

Committee: Planning Committee

Date: Thursday 19 May 2016

Time: 4.00 pm

Venue Bodicote House, Bodicote, Banbury, OX15 4AA

Membership

To be appointed at Annual Council on Tuesday 17 May 2016

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 - 9)

To confirm as a correct record the minutes of the meetings of the Committee held on 14 April 2016 and 17 May 2016 (to follow, as meeting after agenda publication).

6. **Chairman's Announcements**

To receive communications from the Chairman.

Planning Applications

7. **Former Burgess Building, Canal Street, Banbury, OX16 5AX** (Pages 12 - 46)
14/01685/F
8. **OS Parcels 6741 And 5426 West Of Cricket Field North Of Wykham Lane, Bodicote, Oxfordshire** (Pages 47 - 106)
15/01326/OUT
9. **The George And Dragon, 15 East Street, Fritwell, Bicester, OX27 7PX**
(Pages 107 - 134) **16/00023/F**
10. **Land To The Rear Of The Methodist Church, The Fairway, Banbury**
(Pages 135 - 147) **16/00313/CDC**
11. **The Plough Inn, Thorpe Road, Wardington, Oxfordshire, OX17 1SP**
(Pages 148 - 159) **16/00367/F**
12. **OS Parcels 4083 And 6882 Adjoining And North Of Broken Furrow, Warwick Road, Banbury** (Pages 160 - 174) **16/00504/CDC**
13. **OS Parcels 4083 And 6882 Adjoining And North Of Broken Furrow, Warwick Road, Banbury** (Pages 175 - 191) **16/00515/CDC**
14. **44 Croft Avenue, Kidlington, OX5 2HT** (Pages 192 - 204) **16/00585/F**

Review and Monitoring Reports

15. **Appeals Progress Report** (Pages 205 - 211)

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 227956 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 Aaron Hetherington, Democratic and Elections
aaron.hetherington@cherwellandsouthnorthants.gov.uk, 01295 227956

Sue Smith
Chief Executive

Published on Wednesday 11 May 2016

Cherwell District Council

Planning Committee

Minutes of a meeting of the Planning Committee held at Bodicote House, Bodicote, Banbury, OX15 4AA, on 14 April 2016 at 4.00 pm

- Present: Councillor Colin Clarke (Chairman)
Councillor Fred Blackwell (Vice-Chairman)
- Councillor Andrew Beere
Councillor Michael Gibbard
Councillor Chris Heath
Councillor David Hughes
Councillor Russell Hurle
Councillor Matt Johnstone
Councillor Mike Kerford-Byrnes
Councillor James Macnamara
Councillor Alastair Milne Home
Councillor Richard Mould
Councillor Nigel Randall
Councillor G A Reynolds
Councillor Barry Richards
Councillor Rose Stratford
- Substitute Members: Councillor Barry Wood (In place of Councillor Lawrie Stratford)
- Apologies for absence: Councillor Lawrie Stratford
Councillor Sean Woodcock
- Officers: Jon Westerman, Development Services Manager
Bob Duxbury, Development Control Team Leader
Victoria Barrett, Assistant Planning Officer
Stuart Howden, Senior Planning Officer
Nigel Bell, Team Leader - Planning / Deputy Monitoring Officer
Aaron Hetherington, Democratic and Elections Officer

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Declarations of Interest

8. 3 West Bar Street, Banbury.

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

Councillor Andrew Beere, 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.

201 **Requests to Address the Meeting**

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

202 **Urgent Business**

The Chairman advised that he had agreed to add one exempt item of urgent business to the agenda relating to an appeal by CPG Development Projects Ltd. The matter arose after the publication of the agenda and a decision was required before the next meeting of the committee due to the on-going legal discussions.

As this item was exempt, it would be taken after agenda 11. Members would need to resolve to exclude the press and public from the meeting before considering the item. Members were recommended to resolve that under Section 100A of the Local Government Act 1972, the public and press be excluded from the meeting for the urgent item of business on the grounds that, if the public and press were present, it would be likely that exempt information falling under the provisions of Schedule 12A, Part 1, Paragraph 5 would be disclosed to them, and that in all the circumstances of the case, the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

203 **Minutes**

Subject to the following amendments, the Minutes of the meeting held on 17 March 2016 were agreed as a correct record and signed by the Chairman, subject to the following amendment to Minute 160:

Minute 160 Orchard Way, Heyford Road, Somerton, Bicester, OX25 6LL

The published refusal reason needs to be replaced with the following:

The proposed development would, by virtue of its siting, design and scale, result in a visually prominent and intrusive addition on a loosely developed and elevated important gap of land that forms part of the character of the loose knit settlement of Somerton and the setting of the designated Conservation Area, resulting in harm to the significance of the setting of the heritage asset where no public benefits arising from the proposal have been identified, contrary to Government guidance contained within the National Planning Policy Framework, Policy ESD15 of the Cherwell Local Plan 2011-2031 and saved Policies C28 and C30 of the Cherwell Local Plan 1996.

204 **Chairman's Announcements**

The Chairman made the following announcement:

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.

205 **Cropredy Marina, Claydon Road, Cropredy, Banbury**

The Chairman advised that application 15/01949/F had been withdrawn by the applicant.

206 **3 West Bar Street, Banbury**

The Committee considered application 16/00037/F for the conversion and change of use of existing offices to create 12 no. new apartments. Works including: new 2.5 storey extension (previously approved); replacement of existing single storey element with 2.5 storey extension (previously approved 2 storey extension); associated landscaping and parking (amended scheme to 08/01665/F).

In reaching their decision, the committee considered the officer's report, presentation and written update.

Resolved

That application 16/00037/F be approved, subject to:

- a) The applicant entering into an appropriate legal agreement to the satisfaction of the District Council to secure an off-site financial contribution to affordable housing, as outlined in paragraph 5.43 of the report, to be completed no later than 8 July 2016.
- b) 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 Number 2577 PL 001 submitted with the application;
 - Drawing Numbers 2577 PL 100 B and 2577 PL 102 B received from the applicant's agent by e-mail on 2nd February 2016; and

- Drawing Number 2577 PL 101 C received from the applicant's agent by e-mail on 12 April 2016.
3. Prior to the commencement of the development 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 extensions shall be constructed in strict accordance with the approved brick sample panel.
 4. Prior to the commencement of the development hereby approved, samples of the slate to be used in the construction of the roof of the extensions 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 details of the design, construction, materials and finished appearance of the new doors, windows, chamfered stone sills and window lintels 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.
 6. Prior to the construction of the bin store, and notwithstanding the details shown on the approved plans, revised and full details of the siting, design, construction, materials, and finished appearance of the bin store shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the first occupation of the development, the bin store shall be completed and made available for use in accordance with the approved details.
 7. Prior to the first occupation of the development hereby approved, and notwithstanding the details shown on the approved plans, revised and full details of the siting, design, construction, materials, and finished appearance of facilities to provide 20 bicycle parking spaces to serve the development shall be submitted to and approved in writing by the Local Planning Authority. Prior to the first occupation of the development, the approved bicycle parking shall be completed and made available for use in accordance with the approved details, and shall be maintained as such thereafter.
 8. Prior to the first occupation of the development hereby approved, turning areas incorporating a total of 12 car parking spaces as shown on drawing 2577 PL 100 rev B shall be provided within the curtilage of the site allowing vehicles to enter and leave in a forward gear. The turning and parking area shall be constructed, laid out, surfaced and drained in accordance with specification details to be submitted to and approved in writing by the Local Planning Authority prior to commencement of that work.
 9. Prior to commencement of the development hereby approved, a Construction Travel Management Plan (CTMP) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the

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

10. A Travel Information Pack, the details of which are to be submitted to and approved in writing by the Local Planning Authority prior to first occupation, shall be provided to every household.
11. Prior to the commencement of the development hereby approved, details of a scheme for the location of swift bricks or boxes in or on the building shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the nesting provisions shall be installed on the site in accordance with the approved details.
12. Prior to the commencement of the development, 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, shall be submitted to and approved in writing by the local planning authority. Thereafter, and prior to the first occupation of the development, the approved drainage scheme shall be implemented in full.
13. Prior to the commencement of the development, a Sustainability Statement detailing the measures to be used to maximise the energy efficiency and reduce the environmental impacts 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 details.
14. Prior to the commencement of the development hereby approved full details of the siting, landscaping and treatment of a Local Area of Play (LAP) to be provided within the site together with a timeframe for its provision and details of its ongoing maintenance shall be submitted to and approved in writing by the Local Planning Authority. The approved LAP shall be landscaped, laid out and completed prior to the first occupation of the development, and shall thereafter be retained and maintained at all times as open space/play space in accordance with the approved details.
15. 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.

Thereafter the development shall be carried out in accordance with the approved landscape scheme.

16. 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.
17. The brick detailing on the existing building consisting of a course of projecting bricks and brick arches over the existing windows shall be replicated on the extensions hereby approved in terms of pattern and height.
18. Except to allow for the means of access and vision splays, the existing hedgerow along the northern (front) boundary of the site shall be retained and properly maintained at a height of not less than 1.5 metres, and any hedgerow plant which dies within five years from the completion of the development shall be replaced with a plant of the same or similar species and shall thereafter be properly maintained in accordance with this condition.
19. The rainwater goods to be installed on to the building shall be constructed from wrought iron or profiled aluminium coloured black.
20. The fascia boards on the existing building shall be replicated on the extensions hereby approved in terms of materials, pattern and paint finish.
21. Prior to the first occupation of the development hereby approved full details of the design, height, construction, materials and finished appearance of all means of enclosure along and within the boundaries of the site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved means of enclosure along the boundaries of the site shall be erected prior to the first occupation of the development, in accordance with the approved details.
22. Prior to the commencement of the development hereby approved, an Arboricultural Method Statement (AMS), undertaken in accordance with BS5837:2012 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.

207 **28 Grange Park, Steeple Aston, Bicester**

The Committee considered application 16/00349/F for the erection of rear part single and part two storey extensions (revised scheme of 15/01958/F).

Lorraine Watling, a local resident, addressed the committee in objection to the application.

Bob Sutton, agent to the applicant, addressed the committee in support to the application.

Councillor Kerford-Byrnes proposed that application 16/00349/F be refused on the grounds that the build would cause significant demonstrable harm and over-dominance. Councillor Macnamara seconded the proposal.

Resolved

That application 16/00349/F be refused for the following reasons:

The proposed development, by virtue of the size and position of the two storey element, would result in significant and demonstrable harm to the living conditions currently enjoyed by 30 Grange Park through a loss of outlook and an imposing and overbearing form of development. The application would therefore be contrary to Government guidance contained within the National Planning Policy Framework, Policy ESD 15 of the Cherwell Local Plan Part 1 (2011-2031) and saved Policy C30 of the Cherwell Local Plan 1996 and the Home Extensions and Alterations design guide (March 2007).

208 **The Gables, 4 Westbourne Court, Bloxham, OX15 4HD**

The Committee considered application 16/00526/F for the erection of single and two storey extension to outbuilding to provide garage and store (revised scheme of 15/01513/F).

In reaching their decision, the committee considered the officer's report and presentation.

Resolved

That application 16/00526/F be refused, subject to no additional representations received by 28th April that raise new issues having a significant bearing on the Local Planning Authority's assessment of the application.

By reason of its scale, form and massing, the proposal would result in a building of excessive scale that would not be subservient to the main dwelling, which would be visually incongruous displaying poor design, and would result in a cramped form of overdevelopment that would adversely affect the character and appearance of the street scene and that of the local area. The proposal therefore fails to accord with Policy ESD15 of the Cherwell Local Plan 2011-2031 and Policies C28 and C30 of the Cherwell Local Plan 1996

and paragraphs 17, 58 and 64 of the National Planning Policy Framework and the Home Extensions and Alterations design guide (March 2007).

209 **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.

210 **Exclusion of the Press and Public**

Resolved

That under Section 100A of the Local Government Act 1972, the public and press be excluded from the meeting for the following item of business on the grounds that, if the public and press were present, it would be likely that exempt information falling under the provisions of Schedule 12A, Part I, Paragraph 5 would be disclosed to them, and that in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

211 **Appeal by CPG Development Projects Ltd**

The Head of Development submitted an exempt report which related to planning application: 15/00250/OUT, Land South of and Adjoining Bicester Services Oxford Road Bicester, which was an outline application for 3 No Class A1 (retail); 3 No Class A3 (cafe and restaurants); 1 No Class D2 (gym); surface level car park, access, servicing and associated works.

