave unaltered the small spaces which swifts use to access their nest places here. Local advice and information is available.

3. Consultations

- 3.1 Bloxham Parish Council: Objects to the application. The following comments were made:
 - The planning application refers to a change of use of the outbuilding to “residential accommodation”, the Planning statement references as viable options being short term lets, recent approvals for this site have been for guest accommodation. The Parish Council queries whether this dwelling be used to support the business of the Public House as a rental property?
 - The Parish Council would object to this building being converted to a non-

business related residential property for sale on the open market. This would be contrary to Bloxham's Neighbourhood Plan which seeks to safeguard land used for employment within the village.

- The Bread Oven; It is noted that the plan is to retain "unaltered and untouched" the bread oven openings and their doors in the wall of the Bakery fireplace, and that the rest of the oven can be used for historic research.
- If the Bread Oven was removed, The Parish Council would seek for this to be done sympathetically and with the approval of the Conservation Officer.
- We note that the Application Form states that all windows replacement would be done on a like for like, Conservation Grade repairs and this would also apply to repairs to masonry, roofs etc. We would seek that if Approval is given that this is monitored.
- The Parish Council draws the Planning Officers' attention to the known Swift Nesting site on the wall facing Rosebank, that does not appear to be recorded on the District's Information Map.

Cherwell District Council Consultees

- 3.2 Conservation Officer: The proposal is to convert part of the building which is currently occupied by a traditional C19 bread oven and the ancillary accommodation adjacent into a self-contained apartment. This scheme includes the removal of the bread oven although the picturesque oven and fire door front will remain.

The principle of creating ancillary accommodation is not an issue however the destruction of the bread oven very much is and is contrary to both national and local policies as this will result in fundamental harm to the heritage asset.

A single bedroom apartment can easily be accommodated within the rooms currently available and therefore there is no over-riding need to demolish the bread oven.

- 3.3 Environmental Protection Officer: No comments received.

Oxfordshire County Council Consultees

- 3.4 Local Highway Liaison Officer: No objections subject to conditions.
- 3.5 Archaeologist: There are no archaeological constraints to the scheme.

4. Relevant National and Local Policy and Guidance

- 4.1 Development Plan Policy

Cherwell Local Plan 2011-2031 Part 1:

ESD15: The Character of the Built and Historic Environment

The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015.

The Plan was the subject of an independent examination conducted by an Inspector appointed by the Secretary of State. The Inspector's report was published on 12th June 2015 and the recommended main modifications required to make the Plan sound have been included in the adopted plan.

The Plan provides the strategic planning policy framework and sets out strategic site allocations for the District to 2031. Now adopted, the Plan forms part of the statutory development plan and provides the basis for decisions on land use planning affecting

Cherwell District.

The Local Plan 2011-2031 – Part 1 replaces a number of the saved policies of the 1996 adopted Cherwell Local Plan. Those saved policies of the 1996 adopted Cherwell Local Plan which are retained remain part of the development plan. These are set out in Appendix 7 of the Local Plan 2011-2031.

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

The Local Plan and its associated documents are available on the Council's website: www.cherwell.gov.uk

Cherwell Local Plan 1996 (Saved Policies)

- C28: Layout, design and external appearance of new development
- C30: Design of new residential development

4.2 Other Material Policy and Guidance

National Planning Policy Framework

National Planning Practice Guidance

5. Appraisal

5.1 The key issues for consideration in this application are:

- Relevant planning history
- Principle of the development
- Visual amenity and impact on heritage assets
- Neighbouring amenity
- Highway safety

Relevant planning history

5.2 **10/01566/F:** Refit outhouse to create dwelling (Application withdrawn)

5.3 **11/01365/F:** Refit outhouse to create dwelling (Application permitted)

Principle of the development

5.4 The application is for a new dwelling within Bloxham which is classified as a Category A village within the Cherwell Local Plan 2011-2031. Policy Villages 1 of the Cherwell Local Plan 2011-2031 restricts new residential development to:

- Minor development
- Infilling
- Conversions

5.5 The Cherwell Local Plan 2011-2031 states '*Policy Villages 1 allows for the most sustainable villages to accommodate 'minor development' and all villages to accommodate infilling or conversions. The appropriate form of development will vary depending on the character of the village and development in the immediate locality. In all cases, Policy ESD 15: The Character of the Built and Historic Environment will be applied in considering applications.*

5.6 The building subject to this application is a designated heritage asset (Grade II listed building) and Policy ESD 15 of the Cherwell Local Plan 2011-2031 states that new development proposals should '*Conserve, sustain and enhance designated and non-*

designated heritage assets (as defined in the NPPF) including buildings, features archaeology, conservation areas and their settings, and ensure new development is sensitively sited and integrated in accordance with advice in the NPPF and NPPG’.

- 5.7 Although the proposal is the conversion of an existing building within the village, it does require the removal of a significant feature (the bread oven) within the building to enable the conversion to take place. The building is a designated heritage asset; as proposed, the conversion would lead to irreplaceable harm to the building contrary to paragraph 133 of the National Planning Policy Framework and Policy ESD15 of the Cherwell Local Plan 2011-2031. As such, the principle of the development is not considered to be acceptable contrary to Policy Villages 1 of the Cherwell Local Plan 2011-2031.

Visual amenity and impact on heritage assets

- 5.8 As stated, the internal works proposed would have a detrimental effect on the character and significance of the listed building due to the loss of a substantial feature within the building. This matter is dealt with in greater detail in the accompanying listed building application 15/00326/LB.

- 5.9 The proposed external alterations are limited to necessary repair work to enable the building to be occupied and do not include any significant changes to the external appearance. Therefore the proposal would not cause harm to the setting of neighbouring listed buildings or to the character and appearance of the Conservation Area.

Neighbouring Amenity

- 5.10 The proposal utilises the existing windows, which overlook the public house car park. Therefore the development would not result in direct overlooking of the neighbouring properties.

- 5.11 The property could be converted without the need for extension, therefore the general outlook from the neighbouring properties would remain unchanged and would not appear over dominant or overbearing.

- 5.12 The proposed development would not cause harm to neighbouring amenity and accords with the core principles of the National Planning Policy Framework and saved Policy C30 of the Cherwell Local Plan 1996.

Highway safety

- 5.13 The Local Highway Authority has raised no objections to the proposal. The public house has a large car park and on previous applications it has been suggested that allocated parking could be provided for the new dwelling. Conditions could be included to require full details of the parking provision for the proposed dwelling to be provided.

- 5.14 The proposal would not cause harm to highway safety and complies with government guidance contained within the National Planning Policy Framework.

Engagement

- 5.15 With regard to the duty set out in paragraphs 186 and 187 of the Framework, ongoing discussions and meetings have been held with the applicant/agent during the application process. It is considered that the duty to be positive and proactive has been discharged by communicating effectively with the applicant/agent.

6. Recommendation

Refusal for the following reason:

1. The application property is a Grade II listed building and the conversion of the building in the manner proposed would result in the loss of a significant internal feature (the bread oven) causing substantial harm to the designated heritage asset. As such, the property is not considered to be suitable for conversion in this way and the proposal is therefore contrary to government guidance contained within the National Planning Policy Framework and Policies ESD 15 and Villages 1 of the Cherwell Local Plan 2011-2031.

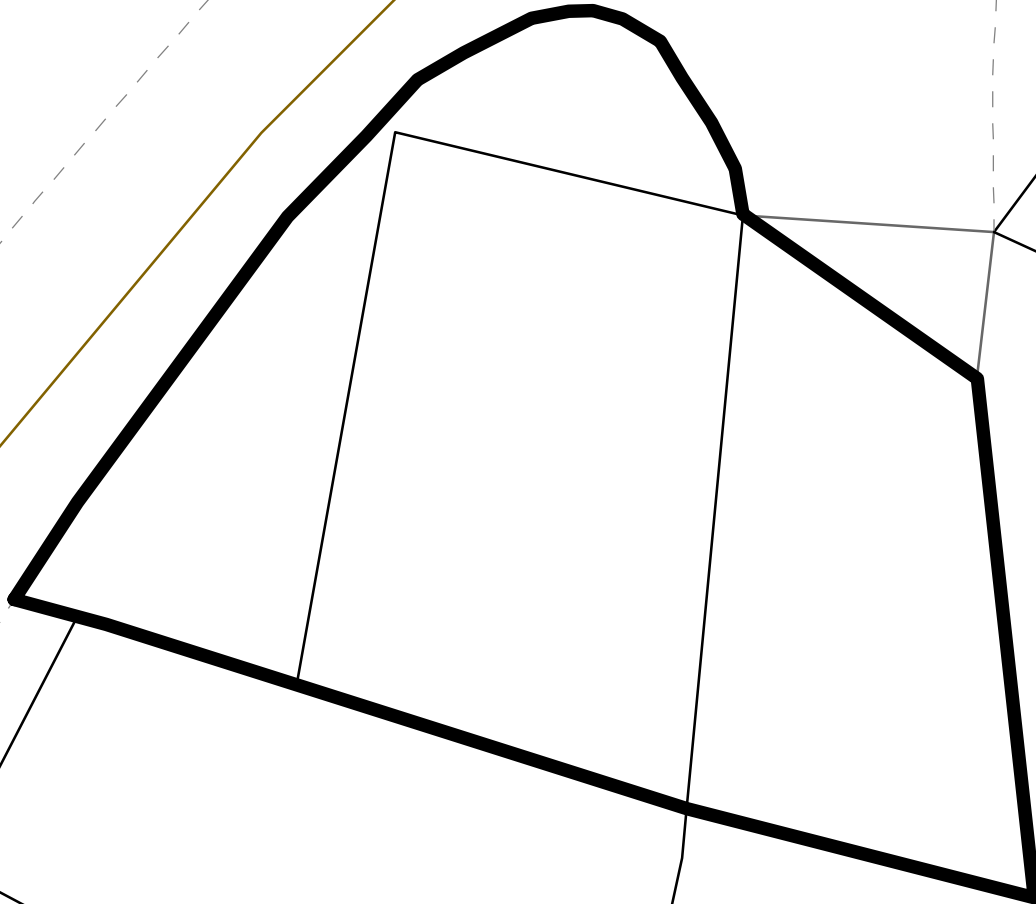
STATEMENT OF ENGAGEMENT

In accordance with the Town and Country Planning (Development Management Procedure)(England) Order 2015 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council having worked with the applicant/agent in a positive and proactive way and with on-going discussions with the applicant/agent.

15/00326/LB

Outbuilding
Elephant And Castle
Humber Street
Bloxham

Pighe Cottage

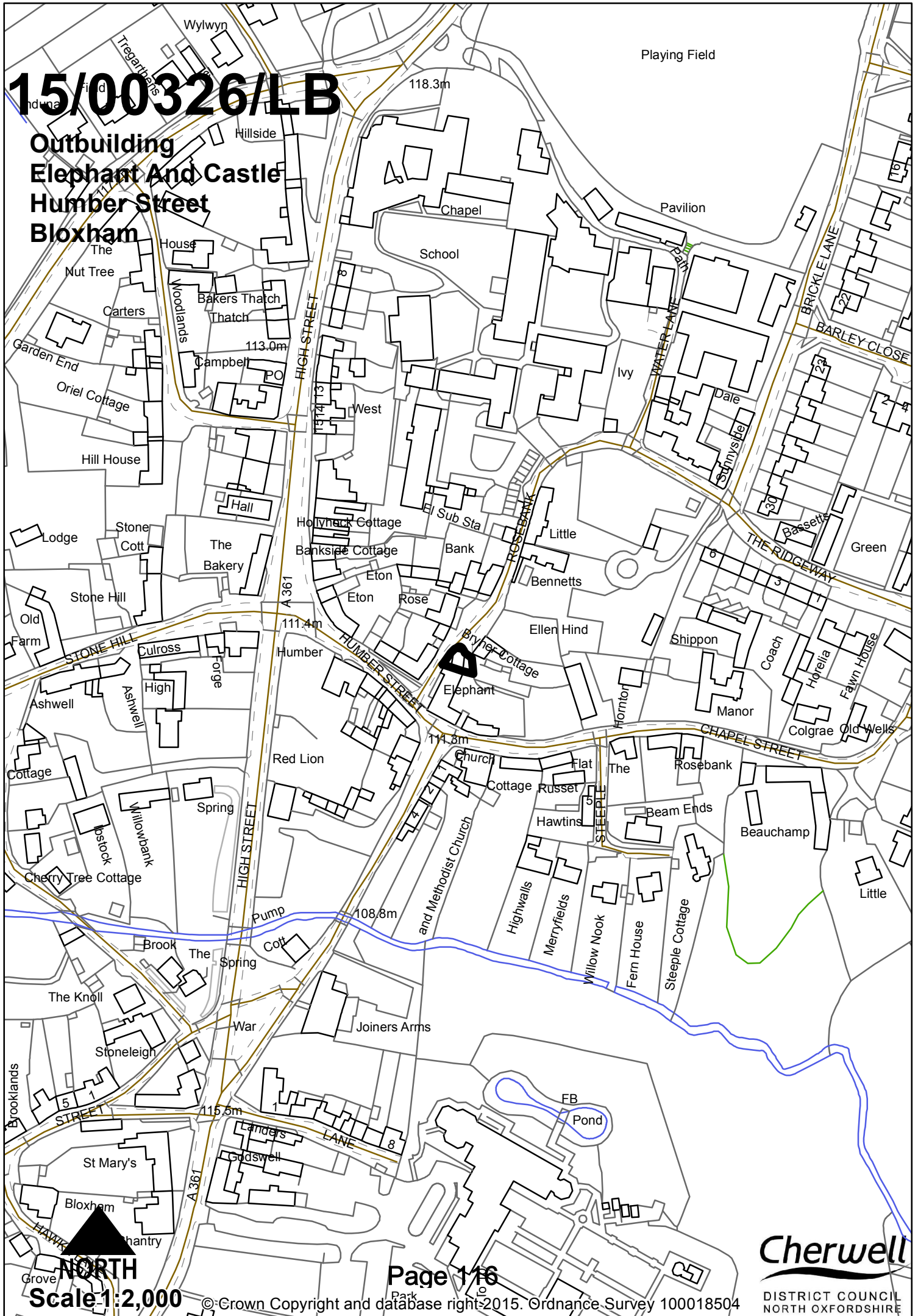


NORTH
Scale 1:100

Elephant

15/00326/LB

Outbuilding Elephant And Castle Humber Street Bloxham



NORTH
Scale 1:2,000

Site Address: Outbuilding, Elephant and Castle, Humber Street, Bloxham

15/00326/LB

Ward: Bloxham and Bodicote

District Councillor: Chris Heath and Lynda Thirzie-Smart

Case Officer: Rebekah Morgan

Recommendation: Refusal

Applicant: Mr James Clarke (Hook Norton Brewery)

Application Description: Change of use of outbuilding to residential accommodation. Removal of bread oven and repairs to building.

Committee Referral: Member Request – Cllr Chris Heath

Committee Date: 3 September 2015

1. Site Description and Proposed Development

- 1.1 The Elephant and Castle is a large imposing pub situated on the corner of Humber Street, Chapel Street and Rose Bank. The pub is a grade II listed building and is constructed from ironstone, with a slate roof. This particular application relates to a two storey outhouse to the north of the main part of the pub, which is currently in a poor state of repair and used mainly for storage.
- 1.2 The application seeks consent to convert the outbuilding to an independent dwelling. The works would include the removal of a large bread oven and both internal and external repair works to the building.

2. Application Publicity

- 2.1 The application has been advertised by way of neighbour letter, site notice and press notice. The final date for comment was the 23rd April 2015.

1 letter has been received. The following comment was made:

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- 3.1 Bloxham Parish Council: Objects to the application. The following comments were made:
 - The planning application refers to a change of use of the outbuilding to “residential accommodation”, the Planning statement references as viable options being short term lets, recent approvals for this site have been for guest accommodation. The Parish Council queries whether this dwelling be used to support the business of the Public House as a rental property?
 - The Parish Council would object to this building being converted to a non-business related residential property for sale on the open market. This would be contrary to Bloxham’s Neighbourhood Plan which seeks to safeguard land used for employment within the village.

- The Bread Oven; It is noted that the plan is to retain “unaltered and untouched” the bread oven openings and their doors in the wall of the Bakery fireplace, and that the rest of the oven can be used for historic research.
- If the Bread Oven was removed, The Parish Council would seek for this to be done sympathetically and with the approval of the Conservation Officer.
- We note that the Application Form states that all windows replacement would be done on a like for like, Conservation Grade repairs and this would also apply to repairs to masonry, roofs etc. We would seek that if Approval is given that this is monitored.
- The Parish Council draws the Planning Officers’ attention to the known Swift Nesting site on the wall facing Rosebank, that does not appear to be recorded on the District’s Information Map.

Cherwell District Council Consultees

- 3.2 Conservation Officer: The proposal is to convert part of the building which is currently occupied by a traditional C19 bread oven and the ancillary accommodation adjacent into a self-contained apartment. This scheme includes the removal of the bread oven although the picturesque oven and fire door front will remain.

The principle of creating ancillary accommodation is not an issue however the destruction of the bread oven very much is and is contrary to both national and local policies as this will result in fundamental harm to the heritage asset.

A single bedroom apartment can easily be accommodated within the rooms currently available and therefore there is no over-riding need to demolish the bread oven.

4. Relevant National and Local Policy and Guidance

- 4.1 Development Plan Policy

Cherwell Local Plan 2011-2031 Part 1:

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The Local Plan 2011-2031 – Part 1 replaces a number of the saved policies of the 1996 adopted Cherwell Local Plan. Those saved policies of the 1996 adopted Cherwell Local Plan which are retained remain part of the development plan. These are set out in Appendix 7 of the Local Plan 2011-2031.

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

The Local Plan and its associated documents are available on the Council's website:
www.cherwell.gov.uk

Cherwell Local Plan 1996 (Saved Policies)

C18: Listed buildings

4.2 Other Material Policy and Guidance

National Planning Policy Framework

National Planning Practice Guidance

5. Appraisal

5.1 The key issues for consideration in this application are:

- Relevant planning history
- Impact on the character and appearance of the Listed Building

Relevant planning history

5.2 **10/01567/LB:** Refit outhouse to create dwelling (Application withdrawn)

5.3 **11/01366/LB:** Refit outhouse to create dwelling (Application permitted)

5.4 **14/00323/LB:** Removal of the body of the existing bread oven and creation of a new window, as a modification of the previously approved scheme 11/01366/LB (Application withdrawn)

Impact on the character and appearance of the Listed Building

5.5 Saved Policy C18 of the Cherwell Local Plan 1996 states '*In determining an application for listed building consent the Council will have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest. The Council will normally only approve internal and external alterations or extensions to a listed building which are minor and sympathetic to the architectural and historic character of the building*'.

5.6 Paragraph 132 of the National Planning Policy Framework states '*When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. A heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a grade II listed building...should be exceptional*'.

5.7 Paragraph 133 expands on this point by stating '*Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:*

- *the nature of the heritage asset prevents all reasonable uses of the site; and*
- *no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and*
- *conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and*
- *the harm or loss is outweighed by the benefit of bringing the site back into use'*

- 5.8 The proposal is for the conversion of the attached outbuilding (Bakehouse) to create an independent, two bedroom dwelling. The proposal utilises the existing fenestration and general layout to provide two bedrooms and a bathroom on the first floor. At ground floor level, the proposal is to provide a living area and kitchen/dining area but to facilitate the layout; the development requires the removal of a large, traditional bread oven which currently occupies nearly half of the ground floor space.
- 5.9 The bread oven is a traditional and historic feature of the building with its front façade showing within the adjacent public house. Paragraphs 133 and 134 of the National Planning Policy Framework distinguish between how ‘substantial harm’ and ‘less than substantial harm’ should be treated in policy terms, however it does not define the difference between the two.
- 5.10 In this case, the applicant makes a case that the loss of the bread oven would lead to ‘less than substantial harm’ as the bread oven may not be an original feature of the building and it is believed that there are several other examples of bread ovens within this part of the country, although documented cases have not been provided. A detailed statement has been submitted to support this argument. Furthermore, it is proposed that the façade would be retained within the public house.
- 5.11 Yours officers consider that the bread oven is a historic and significant part of the building and therefore its removal would lead to ‘substantial harm’. There are very few documented cases of bread ovens (especially of this size and obvious commercial scale) within the district and this particular oven appears to be in a good state and apparently wholly intact. Although there may be other ovens contained within listed and non-listed buildings, they only tend to come to the local authorities attention when they are being threatened with removal. The simple assertion that ‘there must be other examples’ does not justify the loss of the bread oven within this building, furthermore the existence of other bread ovens wouldn’t detract from the significance of this feature in relation to this building.
- 5.12 Paragraph 133 of the National Planning Policy Framework suggests that proposals resulting in substantial harm or loss should be refused ‘unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss’ or if the proposal meets all four of the stipulated criteria.
- 5.13 The conversion of the property would bring the listed building back into use with some repair works and general improvements being included in the proposed works. However, this in itself does not outweigh the harm caused by the loss of the bread oven. The planning history demonstrates that it would be possible to convert the building to a two bedroom dwelling without the removal of the bread oven, albeit a smaller property than is proposed. Your officers do not consider that the applicant has made a convincing case regarding why the previous scheme could not be implemented.
- 5.14 The loss of the bread oven would result in substantial harm to a designated heritage asset contrary to government guidance contained within the National Planning Policy Framework, Policy ESD 15 of the Cherwell Local Plan 2011-2031 and saved Policy C18 of the Cherwell Local Plan 1996.
- Engagement**
- 5.15 With regard to the duty set out in paragraphs 186 and 187 of the Framework, on-going discussions and meetings have been held with the applicant/agent during the application process. It is considered that the duty to be positive and proactive has been discharged by communicating effectively with the applicant/agent.

6. Recommendation

Refusal for the following reason:

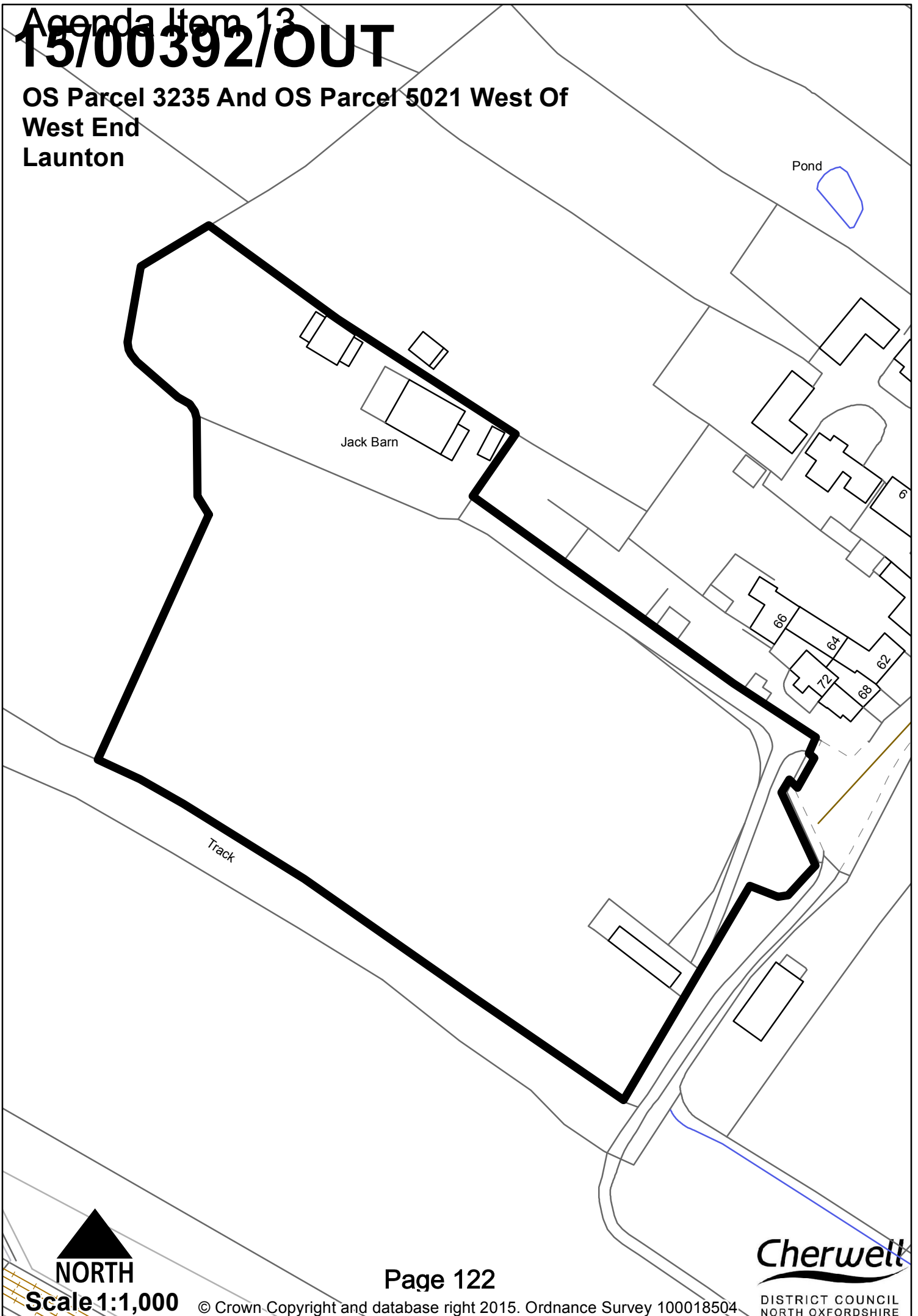
1. The application property is a Grade II listed building and the conversion of the building in the manner proposed would result in the loss of a significant internal feature (the bread oven) causing substantial harm to the designated heritage asset. The proposal is contrary to government guidance contained within the National Planning Policy Framework, Policy ESD 15 of the Cherwell Local Plan 2011-2031 and saved Policy C18 of the Cherwell Local Plan 1996.

STATEMENT OF ENGAGEMENT

In accordance with the Town and Country Planning (Development Management Procedure)(England) Order 2015 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council having worked with the applicant/agent in a positive and proactive way and with on-going discussions with the applicant/agent.

Agenda Item 13 15/00392/OUT

OS Parcel 3235 And OS Parcel 5021 West Of
West End
Launton



Pond

Jack Barn

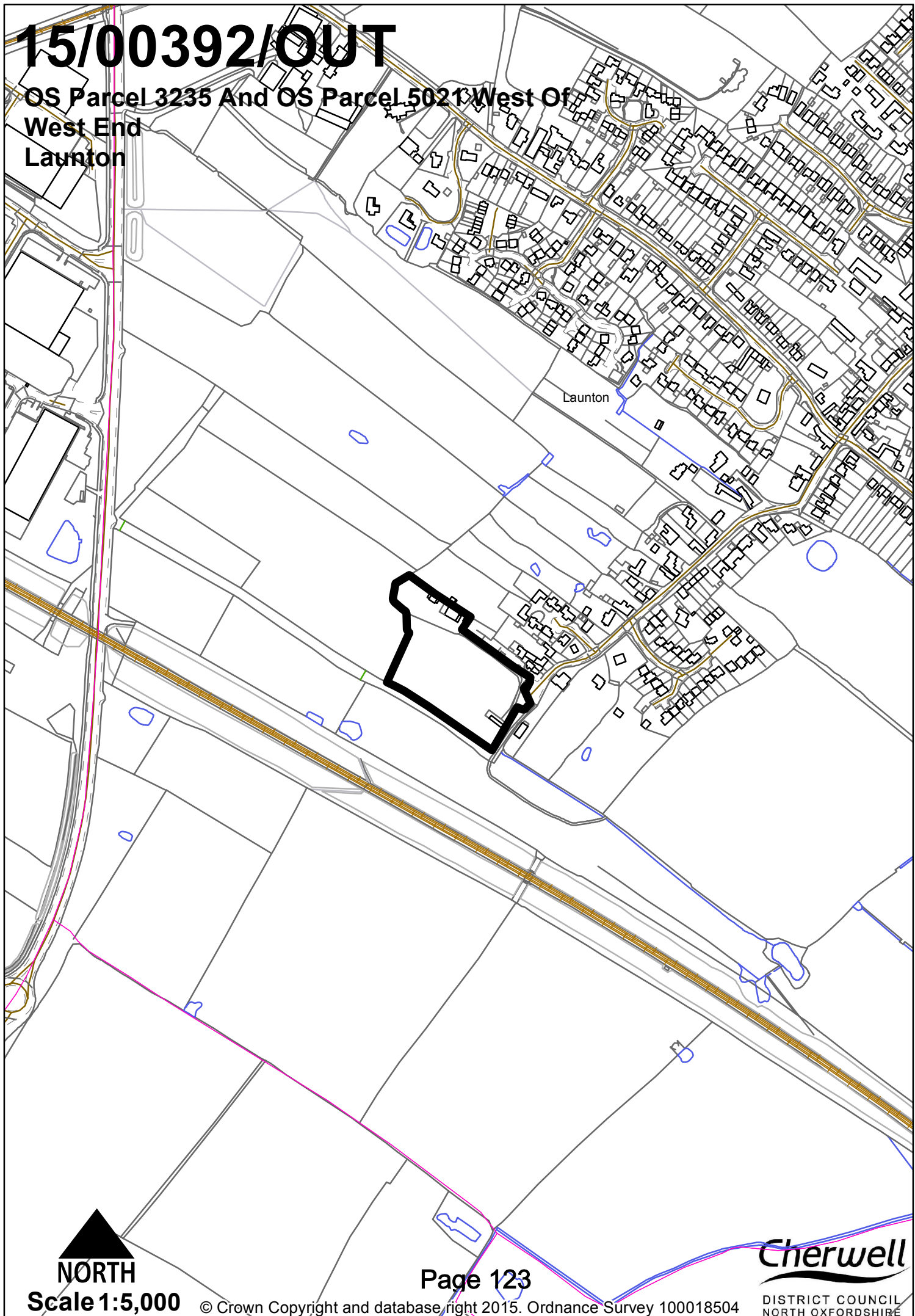
Track

NORTH

Scale 1:1,000

15/00392/OUT

OS Parcel 3235 And OS Parcel 5021 West Of
West End
Launton



NORTH
Scale 1:5,000

OS Parcel 3235 and OS Parcel 5021 West of West End, Launton 15/00392/OUT

Ward: Launton

District Councillor: Councillor David Hughes

Case Officer: Aitchison Raffety

Recommendation: Refusal

Applicant: Mr Richard Howden

Application Description: Erection of 8 detached houses and creation of informal open space

1. Site Description and Proposed Development

- 1.1 The application relates to a site located at the southern end of West End and is currently predominantly an open agricultural field which contains a stable building in the south-eastern part. An existing access is provided off West End at the north-eastern corner of the site and a straight access track runs along the boundary with existing residential properties on the northern boundary, providing access to the commercial building in the north-western part of the site. A track branches off the main one running south, providing access to the stable building which sits in the south-eastern part of the site.
- 1.2 The site is enclosed by hedgerows along the eastern, southern and western boundaries, with public footpaths running adjacent to these boundaries, providing views of the site through this vegetation. The footpath which extends past the end of West End continues to the south, through the vegetation into the open fields beyond. This provides a route under the railway line to the area beyond.
- 1.3 West End is characterised by a mix of housing types. Its character is derived from the traditional cottages infilled with more modern developments. These more modern developments are in the form of small culs de sac served off West End, examples include Chestnut Close.
- 1.4 The application is submitted in outline with all matters reserved for subsequent approval. Therefore the application seeks permission for the principle of the development and all details submitted with it are indicative only. The indicative layout submitted with the application shows the use of the existing access onto West End in the north-eastern corner of the site and upgrading of the existing access track to an adoptable standard. One house would occupy the site of the existing commercial building in the north-western part of the site and the remainder are shown as fronting onto the access road towards the existing residential properties. Each is shown with its own driveway and a small access track is provided between units 1 and 2 to allow access to the existing stable building.
- 1.5 To the rear (south) of the houses the remainder of the field is indicated as being set out as informal open space and the stable building which is also within the red line area is shown as in its current use. The informal open space and stable building are however identified as being outside of the red line application site.

2. Application Publicity

- 2.1 The application has been advertised by way of neighbour letter and press notice. The final date for comment was 2 July 2015. One letter has been received in support of the application and seven letters of objections, the contents of which are summarised as follows -

Support: 11 houses have been built along West End recently and a bungalow adjacent to the site, I cannot see any problem with another 8 properties.

Object:

- The site is beyond the built up limits of the village and is not an allocated site. The departure may be permissible though policy 49 of the NPPF if the housing land requirements had not been met. The Council has 5.1 years supply plus 5% and there is therefore no presumption in favour of this application.
- If development were permitted it would open the potential for development of other fields along West End
- Launton is under constant threat of being absorbed into Bicester with only a few fields now separating it from the town. The realignment of the ring road and associated railway bridges will further erode this separation.
- The application suggests 8 properties will not make a significant impact on traffic. The village is however affected more by traffic generated from the expansion of Bicester. Two developments in the village in the last 12 months have added probably 50 plus houses and their cars. There have been no serious accidents at the cross roads, but new development and increasing traffic from Bicester are rapidly contributing to a serious issue at the cross roads.
- Most of the tree planting is behind the houses and it does not ameliorate the view from the existing five houses which will have their outlook permanently altered.
- West End has a distinct character and in particular stone cottages and a rural spacious outlook. The proposed properties would be completely out of keeping with the neighbourhood and a significant blot on the landscape and would diminish the green rural nature of the area and increase noise pollution.
- The increase in traffic would mean this was no longer a safe environment for pets and wildlife to survive in.
- Approving development would open the floodgates for additional developments which would change Launton from being a quiet discrete village with its own distinct character into another suburb of Bicester.
- Accident data shows two accidents between 2010 and 2015. Given the development at Chestnut Close and if added to a further 8 houses the increased traffic would increase the risk of accidents. West End is a narrow road with a sharp unsighted bend at the Blackthorn Road end. At the other end West End is not wide enough to accommodate passing traffic.
- Much of the parking for properties on West End is on the road which makes for a single lane for traffic. Cars already need to mount the pavement to allow traffic to pass, which brings a risk to pedestrians. The frequency of these events would increase.

- The transport statement does not take account of the impact widening the existing access would have on parking for existing properties. Properties in the vicinity park on the road and widening the access will remove at least one parking space.
- It is likely that the houses will accommodate a number of occupants particularly given affordability problems and children having to live longer at home. This will mean a greater number of cars for each property which I cannot believe can be accommodated within the properties. Thus there would be overspill of vehicles onto the existing parking area.
- The buffer zone to Bicester would be taken away. These buffer zones should be kept to protect the villages around Bicester.
- The development would be out of character with the cluster of old cottages which are in keeping with their surroundings.
- Where are the 'local water courses' where the water would go. At present after large downpours West End floods.
- Properties facing the site will lose their uninterrupted views over the field. Large detached houses facing these properties will remove privacy from amenity spaces.
- The increased traffic would increase traffic movements and disturbance in front of the existing properties.
- This area of West End has a calm and tranquil village setting. The existing properties have significant character, many dating to the 19th Century. The development would have a negative effect on the character of this part of West End.
- The development would set a precedent for further proposals.

3. Consultations

3.1 **Launton Parish Council:** objects to the application on two grounds -

- Traffic in West End and at Launton crossroad;
- The development is outside of the village and would have breached the green buffer policy ESD15 of the emerging Local Plan. Planning applications have been refused on these grounds previously and the decisions upheld at appeal.

The Council also comment that the traffic predictions for car journeys extrapolated from a small number of villages in very different parts of the country cannot be taken seriously.

3.2 **Council Waste and Recycling Manager:** comments that no mention is made of separate waste or recycling storage which needs to be addressed before permission is granted. A S106 contribution of £106 per property is required for refuse bins.

3.3 **Environmental Protection Officer (contaminated land):** No comments received

3.4 **Conservation and Design:**

1.0 Introduction for a proposed development abutting the edge of the Village of Launton:

C.262 of the Local Plan confirms that Launton as a Category A Village can accommodate development in gap sites, as is currently being built between the industrial shed and the housing edge of the village, conversions and minor development. Assessing whether proposals constitute acceptable 'minor development' in terms of : size of village and level of service provision; The site's context within the existing built environment; whether it is in keeping with the character and form of the village; its local landscape setting; careful consideration of the appropriate scale of development.

The effect on the amenity of the houses to the north of the site is primarily a planning matter that will be dealt with in the Case Officer's assessment.

1.1 Size of village and level of service provision:

The village is defined as a Category A village capable of minor development, infilling, conversions. Service provision and size of village will be dealt with in the Case Officer's assessment.

1.2 The site's context within the existing built environment:

The proposed development site would result in an extension of the village towards Bicester and its green buffer.

The proposed housing is on a greenfield site abutting the SW edge of Launton Village. The greenfield site is currently used as a paddock with a stable block, beyond which is a strong belt of overgrown shrubbery which screens the continuation of the West End Lane which is now an abandoned lane, curtailed when the railway was built. The shrubbery to the lane in turn screens a long field parallel with the embankment to the railway, which is set at a higher level which is almost comparable with the top of the tree-line screening the lane.

The railway runs at high level to the SW of the site and although it is visually well screened, any existing noise issue is likely to increase with the improvements to the railway. Noise issues will be dealt with in the Case Officer's assessment.

Public footpaths run past the site, making this a significant view for walkers and cyclists entering the village.

1.3 Is the proposed Minor Development in keeping with the character and form of the village?

West End links the well-used footpaths which run through the field bounding the railway line, to the c18thC routeway, between Blackthorne and Bicester. The footpaths in turn link the village of Launton to Bicester, Langford, Wretchwick Farm and Ambroseden. The footpath approach towards Launton makes the proposed site of high importance, as it gives walkers their first impression of the village.

The existing edge of the village is currently defined by housing which turns the corner from West End and lines the start of a track, bounded by black estate railings, to the industrial shed. A new bungalow is currently under construction

on an infill site, which closes the gap between the housing and the industrial shed. Together, this now forms a hard built edge to the village. This edge is not picturesque but it is a historic line, beyond which houses have not strayed. The replacement of the industrial shed with a house, as shown as plot 8, in principle would be acceptable subject to design and layout, as this would now be considered infill within the village.

A quick analysis of the OS Maps show the properties on the north side of West End fronting the street with a long strip of land beyond. Hedgerows have grown up on these boundaries and the field pattern today is much as it was on the earliest OS Maps. The existing paddock referred to as Jack's Field, in the current application, was divided in two by a hedgerow on the OS Map of 1875-87 (highlighted in blue) but these appear to have been felled by the 1899-1905 map.

The tree line dividing the field (highlighted blue) in this 1875-87 map aligns with the southern edge of the proposed houses (plots 2-7).

The proposed layout of seven of the eight house would effectively fill the entire field to the NE of the 'blue hedgerow line' shown on the 1875-87 map. This would be contrary to the historic pattern of building in the village, which although it has grown organically in the interim years, it retains the open strips of field behind the buildings fronting and accessed from West End.

The proposed housing development layout of detached houses with integral garages, would not be in keeping with the historic character and form of the village.

The OS Maps show the Grade II listed building 'Old Timbers, 62 West End' has been built onto since the 1875-87 map. There is a modern development to the east of West End, called Chestnut Close which does not respect the way the rest of the village has organically developed.

If a case could be made by the Applicant that it was acceptable to build on this greenfield site and effectively extend the village, then the historic building line would be an important reference point as would set the precedent. It is considered that if a case can be made, the development should be limited to one or two properties fronting West End, retaining the traditional linear field pattern behind to the north west. There may be scope to ameliorate the effect of new openings reducing car park space by keeping the building line back from the edge of the site, in line with the listed building frontage dictated by the first two Grade II listed properties on the north side of West End.

The access to the stables would be more difficult with the proposed arrangement and any loading of horses into boxes would need to be done in the car park which could be problematic.

Any access from the car park would reduce the parking currently available to residents of West End, there may have to be some compensation in terms of increasing the size of the car park area to ensure car parking numbers were not reduced this will be dealt with in the Case Officer's assessment. The extension of the car park would only be possible by setting any development

back from the car park, possibly in line with the first two listed properties on West End.

1.4 Its local landscape setting

The village of Launton is set in farmland with dividing hedgerows which have not been managed and have grown up into trees.

Careful consideration of the appropriate scale of development

The scale of the development can only be assessed in plan terms and it is considered that 8No detached houses is not appropriate for a greenfield site which would extend the village and would not follow the traditional character of development on the north side of West End.

3.5 **Ecology Officer:** No comments received

3.6 **Arboricultural Officer:** No comments received

3.7 **Landscape Officer: Visual Impact** – The site is open to views from the PRoW immediately east, near to the existing stable block. There will be a high rate of significance of effect on receptors in respect of plot 1. In this regard the eastern boundary hedgerow near the car park is of a poor structure and will need to be supplemented with native shrubs to reinforce it. A wider view of the site will be experienced through an un-hedged boundary on the PRoW ie from the western corner of the site. The homes will be glimpsed from the elevated railway crossing, however, the indicative tree planting to the southern area/boundary has the potential to provide a good screen for the above visual receptors at the above viewpoints. Detailed landscape proposals should clarify this matter.

The residents (residential receptors) immediately north of the access road will lose a view of an attractive paddock if this development is consented, and significance of effect is probably going to be medium/high for these receptors. I would expect this issue to be addressed more fully with a visual appraisal. The access road is intended to be upgraded to an OCC adoptable. This therefore should allow planting of highway trees to provide both amenity to the street and visual mitigation for the residents.

Protection of vegetation – The root protection areas of all trees and overgrown hedgerows on the boundaries that are within an influencing distance of the development are to be identified on a land survey drawing. Root protection areas are to be indicated. This survey is to be done in accordance with BS5837. This is important because the site is contained effectively with structural vegetation which will effectively screen the development from visual receptors. Plot 1s footprint is very close to trees on the site boundary with the usual light reduction to windows and overshadowing to the garden. I recommend that the unit is located further away from the site boundary to ensure these problems are alleviated. An overshadowing study should be implemented to ensure that the unit and garden are not impacted upon by overshadowing trees.

POS/Play – The future management and cost of the informal open space is a concern. I would expect to see a S106 agreement to cover these issues and the parties involved.

Although the indicative tree planning is acceptable, it does not successfully relate to the wildlife area. I think the wildlife area should be integrated and become part of the POS. The area will be hidden from view and with limited public access it will in theory be at risk from garden encroachment. In any event it should be decontaminated sub soiled, top soiled and planted with native thicket. If this area does not successfully integrate with the POS then it may be necessary to redraw the red line to exclude the area. Land ownership around the site should be clarified including access arrangements. Cannot the stables be demolished and the area incorporated into the POS. A greater degree of control and protection to the structural landscaping can be achieved if the red line included these features.

If the red line were to include the southern half of the field as shown on the indicative layout drawing number 1503/01A there would be more potential for revising the layout around green space that includes a LAP with landscaped buffer fronting onto the active frontage of units. A revised housing layout is required. The play provision should adhere to CDC's planning obligation SPD to ensure that maximum play potential and appropriate quality standards are achieved.

Proposed planning conditions – A standard landscape condition will be required for hard and soft landscape detailing, along with landscape maintenance conditions to ensure maintenance in an appropriate manner. Tree pit condition for trees in hard and soft areas is also required. A hedgerow condition specifying a minimum height for the southern and eastern boundary hedgerows are required.

Contributions The following contributions are requested in respect of landscaping and POS -

Contribution	Cost
Hedgerows and formal hedges in informal open space	£35.78 per m2
Attenuation Pond	£14.91 per m2
Informal open space	£25.07 per m2
Play area	£31,995.52

- 3.8 **Thames Water:** Surface water drainage – it is the responsibility of the 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 ensures 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.

No objections regarding sewerage infrastructure.

No objections in respect of water infrastructure capacity, but recommend an informative as follows -

Thames Water aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres per minute at the point where it leaves Thames Water's pipes. The developer should take account of this minimum pressure in the design of the proposed development.

3.9 **Environment Agency:** The application is deemed to have a low environmental risk and due to workload the Environment Agency is unable to make an individual response.

3.10 **Oxfordshire County Council Consultees**

Highways Liaison Officer: makes the following comments –

Due to the limited range of facilities particularly within walking distance of the application site the scheme could be considered to some degree as an unsustainable location as it is on the fringe of the village. However, the nearest bus stops are within a reasonable walking distance (i.e. some 450m) and the local primary school is some 800m away, on this basis residents do have choice in their means of transport not forgetting cycling.

In terms of traffic associated with development according to the TRICS database in the peak hours the maximum number of vehicles generated by the proposal would be 6 vehicles two way flow which equates to one vehicle every 10 minutes.

TRICS is a computerised database and trip rate analysis package used for transport planning and development control purposes. TRICS provides vehicle trip rates for a variety of land uses and enables the breakdown of surveys by very specific criteria in this case dwelling houses.

The database comprises of over 6500 transport surveys at over a 110 different types of development and allows comprehensive trip rate analysis and auditing.

TRICS continues to be the nationally accepted standard source of trip generation information. TRICS was established in 1989 by a consortium of County Councils and is the system that challenges and validates assumptions about the transport impacts of new developments.

Essentially it is considered that the proposal overall is not that traffic intensive in terms of the number of units and as such is not considered a highway safety issue given the small amount of vehicles the development would generate.

In conclusion the NPPF goes on to make the following important statement which redefines the parameters against which planning decisions should be taken. "Development should only be prevented or refused on transport grounds

where the residual cumulative impacts of development are severe” in the case of this proposed development in traffic attraction terms i.e. the low numbers of traffic generated by the proposal are considered insignificant and this particular scheme although not ideal in terms of the location which is on the fringe of the village the overall traffic impact is not considered 'severe' and we would find it difficult to sustain an objection/refusal on these grounds.

The County Council as Highway Authority therefore has no objections to the proposal from a traffic and highway point of view subject to the following conditions;

i. That prior to the first occupation of the proposed development the access works between the land and the highway shall be formed, laid out and constructed strictly in accordance with the Local Highway Authority's specifications and shall be undertaken within a section 278/38 agreement under the Highway Act 1980.

ii. Prior to the first occupation of any dwellings hereby approved, all of the estate roads, footways/footpaths shall be laid out constructed and lit and drained in accordance with Oxfordshire County Council's construction specifications.

iii. No development shall commence on site for the development until a 'Construction Traffic Management Plan' providing full details of the phasing of the development has been submitted to and approved in writing by the Local Planning Authority (in consultation with the Local Highway Authority) prior to the commencement of development. This plan is to include wheel washing facilities, a restriction on construction & delivery traffic during construction. The approved Plan shall be implemented in full during the entire construction phase and shall reflect the measures included in the Construction Method Statement received.

Layout

It is appreciated that an indicative layout is submitted at this time, however, the final layout of the proposal will be subject to Oxfordshire County Council perusal when the reserved matters/detailed planning application is submitted.

Informative:

Prior to the commencement of development, a separate consent must be obtained from Oxfordshire County Council's Road Agreements Team for the proposed access and verge/kerb reinstatement works under Section 278 of the Highway Act 1980. For guidance and information please contact the County Council's Road Agreements Team on 01865 815700 or email Road.Agreements@oxfordshire.gov.uk

Drainage Engineer:

Development shall not begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, 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 scheme shall also include:

- Discharge Rates
- Discharge Volumes
- Maintenance and management of SUDS features (this maybe secured by a Section 106 Agreement)
- Sizing of features – attenuation volume
- Infiltration in accordance with BRE365
- Detailed drainage layout with pipe numbers
- SUDS (list the suds features mentioned within the FRA to ensure they are carried forward into the detailed drainage strategy)
- Network drainage calculations

4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

Cherwell Local Plan 2011- 2031 – part 1

PSD 1	Presumption in favour of Sustainable Development
ESD 6	Sustainable flood risk management
ESD10	Protection of biodiversity and the natural environment
ESD13	Local landscape protection and enhancement
ESD 15	The character of the built and historic environment
Policy villages 1	Village categorisation
Policy villages 2	Distributing growth across rural areas
BSC 1	District wide housing distribution
BSC 8	Securing Health and well being
BSC 10	Outdoor sport and recreation provision
BSC 11	Local standards of provision – open space

Adopted Cherwell Local Plan (Saved Policies)

H18	New Dwellings in the countryside
C15	Preventing Coalescence of settlements
C28	Layout, design and external appearance of new development
C30	Design of new residential development

4.2 Other Material Policy and Guidance

National Planning Policy Framework

Planning Practice Guidance

5. Appraisal

5.1 The key issues for consideration in this application are:-

Planning History
Principle of Development
Design and Impact on the Character of the Area
Parking and Highway Safety
Residential Amenity
Flood Risk
Ecology and Protected Species

Planning History

- 5.2 There is a controversial planning history to the site which includes enforcement matters on the unit located on the north-western part of the site which remains outstanding. The main relevant aspects of the planning history are identified below;
- 5.3 Planning permission was granted under reference 01/00267/F for the erection of a stable building on land which is outside but adjacent to the application site but within the applicant's ownership. Following the grant of planning permission a subsequent application for revisions to the position and size of the stables was refused planning permission under reference 02/01292/F. A further application to demolish part of the building and retain the remainder was approved under reference 02/02078/F.
- 5.4 Subsequent to these decisions, applications for non-compliance with condition 6 regarding the creation of a new access were submitted. 03/0036/F and 03/01019/F were refused because of conflict with pedestrian use of the footpath.
- 5.5 The erection of a new dwelling adjacent to the northern site boundary was originally refused permission in 2005 (05/02486/F) on the grounds of the site being in a backland position and the access close to other properties causing noise and disturbance to their living environment. In addition West End and the junction at the end of the road were considered unsuitable for additional traffic. Permission was subsequently granted for a dwelling in this location (11/00246/F). In reaching this decision, the Council concluded that the site represented a sustainable location within the village and that due to a recent appeal decision elsewhere in the village the highway objections could not be sustained.
- 5.6 Planning permission was granted under reference 10/00021/F for the erection of a store/workshop building on the north-western part of the site. This building has been erected but there are ongoing enforcement issues relating to the site. An Enforcement Notice alleging the breach of two conditions attached to this planning permission was served by the Council and appealed by the applicant. This appeal was subsequently dismissed and the Enforcement Notice upheld. The breach of conditions related to the use of the building and site for manufacturing purposes and storage of materials and vehicles outside of the building.
- 5.7 An application was submitted in 2013 (13/01834/F) with the following description "*Retain existing storage containers, covered bays and portacabin (office, kitchen and wc facilities) and allow use of workshop/store for repair and*

maintenance work of agricultural machinery and equipment and for light metalwork fabrication; PROPOSED - New building to provide covered bays and secure store, raised deck for fuel container and fence". The application was withdrawn but a revised proposal was submitted in 2014 under reference 14/01916/F. This application was refused for the following reason:-

The proposed new buildings/structures and the unauthorised buildings/structures would cause detrimental harm to the rural setting of the village and the visual amenities of the wider area. Furthermore, the proposed industrial use of this workshop and the surrounding site would be incompatible with the residential character of the area and would cause an unacceptable level of nuisance to the occupants of the adjoining premises in terms of noise and disturbance. As such the proposal is contrary to saved Policies C7, C28, C31 and ENV1 of the adopted Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework 2012.

Principle of Development

- 5.8 Section 38 (6) of the 1990 Town and Country Planning Act sets out the requirement for decisions to be made in accordance with the development plan unless material considerations indicate otherwise. This remains the statutory position. The NPPF at paragraph 11 confirms the continued importance of the development plan in the decision making process and that the changes introduced through the NPPF do not override the importance of the plan led system.
- 5.9 Launton was identified in Policy H13 of the 1996 Local Plan as a category 1 village where development is appropriate within the settlement boundary through infilling, conversions or minor developments. This policy has been replaced by Policy Villages 1. The application site lies clearly beyond the built up part of the settlement other than the north-western corner where a modern portal frame building exists. Whilst there are enforcement issues relating to its use, this in my view forms part of the built up part of the village. The remainder of the site is an open paddock and is in open countryside. There is therefore conflict with Policy Villages 1.
- 5.10 Policy villages 1 of the Cherwell Local Plan 2031 Part 1 permits development within the built up area of the settlement for infilling, conversions or minor development. Minor development is identified as schemes under 10 units, although the precise definition is left open, dependent upon the scale appropriate for each individual village.
- 5.11 The Council in its latest Annual Monitoring Report published in March 2015 indicated that it could now demonstrate a five year housing land supply with a 5% buffer. The calculations show a supply of 5.1 years. This position is significant as it means that policies for the supply of housing remain up to date. Therefore the application by way of being outside of the settlement for most part conflicts with Policy Villages 1 of the Cherwell Local Plan 2031 Part 1. This conflict in policy weighs significantly against the proposals.
- 5.12 The position of the site outside of the village and the conflict identified above is not however the end of the matter. The presumption in favour of sustainable

development which is the golden thread running through the NPPF is followed through within Policy ESD1 of the Cherwell Local Plan 2031 Part 1. It is necessary therefore to look at other factors in addition to the policy conflict in order to determine whether the development can be regarded as sustainable. There is a recognition in Policy Villages 2 that there remains a requirement for further housing within the rural areas. This is confirmed in table 5 of the plan where a further 750 dwellings in addition to the windfall allowance or committed sites in excess of 10 units as of 31st March 2014. In view of this continuing need and absence of a published plan to indicate where these units will be provided through site allocations, there must be a recognition of the potential for these additional houses to be located in the higher category, more sustainable villages. This would include Launton. In my view therefore caution must be attached to simply seeking to reject proposals which are outside of settlement boundaries in principle.

- 5.13 Site specific matters on design, landscape impact etc below. There is a key issue which is relevant to this particular site which is contained in the 1996 Local Plan and the Cherwell Local Plan 2031 Part 1. Policy C15 of the 1996 Local Plan remains saved and seeks to prevent the coalescence of settlements and refers specifically to Bicester and Launton within the text. The application site did fall within a buffer area in the submission Local Plan through policy ESD 15. This sought to provide specific areas where development should be restricted and special attention paid to retaining the separate character of villages surrounding Bicester. This policy has been deleted from the adopted version of the Local Plan and therefore whilst there remains a need to consider the issue of coalescence of Launton with Bicester, including the impacts of the expansion planned to the east of the town, there is no specific area identified within a policy or on the proposals map which seeks to restrict development. The application therefore stands to be considered against the less specific policies such as ESD 13 and ESD 15.
- 5.14 Bicester is proposed to expand and South East Bicester (Bicester 12) extending the town to the western side of the railway line close to the village of Launton. The protection of the individual character of the village remains a relevant consideration which can be achieved through policy C15 of the 1996 Local Plan as well as policy Bicester 12 and also ESD 13 and ESD 15 of the Cherwell Local Plan 2031 Part 1, despite the deletion of the green buffer areas. The development of houses on the land would clearly reduce its openness and lead to encroachment of this area and reduce the gap between the village and Bicester including the south east expansion area. The site is however enclosed by mature hedgerows and woodland planting and is visually separated from the open countryside beyond. The development of the land would lead to development closer to Bicester, however, in view of the site's characteristics any encroachment would not have material impact on the visual degree of separation. I do not therefore conclude that the development of 8 units would result in coalescence between Launton and Bicester and I do not consider there to be conflict with policy C15 of the 1996 Local Plan as a result.
- 5.15 In reaching conclusions on the issue of the principle of development it is recognised that a small area of the site contains built development. Whilst there are ongoing enforcement issues with that part of the site, there is built

development which is authorised. The development of the north-western part of the site would not in my view visually encroach into the countryside.

Design and Impact on the Character of the Area

- 5.16 The application site is relatively contained through existing boundary landscaping along the eastern, southern and western boundaries of the field. The site is therefore relatively self-contained and its development will not result in any wider harmful visual appearance or character of the countryside. Whilst the NPPF continues to protect the intrinsic qualities of the countryside as set out in paragraph 17 it is necessary to balance this in principle protection against meeting the development needs of an area and in this case the need to identify additional land outside of rural settlements in order to meet the housing needs of the District. Therefore it is necessary to identify specific harm over and above simply developing within the open countryside for proposals to be refused. The landscape officer's comments do not point to any specific landscape of visual harm that would result from the development of the site. The new properties would be visible from public locations around the site but within a limited area of visibility. The wider landscape would be protected. I do not therefore consider there to be any justification for refusal based upon the impact on the character of the landscape.
- 5.17 In terms of the design quality of the development, although an outline scheme, there is an indicative layout which the supporting information suggests is the preferred approach for the development of the site. It is important however to recognise that given that all matters are reserved, the layout is not for consideration at this stage. The issue to assess is whether a development of 8 units could be successfully accommodated within the application site and not the specific layout which is submitted.
- 5.18 The indicative layout shows the houses fronting an access road which follows that of the existing means of access to the commercial building on the north-western part of the site. A large area of open space sits to the rear of the residential properties with the rear boundaries abutting this space. Although the open space is not within the red line area, this arrangement is not considered to be an appropriate quality of design and these features are not appropriate for this location. I do not consider the open space to be a safe attractive area and houses backing onto this is similarly inappropriate visually. It is also difficult to imagine how the stable building could be retained within in an area of open space associated with a housing development. It seems impractical to have such a building with no land associated with it given its use. I therefore consider that it would seem unlikely to realistically remain in its current use in the long term.
- 5.19 The layout of the indicative plan is poor and would not be acceptable, but the application is not seeking permission for this. Therefore the question is whether the site could accommodate 8 dwellings and the open space necessary. The site area is 1.28 hectares which is far in excess of that necessary to accommodate 8 dwellings. The amount of development does not make efficient use of the land which is required by paragraph 58 of the NPPF. Policy BSC2 of the emerging Local Plan promotes a minimum density of 30 dwellings per hectare. Whilst it is not reasonable to have an inflexible approach to the issue

of density and there is a need to have appropriate densities for a particular site having regard to its context and environmental capacity, there remains the need to make efficient use of land. Furthermore 8 dwellings do not trigger the need for affordable housing. If a more efficient use of the land was proposed then affordable housing would be provided which would therefore deliver a significant additional public benefit. I am concerned over the extremely low density of the development and the application does not justify this level and as such conflicts with the requirements of the NPPF.

- 5.20 The undeveloped area of the application site which is the majority of the land is a single open field. It is relatively flat and does provide an attractive edge to the village which provides part of the setting of the southern part of the settlement. Currently there is a distinct separation between the edge of the village and the more open land to the south of the application site. Approaching the site along the public rights of way, the field provides a valuable separation to the built up part of the village which has a very clear boundary, marked by the line of existing properties and the existing access road serving the commercial unit. Whilst the replacement of the commercial unit with a residential property would have visual benefits, I am concerned that the development of the application site will erode the attractive, green setting to the village. The field provides an attractive approach to the southern edge of the settlement and although not widely visible this does not undermine its importance.
- 5.21 The Council's design and conservation officer has examined the issue of the impact of the development of the site in detail. She has concluded that the development of the site does not respond to the character of the village street and that if development is to be acceptable it should be restricted to a limited frontage development facing West End. The replacement of the commercial building is acceptable as effectively an infill plot but the wider development is assessed as being unacceptable. I agree with these conclusions and am of the opinion that the development of the open field would be out of character with and harm the setting of the village. I therefore consider its development to cause material harm which is not justified and would conflict with the need for high quality of design as identified in the NPPF and also Policies C28 and C30 of the adopted Local Plan and also ESD 16 of the emerging Local Plan.

Parking and Highway Safety

- 5.21 A separate transport assessment has not been submitted and therefore the LHA made their own estimates of trip generation from interrogation of the TRICS database. Giving due consideration to the type, scale and location of the development, they estimate 1 additional trip every 10 minutes during peak hours.
- 5.22 Concerns have been raised regarding the ability of the local highway network to accommodate safely the increased traffic resulting from the proposed development, specifically regarding the nearby crossroads, alignment of West End and on-street parking pressures along Chestnut Close and West End. The crossroads would not accord with current highway design guidance and visibility between approaching vehicles from Bicester Road and Station Road is poor. West End bends tightly with forward visibility being restricted by a boundary wall immediately adjacent the carriageway. On-street parking is

commonplace and may obstruct the movement and visibility of highway users. Whilst generally the above matters are undesirable in terms of new design, they do not necessarily preclude development such as this; indeed, research has shown limited visibility and carriageway width leads to more cautious driving and has the potential to reduce accidents. Locally this is reflected by Road Traffic Accidents Records, which show there has been only 1 recorded accident in the last five years and, furthermore, that accident was unrelated to the layout of the highway and parked vehicles.

- 5.23 Previous applications along West End, particularly for the extension to Chestnut Close were refused planning permission on highway ground, however at an appeal into one of those the Inspector concluded as follows-

'I saw the bend and junction constraints on West End and the locations of the nursery school and public house. I do not doubt that on-street parking can be very heavy here in the evenings. Adequate parking would be provided within the site, no more than one extra vehicle would exit the site at once and they would see and be seen adequately. In the absence of evidence about accidents I consider that the extra traffic would not create an unacceptable danger to others.'

- 5.24 The NPPF provides specific guidance at paragraph 32 stating that *"development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe."* The Highway Authority have examined the impacts of the development and concluded that the relatively limited increase in vehicle movements along West End during peak hours would not result in a severe impact and as such they have not objected to the application. Having considered the matters above, in the context of the National Planning Policy Framework (NPPF), given the modest level of traffic generation, accident history and findings of the planning Inspector on the nearby site, I do not consider a refusal on the grounds of traffic impact and highway safety would be sustainable.

- 5.25 Sustainable development lies at the core of the NPPF and with regard to transport this relates to accessibility and particularly the ability of future residents to access goods and services in an efficient manner, without placing high dependence upon the use of private cars. The site is relatively remote from services within the village but reasonably accessible to bus to Oxford via Bicester and occasional services to neighbouring villages, although these services are limited. In this regard, I consider that the site is appropriately accessible, particularly taking account of the proposed designation as a category A 'service centre' within the submission Local Plan.

Residential amenity

- 5.26 A noise survey is included as part of the planning application. The main issue regarding the site relates to the presence of the railway line to the south of the site. The assessment takes account of the planned increase in frequency of service along this line in reaching its conclusions. The assessment provides evidence on noise levels and examines this against the LOAEL (Lowest Observed Adverse Effect Level). This is defined as a level above which adverse effects on health and quality of life can be detected.

- 5.27 The results of the analysis indicates that the LOAEL levels can be achieved for internal spaces during the day for new properties on the application site through employing appropriate specification to the design of the properties. The combination of double glazing, hit and miss trickle ventilation etc can be employed to create suitable internal noise levels during the daytime period. At night there is an issue with opening windows. An open window significantly reduces the sound insulation properties within the construction of a property and in such circumstances the LOAEL levels would be exceeded. LOAEL levels can only be achieved during the daytime with windows open and would not be satisfactory during the night time period.
- 5.28 In terms of external spaces the assessment indicates that appropriate noise levels can be achieved during the daytime. LOAEL levels would be exceeded during the night time period, however as this runs from 23.00 until 07.00 this is not considered to be relevant in view of the likely use of gardens during that period.
- 5.29 There is a problem therefore with night time noise levels where windows are open. The design and layout of the scheme are not under consideration during this application however the applicant has indicated a strong preference for the indicative layout included with the application. The site is relatively narrow and options for the layout are limited. The provision of houses with their main rear facades facing towards the southern boundary and the sources of the noise from the railway line would in my view be inappropriate as it would result in main habitable rooms facing the noise source. In summer months when windows are likely to be open during the night there would be the potential for disturbance. This could affect a significant number of main rooms and I have concerns over the quality of the living environment that would be produced. The NPPF requires high quality of design within new developments, and this includes creating attractive and comfortable places to live (paragraph 58). Policy BSC 8 of the emerging Local Plan reflects this national guidance and I am concerned that there is no guarantee that the minimum appropriate standards can be achieved with the development and this could lead to an inappropriate level of amenity for future residents. Such a situation would not be acceptable and should be avoided.
- 5.30 Concerns have been raised regarding issues of overlooking from the new development as well as noise and disturbance from vehicle movements. The access road which is shown on the indicative plan runs past the southern boundaries of a number of existing properties. This route is not fixed as part of this outline proposal, however, constraints on the position of the access make this arrangement a strong possibility. The access route currently serves the commercial unit on the north-western part of the site. Notwithstanding the enforcement issues which are ongoing, the authorised use of the building would generate traffic movements, including commercial vehicles. I am satisfied that traffic generation from 8 residential units will not be significant and whilst there would be an impact on the residential amenities of neighbouring properties, I do not consider these to be at a level where harm would be caused that could warrant refusal for this reason.

- 5.31 In terms of the impact from the new properties in terms of overlooking or overbearing impacts the site is large enough to ensure suitable separation is provided between new and proposed properties through the detailed design process. I do not consider there to be any conflict in this regard.

Flood Risk

- 5.32 The application site is accompanied by a flood risk assessment which examines the potential flood sources in the area. The land lies well beyond the flood risk areas which are identified on the Environment Agency flood maps which gives a strong indication that the land is not at risk from fluvial sources. In addition, examination of records for surface water, ground water and sewerage flooding indicate a low risk and no specific instances associated with the site. The flood risk assessment indicates that there is no significant risk of flooding based on the data available.
- 5.33 The NPPF sets out the Government's policy on flood risk and seeks to ensure new developments are designed in order to avoid vulnerability to climate change. Paragraph 100 seeks to avoid inappropriate development in areas at risk of flooding including the use of the sequential test. The key driver of Government policy is to avoid placing new developments at risk of flooding both now and also in the future having regard to the potential impacts of climate change and this is included in Policy ESD 6 of the emerging Local Plan. The flood risk assessment which accompanies the application demonstrates that the site is appropriate in principle for residential development and that satisfactory on site attenuation can be provided in order to manage surface water drainage. I do not therefore consider any harm to arise through matters of flood risk or drainage.

Ecology and protected species

- 5.34 A phase 1 ecological survey accompanies the application which provides the evidence in support of development by the applicant. This assessment indicates that the site has a low ecological value being dominated by improved grassland. In terms of potential for protected species there is little opportunity within the site. There is some potential foraging habitat for bats along the site boundaries and limiting light spill in these locations will be necessary and could be dealt with through the detailed design process.
- 5.35 The report does identify the potential for ponds in the vicinity to have the potential to house Great Crested Newts. These are outside of the application site but there is potential for newts to move across the site. Clearly the development would pose a significant risk to great Great Crested Newts if any such use did take place. The report confirms the need for a mitigation licence from Natural England in such circumstances and measures employed to prevent the use of the site. In normal circumstances the full extent of the impacts of a development on the natural environment should be known at the outline application stage in order to determine whether any impacts from development can be adequately mitigated. In this case there is some potential for the use of the site by Great Crested Newts but there is a gap in the evidence base. It does however appear that in circumstances where Newts were living in the vicinity that mitigation could be employed to prevent harm to

the population. I therefore conclude that in this instance conditions requiring a suitable Great Crested Newt survey and if appropriate mitigation measures could be attached to any planning permission that would suitably address this issue.

Consultation with Applicant

- 5.36 Given the fundamental concerns over the principle of the development of the application site it was not considered appropriate to enter into discussions with the agent as these matters could not have been addressed.

Conclusion

- 5.37 The application for a total of 8 dwellings on the land would involve development outside of the village, taking development closer to Bicester. The green buffer designation has been deleted from the adopted Cherwell Local Plan 2031 Part 1 and is no longer a material consideration. The retention of a separate identify of the village remains a relevant consideration and is addressed under policy C15 of the 1996 Local Plan and policies including ESD 13 and ESD 15 of the Cherwell Local Plan 2031 part 1. The site is enclosed by mature landscaping and its development would not in my assessment result in visual coalescence with Bicester. The site is outside of the settlement and there is conflict with policy villages 1 of the Local Plan which seeks to restrict development beyond the settlement boundaries. This must be balanced against the need for additional land outside of settlements in rural areas and even where there is a five year land supply it remains necessary to consider such proposals against the presumption in favour of sustainable development. Launton as a category A settlement is considered relatively sustainable and as such I do not consider an in principle objection to development beyond the settlement boundary can be sustained.
- 5.38 The site is relatively contained, with limited impacts from any development on the wider landscape. However the site provides an attractive setting on the edge of the village, particularly given the close proximity of the footpath network and change in character experienced from the open agricultural land to the south of the settlement. There would be significant harm caused to the character and setting of the village through the development of this field which would conflict with the requirement for high quality design which is a key aspect of national planning policy.
- 5.39 The noise survey supplied indicates that appropriate standards cannot be maintained during night time hours for new houses if windows are left open. This is a likely scenario during summer months and the proposals as currently submitted in my view fail to show that an adequate level of amenity can be provided. I do not consider that the development would result in unacceptable impacts on existing properties through overlooking or disturbance and matters relating to ecology and flooding can be addressed through conditions at the detailed design stage. In respect of traffic matters the increase in traffic movements would be limited and balanced against the removal of the authorised commercial use from the site. Recent decisions in the village including an appeal decision have accepted further traffic along West End and

there are not considered to be any change in circumstances relating to this application.

6. Recommendation

Refusal - for the following reasons

1. The development of the application site would result in the encroachment of built development into an attractive open parcel of land which provides an important open character and setting to the village of Launton. The introduction of built development on the site would be out of keeping with the established pattern along West End and cause substantial harm to the character of the settlement, contrary to Policies ESD 16 and village policy 1 of the adopted Cherwell Local Plan 2011-2031 and to the NPPF.
2. The information submitted within the Noise Impact Assessment indicates that that the development would be unable to achieve suitable LOAEL noise levels within the properties during the night time period. This would lead to the creation of an inappropriate internal living environment for future occupants which would be contrary to the requirements for high quality design as set out within Policy C30 of the adopted Cherwell Local Plan and BSC 8 of the submission Cherwell Local Plan and the requirements of the NPPF

Statement of Engagement

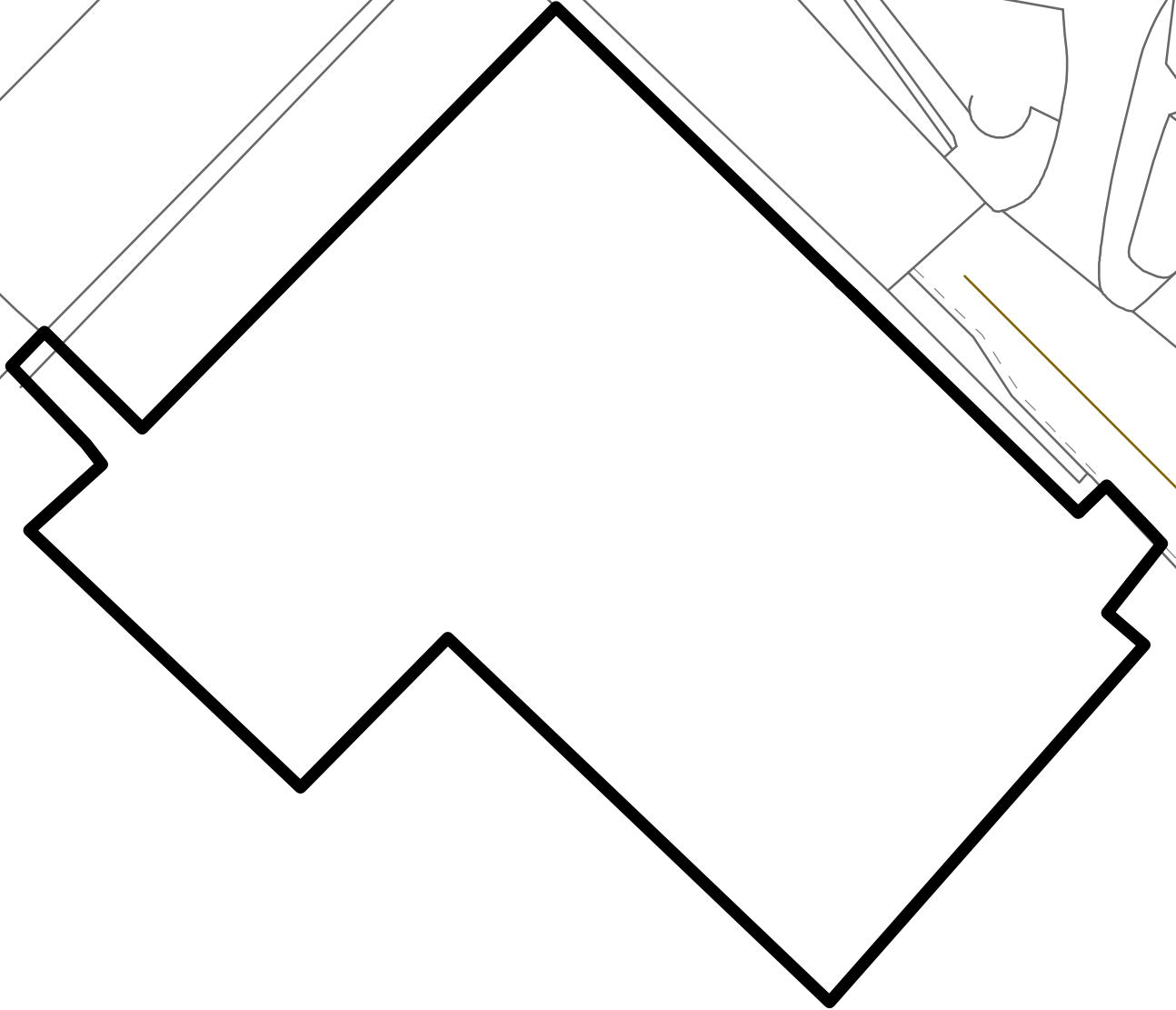
In accordance with the Town and Country Planning (Development Management Procedure (England) (Amendment No 2) Order 2012 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council in a timely and efficient way.

Agenda Item 14

15/01006/F

Land Adj Bicester Community College
Queens Avenue
Bicester

Tank



NORTH
Scale 1:500

15/01006/F

Land Adj Bicester Community College
Queens Avenue
Bicester

HIGHFIELD

BICESTER



Scale 1:5,000

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Site Address:**15/01006/F**

Land Adjacent to Bicester Community College
Queens Avenue
Bicester

Ward: Bicester Town**District Councillor(s):** Cllrs R Mould & D M Pickford**Case Officer:** Matthew Parry**Recommendation:** Approval subject to conditions and completion of legal agreement**Applicant:** Activate Learning**Application Description:** Erection of three storey studio school with associated landscaping and car/cycle parking**Committee Date:** 3rd September 2015**Reason for Referral:** Major development.**1. Site Description and Proposed Development**

- 1.1 The application site consists of a corner of playing field land that forms part of the Bicester Community College grounds which is shortly to begin its transition to Academy status under the control of the applicant for this new development – Activate Learning. The site itself is to the southeast of the existing school building complex and therefore located adjacent to the entrance to the leisure centre off the Queens Avenue spur road.
- 1.2 The application seeks consent for the erection of a separate three storey technical college funded by the Department for Education (DfE) that is part of a Government initiative to increase the provision of vocational-based education for 14-19 year olds across the country. The college would provide education to just over 300 students and would employ approximately 20-30 staff.
- 1.3 The proposed building is of a contemporary three storey rectilinear form and designed to achieve a very high standard of fabric energy efficiency supported by on-site renewable energy generation. The building itself is set back from the Queens Avenue spur road by an area of landscaping with an area of car parking proposed to its side. Existing trees along the boundary with the Queens Avenue access road are proposed to be retained.

2. Application Publicity

- 2.1 The application proposals were publicised by way of a press notice in the local newspaper as well as site notices and neighbour notifications. No third party representations have been received.

3. Response to ConsultationCherwell District Council:

Ecologist – No objection subject to a condition requiring the development to take place in accordance with the recommendations of the ecological assessment following the submission and approval of details of nesting/roosting boxes.

Oxfordshire County Council:

Local Highway Authority – The submitted Transport Assessment (TA) does not adequately predict the transport impact of the school on traffic movements along Queens Avenue together with associated cumulative congestion and safety/suitability of the junction between Queens Avenue and the spur road leading to the local schools and the leisure centre. The predicted modal share has not been robustly justified so that the number of trips by car is likely to be considerably higher than that assumed in the TA particularly as the traffic survey was conducted at a favourable time of year and BCC is operating significantly under capacity. Consequently there is the potential for congestion and traffic flows within and along Queens Avenue to be significantly adversely affected unless alternative modes of transport are provided for and encouraged in addition to the staggering of peak operating hours between the various uses along Queens Avenue.

Off-site highway works to improve pedestrian and cycle links along Queens Way are required as a minimum to encourage alternative transport modes as well as financial contributions to the County Council to fund changes to the traffic regulation order governing Queens Avenue to introduce restrictions on passenger drop-offs in the immediate vicinity of the site access. A travel plan together with an associated contribution towards its monitoring costs are also required. These would need to be secured via legal agreement.

Other External Consultees:

Environment Agency – No objection

Sport England – Object. The proposals result in the net loss of playing field land where it has not been robustly demonstrated that there is an excess provision of recreation space in the locality or that equivalent/better replacement provision has been offered in an equally or more accessible location. If planning permission is minded to be granted despite Sport England's objection, under the provisions of the Town and Country Planning (Consultation) (England) Direction 2009, the application is required to be referred to the Secretary of State for CLG for consideration as to whether the application should be called-in for his own determination.

Thames Water – No objection.

Bicester Town Council – Strongly support the application subject to the works compound being away from the main access and appropriate controls over construction traffic.

4. Relevant National and Local Planning Policy and Guidance

4.1 Development Plan Policies:

Cherwell Local Plan 2011-2031 Part 1

BSC7 – Meeting Education Needs

BSC10 – Open Space, Outdoor Sport and Recreation Provision

ESD1 – Mitigating and Adapting to Climate Change

ESD2 – Energy Hierarchy and Allowable Solutions

ESD3 – Sustainable Construction

ESD4 – Decentralised Energy Systems

ESD5 – Renewable Energy

ESD6 – Sustainable Flood Risk Management

ESD7 – Sustainable Drainage Systems (SuDS)

ESD10 – Protection and Enhancement of Biodiversity and the Natural Environment

ESD15 – The Character of the Built and Historic Environment

4.2 Other Material Planning Considerations:

National Planning Policy Framework (NPPF) – The National Planning Policy Framework sets out the Government’s planning policies for England and how these are expected to be applied in both plan-making and decision-taking.

Planning Practice Guidance (PPG) – This sets out regularly updated guidance from central Government to assist in the interpretation of national planning policy and relevant legislation.

5. Appraisal

5.1 The following planning issues are considered to be of relevance to the determination of this case:

- Principle;
- Design and Appearance;
- Traffic and Highway Safety;
- Trees and Landscaping;
- Sustainable Construction and Energy Efficiency.

Principle

5.2 Policy BSC7 of the Local Plan 2011-2031 states that the Council will work with partners to ensure the provision of school and community learning facilities which provide for education and skill development. It further adds that new school buildings should be located in sustainable locations and that the co-location of related services and facilities with schools should be considered to create community hubs. Policy ESD1 of the Local Plan 2031 adds to this policy by requiring growth to be distributed to the most sustainable locations where the needs to travel is reduced.

5.3 The Local Plan 2011-2031 strategically provides for a significant amount of growth to Bicester as one of the two main settlements in the District. This growth brings associated infrastructure requirements to meet the needs of the new population which includes education provision. Central Government is committed to the principle of studio schools of which over a dozen are now operating across the country and indeed the DfE has provided part of the funding for this new school. Studio schools, otherwise known as technical colleges, cater for students ranging from 14-19 years of age with a focus on vocational learning providing practical skills for use in the workplace with many of the students being on regular work placements during their learning. At the same time, Bicester Community College is to become an Academy School in September 2015 under the same management as that of the proposed new studio school – i.e. Activate Learning (formerly known as Oxford and Cherwell Valley College Group) so that the two schools will be under the same overall control.

5.4 The creation of a new school in the main settlement of Bicester through co-location with other existing education facilities is, in principle, considered to amount to the type of sustainable new education provision that Policy BSC7 of the Local Plan 2031 supports subject to compliance with all other relevant development plan policies and national policy/guidance relating to its other potential effects.

5.5 However, the development is proposed to take place on part of existing school playing field land. Paragraph 74 resists development on existing sports and recreational land except where at least one of the following has been demonstrated:

- It has been clearly shown that the open space is surplus to requirements;
 - The loss would be offset by equivalent or improved provision in terms of quality, quantity and accessibility;
 - The development is for alternative sports and recreational provision for which the needs outweigh the loss.
- 5.6 At the time of writing this report, the applicant has not demonstrated that any of these criteria have been met given that it has been established as part of the evidence base to the new Local Plan that there is a shortfall of sports and recreational facilities in Bicester. Furthermore, no additional outdoor space provision is proposed to compensate for the loss and in itself the development is clearly not for an alternative sports or recreation facility. Discussions are on-going as to whether alternative land can be provided to satisfactorily offset the lost playing field land and how this could be secured through the planning process. Officers will update Members if there are any developments on this between the time of publication of the agenda and the Committee meeting.
- 5.7 In the interim, Sport England (as a statutory consultee), has raised an objection to the development due to the net loss of playing field land and consequent quantitative decline in outdoor recreational space serving both the existing school as well as the wider town. In circumstances where Sport England are a statutory consultee and they object to development proposals, planning permission can only be granted after referral to the Secretary of State who then must then decide whether to call-in the application for his own determination or return it to the Council for approval depending on the circumstances of the case.
- 5.8 Notwithstanding the above, officers are of the view that the area of land to be lost is comparatively small (0.29ha) and represents a relatively under-used corner of a playing field that does not lend itself well to use for formal sports provision. Nevertheless, its loss would reduce the overall availability of outdoor recreational space which is in under-supply in Bicester. Officers find this regrettable particularly as no compensatory land has yet been able to be identified and made available. However, there are public benefits associated with the proposals given that it would assist in delivering a diversity of education provision to support the sustainable growth of Bicester and in turn the District as a whole. It should also be recognised that the increased provision of education and training opportunities for apprenticeships through measures such as studio schools is part of a wider Government strategy within the education system and it is not unreasonable to conclude that some weight may be afforded to this by the SoS in any call-in decision. With this in mind and cognisant of the Sport England objection, it is necessary to undertake a balancing exercise to determine whether, when taken as a whole, the social and economic benefits associated with the proposal would be outweighed by the harm resulting from the loss of open recreational space for school pupils and the local community. This will be discussed later in this report as part of considering the overall planning balance once the other impacts of the development have been assessed.