At the Planning Committee of 1 October 2015 planning permission for the application was refused. An appeal was subsequently lodged by the applicant and the exempt report advised Members of the status of preparations for the appeal, the Inquiry for which was due to commence on 14 June 2016, and to enable Members to consider whether to proceed with one of the reasons for refusal.

Resolved

- (1) That agreement be given with not proceeding to defend the reason for refusal related to the retail impact of the proposal upon Bicester town centre.

Planning Committee - 14 April 2016

The meeting ended at 5.19 pm

Chairman:

Date:

PLANNING COMMITTEE

19 May 2016

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	Former Burgess Building Canal Street Banbury OX16 5AX	14/01685/F	Banbury Grimsbury and Hightown	Approval	Emily Shaw
8	OS Parcels 6741 And 5426 West Of Cricket Field North Of Wykham Lane Bodicote Oxfordshire	15/01326/OUT	Adderbury, Bloxham And Bodicote	Approval	Matthew Parry
9	The George And Dragon 15 East Street Fritwell Bicester OX27 7PX	16/00023/F	Deddington	Approval	James Kirkham
10	Land To The Rear Of The Methodist Church The Fairway Banbury	16/00313/CDC	Banbury Ruscote	Approval	Bob Neville
11	The Plough Inn Thorpe Road Wardington Oxfordshire OX17 1SP	16/00367/F	Cropredy, Sibfords & Wroxton	Approval	Matthew Chadwick
12	OS Parcels 4083 And 6882 Adjoining And North Of Broken Furrow Warwick Road Banbury	16/00504/CDC	Banbury Hardwick	Approval	Nathanael Stock
13	OS Parcels 4083 And 6882 Adjoining And North Of Broken Furrow Warwick Road Banbury	16/00515/CDC	Banbury Hardwick	Approval	Nathanael Stock
14	44 Croft Avenue Kidlington OX5 2HT	16/00585/F	Kidlington East	Approval	James Kirkham

90.4m

14/01685/F

Former Burgess Building
Canal Street
Banbury
OX16 5AX

Garage

Hall

Oxford Canal

Depot

Foundry

89.9m

Cherwell

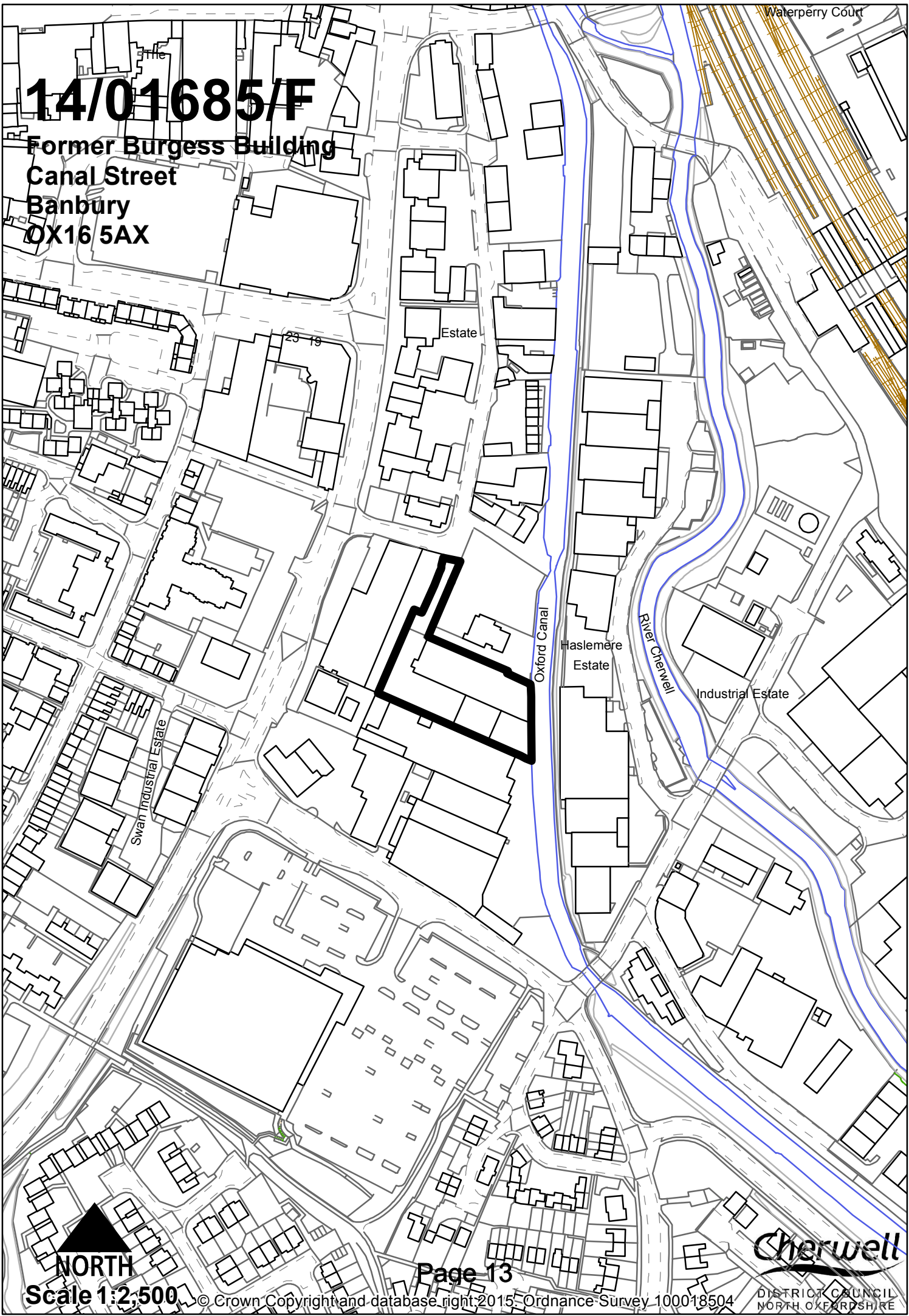
DISTRICT COUNCIL
NORTH OXFORDSHIRE



NORTH
Scale 1:500

14/01685/F

**Former Burgess Building
Canal Street
Banbury
OX16 5AX**



Estate

Oxford Canal

River Cherwell

Haslemere Estate

Industrial Estate

Swan Industrial Estate

NORTH

Scale 1:2,500

Case Officer: Emily Shaw **Ward(s):** Banbury Grimsbury and Hightown

Applicant: Swan Directors SIPP

Ward Member(s): Councillor Andrew Beere
Councillor Claire Bell
Councillor Shaida Hussain

Proposal: Demolition and replacement of existing building with six new build commercial units

Committee Date: 19 May 2016 **Recommendation:** Approve

Reason for Referral: Major Development

1. Application Site and Locality

- 1.1 The application site is located within Banbury, to the west of the town centre. The site comprises the Former Burgess Building, which most recently was used by an agricultural business (Burgess) for commercial storage and office space. Previous to the commercial storage use the building was a former steam engine works (Barrows and Carmichael). The building has stood on this site for approximately 150-200 years and has been empty in recent years. The building consists of two single storey sections, with a double pitched roof. The building is constructed from brick and a slate roof. The brick elevations remain in-situ however the building is currently in a poor condition with sections of the roof having collapsed. Vehicle access to the site is achieved from Canal Street to the north between two neighbouring buildings to the north.
- 1.2 The site lies immediately adjacent to the Oxford Canal and lies within the Canal Conservation Area. The building is also identified as a 'locally listed building' with the following description:

"Former Cherwell Iron Works. 1861 with additions. Local Liassic brick with timber-trussed Welsh slate roof and iron framed windows. Two ranges (1 east-west and one north south) on single storey workshop buildings. Former works of Barrows and Carmichael. The best-preserved surviving monument to Banbury's once-prolific engineering industry. Employed 200 by the early 1870s, producing traction engines, threshing machinery, elevators and steam cultivation machinery."
- 1.3 The site lies within an area of flood risk. The majority of the site lies within Flood Zone 2, this is an area of land which has a medium probability (between 1 in 100 and 1 in 1000 annual probability) of flooding. Some parts of the site to the north and east lie within Flood Zone 3, this is an area of land which has a high probability (1 in 100 or greater annual probability) of flooding.

1.4 The tow path to the eastern side of the canal is a public footpath.

2. Description of Proposed Development

2.1 This application seeks planning permission for the demolition of the existing building and structures on the site and the erection of a new single storey building comprising 6 B2 (General Industrial use) commercial units. The application proposes siting the new building further south within the site than the location of the existing building, in an L-shaped form following the boundary with the canal to the east and the southern boundary. The scheme will utilise the existing vehicle access to the site and also proposes 35 parking spaces and turning space to the north and west of the proposed building.

2.2 The proposed new building is to be constructed from red brick with a blue brick band course and detailing around the openings. The roof will be finished in natural slate and the windows will be timber painted.

2.3 Various documents have been submitted in support of the application, seeking to demonstrate why it is not viable to retain and convert the existing building.

- Planning and Heritage Statement – including structural survey and conversion and new build costs. Submitted August 2015
- Supporting Statement – including further conversion and new build costs and phasing and flood mitigation measures. Submitted January 2016
- Annotated drawings illustrating demolition and rebuilding works likely to be necessary in a scheme for conversion. Submitted April 2016

3. Relevant Planning History

<u>App Ref</u>	<u>Description</u>	<u>Status</u>
12/01401/CAC	Demolition of building	REF

The above application for conservation area consent was refused on the 9th January 2013. The reasons for refusal were as follows:

- 1 The loss of the building, which forms an integral part of the industrial heritage of the canal side area, and which positively contributes to the character and appearance of the Conservation Area, is not justified and would be detrimental to the Conservation Area contrary to Government Guidance contained within the National Planning Policy Framework, Policy BE6 of the South East Plan and Policy C23 of the adopted Cherwell Local Plan.

- 2 The loss of the building without a clear proposal for the redevelopment of the site will cause harm to the character and appearance of the Conservation Area contrary to Government Guidance contained within the National Planning Policy Framework, Policy BE6 of the South East Plan and Policy C23 of the adopted Cherwell Local Plan.

4. Response to Publicity

4.1 The application has been publicised in the paper and by the display of a notice at the site. The following comments have been received in response:

4.2 Objection – 49 comments raising opposition to the proposal have been received, including 1 letter of objection from the chairman of the National Traction Engine Trust, and 1 letter of objection from the Victorian society. The concerns raised are summarised as follows:

- *The building is important in representing Banbury's historic engineering past as many of the previous canal side buildings have already been demolished. This position has not changed since the previous application for conservation area consent was refused. The building should be retained.*
- *The buildings are still of great historic interest, with nothing comparable left in Banbury town. Their loss would remove what is important to the canal-side heritage and environment.*
- *The building is in a conservation area and should be retained due to its important contribution within the conservation area.*
- *Demolition of this building needs to be supported with suitable evidence which illustrates that there is no likelihood of any individual taking it on as a repair.*
- *Concerns about how the proposed scheme to demolish the building will revitalise this part of Banbury. The area currently has a large number of small commercial units and many of those are empty.*
- *The building could be reused and made into a viable and vibrant business area for small businesses.*
- *The building is a very rare survivor of buildings of this sort nationally. There are perhaps only half a dozen locations like this which exist across the UK at the present time. Elsewhere in the country, in Thetford in Norfolk and Leiston in Suffolk, similar locations are now very successful small scale heritage centres and museums, celebrating the ingenuity of the past and inspiring the engineers of the future and providing a vision of what could be done on Banbury's historic canalside - which these buildings if imaginatively re-used, could enhance no end, instead of becoming a homogenous new development with limited visual and historic appeal.*
- *The building has features of interest and is typical of an ironworks manufacturing site. It is unfortunate that the building has been allowed to fall into such a state of disrepair. Nevertheless it would be a pity if an original industrial ironworks building were to be lost. Its retention could enhance the canal side and indicate the importance of both canals for transport and the importance of canal side industries which in the case of Banbury is the*

former Burgess Building. A variety of buildings such as this one would make the area one of interest.