Design and Appearance

- 5.9 Policy ESD15 of the Local Plan 2031 is reflective of national policy set out in the NPPF in that it requires new development to demonstrate high quality design that respects the scale, layout, form, landscape and design detailing evident within its context. Policy C28 of the Local Plan 1996 similarly requires new development to be visually sympathetic to its context. It is against this planning policy framework that the proposals will need to be assessed in this respect.
- 5.10 The building proposed is of a three storey rectilinear form that has the appearance of a contemporary institutional building. The building would be predominantly clad in dark grey flat metal sheets with dark coloured engineering bricks along parts of the ground floor as well as elements of horizontal timber cladding to break up the facades. Brightly

coloured signage is proposed to contrast with the darker, matt finish to the insulated steel wall panels. The building would feature large areas of glazing constructed using powder coated aluminium frames. As a result it would have a distinctive, clean-lined appearance that is reflective of that used across the country in contemporary civic buildings which also helps to deliver high levels of fabric efficiency.

- 5.11 The immediate surroundings feature institutional and recreational buildings of little architectural merit. The buildings on the Queens Avenue spur road are generally flat roofed, modest in height and relatively bland constructions that utilise typical stretcher bond brick dating back from the 1960's/70's. Buildings are however generally set back from the spur road by areas of hardstanding which prevents them dominating the streetscene. The proposed building is of similarly rectilinear form though higher than the existing school buildings at BCC and of greater overall mass given that existing buildings tend to sprawl across the site. The current entrance to the Queens Avenue access road is therefore rather bland and lacking in buildings of any real presence or distinction that promote a genuine sense of identity and/or place. In principle therefore, officers are supportive of the construction of a high quality building of interesting architectural appearance that would create a greater degree of distinctiveness to the wider Queens Avenue streetscene. Whilst angled solar panels in a significant roof-top array may also be visible in views from longer distances they would not appear at odds with the contemporary building style which has been designed to maximise solar gain and utilise on-site renewable energy generation.
- 5.12 The proposed building is set back from the road to allow for formal hard and soft landscaping as well as cycle parking areas to define the building's pedestrian entrance. This should soften the slightly more urban appearance of the building and ensure that the general spacing of buildings relative to Queens Avenue is retained. Further details of the landscaping scheme are recommended to be required by condition. To the side of the proposed building an area of soft landscaping and car parking is shown together with a turning head. Whilst this would replace a corner of grassed playing field, the sensitive use of soft landscaping around the car parking should ensure that it is visually appropriate and not unduly harsh or urban in appearance. Again, a detailed landscaping scheme is recommended to be required by condition as well as details of refuse storage so that it could be discreetly designed and sited.
- 5.13 The Queens Avenue access road contains a row of common lime trees that make a positive contribution to a streetscene which is otherwise rather bland. Importantly, these trees are proposed to be retained and protected during construction works so that the new building would form a suitably sympathetic transition between the tree lined playing field and the wider school building complex. Full details of tree protection measures and construction methodologies for works around retained trees are recommended to be required by condition prior to development commencing.
- 5.14 Consequently, officers are satisfied that the proposed building and its associated development would successfully integrate within its context and introduce a building of distinction within otherwise relatively unremarkable surroundings to the benefit of the character and appearance of the area. Therefore, the proposals are found to accord with the requirements of relevant development plan policies in this respect as well as Government guidance.

Traffic and Highway Safety

- 5.15 Government guidance in the NPPF states, inter alia, that planning decisions should take account of whether the opportunities for sustainable transport modes have been taken up, if safe and suitable access to the site can be achieved for all people and whether improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development.

- 5.16 It is well established both anecdotally and in traffic survey data that Queens Avenue, and in particular the spur road through to the schools and leisure centre, are subject to significant congestion during certain periods of weekdays. This congestion is at its most acute between 8:30am and 9:15am where there is a marked increase in car movements associated with dropping children to school which often circulates around the leisure centre car park which conflicts with traffic associated with the leisure centre itself. A significant amount of pedestrian traffic to the schools also adds to the conflict and introduces further impediments to car movements. Survey data suggest that in fact the busiest time is within 15 minutes either side of the start time of St Mary's Primary School which also coincides with the nearby Brookside Primary School for which some parents/guardians use the leisure centre car park for dropping off school children. Whilst BCC is the considerably larger institution, the older demographic of its pupils ensures that there are a greater proportion of students arriving by foot and cycle without the need for accompaniment by a parent/guardian. Moreover, traffic survey data suggests that its earlier start time reduces the potential for significant overlap of traffic with the primary school traffic and so prevents Queens Avenue and its junctions from becoming unacceptably and dangerously congested.
- 5.17 Nevertheless, despite this staggering of start times, the road does regularly become congested and can be awkward to navigate for cars, pedestrians and cycles. Any new development which could significantly increase traffic movements would only add to congestion and conflict within the access road and at the junction with Queens Avenue. It also needs to be recognised that for the past several years BCC has been operating significantly below capacity with its numbers having declined year-on-year for close to 10 years so that it currently serves about 850 pupils with a capacity for approximately 1400. All recent traffic surveys have therefore not assessed the school on the basis of its maximum occupation. Its conversion to an academy is intended to improve the attractiveness of the school and with bring about a likely increase in pupil numbers. This would affect the accuracy of the traffic survey data and, as numbers at BCC rise, the spillage of traffic movements outside its small peak hours windows would also rise thus increasing congestion and conflict between the different users of the access road.
- 5.18 The proposed studio school however would operate over slightly different hours – 8:15am to 5pm. This means that its peak traffic movements would fall outside that of either the existing BCC secondary school or the two nearby primary schools. This staggering of peak hours should ensure that congestion in and around Queens Avenue does not reach an unacceptable level at any one particular time. However, despite this it is inevitable that congestion would occur more frequently as a result of additional car movements connected to the new school both from staff as well as parents/guardians dropping off children. As a result officers concur with the LHA that robust travel and management plans are required in order to strictly limit operating hours at both the new studio school and BCC (now that they are both under Activate Learning's control) as well as details of measures to prioritise sustainable modes of travel including shuttle buses from key locations. A financial contribution to the County Council towards monitoring of this travel plan is recommended and would need to be secured through a legal agreement. Furthermore, to encourage pedestrian and cycle travel to the new school as well as to BCC, the widening and improvement of the footway to the north side of Queens Avenue between Kings End and Bucknell Road to create a 2.5m dual use path is required and the necessary funding for this (£60,000) is recommended to be required through a planning obligation with the County Council. A financial contribution of £1000 is also recommended to be secured through a planning obligation to enable OCC to re-locate existing bus stops on Bucknell Road closer to Hudson Street so that they are closer to key pedestrian routes such that bus travel is encouraged. Cumulatively however the above measures may still not be wholly successful in alleviating further significant congestion within and around Queens Avenue during certain peak weekday hours. Therefore it is considered necessary for the traffic regulation order (TRO) to be varied by OCC to introduce complete

restrictions on the stopping of cars on Queens Avenue in the vicinity of the school. The cost to the County Council of such a process is anticipated to be approximately £2500 and the applicant is expected to contribute fully towards this cost which would need to be secured through a legal agreement. Officers would expect all of the funding detail above to be provided prior to commencement of development and any legal agreement would include the clauses necessary to achieve this. The full list of recommended requirements of a planning obligation with the County Council are set out as part of the recommendation to Members at the end of this report.

- 5.19 The Town Council is in support of the proposals though has raised some concern about the management and parking of construction traffic. To this end a condition is recommended requiring the submission and approval of a Construction Traffic Management Plan so that the parking, routing, unloading and hours of arrival of construction traffic can be considered and managed appropriately.
- 5.20 Whilst officers do have some residual concerns about the possibility of occasional significant congestion in and around the peak weekday hours of 8-9am and 3-4pm, on balance and subject to the above measures, the proposals are not considered likely to result in a significant increase in risk to highway safety through an intensification of congestion and conflict between users within Queens Avenue. However, it should be recognised that some harm is likely to occur to traffic flows and this will need to be balanced against the benefits of the scheme as discussed later within this report.

Trees and Landscaping

- 5.21 Policy ESD13 of the Local Plan 2031 resists undue harm to important natural landscape features and Policy ESD15 requires trees and landscape features of significance to be retained where these contribute positively to an area's character.
- 5.22 As discussed previously, the proposals would not result in the loss of any trees on the site of any significance as demonstrated in an arboricultural survey and implications assessment. A silver maple tree along the boundary with the car park to BCC would require a modest crown lift to facilitate access for construction purposes but this is considered relatively minor works and not something that would have a long term effect on the health and vitality of the tree or its public amenity value. Indeed all of the common lime trees along the Queens Avenue spur road would remain and none would be materially harmed subject to conditions controlling tree protection measures and the construction methods within the root protection areas of the trees.
- 5.23 Consequently, subject to conditions, officers are satisfied that the proposals would preserve natural landscape features of significance and thereby respect local character in accordance with the requirements of Policies ESD13 and ESD15 of the Local Plan 2031 as well as Government guidance set out in the NPPF.

Sustainable Construction and Energy Efficiency

- 5.24 Policies ESD1 and ESD3 of the Local Plan 2031 require new development to be designed to reduce carbon emissions and use resources more efficiently which includes non-residential buildings being designed to achieve BREEAM 'Very Good' standard. An Energy Statement submitted as part of the planning application demonstrates that the building has been designed so that it's fabric efficiency is high with a significant contribution to its energy requirements delivered through a solar PV array on the roof of the building. As such the building achieves the relevant BREEAM standard in accordance with development plan policy.
- 5.25 Policy ESD4 also requires the feasibility of District Heating and Combined Heat and Power to be considered as part of development proposals of this size. However, the applicant has concluded that the nearby buildings are not suitable for supply of district heating. As the studio school would not operate consistently throughout the year it would not be supplied by a continual base land so that it would be less effective and have

a longer payback period. Government funding for the school project also does not extend to such a facility making it less financially viable.

- 5.26 At the time of writing this report officers have some concerns that district heating has not been fully explored given that other larger buildings with significant energy demand are located nearby that are not detailed in the Energy Statement. Moreover, the use of a biomass boiler has not been explored and there could potentially be an opportunity to co-locate some storage with the leisure centre to help save space and to also limit HGV movements. Further information has been requested from the applicant as part of an updated Energy Statement to ensure a robust assessment of the energy efficiency opportunities has been undertaken and Members will be updated at Committee of the outcome. Subject to the opportunities available being robustly assessed in this updated Energy Statement and all reasonable opportunities taken, officers are satisfied that the proposals would deliver a sufficiently sustainable form of construction. A condition is recommended that requires the development to be carried out in accordance with the updated Energy Statement.

6. Planning Balance

- 6.1 At the time of writing this report, the proposals would result in the loss of a comparatively small area of playing field without mitigation to the detriment of pupil recreation and local amenity. The development would also be likely to result in a minor increase in traffic congestion during peak hours in and around Queens Avenue despite the mitigation measures recommend. Consequently there is likely to be further conflict between car traffic, pedestrians and cyclists using the road. However, the proposals represent an interesting and contemporary building design that should add some distinction to the character and appearance of the area whilst providing a sustainably located educational facility that would help serve the needs of an expanding Bicester population and help deliver strategically sustainable growth in the District. On balance, and subject to the conditions and planning obligations specified below, the proposals are considered to provide economic and social sustainability benefits that outweigh the other adverse impacts set out in this report such that overall the proposals are considered to be consistent with the broad requirements of the Development Plan and Government guidance set out in the NPPF.

7. Recommendation

In the event that the Sport England objection remains:

That the Council resolves that it is minded to approve the application subject to the conditions and planning obligations set out below and to refer the application to the Secretary of State for his consideration. Following referral, in the event that the Secretary of State does not exercise his authority to call-in the application for his own determination, that the Council grants planning permission subject to the below conditions and planning obligation.

In the event that the Sport England objection is withdrawn:

That the Council resolves to grant planning permission subject to the conditions set out below and following the satisfactory completion of a legal agreement with the County Council.

Planning Obligations:

Oxfordshire County Council:

- £1000 towards relocation of the existing bus stops on Bucknell Road closer to Hudson Street
- £2040 towards monitoring of a travel plan
- £2500 towards variation of the traffic regulation order to introduce parking

restrictions on Queens Avenue

- £60,000 to fund widening of the shared use footway/cycletrack on the north side of Queens Avenue from Kings End to Bucknell Road

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 condition, the development shall be carried out strictly in accordance with the following plans and drawings: 15003/ E(PA)0002 Rev. P2, 15003/ L(PA)0004 Rev. P2, 15003/ L(PA)0005 Rev. P2, 15003/ S(PA)0002 Rev. P2, L-1509-PRP-003 Rev. 02, L-1509-PRP-002 Rev. 02, L-1509-GAP-001 Rev. 02 and L-1509-GAP-002 Rev. 02. .

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

3 Prior to the commencement 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.

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 C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework. Such details are required prior to commencement of development to ensure important existing soft landscaping is retained as part of the development.

4 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 C28 of the adopted Cherwell Local Plan and Government guidance contained within the National

Planning Policy Framework.

5 Prior to the commencement of the development hereby approved, a Tree Protection Plan 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 setting out how all retained trees identified in the landscaping scheme will be safeguarded during construction. Thereafter, all works on site shall be carried out in accordance with the approved tree protection plan.

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 C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework. Such details are required at pre-commencement stage to ensure that no harm to trees/hedges occurs during the development.

6 Prior to the commencement of the development hereby approved, full details of all service trenches, pipe runs or drains and any other excavation, earth movement or mounding required in connection with the development, including the identification and location of all existing and proposed trees, shrubs and hedgerows within influencing distance of such services, 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 details.

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 C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework. These details are required prior to commencement of the development to ensure that provision of underground services would not adversely affect the health of retained trees once construction begins.

7 All agreed service trenches, pipe runs, drains or any other excavation to be constructed within the agreed Root Protection Area (RPA) of the tree/trees on the site shall be undertaken in accordance with National Joint Utility Group 'Guidelines for the Planning, Installation and Maintenance of Utility apparatus in Proximity to Trees - Volume 4 and all subsequent revisions and amendments thereof.

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

8 Prior to the commencement of the development hereby approved, a detailed scheme for the discharge of surface water from the site shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, and prior to the commencement of any building works on the site the approved surface water drainage scheme shall be carried out and prior to the first occupation of any building to which the scheme relates the approved foul sewage drainage scheme shall be implemented. All drainage works shall be laid out and constructed in accordance with the Water Authorities Association's current edition "Sewers for Adoption". The scheme shall include the following:

Discharge Rates

Discharge Volumes

- Maintenance and management of SUDS features (this may be secured by a Section 106 Agreement)
- Sizing of features – attenuation volume
- Infiltration tests to be undertaken in accordance with BRE365
- Detailed drainage layout with pipe numbers
- SUDS (list the suds features mentioned within the FRA to ensure they are carried forward into the detailed drainage strategy)
- Network drainage calculations
- Phasing plans
- Flood Risk Assessment

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 ENV1 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework. These details are required at pre-commencement stage to ensure building works take place in accordance with the sustainable drainage system (SuDS) principles to prevent any increase in localised flooding.

9 The development hereby approved shall be carried out strictly in accordance with the recommendations set out in Section 6 of the Preliminary Ecological Assessment submitted with the application, which was prepared by Middlemarch Environmental dated May 2015. The location and types of at least two nesting/roosting provisions in accordance with the above shall be submitted to and approved in writing by the Local Planning Authority prior to first occupation of the approved development and carried out as approved prior to the development being brought into use.

Reason - To ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy C2 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

10 The building hereby approved shall be constructed to at least BREEAM 'Very Good' standard and shall not be occupied until such minimum standard has been achieved in accordance with all of the measures set out in the submitted 'Energy Feasibility Assessment' produced by Hulley & Kirkwood Consulting Engineers Ltd and dated July 2015.

Reason - To ensure sustainable construction and reduce carbon emissions in accordance with Government guidance contained within the National Planning Policy Framework as well as Policies ESD1 and ESD3 of the Cherwell Local Plan 2011-2031 Part 1.

11 Prior to 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. Thereafter, the development shall be implemented and operated in accordance with the approved CTMP at all times.

Reason - In the interests of ensuring reasonable accessibility to neighbouring uses as well as highway safety in accordance with the requirements of Government guidance set out in the National Planning Policy Framework.

12 Prior to the first occupation of the development hereby approved, a Travel Plan, prepared in accordance with the Department of Transport's Best Practice Guidance Note "Using the Planning Process to Secure Travel Plans", shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved Travel Plan shall be implemented and operated in accordance with the approved details. The Travel Plan shall include at least the following information:

- Details of a dedicated shuttle service and the arrangements for the transportation of students to and from the school;
- Measures to encourage staff and student travel by foot and cycle;
- Measures to encourage staff and students to travel by bus;
- Details of any off-site car parking/drop-off arrangements;
- Details of monitoring arrangements to include the submission of an annual report to the local planning authority that assesses the effectiveness of the Travel Plan and sets out measures to try to reduce car travel to and from the school during the following year and thereafter.

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

13 A travel information pack for staff and students shall be submitted to and approved in writing by the local planning authority prior to first occupation of the development. This travel information pack shall then be distributed and made available to all new students both in the first year of operation and thereafter in accordance with a scheme that shall be approved in writing by the local planning authority prior to first occupation of the development.

Reason: To ensure active, sustainable habits are established from the outset in accordance with the requirements of Policy ESD1 of the Cherwell Local Plan 2011-2031 Part 1 as well as Government guidance set out in the National Planning Policy Framework.

14 Prior to the first occupation of the development hereby approved (other than for construction purposes) a Management Plan relating to operations at the approved new school development as well as the existing school currently known as Bicester Community College shall be submitted to and approved in writing by the local planning authority. This Management Plan shall include details on at least the following matters:

- Specified operating hours of both the proposed Bicester Studio School and the existing secondary school (Bicester Community College) to ensure peak arrivals and departures from the two institutional premises are kept separate from each other as well as peak times of other neighbouring development;
- The means of controlling staff and pupil movements to ensure their arrival and departure times do not materially fall outside the above specified times;
- Details of servicing and waste management arrangements to ensure that this does not take place during in and around peak hours;
- Means of monitoring and enforcing student car parking and parent/guardian drop-offs at the site and on the Queens Avenue access road;
- Arrangements for school field trips and outings including times during which arrival and departure of vehicles into the Queens Avenue access road will be restricted as well as arrangements for the parking and waiting of such vehicles;
- Details of arrangements to prevent notable events taking place at the existing Bicester Community College at the same or similar times.

The approved Management Plan shall be implemented and operated from the point of first occupation of the development. Thereafter, any change to the approved Management Plan shall require the formal prior written approval of the local planning authority.

Reason: In the interests of managing congestion in Queens Avenue and improving highway safety in accordance with the requirements of Government guidance set out in the National Planning Policy Framework.

15 Prior to the commencement of the development hereby approved, samples of the

external materials to be used in the construction of the development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the samples so approved.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework. Sample materials are required prior to commencement of development to ensure the building is constructed using appropriate materials so that it is visually sympathetic to its surroundings.

16 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 landscape and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework. The construction methodology for working in and around retained trees is required prior to commencement of development to prevent harm to trees and soft landscaping features during the construction work itself.

17 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 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 C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

18 Prior to first occupation of the approved development details of the boundary treatments to be used in the development shall be submitted to and approved in writing by the local planning authority. The development shall not be occupied until the boundary treatments have been laid out in full as approved and thereafter so retained.

Reason – In the interests of visual amenity in accordance with the requirements of Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1.

STATEMENT OF ENGAGEMENT

In accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council having worked with the applicant/agent in a positive and proactive way through the encouragement of the submission of amended plans and further information during the application process to support the proposals.

15/01024/F

**Oxford & Cherwell Valley College
Broughton Road
Banbury
OX16 9QA**

Tennis Courts

98.5m

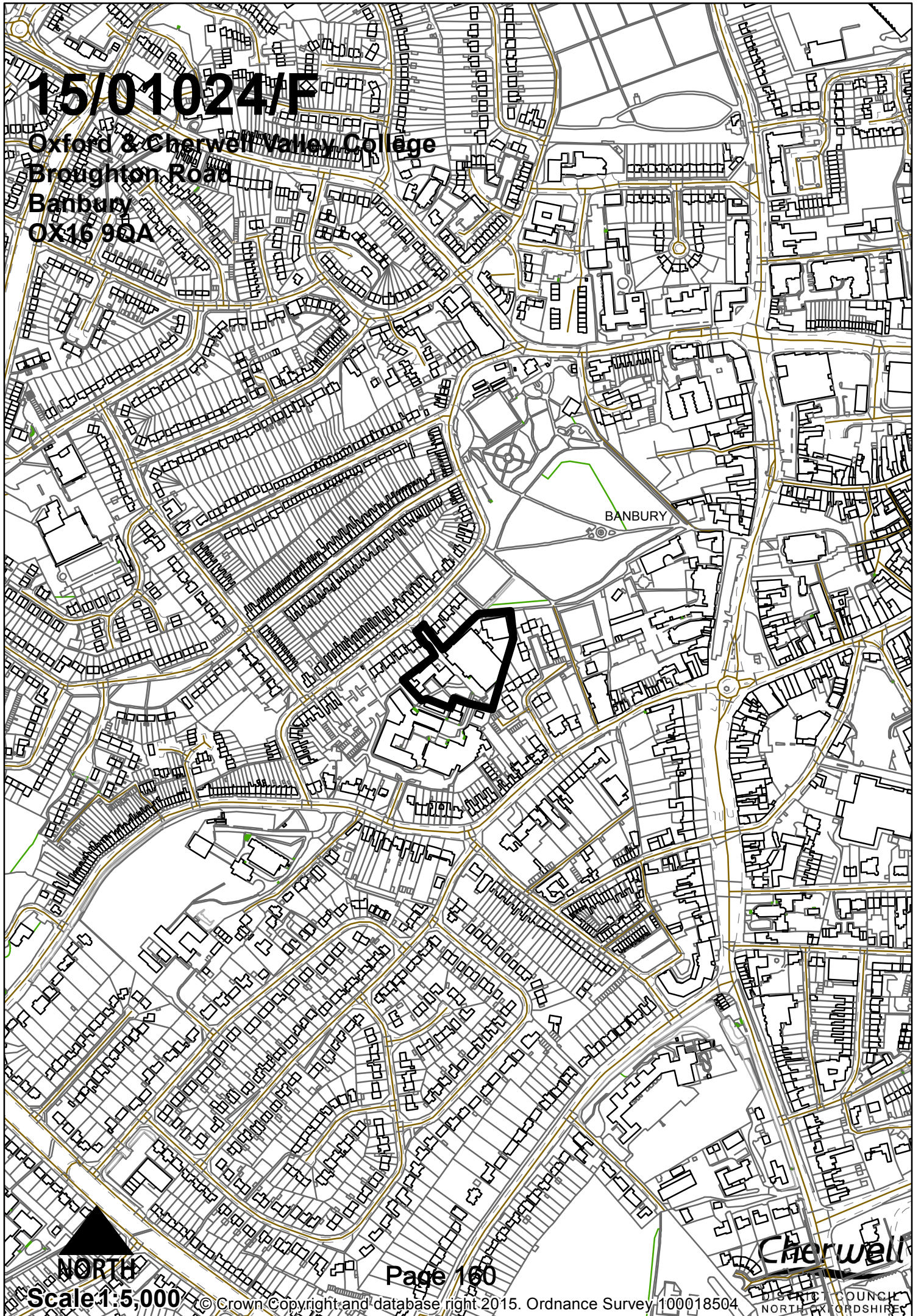


Oxford and Cherwell Valley College
(FE)

NORTH
Scale 1:750

15/01024/F

**Oxford & Cherwell Valley Collège
Broughton Road
Banbury
OX16 9QA**



BANBURY

Cherwell

DISTRICT COUNCIL
NORTH OXFORDSHIRE

NORTH

Page 160

Scale 1:5,000

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Ward: Banbury Easington

District Councillor: Cllrs Blackwell, Mallon
and Morris

Case Officer: Bob Duxbury

Recommendation: Approval

Applicant: Bromford Homes Ownership Ltd. And Activate Learning

Application Description: Demolition of existing buildings and change of use from D1 non-residential to C3 dwelling houses comprising 78 1-bedroom and 2-bedroom extra care residential apartments with associated ancillary accommodation and 39 car parking spaces

Committee Referral: Major

Committee Date: 3 September 2015

1. Site Description and Proposed Development

- 1.1 The application relates to the OCVC site between Bath Road and Broughton Road. The proposal is to demolish college buildings on the Bath Road side of the site. These buildings are single and two storey commercial style buildings that have formerly housed departments that have now transferred elsewhere and the buildings are now empty and unused.
- 1.2 The proposal is to build linked blocks of 2 , 3 and 4 storey buildings to form a an extra care residential development consisting of 30 1-bed apartments and 48 2-bed apartments some of which would be rented, some for shared ownership and some for outright sale. The buildings have been configured to ensure the retention of important trees, whilst providing private garden spaces for residents and new parking whilst maintaining appropriate separation distances from neighbouring properties. The development contains a central community facility to include meeting space, lounge , dining and activity areas
- 1.3 The storey heights of the buildings attempt to respond to the slope of the site and the surrounding ground levels and seek to maintain 2 storeys where only 21 metres separation distance can be achieved and higher storey heights when the separation distances are greater. A limited area of 4 storeys has been restricted to the central portion of the site.
- 1.4 The design of the building is modern and contemporary but uses a pallet of traditional materials to respect the context within which it is sited
- 1.5 The sited is bounded to the north-west by nos. 1-21 Bath Road (semi-detached two-storey houses), who's back gardens adjoin the site .To the north the site has a short boundary with People's Park, whilst to the east and south-east lie the 2-storey flats in Westbeech Court. The site would have a boundary to the south west with the retained part of the OCVC site.
- 1.6 The site is excluded from the Banbury Conservation Area but has common boundaries with it to the rear gardens of Bath Road properties and to People's Park.

- 1.7 The application is accompanied by a Design and Access statement; a heritage statement; a transport statement; an ecological report and an arboricultural report.
- 1.8 The trees to the rear of Bath Road properties and Westbeech Court are covered by a Tree Preservation Order

2. Application Publicity

- 2.1 The application has been advertised by way of neighbour letter, site notice and press notice. The final date for comment was the 23 July 2015.

10 letters have been received from residents of Bath Road (4 from same property). The following issues were raised

Material planning comments

- Too high and modern looking concern about size, depth, width and massing;
- overshadowing; visually overbearing
- Overlooking and loss of privacy
- Security risk from gate to People's Park being left unlocked
- Insufficient parking
- Design out of keeping with surrounding area and impact upon Conservation Area
- Inappropriate and unsympathetic to appearance and character of the Cons Area
- Concern about bat habitat
- Concern about effectiveness of proposed fencing along rear boundaries of Bath Road properties and consequent impact upon privacy and security
- Increased traffic
- Concern about overlooking from balconies
- Comments re service vehicle access to college
- Bin storage?

Non material comments:

- Lack of publicity
- Construction traffic and disturbance

3. Consultations

3.1 Banbury Town Council:

OBJECT - The development by virtue of its size and siting will result in overdevelopment of the site and will have an over dominant impact on the neighbouring properties. The development, due to its height, will negatively affect the setting of Peoples Park and Bath Road and will not be in keeping with the street scene, contrary to policies C28 & C30.:

Cherwell District Council Consultees

- 3.2 **Planning Policy Officer:** No comments received

3.3 Design and Conservation Officer: No comments received yet

3.4 Landscape Officer: Comments as follows:

The development will be visually prominent from the upper windows of dwellings 13, 15, 17 Bath Road. The Site Plan, no 1413-P-03, does not show any intervening trees between these dwellings and the northeast elevation. Spaces between the parking bays should be extended to allow for amenity trees with structured cell tree pits. Partial screening is appropriate as dense over shading to gardens could become an issue for these residents. Dappled shade trees should be considered.

Also visually prominent from upper floor windows of dwellings 5 -12 West Beech Court the development should be mitigated with trees within the hedge adjacent to the proposed amenity lawn. Three trees with foliage casting only dappled shade should be considered.

There are numerous worthy trees on the site boundary and within the site that require consideration is respect of hard surfaces conflicting with root systems. Please consult either our tree officers for the north on this matter.

There are no developer planning obligations for on or offsite play and POS for residential care, as indicated in the current SPD.

Planning Conditions required:

- Standard hard and soft landscape condition
- Tree pit details in hard areas condition
- Tree pit detail in soft areas condition
- Arboricultural method statement condition

I look forward to detailed landscape proposals. I recommend that non-toxic trees, shrubs and herbaceous plants are used for the safety of residents.

3.5 Ecology Officer: The ecology officer sought additional information re bats on the site:

3.6 Waste and Recycling Officer Has confirmed that the applicants intentions are acceptable

3.7 Recreation , Health and Communities Seeks an obligation to secure a public art scheme that provides an art work on site that relates the development to the existing streetscape in Bath Road and provides residents and visitors to the site with a focal point that enhances the sense of place

3.8 Housing Investment and Growth Officer confirms that they are satisfied that the affordable housing element offered – 16 rented and 7 shared ownership units are adequate. They will be spread throughout he block rather than clustered. These units and nomination rights will need to be secured by legal agreement

3.9 Oxfordshire County Council Consultees

Transport Key issues:

- The access proposed to be retained to the college through the site must be for no more than the 8 car parking spaces set out in the application documentation.
- Improvements needed for vehicle manoeuvring and pedestrian movement in the proposed car park.
- Details of the pedestrian access to People's Park need to be clarified

- More and better located cycle parking needed

Legal agreement required to secure:

Section 106 Town & Country Planning Act – Developer Contributions

A £5k contribution is required to cover the cost of promoting and delivering TROs to better manage on street car parking in the vicinity of the development if, following occupation of the development it is the view of the county council that this is needed.

Conditions are proposed relating to

1. Parking and manoeuvring areas
2. Retained access to parking on adjoining site –restricted
3. Pedestrian access to People’s Park
4. Cycle parking provision
5. Surface water drainage
6. Travel plan
7. Travel information packs
8. Construction traffic management plan

Detailed comments:

Sustainable location

This brownfield site is well located in terms of sustainability being within walking distance of many services and shops in Banbury town centre. It is also very close to bus stops for the frequent B5 service and Banbury bus and rail stations are within a short walking distance. The site is therefore very well located for prospective residents who are more likely than usual not to have access to a car. Because it is so close to bus stops, and bus and rail stations, a very large number of potential employees and visitors could sensibly get to the site without having to use a car.

Impact on transport network

The Transport Assessment (TA) clearly demonstrates that the impact of the development in terms of additional vehicle trips will be minimal – even at peak times the number of new trips on the network will be barely noticeable.

Only 39 car parking spaces are provided (including for disabled people) which is certainly not excessive. This will help ensure that the vehicle trip generation for the site is kept to the level that is predicted in the TA. There is limited available on street car parking in the vicinity of the site mainly as a result of high demand from local residents and the fact that there are double yellow lines on the whole length of the southern side of Bath Road and also around the corners of most nearby junctions.

The TA reports a junction assessment of the Bath Road with Warwick Road and the results show a minimal impact as a result of the development. Given the advice received at the pre-application stage and the otherwise very thorough nature of the TA, it is surprising that an assessment was not also carried out for the junction of Bath Road and Broughton Road. However, given the very low levels of traffic generated by the site, this omission is not significant as it is highly likely that the impact on that junction will be similarly small.

The bus services on a Sunday are less good, but the pressure on the transport network is obviously less on that day so if the site attracts some more car travel and parking then, it will be less significant than if that were the case on a weekday.

It is also worth noting that the TA does not take into account the fact that the current site, whilst vacant, could generate a certain level of traffic if it were in use. If the TA compared the new transport impact to what impact the current site could have if it were occupied, the additional impact would be even less.

Because of the sustainable location and the limited amount of car parking, a higher than normal amount of travel to and from the site will be by non-car modes. However, improvements will still be needed to the car park layout to ensure that walking and cycling are as attractive modes of travel for residents, staff and visitors as possible. Please see below.

Pedestrian provision

The introduction of a footway on the east side of the site access road is welcomed. However, at the end of the road, pedestrians appear to be expected to walk across the car park without any assistance – there don't even appear to be any dropped kerbs or tactile paving to help people with visual or mobility issues. It is recommended that some kind of raised and/or different coloured crossing from the end of the footway to the footway leading directly to the main entrance is provided. Even zebra crossing markings would be an improvement.

The shrubs that are proposed alongside the new footway on the site access road will need to be well maintained to prevent encroachment and a reduction in the width of the footway.

The provision of a gated access directly into People's Park is welcomed to help keep the walking distance to Banbury Town Centre to a minimum. It will also add significant amenity value for the residents. Details of how this gate will work and an assurance that it will always be available for residents to use are needed. The route from this gate to the front door of the development on the site plan is shown to be through the car park. This route really should return on a tarmac path to the main entrance along the front of the building so that pedestrians do not need to mix with cars.

Cycle provision

The local roads in the vicinity of the development have traffic calming and a speed survey carried out by the applicant suggests that traffic is generally travelling slowly near the entrance. The facilities for cyclists on the site itself appear very poor – there are only 4 cycle parking spaces shown and these are located away from the main entrance to the building. Whilst it is accepted that only a few of the residents will cycle, staff and visitors should be encouraged to use this mode of travel to get to the site. Space much closer to the entrance (an area of green opposite the end of the access road could work) for parking a minimum of 10 bicycles should be provided for staff and visitors. The details of the number, location and design of the cycle parking will need to be the subject of a condition attached to any planning permission should it be granted. The preferred design of the cycle parking would be for Sheffield type stands spaced 1000mm apart and covered (please see here for design and location advice: pdf

Site Access

The junction of the site access with Bath Road is not proposed to be changed. This is acceptable given the modest level of traffic predicted to be generated by the proposals and the fact that more than adequate visibility splays are in place. There appears to be width on the west side of the access road to widen the carriageway further so that vehicles could wait as others pass by on entering the site from Bath Road. Otherwise vehicles on Bath Road may need to wait for others to fully exit which is clearly not ideal.

The TA refers to the need for 8 car parking spaces on the retained adjoining college site to be accessed using the site access off Bath Road. This is acceptable although this number must not be exceeded – a planning condition is recommended to ensure this is adhered to in the future.

Car park layout

It looks like it will be difficult to get out of some of the car parking spaces and leave the site in a forward gear without having to undertake some complicated and protracted manoeuvres. This is especially true for a number of spaces beyond the last marked disabled bay in the north east portion of the car park. The spaces parallel to the northern boundary of the site also look quite tricky to get out of and

leave the site in a forward gear. A planning condition is recommended to ensure a satisfactory and safe car park is provided with the development. Tracking drawings will be needed showing how cars can manoeuvre sensibly and leave the site in a forward gear

Travel planning

In order to ensure as sustainable travel as possible associated with the site, a travel plan statement is required which will provide the framework for travel information packs to be provided to all residents and staff on first occupation. The travel plan statement must be put together using the template contained within the OCC travel plan guidance document

Other infrastructure

- The County Council considers that the impacts of the development proposal (if permitted) will place additional strain on its existing community infrastructure.

- The following housing development mix has been used:

30 x One Bed Dwellings

48 x Two Bed Dwellings

0 x Three Bed Dwellings

0 x Four Bed Dwellings

- It is calculated that this development would generate a net increase of:

97.5 additional residents including:

97.5 resident/s aged 65+

97.5 residents aged 20+

0 resident/s ages 13-19

0 resident/s ages 0-4

Legal agreement required to secure:

- Adult Day Care £107,250.00

Total £107,250.00

Admin & Monitoring fee £1,500

The County Councils legal fees in drawing up and/or completing a legal agreement will need to be secured. An administrative payment is also required for the purposes of administration and monitoring of the proposed S106 agreement.

Details of contributions sought

Social & Health Care – Adult Day Care Facilities

This development is served by Oxford Options and this development will place additional pressures on this adult day care facility. To meet the additional pressures on day care provision the County Council is looking to expand and improve the adult day care facility in Oxford Options

Contributions are based upon a new Day Care centre offering 40 places per day (optimum) and open 5 days per week; leading to an equivalent costing of £11,000 per place at 1st Quarter 2012 price base (this in non-revenue). Based on current and predicted usage figures we estimate that 10% of the over 65 population use day care facilities. Therefore the cost per person aged 65 years or older is £1,100.

- The contribution for the provision of adult day care infrastructure in respect of this application would therefore be based on the following formula:

£1,100 x 97.5 (the forecast number of new residents aged 65+) =

£107,250.00

Indexation

Financial contributions have to be indexed-linked to maintain the real values of the contributions (so that they can in future years deliver the same level of

infrastructure provision currently envisaged). The price bases of the various contributions are covered in the relevant sections above.

General

The contributions requested have been calculated where possible using details of the development mix from the application submitted or if no details are available then the County Council has used the best information available. Should the application be amended or the development mixed changed at a later date, the Council reserves the right to seek a higher contribution according to the nature of the amendment.

The contributions which are being sought are necessary to protect the existing levels of infrastructure for local residents. They are relevant to planning the incorporation of this major development within the local community, if it is implemented. They are directly related to this proposed development and to the scale and kind of the proposal.

Contributions required to mitigate the impact of the development on infrastructure but which due to Regulation 123 of the Community Infrastructure Regulations 2010 (as amended) OCC cannot require a s106 obligation in respect of:

- Library £8,287.50
- Central Library £1,672.13
- Waste Management £6,240.00
- Museum Resource Centre £487.50

Total* £16,687.13

*Price Base 1st Quarter 2012

Oxfordshire County Council is **not** seeking a contribution towards library, central library, waste management, or museum resource centre infrastructure from this application due to the pooling restrictions contained within Regulation 123 of the Community Infrastructure Regulations 2010 (as amended) which took effect from the 6th April 2015. The property response '*No objection subject to conditions*' relies upon funding for infrastructure as critical mitigation being delivered through CIL where there is no opportunity to gain contributions through Section 106 due to current legislation. OCC hold a statutory obligation to deliver services such as education through schools.

Local library

Details of contributions not sought solely due to pooling restrictions

This development is served by Thame Library which is of appropriate space standard and therefore no capital projects are planned.

The development proposal would generate the need to increase the core book stock held by 2 volumes per additional resident. The price per volume is £10.00 at 1st Quarter 2012 price base; this equates to £20 per resident.

• The contribution for the provision of supplementary core book stock in respect of this application would therefore be based on the following formula:

£20 x 97.5 (the forecast number of new residents) = £1,950.00

Central Library

Central Library in Oxford serves the whole county and requires remodelling to support service delivery that includes provision of library resources across the county.

Remodelling of the library at 3rd Quarter 2013 base prices leaves a funding requirement still to be secured is £4,100,000. 60% of this funding is collected from development in the Oxford area. The remainder 40% is spread across the four other Districts. 40% of 4.1M = £1,604,000.

Population across Oxfordshire outside of Oxford City District is forecast to grow by 93,529 to year 2026. £1,604,000 ÷ 93,529 people = £17.15 per person

- The contribution for the provision of central library infrastructure in respect of this application would therefore be based on the following formula:

£17.15 x 97.5 (the forecast number of new residents) = £1,672.13

Strategic Waste Management

Under Section 51 of the Environmental Protection Act 1990, County Councils, as waste disposal authorities, have a duty to arrange for places to be provided at which persons resident in its area may deposit their household waste and for the disposal of that waste.

To meet the additional pressures on the various Household Waste and Recycling Centre provision in Oxfordshire enhancements to these centres are either already taking place or are planned, and, to this end, contributions are now required from developers towards their redesign and redevelopment.

A new site serving 20,000 households costs in the region of £3,000,000 at 1st Quarter 2012 price base; this equates to £64 per resident.

- The contribution for the provision of strategic waste management infrastructure in respect of this application would therefore be based on the following formula:

£64 x 97.5 (the forecast number of new residents) = £6,240.00

County Museum Resource Centre

Oxfordshire County Council's museum service provides a central Museum Resource Centre (MRC). The MRC is the principal store for the Oxfordshire Museum, Cogges Manor Farm Museum, Abingdon Museum, Banbury Museum, the Museum of Oxford and the Vale and Downland Museum. It provides support to these museums and schools throughout the county for educational, research and leisure activities.

The MRC is operating at capacity and needs an extension to meet the demands arising from further development throughout the county. An extended facility will provide additional storage space and allow for increased public access to the facility.