- *This is one of the last vestiges of Banbury's once thriving industrial past, and is sited within the Conservation Zone. Surely we should take pride in our industrial heritage, and not allow these buildings to be removed as an 'easy' or cost effective option. Rather we should invest in them, and make them a focus of new industry, and the centrepiece of any attempt to revitalise this area of the town.*
- *This is an opportunity to use the heritage of the town to attract visitors and tourists to the town arriving on the canal.*
- *The reuse of the building will recycle the existing materials.*
- *This area of the canal could provide enhancement to the town of Banbury*
- *Demolition of this building would have a negative effect on Banbury's heritage and history*
- *A restored building which maintains the heritage will offer much more to the town of Banbury and help to regenerate the canalside. Maintaining the heritage will demonstrate the history of engineering in Banbury to the existing community and this building should therefore be celebrated. A sense of identity and heritage gives a sense of pride, which in turn creates hope and added value.*
- *This building is an important local heritage asset within the conservation area which should be protected.*
- *This is a rare survivor of a typical small Victorian engineering works. Given its canal side location, imaginative reuse is a better than demolition for more bland developments.*
- *It is claimed the building is redundant and nonviable. Others have made serious offers to take the building on and to create a courtyard of diverse businesses and studios, using the site's heritage as a selling-point. To demonstrate that a building is redundant, it needs to be shown that nobody else is interested in making good use of it. Others are. Redundancy has thus not been demonstrated.*
- *Granting permission would show that if you neglect a historic building in Cherwell long enough, you will eventually get consent to knock it down. A precedent that says 'neglect pays' cannot possibly be good for Banbury or its historic canal-side.*
- *Communities which benefit from historic waterways and their associated buildings should be optimising them to enhance these areas of the town.*
- *The buildings on this site are a good size and capable of conversion.*
- *This development if approved could set an undesirable precedent for the conversion of run-down buildings within conservation areas.*
- *This area already offers a variety of small commercial units some of which are empty. This building could be converted for an alternative purpose which would revitalise the area.*

- *There is a scarcity of small workshop/business units in Banbury. A sympathetically and comprehensive refurbishment of the building and conversion into small units will prove popular in the market. A refurbished scheme may be more appealing than a new build.*

4.3 Support – 1 letter in support has been received. This argues that: *The building is incapable of being renovated to meet modern standards. The proposed industrial building will meet a growing need for local industry needing small premises in the town centre. The proposed industrial units will be of benefit to the local economy. Comments have raised the important link to the canal, however, the building currently on site does not link into the canal this element has previously been lost.*

5. Response to Consultation

5.1. Banbury Town Council:

Comments dated the 10th March 2016

No objections

Comments dated the 20th April 2015

Object

Cherwell District Council plans to develop Canalside in the future and it seems to me that demolishing any of the few surviving canal side buildings that represent the industrial heritage of Banbury would be counter productive to this intention. As I understand it, the development of canal side is predicated upon the need to introduce vibrancy to an area that formerly had that in spades.

The building is in a fairly parlous state, but could be improved very easily through investment; there is clearly no need to demolish it in order to make it viable.

The heritage this building represents as one of the centres of the steam engine building industry surely outweighs any requirement for modern development, and I would certainly hate to see this building lost to the town.

5.2. Banbury Civic Society: Object

1) Historic Importance and Statutory Protection

Whilst the building is not of great architectural merit, it is of enormous historical importance to the town of Banbury. Its loss would mean the end of Banbury's last substantially intact Victorian steam engine factory and agricultural implement manufactory and the loss of the last substantive reminder of the town's once internationally significant Victorian agricultural engineering industry.

The buildings, previously the Cherwell Iron Works, were built c.1862 in the new industrial suburb of Newlands by Tipton coal-master Thomas Barrows and local engineer and millwright Joseph Kirby, who had been building steam engines and threshing machines in North Bar place from about 1855. The firm, who operated as Kirby & Barrows, Barrows & Carmichael, Barrows & Stewart and Barrows & Co., ceased trading in 1919.

In terms of scale, with some 100 employees, Barrows fell somewhere between Thomas Lampitt's Vulcan Foundry (Neithrop, established 1796) and Bernhard Samuelson's world-famous Britannia Works (established in Newlands in 1839 by James Gardner). These three

engineering works were not only the town's largest employer, employing a tenth of the town's working population, but two of them, Barrows and Samuelsons, also famously exported their wares to the four corners of the globe.

Of the three companies, Barrows had the most varied and interesting catalogue, based from 1855 on its pioneering portable steam engines, steam ploughing machinery and threshing machines. Other specialist products included mortar mills, saw benches, street sweepers, water vans and winding and pumping engines for coal mines. The company was wound up after the cessation of urgent contracts for essential war work.

The surviving buildings, which appear to have probably been Barrows' main assembly buildings, fitting shops and stores, are on the Local List for their historical interest as a reminder of lost industry and a now vanished industrial heartland that stretched from Morrisons to Bridge Street. Since 2013 they have also been included within CDCs Oxford Canal Conservation Area, as part of the last small group of industrial buildings on the canal.

It would seem a great pity to lose this last reminder of a lost world to a new-build shed. The Northern Aluminium Company came to Banbury in 1931 because of the town's strategic location and its (then underemployed) high-skilled engineering workforce. If Banbury and Cherwell are to market themselves for the area's high-end engineering prowess, we're missing a trick if we pay no regard to the town's engineering tradition and heritage.

2) Effect on the Character and Appearance of the Oxford Canal Conservation Area

As a locally-listed building, the building is a non-designated heritage asset. As part of the Oxford Canal Conservation Area, the building is part of a wider designated heritage asset. It thus has statutory protection. The building was expressly included within the Oxford Canal Conservation Area when it was designated two years ago because the specialist consultants employed by the council, the council itself and the wider public who were consulted all agreed that, even in its present dilapidated condition, the building contribute positively to the character and appearance of the Oxford Canal corridor. If it did not, it would not have been included in the conservation area. The building also figures prominently in the defined 'Positive Vista' clearly shown on the conservation area mapping of this section of canal, looking north-westward from Tramway bridge.

The building is described at para 7.7.4, whilst para 7.7.1 states:

'The section to the south of Bridge Street is strongly influenced by its industrial past, bounded either side with former industrial buildings, modern warehousing and a mobile home park. However, the area between the west bank of the canal and Lower Cherwell Street retains greater historical and architectural interest than the previous section, due to the lack of modern development.'

The proposed development proposes to replace a genuinely historic and distinctive Victorian engineering works with a pastiche warehouse type building. At para 6.95 the Conservation Area Appraisal states **'Redevelopment of the southern (Banbury) section should be aimed at revitalising the area. However, careful high-quality design solutions would be required to prevent pastiche or warehouse-type structures which are often typical of redeveloped waterfronts.'**

Even without subjective opinions as the relative merits of former industrial buildings and the manner in which they contribute the historic character of canals, it is clear from the Council's own Oxford Canal Conservation Area Appraisal (an adopted Supplementary Planning Document) that replacing this locally listed building with a 'pastiche or warehouse-type

structure' would be both inappropriate and harmful to the canal's established historic character.

The proposal is thus contrary to **paras. 130 and 131** of the NPPF, as well as **paras 132, 134 and 137** (Impact on Designated Heritage Asset (Conservation Area)) and **para 135** (Impact on Un-Designated Heritage Asset (Locally Listed Building)). If the planning authority permits loss without 'taking all reasonable steps to ensure the new development will proceed after the loss has occurred', it would also be contrary to **para 136**. The proposal is also contrary to **Policy ESD 16 and ESD 17** of the Cherwell Local Plan 2031 ('The Character of the Built and Historic Environment' and 'The Oxford Canal').

3) Failure to Demonstrate Redundancy

Given that it is agreed that the building is of historic interest and that does, or could contribute positively to the character / appearance of the Oxford Canal Conservation Area, there would need to be very good reasons for consenting to its loss.

While the building has been allowed to fall into disrepair through wonton neglect by its former owners (British Waterways / Canal & River Trust), the NPPF is abundantly clear (para 130) that: '**Where there is evidence of deliberate neglect of or damage to a heritage asset the deteriorated state of the heritage asset should not be taken into account in any decision.**' The manner in which British Waterways failed to market the building for sale or rent for over a decade, their lack of maintenance to it and their (refused) application to demolish only two years ago, all indicate a deliberate act of neglect. The applicants are not culpable for the building's decline, but they purchased the site knowing that consent to demolish had just been refused would be unlikely to be forthcoming in future.

It is claimed by the applicant's agent that the building is redundant and no longer has a viable use. National Planning Policy Guidance (NPPG) is unambiguous in its explicit interpretation of the NPPF: under '**What evidence is needed to demonstrate that there is no viable use?**' it states '**Appropriate marketing is required to demonstrate the redundancy of a heritage asset. The aim of such marketing is to reach all potential buyers who may be willing to find a use for the site that still provides for its conservation to some degree. If such a purchaser comes forward, there is no obligation to sell to them, but redundancy will not have been demonstrated.**'

Having decided that, following purchase, they now consider the building to be have no viable use, the applicants need to demonstrate once again that the building is redundant. To do so, the applicants need to demonstrate that there is nobody else who is 'willing to find a use for the site that still provides for its conservation to some degree'. To do so, they would at the very least need to include an offer of the building or site to the local businessman who they narrowly outbid, at the price he offered, but they would really need to offer the building or site once again on the open market. This process has not happened, so, for the second time in two years redundancy has not been demonstrated.

The applicants bought this site with their eyes wide open. If they are unwilling to utilise the heritage asset at their disposal positively, then they are obliged to offer it to anyone who will.

4) Regeneration Potential

If the demolition would be harmful to the historic environment and redundancy has not been demonstrated, there would have to be some other overwhelming public benefit to compensate for the building's loss. The claim is that the new buildings would 'help revitalise the area'.

A consent is not a development. It is only a permission. A consent cannot revitalise an area, only a development can, and only the right sort of development at that. A consent will not guarantee a development, but it will increase land value and it will undoubtedly establish a precedent that cannot be rolled back on if the development does not take place. It will also establish the idea that if you neglect a building in a conservation area in Cherwell, you will eventually get consent to demolish. Neither an unbuilt development and a neglected site, nor a precedent that says 'neglect pays', can possibly be good for Banbury's canal-side.

Supposing the development was built, one is entitled to ask what these commercial units will do for the Cherwell Street / Canal Street area that the few score adjacent commercial units of similar type have failed to do for the area for the last three decades? The answer has to be 'very little indeed'. To regenerate, this area needs new ideas, new uses and new footfall. Six more bland new-build commercial units located up a cul-de-sac will do nothing to revitalise the area. A revitalised heritage courtyard of diverse businesses and studio will.

- 5.3. Additional comments dated the 18th February 2016 were received in response to additional information submitted by the applicant; these are summarised below:

The applicants presented additional costing of the works and the letting value of the completed works. This demonstrated that the works involved in conversion or new building were little different. It is not considered that suitable work has been carried out by the applicant to demonstrate whether others are willing to convert the building.

The impact on flooding has not been clearly demonstrated for the new build development.

In terms of the costs of works a conversion would result in high upfront costs whereas new building it is claimed would not. Works to address possible contamination of the site could be very costly.

The resulting yields from the two options are different due to a different footprint of the building.

Cherwell District Council:

- 5.4. **CDC Planning Policy:** *No policy objection subject to the application proposals being carefully considered against the NPPF, government guidance and local planning Policy in relation to the conservation and enhancement of the historic environment.*
- The application proposals which are for employment uses, are located in central Banbury in an existing commercial area. Policy SLE1 of the Local Plan 2011 to 2031 states that on existing vacant employment sites, employment development, including intensification, will be permitted subject to compliance with other policies in the Plan and other material considerations. In this regard the application proposals are consistent with policy SLE1. However it will be necessary for proposals to be considered against the policy criteria, other policies and other material considerations. The application of policy SLE1 in this case should be considered with regard to proposals set out in policy Banbury 1.*
 - The application site is located towards the southern part of a wider area which is a strategic allocation in the Local Plan 2011 to 2031 (policy Banbury 1: Banbury Canalside and Inset Map Banbury 1) to deliver mixed use regeneration. The policy explains that 700 new dwellings can be delivered on the site with some employment uses remaining on the site. Policy Banbury 1 states that the re-development of Canalside will provide businesses with the opportunity to expand and invest for the future and that a number of the older buildings and former industrial sites at the Canalside site offer considerable opportunities for re-use or*

redevelopment for industrial enterprises. In this regard the proposals (in terms of redevelopment) are consistent with policy Banbury 1.