An extension to the MRC to mitigate the impact of new development up to 2026 has been costed at £460,000 at 1st Quarter 2012 price base; this equates to £5 per person

- The contribution for the extension of the Museum Resource Centre in respect of this application would therefore be based on the following formula:

£5 x 97.5 (the forecast number of new residents) = £487.50

Other Consultees

3.10 Thames Water:

Waste Comments

Surface Water Drainage - 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. Reason - to ensure that the surface water discharge from the site shall not be detrimental to the existing sewerage system.

There are public sewers crossing or close to your development. In order to protect public sewers and to ensure that Thames Water can gain access to those sewers for future repair and maintenance, approval should be sought from Thames Water where the erection of a building or an extension to a building or underpinning work would be over the line of, or would come within 3 metres of, a public sewer. Thames Water will usually refuse such approval in respect of the construction of new buildings, but approval may be granted in some cases for extensions to existing buildings.

Thames Water would advise that with regard to sewerage infrastructure capacity, we would not have any objection to the above planning application.

Water Comments

Thames Water recommend the following informative be attached to this planning permission. 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.

3.11 Environment Agency: No comments received

4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

Cherwell Local Plan 2011 -2031

The Submission Cherwell Local Plan (February 2015) has been through public consultation and was submitted to the Secretary of State for examination in January 2014, with the examination beginning in June 2014. The examination was suspended by the Inspector, shortly after commencing in June 2014 to allow further work to be undertaken by the Council. Modifications were required to meet the higher level of housing need identified through the Oxfordshire Strategic Housing Market Assessment (SHMA). The proposed modifications were subject to public consultation, from 22nd August to 3rd October 2014. The examination reconvened in December 2014 and the Inspector's report was published in June 2015, and was formally adopted by the Council on 22nd July 2015. Relevant policies are

BSC 2: The Effective and Efficient Use of Land – Brownfield land and Housing Density Policy

BSC4: Housing Mix

ESD3 Sustainable construction

ESD7 Sustainable drainage systems

ESD16: The Character of the Built and Historic Environment

Adopted Cherwell Local Plan (Saved Policies)

C2: Development affecting protected species

C4: Creation of new habitats

C23 Retention of features contributing to the character or appearance of a Conservation Area

C28: Layout, design and external appearance of new development

4.2 Other Material Policy and Guidance

National Planning Policy Framework

Planning Practice Guidance

5. Appraisal

5.1 The key issues for consideration in this application are:

- The Principle
- Scale and Design
- Neighbour Impact
- Impact on Conservation Area
- Highway Safety and Parking
- Trees and boundaries
- Planning Obligations

Planning History

The Principle

5.2 As Members will be aware OCVL has recently been promoting and undertaking development south of Broughton Road, and it would appear that the area of land to which this application relates is surplus to requirements for educational purposes. The site lies within a broader area of residential development, albeit that it will continue to be bordered by the active college site to the south and public open space to the north.

5.3 The principle of residential development on this site is considered acceptable and indeed any other alternative use is likely to have a greater impact upon the surrounding area. Policy BSC2 of the adopted Local Plan states

Housing development in Cherwell will be expected to make effective and efficient use of land. The Council will encourage the re-use of previously developed land in sustainable locations. New housing should be provided on net developable areas at a density of at least 30 dwellings per hectare unless there are justifiable planning reasons for lower density development.

5.4 Notwithstanding this agreement in principle to the use of the land it is clearly necessary however to look at the impact of the proposal upon the adjacent Conservation Area, upon the amenity of adjacent residential properties and the adjacent public open space taking careful account of the scale, siting and design of the proposed building

5.5 The site is considered to be sustainable being located well relative to the town centre and all the facilities that are offered there, and would be a good location for elderly persons accommodation.

Scale and Design

- 5.6 As set out in section one above the building is a series of conjoined blocks that are two, three and four stories high in various parts of the site. The site sits within a context of two and three storey brick houses of various ages and styles in Bath Road and Westbeech Court. The architects have attempted to use the land level changes and the distances of surrounding houses from their boundaries and their orientation to inform the position and size of the new building. The design proposals are a modern and contemporary design that uses a pallet of traditional materials –a mixture of local ironstone, brick, stone cills and stringcourses with a central glazed double height space.
- 5.7 With regards to properties in Bath Road, there is a three storey block proposed to the rear of nos.13-21 Bath Road. The block is situated 11 metres from the back fence line of those properties and a minimum of 28 metres from the back of those houses. Obviously these residents will experience a considerable change from what is there now (a tall single storey building about 3-4 metres off the boundary) ,with no windows overlooking at all, but it would be unreasonable to not expect any windows in a residential scheme The applicants have been asked to re-consider the format of the balconies that were proposed on some of the flats, but otherwise the degree of overlooking , and the over-domination that objectors referred is at an acceptable degree.
- 5.8 To the rear of nos.7-11 Bath Road the building is further away than described above. The 4-storey section is a minimum of 42 metres from the rear of the houses and some 28 metres from the the rear boundary of the houses which at this point is currently formed by a mixture of fences/concrete walls and substantial protected trees. The applicants intention is to provide a complete new fence line to the rear of all the Bath Road properties with a common boundary. It may be appropriate to consider fencing at greater than 2 metres is certain parts of this boundary to deal with changes in level and still afford a good privacy screen for these houses. Behind 1-5 Bath Road is located a 3-storey building that is angled towards these houses but is between 13-30 metres from the boundary. The former buildings along the rear of 1-11 Bath Road are located only 5 metres from the boundary and are industrial in character and size
- 5.9 Moving to the eastern side of the site there is a substantial change in level between the flats in Westbeech Court and the college site, with the college site being about 2 metres below the ground level of the corner of Westbeech Close by nos 15/16 and 17/18, albeit that the site level will be raised partially in this corner of the site. The 3-stoery block referred to in 5.8 above sits parallel with the Westbeech Court boundary. The block will be within 6-12 metres of this boundary, but 16-28 metres from the nearest flats. Direct intervisibility would also be significantly reduced by the substantial protected trees on this boundary.
- 5.10 The four storey element of the proposed building will be 17-30 metres from the boundary with Westbeech Court and 29 metres from the nearest flat (5/6 Westbeech Court). A three storey wing projects to the south towards $\frac{3}{4}$ Westbeech Court and comes within 7 metres of the boundary and 15 metres of the flats at $\frac{3}{4}$ Westbeech Court , but they are at right angles to one another and therefore overlooking is kept to a minimum. In this general area the existing college buildings are two storey high commercial style buildings situated in part within 1 metre of the boundary.

5.11 Overall your officers consider that the applicants have paid careful attention to the scale and siting of the building and believe that they have arrived at a building which will not be out of place with regards to adjacent property

5.12 The site has a short frontage (25-30 metres) with People's Park , which in this corner of the park has substantial trees. Although glimpses of the proposed building may be gained , especially after the fall of leaves, the relationship is considered acceptable

Neighbour impact

5.13 In describing the relationship of the proposed building and the boundaries and houses surrounding the site the applicants have sought to maximise distances and minimise opportunities for overlooking .It is considered that the only relationships that need especial attention relate to those between 1-5 and 11-21 Bath Road, and 15/18 Westbeech Court. In the latter case the change in levels, new fencing, existing trees orientation and distances are such that the relationship is considered acceptable. On the Bath Road properties named there may be an element of direct overlooking, especially from upper floors of the new block to the base of gardens. New fencing will to some extent assist and it is suggested that additional new planting is needed here also. On balance the relationship is considered tolerable. Elsewhere with regards to Bath Road properties the relationship is considered acceptable

Impact on Conservation Area

5.14 The proposed building is large in footprint but is within a site that is itself large and has presently got large commercial/education buildings upon it, and therefore is already somewhat out of character with the surrounding residential areas, hence to some extent why it was excluded from the Conservation Area. The building will be, however, significantly taller and more bulky than the current buildings.

5.15 Views of the building from within the Conservation Area will be restricted to (i) the view up the access way from Bath Road,(ii) limited views between the semi-detached house in Bath Road and (iii) and filtered views from within People's Park. Only the view from (i) above will allow a clear view of the building which will be set back a minimum of 50 metres from the viewer, with the 4 storey element a further 20 metres back. Even in this view therefore the building will not be dominant, albeit that the building will be clearly visible from this point. Bath Road is made up of 2 and 3 storey properties and therefore taller buildings are not out of place, albeit that the building will be more of greater than normal domestic scale. From the other viewpoints it will be only possible to get partial glimpses of the building. Whilst larger than the frontage buildings to Bath Road the building will not overdominate those properties or the view from the street. Large trees and under-storey planting will filter the views from People's Park. Overall therefore the proposal will not detrimentally impact upon the character or appearance of the Conservation Area

Highway Safety and Parking

5.16 The highway authority are content that the existing access onto Bath Road does not need improving, it being of adequate geometric standards and with acceptable visibility for the level of traffic that this proposed building will generate. They are also content that the local network and junctions can cope with the low level of extra car generation.

- 5.17 The level of car parking (39 spaces) represents 1 space for every 2 units, which may seem low, but reflects the fact that this is extra-care housing and is based upon the applicant's extensive experience of developing similar forms of housing elsewhere. It should also be borne in mind that the site is close to the town centre. It is therefore likely that a higher proportion of movements than normal can be expected to be by non-car modes. OCC accept this justification for the low level of car parking
- 5.18 The County Council also seek a legal agreement aimed at securing £5000 to facilitate the making of a Traffic Regulation Order to better control the on-street parking in the vicinity. Given the comments about the adequacy of the parking I think this is difficult to justify in CIL Regulation terms.

Trees and boundaries

- 5.19 A Tree Preservation Order exists on the site covering a few individual trees on the college side of the proposed building , the majority of which are due to be retained, and two groups of trees on part of the Bath Road and Westbeech Court boundaries, all of which are to be retained.
- 5.19 As noted above the applicant intends to provide a new unified fence along the Bath Road and Westbeech Court boundaries. Due to level changes on these boundaries the height of fences will need adjusting to maximise their effectiveness as privacy screens for both sides of the boundary. The applicant intends to do this with individual negotiation with neighbours. This is considered acceptable

Planning Contributions

- 5.20 As noted at 3.8 above the applicant has offered 23 units of affordable housing in a mix of rented and shared ownership units. These will need to be secured by a legal agreement.
- 5.21 In section 3.9 above the County Council set out their requests for infrastructure funding, which can be summarised as a contribution of £107,250 for adult day care. They recognise that other potential funding requests for libraries, waste management and museum resource centre would not be compliant with the current CIL Regulations. The request for payments for an adult day care centre have been contested before by other providers of extra care housing, so this element will need further exploration/negotiation.

Consultation with applicant

- 6.1 Good communications were maintained with the agent to ensure that the issues that arose during the application process were successfully dealt with.

Conclusion

- 7.1 Based on the assessment above and subject a satisfactory S106, this application for extra care housing is recommended for approval

6. Recommendation

Approval subject to

- (i) The applicants first entering into a legal agreement to secure off-site infrastructure (if confirmed acceptable) and to secure affordable housing and nomination rights.

- (ii) 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 AR2](#)
 2. Except where otherwise stipulated by condition, the development shall be carried out strictly in accordance with the following plans and documents: Application forms Design and Access Statement and drawings contained in drawing issue sheet 1413 datedand other documents set out in Walker Troup Architects letter dated 3.6.15
 3. Prior to the commencement of the development hereby approved, a schedule of materials and finishes for the external walls and roof(s) of the development hereby approved 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 schedule.
[Reason BR1](#)
 4. Prior to the commencement of the development, full details of the doors and windows 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 and windows shall be installed within the building in accordance with the approved details.
[Reason BR1](#)
 5. Prior to the commencement of the development hereby approved, full details of the external lighting shall be submitted to and approved in writing by the Local planning Authority. Thereafter, the lighting shall be carried out and retained in accordance with the approved details.
[Reason BR1](#)
 6. Prior to the commencement of the development hereby approved, a plan showing full details of the finished floor levels in relation to existing ground levels on the site for the proposed buildings 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 BR5](#)
 7. Prior to the commencement of the development hereby approved, all of the buildings and structures on the site at the date of this permission shall be demolished and the debris and materials removed from the site
 8. Prior to the commencement of the development full details of the enclosures along all boundaries of the site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved means of enclosure shall be erected, in accordance with the approved details, prior to the first occupation of any of the units.
[Reason BR7](#)

9. Prior to the commencement 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.
- [Reason CR1](#)
10. 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 CR1](#)
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 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
12. Prior to the commencement of the development hereby approved, full details of all service trenches, pipe runs or drains and any other excavation, earth movement or mounding required in connection with the development, including the identification and location of all existing and proposed trees, shrubs and hedgerows within influencing distance of such services, 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 details.
- [Reason CR2](#)
13. Prior to the commencement of the development hereby approved, full specification details (including construction, layout, surfacing and drainage) of the turning area and parking spaces within the curtilage of the site, arranged so that motor vehicles may enter, turn round and leave in a forward direction and vehicles may park off the highway, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. Thereafter, and prior to the first occupation of the development, the turning area and car parking spaces shall be constructed in accordance with the approved details and shall be

retained for the parking and manoeuvring of vehicles at all times thereafter.

[Reason DR3](#)

14. Prior to the commencement of the development hereby approved, a detailed scheme for the surface water and foul sewage drainage of the development shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, and prior to the commencement of any building works on the site the approved surface water drainage scheme shall be carried out and prior to the first occupation of any building to which the scheme relates the approved foul sewage drainage scheme shall be implemented. All drainage works shall be laid out and constructed in accordance with the Water Authorities Association's current edition "Sewers for Adoption".

[Reason ER1](#)

15. Prior to the commencement of the development, a Construction Environment Management Plan (CEMP), which shall include details of the measures to be taken to ensure construction works do not adversely affect residential properties on, adjacent to or surrounding the site together with details of the consultation and communication to be carried out with local residents shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with approved CEMP.

[Reason JR7](#)

16. Prior to the commencement of the development hereby approved, including any demolition and any works of site clearance, a mitigation strategy for bats, which shall include timing of works, and the location, design and timing of any alternative roosts to be provided, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the mitigation works shall be carried out in accordance with the approved details.

[Reason KR1](#)

17. The Extra Care building hereby approved shall not be occupied until details have been submitted to and agreed in writing for a work of public art to be placed on site. The details shall including the size, design and siting of the work of art and the design process for it. The development shall be undertaken in accordance with the details so approved and provided on site prior to the first occupation of the building.

Reason: To comply with the Council's policy on the provision of public art and to enhance the setting and environment of the Proposed Extra Care Home in accordance with policy C28 of the adopted Cherwell Local Plan.

18. Prior to the first occupation of the flats precise details of the pedestrian gateway to People's Park , including it's locking arrangements shall be submitted to and approved by the Local Planning Authority , and the gateway shall thereafter be operated in the manner agreed.

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

20. Prior to the first occupation of the development hereby approved, a Travel Plan, prepared in accordance with the Department of Transport's Best Practice Guidance Note "Using the Planning Process to Secure Travel Plans" and its subsequent amendments, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved Travel Plan shall be implemented and operated in accordance with the approved details.

[Reason DR4](#)

Planning Notes

Thames Water Note – Surface Water

The applicant is advised that in respect of Surface Water, Thames Water have recommended that it should be ensured that storm flows are attenuated or regulated into the receiving public network through on or off site storage. Where 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 ground water. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer services will be required. They can be contacted on 0845 850 2777.

Thames Water Note – Water Pressure

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.

Statement of Engagement

In accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council having worked with the applicant/agent in a positive and proactive way as set out in the application report.

Agenda Item 16

15/01052/F

Land Adj To 53A Hamilton Close
Bicester



NORTH
Scale 1:300

15/01052/F

Land Adj To 53A Hamilton Close
Bicester

HIGHFIELD

FB

BICESTER

ROAD

Cherwell



Scale 1:2,500

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DISTRICT COUNCIL
NORTH OXFORDSHIRES

Ward: Bicester West

District Councillor: Cllrs Bolster, Hurle and Sibley

Case Officer: Stuart Howden

Recommendation: Approval

Applicant: Oxon Group Ltd

Application Description: Erection of 2 no. semi-detached dwellings

Committee Referral: Member call in by Cllr Sibley

1. Site Description and Proposed Development

- 1.1 The application site is located within Bicester, within an existing, modern residential area. The site is currently fenced off from Hamilton Close. The site is between 53A Hamilton Close to the north and 53 Hamilton Close to the south. Hamilton Close is mainly characterised by two storey detached dwellings constructed from brick under tile roofs, however there are a limited number of terraced dwellings further to the north west of Hamilton Close as well.
- 1.2 Planning permission is sought for 2.No semi-detached dwellings. The dwellings are proposed to be constructed brick under a concrete tiled roof. Proposed dwelling No.1, which is the most northerly of the proposed dwellings, would be a depth of approximately 9 metres and a width of approximately 6.1 metres. Dwelling No.2 is proposed to have a depth of approximately 8.1 metres and a width of approximately 7.9 metres. A single storey element would protrude from the rear of the main body of proposed dwelling No.2. Dwelling No.1 would have a gabled front and would protrude approximately 0.3 metre beyond Dwelling No.2. The roof of dwelling No.1 is proposed to pitch away from Hamilton Close. Two vehicular parking spaces are proposed for each dwelling and these are proposed to be accessed by going across land belonging to another residential property (No.53a Hamilton Close).
- 1.3 The site is not within a Conservation Area, but is close to the boundary of Bicester Conservation Area (- 20 metres to the south east of the site). The site is not within close proximity to any listed buildings. Legally protected species have been located within close proximity to the site, including swifts.

2. Application Publicity

- 2.1 The application has been advertised by way of neighbour letter, press notice and site notice. The final date for comment was 24 August 2015. 12 letters have been received from 8 people objecting to the proposal and the issues raised are summarised below:
- Overdevelopment of the site;
 - Loss of privacy to No.53 and No.53a Hamilton Close;
 - Loss of light and overdomination;
 - Highway safety matters including:
 - The access has insufficient sight lines;
 - The access is too narrow for regular motor vehicles;
 - The proposed access is too narrow for large service vehicles;
 - Turning and manoeuvring areas are inadequate;

- Would result in the reduction of the on-street parking on Hamilton Road as well as the size of the turning area;
- The proposal is contrary to Policies TR2 and TR5 of the adopted Cherwell Local Plan;
- Removal of trees and loss of biodiversity;
- Land ownership issues;
- Covenant on the land restricting access to the site;
- The development of the proposal would result in construction vehicles posing a risk to highways safety;
- There is no provision in the plans for kerbside collection of up to 4 individual refuse bins. Residents will have to drag bins some distance, all the way to the edge of the road, creating a noise nuisance, affecting the amenity of existing residents;
- Surface water run-off from access;
- The development would be behind fencing and this could encourage anti-social behaviour.

3. Consultations

- 3.1 Bicester Town Council: *“Strongly objects to this application as an overdevelopment of the site and has concerns regarding access and highway issues”.*

Cherwell District Council Consultees

- 3.2 Ecology Officer: *“I have no objections to the application on ecological grounds. My comments are similar to those for the previous application on this site and I would recommend the same conditions as below.*

The applicant plans to retain some of the trees and they will need to be aware of root protection zones in assessing whether this is feasible. The tree or landscape officers should be consulted on this. A number of trees will be removed and this should not be carried out during the nesting bird season (March – August inclusive) unless checked to confirm no nesting birds are present as birds are protected at this time under the Wildlife and Countryside Act 1981 (as amended).

There are a number of records of swifts in close proximity to this site and in order to attempt no net loss of biodiversity any new building should include at least three provisions for this bird in the form of swift bricks (Schwegler number 17 triple brick or similar set up) embedded in the fabric of the dwellings to ensure their future retention and minimise maintenance. The applicant should consult the swift project coordinator for Cherwell to discuss the most suitable aspect and position. Should the coordinator consider the buildings unsuitable a different species should be included (house sparrow for example).

Landscaping on site should include some wildlife friendly planting such as berry or flower bearing species and close boarded fencing should be avoided or raised due to the proximity of records of hedgehogs which are now a Priority Species as this inhibits their movement.

I would recommend the following condition to any permission therefore: Prior to the commencement of the development hereby approved, full details of a scheme for the location of at least three nesting opportunities for swifts or another suitable bird species shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the occupation of any building the nesting bricks shall be installed on the site within the building fabric in accordance with the approved details.

And the following informative: 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.”

- 3.3 Arboricultural Officer: *“The amenity value and quantity of trees within the red-line boundary is very low and therefore I would not expect any tree on site to be a constraint to the proposal.*

There are a number of trees in neighbouring properties which are located close to the site boundary however, they would appear to be of an adequate distance from any major construction activity and should therefore not require any precautionary protective measures.

I have no arboricultural objections and no further comments to make in relation to this proposal.”

Oxfordshire County Council Consultees

- 3.4 Highways Liaison Officer: *“It is noted that the site does not have direct access to the highway but does have access via a private drive over the driveway of number 53a Hamilton Close. This is clearly a civil matter and one the County Council as Highway Authority will not be party to i.e. over rights of access to/from the application site from private land.*

Notwithstanding this situation the proposal in traffic terms has little impact on the highway given it's for two properties with no real intensification of use or detriment to other highway users. The concerns relating to visibility at the access can be overcome by reducing the height of the fence adjacent to the highway to no more than a 1 metre, although, it is unlikely that this area immediately adjacent to the access is heavily used by pedestrians given the amount of properties served by the cul-de-sac beyond this point.

In short, Oxfordshire County Council as Local Highway Authority hereby notifies the District Authority that they do not propose to object to the grant of permission i.e. there are no objections to the proposal from a traffic and highway safety point of view.”

Other Consultees

- 3.5 Thames Water: No objections in relation to sewerage infrastructure capacity and water infrastructure capacity.

4. Relevant National and Local Policy and Guidance

- 4.1 Development Plan Policy

Cherwell Local Plan 2011-2031 Part 1

PSD1: Presumption in Favour of Sustainable Development

BSC2: The Effective and Efficient Use of Land – Brownfield land and Housing Density

ESD10: Protection and Enhancement of Biodiversity and the Natural Environment

ESD15: The Character of the Built and Historic Environment

Cherwell Local Plan 1996 (Saved Policies)

C28: Layout, design and external appearance of new development

C30: Design of new residential development

4.2 Other Material Policy and Guidance

National Planning Policy Framework (2012)

Planning Practice Guidance (2014)

Cherwell District Council: Home Extensions and Alterations Design Guide (2007).

5. Appraisal

5.1 The key issues for consideration in this application are:

- Relevant Planning History;
- The Principle of the Development;
- Visual Amenities;
- Impact upon the Setting of the Conservation Area;
- Residential Amenities;
- Highways Safety;
- Ecological Impact;
- Other Matters.

Relevant Planning History

5.2 13/00836/F – Single dwelling – Approved

A detached bungalow was approved at the site in 2013 and this permission is extant (see image below of previously approved scheme).



5.3 15/00297/F – Erection of 4 flats at rear of Glen Rosa with access from Hamilton Close – Withdrawn.

5.4 Earlier in the year an application for a building accommodating 4.No 2 bedroom flats was withdrawn due to concerns held by officers. The design of the building, with its flat roof, was considered poor and out of keeping with the locality. Furthermore, vehicular parking was proposed to the rear of the site and officers considered this to be un-neighbourly.

5.5 **The Principle of the Development**

5.6 Paragraph 14 of the National Planning Policy Framework (NPPF) states that a presumption of sustainable development should be seen as a golden thread running through decision taking. There are three dimensions to sustainable development, as defined in the NPPF, which require the planning system to preform economic, social and environmental roles. These roles should be sought jointly and simultaneously through the planning system.

5.7 Paragraph 12 of the NPPF notes that the development plan is the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise. Cherwell District Council has an up-to-date Local Plan which was adopted on 20th July 2015.

5.8 Cherwell District Council can demonstrate a five-year supply of deliverable housing sites therefore the presumption in favour of sustainable development, as advised by the NPPF, will therefore need to be applied in this context.

5.9 There are no adopted Local Plan policies relating specifically to housing development within Bicester, however, the Cherwell Local Plan Part 1 states that housing growth will be directed towards the urban areas of Banbury and Bicester. Paragraph B.88 states: *“By focussing development in and around the towns of Bicester and Banbury we aim to ensure that the housing growth which the District needs only takes place in the locations that are most sustainable and most capable of absorbing this new growth”.*

5.10 Paragraph 17 of the NPPF states that planning should: *“Actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable.”*

The site is positioned within the built up limits of Bicester, which has good access to public transport links, local shops and amenities. It is therefore considered to be located within a sustainable urban location, which in principle is suitable for residential development.

The principle of the proposed development in this case is also clearly dependent on it not causing adverse harm to the visual amenities of the locality, setting of the conservation area, residential amenities, highways safety or ecology. These issues are discussed below.

Visual Amenities

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.

Saved Policy C28 of the adopted Cherwell Local Plan exercises control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context.

- 5.11 The site is effectively located on a corner plot between two existing dwellings and is surrounded by a variety of two storey dwellings, those within Hamilton Close are of a modern style and relatively uniform in appearance, whereas those to the rear (fronting Buckingham Road) are older and are of varying styles and forms. The majority of dwellings in Hamilton Close are constructed from red/buff brick with a plain tile roof and white, upvc fenestration. The front of the site is currently landscaped with low shrubs, which is within highway land. Behind this, the site is secured by a ~1.8 metre high close boarded fence across the frontage.
- 5.12 The proposed dwellings would be clearly visible from the public domain of Hamilton Close. The proposed semi-detached unit would follow the general layout of the dwellings on the east side of Hamilton Close in that the dwellings tend to be set slightly forward of the main body of the next door neighbouring dwelling to the north. As the proposed unit would be set approximately 4 metres from the side (north west) boundary of the site and 8 metres from the highway boundary, officers hold the view that the proposed unit would respect the open character of the estate.
- 5.13 Whilst Hamilton Close is mainly characterised by detached dwellings, apart from a number of terraced units to the north west of the site, officers are of the opinion that the proposed semi-detached unit would respect local distinctiveness given its design, scale and layout. The proposed dwelling would only be approximately 0.3 metre higher than No.53a Hamilton Close, next door and the proposed materials would be similar to those existing dwellings on Hamilton Road. In addition, the roof of the proposed building would have the appearance of one which is pitching away from the highway, with a gable protruding from the main body of the dwelling, slightly similar to the design of a number of the existing dwellings within the estate (i.e. No.29, No.41 No.53 and No.53a Hamilton Road).
- 5.14 It is therefore considered that the proposed dwellings would not be an overly prominent feature from within the streetscene, especially when taking into account that this proposed unit would be situated next door to No.53a Hamilton Close, which has a highly noticeable lengthy and wide two storey gable extension protruding from the front wall of the main body of the dwelling.
- 5.15 Due to the shape of the plot, the rear gardens proposed for each property would have a slightly unusual layout, but this element would not be highly visible from the public domain of the highway and the amount of space within these gardens is considered to be more than adequate. Furthermore, the off-street parking proposed for each dwelling is considered to be commensurate for dwellings of this scale in this location. Thus, the proposal is not considered to be an overdevelopment of the site.
- 5.16 Given the above, officers consider that the proposal would prevent detrimental harm to the visual amenities of the locality and that the proposal would not result in the overdevelopment of the site.

Impact upon the Setting of the Conservation Area

- 5.17 Whilst the Bicester Conservation Area is situated to the south of the site and includes properties on Field Street, the two proposed dwellings would front Hamilton Close which is characterised by modern dwellings in an estate layout therefore officers consider that the proposal would have a negligible impact upon the setting of the Bicester Conservation Area.

Residential Amenities

- 5.18 The nearest neighbouring property is 53a Hamilton Close which is directly to the north of the application site. The proposed building would be positioned approximately 4 metres off the boundary to the north and approximately 5.6 metres from the side elevation of 53a Hamilton Road. The proposed building would not protrude beyond the front rear wall of this neighbouring dwelling. Whilst it is acknowledged that No.53a has a stepped rear elevation, the proposed dwellings would not protrude beyond any windows in the rear elevation of this neighbouring property. Officers are therefore of the opinion that the proposal would not result in a significant loss of light to the front and rear windows serving No.53a. No.53a has two first floor windows in the side elevation which face towards the site, one of which is a rooflight, but these both serve bathrooms and the window in the wall of the No.53a is also obscurely glazed, so the loss of light to these rooms is not considered to be to the detriment of the occupiers. At ground floor level, there are five openings on this side elevation of No.53a, two of these windows being the primary source of light to habitable rooms (a study and dining room). The existing boundary between the two sites comprises a 1.8 metre close boarded fence and as a result of this, a large amount of the light received into the ground floor windows is already restricted. Given this fence and that the proposed dwelling would be set approximately 5.6 metres away from this side wall therefore not breaching the horizontal 45 degree line as taken from these side 2 side windows serving habitable rooms, officers hold the view that the proposed building would not result in a detrimental loss of light to these ground floor side windows.
- 5.19 Concern has been raised by the occupants of No.53a in relation to overlooking and loss of privacy. The north west side wall which directly faces No.53a would only have one window and this is proposed at ground floor level. Given a 1.8 metre high fence sits between the site and No.53a, I am of the opinion that clear views into the side windows and garden of No.53a would not be gained. The rear first floor windows of the proposed dwellings would achieve partial views of the rear garden of No.53a but officers are of the opinion that the overlooking that the proposed dwellings would introduce is replicated in most parts of the built environment (oblique views of neighbouring gardens). Whilst the ground floor windows within the side elevation would be visible from the rear of the proposed unit, it is considered that clear views into these windows would not be gained given these side windows are set at an oblique angle to the proposed semi-detached building. It is therefore considered that the proposal would not cause detrimental harm to No.53a in terms of overlooking or loss of privacy.
- 5.20 Regarding No.53 Hamilton Close to the south west of the site, this neighbouring dwelling has no windows in its north east (side) elevation. Given the above, the respective distance between the proposed unit and No.53 and the orientation of the site, it is considered that the proposed dwelling would not cause detrimental harm to No.53a in terms of overdomination or loss of light. No first floor side windows are proposed in the south east elevation of unit, therefore clear views into the rear garden of No.53 would not be gained from this proposed building. Furthermore, clear views into the front windows of No.53 would not be gained from the front windows of this proposed unit given that No.53 is set at an oblique angle to the proposed building.
- 5.21 In relation to the neighbouring property which is directly to the rear of the site, Glen Rosa, the proposed rear wall of this semi-detached building would be approximately 22 metres away from the rear wall of the site itself and next door neighbouring properties to Glen Rosa already gain oblique views of this neighbouring rear garden. It is therefore considered that the proposed dwelling would not cause additional detrimental harm to Glen Rosa in terms of loss of privacy or overlooking.
- 5.22 To the east of the site are the neighbouring properties of Four Ways and No.3

Banbury Road. The proposed semi-detached unit would be over 30 metres away from these neighbouring dwellings and approximately 8 metres away from the boundaries of these properties. Whilst views of the rear gardens of these neighbouring properties would be gained from this proposed building, officers are of the opinion that the views gained would not be significantly different from views of these neighbouring gardens gained from other neighbouring properties within the locality.

5.23 Despite what the submitted site location plan displays, the residential curtilage of No.1 Banbury Road does not adjoin the site and the boundary of this property is set back from the proposed semi-detached unit by approximately 18 metres. Furthermore, views of the rear garden of No.1 would be restricted due to the garden being surrounded by landscaping and due to an outbuilding which sit adjacent to the north west boundary of this neighbouring garden. It is therefore considered that the proposal would not cause detrimental harm to No.1 in terms of loss of privacy or overlooking.

5.24 As no side windows are proposed in the south east (side) elevation of the proposed semi-detached unit, clear views of No.4 Field Street to the south east of the site would not be gained from the proposed unit and the proposal would therefore not cause adverse harm to No.4 in terms of overlooking or loss of privacy.

Highways Safety

5.25 Whilst concerns have been raised in relation to highways safety, the Local Highways Authority have no objections to the proposal.

5.26 Reference to Policies TR2 and TR5 of the Cherwell Local Plan 1996 has been made by third parties, but these policies were not saved following a review of the Cherwell Local Plan 1996 by the Secretary of State in 2007.

5.27 The site does not have direct access to the highway, but does have access via a private drive over the driveway of No.53a Hamilton Close. As the Local Highways Authority note, this is not a planning matter, but a civil matter.

5.28 The Local Highways Authority are of the opinion that the proposal in traffic terms would have little impact on the highway given that it is for two properties and there would be no noticeable intensification of use or detriment to other highway users.

5.29 The Local Highways Authority state that concerns relating to visibility can be overcome by reducing the height of the fence adjacent to the highway to no more than 1 metre, but given that this area immediately adjacent to the access is not heavily used by pedestrians given the amount of properties served by the cul-de-sac beyond this point, this is not necessary.

5.30 Two on-site parking spaces for each dwelling is considered to be commensurate for dwellings of this scale in this location. Given the above, it is considered that the proposal would not have an adverse impact upon highway safety.

Ecological Impact

5.31 The Ecology Officer has no objections to the proposal in principle. However, the Ecology Officer notes that there are a number of records of swifts in close proximity to the site and in order to attempt no net loss of biodiversity, the Ecology Officer notes that any new building should include at least three provisions for this bird in the form of swift bricks embedded in the fabric of the dwellings to ensure their future retention and minimise maintenance. The Ecology Officer states that if the building is unsuitable for swifts, then a different species (e.g. house sparrow) should be

included. Given the above, a condition has been attached requesting details of a scheme for the location of at least three nesting opportunities for swifts or another suitable bird species. Subject to the aforementioned condition, it is considered that the proposal would not cause adverse ecological harm.

Other Matters

- 5.32 The Arboricultural Officer has no objections to the proposal and notes that the amenity value and quantity of trees within the red-line boundary is very low and therefore the Arboricultural Officer does not consider any tree on site to be a constraint to the proposal. The Arboricultural Officer states that whilst there are a number of trees in neighbouring properties which are located close to the site boundary, they would appear to be of an adequate distance from any major construction activity and should not require any precautionary protective measures. Officers see no reason to disagree with the Arboricultural Officer.
- 5.33 A number of issues have been raised by third parties, but the following are not material planning considerations in this case:
- Land ownership issues;
 - There is a covenant on the land restricting access to site;
 - The development of the proposal would result in construction vehicles posing a risk to highways safety.
- 5.34 A third party has noted that the development would be behind fencing and this could encourage anti-social behaviour as this area would be free to anyone. This area of land would be privately owned and would be to the front of the proposed dwellings therefore officers consider that this area would be no more susceptible to anti-social behaviour than anywhere else in the estate.
- 5.35 A third party has raised concerns about the kerbside collection of refuse bins causing a nuisance in terms of noise. Whilst it is somewhat undesirable that any future occupants would have to pull their refuse bins a relatively long distance to the nearest kerbside, officers do not consider that this would have a significant impact upon the amenity of any neighbouring residents in terms of noise.

Engagement

- 5.36 With regard to the duty set out in paragraphs 186 and 187 of the Framework, no problems or issues have arisen during the application. The applicant's agent was contacted in relation to concerns officers had with the initial design of the proposal and the applicant's agent amended the scheme to seek to achieve a positive solution. It is considered that the duty to be positive and proactive has been discharged through the efficient and timely determination of the application.

Conclusion

- 5.37 The principle of the development is considered to be acceptable. The proposal would not cause detrimental harm to the visual amenities of the locality, setting of the conservation area, residential amenity, ecology, trees or highways safety. The proposal is therefore compliant with the policies outlined in section 4 of this report. Overall, the proposal is considered to have no adverse impacts, therefore the application is recommended for approval and planning permission should be granted subject to appropriate conditions.

6. Recommendation

Approval, 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 condition, the application shall be carried out strictly in accordance with the following plans and documents:

- Application Form submitted with the application;
- Drawing No. DE(9)900 Rev A submitted with the application;
- Design and Access Statement dated July 2015 received from the applicant's agent by E-mail on 27th July 2015;
- Drawings No's: DP(0)001 Rev D; DP(9)900 Rev D; DP(0)050 Rev B; and DP(0)051 received from the applicant's agent by E-mail on 27th July 2015.

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

3. Prior to the commencement of the development hereby approved, samples of the tile to be used in the construction of the roof of the development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the samples so approved.

Reason - To ensure 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, samples of the brick to be used in the construction of the wall of the development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the samples so approved.

Reason - To ensure 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 commencement of the development hereby approved, full details of a scheme for the location of at least three nesting opportunities for swifts or another suitable bird species shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the occupation of any building the nesting bricks shall be installed on the site within the building fabric 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.

6. Prior to the commencement 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.

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.

7. 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.

8. Prior to the commencement of the development hereby approved, full specification details (including construction, layout, surfacing and drainage) of the parking, access and manoeuvring areas shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first occupation of the development, the parking and manoeuvring areas shall be provided on the site in accordance with the approved details and shall be retained unobstructed except for the parking and manoeuvring of vehicles at all times thereafter.

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

9. Notwithstanding the provisions of Classes A to E (inc.) of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) 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 enable the Local Planning Authority to retain planning control over the development of the site in order to safeguard the amenities of the area and prevent the overdevelopment of the site in accordance 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.

10. Notwithstanding the provisions of Class A of Part 2, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015, no gate, fence, wall or other means of enclosure shall be erected, constructed or placed between the dwelling(s) and any highway, access road or private drive without the prior express planning consent of the Local Planning Authority.

Reason – To retain the open character of the development and the area in accordance 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. In relation to condition 5, the applicant is advised to contact the swift project coordinator for Cherwell to discuss the most suitable aspect and position.
2. 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.
3. Legal changes under The Water Industry (Scheme for the Adoption of private sewers) Regulations 2011 mean that the sections of pipes you share with your neighbours, or are situated outside of your property boundary which connect to a public sewer are likely to have transferred to Thames Water's ownership. Should your proposed building work fall within 3 metres of these pipes we recommend you contact Thames Water to discuss their status in more detail and to determine if a building over / near to agreement is required. You can contact Thames Water on 0800 009 3921 or for more information please visit our website at www.thameswater.co.uk
4. 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. They can be contacted on 0800 009 3921. This is to ensure that the surface water discharge from the site shall not be detrimental to the existing sewerage system.
5. 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.
6. Birds and their nests are fully protected under the Wildlife and Countryside Act

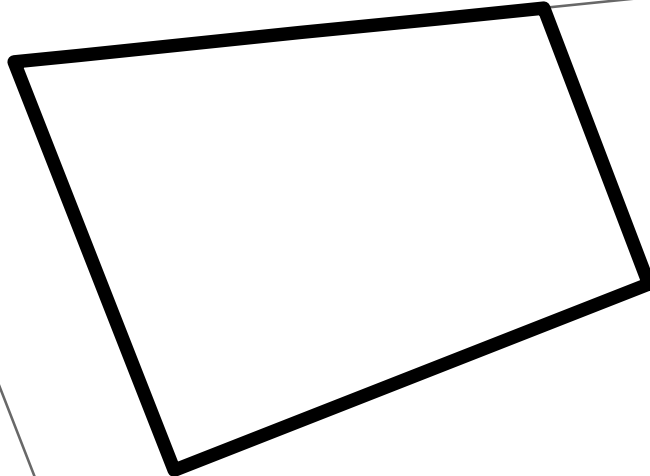
1981 (as amended), which makes it an offence to intentionally take, damage or destroy the eggs, young or nest of a bird whilst it is being built or in use. Disturbance to nesting birds can be avoided by carrying out vegetation removal or building work outside the breeding season, which is March to August inclusive.

STATEMENT OF ENGAGEMENT

In accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council having worked with the applicant/agent in a positive and proactive way. The applicant's agent was contacted in relation to concerns officers had with the initial design of the proposal and the applicant's agent amended the scheme to seek to achieve a positive solution. It is considered that the duty to be positive and proactive has been discharged through the efficient and timely determination of the application.