- *There are a number of elements of policy Banbury 1 that are of relevance to this application in terms of implementation and design. The policy states that ideally proposals should come forward for the whole of the Canalside site accompanied by a detailed masterplan but applications for parts of the site may be permitted provided that they clearly demonstrate their proposals will contribute towards the creation of a single integrated community. It states that applications should cover significant land area within the site in order to achieve continuity in design and delivery of the vision. The policy also states that the Council will expect an application to demonstrate it has complied with the SPD and has taken into account the known or anticipated implications of proposals on adjoining areas.*
- *Ad hoc new buildings within the Canalside site in principle could adversely affect the future delivery of comprehensive proposals at Canalside. However this needs to be balanced against the need to allow the area to continue to have a functional role allowing businesses to operate in a sustainable central location in Banbury. Proposals coming forward in advance of a masterplan for the site mean that the application should where possible cater for future non-industrial uses potentially being located adjacent to the application site. It will be important that particular attention is given to the integration of the scheme, layout and the design of the new buildings and its operations. Great importance should be attached to design including compliance with policies set out above relating to design and the NPPF. Relevant key site specific design and place shaping principles set out for Banbury policy 1 will also apply. Development proposals should consider the recreational role of the canal and comply with policies regarding its future use and policies relating to any impacts on it. It is noted these matters are considered by the applicant, including allowing for future residential conversion of the new proposed building. If the proposals are permitted it may be necessary to attach conditions to the planning permission which will ensure effective design, layout and integration.*
- *Montagu Evans LLP were commissioned by Cherwell District Council to provide delivery and viability advice in relation to the Canalside site and the Banbury Canalside Viability Study was produced in September 2013. The viability of development proposals at Canalside is highlighted as challenging. The application site is part of Zone B in this study, which is located at the south western part of the Canalside site. The study expects this area (Zone B) to come forward later in the Local Plan period, in at least 15 years' time and therefore it is not anticipated that there is immediate scope for comprehensive residential led development on this part of the Canalside site, unlike on other parts of the wider Canalside site.*
- *In November 2009 a draft Supplementary Planning Document (SPD) for the Banbury Canalside site was produced by consultants for public consultation. The new Local Plan generally supersedes the draft SPD as it is based on more up to date information, takes account of representations received and is now adopted, but the draft SPD is a material consideration, particularly where the Local Plan is silent on matters in the SPD.*
- *The application site is part of the 'Canal Walk' area shown at Figure 10 in the draft SPD and on page 65 the SPD shows that the area is expected to accommodate 100-200 dwellings. The SPD identifies the potential for the retention and refurbishment of listed and locally listed buildings to create start up units and the retention of the fine grain historic character of the area. However the draft SPD does not propose the retention of the former Burgess building.*
- *In general terms the application proposals (which are for employment uses) are inconsistent with the draft Supplementary Planning Document (SPD) for the Canalside site which sets out a comprehensive residential led re-development approach for the Canalside site with no new*

build employment development envisaged in this location. The draft SPD has in effect been superseded by the Local Plan in terms of its overall approach to re-development. The Council will be producing a revised SPD for public consultation later in 2016.

- The former Burgess building is included within the Oxford Canal Conservation Area. Figure 21 in the Oxford Canal Conservation Area Appraisal (October 2012) shows the area where the application site is located and the application site and its surroundings are described at paragraphs 7.71 to 7.74.
- The former Burgess building is included in the Council's local list of buildings of architectural or historic value. The application proposals will require careful consideration against the NPPF, government guidance, local planning policy and advice related to the conservation and enhancement of the historic environment. Adopted 1996 Local Plan policy C23 states that there will be a presumption in favour of retaining buildings, walls, trees and other features which make a positive contribution to the character or appearance of a conservation area. Policy EN45A of the Non-Statutory Local Plan requires that the inclusion of a building in a local list of buildings of architectural or historic interest adopted by the Council for planning purposes will be a material consideration in the determination of planning applications that would affect it. Policy D10 (criterion (i)) of the Non-Statutory Local Plan states that within Banbury, development proposals adjacent to the Oxford Canal will be approved provided that they retain buildings and wharves identified by the Council as being of historic interest associated with the Oxford Canal. Policy Banbury 1 requires the retention and integration of the most valuable historic buildings/structures and the integration of existing historic buildings which will enrich the environment and maintain the long term character of the area. Policy ESD15 will apply and policy ESD16 refers to the protection and enhancement of the Oxford Canal corridor including 'significant industrial heritage'. The policy states the length of the Oxford Canal through Cherwell District is a designated Conservation Area and proposals detrimental to its character or appearance will not be permitted. The Oxford Canal Conservation Area Appraisal is a material consideration in determining this application and the fact that recent work resulted in the inclusion of the building in the Conservation Area is of relevance.
- In March 2016 the Council published the draft Banbury Vision and Masterplan for public consultation. The document identifies the comprehensive redevelopment of the Canalside area and identifies that locally listed buildings will be retained if possible.
- The application proposals will result in the removal of a building which is in a state of disrepair, and are one way of contributing towards the regeneration of the area. They are on previously developed (brownfield) land in a sustainable location in Banbury close to services and facilities and potential labour supply for the proposed new companies. A key aim of the Local Plan and the NPPF is to provide for economic growth and jobs and the proposals would contribute towards achieving this. Market signals should be considered and proposals are consistent with policy Banbury 1 in terms of its approach to the redevelopment of industrial premises for new employment uses. It is considered that proposals will not undermine and will contribute towards the delivery of the wider Canalside proposal (policy Banbury 1), which is a key element of the now adopted Local Plan.

5.5. CDC Conservation Officer: object to the proposal for the following reasons:

- The proposal to demolish the historic building will lead to the total loss of historic fabric as well as the essential form of the building and its historic integrity within the site. The proposed development causes substantial harm to the non-designated heritage asset of the Burgess Building.

- *The proposed development would lead to less than substantial harm to the Oxford Canal Conservation Area (as the demolition of the building would not harm the heart of the significance of the Oxford Canal), but the harm is never-the-less significant. The harm relating to the loss of this individual building is greater because of the contribution the building makes to the group of historic industrial buildings in the immediate locality. The harm is to the character as well as the appearance of the conservation area.*
- *The replacement of the historic building by a modern constructed building of a similar footprint in a different location will not mitigate for the loss of this historic link to Banbury's past. The reconstruction of the existing building, replacing historic fabric where necessary, would retain the form, historic integrity and location of the building.*
- *Public benefit – there are concerns that the short term benefit of the finding suitable tenants to occupy the site is being outweighed by the long term benefits of the strategic development site Banbury 1, which would be compromised by the demolition of this building.*

5.6. CDC Contaminated Land Officer: *Recommend the full contaminated land conditions are applied to this development as my records indicate potentially contaminative land uses on this site which may mean this proposal would be affected by land contamination. As such, I will require sufficient assessment information to demonstrate land contamination has been fully considered and the development is suitable for its proposed land use with regard to contamination.*

5.7. CDC Estates:

Comments dated the 19th April 2016 based on supporting planning statement and structural survey

It is quite evident that the building is in extremely poor physical condition. In order to bring the building up to current building control standards allied to adapting it to provide a level of specification to attract occupiers, substantial alteration and demolition would be required.

With the level of demolition and adaptation required, it is unlikely much of the existing structure would remain and therefore this would compromise and diminish the authenticity of the building and therefore its historical relevance.

However, there is clearly historical importance attached to the site and whilst this might not be possible to be reflected in the retention of the existing building, the applicant could reflect the history by incorporating some of the existing structure into the new build and/or by contributing to the preparation of a publication outlining the history of the site.

Comments dated the 9th March 2016 on supporting planning statement

The building is located in a traditional industrial area where the surrounding occupiers and buildings are generally of a poor standard and this will undoubtedly influence the calibre of tenant who would be seeking a unit in this location regardless of the refurbishment or new build proposal.

As demand is high and supply low, provided the units are suitable for purpose by a hypothetical tenant I believe the level of rent achievable would not be differ between a refurbished option and a new development.

However, a minimum specification would need to be met by both options in order to attract tenants namely:

5 metre clear eaves height

3m x 3m goods access and personal door

3 phase power

Concrete floors

Parking and good circulation – There is no denying the circulation provided by the new development option is much better than what is currently available should the building be retained.

Although the rent per square foot will be the same for either option, the potential total rental return will be higher for the new development proposal because it provides for 124 sq metres (1,335 sq ft) of additional lettable floor space to be constructed.

With regards the yield which would be adopted to ascertain the value of each option, provided a full refurbishment is undertaken to a high standard and the minimum hypothetical tenants requirements, I believe the difference in yield to be applied to a capital valuation would be minimal as this is more dependent on the quality and surety of the tenants rather than whether a building has been adapted or is a new build.

Whilst the valuation argument is theoretical, one of the most important factors to consider is whether the existing building is able to be physically adapted to provide the hypothetical tenants minimum specification to maximise its commercial value and whether the physical integrity of the existing building would tolerate large scale adaptation.

The existing building is in extremely poor condition and I suspect once large scale works were undertaken to adapt the building, some areas may collapse. Further the costs provided by the applicant to refurbish the building could well be compromised because inherently further costs for refurbishing old buildings only become evident once work starts. My initial view is that it would prove extremely difficult to convert the existing building to comply with modern commercial requirements and Building Regulations and even if they were undertaken, there would be very little fabric remaining of the existing building.

Oxfordshire County Council:

5.8. Highways No objection subject to conditions:

The development proposals are unlikely to have a significant adverse impact on the transport network over and above that which the existing permitted use would generate. The site is located within a reasonable sustainable location within walking distance of the town centre and bus stops. No transport statement is required as the proposal is unlikely to have a significant adverse impact on the transport network over and above that which the existing permitted use would generate.

Site is located adjacent to the bus depot, which is used as a support base for all local bus routes within the town and for inter-urban routes. Unfettered access is required to this depot at all times to facilitate effective and efficient operation of these bus services. This scale of the operation at the bus depot is likely to increase with the additional housing in Banbury.

5.9. Archaeology No objection subject to conditions:

The application site is of considerable archaeological potential with the potential for important post medieval industrial features surviving in situ. The site is the former Cherwell Iron Works or Barrows & Stewart, later Browns & Carmichael, manufacturers of portable steam engines and agricultural equipment. The manufacture of agricultural equipment was once a key

Banbury industry, with three main makers. This is the only remaining site within which there is the potential, for surviving in situ features that relate to the on-site activities and the equipment utilised within them. The building to be demolished is likely to have been the main erecting shops, whilst the new build is going over the site of the likely forges and foundry. No records or historic plans are known to exist. The building lies in the Oxford Canal Conservation Area.

It would be preferable if the demolition works are to the depth of the original ground slab to ensure any features below there are preserved in situ.

The building to be demolished is included in the Cherwell list of locally important buildings. Few other sites with the potential for in situ features survive.

Recommend that should permission be granted that a programme of monitoring and recording is undertaken. This can be ensured through the attachment of suitable conditions.

5.10. Historic England

Comments on the originally submitted scheme:

Recommend Refusal: The demolition of the Former Cherwell Works would harm the significance of the Oxford Canal Conservation Area. As it has not been demonstrated that the building is incapable of being repaired and put it to a new use we do not consider this harm to be justified.

The development site contains the former Cherwell Works, a foundry which manufactured agricultural machinery and falls within the Oxford Canal Conservation Area. While the existing building is of little architectural value and there is little visual connectivity between the canal and the site we consider the building to be of historic interest as one of the last remnants of the once thriving agricultural engineering industry in Banbury and thus makes a positive contribution to the character of the conservation area and justifies its status as a locally listed building. Its demolition and replacement will therefore not only result in the loss of a building of local historical importance but also harm the significance of the conservation area as a whole. Given that so little remains of Banbury's Industrial heritage we counsel that this harm should not be regarded as trivial but taken seriously and only accepted if there is a very strong justification.