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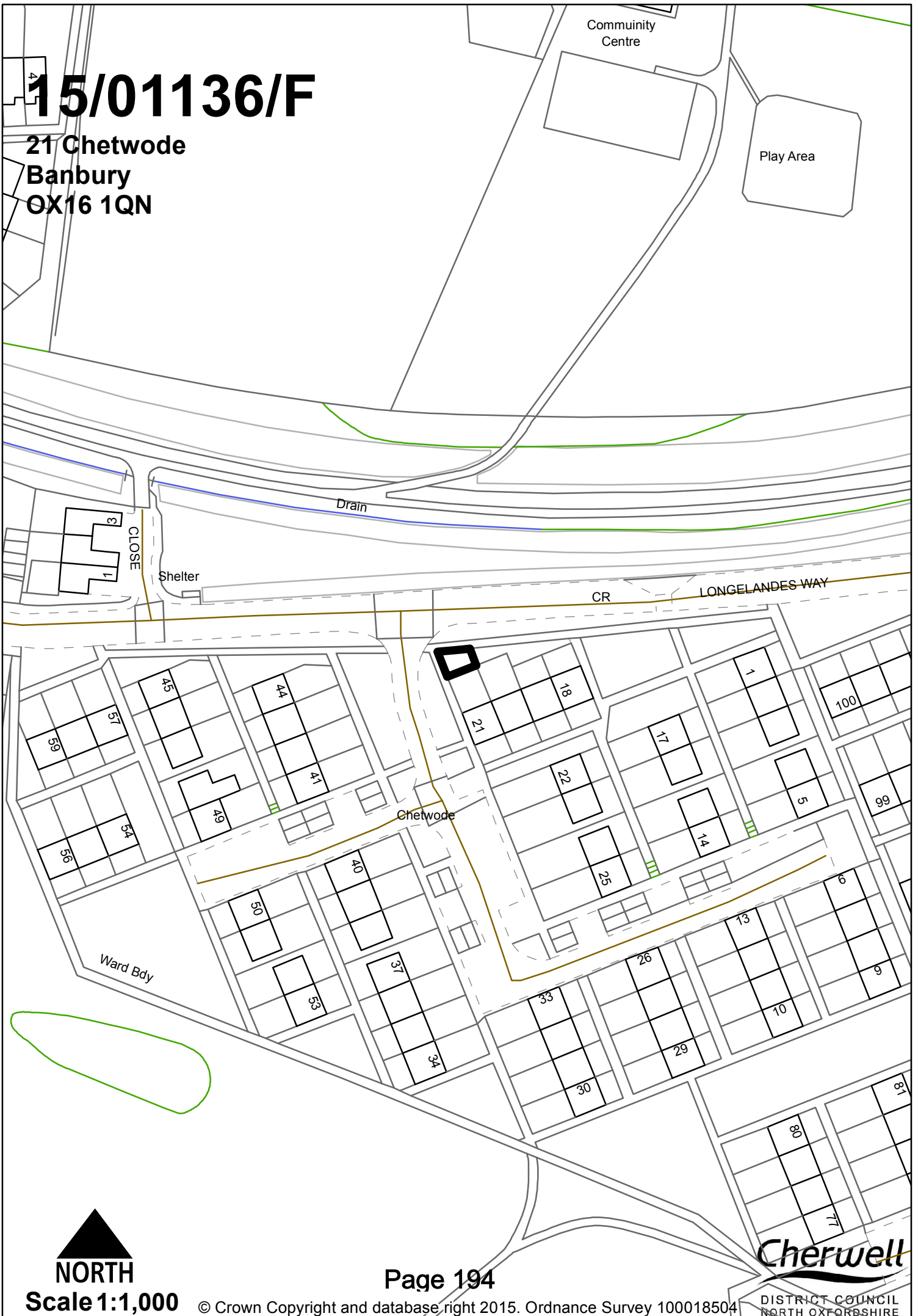
21 Chetwode
Banbury
OX16 1QN



NORTH
Scale 1:100

15/01136/F

21 Chetwode
Banbury
OX16 1QN



NORTH
Scale 1:1,000

Ward: Banbury Neithrop

District Councillor: Cllr Dhesi and Cllr Johnstone

Case Officer: Gemma Magnuson

Recommendation: Refusal

Applicant: Mrs Dawn Brown

Application Description: Change of use of land to private garden

Committee Referral: Site owned by Cherwell District Council

Committee date: 03 September 2015

1. Site Description and Proposed Development

- 1.1 The site consists of a parcel of land positioned to the north of the existing rear garden associated with 21 Chetwode. The land sits between the existing boundary fence and Longelandes Way, forming part of a residential estate north-west of Banbury town centre. The land is not covered by any designations. The Neithrop Fields Cutting Special Site of Scientific Interest (SSSI) is within 2km of the site. The land is potentially contaminated.
- 1.2 The proposed development would involve the change of use of the land to domestic curtilage. The land would be enclosed by a timber fence of an unspecified height.

2. Application Publicity

- 2.1 The application has been advertised by way of neighbour letter and site notice. The final date for comment was 13 August 2015. No correspondence was received as a result of this consultation.

3. Consultations

- 3.1 Banbury Town Council: no response at time of writing.

Cherwell District Council Consultees

- 3.2 Landscape Officer: I would recommend a refusal on this one. The land must be kept as formal open space as part of the amenity, and open character of the area. The applicant should maintain the land as informal open space and it should remain unfenced.

Oxfordshire County Council Consultees

- 3.3 Highways Officer: no response at time of writing.

4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

Cherwell Local Plan (2011-2031 Part 1)

The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015.

The Plan was the subject of an independent examination conducted by an Inspector appointed by the Secretary of State. The Inspector's report was published on 12th June 2015 and the recommended main modifications required to make the Plan sound have been included in the adopted plan.

The Plan provides the strategic planning policy framework and sets out strategic site allocations for the District to 2031. Now adopted, the Plan forms part of the statutory development plan and provides the basis for decisions on land use planning affecting Cherwell District.

The Local Plan 2011-2031 – Part 1 replaces a number of the saved policies of the 1996 adopted Cherwell Local Plan. Those saved policies of the 1996 adopted Cherwell Local Plan which are retained remain part of the development plan. These are set out in Appendix 7 of the Local Plan 2011-2031.

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

The Local Plan and its associated documents are available on the Council's website: www.cherwell.gov.uk

ESD15: The Character of the Built and Historic Environment

Cherwell Local Plan 1996 (saved Policies)

C28 – Layout, design and external appearance of new development

4.2 **Other Material Policy and Guidance**

Planning Practice Guidance (PPG)

National Planning Policy Framework (NPPF)

5. Appraisal

5.1 The key issues for consideration in this application are:

- Visual impact
- Residential amenity
- Highway safety

Visual Impact

5.2 Government guidance within the NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development; economic, social and environmental. These roles should not be undertaken in isolation, because they are mutually dependant. The planning system should seek to create a high quality built environment with accessible local services that reflect the community's needs and support its health, social and cultural well-being.

- 5.3 Pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment as well as in people's quality of life, including improving the conditions in which people live, work, travel and take leisure. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Planning decisions should aim to ensure that developments will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development, and are visually attractive as a result of good architecture and appropriate landscaping.
- 5.4 Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. Further, planning decisions should aim to achieve places which promote safe and accessible developments, containing clear and legible pedestrian routes, and high quality public space, which encourage the active and continual use of public areas. Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless they are surplus to requirements, would be replaced elsewhere or the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.
- 5.5 Policy ESD 15 of the Cherwell Local Plan 2011-2031 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 and should be designed to deliver high quality safe, attractive, durable and healthy places to live and work in. Further, development of all scales should be designed to improve the quality and appearance of an area and the way it functions and development should be designed to integrate with existing streets and public spaces, and buildings configured to create clearly defined active public frontages
- 5.6 Saved Policy C28 of the Cherwell Local Plan 1996 exercises control over all new development to ensure that it is sympathetic to the character of the context of the development.
- 5.7 The site consists of an area of public open space owned by Cherwell District Council and forms part of a landscaped strip running along the southern edge of Longelandes Way that contributes to the open character and appearance of the existing streetscene. The landscaping of the site consists of grass, although it serves to separate the existing fence at 21 Chetwode from the back edge of the footway.
- 5.8 It is the opinion of Officers that the incorporation of this land into the domestic curtilage of 21 Chetwode, together with its enclosure by timber fencing, would detract from, rather than improve, the character and quality of the area and the way it functions, and result in the loss of an area of public open space that contributes to the open character and appearance of the streetscene.
- 5.9 It is apparent that the occupants of 19 Chetwode have enclosed a similar parcel of land with a timber fence, although there is no record of a planning application for the change of use of the land to domestic curtilage and the erection of a fence.
- 5.10 If the current application were to be permitted, Officers consider that it would set an undesirable precedent for the incremental erosion of this public open space as there are a number of dwellings in close proximity to the site that may seek to undertake similar works.
- 5.11 The proposal is considered contrary to Government guidance contained within the NPPF, Policy ESD 15 of the Cherwell Local Plan 2011-2031 and saved Policy C28 of

the Cherwell Local Plan 1996.

Residential Amenity

- 5.12 Government guidance contained within the NPPF seeks to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Policy ESD 15 of the Cherwell Local Plan 2011-2031 states that new development should consider the amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation, and indoor and outdoor space.

Officers consider that the proposed fence would be positioned a sufficient distance from openings at neighbouring properties in order to avoid any harm in terms of a loss of privacy or amenity, in accordance with the above Policies.

Highway Safety

- 5.13 Officers consider that the proposed fence would be positioned a sufficient distance from the highway in order to avoid causing significant harm in terms of highway safety, in accordance with Government guidance contained within the NPPF in terms of sustainable transport.

Engagement

- 5.14 With regard to the duty set out in paragraphs 186 and 187 of the Framework, Officers did not consider that the application could be amended in order to overcome concerns regarding the impact upon visual amenity. The application has been determined in a timely and efficient manner and it is therefore considered that the duty to be positive and proactive has been discharged through discussion with the applicant on site.

Conclusion

- 5.15 The proposed change of use of public open space to domestic curtilage and erection of a fence, by virtue of its appearance and positioning, would result in the loss of public open space that would detract from the open character and appearance of the context of the development, contrary to Government guidance contained within the National Planning Policy Framework, Policy ESD 15 of the Cherwell Local Plan 2011-2013 and saved Policy C28 of the Cherwell Local Plan 1996. In addition, it will set an undesirable precedent for the consideration of similar proposals that would cumulatively further erode the area of open space but would be consequentially difficult to resist.

6. Recommendation

Refusal, for the following reason:

The proposed change of use of public open space to domestic curtilage and erection of a fence, by virtue of its appearance and positioning, would result in the loss of public open space that would detract from the open character and appearance of the context of the development, contrary to Government guidance contained within the National Planning Policy Framework, Policy ESD 15 of the Cherwell Local Plan 2011-2013 and saved Policy C28 of the Cherwell Local Plan 1996. In addition, it will set an undesirable precedent for the consideration of similar proposals that would cumulatively further erode the area of open space but would be consequentially difficult to resist.

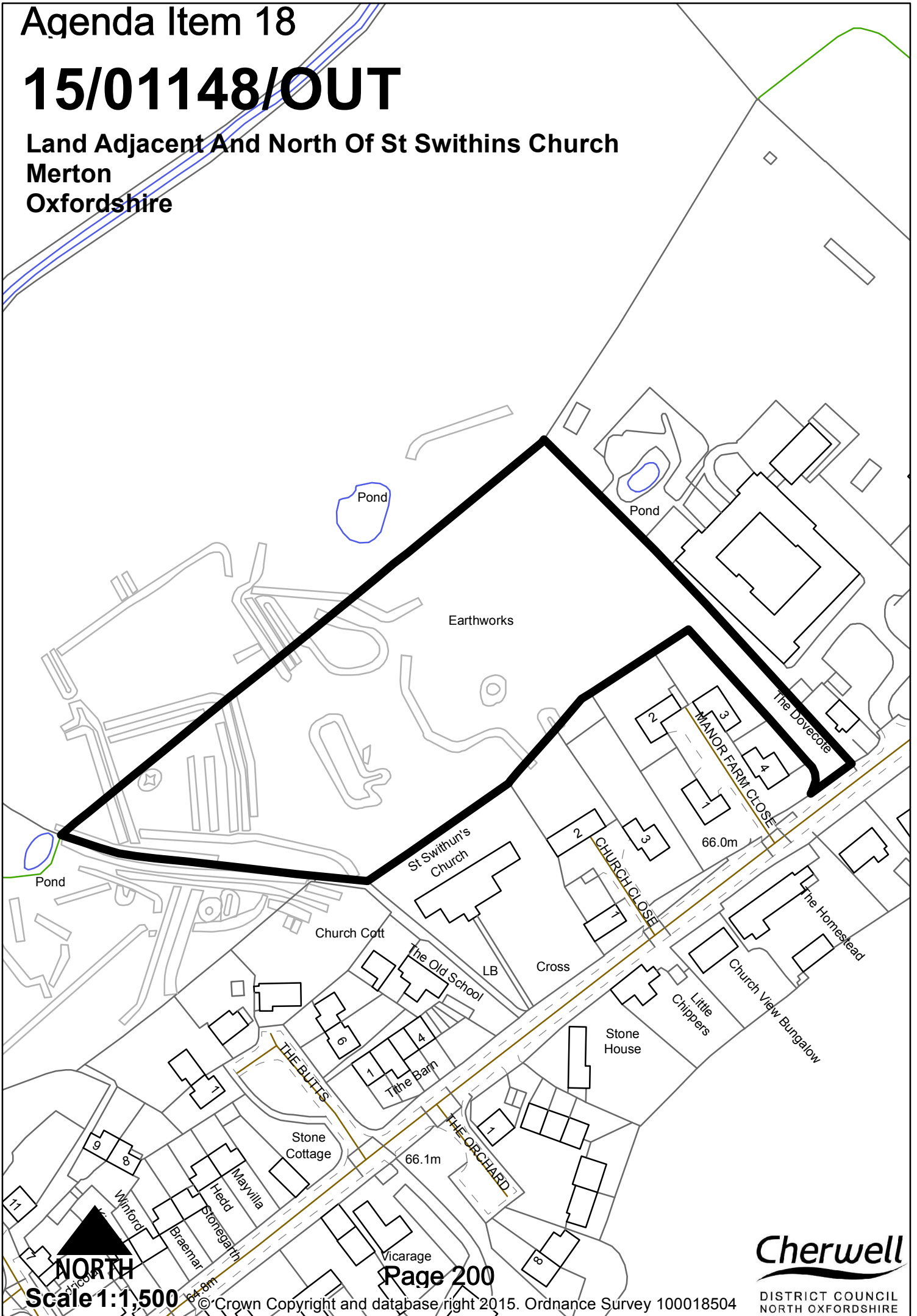
STATEMENT OF ENGAGEMENT

In accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No 2) Order 2012 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council having worked with the applicant/agent in a positive and proactive way as the decision has been made in an efficient and timely way.

Agenda Item 18

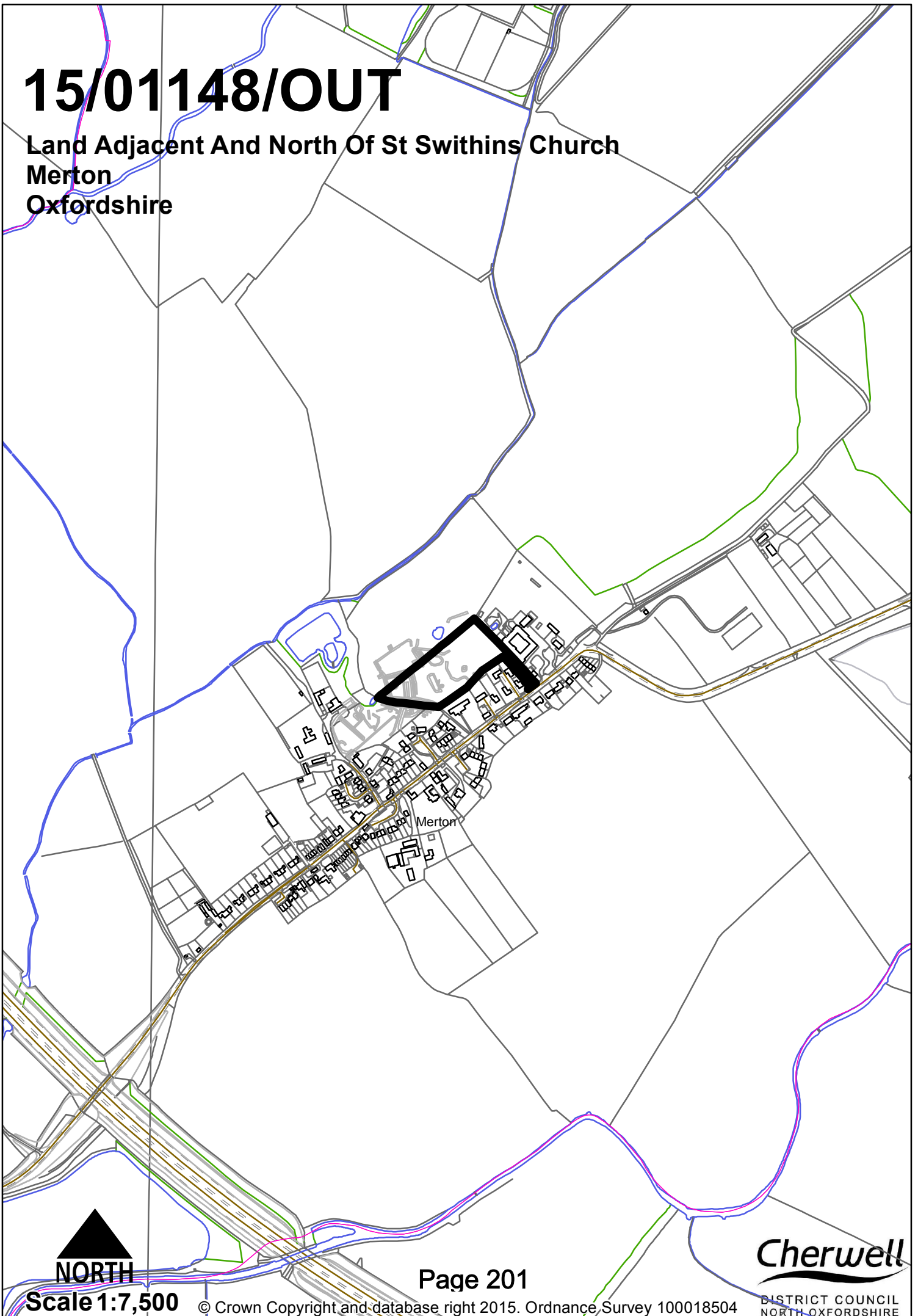
15/01148/OUT

Land Adjacent And North Of St Swithuns Church
Merton
Oxfordshire



15/01148/OUT

Land Adjacent And North Of St Swithins Church
Merton
Oxfordshire



Scale 1:7,500

**Land Adjacent And North of St.
Swithun's Church, Merton,
Oxfordshire**

15/01148/OUT

Ward: Otmoor

District Councillor: Cllr Hallchurch

Case Officer: Stuart Howden

Recommendation: Refusal

Applicant: Wellend Design And Build

Application Description: OUTLINE – Residential development of 3 No dwellings – re-submission of 13/01873/OUT

Committee Referral: Major in site area (over 1ha)

Committee Date: 03.09.2015

1. Site Description and Proposed Development

- 1.1 The site comprises a 1.38 hectare flat area of rough grassland to the north east of Merton Village. To the south west of the site are St.Swithun's Church and the two small residential closes of Church Close and Manor Farm Close, whilst to the east of the site is Manor House Care Home. Open countryside lays to the north and west of the site. The site is bounded by mature hedgerows to the north, west and partially to the east, with a public footpath (295/2) running diagonally across the southern corner adjacent to St. Swithun's Church to the northern corner. A stone wall forms the boundary with the church. Access to the site is via a field gate between No.4 Manor Farm Close and the Dovecote.
- 1.2 Outline planning permission is sought for the construction of three residential units with all matters reserved. An Archaeological Evaluation, Ecological Appraisal, Landscape And Visual Impact Appraisal, Planning Design and Access Statement, Heritage Statement and Flood Risk Assessment have been submitted. An indicative block plan displaying three detached dwellings to the south east corner of the site has also been submitted.
- 1.3 The site is not within a Conservation Area, but the site is within close proximity to listed buildings. St.Swithun's Church, which is situated to the south east of the site is a Grade I listed building. To the north east of the site is a Grade II listed building within the grounds of the Manor House Care Home. The site is within an area of significant archaeological interest and potentially contaminated land. There are Brown long-eared bats and swifts in the area and the potential for Great Crested Newts in the 3 ponds adjacent to the site.
- 1.4 A screening opinion in July 2015 (15/00072/SO refers) concluded that an EIA was not required for the proposed development.

2. Application Publicity

- 2.1 The application has been advertised by way of neighbour letter, press notice and site notice. The final date for comment was the 13th August 2015. 16 letters have been received from 14 people who object to the proposal and a petition objecting to the proposal has been received with 111 signatures. These concerns are summarised below:

- A scheme for 9 houses at the site was considered inappropriate development last year and the reasons for refusal are relevant to this application;

- The proposal is contrary to local and national policy;
- Unsustainable development beyond the built up limits of Merton;
- Merton is limited to infilling and conversions and the proposal does not fall within both of these categories;
- Merton is not classed as a growth settlement;
- Merton is not a sustainable settlement. There is no village shop, public house or school and public transport is limited (car reliance) and Merton is at least 5 miles from Bicester and 2 miles to the nearest village Ambrosden;
- The need for sustainable locations in the locality has been met by developments in Arcott and Ambrosden, which are considerably more sustainable settlements, as well as the construction sites at Kingsmere in Bicester and Caversfield and the proposed developments at Graven Hill;
- Represents development which encroaches into the open countryside;
- Fails to maintain the rural character and appearance of the area;
- Fails to conserve, enhance and respect the historic settlement pattern/Out of keeping with and causes harm to the existing form and character of the area/Merton is a linear village; the proposal is a significant deviation from this built form;
- The proposal would set a precedent for further development on this site;
- Unduly affects the setting and significance of St Swithun's Church (a Grade I listed building) and Manor House (a Grade II listed building);
- Development on this land will harm the setting and significance of the earthworks;
- The site is of archaeological interest;
- Cause adverse harm to the amenities of the neighbouring properties by increased vehicular activity in an otherwise quiet tranquil environment;
- Highway safety concerns:
 - The access land is of inadequate width;
 - Visibility issues;
 - Does not meet OCC Highway criteria and standards.
- Great Crested Newts have been spotted within close proximity to the site and there are concerns how the proposed development would impact upon this protected species;
- The proposal would cause harm to bats;
- The footpath running through the site would no longer be enjoyable for the public;
- The site is lower lying in formation level than adjacent built up areas, with an adjacent field known to flood. The concern is that development may compound the problem.
- Disruption from construction;
- No neighbourhood consultation;
- Concerned about the ability of existing services to meet any possible development, in particular, with respect to foul and storm water drainage. In addition there may be limitations on a suitable clean water supply/water pressure issues;
- There is no indication on how infrastructure or local services will be improved or how the village will benefit in such a manner;
- Land ownership concerns;
- More houses will create internet speed issues.

3. Consultations

- 3.1 Merton Parish Council: Object to the application. The comments from the Parish Council have been edited (see below) and the full comments are available to view on the Council's website.

“Merton Parish Council wishes to place on record its formal objection to the above planning application, to build 3 houses on the land to the north of St Swithun’s Church in Merton, Oxfordshire. This application is a scaled-down resubmission of application 13/01873/OUT, which was for a considerably larger development of 9 houses, which was refused on Friday 20th June 2014. The Parish Council wishes to register its objection to this new application on two main grounds:

1. In the Adopted Cherwell Local Plan (2011-2031) part 1, Policy Villages 1 (village categorisation), Merton is classified as category C village. This categorisation limits development to:

- i) Infill, and*
- ii) Conversions*

As with the previous application, the current application does not represent either infill or conversion. It lies on open farmland outside of the village envelope, and as such is not in keeping with the existing character and form of the village, which is largely a ribbon development on either side of the main road. Furthermore, it is in close proximity to a Grade 1 listed church (St Swithun’s), and would be to the considerable visual detriment of both church and churchyard. Finally, it lies immediately behind the properties in Church Close and Manor Farm Close, and would dramatically alter the character and amenity of those locations.

2. Our understanding is that the Planning Department is obliged to consider solely the application that has been placed before it, without being swayed by any implications or inferences that do not form part of the substantive application. For its part however, the Parish Council wishes to place on record the observation that this new application has every sign of simply being an opening gambit for a more extensive intended development. If the current application were to be approved, it seems to us that it might ease the passage of future applications to bring the development up to (or beyond) the scale of the earlier and refused application 13/01873/OUT.”

NPPF Principles

“NPPF paragraph 14 makes it clear that permission should be granted unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Our view is that there are adverse impacts in respect to heritage assets, form and character of the village and harm to neighbours’ amenity.

In respect to housing policies, paragraph 49 of the NPPF states that “Housing applications should be considered in the context of the presumption in favour of sustainable development.”

Cherwell Local Plan

“At the outset, it must be noted that there has been no neighbourhood consultation, prior to this proposal being submitted.

The Cherwell Local Plan 2011-2031 (Policy Villages 1) determines that Merton is classed as a Category C settlement, for which category the policy limits development to infill and conversions. In contrast, the current application must be characterised as backland development.

The purpose of categorising villages is to ensure the most sustainable distribution of growth across the rural areas. The approach is taken from the previous adopted

Local Plan with the underlying purpose of imposing tight restrictions on the scope of further residential development because villages such as Merton are inherently poor in terms of services and facilities. This proposal would also risk further harm to the character of this area which could arise from the precedent that may be set.

The proposal clearly conflicts with policy as the site is beyond the built-up limits of the village and lies in open countryside. In terms of other relevant policies in the Local Plan, Policies ESD13, and ESD15 are particularly relevant to this application as they deal with landscape impact and built development which will be considered later.”

Village Character & the Nature of the Site

“It is both acknowledged and addressed within the 2011-2031 Local Plan that several villages within Cherwell District would benefit from a small increase in the number of properties.

Merton is a linear village which developed to either side of the main road, as did many small villages which grew up along the roads to other larger settlements. There are very few instances of development away from these frontages, and those that do exist are either farmyards or late 20th Century developments, breaking the natural line of the village.

Due to its location behind the church and away from the village street, the proposed development effectively ‘turns its back’ on the remainder of the village. This is contrary to policy ESD 15 of the 2011-2031 Local Plan (respecting the traditional pattern of routes, spaces, blocks, plots, enclosures and the form, scale and massing of buildings).

- *The development is backland rather than infill.*
- *The site is on existing agricultural land.*
- *The site is not within the defined village framework.*
- *Merton is a linear village; the proposal is a significant deviation from this built form.*
- *“Therefore, these proposals can only be termed development in open countryside and contrary to current local policy.”*

Impact on Heritage Assets, Form & Character of the Area

“In respect to adverse impacts, the site is within the setting of St Swithun’s Church (Grade I listed building) and the Manor Housing Nursing Home (Grade II listed building); other nearby listed buildings are The Homestead and Little Chippers on the opposite side of the road, and The Tithe Barn close to the Church.”

“The proposal fails to interact with the church, it erodes the relationship between the church, the archaeology and the fields beyond, thereby harming the setting of the building. The close proximity of the site to two listed buildings, both significant in their layout and relationship with the fields to the north, means that the setting of both of these structures is detrimentally affected. The proposal will form a cluster of residential units that would enclose the listed church and The Manor House, resulting in an intensive urban form of development that would be at odds with, and would harm, the rural setting of the listed buildings. Thus, the proposal would conflict with Policy ESD 15. It would also conflict with advice in the NPPF in paras 132 and 134.

In terms of its built form, Merton is predominately a linear village and with the exception of a few farmsteads that spur out of the built up parts of the village; the village has built up with small closes of 4-6 dwellings just branching off the main street through the village. The proposal would not create a small close branching off the main street; it would involve the creation of a backland form of development with

an access road that winds between and around the rear of existing houses. It would transform the rural setting of the listed buildings and prevailing linear pattern of residential dwellings along the main street, representing an incongruous form of development that would fail to respond appropriately to the essential character of the area. Therefore the development would conflict with Policy ESD 15 of the Local Plan, which requires, among other things, that developments respect historic settlement patterns and are sympathetic to the character and appearance of the area. The scheme would also fail to meet the requirements of paragraph 58 of the NPPF which aims to ensure that development adds to the overall quality of the area.

Furthermore, given that the site is a field on the edge of the village with a well-used public footpath running across it, it can be established that the site will be visible from the public domain.

It is considered that the proposal will have a detrimental impact on the landscape and furthermore would also cause harm to the enjoyment of the footpath by the public as the footpath would go straight through a housing development instead of a rural field that affords views to and from the Grade 1 listed church and the countryside beyond. It is our view that the potential benefits of the proposed development do not outweigh the significant harm, having regard to what the NPPF says about the importance of protecting and enhancing the built and historic environments; considering the impact of a proposal on heritage assets, with the need to avoid or minimise the conflict between development proposed and the heritage asset's conservation; the characteristics of historical settlement patterns and the local environment. All of this is contrary to paragraph 132 of the NPPF.

In this regard, therefore, the proposal would not constitute sustainable development and consequently, in accordance with Paragraph 14 of the NPPF, the proposal would cause significant harm and adverse impacts that demonstrably outweigh the benefits."

Impact on Residential Amenity

"In outline form, the indicative layout demonstrates the possible form that the development might take if approved. This essentially avoids the public footpath and the majority of the archaeology within the site. The access to the site runs directly between three existing dwellings (The Dovecote and 3 & 4 Manor Farm Close). Given this close proximity, vehicle movements along the access are likely to increase the level of noise and disturbance in these adjacent dwellings and their relatively small back gardens, which occupiers would be likely to find intrusive.

Other neighbouring properties affected include The Manor House Nursing Home, 2, 3 & 4 Manor Farm Close, and 2 & 3 Church Close, all of which enjoy a tranquil environment, free from vehicle noise and disturbance and the general level of activity associated with a residential development.

The site is an unimproved field that is unused at present. The proposal would result in permanent development, which given the village's limited public transport, would necessitate the use of private transport. As such, the proposal would cause detriment to the living conditions of adjacent residential properties through the introduction of increased vehicular activity in an otherwise quiet, tranquil backland site and contrary to policies of the CLP and the guidance contained within the NPPF at paragraph 123. In terms of sustainability, Merton is at least 5 miles from Bicester and 2 miles to the nearest village (Ambrosden), it has limited public transport, reliance would be on the private vehicle use, there are limited facilities and therefore the site is not sustainable in terms of accessibility and contrary to the government guidance contained within the NPPF."

Need & Alternatives

“Merton is not classed as a growth settlement in the current 2011-2031 Local Plan. Although not in green belt, the village is on the edge of the designated area that washes across open countryside from Oxford. In consequence, any such development may have a serious and harmful impact on the important green belt area (contrary to Policy ESD 14 of the local plan).

While the NPPF 2012 does support development of such small-scale proposals, there are many more sites that suit such development in the wider southern area of the district and in more sustainable locations.

Such need as exists within the immediate locality has been met by developments in Arncott and Ambrosden, which are considerably more sustainable settlements, as well as by the new sites under construction at Kingsmere in Bicester, the proposed development to the north of the town towards Caversfield, and the development at Graven Hill.

There is no proven need for such development in Merton. If there were, there are considerably better sites that could be considered on the extremities of the settlement to extend its natural linear nature.”

Sustainable Development

“Merton is not a sustainable settlement:

- i) There is no village shop, public house or school.*
- ii) Public transport is limited.*
- iii) Ideally, new developments within Merton should help alleviate this situation. There is no indication that this proposed development would do so. Any long-term local economic benefit would be limited to profit for the landowner and developer. Moreover, there is no guarantee that even the short-term benefit of employment during the construction phase would be given to be given to local persons.*

There is no indication or evidence of how infrastructure or local services would be improved, or how the village itself would benefit from any such development.”

Infrastructure & Services

“Concern is raised over the ability of existing services to meet any possible development, in particular with respect to foul and storm water drainage. In addition there may be limitations on a regular and suitable clean water supply, as mains water pressure would be affected by the additional demand. Given the location of the village, private transport would be required.”

Highways & Access

“There are number of highway concerns:

- Access is only via a 4.8m lane with 3.0m vehicular lane and 1.8m service strip.*
- This access has an inadequate width for service and emergency vehicles.*
- The access has no passing points.*
- There would be insufficient space for a pedestrian footway.*
- The access does not meet OCC Highway criteria and standards, therefore would not be adoptable.*
- The access lies in close proximity to other accesses and the busy Manor*

House nursing home.

- *The public footpath across the site would lose its amenity value.”*

Footpaths

“The proposal would cause harm to the enjoyment of the footpaths, as the route would take the public through a residential development instead of an attractive field within the setting of the listed church and open countryside. In the opinion of Cherwell’s Landscape Officer, the enjoyment by the public using the footpaths would be significantly harmed and diminished as a consequence.”

Ecology

“There are many ecological concerns on the site. The findings of the November 2013 ecological appraisal are:

- *The grassland within the field is species-poor.*
- *The hedgerow along the northern boundary is species rich and meets the criteria to be designated a ‘nationally important hedgerow’ under the Hedgerow Regulations 1997. This hedge is also likely to provide habitat for birds, great crested newts and foraging bats and badgers.*
- *Badgers forage within the site but no setts were found.*
- *There are no ponds within the site but nearby ponds may be used by Great Crested Newts, whose range may also include the application site.*
- *Swifts are known to nest nearby.”*

Archaeology

“The site contains significant archaeological features, with large and established earthworks, many of which are thought to be medieval.

The site is located in an area of considerable archaeological potential, immediately to the north of the 13th Century St Swithun’s Church. This is likely to have formed the focus of the medieval development of the village. The site also contains a series of earthworks representing a deserted medieval settlement and house platforms.

A probable Knights Templar’s Preceptory or Grange has been identified through aerial photographs. Archaeological features from Saxon through to medieval times were also recorded 130 metres northeast of the site during the development of the Manor House Nursing Home. Roman pottery has been recovered to the south and to the east of the site.

The archaeological evaluation already undertaken on the site recorded a number of archaeological features and earthworks related to the medieval village on the western side of the site and a smaller number of features on the eastern side, within the area of the proposed development.

The features included ditches and pits but no evidence of the stone buildings suggested by the geophysical survey. The report concluded that the western part of the site was occupied from at least the 11th Century and may have been occupied through to the 18th. The eastern side of the site may have been used for agricultural or pastoral purposes, and an earthwork bank may have formed a boundary between these areas.

Development on this site could eradicate some of these features, and harm the remainder. It is now common archaeological practice in Europe to protect archaeological sites and to defer their further excavation until such time as proper resources and improved archaeological techniques become available.”

Ownership

“At the time of the previous planning application (13/01873/OUT), it appears that there was a dispute over the ownership of some of the land forming the entrance to the proposed development. We do not know whether or not this issue has been resolved, but if it has not, it would have a significant impact on the feasibility of access into the proposed development, especially in terms of the visibility splay when entering the main street.

In relation to this, a separate planning application by the owner of 4 Manor Farm Close (15/00940/F) shows the disputed land as belonging to that property.”

Drainage

“The site is lower lying than neighbouring built-up areas, with an adjacent field that is known to flood. The concern is that drainage to and from the various ponds in the area could be impacted by the development and potentially exacerbate flooding problems.”

Cherwell District Council Consultees

3.2 Ecology Officer: *“The findings of the November 2013 ecological appraisal are outlined below:*

- *The grassland within the field is species-poor;*
- *The hedgerow along the northern boundary is species rich and meets the criteria to be designated a ‘nationally important hedgerow’ under the Hedgerow Regulations 1997. This hedge is also likely to provide habitat for birds, great crested newts and foraging bats and badgers.*
- *Badgers forage within the site but no setts were found.*
- *There are no ponds within the site but nearby ponds may be used by Great Crested Newts (GCN), as such they may also be present within the application site. If GCN are present nearby mitigation to exclude them from the site during development would be possible.*
- *Swifts are known to nest nearby.*

Given this, I would recommend the following:

- *The layout preserves the existing northern hedgerow and hedge bank. Currently one dwelling is indicated as being very close to it which may result in its compromise in the future due to its proximity to the dwelling.*
- *A great crested newt survey should be carried out before any works start on site, in order to determine any mitigation that may be required.*
- *Swift nest boxes and bat boxes should be incorporated into the new dwellings as a biodiversity enhancement.*
- *All new landscaping should consist of native species only.”*

3.3 Arboricultural Officer: No objections in principle.

3.4 Environmental Protection Officer: *“I have no objections to this development relating to land contamination and recommend contaminated land conditions are applied to demonstrate its consideration and the safety of the development. As a proposed residential property, it is a sensitive land use and the future users would be vulnerable to contamination. I recommend applying these conditions to ensure information is provided which demonstrates the site is safe (or can be made so through remedial works) and assessments have been undertaken to adequately*

consider whether this development proposal will be affected land contamination.”

- 3.5 Design & Conservation Officer: *“The proposal is for an infill development of 3 dwellings within the village of Merton.*

Merton is a Category C village which limits development to either infill or conversion. Merton, typical of many of the villages on Otmoor, is a small settlement with ‘ribbon development’ – that is to say the houses mostly front the highway. The housing density is relaxed.

This proposal is to develop land set back to the north of the main road through Merton. This land is part of an area which includes archaeological earthworks and therefore it is most likely that the area possesses some archaeological potential.

The proposal is unacceptable in principle as in several respects it fails to comply with Policy ESD15. The site is a ‘backland’ one (houses do not directly front the highway). Further the indicative roofscapes, the layout of the 3 houses and their garages and the boundary treatments appear alien and non-traditional and thus fail to respect the traditional settlement pattern. As this is simply an outline application (no specific details of dwellings) the full extent of the impact of this proposed development upon the appearance and character of the village is unknown.

Recommend refusal.

Contrary to policy.

The Cherwell Local Plan 2011-2013 (

ESD15 – the proposal fails to respect the traditional settlement pattern and does not integrate with existing streets and public spaces. Fails to contribute positively to the area’s character and identity by failing to reinforce local distinctiveness.

Policy Villages 1 – categorisation.

NPPF

#55 – unsustainable location.

#134 – the proposal would result in undue harm to the setting of St Swithun’s Church (Grade I).

#135 – unacceptable impact on the setting/significance of the non-designated but local important archaeology (local heritage asset).

#139 – unacceptable harm to an important area of non-designated archaeological interest.”

- 3.6 Planning Policy: No comments received to date.

- 3.7 Landscape Officer: *“This is a submission for 3 dwellings reduced from 9 in application 13/01873/OUT. I made comments on that application in April 2014 and don’t propose to repeat them here. General comments on the character of the area and visibility of the site in the wider landscape still apply. The LVIA has not been updated to take account of the reduced number of dwellings. The visual effects will be similar as the development occupies a reduced portion of the same area. The effects are mainly confined to within the field boundary of the site.*

The reduction in the number of dwellings results in 3 dwellings being tacked onto the back of existing properties in Manor Farm Close and Church Close. This is out of character with other properties in Merton which lie on road frontages not as back-land developments. The location behind the village street turns its back on the street and on the village. They don’t follow the existing settlement pattern and as such the proposal is out of character with the village.

The proposal encroaches into open countryside, affects the enjoyment of the PRow which dissects the field. I don't believe that the proposal can be adequately mitigated and should therefore be refused."

Oxfordshire County Council Consultees

3.8 Local Highways Authority: No objections subject to the following conditions:

- 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.
- Prior to the commencement of the development hereby approved, full specification details of the access drive including construction, surfacing, layout, drainage and road markings, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the first occupation of the development shall be constructed in accordance with the approved details.
- Prior to the commencement of the development hereby approved, full specification details (including construction, layout, surfacing and drainage) of the parking and manoeuvring areas shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first occupation of the development, the parking and manoeuvring areas shall be provided on the site in accordance with the approved details and shall be retained unobstructed except for the parking and manoeuvring of vehicles at all times thereafter.

3.9 Archaeology: *"The site is located in an area of archaeological potential as shown by the applicants desk based archaeological assessment and a number of phases of archaeological evaluation. The site is located 90m north east of the C13th St Swithun's Church (PRN 4123). This is likely to have formed the focus of the medieval development of the village. The site also contains a series of earthworks representing a deserted medieval settlement and house platforms (PRN 24717). A probable Knights Templar's Preceptory or Grange has been identified through aerial photographs 80m NE of the site (PRN 13903). Saxon through to medieval archaeological features have also been recorded 130m NE of the site during the development of the Manor House Nursing Home (PRN 16821). Roman pottery has been recovered to the south of the site (PRN 4219) and to the east (PRN 1806).*

The archaeological evaluation undertaken on the site recorded a number of archaeological features and earthworks related to the shrunken medieval village immediately west of the site and a smaller amount of features within the area of the proposed development. The features included ditches and pits but no evidence of the stone buildings suggested by the geophysical survey. The report concludes that the western part of the site was occupied from at least the C11th and may have been occupied through to the C18th. The eastern side of the site may have been used for agricultural or pastoral purposes and that an earthwork bank between the two areas may have formed a boundary between these areas.

We would, therefore, recommend that, should planning permission be granted, the applicant should be responsible for ensuring the implementation of a staged programme of archaeological investigation to be maintained during the period of construction."

Other Consultees

- 3.10 Historic England: *“The proposed development is adjacent to the Grade I listed church of St Swithun and to non-designated earthworks. In our previous advice on the previous proposals we have advised that they would cause harm to these historic assets.*

In our view the current proposals offer considerably reduced levels of harm to the significance of the Grade I church through the impact upon its setting. You will wish to take the advice of the County Archaeologist on potential impacts upon non-designated archaeological remains.

We would urge you to address the above issues, and recommend that the application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.”

- 3.11 Thames Water: No objections in relation to sewerage infrastructure capacity and water infrastructure capacity.