The current proposal differs from the 2012 application in that rather than simply demolition a replacement development of 6 industrial units is proposed. The Design and Access Statement submitted with this application recognises that the building is of historical importance but asserts that it is beyond economic repair and thus demolition is necessary in order to bring the site back into use. Paragraph 132 of the NPPF requires clear and convincing justification for any harm to a heritage asset while paragraph 134 of the Framework requires harm to the significance of a designated heritage asset, which includes conservation areas, to be weighed against the public benefits of the proposal. While we recognise that there is a public benefit in bringing this site back into use simply asserting that the building is beyond economic repair does not demonstrate this. As no firm evidence has been provided that the building is beyond economic repair we cannot accept that the harm entailed has been clearly and convincingly justified.

We are aware that the current owners have brought the site since the 2012 application. The purchaser was presumably well aware of the planning history of the site and the presumption that the building would need to be retained when they brought it and purchased it at a price assumed this and reflected its condition. Any development appraisal that is submitted in order to justify demolition will have to be examined carefully to ensure that the purchase price was

not inflated by any hope value of the site as a development site, which would distort the calculations.

We recommend that this application is refused unless the applicants can demonstrate clearly and convincingly that retention and repair of the current building is not possible.

Comments on additional planning and heritage statement including Structural Report and approximate budget estimates:

Recommend Refusal: The additional information submitted does not amount to a clear and convincing justification for the demolition of the former Burgess Building. The Heritage Statement does not contain any information which causes Historic England to change its opinion on the significance of the building. The building is in a very poor state of repair and the key question is therefore whether it is capable of economic repair and finding a new use.

The budget estimates supplied suggest that the cost differential between refurbishing the existing building and replacing it is small. The report also states that 'New Bespoke buildings will be far more capable of securing long term investment that compromised renovation as they can be constructed to modern requirements,' However, there is no reason why a good refurbishment could not command a similar rental value as a new build given that the condition of the refurbished building and facilities offered could be as good as a new one. Furthermore, the report includes no development appraisal of the likelihood that any of the scheme considered would be commercially viable. The report does not present a clear and convincing case for demolition.

Further comments on supporting planning statement dated January 2016:

The revised information still does not resolve the issue of whether the Burgess Building is beyond economic repair. We recommend that the Council seek independent advice on this matter. The latest information on viability demonstrates that the total costs of demolition and building anew would cost slightly more (£22,800) and yield a smaller rental income (£12,648 less per annum). It also argues that the financial constraints on the current owner mean that refurbishment is not a viable option for them.

Economic repair should not be framed in terms of whether a particular applicant can afford to do the works, but whether the return generated would justify the investment. We are not convinced that that the case for demolition of the burgess building is convincingly justified, as required by paragraph 132 of the NPPF.

Further comments in email dated the 19th April 2016

As the Local Planning Authority have now taken advice on the viability of the scheme, the matter of economic viability has been fully considered and if the LPA conclude that the it would not be economically viable to retain the building we would not object as the matter has now been given proper consideration. Paragraph 134 of the NPPF requires the LPA to weigh harm against public benefit, including finding the optimum viable use for the site.

5.11. Environment Agency

We have no objection to the application as submitted, subject to the inclusion of a number of conditions, to deal with any contamination on the site to ensure no seepage to the canal/river. Without the inclusion of these conditions we consider the development to pose an unacceptable risk to the Environment.

The Flood Risk Assessment reference: Redevelopment of Former Burgess Site at Canal

Street, Banbury dated December 2014 undertaken by Wellan confirms that the site is within the area benefitting from the Banbury Flood Alleviation Scheme (FAS).

We are pleased to see that the FRA confirms that the proposed finished floor levels of the buildings will be set at 90.8 m AOD, which is around 370 mm above the 1 in 200 flood level for the site (equivalent to the 1 in 100 plus climate change flood level) .

However, we would recommend that the finished floor level is set higher at 91.21 m AOD which is 300 mm above the 1 in 200 undefended flood levels. This is so that the proposed development is protected if the FAS fails during a flood event.

If the finished floor levels cannot be set at the recommended level then we would recommend that flood resilience/resistance measures are installed that provided a standard of protection up to the 1 in 1000 flood undefended flood level of 91.05 m AOD

5.12. Canals and Rivers Trust

While we have no concerns relating to the proposed design of the development we note that the offside wall of the Oxford Canal is currently in an unknown condition. We would therefore recommended that whilst the site is accessible the opportunity is taken to undertake a study of the condition of the wall and if necessary stabilisation of it by piling with a brick capping detail or similar, to be approved. This will require third party works approval.

The applicant should also ensure that the area behind the rear wall for the buildings, and adjacent to the canal edge is suitably maintained and access is available to it for maintenance of both the land and canal if necessary.

If the Council is minded to grant planning permission, it is requested that the following informative is attached to the decision notice:

“The applicant/developer is advised to contact Osi Ivowi on 01908 302 591 in order to ensure that any necessary consents are obtained and that the works comply with the Canal & River Trust “Code of Practice for Works affecting the Canal & River Trust”.

6. Relevant National and Local Planning Policy and Guidance

6.1 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. Planning legislation requires planning decisions to be made in accordance with the Development Plan unless material planning considerations indicate otherwise. The relevant planning policies of Cherwell District’s statutory Development Plan are set out below:

Cherwell Local Plan 2011 - 2031 Part 1

Policy PSD1: Presumption in Favour of Sustainable Development

Policy SLE1: Employment Development

Policy ESD6: Sustainable Flood Risk Management

Policy ESD8: Water Resources
Policy ESD10: Protection and enhancement of Biodiversity and the Natural Environment
Policy ESD15: The Character of the Built and Historic Environment
Policy ESD16: The Oxford Canal
Policy Banbury 1: Banbury Canalside

Cherwell Local Plan 1996 (Saved Policies)

Policy C23: Retention of features contributing to character and appearance of a conservation area
Policy C28: Layout, Design and external appearance of new development
Policy C29: Appearance of development adjacent to the Oxford Canal
Policy ENV1: Development likely to cause detrimental levels of pollution
Policy ENV12: Development on contaminated land

6.2 Other Material Planning Considerations:

National Planning Policy Framework (The Framework) – the National Planning Policy Framework sets out the Government’s planning policies for England and how these are expected to be applied.

Planning Practice Guidance (NPPG) – This sets out regularly updated guidance from central Government to provide assistance in interpreting national planning policy and relevant legislation.

7. Appraisal

7.1 Officers’ consider the following matters to be relevant to the determination of this application:

- Principle of Development,
- Structural stability and economic viability;
- Impact on Heritage Assets;
- Accessibility, Highway Safety and Parking;
- Design, form and scale;
- Visual Impact;
- Flood Risk;
- Effect on Neighbouring Amenity;
- Trees and Landscaping;
- Ecological Implications;
- Archaeology;
- The Planning Balance.

Principle of development

7.2 The National Planning Policy Framework (NPPF) sets out a presumption in favour of sustainable development, which should be seen as the golden thread running through both plan-making and decision taking. Development proposals should be considered in accordance with the development plan, unless material considerations indicate otherwise.

7.3 The site is located to the south east of the town centre of Banbury, falling outside of the town centre designation (Policy Banbury 7). The site is considered to be within a sustainable location close to the town centre of Banbury, which offers a good level of services and public transport facilities.

- 7.4 The planning application proposals, which are for an employment use, are located in central Banbury in an existing commercial area. Policy SLE1 of the Local Plan 2011 to 2031 states that on existing vacant employment sites, employment development, including intensification, will be permitted subject to compliance with other policies in the Plan and other material considerations. In this regard the application proposals are consistent with policy SLE1. However it will be necessary for proposals to be considered against the policy criteria, other policies and other material considerations. The application of policy SLE1 in this case should be considered with regard to proposals set out in policy Banbury 1.
- 7.5 The application site is located towards the southern part of a wider area which is a strategic allocation in the Local Plan 2011 to 2031 (policy Banbury 1: Banbury Canalside and Inset Map Banbury 1) to deliver mixed use regeneration. The policy explains that 700 new dwellings can be delivered on the site with some employment uses remaining on the site. Policy Banbury 1 states that the re-development of Canalside will provide businesses with the opportunity to expand and invest for the future and that a number of the older buildings and former industrial sites at the Canalside site offer considerable opportunities for re-use or redevelopment for industrial enterprises. In this regard the proposals (in terms of redevelopment) are consistent with policy Banbury 1.
- 7.6 There are a number of elements of policy Banbury 1 that are of relevance to this application in terms of implementation and design. The policy states that ideally proposals should come forward for the whole of the Canalside site accompanied by a detailed masterplan but applications for parts of the site may be permitted provided that they clearly demonstrate their proposals will contribute towards the creation of a single integrated community. The policy also states that the Council will expect an application to demonstrate it has complied with the Supplementary Planning Document and has taken into account the known or anticipated implications of proposals on adjoining areas. Ad hoc new buildings within the Canalside site in principle could adversely affect the future delivery of comprehensive proposals at Canalside. Development proposals should consider the recreational role of the canal and comply with policies regarding its future use and policies relating to any impacts on it. These elements of Policy Banbury 1 have been considered by the applicant and the application advises that the new development will redevelop the site which is currently offering no economic role within the community as it is vacant and in decline. The proposed scheme has been designed to reflect the wider objectives of Policy Banbury 1 by incorporating in the design a walkway along the canal to ensure future pedestrian links within the site and to ensure the recreational use of the canal and the proposed commercial units could be easily converted in the future to a number of uses including retail and residential. The proposed development is therefore considered to incorporate elements within the design which will allow the regeneration of the whole site and contribute to an integrated community in accordance with Policy Banbury 1.
- 7.7 Policy Banbury 1 seeks the retention and integration of the most valuable historic buildings on the site and the integration of existing historic buildings which will enrich the environment and maintain the long term character of the area. The proposal includes the demolition of the Burgess Building which is a locally listed building and has been identified by Historic England and the Council's Conservation officer as being of historical significance as part of a group of locally listed buildings in the Canal Conservation Area. The building is significant as one of the few remaining buildings of previous engineering companies based along the Canal.
- 7.8 The applicants have sought to demonstrate that demolition is the only viable option on the grounds that the existing building, due to its poor structural state which is detailed below, would require significant works to allow a suitable conversion. Therefore the principle of development will be in large part dependant on whether the case has been made for the demolition of the existing building. The issues of structural stability of the building and

historical importance of the building will be covered in more detail in the following sections of this report.

- 7.9 Policy ESD 16 of the Cherwell Local Plan 2011-2031 Part 1 seeks to protect and enhance the Oxford Canal. Proposals which would be detrimental to its character or appearance will not be permitted. This policy also supports the enhancement of the canal through mixed use development within urban settings. Saved Policy C23 of the Cherwell Local Plan 1996 contains a presumption in favour of retaining buildings which make a positive contribution to the character or appearance of the conservation area. The proposed development will demolish a locally listed building within the canal conservation area. The harm caused to the conservation area needs to be balanced against the public benefit of bringing the site back into use which will be set out in the following sections of this report.
- 7.10 The proposed scheme does bring the site back into commercial use within a sustainable location which meets the requirements to support economic growth set out within Paragraph 19 of the NPPF. Significant weight should be placed on the need to support economic growth through the planning system. The proposed development includes the provision of 6 new build commercial units amounting to 1200 square metres of floor space. The proposed development would bring the site back into use and would therefore support economic growth within Banbury. At present the vacant site is offering very little economic benefit for the area.
- 7.11 In conclusion the proposed development provides for a sustainably located employment use within an existing commercial area of Banbury and has considered the future regeneration of the site which is sought under Policy Banbury 1, without causing undue harm to the future intentions for the wider development area. In principle the proposed new commercial building is therefore acceptable, but this is subject to the demolition of the existing building being fully justified. An assessment of the impact of the proposal under other policies in the Development Plan, including heritage, transport and flood risk, will be made under the headings below.