4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

Cherwell Local Plan 2011-2031 Part 1

PSD1: Presumption in Favour of Sustainable Development
BSC1: District Wide Housing Distribution
BSC2: The Effective & Efficient Use of Land – Brownfield Land and Housing Density
ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
ESD13: Local Landscape Protection and Enhancement
ESD15: The Character of the Built and Historic Environment
Policy Villages 1: Village Categorisation

Cherwell Local Plan 1996 (Saved Policies)

H18 New dwellings in the countryside
C8: Sporadic development in the open countryside
C28: Layout, design and external appearance of new development
C30: Design of new residential development
C31: Compatibility of proposals in residential areas
C33: Retention of undeveloped gaps of land
ENV1: Pollution Control
ENV12: Contaminated Land

4.2 Other Material Policy and Guidance

National Planning Policy Framework (2012)

Planning Practice Guidance (2014)

5. Appraisal

5.1 The key issues for consideration in this application are:

- Relevant Planning History;
- The Principle of the Development;
- Design and Landscape Impact;
- Impact on the Heritage Assets;
- Residential Amenities;
- Highways Safety;
- Ecological Impact;
- Other Matters.

Relevant Planning History

5.2 13/01873/OUT – Residential development of up to 9 dwellings – Refused.

An outline application, with all matters reserved, on the same site as this current application was refused on June 2014 for the following reasons:

1. Notwithstanding the Council's present inability to demonstrate that it has a 5 year supply of housing land required by Paragraph 47 of the NPPF, the development of this site cannot be justified on the basis of the land supply shortfall alone. The proposal represents unsustainable development beyond the built up limits of Merton with no case being made for its consideration as a rural exception site or other essential undertaking. As the proposal cannot be justified on the basis of an identified need in an unsustainable location, it represents development which encroaches into the open countryside and causes demonstrable harm to the setting and significance of designated Heritage Asset, the Grade I listed St. Swithun's Church contrary to Paragraph 14 of the NPPF and also the enjoyment of the footpath that runs across the site by the public. It also fails to maintain the rural character and appearance of the area and to conserve, enhance and respect the environment and historic settlement pattern by introducing an incongruous, prominent, urbanising and discordant built form of development into this rural setting, injurious to its character and appearance and would also risk further harm to the character of this area which could arise from the precedent that may set. The application is, therefore, contrary to Policies H18, C7, C8, C27 and C30 of the adopted Cherwell Local Plan, Policies ESD13 & ESD16 and Villages 1 of the Submission Local Plan January 2014 and Government guidance contained in the National Planning Policy Framework.
2. The proposal would result in the residential development of land in an unsuitable backland position served by an access way between and behind residential dwellings, which is out of keeping with and causes harm to the existing residential form and character of the area. Furthermore, the development would be detrimental to the amenities of the adjacent residential properties by reason of the introduction of increased vehicular activity in an otherwise quiet and tranquil environment. The proposal is therefore contrary to the Policies C27, C30 and C31 of the adopted Cherwell Local Plan and Policy ESD16 of the Submission Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.
3. In the absence of a satisfactory planning obligation, the Local Planning Authority is not convinced that the affordable housing directly required as part of this scheme will be provided. This would be contrary to the Policy H5 of the adopted Cherwell Local Plan, Policy INF1 of the Submission Cherwell Local Plan and government guidance contained within the National Planning Policy Framework.

Since the refusal of this application, Cherwell District Council has an up-to-date Local Plan and can demonstrate a five year supply of deliverable housing sites.

The Principle of the Development

- 5.3 Paragraph 14 of the National Planning Policy Framework (NPPF) states that a presumption of sustainable development should be seen as a golden thread running through decision taking. There are three dimensions to sustainable development, as defined in the NPPF, which require the planning system to perform economic, social and environmental roles. These roles should be sought jointly and simultaneously through the planning system.
- 5.4 Paragraph 12 of the NPPF notes that the development plan is the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise. Cherwell District Council has an up-to-date Local Plan which was adopted on 20th July 2015.
- 5.5 Cherwell District Council can demonstrate a five-year supply of deliverable housing sites therefore the presumption in favour of sustainable development, as advised by the NPPF, will therefore need to be applied in this context.
- 5.6 Policy Villages 1 of the Cherwell Local Plan Part 1 groups villages into three separate categories (A, B and C). Policy Villages 1 classifies Merton as a Category C village, which restricts new residential development to infilling and conversions. Infilling refers to the development of a small gap in an otherwise continuous built-up frontage. Category C settlements are considered the least sustainable settlements in the District's rural areas and are inherently poor in terms of services and facilities. The site is clearly not within the built up limits of the village and is in open countryside therefore the proposal conflicts with Policy Villages 1 of the Cherwell Local Plan Part 1.
- 5.7 Saved Policy H18 of the Cherwell Local Plan therefore applies. This policy states that new dwellings beyond the built up limits of settlements will only be permitted where they are essential for agricultural or other existing undertakings. No case has been made for consideration as a rural exception site or other essential undertaking. As the proposal cannot be justified on the basis of an identified need in an unsustainable location, the proposal clearly does not comply with this policy criterion and therefore represents a departure from the Cherwell Local Plan 1996.
- 5.8 Paragraph 55 of the NPPF states that: *"To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances."*
- 5.9 Officers consider that saved Policy H18 is broadly consistent with the NPPF and therefore weight can still be attached to them. Inspectors have recently concluded that these policies were in particular consistent with Paragraph 55 of the NPPF and attached considerable weight to them.
- 5.10 The proposal is considered to represent unsustainable new build residential development outside of the boundary of a Category C settlement which is inherently poor in terms of services and facilities and is not well served by public transport. Merton is also at least 5 miles away from Bicester and 2 miles to the nearest village of Ambrosden. The development is considered to be prejudicial to the aims of both

national and local policy to focus development in areas that will contribute to the general aims of reducing the need to travel by private car.

- 5.11 The construction of 3 dwellings in this location is unsustainable and constitutes an inappropriate form of development, contrary to the Policies within the Cherwell Local Plan Part 1, Cherwell Local Plan 1996 and Government guidance contained within the NPPF.

Design and Landscape Impact

- 5.12 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.

- 5.13 Policy ESD13 of the Cherwell Local Plan Part 1 states that: *“Opportunities will be sought to secure the enhancement of the character and appearance of the landscape, particularly in urban fringe locations.”* Policy ESD13 goes on further to note that development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to the local landscape character cannot be avoided. Policy ESD13 also states that: *“Proposals will not be permitted if they would:*

- *Cause undue visual intrusion into the open countryside;*
- *Cause undue harm to important natural landscape features and topography;*
- *Be inconsistent with local character;*
- *Impact on areas judged to have a high level of tranquillity;*
- *Harm the setting of settlements, buildings, structures or other landmark features: or*
- *Harm the historic value of the landscape.”*

- 5.14 Policy ESD15 of the Cherwell Local Plan Part 1 states that: *“Successful design is founded upon an understanding and respect for an area’s unique built, natural and cultural context. New development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design.”* Policy ESD15 goes on to note that new development proposals should respect the traditional pattern of routes, spaces, blocks, plots and enclosures and the form, scale and massing of buildings.

- 5.15 Saved Policy C28 of the Cherwell Local Plan 1996 exercises control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context.

- 5.16 Saved Policy C33 of the Cherwell Local Plan 1996 states that the council will seek to retain any undeveloped gap of land which is important in preserving the character of the loose-knit settlement structure or in preserving a view or feature recognised amenity or historical value. The supporting text of this policy states that: *“Not all undeveloped land within the structure of settlements can be built on without damage to their appearance and rural character. Where the existing pattern of development is loose-knit there will often be a compelling case for it to remain so for aesthetic, environmental and historical reasons... Proposals that would close or interrupt an important vista across open countryside will also be discouraged, as will the loss of trees of amenity value or the loss of features such as boundary walls whether they constitute an important element of an attractive or enclosed streetscape.”*

- 5.17 As stated in paragraph 5.6 above, Merton is a small village designated as a Category

C settlement to which Policy Villages 1 of the Cherwell Local Plan Part 1 applies. This policy restricts new residential development to infilling and conversions within the settlement. The proposal seeks permission for residential development outside the village settlement on land that is undeveloped.

- 5.18 The archaeology to the north and west of St Swithun's Church shows that the village used to be nucleated around the church, as was common in many early settlements. Enclosure occurred late in Merton, in 1763, at which the road was moved to its present location. There is evidence to suggest that it was around that time that the structures to the north of the church began to fall into disuse. In terms of built form today, Merton is predominantly a linear village. There are very few instances of development away from these frontages, and those that do exist are either farmyards or late 20th Century developments, breaking the natural line of the village. Even at these points though, the furthest properties can be seen from the road, meaning that they stay 'in touch' with the road, in much the same way as the manor house outbuildings did, and the church itself. The proposal would not create a small close branching off the main street, it would involve the creation of a 'backland' form of development with an access road that is sited to the rear of existing houses. There is very little to visually connect the former nucleated settlement with the existing linear one, even the earthworks and features in the field to the north and east of the church are not visible unless within the churchyard or looking back from the open fields. To attempt to recreate the nucleated settlement by encouraging 'backland' development behind would not be an ethical continuation of the settlement pattern, as this is a pattern which no longer exists. As a public footpath runs through the site, these three dwellings would be noticeable from this well-used public right of way. Officers consider that the proposed development would transform the prevailing linear pattern of residential dwellings along the main street, representing an incongruous form of development that would fail to respond appropriately to the essential character of the area.
- 5.19 Consideration has been given to the Landscape Visual Impact Assessment (LVIA) which was submitted in support of the application for the Local Planning Authority to ascertain the landscape and visual impact of the development. However the LVIA only serves to support the view held by officers, which is that the proposal would have a detrimental impact upon the character and appearance of the rural landscape and would result in inappropriate encroachment into the open countryside. The proposal would also risk further harm to the character of this area which could arise from the precedent that may be set.
- 5.20 The proposal would encroach into the open countryside and fail to maintain the rural character and appearance of the area and to conserve, enhance and respect the environment and historic settlement pattern by introducing an incongruous, prominent, urbanising and discordant built form of development into the rural setting. Thus, the proposal would result in unacceptable harm to the character and appearance of the area and would also risk further harm to the character of this area which could arise from the precedent it may set. The proposal is therefore contrary to Policies ESD13 and ESD15 of the Cherwell Local Plan, saved Policies C28 and C33 of the Cherwell Local Plan 1996 and Government guidance contained within the NPPF.

Impact on the Heritage Assets

- 5.21 In respect to adverse impacts, the site is within the setting of St Swithun's Church, a Grade I listed building, and the Manor House Nursing Home, Grade II listed building. Other listed buildings are on the opposite side of the road (The Homestead and Little Chippers) and the Tithe Barn is close to the Church. In addition to this, the site forms part of non-designated earthworks.

- 5.22 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard to the desirability of preserving a listed building or its setting should be taken. In this case it is the setting of the listed buildings that is to be considered. The applicant has submitted a Heritage Statement.
- 5.23 Paragraph 132 of the NPPF states that: *“When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation. The more important the heritage asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of designated heritage assets of the highest significance, notably scheduled monuments, protected wreck sites, battlefields, grade I and II* listed buildings, grade I or II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.”*
- 5.24 Paragraph 134 of the NPPF advises that harm to the significance of a designated heritage asset needs to be weighed against the public benefits of the proposed development, and that ‘a balanced judgement’ needs to be made with respect to non-designated heritage assets.
- 5.25 Paragraph 139 of the NPPF notes that non-designated heritage assets of archaeological interest that are demonstrably of equivalent significance to scheduled monuments, should be considered subject to the policies for designated heritage assets.
- 5.26 Policy ESD15 of the Cherwell Local Plan Part 1 states: *“Where development is in the vicinity of any of the District’s distinctive natural or historic assets, delivering high quality design that complements the asset will be essential.”* Furthermore, Policy ESD15 states that new development proposals should: *“Conserve, sustain and enhance designated and non-designated ‘heritage assets’ (as defined in the NPPF) including buildings, features, archaeology, conservation areas and their settings, and ensure new development is sensitively sited and integrated in accordance with advice in the NPPF and NPPG.”*
- 5.27 Saved Policy C33 of the Cherwell Local Plan 1996 states that the council will seek to retain any undeveloped gap of land which is important in maintaining the proper setting for a listed building or in preserving a view or feature of recognised amenity or historical value. The supporting text of the policy states that: *“Proposals that would close or interrupt an important view of a historic building e.g. a church or other structure of historical significance, will be resisted under this policy. The Council will also have regard to the importance of maintaining the setting of a listed building and will resist infill development that would diminish its relative importance or reduce its immediate open environs to the extent that an appreciation of its architectural or historical importance is impaired.”*
- 5.28 The PPG (Paragraph 13 Reference ID 18a-013-20140306) advises that: *“A thorough assessment of the impact on setting needs to be taken into account, and be proportionate to, the significance of the heritage asset under consideration and the degree to which proposed changes enhance or detract from that significance and the ability to appreciate it. Setting is the surrounding in which an asset is experienced and may therefore be more extensive than its curtilage. All heritage assets have a setting, irrespective of the form in which they survive and whether they are designated or not.”*
- 5.29 The PPG goes on further to state that: *“The extent and importance of setting is often expressed by reference to visual considerations. Although views of or from an asset will play an important part, the way in which we experience an asset in its setting is*

also influenced by other environmental factors such as noise, dust and vibration from other land uses in the vicinity, and by our understanding of the historic relationship between places. For example, buildings that are in close proximity but are not visible from each other may have a historic or aesthetic connection that amplifies the experience of the significance of each. The contribution that setting makes to the significance of the heritage asset does not depend on there being public rights or an ability to access or experience that setting. This will vary over time and according to circumstance.”

- 5.30 The proposal is in outline form only, with all matters reserved, but an indicative layout plan has been submitted along with the application to demonstrate that the site could accommodate the residential development of three dwellings. The layout is such that the three detached dwellings, each with detached garages, would be located to the east of the site, avoiding the public right of way.
- 5.31 Historic England have noted that the proposed development is adjacent to the Grade I listed church of St Swithun and to non-designated earthworks and that in their previous advice on the previous proposal they advised that the proposal would cause harm to these historic assets. Historic England state that the current proposals offer considerably reduced levels of harm to the significance of the Grade I listed church through the impact upon its setting and notes that the LPA should take the advice of the County Archaeologist on potential impacts upon buried non-designated archaeological remains.
- 5.32 In relation to this proposal, the County's Archaeologist has stated that: *“The site is located in an area of archaeological potential as shown by the applicants desk based archaeological assessment and a number of phases of archaeological evaluation. The site is located 90m north east of the C13th St Swithun's Church (PRN 4123). This is likely to have formed the focus of the medieval development of the village. The site also contains a series of earthworks representing a deserted medieval settlement and house platforms (PRN 24717). A probable Knights Templar's Preceptory or Grange has been identified through aerial photographs 80m NE of the site (PRN 13903). Saxon through to medieval archaeological features have also been recorded 130m NE of the site during the development of the Manor House Nursing Home (PRN 16821). Roman pottery has been recovered to the south of the site (PRN 4219) and to the east (PRN 1806).*
- 5.33 The County's Archaeologist goes on to note that: *“The archaeological evaluation undertaken on the site recorded a number of archaeological features and earthworks related to the shrunken medieval village immediately west of the site and a smaller amount of features within the area of the proposed development. The features included ditches and pits but no evidence of the stone buildings suggested by the geophysical survey. The report concludes that the western part of the site was occupied from at least the C11th and may have been occupied through to the C18th. The eastern side of the site may have been used for agricultural or pastoral purposes and that an earthwork bank between the two areas may have formed a boundary between these areas.”*
- 5.34 It is therefore considered that the proposal would not in principle cause harm to the archaeology, whilst only in outline form with all matters reserved, the proposed built development could be sited sufficiently far enough away from the more significant earthworks to the west of the site. The County Archaeologist recommends a condition is attached if consent is granted which notes that the applicant should be responsible for ensuring the implementation of a staged programme of archaeological investigation to be maintained during the period of construction.
- 5.35 However, The Conservation Officer still has concerns regarding the impact upon the setting of the Grade I listed church and your officers share these concerns. The

development would be seen in the setting of the Grade I listed Church of St Swithun. Setting is not merely the view of or from an asset. It is the surroundings within which a heritage asset is experienced. Regarding the church therefore, this is very difficult to define, a church is designed to stand out in its landscape, being tall, solid and often surrounded by a patch of land and a wall. The result is that it can be appreciated 'in the round'. In this case, the Church of St Swithun is particularly visible from the north, as there is open countryside beyond, across which a public right of way runs. The Church is therefore appreciated within an area of open countryside, which does not just extend directly northwards from the churchyard, but also to the north west and northeast. The proposed development would therefore transform the rural setting of the listed building.

- 5.36 In the previous application at the site for nine dwellings, Historic England (then English Heritage) stated that: *"The significance of the church lies partly in its illustrative value. It allows for an appreciation of the former prosperity of the settlement from which the church drew its income... The earthworks in the setting contribute to this significance by showing how the medieval settlement was once larger and has now contracted. When looking out from the churchyard it is possible to gain an awareness of the changing fortunes of the parish over time and that people once lived in a place which is now simply a field and worshipped at the nearby church."* The archaeology plays an important part in the narrative of the village and therefore contributes to the setting of this Grade I listed building. The removal of the earthworks would lead to an irreversible loss of historic narrative in the development of the village and would remove the contribution made by this element of the setting to the significance of the church, therefore harming the significance of the designated heritage asset.
- 5.37 In relation to the nearby Grade II listed Manor House within the grounds of the Care Home, officers hold the view that the dwellings on this site would enclose this heritage asset by introducing an urbanising built form of development that would be at odds with, and would harm the rural setting of this listed building.
- 5.38 Officers consider that three dwellings could be constructed on the site without unduly affecting the setting of the listed buildings across the road from the site and Tithe Barn given the distance between the site and these buildings and because of intervening landscaping and structures.
- 5.39 Should development be permitted on this site, Officers consider that this would cause demonstrable harm to the setting and significance of the Grade I listed church, as it would erode the relationship between the church and the landscape beyond, including the archaeology. Furthermore, it is considered that the proposal would unduly affect the setting of the Grade II listed Manor Farm. Thus, the proposal would conflict with Policies ESD13 and ESD15 of the Cherwell Local Plan Part 1, saved Policy C33 of the Cherwell Local Plan 1996 and Government guidance contained within the NPPF.

Residential Amenities

- 5.40 Whilst in outline form, the revised indicative layout demonstrates the possible form that the proposed layout could take if approved. The access to the site runs directly between three existing dwellings (The Dovecote and No.3 and 4 Manor Close). Given this close proximity, any vehicle movements along the access are likely to result in a level of noise and disturbance within these adjacent dwellings and their relatively small back gardens, which occupiers would be likely to find intrusive. Other neighbouring properties affected include, The Manor House nursing home, No.2 Manor Farm Close and No.2 and 3 Church Close, which equally enjoy a tranquil environment, free from vehicle noise and disturbance and the general level activity associated with a residential development.

- 5.41 The site is an unimproved field unused at present. No detail has been provided regarding the previous occupancy of the field, but essentially vehicle movements to the site would be limited. The proposal would result in permanent development, which would be likely to generate a permanent increase in vehicular movements. The location of the site is not advantageous so that future occupiers would not choose to own a vehicle(s). Whilst it is possible to partially mitigate some vehicle noise along the road way from the installation of acoustic fencing, this would not be completely mitigated and the general disturbance would be significant from the residential occupancy of the 'backland' site.
- 5.42 The access arrangement between and to the rear of existing neighbouring dwellings has been fully considered by Inspectors on recent dismissed appeal decisions within the district:
- (I) During the consideration of 1 No dwelling at 198 and 200 Woodstock Road, Yarnton, Oxfordshire, OX5 1PP (application reference 11/00029/F and appeal reference APP/C3105/A/11/2160109) the Inspector concluded that: *"I consider the noise and disturbance that would arise from either proposed arrangement would affect the quiet enjoyment of all the surrounding neighbours' private amenity areas and therefore harm the living conditions of the current and future occupants of all the neighbouring dwellings."*
 - (II) During the consideration of 1 No dwelling at 14 Charlbury Close, Kidlington, Oxfordshire, OX5 2BW (application reference 10/00584/OUT and appeal reference APP/C3105/A/10/2139847/WF) the Inspector concluded that: *"The access runs directly between the two existing dwellings, No's 14 and 16 Charlbury Close. Given this close proximity, however, any vehicle movements along the access are likely to result in a level of noise and disturbance within these adjacent dwellings and their relatively small back gardens, which occupiers would be likely to find intrusive. Any increase in the use of the access would increase the frequency of such disturbance. Whilst I acknowledge that present activities involve a level of usage of the access which would cause some disturbance, I consider these circumstances will not necessarily continue indefinitely. The proposal would result in a permanent development, which would be likely to generate a permanent increase in vehicular movements. In my view, the location of the site is not so advantageous that future occupiers would not choose to own a motor vehicle or vehicles. As such, rather than result in a reduction in noise and disturbance, I consider the proposal would perpetuate unsatisfactory conditions to the detriment of living conditions within adjacent residential properties."*
- 5.43 The above appeal cases represent 'backland' development for only a single house, not three as proposed and as such, the proposal would result in unsatisfactory conditions to the detriment of living conditions within adjacent residential properties through the introduction of increased vehicular activity in an otherwise quiet, tranquil 'backland' site and contrary to Policy ESD15 of the Cherwell Local Plan Part 1, saved Policies C30 and C31 of the Cherwell Local Plan 1996 and Government guidance contained within the NPPF.
- 5.44 It is considered that the siting of the dwellings in a similar form indicated would not result in the loss of amenity to any neighbouring property by virtue of overlooking, loss of privacy or outlook or creation of an overbearing effect.

Highways Safety

- 5.45 The vehicular access point as shown on the submission is considered to be acceptable in highway safety terms and no objection has been raised in respect to this or the amount of parking provision to serve the development, subject to necessary conditions.

Ecological Impact

- 5.46 Paragraph 109 of the NPPF notes that the planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 5.47 Paragraphs 192 and 193 of the NPPF further add that: *"The right information is crucial to good decision-taking, particularly where formal assessments are required (such as Habitats Regulations Assessment)... Local Planning Authorities should publish a list of their information requirements for applications, which should be proportionate to the nature and scale of development proposals. Local planning authorities should only request supporting information that is relevant, necessary and material to the application in question."* One of these requirements is the submission of appropriate protected species surveys which shall be undertaken prior to determination of a planning application. The presence of a protected species is a material consideration when a planning authority is considering a development proposal. It is essential that the presence or otherwise of a protected species, and the extent to that they may be affected by the proposed development is established before the planning permission is granted, otherwise all relevant planning material considerations may not have been addressed in making the decision.
- 5.48 Paragraph 118 of the NPPF states that when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principle: *"If significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused."* Policy ESD10 of the Cherwell Local Plan Part 1 echoes this.
- 5.49 The Council's Ecologist is satisfied that the work done to date with regard to ecology is sufficient. That said, further reports would be required in respect to the presence or otherwise of Great Crested Newts in nearby ponds on order to determine the mitigation required.
- 5.50 It is considered that three dwellings could be accommodated on the site without causing significant harm to the legally protected species and that the proposal accords with Policy ESD10 of the Cherwell Local Plan Part 1 and Government guidance contained within the NPPF.

Other Matters

- 5.51 The Arboricultural Officer is confident that a scheme could be proposed on this site without unduly affecting trees or vegetation surrounding the site including vegetation to the south of the site which contains shrubs and developing trees.
- 5.52 The Environmental Protection Officer has no objections in principle to the proposal. However, the Environmental Protection Officer has noted that a residential use is a sensitive land use and the future users would be vulnerable to contamination given the land is potentially contaminated. The Environmental Protection Officer has therefore requested that conditions to ensure that risks from land contamination to the

future users of the land and neighbouring land are minimised. These would be attached if the proposal were being recommended for approval.

- 5.53 Third parties have highlighted concerns in relation to foul and storm water drainage. In addition, the third parties have noted that there may be limitation on a regular and suitable clean water supply, as mains water pressure would be affected by the additional demand. However, Thames Water have raised no objections to this proposal.
- 5.54 Third parties have noted that the proposal would cause harm to the enjoyment of the footpaths, as the route would take the public footpath through a residential development. The indicative plan does not show the proposal affecting the footpath in such a way and the footpath continues to run through the field in this indicative plan.
- 5.55 Third parties have noted that the site is lower lying than neighbouring built up areas, with an adjacent field that is known to flood and they are concerned that drainage to and from the various ponds in the area could be impacted by the development and potentially exacerbate flooding. However, the site does not fall within a flood plain and it is considered that the proposal would not significantly impact upon the flooding risk for future occupants or neighbouring occupants.
- 5.56 A number of issues have been raised by third parties, but the following are not material planning considerations in this case:
- Land ownership issues;
 - Noise pollution from construction;
 - Impact upon internet speed;
 - No neighbourhood consultation was undertaken by the applicant.
- 5.57 Whilst it has been stated by the applicant's agent that the New Homes Bonus resulting from the development of three houses would provide funds to benefit the local community and that the occupiers of these proposed dwellings would contribute to the local economy through the use of services and facilities in the local area, this would not be sufficient to override the other identified interests of importance, which in weighing in the planning balance, would lead officers to form a different conclusion on the matter.
- 5.58 It is considered that the third party issues and concerns have been addressed in the preceding report and full comments are available via the Council's website.

Engagement

- 5.59 With regard to the duty set out in paragraphs 186 and 187 of the Framework, no problems or issues have arisen during the application. The applicant's agent was not contacted as the proposal is unacceptable in principle. It is considered that the duty to be positive and proactive has been discharged through the efficient and timely determination of the application.

6. Recommendation

Refusal, for the following reasons:

1. The proposal represents unsustainable development beyond the built up limits of Merton, which is substandard in terms of services and facilities, not well served by public transport and is reliant on the use of the private car. No case has been made for its consideration as a rural exceptions site or other essential undertaking. As the proposal cannot be justified on the basis of an

identified need in an unsustainable location, it represents inappropriate development, contrary to Policy Villages 1 of the Cherwell Local Plan Part 1, saved Policy H18 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

2. The proposal represents development which encroaches into the open countryside and causes demonstrable harm to the setting and significance of the designated Heritage Assets, the Grade I listed St. Swithun's Church and the Grade II listed Manor House. The proposed development would also fail to maintain the rural character and appearance of the area and to conserve, enhance and respect the environment and historic settlement pattern by introducing an incongruous, prominent, urbanising and discordant built form of development into this rural setting, injurious to its character and appearance and would also risk further harm to the character of this area which could arise from the precedent that may set. The application is, therefore, contrary to Policies ESD13 and ESD15 of the Cherwell Local Plan Part 1, saved Policies C28 and C33 of the Cherwell Local Plan 1996 and Government guidance contained in the National Planning Policy Framework.
3. The proposal would result in the residential development of land in an unsuitable 'backland' position served by an access way between and behind residential dwellings, which is out of keeping with and causes harm to the existing residential form and character of the area. Furthermore, the development would be detrimental to the amenities of the adjacent residential properties by reason of the introduction of increased vehicular activity in an otherwise quiet and tranquil environment. The proposal is therefore contrary to Policies ESD13 and ESD15 of the Cherwell Local Plan Part 1, saved Policies C28, C30 and C31 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework

STATEMENT OF ENGAGEMENT

In accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council having worked with the applicant/agent in a positive and proactive way. The applicant's agent was not contacted as the proposal is unacceptable in principle. It is considered that the duty to be positive and proactive has been discharged through the efficient and timely determination of the application.

Agenda Item 19

15/01190/F

Former Rosemary
Main Street
Fringford

Rosecroft

Rosemary

The Gables



NORTH
Scale 1:250

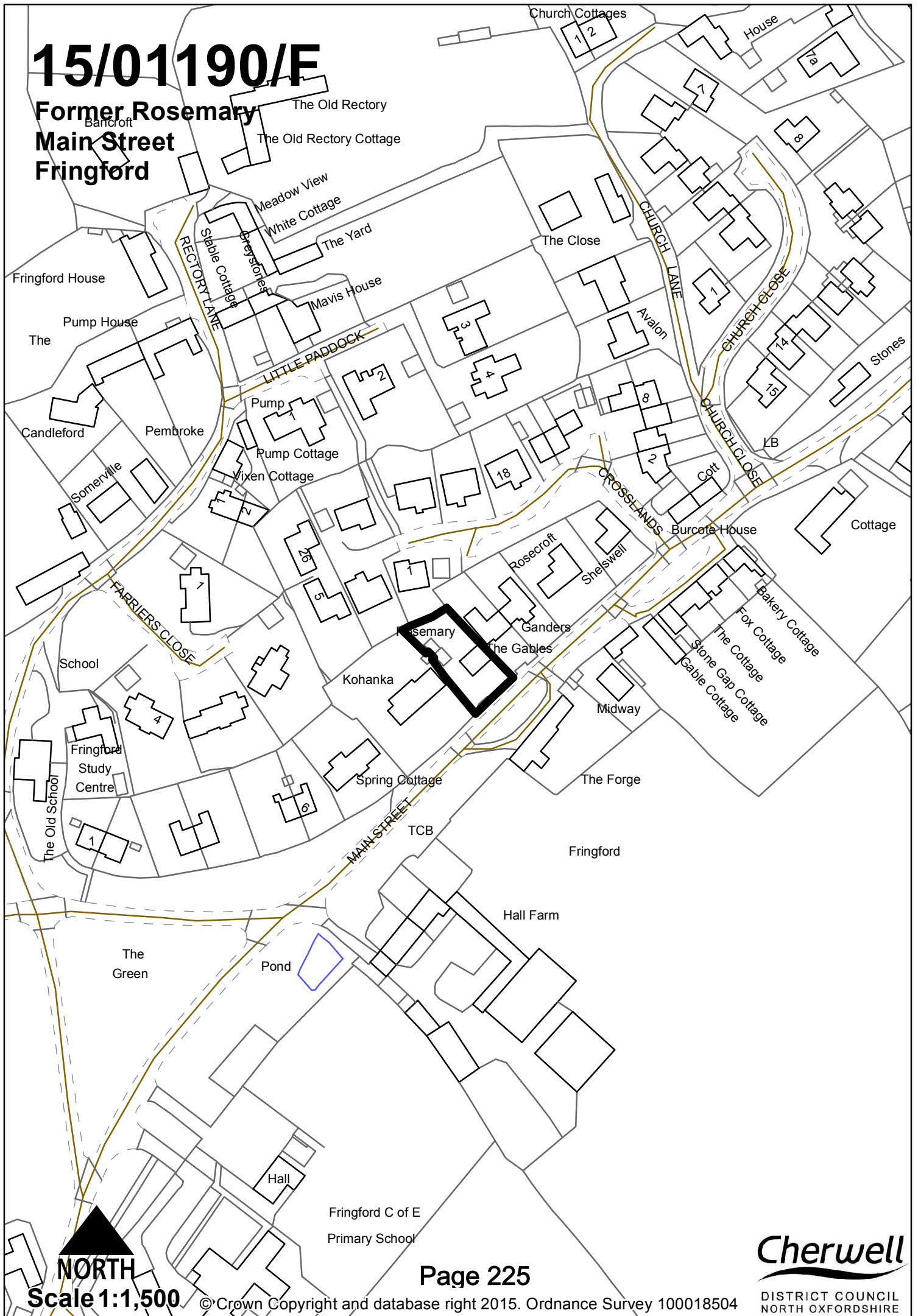
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Cherwell
DISTRICT COUNCIL
NORTH OXFORDSHIRE

15/01190/F

**Former Rosemary
Main Street
Fringford**



Site Address: Former Rosemary, Main Street, Fringford

15/01190/F

Ward: Fringford

District Councillor: Cllr Barry Wood

Case Officer: Michelle Jarvis

Recommendation: Approval

Applicant: Mr & Mrs Ward

Committee Referral: Previously contentious matter determined by Committee

Application Description: Variation of Condition 1 of planning permission 13/00718/F – in relation to Plot 1 only

1. Site Description and Proposed Development

- 1.1 The site is situated central to the village of Fringford. There was a previous building on the site which was demolished as part of the earlier planning permission. The previously demolished dwelling was not a listed building although a Grade II listed building, The Forge, is situated directly opposite the site to the south-east beyond a grass verge. The site is not in a Conservation Area, although it is within an Area of High Landscape Value. The site is an Area of Archaeological Interest as part of the historic village core.
- 1.2 The detached dwelling that was demolished was set forward of its neighbours to either side (Kohanka to the southwest and The Gables to the northeast). Vehicular access to the site was gained via a gated driveway, leading to a detached garage and an outbuilding stood adjacent to the south-western boundary of the curtilage. A low hedgerow marked the front boundary. A conifer hedgerow runs along the rear boundary of the curtilage, with stone built boundary walls to the side boundaries.
- 1.3 The approved development under the 2011 consent (11/01160/F) involved the complete clearance of the site and replacement with 2 no. detached three bedroom dwellings. The front elevation of each dwelling comprises two mid-eaves height dormer windows, single integral garage and entrance doorway with kitchen window. The dwellings would appear 'mirrored', both being of identical appearance. The depth of the dwellings is formed using a gable feature upon the rear elevation, providing two-storey accommodation, with a ridge height that appears subservient to the front-most element of the dwellings. Four off-street parking spaces are provided to the front of the dwellings. The existing hedgerow has been removed and access to the dwellings centralised within the curtilage with a 1 metre tall dry stone wall erected either side of the access.
- 1.4 The construction materials are stone with brick detailing to match that of the neighbouring dwellings to the north-east and south-west. The roofs are tile. Windows and doors are constructed from timber.
- 1.5 This site has been subject to a considerable amount of planning history as detailed below:

Application	Description	Decision	Date
11/01160/F	Demolition of existing dwelling and replacement	APPROVED	Sept. 2011

	with 2 no. new dwellings		
11/00298/DISC	Discharge of conditions	APPROVED	Dec. 2011
12/00173/CPLANS	Enforcement complaint logged alleging the dwellings were not being built in accordance with approved plans	SUSTAINED – take action	July 2012
13/00097/F	Variation of Condition 2 of 11/01160/F	WITHDRAWN	April 2013
13/00718/F	Variation of condition 2 of 11/01160/F – resubmission of earlier application	REFUSED	July 2013
13/00138/EPLAN	Enforcement Notice served to secure compliance with earlier permission	SERVED	July 2013
13/01075/F	Variation of condition 2 of 11/01160/F – amended landscaping and site boundary	NOT PROCEEDED WITH	July 2013
APP/C3105/A/13/2203150	Appeal against Notice	ALLOWED & NOTICE QUASHED	March 2014
APP/C3105/A/13/2203150	Appeal against refusal of planning	ALLOWED	March 2014

	permission		
14/00817/F	Variation of Condition 2 of 13/00718/F – alteration to the front elevation	REFUSED	July 2014
14/00918/F	Garden shed	ALLOWED ON APPEAL	December 2014
15/00485/F	Variation of Conditions 1 and 2 of 13/00718/F - Plot 1 only (to retain house with an altered façade/side elevation) - No changes to Plot 2	REFUSED	June 2015
15/00486/F	Removal of Conditions 1 and 2 of 13/00718/F (retain Plot 1 building "as built" with first floor side window to be removed) - Plot 1 only	REFUSED	June 2015
15/01190/F	Variation of Condition 1 of planning permission 13/00718/F	PENDING	

Current position

- 1.7 Plot 1(adjacent to Kohanka) is now complete and occupied and Plot 2 is almost complete. With regard ONLY to Plot 2 (adjacent to The Gables) in determining the recent appeal for a garden shed in the rear of this property favourably, the Planning Inspector has effectively granted a planning permission for Plot 2 and as such the Council will not take any further action in

respect of this property.

- 1.8 The issue regarding Plot 1 (adjacent to Kohanka) still remains complicated. Given that the original consent in 2011 (ref 11/01160/F) was not implemented in accordance with original approved plans, there remains no lawful planning permission on the site for the this house. When the Inspector determined the Section 78 Appeal (ref 13/00718/F), the time limit on the very first approved application (11/01160/F) was not varied. In addition, the Inspector also imposed a condition requiring the alteration to Plot 1 to be carried out within 6 months from the date of the decision. That date has now passed.
- 1.9 This therefore means that the time limit for the implementation of application 11/01160/F expired on 15 September 2014. As a result there remains no planning permission for the development that has been carried out on the site (in relation to Plot 1 only).
- 1.10 Following the submission of a further planning application which sought permission for plot 1 through the variation of condition 2 of the original application 11/01160/F but was not registered due to the view being taken that there was no planning permission to vary, the applicants then resubmitted two separate proposals of varying designs to try and get one of them approved thus giving Plot 1 the permission it currently lacks.
- 1.11 Both applications were refused by Officers as neither scheme overcame the impact of the forward positioning of the plot which is 1.2 metres further towards the road than authorised, and would therefore continue to be harmful to the residential amenity of adjacent properties and to the character and appearance of the street scene
- 1.12 The application to which this report relates seeks consent to retain Plot 1 predominantly as it stands but with an altered side arrangement adjacent to Kohanka involving a shortened side elevation with an altered gable end.

2. Application Publicity

- 2.1 The application has been advertised by way of neighbour letter and site notice. The final date for comment was 12 August 2015.

3 letters of objection have been received and in summary, raise the following issues:

- does not rectify all resolve the detrimental affect Plot 1 has on the occupants of Kohanka as identified by the Appeal Inspector in his summing up when granting Appeal C (Ref: APP/C3105/A/13/2203150Flagrant abuse of the planning system
- we believe that Plots 1 & 2 do not have any planning permission as they now stand
- deplorable that developer can keep reapplying for planning amendments
- important site being immediately opposite the Old Forge which is an historic building
- the hard standing/driveway creates an eyesore which is out of keeping with the environment
- This proposal does not take into account the comments of the Inspector in the previous decision

3. Consultations

- 3.1 **Fringford Parish Council** - The Parish Council considered the application, reference 15/01190/F, at the meeting on Monday 20 July (at which 11 members of the public attended to discuss the issue), and wished to raise the following objections.

The current application does not remedy the problems highlighted in several earlier planning application refusals, would not meet the requirements of the Planning Inspector and would not overcome the following issues:

- it does not remedy the fundamental problem that the house was built 1.2m too far forward of the approved position and the proposed plans do not conform to the Planning Inspector's recommendation that the whole of the first floor be set back by 1.1 metres;
- as proposed, the forward projection of the dwellings still negatively affects the street scene;
- the minimal alterations to the dwellings will not sufficiently reduce the overbearing impact on Kohanka or the listed building – the Forge – opposite;
- Additionally the Parish Council considers that this latest proposal is only minimally different to the earlier application 14/0817/f and would draw attention to the following -

The Planning Officer's recommendation in her report to the Planning Committee for application reference 14/00817/f (September 2014) was 'The proposal by virtue of its contrived design does not respect the character and scale of the existing building as well as the surrounding built form and is therefore considered to introduce an incongruous feature into the street scene which is unsympathetic and harmful to the character and appearance of the area. The proposal is therefore contrary to the provisions of Policies C28 and C30 of the adopted Cherwell Local Plan, Policy ESD 16 of the Proposed Submission Local Plan and Government guidance contained within the National Planning Policy Framework.'

The Planning Officer's comments above apply with equal validity to this application and as such a consistent approach is required to ensure the Cherwell District Council planning policies and practices remain credible. In addition an approval of this application would confirm that CDC would be complicit in ignoring the decision of Her Majesty's Planning Inspectorate.

This application seems to rely heavily on the applicant's paid Agent's personal opinion as expressed in the accompanying letter rather than the actual planning impact of the proposal.

The Parish Council notes the comments made in this letter and highlights below some of the misleading points and inaccuracies within it as follows:

The Agent states that the Planning Inspector considered that there was a potential impact on Kohanka. This is incorrect. The Inspector clearly identifies that plot 1 as built as having an effect on the living conditions on Kohanka's residents. The Inspector states in his summing up in No.37, "I noted that part of the as built first floor of Plot 1 is clearly visible." He also states in 37, "that the scheme as passed for Plot 1 would reduce the visual impact of the first floor of Plot 1 on the outlook from Kohanka such that it would not be dominant or harmful to the living conditions of occupants of that dwelling."

This new proposed scheme by the developers does not address the main concerns raised by the Inspector in his Conditions set out when granting the Appeal.

The following responses relate to the order of the Agent's letter:-

1) The Parish Council is not yet convinced of the claimed Planning Permission for Plot 2. No application or appeal has ever been made for Plot 2 in isolation and conditions imposed for the overall application by the Planning Inspector at the Appeal for the overall site have not been met.

2) no comment required

3) Planning permission was granted for two houses 1.2 metres further back than they are now built and not in the same position as the Agent states.

4) CDC has objected to the forward siting of the two houses, and that is why the planning applications have been refused for the two houses as they now sit. The houses have not been granted planning permission in the present position as implied.