Structural Stability and Economic Viability

- 7.12 The existing building on the site is the subject of a structural survey submitted with the application. The conclusions of the structural survey highlight that the existing building and the ancillary aspects of the site are in a very poor structural state. The absence of a use for the building for many years has resulted in the partial collapse of the roof and the dangerous condition of the building. The proposed development seeks to demolish the existing building and construct a new detached building along the southern boundary of the site.
- 7.13 As part of the assessment of the proposals consideration must be had as to whether the existing building is capable of conversion and whether such a conversion is economically viable. The existing building is in a very poor unstable structural state which is detailed within the submitted structural survey and additional information, Appendix A (drawing no. 1360-06 and SK/08) which illustrates the amount of built fabric which will have to be removed and rebuilt to allow a suitable conversion. From the submitted structural information it is clear if a scheme for conversion of the building was being considered to provide a suitable and viable building to meet modern commercial build standards, substantial alteration and demolition would be required as follows:
- Entire roof to be removed and replaced with new construction
 - Removal of roof may compromise the stability of the external walls which will require support during works;
 - Much of the northern boundary wall is unstable and will require rebuilding;

- Southern elevation would need demolishing and rebuild where they are rotating outwards;
- Significant rebuilding of brick walls – new openings to the south will lead to unstable elevation which will require rebuilding.
- New floor slab required at a higher level to address flooding issues.
- Much of the external walls are rendered and therefore extent of rebuilding of walls will only become clear once render is removed.
- Raising of the eaves height by approximately 1 metre to allow 5 metres clear eaves height;

With the level of demolition and adaptation required, the existing building would be significantly altered and is therefore not considered to be suitable for conversion.

7.14 In economic terms the building is located in a traditional industrial area where the surrounding occupiers and buildings are generally of a poor standard and this will undoubtedly influence the calibre of tenant who would be seeking a unit in this location regardless of a refurbishment or new build option. Demand for small units is high and supply is low, and providing that the units are suitable for purpose, the level of rent achievable would not differ between a refurbished option or a new development. A minimum specification for the building would be required in order to attract tenants:

- 5m clear eaves height
- 3m x 3m access and personal door
- 3 phase power
- Concrete floors
- Parking and good circulation – The existing layout has a tight access pass the existing building and into the site. The layout provided by the new development is much better as it provides a wider access point and parking and turning area.

The Council's Estates and Facilities Department have concluded that from a commercial point of view at the present time the existing building will prove very difficult to convert to meet modern standards and the likely costs against the rental income will affect the commercial viability.

7.15 Having given this matter careful consideration officers are reluctantly satisfied that on the basis of the available evidence, due to the poor structural condition of this building and the extent of work required to provide a suitable commercial premises, its conversion would not be economically viable. The proposed new build scheme will provide a modern building which meets all the required standards bringing an existing site back into an employment use in accordance with Local Plan policy SLE1 and would support economic growth in the area in accordance with Government Guidance contained within the National Planning Policy Framework.

Impact on Heritage Assets

- 7.16 The site is located within the Oxford Canal Conservation Area. The site comprises an existing building known as the Burgess Building which is a locally listed building (non-designated heritage asset). The proposed scheme must therefore be assessed taking into consideration the impact of the proposal on the setting of the Conservation area and the impact on the non-designated heritage assets.
- 7.17 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (“the Listed Buildings Act”) sets out the duty of the Local Planning Authority in assessing applications which affect Conservation Areas. Subsection (1) of Section 72 provides: *“In the exercise (of its powers), with respect to any buildings or other land in a conservation area, ... Special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.”*
- 7.18 Paragraph 131 of the National Planning Policy Framework sets out the factors to be taken into account when considering applications which affect designated heritage assets. Paragraph 135 of the National Planning Policy Framework (NPPF) sets out the assessment to be made in relation to an application which affects a non-designated heritage asset and indicates that a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
- 7.19 The Conservation Officer has commented on the proposals and has raised an objection to the proposed development, to demolish the existing building. The Conservation Officer comments have identified the significance of the building and the Conservation Area. The existing building is an integral part of the industrial heritage of the canal side area and makes a positive contribution to the Conservation Area. The significance of the building predominantly relates to its historical importance rather than its architectural merit, although it is a representative building of its type and is a rare survival in the local context.
- 7.20 The building, now known as the Burgess Building, was previously Cherwell Iron Works and was originally built in 1862 for Barrows and Kirby. The firm was one of three large engineering companies in the area. The company produced pioneering portable steam engines, steam ploughing machinery and threshing machines. The surviving buildings are believed to have been the main assembly buildings, fitting shops and stores. The Burgess Building forms part of a group of locally listed buildings and the group value of these non-designated heritage assets contributes to their collective significance.
- 7.21 The site is located within the Oxford Canal Conservation Area and the Burgess Building is specifically referred to in the Canal Conservation Area Appraisal 2012 as one of the buildings included in a ‘positive vista’ from the south of the site and the significance of the area is identified in the appraisal as follows: *‘The section to the south of Bridge Street is strongly influenced by its industrial past, bounded either side with former industrial buildings, modern warehousing and a mobile home park. The area between the west bank of the canal and Lower Cherwell Street retains greater historical and architectural interest than the previous section due to the lack of modern development’. ‘A small office building and a warehouse, very rare survivals of canal related architecture with the town also remain’.*
- 7.22 The demolition of the existing building will lead to the total loss of the historic fabric as well as the essential form of the building and its historic integrity within the site, therefore the proposed development causes substantial harm to the non-designated heritage asset of the Burgess Building. Paragraph 135 of the NPPF advises that in weighing applications that directly affect non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
- 7.23 In applying a balanced judgement to this case the Council’s Planning Officers consider that due to the poor structural conditions of the building, the existing building could not be

successfully converted without substantial alteration which would result in the loss of the majority of the buildings fabric within a conversion scheme, which would be considered to also compromise and diminish the authenticity of the building and therefore its historical relevance. A scheme to convert the existing building would maintain the essential form of the building and its historic integrity as part of a group of buildings representing engineering heritage, however, maintaining a building in this location means a narrow access to the site and narrow turning space which could limit the potential occupier for the existing building.

- 7.24 Turning to the impact on the Conservation Area, the proposed demolition of the existing building would lead to less than substantial harm to the significance of the Oxford Canal Conservation Area. The Conservation Officer has advised that the harm is less than substantial because the demolition of the building would not harm the heart of the significance of the Oxford Canal, but the harm is never-the-less significant. Therefore, the harm needs to be weighed against the public benefits of the proposal, including securing its optimum viable use. In weighing up the planning balance, the Council's Planning Officers have considered that the poor structural condition, which has meant that the site has remained empty for a long period of time, would result in substantial demolition works to the building even in a conversion scheme. The proposed scheme by removing the existing building, would provide a modern yet traditionally designed, high quality building which meets current standards. It would also improve the access and turning facilities within the site, reduce the risk of flooding due to re-siting and a raised floor level, and would bring the site back into use offering jobs and supporting economic growth.
- 7.25 The proposal includes the retention of the northern elevation of the existing building with the existing openings filled in with salvaged brick. The applicant's agent has also indicated that the applicant will be happy to provide a layout within the car parking area to illustrate the siting of the existing building, to undertake a record of the building before it is demolished, and to provide information boards on the site to display the information. These details can be sought as part of a suitably worded condition requiring the applicant to provide details of building recording and heritage information as part of the proposed scheme. This information will assist in ensuring the heritage of the site is properly recorded and, where possible, incorporated into the development so that future users of the site are aware of and can appreciate its heritage importance.
- 7.26 In weighing the heritage harm against the public benefits of the proposal, the Council's Planning Officers acknowledge that substantial harm would be caused to the Burgess Building by virtue of its demolition, and significant albeit less than substantial harm would be caused to the Conservation Area. Nevertheless the proposal would deliver public benefits as the proposed scheme would provide a high-quality and sensitively designed new commercial building, would bring a vacant site back into commercial use within a sustainable location which provides jobs and supports economic growth, improves vehicle access to the site and will reduce the potential risk of flooding. Whilst these benefits would not, on their own, outweigh the harm caused, the poor structural condition of the existing building and the limited amount of original fabric that could be retained in a conversion must be a determining factor. Having given these matters serious consideration, regrettably and on balance, the Council's Planning Officers have concluded that in this case the public benefits of the proposed scheme do outweigh the harm caused to heritage assets by the loss of the existing building.
- 7.27 The site is of considerable archaeological potential with the potential for important post medieval industrial features surviving in situ. Few other sites with the potential for in situ features survive. However the County Archaeologist does not object to the proposal, and it is recommended that a programme of monitoring and recording is undertaken which can be secured through the attachment of a suitable condition.

Design, Form and Scale and Visual Impact

- 7.28 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 respect the traditional pattern of routes, spaces and plots and the form, scale and massing of buildings. It also states development should contribute positively to an area's character and identity by creating or reinforcing local distinctiveness and respecting local topography. Saved Policy C28 and C30 of the 1996 Local Plan seeks to ensure the layout, scale and design of development is of a high standard.
- 7.29 The building measures a maximum 7 metres in height and has a footprint of approximately 65 metres long and 17 metres deep, with a maximum depth at the eastern end of 35 metres. The new building is of a scale and form which is considered to respect the scale and form of the development which surrounds the site. The external appearance of the building which is to be constructed from red brick, with a blue brick soldier course and elevation detailing and a natural slate roof is considered to be of a good quality design which will preserve the character and appearance of the Conservation Area.
- 7.30 The building will be visible from the canal and from the tow path. The view of the site from the canal is considered to be improved by the proposed development. This is due to the existing wall of the site immediately adjacent to the canal being in a very poor state, which will be replaced by a strip of land immediately adjacent to the canal to allow pedestrian access along the canal side within the site, and the new elevation of the building being of a good quality design comprising arched openings. The proposed development is considered to sit comfortably within the surrounding landscape and will improve views into the Conservation Area from the Canal.

Accessibility, Highway Safety and Parking

- 7.31 The Local Highway Authority has commented on the proposals and has raised no objection to the proposals. The development proposals are unlikely to have a significant adverse impact on the transport network over and above that which the existing permitted use would generate. The site is in a reasonably sustainable location, being within walking distance of the town centre facilities and bus stop. The proposed development provides for 3 additional car parking spaces compared with the number available within the existing site. The proposed development will not cause an adverse impact on the safety of the highway within the locality.

Flood risk

- 7.32 Paragraph 100 of the NPPF states that: *Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere.* It also states that planning should use the: *opportunities offered by new development to reduce the causes and impacts of flooding.* The existing building is located within Flood Zones 2 and 3 and therefore is currently at a medium to high risk of flooding. The site was affected by flooding in 2007 and has not been affected by flooding since the Banbury Flood alleviation works have been carried out. The current building floor level lies at approximately 90.06 to 90.07 metres AOD. The modelled flood plain data shows that flood levels for the 1% probability (1 in 100 year) event as 90.08m AOD maximum. For the 0.5% probability (1 in 200 year) event the maximum level is 90.43m AOD and the Strategic Flood Risk Assessment advises that the 0.1% probability (1 in 1000 year) event gives a predicted maximum flood level of 91.04m AOD. Therefore, the existing building is at a high risk from flooding in its current location.

- 7.33 The proposed building has a finished floor level of 90.8m AOD which is set higher than the existing buildings finished floor levels and it is stated in the FRA that this will be adequate to prevent water entry for a 1 in 200 year case, 0.5% probability of flooding. The siting of the new building close to the southern boundary of the site and the higher finished floor level will reduce the risk of flooding to the building compared to the existing situation which could be affected by the 1 in 100 year event.
- 7.34 The Environment Agency (EA) have commented on the scheme and have advised that they are pleased to see that the proposed finished floor levels of the building are to be set at 90.8m AOD. However, the EA have recommended that the finished floor level is set higher at 91.21m AOD which is 300mm above the 1 in 200 undefended flood level. This is so that the proposed development is protected if the Flood Alleviation Scheme fails during a flood event. If the finished floor levels cannot be set at the recommended level then the Environment Agency would recommend that flood resilience/resistance measures are installed that provide a standard of protection up to the 1 in 100 undefended flood level of 91.05m AOD. The requirements of the EA can be secured through a suitably worded pre-commencement condition to seek details of the finished floor level and any additional resilience required.