The 2011 planning permission was only granted after the developers located both houses further back on the application plans behind the old Rosemary building line, as requested by Gemma Magnuson, and agreed with David Berlouis via emails sent. The original position of the two houses was deemed to appear "an over prominent addition to the street scene", as stated by Gemma Magnuson, and not as stated by the developers Agent in his letter. The permission granted for the two houses was 1.2 metres back from where they are now built.

5) Again planning permission was granted 1.2 metres back from where they are now built.

6) This application seeks to ignore the Appeal Inspector's specific conditions required to reduce the impact Plot 1 has on Kohanka residents.

7) The building line before planning was originally granted was 1.2 metres back from where the houses are now built. The Condition for planning approval recommendation by Gemma Magnuson was that both the main parts of the new build houses were behind the old Rosemary building line.

8) & 9) no comment required.

10) The new proposed plans do not overcome the detrimental effects caused to the residents of Kohanka as clearly stated in the Appeal's Inspectors summing up and Conditions laid down.

These were that the work in Appeal C be started and completed in six months from the Appeal decision date. Condition 2 as stated by the Appeal Inspector, "within six months of the date of this permission the front portion of the first floor of Plot 1 shall be demolished and rebuilt in accordance with the plans herewith approved and specified in Condition 1."

Oxfordshire County Council Consultees

3.2 None

4. Relevant National and Local Policy and Guidance

4.1 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

ESD13 - Local Landscape Protection and Enhancement
VIL1 - Village Categorisation
ESD15 - The Character of the Built Environment

Cherwell Local Plan 1996 (Saved Policies)

C28: Development Control Design
C30: Development Control Amenity

4.2 Other Material Policy and Guidance

National Planning Policy Framework

5. Appraisal

5.1 The key issues for consideration in this application are:

- Relevant planning History
- Impact on residential amenities
- Design
- Impact on highway safety
- Impact on listed buildings
- Third party comments

Relevant Planning History

5.2 As outlined in the table above, there is a significant amount of planning history arising from the enforcement investigation which began in 2012. For the purposes of this application, it is pertinent to outline the most recent position since the appeal decision was made in March 2014.

5.3 The applicants were granted permission through the appeal for a variation scheme, however they have chosen not to implement that scheme. There still therefore remains an enforcement issue with the site in that Plot 1 still does not accord to the planning permission first granted in 2011. As already outlined, Plot 2 is effectively immune from any further action due to the previous appeal for the garden shed.

5.4 The applicants submitted a previous application (ref 14/00817/F) to seek an alteration to the front of Plot 1. Members refused this at Committee in July 2014.

5.5 The Council has been actively pursuing the applicants to seek regularisation voluntarily to avoid at this stage any further enforcement action being taken. However it has not been possible to reach any agreement with the applicants. Two further applications were submitted to attempt to regularise the situation (15/00485/F; 15/00486/F) but in both cases the solution proposed was not acceptable and therefore Officers refused both applications. The current application (15/01190/F) is an attempt to find a solution for the current issue

Impact on residential amenities

- 5.6 In assessing the agreed siting of the proposed dwellings under application 11/01160/F, it was acknowledged that the proposed dwellings would sit forward of the general building line along the north-western side of Main Street, although the existing building line is not rigid, as the original dwelling at Rosemary sat further forward than its immediate neighbours. It was accepted that the siting would respect the current form of development in the vicinity and would not harm the character and appearance of the area nor the amenities of the adjoining occupiers to a significant degree.
- 5.7 It is acknowledged that the approved siting of the two dwellings did allow them to project by 3.5m of Kohanka and 3m forward of The Gables. The proposal which was allowed on appeal (ref 13/00718/F) proposed to set the first floor element of plot 1 (adjacent to Kohanka) back by 1.1 metres from the existing front elevation. This would then bring the existing first floor WC and bathroom windows back behind the existing front elevation of Kohanka. It also reduced the first floor projection beyond the existing front elevation of Kohanka from 4.5 metres to 3.4 metres, which is 100mm less than was originally approved.
- 5.8 The two recently refused schemes were not considered to go far enough in their mitigation of the issues to warrant the approval of either scheme. One proposal sought to retain the building exactly as was with the omission of one window overlooking Kohanka, whilst the other application proposed an alteration to the front corner of the building and the removal of one of the first floor side facing windows in addition, the ground floor window would be obscure glazed. This would have effectively resulted in the removal of the tall gable detail and replacement of it with a stepped roof arrangement. The built form at ground floor level would have remained at 4.5m projected forward of Kohanka but at first floor the development would be taken back by 1.10m resulting in the built form being less prominent when viewed from the office, but would have resulted in an asymmetric gable design which would have been obtrusive in the streetscene.
- 5.9 The current application seeks to retain the building as it currently stands in terms of its location on the plot but with alterations at first floor. It is proposed that the first floor window and side gable will be set back by 1.10m which will then in turn push the window back reducing the total floor space to the existing kitchen and bedroom 2 by some 3 square metres.
- 5.10 Officers have spent a significant amount of time negotiating with the applicants the best way in which to seek a resolution to this long standing issue. The demolition of the building is not an option that the Council feel appropriate given that the Inspector has previously considered the retention of the two dwellings as acceptable but with alterations to Plot 1. Officers consider that this approach would not be successful at appeal. Therefore the current proposal has been submitted following detailed discussions and is considered to be the best way forward. It is considered to significantly reduce the impact on both the neighbouring property Kohanka and also the appearance within the street scene. The symmetry now proposed in the fenestration is much more attractive visually and ties in better with Plot 2. The subservient appearance of the side gable is much more in keeping with the character of the surrounding developments in the locality.
- 5.11 In his decision on the previous application, the Inspector outlined that in his view the issues for consideration in terms of neighbour amenity were that of overlooking presented by the first and ground floor windows and the resulting outlook from the office window in Kohanka. He considered that *“due to plot 1 being built forward of the position approved a ground floor window to kitchen/breakfast area in the side elevation of Plot 1 overlooks the front garden and access of Kohanka and lead to*

some actual and also perceived overlooking of that area. I accept that overlooking from the side window involved is likely to reduce the enjoyment gained from the use of the front garden of Kohanka by its occupants although such harm would be limited'.

- 5.12 Officers have considered carefully these comments and believe that this scheme does address significantly the concerns of the amenity relating to the neighbouring property. It is therefore the consideration of Officers that the amended scheme no longer represents a significant detrimental impact on the amenities of the neighbouring property to the level of justifying the refusal of the application.

Design

- 5.13 The NPPF sets out the economic, social and environmental roles of planning in seeking to achieve sustainable development: contributing to building a strong, responsive and competitive economy; supporting strong, vibrant and healthy communities; and contributing to protecting and enhancing our natural, built and historic environment (para' 7). It also provides (para' 17) a set of core planning principles which, amongst other things, require planning to:

- Be genuinely plan led, empowering local people to shape their surroundings and to provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency;
- proactively drive and support sustainable economic development to deliver homes and businesses, infrastructure and thriving local places that the country needs;
- always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings;
- support the transition to a low carbon future in a changing climate;
- encourage the effective use of land by reusing land that has been previously developed;
- actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are of can be made sustainable; and
- deliver sufficient community and cultural facilities and services to meet local needs

- 5.14 Further, guidance contained within the NPPF requires good design, "The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people." (Para. 56) Further, "Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions." (Para. 64)

- 5.15 Policies ESD 13 and ESD 15 of the Cherwell Local Plan 2011-2031 Part 1 seek to ensure that development respects existing built form, scale and massing of buildings through the integration of new development contributing to the existing streets, spaces and form and character with buildings configured to create clearly defined active public frontages. These policies also require consideration of amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation and indoor and outdoor space.

- 5.16 Retained Policy C28 of the Cherwell Local Plan 1996 states that control will be exercised over all new development to ensure that standards of layout, design and external appearance are sympathetic to the character of the urban context of that development. Retained Policy C30 of the Cherwell Local Plan 1996 states control will

be exercised to ensure that all new housing developments is compatible with the appearance, character, layout, scale and density with existing dwellings in the vicinity. The policy continues by stating that a development must also provide standards of amenity and privacy acceptable to the local planning authority.

- 5.17 Whilst it has been acknowledged at length that the built scheme is further forward than it should be, and if left as is would be overbearing and dominant in the street scene it is considered that the reduction in the side gable and subservient roof line as proposed by this scheme minimises the overall impact that this plot has in the locality.
- 5.18 Furthermore, the wider views that are gained of the current built form as you approach the development from the south of the village are dominated by the large gable end of Plot 1 currently. Clearly by reducing this span it will reduce the visual impact and result in a much more appropriately sized building.
- 5.19 Local planning policy clearly outlines the need for planning to support good design and reject that which does not contribute well to its locality. Whilst it is noted Main Street does not have a uniform appearance, insofar as the dwellings comprise a variety of styles, designs and set back from the highway. Views of the dwellings will still be gained particularly when travelling towards the properties from the main road into the village. There is some vegetation which provides glimpses through however it is considered that the current built form does stand out against the more traditional appearance of the majority of dwellings adjacent. It is therefore very important that this revised design is implemented as soon as possible. Although the scheme has been negotiated with the applicant following the refusal of two previous schemes, it is considered by Officers appropriate to follow any approval up with an Enforcement Notice and this is issue is considered in more detail below.

Impact on listed buildings

- 5.20 The original application (11/01106/F) considered the impact the development would have on The Forge, a grade II listed building opposite the site. In determining the application, it was considered that the development would not result in substantial harm to the significance of the listed building.
- 5.21 The Council did raise concern through the appeal process that the proposal at that time impacted detrimentally upon the appearance of The Forge caused by the increased projection. The Inspector disagreed and ruled that the scheme would have very little additional impact on the setting of the building.
- 5.22 The buildings will be seen in context with the listed building however given the view of the Planning Inspector, it is now not considered to be detrimental enough to justify a reason for refusal on these grounds. Furthermore the reduction in built form of Plot 1 should be sufficient to remove some of the visual impact away from the listed building.

Enforcement Action

- 5.23 As is detailed in the earlier history section of this report, the site has been subject to some significant planning history. There are currently no live Enforcement Notices on the site.
- 5.24 If Members are minded to approve this proposal, it is considered that it would be prudent to accompany any decision issued with a formal Enforcement Notice. This would then provide a specific period of time, in this instance a suggestion of 6 months, for the applicants to carry out the works required to Plot 1 to comply with this permission.

- 5.25 The service of the Notice provides some certainty to Members that the amended scheme would be implemented (unless an appeal against the Notice is made). It also confirms to the occupiers of the neighbouring property the Council's insistence that their concerns are addressed. Once compliance with the Notice is achieved this will then close the case.

Third Party Comments

- 5.26 The comments made by the occupants of Kohanka have been addressed through this report. They are mainly concerned with the fact that this latest scheme still does not address the impact on their property. It has been explained earlier in the report that in your officers opinion this scheme does alter the impact of development on Kohanka and is considered to provide a reasonable compromise to the issue bearing in mind the decision of the Inspector on the earlier application.
- 5.27 In addition the objectors make the point that "*The developers are choosing to take the good parts of the Inspector's Appeal decision and ignore any parts they do not like*". The level of frustration is understood given the amount of time that this situation has been on-going, however this compromise in our view is acceptable in terms of material planning concerns, namely the visual impact in the greater locality and more specifically the lessened impact on their property due to the alteration of the gable span. The scheme before Members now is very similar to that approved by the Planning Inspector and therefore Officers have been very mindful of the comments made during the appeal. It is their view that the scheme provides a compromise which does alleviate the issues that Kohanka have raised to some extent making it on balance a scheme which can now be supported.
- 5.28 With regard to the claim that the decision is being made without the comments of local residents and the Parish Council being considered, clearly this is not the case. All received comments (both through the post and electronically) have been reported to Members in this report and are also available to be viewed publicly. Furthermore, this report only makes a recommendation and the final decision on the proposal will be made at Planning Committee.
- 5.28 The Parish Council provide some very detailed comments to the application and some of their points have already been addressed in this report regarding the development still being built further forward; the impact on the street scene; and that the proposal does not sufficiently reduce the overbearing impact on Kohanka or The Forge opposite.
- 5.30 They state that "*the Parish Council considers that this latest proposal is only minimally different to the earlier application 14/00817/F*". The earlier application sought to again alter this same elevation but by altering the front corner of the building and removing one of the first floor side facing windows. This would effectively have resulted in the removal of the tall gable detail and its replacement with a stepped roof arrangement. In this instance the Council considered that in respect of the impact of the neighbouring property alone, the proposal at that time did provide a solution which was acceptable to the Council and which did go some way to rectify the issues with the proposal that were raised in the appeal. However Officers considered that the scheme overall represented a poor design. It proposed a loss of the symmetry that is currently present in both plots and would have been highly visible in the street scene and from wide views. Local planning policy clearly outlines the need for planning to support good design and reject that which does not contribute well to its locality. Whilst the applicants may have reached a reasonable compromise with the impact of development on the neighbours, this would have come at the cost of the design of the dwelling. The dwelling as proposed would have a window set back into the wall with a shorter roof above which would then drop down straight to then accommodate the remaining dormer window. This was considered to

be out of keeping with the adjacent Plot 2 dwelling and the street scene.

- 5.31 The current scheme provides a much more traditional arrangement with a subservient roof and consequent set back of the bulk of the development. This allows for a staggered appearance on site which is considered to be much more pleasing on the street scene and as such a much different scheme to that previously proposed and refused.
- 5.32 The Council have remained consistent all through the process and have applied the same policy to each of the recent applications. This is considered to be the best compromise for the site. The report has demonstrated how the appeal decision has been carefully considered and the main comments of it compared against this scheme.
- 5.33 With regard to the *“paid Agents personal opinion as expressed in the accompanying letter”*. The comments of the agent have been noted however the Council do not agree with all the comments made and in this instance have given little weight to the letter. It has come in as an accompaniment to the planning application but has not been deemed to represent either a formal planning statement or a Design and Access statement therefore has limited use in forming the recommendation shown below.

Engagement

- 5.34 With regard to the duty set out in paragraphs 186 and 187 of the Framework, no problems or issues have arisen during the application. It is considered that the duty to be positive and proactive has been discharged through the efficient determination of the application.

Conclusion

- 5.35 This site has had a very chequered planning history. The scheme before Members now has been carefully considered by Officers and is on balance thought to be an acceptable compromise on the issues that have been previously of concern. The Council have been very vigorous in reiterating concern over the impact that the current built form has on both the neighbouring property Kohanka and the street scene. This scheme has taken into account these concerns and has sought to provide an amendment to the built form and through the service of the suggested Enforcement Notice this will secure that the matters are addressed and the case brought to a conclusion.

6. Recommendation

Approval subject to the following conditions:

1. The development to which this permission relates shall be begun not later than the expiration of six months 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 condition, the development shall be carried out strictly in accordance with the following plans and documents:
Application forms and drawings numbered: P/11/055/015 A and P/11/055/003 F

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

3. The materials to be used for the replaced walls and roof hereby approved shall match in terms of colour, type and texture those used on the existing building.

Reason - To ensure that the development is constructed and finished in materials which are in harmony with the materials used on the existing building and to comply with Policy ESD13 and ESD 15 of the Cherwell Local Plan 2011 - 2031 Part 1, Policy C28 of the Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

4. The ground floor side facing kitchen window and the northeast elevation first floor bathroom window shall be fully glazed with obscured glass that complies with the current British Standard, and retained as such thereafter.

Reason - To safeguard the privacy and amenities of the occupants of the adjoining premises and to comply with Policy C30 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

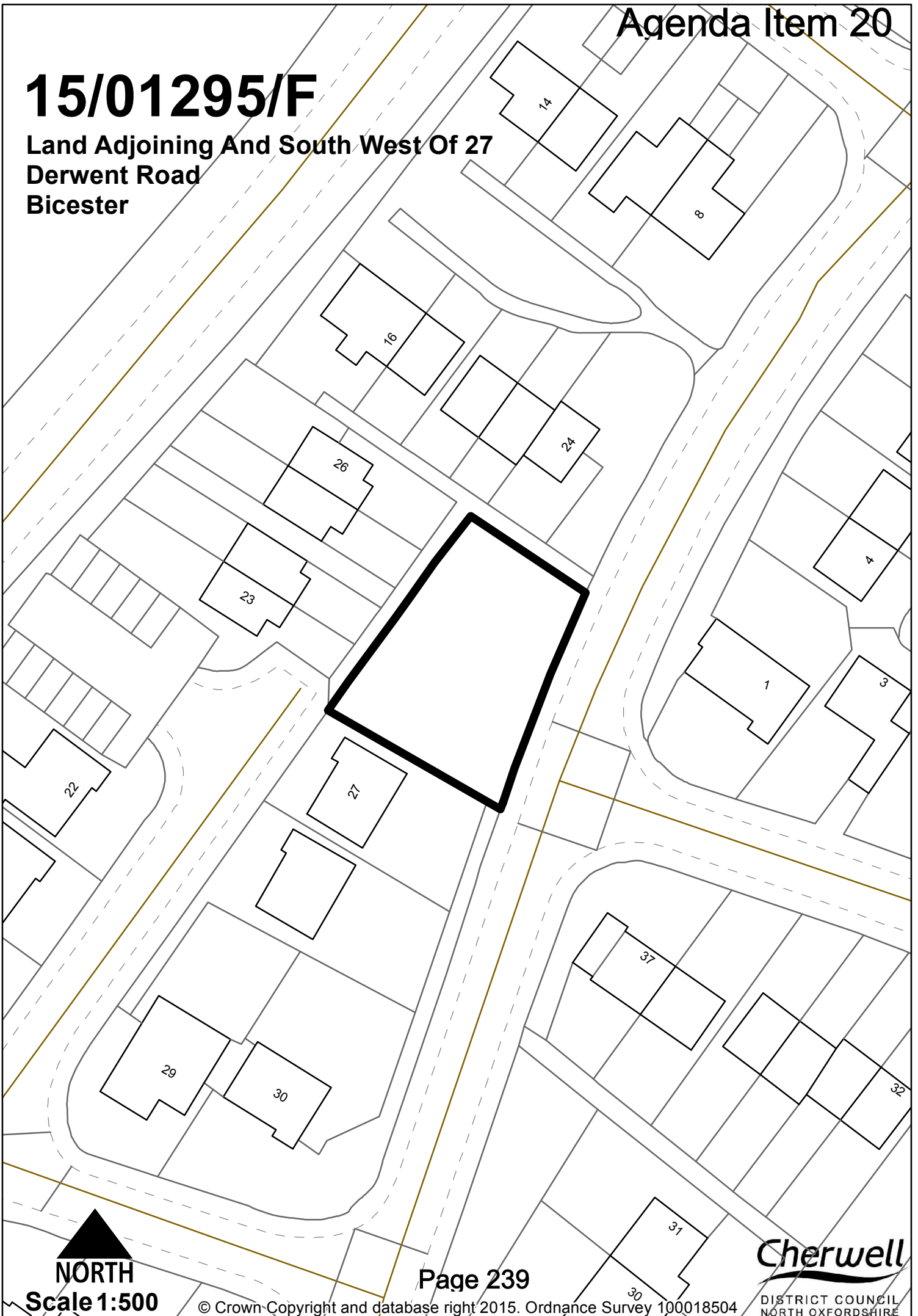
It is further **RECOMMENDED** that Members indicate that they concur with the intention to serve an Enforcement Notice to run alongside this approval ensuring that the work to amend the built form of the development currently on site is carried out in the approved manner

STATEMENT OF ENGAGEMENT

In accordance with the Town and Country Planning (Development Management Procedure)(England) Order 2015 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council having worked with the applicant/agent in a positive and proactive way as the decision has been made in an efficient way.

15/01295/F

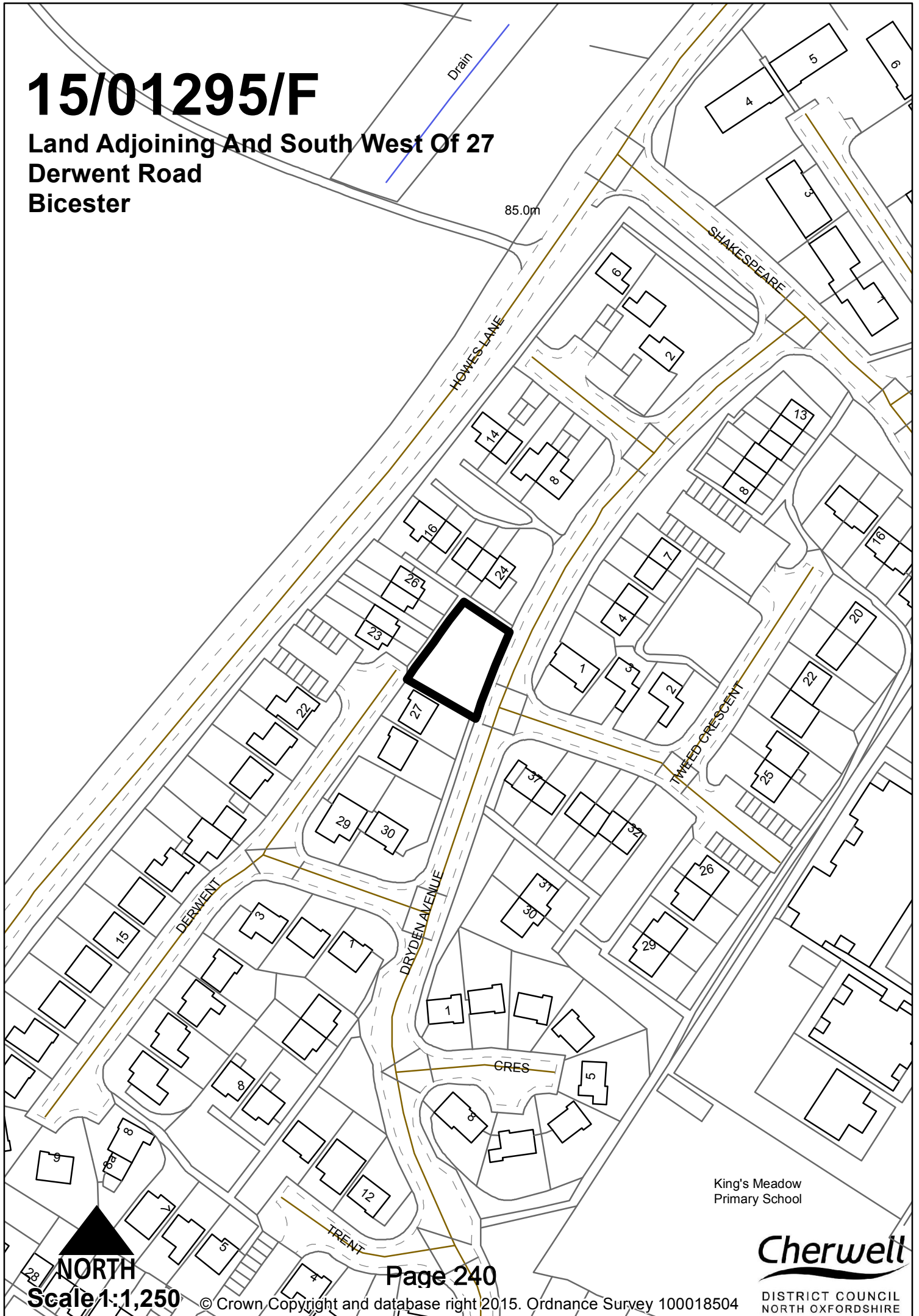
Land Adjoining And South West Of 27
Derwent Road
Bicester



NORTH
Scale 1:500

15/01295/F

Land Adjoining And South West Of 27
Derwent Road
Bicester



85.0m

SHAKESPEARE

HOWES LANE

THREED CRESCENT

DRYDEN AVENUE

DERWENT

CRES

TREANT

King's Meadow
Primary School

Cherwell

DISTRICT COUNCIL
NORTH OXFORDSHIRE

NORTH

Scale 1:1,250

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**Site Address: Land Adjoining And South
West Of 27 Derwent Road, Bicester**

15/01295/F

Ward: Bicester West

District Councillor: Cllrs Bolster, Hurle, Sinbley

Case Officer: Nathanael Stock

Recommendation: Refusal

Applicant: Mr Mustab Ahmed

Application Description: Erection of a two storey building to form one two storey dwelling and two flats, and associated hardstanding and means of access

Committee Referral: Member
Request – Cllr Sibley

Committee Date: 3rd September 2015

1. Site Description and Proposed Development

- 1.1 The application site is a small, relatively flat area of open, undeveloped green space within – but towards the western edge of – the built form of Bicester, bounded on three sides by residential neighbours (separated from neighbours on two of those sides by footpaths) and to the fourth by the highway (Dryden Avenue). The site is not within a designated Conservation Area; there are no listed buildings or other heritage assets in the vicinity; and there are no other designations.
- 1.2 Planning permission is sought for the erection of a two storey building to form one two storey dwelling and two flats. The building would have an eaves height of 5.4m, ridge height of approx. 6.9m, overall depth of 8.5m and width of approx. 13.5m; it would have a shallow pitched roof, with left to right ridge, broadly central gable projection to the rear and two smaller gable projections to the front.
- 1.3 The bulk of the building would form two flats, one at ground and one at first floor, both accessed from front doors facing eastward towards Dryden Avenue, and both featuring open plan living kitchen area, two bedrooms and a bathroom. The northern end of the building would form a two-storey dwelling, again with a front door facing towards Dryden Avenue, and featuring an open plan kitchen living area at ground floor and one en suite bedroom at first floor level.
- 1.4 The submitted landscape plan shows two car parking spaces each for the two flats in a tandem arrangement, situated between the proposed building and 27 Derwent Road, and one parking space to the north of the building to serve the dwelling. The same plan indicates a communal amenity area for the proposed dwellings, bounded by a 1.5m high picket fence, with two existing trees shown to be retained.

2. Application Publicity

- 2.1 The application was publicised by way of neighbour notification letters and a notice displayed near to the site. The comments (16 letters of objection, from 10 separate addresses) raised by third parties are summarised as follows:

- (1) Principle of development is totally inappropriate – new development has to provide green space or make a contribution towards the maintenance thereof; should be inappropriate to build on existing open spaces; contrary to the Local Plan
- (2) Impact on the character of the area – Cramped form of development; overdevelopment of the site; too much development on a small area of land; out of character with surrounding development; the building would be

an eyesore, not to mention fences, outbuildings and garden paraphernalia; how would the communal garden be maintained?

- (3) Loss of open green space important to and well used by local community (has been actively used for 30+ years) as a place to play sport with children, to socialise, to celebrate (e.g. queen's jubilee), where children have been able to play safely; this small green space is very precious to the local community; the green is as much a part of the neighbourhood as the school and the pub; have always believed the green to be an ornamental garden / open space for recreational use as there never been any notices to the contrary (and the Council has maintained it as such); its loss would be detrimental to the amenity of the area and to social cohesion; the proposal does not accord well with Bicester's emerging status as a garden town; and is also contrary to the objectives of the NPPF
- (4) Impact on neighbours' amenity – Significant loss of privacy for neighbouring residents (esp. Nos. 23 – 26 Derwent Road), as well as loss of light, and also loss of outlook to No. 27; would be more difficult for emergency vehicles to access neighbouring properties quickly; noise pollution and dust during construction
- (5) Impact on highway safety – parking is already an issue along this busy road through the estate – the proposal would exacerbate this situation / cause parking problems in the area; the site is opposite a primary school – this road is esp busy in the mornings and afternoons – any more cars would cause a danger to the public esp children; the edge of the site, adj to the road, is used as a valuable overflow to local residents' parking problems
- (6) Loss of trees/vegetation
- (7) Impact on wildlife
- (8) Approval would set a dangerous and unwelcome precedent for similar green spaces in the area
- (9) New residential development not necessary now that the Local Plan has been adopted, with a large number of new houses allocated for Bicester; lack of benefit given the number of houses proposed

Non-material issues raised:

- (1) The applicant is not a local resident
- (2) The proposal's impact on property values

3. Consultations

3.1 Bicester Town Council: No comments recieved

Cherwell District Council Consultees

3.2 Environmental Protection Officer: No comments received

3.3 Landscape Officer: No comments received

Oxfordshire County Council Consultees

3.4 Highways Liaison Officer: No comments received

Other Consultees

- 3.5 Thames Water: No comments received
- 3.6 Derwent Residents Group: Strongly objects. Representation appended to this report.
- 3.7 Cllr Les Sibley: Objects. Comments as follows:

As a long term resident of thirty plus years at Derwent Road Bicester I strongly object to the above planning applications for the following reasons:

The planned proposals as outlined would have a detrimental and long term impact on the environment of the local green and open space area that has been a focal point for community cohesion and activities for Derwent Road residents over many years.

Overdevelopment of a confined space.

Not in keeping with the local street scene.

The proposed development would face onto the busy "T" Junction of Tweed Crescent / Dryden Avenue which already suffers from on street parking, traffic congestion, pollution, noise and poor visibility especially when entering and exiting from Tweed Crescent. This is also a main route for school and local Buses.

Vehicles attempting to manoeuvre and park on the proposed development will cause traffic issues.

Adverse impact on neighbouring properties numbers 23, 24, 25, 26 and 27 Derwent Road by way of loss of view across the open space area and beyond. Loss of privacy and light. Loss of recreational land and local Green Space which are protected from development by the original planning permission and by the National Planning Policy Framework (NPPF) in particular paras 76 & 77 (see below)

NPPF – Promoting Healthy Communities Page 18 - Local Green Space 76. Local communities through local and neighbourhood plans should be able to identify for special protection green areas of particular importance to them. By designating land as Local Green Space local communities will be able to rule out new development other than in very special circumstances.

Identifying land as Local Green Space should therefore be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or reviewed, and be capable of enduring beyond the end of the plan period.

77. The Local Green Space designation will not be appropriate for most green areas or open space. The designation should only be used:

- where the green space is in reasonably close proximity to the community it serves;
- where the green area is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and
- where the green area concerned is local in character and is not an extensive tract of land.

May I also draw your attention to a fundamental point regarding the local recreational

and Green Space in Derwent Road which has to be answered before any planning application is given the green light?

I would request that the CDC Planning Officers and Members recognise the strong and valid objections of local residents and councillors by rejecting this application to build on a local green space.

4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

Development Plan Policies

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

PSD1 – Presumption in Favour of Sustainable Development
BSC2 – The Effective and Efficient Use of Land
BSC3 – Affordable Housing
BSC4 – Housing Mix
BSC10 – Open Space, Outdoor Sport & Recreation Provision
ESD1 – Mitigating and Adapting to Climate Change
ESD3 – Sustainable Construction
ESD7 – Sustainable Drainage Systems (SuDS)
ESD10 – Protection and Enhancement of Biodiversity and the Natural Environment
ESD15 – The Character of the Built Environment

Cherwell Local Plan 1996 (Saved Policies)

C28 - Layout, design and external appearance of new development
C30 - Design of new residential development

4.2 Other Material Policy and Guidance

National Planning Policy Framework

- Paragraphs 6 – 9, 13, 14, 17 (presumption + core planning principles), 18, 19, 20 (economy), 29 – 36 (transport), 47, 49, 50, 52 (housing), 56 – 66 (design), 69, 70, 73 – 77 (healthy communities), 93 – 104 (climate change and flooding), 109 – 125 (natural environment), 126 – 139 (historic environment) and 186 – 206 (decision taking)

National Planning Practice Guidance

5. Appraisal

5.1 The key issues for consideration in this application are:

- Planning history
- District housing land supply
- Principle of development
- Impact on the character of the area
- Residential amenity

- Highway safety

Planning History

- 5.2 There is no specific site history to this site save for the original consent for the residential estate granted under reference NE.720/72 which reveals this site to be an open space as part of the whole design layout.

District housing supply

- 5.3 The five year land supply was comprehensively reviewed for the 2014 Annual Monitoring Report (“the AMR”) which was published on 31 March 2015. The AMR concluded that the district has a **5.1 year supply** of deliverable sites for the five year period 2015-2020 (commencing on 1 April 2015). This is based on the housing requirement of the Submission Local Plan (as Proposed to be Modified, February 2015) which is 22,840 homes for the period 2011-2031 and is in accordance with the objectively assessed need for the same period contained in the 2014 SHMA (1,140 homes per annum of a total of 22,800). The five year land supply also includes a 5% buffer for the reasons explained at paragraph 6.28 of the AMR. The presumption in favour of sustainable development, as advised by the Framework, will therefore need to be applied in this context.

Principle of development

- 5.4 The Framework states that one of the core planning principles is to proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs. Every effort should be made objectively to identify and then meet these needs including for housing. A five year housing land supply should be maintained and at this time the Council is able to demonstrate a 5.1 year supply of deliverable housing land. Therefore the relevant policies of the adopted Cherwell Local Plan are the starting point for decision making.
- 5.5 Nevertheless, it remains the case proposed development should be approved unless there would be harm caused that significantly and demonstrably outweighed the benefits.
- 5.6 Bicester is an urban centre and as such a suitable location in principle for further housing development. The site is within a residential estate which, again, would be appropriate for development for further residential units. Proposed developments with an urban focus are considered to be the most sustainable and this is a primary aim of Government guidance. Such locations allow for a managed pattern of growth to make the fullest possible use of public transport, walking and cycling.
- 5.7 However, to properly achieve sustainable development, the Framework advises that economic, social and environmental gains should be sought jointly and simultaneously through the planning system. It is not only about the need for housing or its location, and development should not be granted if it would cause significant harm to acknowledged interests. In this case the matters identified in the introduction need to be considered to enable a balanced judgement to be formed.
- 5.8 The recently adopted Cherwell Local Plan states that one of the key environmental challenges facing Bicester is to manage growth in a way that will not unacceptably harm important natural assets (C.26, p134) and the Council seeks to ensure sustainable development by, among other things, taking the eco-town concept across the whole town (C.28, p135). Policy Bicester 7 seeks to protect existing green spaces within the town (p160), as does Policy BSC10, and Policy ESD15 states that development should be designed to improve the quality and appearance of an area and the way it functions, and should consider the amenity of existing and future development, including outdoor spaces.

- 5.9 In addition, paragraph 70 of the Framework encourages Local Planning Authorities to guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs, and paragraph 74 of the Framework states that existing open spaces should not be built on unless an assessment has been undertaken which has clearly shown the open space to be surplus to requirements, or the loss resulting from the proposal would be replaced by equivalent or better provision (in terms of quantity and quality) in a suitable location.
- 5.10 Further, paragraph 76 of the Framework states that local communities should be able to identify for special protection green areas of particular importance to them. Paragraph 77 makes clear that the Local Green Space designation will not be appropriate for most green area or open space and should only be used:
- where the green space is in reasonably close proximity to the community it serves;
 - where the green area is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and
 - where the green area concerned is local in character and is not an extensive tract of land.
- 5.11 In this instance, the proposed development would result in the loss of an existing green space, which would have a detrimental impact on the amenity of existing residents, and would reduce the community's ability to meet its day-to-day needs. The number and strength of response from local residents, including a newly formed Derwent Green Residents Group, suggests that the site is an important and valued asset for the local community. No assessment has been submitted by the applicant to show that the site as open space is surplus to requirements, and there is no proposal to replace the site with suitable alternative provision in the area. It is thus considered that the proposal would conflict with Local Plan Policies BSC10, Bicester 7 and ESD15 as well as paragraphs 70 and 74 of the Framework.
- 5.12 It is clear from the text of paragraph 77 that a Local Green Space designation will only be appropriate in occasional circumstances. However, the site is small in scale, local in character, very close to the community it serves (as identified by the Residents Group and the origin of individual objections) and appears to be demonstrably special to the local community for its recreational value. The criteria set out in paragraph 77 therefore appear to be satisfied which would give the site, subject to designation, a status similar to land in Green Belt.
- 5.13 Overall, therefore, it is considered that the principle of development on this site is not acceptable.

Impact on the character of the area

- 5.14 The Framework advises that pursuing sustainable development involves seeking positive improvements in the quality of the built environment, as well as in people's quality of life, including improving the conditions in which people live. Proposals should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
- 5.15 The location of this site must be seen in the context of the planned nature of this residential estate. The original layout approved in the 1970s shows this site to have been part of an area of open space in an otherwise dense housing area. There are small pockets of green space offering some relief with the street scape which would otherwise be wholly dominated by buildings and the roads. Open areas of green space perform an essential function and should not be considered as opportunities to exploit for further development where they would cause harm.

- 5.16 It is considered that this green space does perform an essential function in the street scape, forms an essential element of the original planned estate and appears to be a pleasant area of open space. It contributes positively to the character of the area, and it is therefore considered that the proposal would cause substantial harm to this character. As such, the proposal conflicts with Local Plan Policy ESD15.
- 5.17 In addition, development in the area is generally set back from the highway, including on Dryden Avenue, but also Tweed Crescent, Tamar Crescent and Severn Close. Where buildings are closer to the road, as in 1 Tweed Crescent opposite the site, they are side on to the road. In seeking to achieve an acceptable relationship with neighbouring occupiers to the west, the proposed development has been sited very close to the highway.
- 5.18 However, in the context of the local built form and the design and length of enclosures (mixture of brick and close boarded timber fence) on the western side of Dryden Avenue, it is not considered that the layout of development is in itself a sustainable reason for refusal. The proposed building, at under 7 metres in overall height, is relatively squat and, subject to appropriate materials, would not be unduly imposing in purely visual terms, despite its location close to the highway. This conclusion on visual impact does not lessen the harm caused through the loss of a locally important green space, but the proposal is not considered so harmful to visual amenity as to warrant refusal on this basis alone.
- 5.19 The lack of private amenity space for future residents is, however, not desirable for new housing development, and is out of keeping with the prevailing pattern of development, which does weigh against the proposal.

Impact on residential amenity

- 5.20 The proposed development would result in a substantial loss of outlook to the neighbours to the west of the site (Nos. 23 to 26), who would be hemmed in on all sides by development, with a main road running to the rear and other houses to the north and south. The proposed building would be approx. 19.5 – 20 metres from these neighbours, which conflicts with Cherwell's guidance on separation distances (where 22 metres is required). This impact is exacerbated in this instance by the inclusion of a first floor kitchen window to the upstairs flat, where first floor windows would normally serve only bedrooms or bathrooms. The proposal would also result in some loss of amenity to the neighbours to the north of the site. The proposed building would be 13.5m at the closest point to No. 24, where the separation distance should be 14m.
- 5.21 In addition, the proposed building would be only 14 metres from the neighbour to the east, No. 1 Tweed Crescent. Although this relationship is across the public highway, and the proposed building would face the front garden of the neighbour, this relationship does give some cause for concern, and adds to the harm identified to Nos. 23 to 26.
- 5.22 Having regard to the proposed building's spatial relationship with No. 27 to the south-west of the site, it is not considered that the proposal would unduly impact on this neighbour's living conditions, either through loss of light, outlook or privacy.
- 5.23 Nevertheless, for the reasons set out above, the cumulative effect is that the proposal would result in a sense of over-domination to its neighbours, and therefore cause significant and demonstrable harm to residential amenity. The proposal would thus conflict with Local Plan Policy ESD15 in this regard, and paragraph 17 of the Framework.

Impact on local highway safety

- 5.24 No comments have been received from the local highway authority. The concerns of

local residents are noted with regard to the proposal's potential impact on local highway safety. However, adequate parking provision is proposed, visibility would appear to be satisfactory, and the proposal is considered acceptable in highway safety terms, subject to conditions to require adequate car parking provision and vehicular and pedestrian visibility. The proposal therefore accords with paragraphs 29 to 36 of the Framework.

Other Matters

- 5.25 The application site is not considered especially important in biodiversity terms, and conditions may be reasonably imposed to secure the retention of existing trees within the site. The site is relatively flat, small in scale and within an existing built up area with established drainage system and the proposal would therefore not have a significant impact in terms of flood risk. Dust, noise and disturbance would only have the potential to be an issue for local residents during the period of construction, and so would not constitute a sustainable refusal reason. The proposal would not have any material impact on heritage assets and, given its size, would not require a contribution towards affordable housing provision.

Conclusions

- 5.26 The principle of development in this urban location would normally be considered acceptable, despite the Council's current 5.1 year housing land supply, and the proposal would contribute additional housing that would help maintain this supply position.
- 5.27 However, its contribution in this regard would be relatively minor and, for the reasons identified in this report, the proposal would result in the loss of a locally important green space, which would have a detrimental impact on the amenity of existing residents, and would reduce the community's ability to meet its day-to-day needs. In addition, the green space performs an essential function in the street scape and contributes positively to the character of the area, and its loss would therefore cause substantial harm to the character of the area.
- 5.28 In addition, by reason of its scale and siting, the proposal would result in a substantial loss of outlook and undue overlooking to the neighbours to the west of the site (Nos. 23 to 26 Derwent Road), and in an imposing and overbearing form of development to the said neighbours and to No. 1 Tweed Crescent.
- 5.29 It is thus considered that the proposal would conflict with Local Plan Policies BSC10, Bicester 7 and ESD15 as well as paragraphs 17, 70 and 74 of the Framework.

Engagement

- 5.30 With regard to the duty set out in paragraphs 186 and 187 of the Framework, no problems or issues have arisen during the application. It is considered that the duty to be positive and proactive has been discharged through the efficient and timely determination of the application.