Contaminated Land

- 7.35 The Council's Environmental Protection Officer has commented on the proposal and has highlighted that the site could potentially be contaminated due to previous land uses and has therefore advised the use of phased conditions to deal with any contamination found on the site.
- 7.36 The Environment Agency in their comments have also identified the potential for contamination on this site due to previous land uses which may introduce a potential source of contamination such as fuel tanks and other oil storage and other sources of contamination given the history of the site. Furthermore, the site is located directly adjacent to the Oxford Canal and located above a secondary aquifer (Alluvium). These are controlled water receptors which could be impacted by any contamination present on this site. Further investigation would be required to determine the extent of any contamination present and to what extent it poses a risk to controlled waters. Any risk identified would need to be adequately resolved to ensure that no risk is posed on controlled water receptors. This may include remedial works to resolve contamination issues.
- 7.37 The Council's Planning Officers are satisfied that suitable conditions can be attached to the recommendation to deal with contamination identification and any remediation required.
- 7.38 The Council's Environmental Protection Officer has identified that no information regarding air quality at the site has been submitted. The site comprises an existing building which is located within an existing commercial environment. The site already attracts a high number of vehicles to the site which is currently used for car parking in relation to the existing surrounding uses. The existing building has an established general industrial use based on its previous historic use which is considered to be an acceptable use in this area due to the existing surrounding uses. The proposed scheme comprises a building of a similar scale to the existing building which would not be considered to significantly increase the vehicle trips to and from the site and would therefore not be considered to further harm air quality in this location.

Effect on neighbouring amenity

- 7.39 The site is surrounded by a range of commercial uses within the vicinity of the site therefore the proposed commercial use of the site is considered to be a suitable use which would sit comfortably with the existing neighbouring uses without undue harm.

7.40 The closest residential properties are located at number 1 to number 8 Cherwell Wharf. These dwellings are separated by other commercial uses by the site which is the subject of this application, and therefore the proposed development would not be considered to adversely harm the residential amenity of the occupiers of these residential properties. The proposed development will therefore be in accordance with saved policy C28 of the Cherwell Local Plan 1996.

Ecological Implications

7.41 Section 40 of the Natural Environment and Rural Communities Act 2006 (as amended) places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. A key purpose of this duty is to embed consideration of biodiversity as an integral part of policy and decision making. Paragraph 99 of Circular 06/2005: Biodiversity and Geological Conservation 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.*

7.42 Paragraph 109 of the NPPF states 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.*

7.43 The application is supported by a bat survey which confirms that there are no bats using the building. The use of this building by bats is highly unlikely due to the derelict state of the roof. There is some evidence of nesting birds using the site and therefore the applicant shall be made aware of this through a planning note attached to the recommendation.

7.44 The planting proposed will be beneficial to wildlife, especially if it is a berry bearing species. A suitable landscaping condition will be applied to ensure that the species comprised in the landscaping of the site are native to provide ecological improvements on the site.

The Planning Balance

7.45 At the heart of the NPPF is a presumption in favour of sustainable development. There are three dimensions to sustainable development: economic, social and environmental. Paragraph 8 of the NPPF states that: *these roles should not be undertaken in isolation, because they are mutually dependant...therefore, to achieve sustainable development (the three dimensions) should be sought jointly and simultaneously through the planning system.*

7.46 The proposals result in the loss of a locally listed building (non-designated building) within a Conservation Area, which is not entirely in accordance with Policy ESD15 of the Local Plan 2011-2031 Part 1 and saved policy C23 of the Local Plan 1996 which seeks to retain buildings which make a positive contribution to the Conservation Area. As such the proposals would result in clear environmental, and to a lesser extent, social harm. The building is however, in a very poor structural state which would require extensive demolition and rebuilding to be successfully converted. It is therefore the Council's Planning officers view that the building is not capable of conversion without significant rebuilding, resulting in the loss of a significant amount of original built fabric. In the context of Paragraph 134 of the NPPF, which requires the Local Planning Authority to weigh harm against the public benefit including finding the optimum viable use for the site, this reduces the weight that can be given to the environmental and social harm.

7.47 The proposed development would deliver social, environmental and economic benefits with the opportunity of bringing the site back into an economically beneficial use, improving the

flood risk of the site by resiting the building and raising the height of the floor level, improving the access and servicing at the site, and providing a modern and high quality-designed commercial building within a sustainable location. It is therefore considered that the harm caused due to the loss of the existing building would, on balance, be overcome by the benefits which the scheme provides for the site and the wider community.

7.48 All-in-all the benefits of the proposal, which is considered to comply with the Council's adopted Development Plan policy, outweigh the harm and so the proposal is considered to be sustainable development within the meaning of the Framework.

9. Engagement

9.1 With regard to the duty set out in paragraphs 186 and 187 of the Framework, any objections that have been raised have been brought to the attention of the applicant's agent who has had the opportunity to respond. The application will have exceeded its original target date due to on-going discussions with the applicant and consultees. It is considered that the duty to be positive and proactive will have been discharged through the efficient determination of the application.

10. Conclusions

The proposal is considered to be located within a sustainable location and will offer social, environmental and economic benefits in accordance with the presumption in favour of sustainable development set out in the NPPF. The harm caused by the loss of the existing building on the site, a non-designated heritage asset within a conservation area, is considered on balance to be outweighed by the benefits of the scheme which proposes a modern and commercial building which will bring the site back into a viable use, with improved access and parking arrangements, improved flood risk, and a scheme of a high quality design which will enhance the character and appearance of the conservation area. The proposal is considered acceptable in highway safety and access terms. Therefore the proposal is acceptable in accordance with the Development Plan Policies and national guidance detailed at section 6 of this report.

9. Recommendation: Approve 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 development shall be carried out strictly in accordance with the following plans and documents: Application forms, Design and Access Statement, Bat survey dated January 2015, Flood Risk Assessment dated December 2014, Planning and Heritage Statement dated June 2015 and Supporting Statement dated January 2016 and drawings numbered:

- 1360 – LP – BP Site Location and Block Plan;

- 1360 – 04 ‘c’ Proposed Plans and Elevations

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.

Contaminated Land

3. 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.

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

4. If a potential risk from contamination is identified as a result of the work carried out under condition number 3, prior to the commencement of the development hereby permitted, a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals shall be documented as a report undertaken by a competent person and in accordance with DEFRA and the Environment Agency's *'Model Procedures for the Management of Land Contamination, CLR 11'* and submitted to and approved in writing by the Local Planning Authority. No development shall take place unless the Local Planning Authority has given its written approval that it is satisfied that the risk from contamination has been adequately characterised as required by this condition.

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

5. If contamination is found by undertaking the work carried out under condition number 4, prior to the commencement of the development hereby permitted, a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with DEFRA and the Environment Agency's *'Model Procedures for the Management of Land Contamination, CLR 11'* and submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval of the scheme of remediation and/or monitoring required by this condition.

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

6. If remedial works have been identified in condition number 5, the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition number 5. 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, prior to any part of the building hereby approved being brought into use.

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

7. If, during development, contamination not previously identified is found to be present at the site, no further development shall be carried out until full details of a remediation strategy detailing how the unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. Thereafter the remediation strategy shall be carried out in accordance with the approved details.

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

Archaeology

8. Prior to any demolition on the site, the commencement of the development hereby approved and any archaeological investigation, a professional archaeological organisation acceptable to the Local Planning Authority shall prepare an Archaeological Written Scheme of Investigation, relating to the application site area, which shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard the recording and inspection of matters of archaeological importance on the site in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

9. Prior to any demolition on the site and the commencement of the development hereby approved, and following the approval of the Written Scheme of Investigation referred to in condition number 8, a staged programme of archaeological evaluation and mitigation shall be carried out by the commissioned archaeological organisation in accordance with the

approved Written Scheme of Investigation.

Reason: To safeguard the identification, recording, analysis and archiving of heritage assets before they are lost and to advance understanding of the heritage assets in their wider context through publication and dissemination of the evidence in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

- 10.** Prior to any demolition on the site, the commencement of the development and any archaeological investigation, a professional archaeological organisation/building recorder acceptable to the Local Planning Authority shall carry out a full recording of the building concerned and submit the completed record to the Local Planning Authority.

Reason: To secure the proper recording of the building which is of archaeological or historic importance, to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

- 11.** Prior to any demolition on the site, a scheme for the presentation of the information found during the building recording and the archaeology investigations on the site, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme for the presentation of the historic information found at the site shall be carried out in accordance with the approved details and prior to any part of the building being brought into use.

Reason: To secure the proper recording of the building and the site and to allow the community to access this information which is of archaeological or historic importance, to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Materials

- 12.** Prior to the construction of the foundations of the building hereby approved, samples of the slate 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 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 ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

- 13.** Prior to the construction of the foundations of the building 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 ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Framework.

- 14.** Prior to the construction of the foundations of the building hereby approved, full details of the doors and windows hereby approved, at a scale of 1:20 including a cross section, cill, lintel and recess detail, material and colour/finish, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the doors and windows and their surrounds 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 Local Plan policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Parking and Access

- 15.** Prior to the first occupation of the development hereby approved, the parking and manoeuvring areas shall be provided in accordance with the plan approved (Drawing No: 1360 – 04 'c'), and shall be constructed from porous materials or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the site. Thereafter, the parking and manoeuvring area shall be retained in accordance with this condition and shall be unobstructed except for the parking and manoeuvring of vehicles at all times.

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

Other

- 16.** Prior to the commencement of the development hereby approved, a plan showing full details of the finished floor levels of the proposed building in relation to existing ground levels on the site 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 development is adequately provided so as to minimise the risk from flooding in accordance with Policy ESD 6 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

- 17.** The existing northern elevation of the building shall be retained and maintained at a height of 4 metres as shown on the approved plan (Drawing No: 1360 – 04 'c'), and shall not be otherwise demolished or altered without the express planning permission of the Local Planning Authority.

Reason: To ensure that part of the existing building is retained to enable an understanding of the location of the heritage asset which is being lost as part of this proposal in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Planning Notes:

- 1.** The applicant/developer is advised to contact Osi Ivowi on 01908 302 591 in order to ensure that any necessary consents are obtained and that the works comply with the Canal & River Trust "Code of Practice for Works affecting the Canal & River Trust.

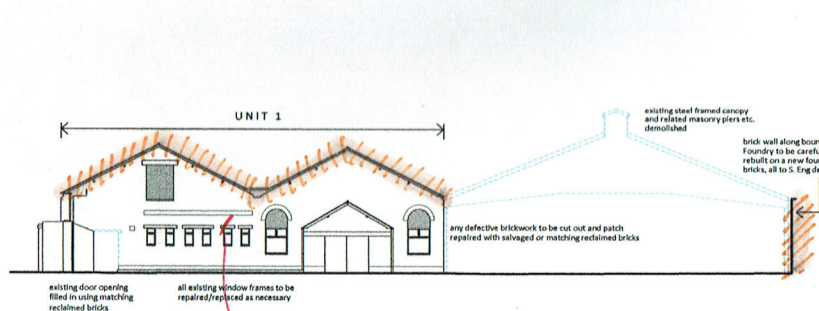
2. The applicant is advised that if further advice is required in relation to conditions 8 - 11, contact should be made with the County Archaeologist on 01865 328944 or by writing to Richard.Oram@oxfordshire.gov.uk or Historic and Natural Environment Team, Infrastructure Planning, Speedwell House, Speedwell Street, Oxford, OX1 1NE, who can provide advice in terms of the procedures involved, provide a brief upon which a costed specification can be based, and provide a list of archaeological contractors working in the area.
3. Bats are a highly mobile species which move between a number of roosts throughout the year. Therefore all works must proceed with caution and should any bats be found during the course of works all activity in that area must cease until a bat consultant has been contacted for advice on how to proceed. Under the Wildlife & Countryside Act 1981 (as amended) and the Habitat and Species Regulations 2010 it is illegal to intentionally or recklessly disturb, harm or kill bats or destroy their resting places.
4. 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.