6. Recommendation

Refusal;

REASON(S) FOR REFUSAL

1. The proposal would result in the loss of a locally important green space, which would have a detrimental impact on the amenity of existing residents, and would reduce the community's ability to meet its day-to-day needs. No assessment has been submitted by the applicant to show that the site as open space is surplus to requirements, and there is no proposal to replace the site with suitable alternative provision in the area. In addition, the green space performs an essential function in the street scape and

contributes positively to the character of the area, and its loss would therefore cause substantial harm to the character of the area. The proposal would therefore conflict with Policies BSC10, Bicester 7 and ESD15 of the Cherwell Local Plan 2011-2031 and with paragraphs 70 and 74 of the National Planning Policy Framework.

2. By reason of its scale and siting, the proposed development would cause significant and demonstrable harm to the living conditions of neighbouring occupiers (Nos. 23 to 26 Derwent Road) through overlooking and loss of outlook, and would result in an imposing and overbearing form of development to the said neighbours and to No. 1 Tweed Crescent. The proposal would therefore conflict with Policy ESD15 of the Cherwell Local Plan 2011-2031 and with paragraph 17 of the National Planning Policy Framework.

STATEMENT OF ENGAGEMENT

In accordance with the Town and Country Planning (Development Management Procedure)(England) Order 2015 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council having worked with the applicant/agent in a positive and proactive way as the decision has been made in an efficient and timely way.

Derwent Green Residents Group

27 Derwent Road
Bicester
OX26 2JA

18 August 2015

Planning Department
Cherwell District Council,
Bodicote House,
Bodicote,
Banbury
Oxfordshire OX15 4AA

Reference Planning Application **15/01295/F - OBJECTIONS**

Dear Sirs

This is the **formal response of the Derwent Green Residents Group**, a properly constituted 'Voluntary or Community Body' comprising – currently – 33 adults living within 200 metres of the piece of land under consideration, **strongly objecting to this proposal**.

We are currently awaiting a reply on the question as to whether the planning application is valid.

15/01295/F is headed "Land Adjoining and North East of 27 Dryden Avenue". There is no such address. While the plot is identified on maps included with the documents available on the Cherwell District Council website, this information is not included on the neighbour notification documents that were dated 6 August 2015. Thus those who received these notifications would not have known to what they referred without further investigation. We note that the designation has now been changed on the website – to the equally inaccurate 'Land Adjoining And South West Of 27 Derwent Road Bicester.'

Our first and major contention is that **this land is not and should not be available for development**, and the applicant should have been informed of the relevant facts before this application was made.

This plot of land is one of the ornamental gardens and green spaces established as part of the planning permission given for the original Greenwood Homes development, built in the early 1980s. We have been attempting to establish the exact terms of this original planning agreement: we are yet to receive a reply from our request to the CDC Planning Department, made by email on 21 July, as to how historic planning information can be accessed.

It has been maintained by the Council, so far as we know, from the moment the streets were adopted by the Council. An email from a Landscape Officer in the Environmental Services Department dated 11 August

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2015 states "It would have been an original planning requirement that these pieces of land were laid out and maintained as public open space, which the council has done ever since."

It is our understanding that when this plot of land was bought by Mr Edward Manu in February 2005, it would have been made clear to him that this was public open space, maintained by the Council, and therefore not available for development. While we cannot prove that assumption, we would suggest it is strongly reinforced by the fact that the price for this plot of land, and several other smaller plots, was only £4,000. **We are not experts in understanding legal documents, but the Land Registry Transfer dated 11.02.05 includes a Third Schedule stipulation 2: "No building shall be erected on the property..."**

Our second contention is that **this plot of land has been bought on the basis of misrepresentation.**

Local residents first became aware of the sale in the first week of April 2015, when strangers were seen taking photos of the Green. They revealed that it was up for auction on 15 April. (The 'For Sale' put up by the Auction House was positioned over 400 metres from the actual plot.)

Local residents had therefore little more than a week to react. They realised that the land was being sold for potential development. The guide price was given as £25,000+; it was described as 'Suitable for Development (subject to obtaining all necessary consents)'; and when The Auction House was telephoned for more details, they assumed the caller was a potential buyer and stated "It is there for development – you will have to speak to the Council to see how many houses you could build on it."

Examination of the documents supplied by The Auction House in support of Lot 42, inaccurately described as *Land Adjoining and North East of 27 Dryden Avenue, Bicester, Oxfordshire, OX26 2NJ*, revealed that the vendor's address was also inaccurately given as 2 Dryden Avenue. They also included a Commercial Property Standard Enquiries form that included section 4, extract as follows:

Adverse rights affecting the Property

Unless apparent from the copy documents supplied, are there any covenants, restrictions, agreements, rights or informal arrangements of any kind to which the Property is subject (whether public or private and whether existing or in the course of acquisition) (Adverse Rights)?

NO

Does the Property, or any property over which Rights are enjoyed, include any land that is currently used or has in the past ten years been used by members of the public for recreational purposes, whether with or without your permission?

NO

Does the boundary of the Property (or, if applicable, the Development) immediately adjoin a highway maintainable at public expense at, and for the full width of, each point of access?

NO

We believe all three of these answers are incorrect; the second demonstrably so (see below).

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The Auction House was informed of these inaccuracies (email 13 April 2015): they were asked "Does the accuracy of info given affect the validity of the sale?" Their response was (14 April) "No, I do not believe so." When informed that "You are offering for sale a piece of land backed by a 'legal pack' that apparently misrepresents the item being sold and identifies the vendor with a false/out-of-date address," they responded "I cannot take instructions from third parties or decide what is correct and what is false. I always forward every enquiry or claim on to the acting solicitors and am reliant on them to provide a legal pack."

The vendor's solicitors were informed of these same inaccuracies (email 15 April). They indicated that the inaccurate address for the vendor had been corrected in the contract, and explained that "I cannot comment on answers given by my client to the CSPE. I have raised your comments with him however." 15 April was the date of the auction – so we have to conclude that the land was bought for £75,000 on the basis of inaccurate information being provided by the vendor. The fact that the price was three times the guide price indicates that at least two parties believed the information given in the legal pack and assumed that planning permission would be forthcoming.

Our third contention is that we are in the process of **a) registering the plot as an official village green b) registering the plot as a local green space and c) registering the plot as an asset of community value.**

Since local residents became aware of the sale of the land on 15 April, we realised that we should take what steps we could to reinforce what we understood to be the protected status of the plot before an application for planning permission was made. Two of our local councillors assured us that they had made representations to the Planning Department so that they would receive an alert should any enquiry about development on this plot be made.

The Residents Group made repeated attempts to find out from the Land Registry who had bought the plot. We were informed that an application for change of ownership had been made on 18 May, but towards the end of July this had still not been processed. We assumed – falsely it transpires – that the change of ownership would need to be registered before planning permission could be pursued.

At that point we also emailed the Planning Department (email 21 July, see Appendix 1), stating "The purpose of emailing you at this point is to ensure that CDC planners are fully aware of this situation should the as yet unidentified purchaser make a pre-application enquiry."

We have not as yet received a reply to that email, though we now know that a pre-application request was made on 10 June. We are extremely disappointed that from our perspective the Planning Department have failed to communicate information that may have enabled local residents to complete the processes intended to reinforce the protection of this green space from development.

The AGM of the Derwent Green Residents Group was held on 26 July 2015; the constitution of the group was formally adopted, and it was unanimously agreed that the following actions should be taken in respect of the land to the left of 27 Derwent Road, faced by 23-26 Derwent Road and recently designated ON318671 by the Land Registry (this was communicated to the Planning Department in a letter dated 9 August – Appendix 2):

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a. Registering the plot as an official village green

The official guidance on this process states that “If you can prove that local people have used the land without secrecy, force or permission for at least 20 years for lawful sports and pastimes, you can apply to register the land as new green.”

The Derwent Green Residents Group assert categorically that local people have used the land without secrecy, force or permission for at least 20 years for lawful sports and pastimes: it has been used for neighbourhood barbecues, jubilee street parties; children have played games, had picnics, and learned to ride bikes. It is on this basis we have begun the process of gathering the evidence need as part of the official application procedure, with the intention of submitting this to the relevant authority as soon as is practicable.

b. Registering the plot as a local green space

We understand that The National Planning Framework (NPPF), published by the Department for Communities and Local Government in March 2012, sets out the government’s planning policies for England. Paragraphs 76 to 78 introduce a new Local Green Space designation (LGS) to protect local green areas of particular importance to local communities. This will enable communities, in certain circumstances, to identify and protect areas that are of value to them through local and neighbourhood plans.

Those circumstances, we are informed, are

- where the green space is in reasonably close proximity to the community it serves;
- where the green area is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and
- where the green area concerned is local in character and is not an extensive tract of land.

We are convinced that these conditions are met by this piece of land, and in the process of preparing a formal application following the guidance given by the Planning Policy Team Leader at CDC on 12 August.

c. Registering the plot as an asset of community value.

While we understand the relatively limited rights conferred by registering the plot as an asset of community value, explained fully on the Cherwell District Council’s website, we agreed that having formed the Residents Group in accordance with the specified requirements we should fill in the relevant ACV nomination form and submit it – which was done on 10 August 2015.

These actions have been taken as part of an agreed strategy for the Derwent Green Residents Group to protect a green space valued and used by local residents for more than 20 years. We believe it is fully in line with the following Cherwell District Council vision statement: *“The vision for green spaces in Cherwell is ‘to provide, safeguard and develop a network of safe, accessible and attractive green spaces that are*

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valued, well managed and maintained and enhance the quality of life, sense of well-being, health and learning opportunities of all sections of the community’.”

This introduces our fourth contention: that **development on this plot would contravene the National Planning Policy Framework and Cherwell District Council’s stated policies and principles in respect of housing and green spaces.**

The **National Planning Policy Framework** (March 2012) includes the following relevant statements:

“Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements...” (section 74)

“Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities...” (section 73)

“Local communities through local and neighbourhood plans should be able to identify for special protection green areas of particular importance to them.” (section 76)

The **Cherwell Local Plan** adopted in July 2015 includes:

“Policy BSC 10: Open Space, Outdoor Sport and Recreation Provision

The Council will encourage partnership working to ensure that sufficient quantity and quality of, and convenient access to open space, sport and recreation provision is secured through the following measures:

- Protecting existing sites
- Ensuring that proposals for new development contribute to open space, sport and recreation provision commensurate to the need generated by the proposals.”

Also: **“Ensuring that green infrastructure network considerations are integral to the planning of new development,”** (Policy ESD 17: Green Infrastructure, p127) and **“Development proposals will be required to contribute to the provision of open space...”** (Policy BSC 11: Local Standards of Provision - Outdoor Recreation, p82) and **“The general principles underlying the policy are that all new dwellings should contribute towards the provision of open space.”** (Cherwell Local Plan B165, p82)

This piece of land may be relatively small, but it is an existing site that deserves to be protected – and this proposed new development directly destroys a valued and well-used open space.

The Cherwell Local Plan specifically indicates that Bicester is lacking in open space:

“Bicester has existing deficiencies in open space, sports and recreation amenities... There is a shortfall of natural/semi-natural green space, children's play space... additional open space, will be required to provide for future development needs.” (Cherwell Local Plan C21, p133)

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“Cherwell households have the lowest access to natural green space across the whole of the South East; 72% of households meet none of the Accessible Green Space requirements - a reflection of the low number of country parks and areas of common land in the District.” (Cherwell Local Plan A25, p36)

It therefore proposes positive action to defend and increase the provision of open space:

“We are looking to ensure sustainable development by: improving the amenity and connectivity of the town with a network of parkland, landscaped areas and amenity space...” (Cherwell Local Plan C28, p135)

“Some of the existing deficiencies in open space provision will require the allocation of land through the Local Plan process, as follows: 11.69 ha parks and gardens...” (Cherwell Local Plan C81, p159)

We therefore urge the Council to take this opportunity to clearly indicate that it intends to act positively in this respect.

We also urge the Council to consider the political and reputational dimensions of this decision in the light of these following statements:

“This is a plan which demonstrates a respect for the past and which seeks to preserve and enhance what makes Cherwell District special...” (Cherwell Local Plan, Councillor Barry Wood, p1)

“There is a social and economic need to improve Bicester's self-sufficiency and its image as a place to live and work.” (Cherwell Local Plan C20, p132)

“Cherwell's countryside, landscape and green spaces are important natural resources. They form the setting of our towns and villages, contribute to their identity and the well-being of Cherwell's communities, and provide recreation opportunities.” (Cherwell Local Plan B87, p59)

In the houses surrounding this plot of land are children who have grown up enjoying the amenity provided by this open space; as young adults they are bemused that the authorities are even considering the destruction of this amenity. There are also adults who have lived in Bicester for over 20 years, next to this Green, and are deeply troubled by this threat to a valued amenity. If it is lost to development, there will be a serious loss of credibility for local politics.

We are all aware of the Council's enthusiasm for Bicester's designation as a garden town; if it is unable to protect the ornamental gardens that have been an integral part of this development for 30 years, then there is a real danger that its reputation will be in tatters and the garden town a completely hollow and meaningless aspiration. There are 13,000 additional homes built and in the pipeline for Bicester: there is absolutely no strategic requirement or pressing need to destroy an ornamental garden to provide three more.

The documents supplied as part of this application clearly state “A five year housing land supply should be maintained and at this time the Council is able to demonstrate a 5.1 year supply of deliverable housing land.” There is therefore no pressing need to find further land for development at this time.

We are also extremely concerned that giving permission to build on this ornamental garden on the Greenwood Homes estate will be a green light to landowners and speculators to pursue planning

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permission for the remaining ornamental gardens on the estate – which we understand to have been consistently denied for the past 30 years.

We have, however, taken some encouragement from this statement of principle:

“Consideration will be given to the need to designate Local Green Spaces (green areas of particular importance to the local community) in accordance with advice in the NPPF and NPPG, through the preparation of the Local Plan Part 2,” (Cherwell Local Plan B159, p76)

and the fact that we have received a positive response to our initiation of seeking registration of this land as a Local Green Space; “However, we have now started on a Part 2 of the Local Plan which will include non-strategic allocations of land and will consider any submissions for Local Green Space designations. I would therefore encourage you to participate in that process. I will add the residents group to our consultation database and attach details of the initial notification that was undertaken recently.” (Email, 12 August 2015)

We therefore urge the Planning Committee to at very least allow us the possibility of pursuing this option.

I repeat that it is the conviction of the Derwent Green Residents Group that this land is not and should not be available for development, and that this should be the overriding factor in rejecting this planning application and working with us to protect and defend this ornamental garden/open space.

Nevertheless, there are a number of specific reasons why any particular proposal for housing development on this land should be rejected:

- It is contrary to the principles described in the National Planning Policy Framework (NPPF) - Promoting Healthy Communities
- The coherence and integrity of the street scene design for the whole Greenwood Homes estate will be destroyed
- 23-26 Derwent Road were designed and built to overlook an ornamental garden. It is a feature of the design plan for the whole development that rows of houses are positioned to overlook such green spaces rather than be positioned on a road frontage in the traditional manner. Any development on this plot destroys a fundamental design principle of the whole estate and significantly reduces, if not destroys, the whole outlook of these particular four houses
- This particular proposal results in the back gardens of the property directly abutting the front gardens of 23-26 Derwent Road. We would be interested to know of any development in Bicester where this is regarded as an acceptable feature
- In the same way this particular proposal results in kitchen and bedroom windows directly facing the living-room and bedroom windows of 23-26 Derwent Road

Derwent Green Residents Group, formed 2015.

Chair: Stephen Rand

Secretary: Mel Holt

Treasurer: Sarah Day

- Access for emergency services and deliveries will be adversely affected, particularly for 25 and 26 Derwent Road
- The outlook of several houses – from either front windows or back windows – in Derwent Road, Dryden Avenue and Tweed Crescent will be adversely affected. The outlook from the garden of 27 Derwent Road will also be adversely affected
- Any proposed development on this site will result in the loss of on-street parking for existing residents, already at a premium. The current proposal includes five off-street car-parking spaces which will require the creation of drop kerbs on to a through road – which exist nowhere else on the entire Greenwood Homes development – and one of which will be opposite the exit from Tweed Crescent. It is impossible to contemplate that Oxfordshire County Council Highways Department will allow this potential for a significant road safety hazard.

In summary, therefore, we entirely agree with the quoted statement of the Council Planning Officer at the pre-application stage: ***“The original layout approved in the 1970s shows this site to have been part of an area of open space in an otherwise dense housing area. There are small pockets of green space offering some relief with the street scape which would otherwise be wholly dominated by buildings and the roads. Open areas of green space perform an essential function and should not be considered as opportunities to exploit for further development where they would cause harm.*”**

“In my opinion, this green space does perform an essential function in the street scape, forms an essential element of the original planned estate and appears to be a pleasant area of open space. It contributes positively to the character of the area, and in my opinion your proposal would cause substantial harm to this character.”

We believe that to be true of any possible proposal for this site, and therefore no permission should be given to build any kind of housing on the land adjacent to 27 Derwent Road:

- it is an ornamental garden integral to the design of the Greenwood Homes estate
- its status as open space was protected by the original planning stipulations, has been reinforced by regular public use for 30 years and is confirmed by its ongoing maintenance by the Council
- it is impossible to build any homes on the site without destroying the design and planning integrity of the area and creating an extremely negative Impact on the character and appearance of the area; without adversely and significantly affecting the outlook and amenity of the immediate neighbours; and without losing the open space amenity it provides to many more local residents

Yours faithfully

Stephen Rand
Chair

Derwent Green Residents Group, formed 2015.

Chair: Stephen Rand

Secretary: Mel Holt

Treasurer: Sarah Day

Appendix 1

Email sent to planning@cherwell-dc.gov.uk on 21 July 2015

Dear Sirs

Earlier this year we were made aware that the small green – part of the original ornamental gardens of the Greenwood Homes estate – had been put up for sale by auction, and was duly sold for £75,000. The Land Registry inform me that a change of ownership was applied for on 18 May but has yet to be processed. They also informed me that it had been designated a new title - ON318671, having been formerly part of ON255392. (Another, smaller, part of ON255392 has also been put up for sale by auction tomorrow.)

Local residents have reacted with dismay and amazement. In particular we noted – and informed the auction house and the vendor's solicitor – that the General pre-contract enquiries for all property transactions document supplied by the vendor's solicitor and passed on to potential buyers by the auction house included an Enquiries section that contained inaccuracies, and in particular showed the question Does the Property, or any property over which Rights are enjoyed, include any land that is currently used or has in the past ten years been used by members of the public for recreational purposes, whether with or without your permission? NO

This is manifestly untrue (and would have been known by the owner of the property to be untrue), as many residents have regularly used this green for recreational purposes for over 20 years – I taught my granddaughter to ride her bike on it, for example.

In order to respond to this potential threat to the green we have consulted our local councillors and others.

- First, we realised we had to set up a proper community group – the Derwent Green Residents Group now exists. It will meet in the next few days to hold an AGM and formally adopt the constitution and appoint officers and a committee. We will register this as a local community group with CDC.
- Second, that meeting will also formally agree to apply to CDC to register the green as an asset of community value.
- Third, that meeting will also formally agree to apply to register the land as a new village green.

The purpose of emailing you at this point is to ensure that CDC planners are fully aware of this situation should the as yet unidentified purchaser make a pre-application enquiry. We assume this green would be covered by paragraph BSC10 of the draft local plan: "Development proposals that would result in the loss of sites will be assessed in accordance with guidance in the NPPF and NPPG, and will not be permitted unless the proposal would not result in the loss of an open space of importance to the character or amenity of the surrounding area... Consideration will be given to the need to designate Local Green Spaces

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(green areas of particular importance to the local community) in accordance with advice in the NPPF and NPPG, through the preparation of the Local Neighbourhoods DPD."

I would also be grateful if you could advise on how we might track down historic planning permissions – we would be keen to pin down the status of these ornamental gardens in the original planning permission given to Greenwood Homes.

Appendix 2

Letter dated 9 August 2015 sent to Planning Department, Cherwell District Council

Dear Sirs

At the AGM of the Derwent Green Residents Group held on 26 July 2015, the constitution of the group was formally adopted, and it was agreed that the following actions should be taken in respect of the land to the left of 27 Derwent Road, faced by 23-26 Derwent Road and recently designated ON318671 by the Land Registry:

1. Registering the plot as an official village green

This is on the basis that "If you can prove that local people have used the land without secrecy, force or permission for at least 20 years for lawful sports and pastimes, you can apply to register the land as new green." The Derwent Green Residents Group assert categorically that local people have used the land without secrecy, force or permission for at least 20 years for lawful sports and pastimes, and have begun the process of gathering the evidence needed as part of the official application procedure, with the intention of submitting this to the relevant authority as soon as is practicable.

Research on the Cherwell District Council and Oxfordshire County Council's website has struggled to reveal what address should be used to submit this application. It appears that it has to be sent to Cherwell District Council to be forwarded to Oxfordshire County Council. Clarification on this information would be appreciated.

2. Registering the plot as a local green space

We understand that The National Planning Framework (NPPF), published by the Department for Communities and Local Government in March 2012, sets out the government's planning policies for England. Paragraphs 76 to 78 introduce a new Local Green Space designation (LGS) to protect local green areas of particular importance to local communities. This will enable communities, in certain circumstances, to identify and protect areas that are of value to them through local and neighbourhood plans. We are in the process of preparing a formal application on this basis.

Once again we have struggled to find guidance on how and where to make this application and would appreciate any help that can be given. We have been advised that we should initially approach Mr Adrian Colwell, Head of Strategic Planning & The Economy.

3. Registering the plot as an asset of community value

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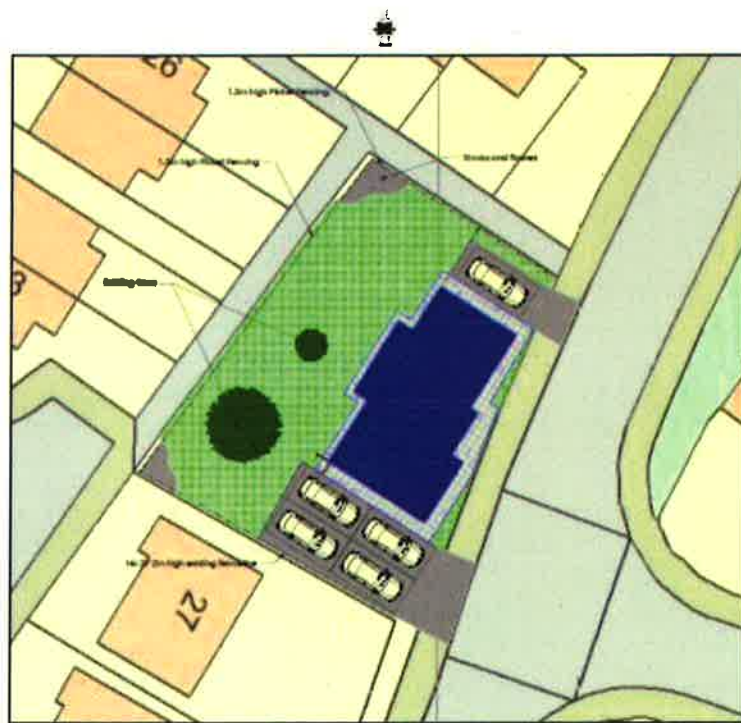
Chair: Stephen Rand

Secretary: Mel Holt

Treasurer: Sarah Day



Tweed Crescent as seen from the Green. The proposed car parking space for four cars would face this junction – it would take the place of the shrubs on the right of the photo. See plan below:



Derwent Green Residents Group, formed 2015.

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The view from the edge of the front garden of 23 Derwent Road. Below is the view envisaged by the developer. Note that the drawing appears to show a lower fence than the 1.5m fence shown on the plans.



Derwent Green Residents Group, formed 2015.

Chair: Stephen Rand

Secretary: Mel Holt

Treasurer: Sarah Day

While we understand the relatively limited rights conferred by registering the plot as an asset of community value, explained fully on the Cherwell District Council's website, we have also agreed that having formed the Residents Group in accordance with the specified requirements we should fill in the relevant ACV nomination form and submit it as soon as possible.

These actions are part of an agreed strategy to protect a green space valued and used by local residents for more than 20 years. We have taken some encouragement from the relevant Cherwell District Council vision statement: *"The vision for green spaces in Cherwell is 'to provide, safeguard and develop a network of safe, accessible and attractive green spaces that are valued, well managed and maintained and enhance the quality of life, sense of well-being, health and learning opportunities of all sections of the community'."*

The Derwent Green Residents Group is determined to work with the Council in order to fulfil this vision for this small but much used and valued green space.

Yours faithfully



Stephen Rand
Chair

Derwent Green Residents Group, formed 2015.

Chair: Stephen Rand

Secretary: Mel Holt

Treasurer: Sarah Day

Welcome to Derwent Green



View from Dryden Avenue – the proposed building would block this view entirely



The path at the back of the plot – a 1.5m picket fence is proposed to mark the left-hand boundary



View from the access point between 23 and 27 Derwent Road



View across the Green from the front door of 25 Derwent Road

Derwent Green Residents Group, formed 2015.

Chair: Stephen Rand

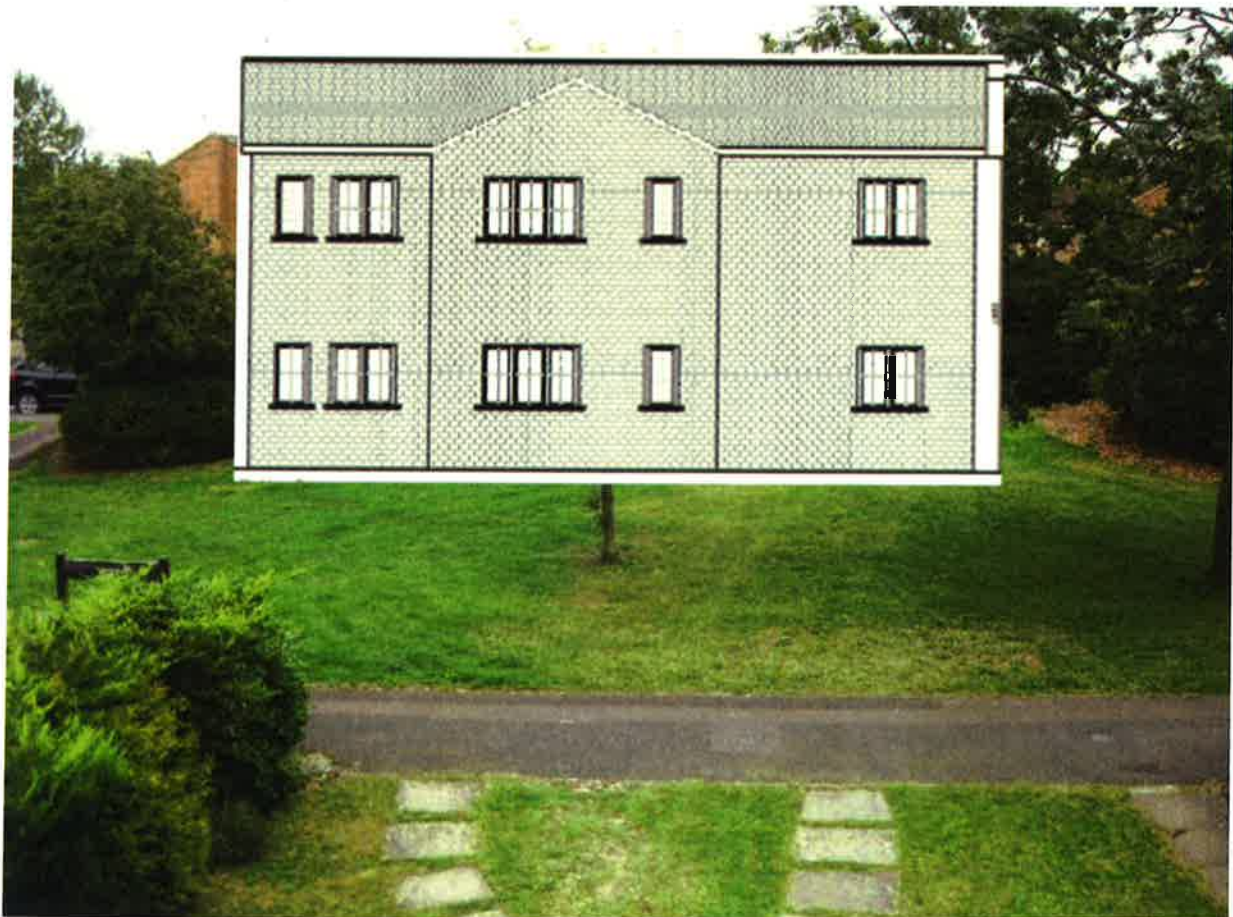
Secretary: Mel Holt

Treasurer: Sarah Day



View from the front bedroom of 25 Derwent Road

Below – with proposed building superimposed. Note that rear windows of proposed building look straight into front windows of 25 Derwent Road. 1.5m picket fence would be along the far edge of the path.



Derwent Green Residents Group, formed 2015.

Chair: Stephen Rand

Secretary: Mel Holt

Treasurer: Sarah Day

Cherwell District Council

Planning Committee

3 September 2015

Decisions Subject to Various Requirements - Progress Report

Report of Head of Development Management

This report is public

Purpose of report

This report aims to keep members informed upon applications which they have authorised decisions upon to various requirements which must be complied with prior to the issue of decisions.

An update on any changes since the preparation of the report will be given at the meeting.

1.0 Recommendations

The meeting is recommended:

1.1 To accept the position statement.

2.0 Report Details

The following applications remain outstanding for the reasons stated:

10/00640/F (re-affirmed 24.5.12)	Former USAF housing South of Camp Road, Upper Heyford Subject to legal agreement concerning on and off site infrastructure and affordable housing. May be withdrawn following completion of negotiations on 10/01642/OUT
13/00330/OUT (6.3.14)	81-89 Cassington Road Yarnton Subject to legal agreement
13/00433/OUT (11.7.13)	Land at Whitelands Farm, Middleton Stoney Road, Bicester Subject to legal agreement concerning on-site and off-site infrastructure

13/00444/OUT (11.7.13)	Land west of Edinburgh Way, Banbury Subject to legal agreement concerning on-site and off-site infrastructure
13/00847/OUT (7.8.14)	Phase 2 SW Bicester Subject to legal agreement re infrastructure contributions
13/01372/CDC (6.2.14 and 24.4.14)	Land rear of Methodist Church, The Fairway, Banbury Subject to legal agreement re affordable housing
13/01601/OUT (6.2.14) and (7.8.14)	Land adj. Spiceball Park Road, Banbury Revised proposal received late May 2014 – reconsultation and return to Committee) Sec. of State indicates that he does not want to intervene. Legal agreement re off-site infrastructure contributions to be completed
13/01811/OUT	Land at Dow Street, Heyford Park, Upper Heyford Subject to legal agreement with CDC/OCC
14/00697/F (21.5.15)	Land off Skimmingdish Lane ,Bicester Subject to legal agreement to secure infrastructure contributions and affordable housing
14/00962/OUT (27.11.14)	Land S of High Rock, Hook Norton Rd. Sibford Ferris Subject to legal agreement to secure the affordable housing
14/01205/Hybrid (18.12.14)	Springfield Farm, Ambrosden Subject to legal agreement to tie in previous agreement
14/01384/OUT (19.3.15)	Bicester Eco-Town Subject to legal agreement for affordable housing, and on-site provision and off-site infrastructure contributions
14/01737/OUT (19.2.15)	The Paddocks, Chesterton Subject to legal agreement to secure infrastructure contributions and affordable housing
14/01843/OUT (19.2.15)	Land W of Great Bourton Subject to legal agreement to secure infrastructure contributions and affordable housing

14/02132/OUT (11.6.15)	Land at Bunkers Hill, Shipton on Cherwell Subject to legal agreement concerning on-site infrastructure delivery
15/00082/OUT (16.4.15)	Site of Tesco, Pingle Drive, Bicester Subject to (i) referral to Sec of State (Sec of State indicates that does not wish to intervene) (ii) subject to applicant entering into legal agreement re employment and skills plan and relating to previously agreed off-site highway works
15/00476/F (6.8.15)	Wildmere Road Banbury Subject to OCC and Environment Agency withdrawing their objection
15/00723/F (6.8.15)	The Pits, The Moors, Kidlington Subject to legal agreement concerning off-site infrastructure
15/00695/OUT (9.7.15)	Graven Hill, MOD Bicester Subject to amending the legal agreement entered into re 11/01494/OUT re site boundary

3.0 Consultation

None

4.0 Alternative Options and Reasons for Rejection

The following alternative options have been identified and rejected for the reasons as set out below

Option 1: To accept the position statement

Option 2: Not to accept the position statement. This is not recommended as the report is submitted to Members information only

5.0 Implications

5.1 Financial and Resource Implications

The cost of defending appeals can normally be met from within existing budgets. Where this is not possible a separate report is made to the Executive to consider the need for a supplementary estimate.

Comments checked by:

Kate Crussell, Service Accountant, 01327 322188,
Kate.Crussell@cherwellandsouthnorthants.gov.uk

5.2 Legal Implications

There are no additional legal implications arising for the Council from accepting this recommendation as this is a monitoring report.

Comments checked by:

Nigel Bell, Team Leader – Planning and Litigation, 01295 221687,
nigel.bell@cherwell-dc.gov.uk

5.3 Risk Management

This is a monitoring report where no additional action is proposed. As such there are no risks arising from accepting the recommendation.

Comments checked by:

Nigel Bell, Team Leader – Planning and Litigation, 01295 221687,
nigel.bell@cherwell-dc.gov.uk

6.0 Decision Information

Wards Affected

All

Links to Corporate Plan and Policy Framework

A district of opportunity

Lead Councillor

None

Document Information

Appendix No	Title
None	
Background Papers	
All papers attached to the planning applications files referred to in this report	
Report Author	Bob Duxbury, Development Control Team Leader
Contact Information	01295 221821 bob.duxbury@cherwell-dc.gov.uk

Cherwell District Council

Planning Committee

3 September 2015

Appeals Progress Report

Report of Head of Development Management

This report is public

Purpose of report

This report aims to keep members informed upon applications which have been determined by the Council, where new appeals have been lodged. Public Inquiries/hearings scheduled or appeal results achieved.

1.0 Recommendations

The meeting is recommended:

- 1.1 To accept the position statement.

2.0 Report Details

New Appeals

- 2.1 **15/00882/F – 1 Jerome Way, Shipton-on-Cherwell, Kidlington, OX5 1JT –** Appeal by Mrs Anna Capilli Francis against the refusal of planning permission for the Erection of two storey side extension - re-submission of 15/00285/F. (Note – the original reference number for this appeal had been 15/00285/F, however the error had been noted by the Inspectorate and the appeal application has now been corrected).

15/00588/F – The New House, Horton Hill, Horton-cum-Studley, Oxfordshire, OX33 1AY Appeal by Mrs Cakebread against the refusal of planning permission for the erection of outbuilding to form double garage and garden store to rear of dwelling.

15/01084/F – 2 Linecraft Close, Kidlington, Appeal by Mr and Mrs Gooch against the refusal of planning permission for a front extension.

2.2 **Forthcoming Public Inquires and Hearings between 3 September 2015 and the 1 October 2015**

None

2.3 **Results**

Inspectors appointed by the Secretary of State have:

1) Allowed the appeal by Mr D Berlouis against the refusal of planning permission for the conversion of existing building into a self-contained dwelling with associated Highway Safety access improvements works – re-submission of 13/00894/F Orchard Way, The Paddock, Heyford Road, Somerton, Bicester (Committee).

The Inspector concluded that there was only one main issue, that is the effect of the proposal on the character and appearance of the area including the effect on the Somerton Conservation Area.

The Inspector noted the appeal site's extensive planning history, however he considered it is clear that majority of any harm to the settlement pattern which may be alleged would have taken place as a result of the construction of the building and the track. The effect of the proposed use on the settlement pattern, which is the matter dealt with by the LP Policy C27, is very limited. It is noted that the access track is within the Conservation Area, however the appeal site and its surroundings are excluded and as such the proposed use of the building, located some distance from the boundary would not have any effect on the Conservation Area. The widening of the access track, within the Conservation Area, necessitated for highway safety reason, would not have any significant effect of the character or appearance of the area as the track exists at present and its alteration would not be significant in conservation terms. Overall, the proposal would not harm the character and appearance of the area, and would be neutral in its effect on the Somerton Conservation Area.

2) Allowed the appeal by Mr David Smith against the refusal of planning permission for the change of use of land to 5 no. Romani Gypsy pitches and associated works comprising of 5 no. day rooms, 5 no. septic tanks and laying of hard-standing – Land to the North of lay-by and North-West of Hill Cottage, Lower Heyford Road, Caulcott (Committee).

The Inspector concluded that the main issues in this appeal are whether the site is in a sustainable location for the change of use for which planning permission is sought, having regard to local and national planning policy, and whether other matters outweigh any shortcomings in terms of sustainability.

On balance the Inspector noted that the appeal site is not in an unsustainable location for a gypsy and traveller site with its location within the terms set out in Planning Policy for Travellers Site (PPTS). Other considerations of the personal circumstances of the appellant and the unmet need for sites within Cherwell District add weight in favour of the grant of planning permission. The site is well located in respect of proximity to the nearest settled community of Caulcott and, would not dominate it. Appropriate layout of the site and additional landscaping would ensure that there would be no unacceptable effect on the living conditions of the occupiers of Hill Cottage.

3) Dismissed the cost application by Mr David Smith against the refusal of planning permission for the change of use of land to 5 no. Romani Gypsy pitches and associated works comprising of 5 no. day rooms, 5 no. septic tanks and laying of hard-standing - Land to the North of lay-by and North-West of Hill Cottage, Lower Heyford Road, Caulcott (Committee).

The Inspector noted that the appellant did not incur unnecessary or wasted costs in the pursuit of the appeal and a full award of costs is not justified. The two additional reasons for refusal were withdrawn promptly following the submission of the appeal. The Council acted sensibly in doing so following consideration of the Grounds of Appeal. The Councils behaviour was not unreasonable and the appellant was spared the expense of providing evidence and pursuing these matters. A partial award of costs is not, therefore, justified.

4) Dismissed the appeal by Mr and Mrs A Beadle against the refusal of planning permission for a two storey detached building for garages and home office – Resubmission of 14/01009/F– Lodge Farm, 7 Heathfield Cottages, Heathfield, Bletchington (Delegated).

The Inspector concluded that the main issues in the appeal were, whether the proposed building would be inappropriate development in the Green Belt having regard to the NPPF and the Local Plan, the effect of the proposed building on the openness of the Green belt, and would the harm (if any) by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations? If so, would this amount the very special circumstances required to justify the proposed building.

The Inspector noted that the proposed building would clearly comprise a new building in the Green Belt and that the building would be of a sufficient distance from the main house so as not to be regarded as an extension of that building or any other building. Even if the proposed building could be considered to be an extension of the dwelling-house, the Inspector considered that it, together with the existing extensions to the dwelling-house and the various outbuilding within its curtilage would result in disproportionate additions over and above the size of the original dwelling at Lodge Farm.

He therefore concluded that the proposed building would be inappropriate development in the Green Belt and contrary to the relevant parts of the NPPF and the Local Plan. The Inspector did not consider that the other considerations referred to cumulatively outweigh the substantial harm that results from the inappropriate development that would be caused by the proposed building and the loss of openness that would result from the proposed building.

3.0 Consultation

None

4.0 Alternative Options and Reasons for Rejection

4.1 The following alternative options have been identified and rejected for the reasons as set out below.

Option 1: To accept the position statement.

Option 2: Not to accept the position statement. This is not recommended as the report is submitted for Members' information only.

5.0 Implications

Financial and Resource Implications

- 5.1 The cost of defending appeals can normally be met from within existing budgets. Where this is not possible a separate report is made to the Executive to consider the need for a supplementary estimate.

Comments checked by: Kate Crussell, Service Accountant, 01327 322188
Kate.Crussell@Cherwellandsouthnorthants.gov.uk

Legal Implications

- 5.2 There are no additional legal implications arising for the Council from accepting this recommendation as this is a monitoring report.

Comments checked by: Nigel Bell, Team Leader – Planning, 01295 221687,
nigel.bell@cherwellandsouthnorthants.gov.uk

Risk Management

- 5.3 This is a monitoring report where no additional action is proposed. As such there are no risks arising from accepting the recommendation.

Comments checked by: Nigel Bell, Team Leader – Planning, 01295 221687,
nigel.bell@cherwellandsouthnorthants.gov.uk

6.0 Decision Information

Wards Affected

All

Links to Corporate Plan and Policy Framework

A district of opportunity

Lead Councillor

None

Document Information

Appendix No	Title
None	
Background Papers	
All papers attached to the planning applications files referred to in this report	
Report Author	Tom Plant, Appeals Administrator, Development Directorate
Contact Information	01295 221811 tom.plant@cherwell-dc.gov.uk