CONTACT OFFICER: Emily Shaw

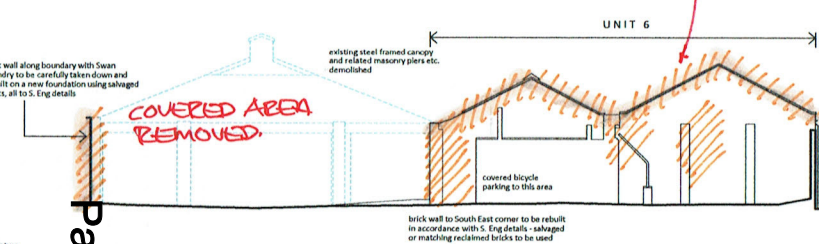
TELEPHONE NO: 01295 221819

Appendices

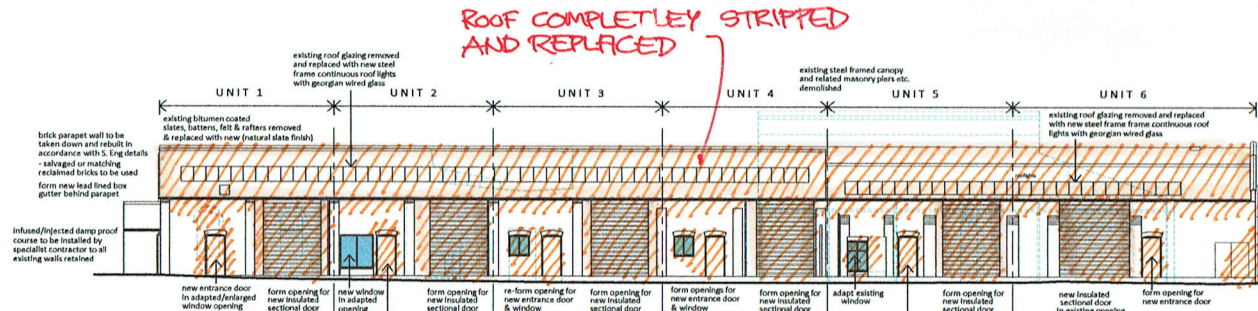
Appendix A: Structural Information



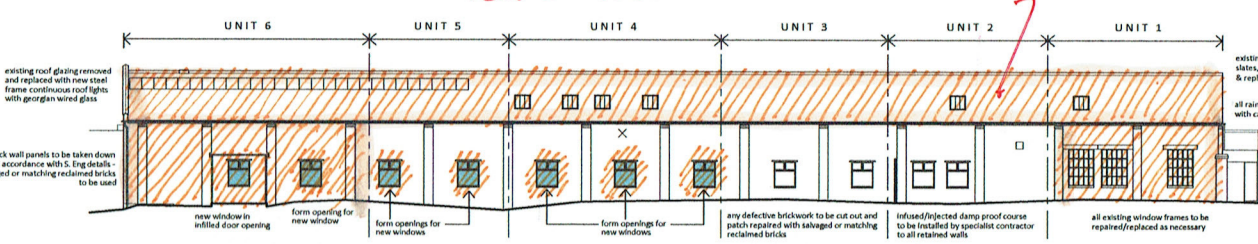
WEST (FRONT) ELEVATION



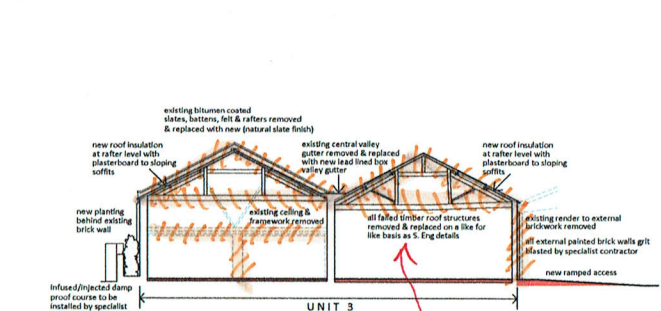
EAST (REAR) ELEVATION



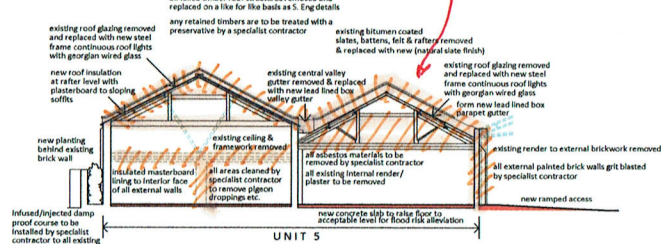
SOUTH (SIDE) ELEVATION



NORTH (SIDE) ELEVATION

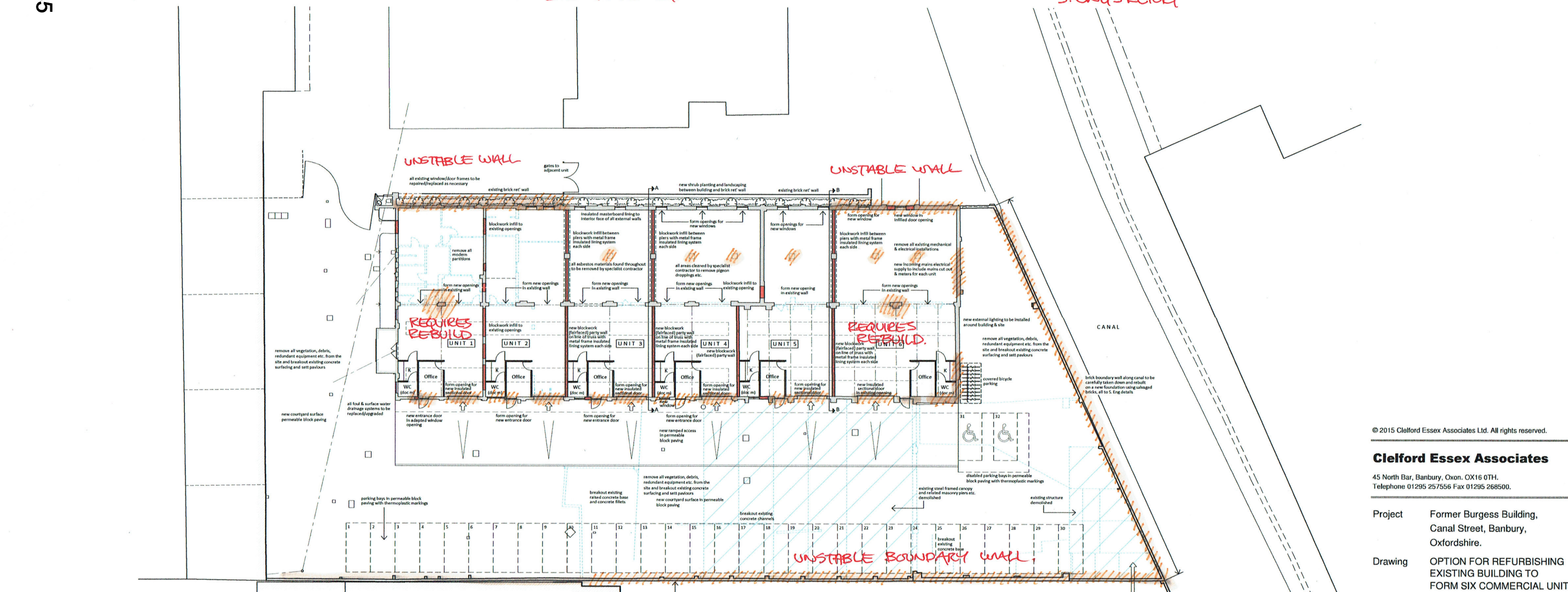


SECTION A - A



SECTION B - B

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Clefclord Essex Associates
 45 North Bar, Banbury, Oxon, OX16 0TH.
 Telephone 01295 257556 Fax 01295 268500.

Project Former Burgess Building, Canal Street, Banbury, Oxfordshire.
 Drawing OPTION FOR REFURBISHING EXISTING BUILDING TO FORM SIX COMMERCIAL UNITS: Site, Floor Plan, Elevations and Sections
 Scale 1 : 200
 Date September 2015
 Sheet Size A1
DRAWING No. 1360 - 06

HEALTH & SAFETY WARNING

ALL OF STRUCTURE SHOULD BE REGARDED AS POTENTIALLY UNSTABLE DURING & AFTER ROOF. TEMPORARY WORKS WILL BE REQUIRED.

NOTE

- 1) MANY BRICKWORK PANELS HAVE BEEN REMOVED ON SOUTH ELEVATION. OPENINGS HAVE BEEN INFILLED OR OPENINGS MADE & BRICKWORK IS IN POOR CONDITION. SOME ADDITIONAL PANELS ARE LIKELY TO REQUIRE REBUILDING.
- 2) OPENINGS TO BE MADE FOR INDUSTRIAL DOOR IN SOUTH ELEVATION WILL REQUIRE STEEL TRIMMING.

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POSSIBLY REQUIRES REBUILDING

REQUIRES REBUILDING DUE TO INSTABILITY OF BRICKWORK LOCALLY.

REQUIRES REBUILDING DUE TO LEAN. DANGEROUSLY UNSTABLE WHEN ROOF IS REMOVED.

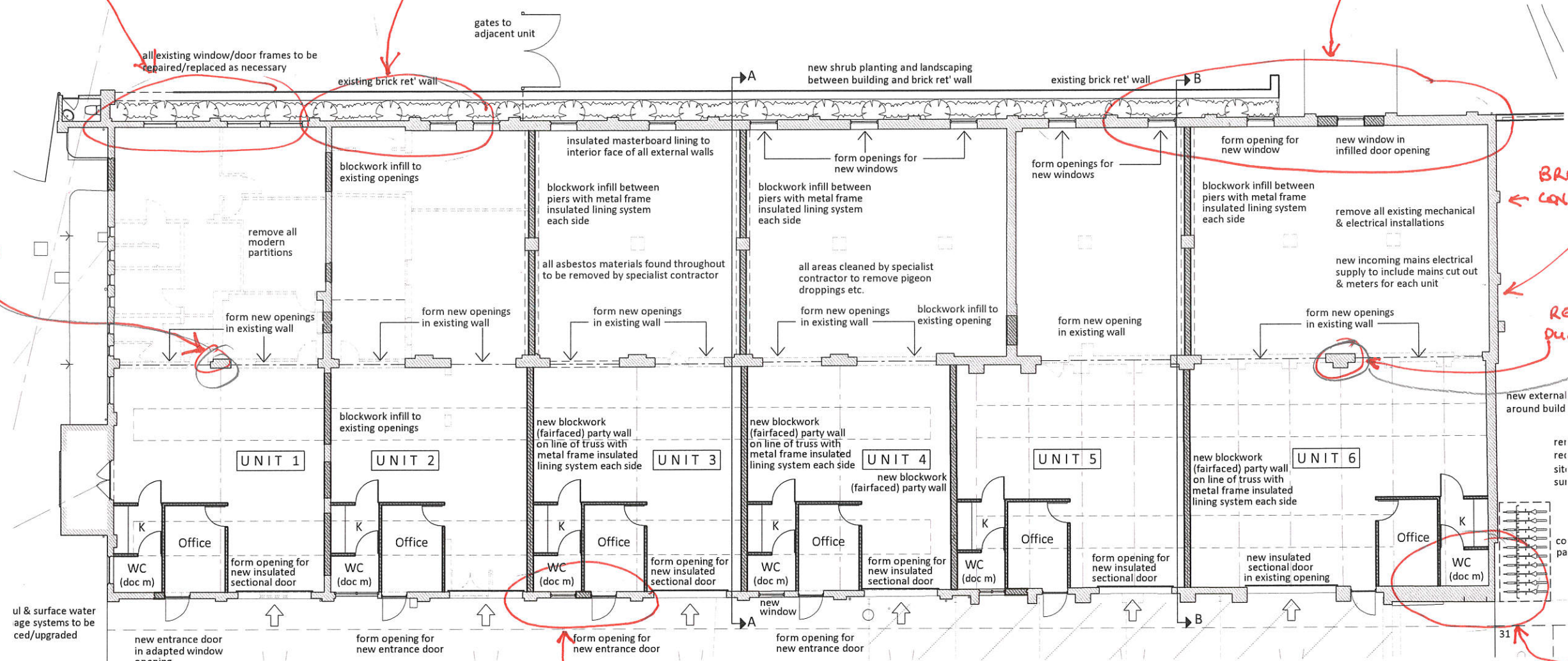
REQUIRES REBUILDING DUE TO LEAN

BRICKWORK IN POOR CONDITION

REQUIRES REBUILDING DUE TO LEAN

REQUIRES REBUILDING DUE TO LEAN.

REQUIRES LOCAL REBUILDING

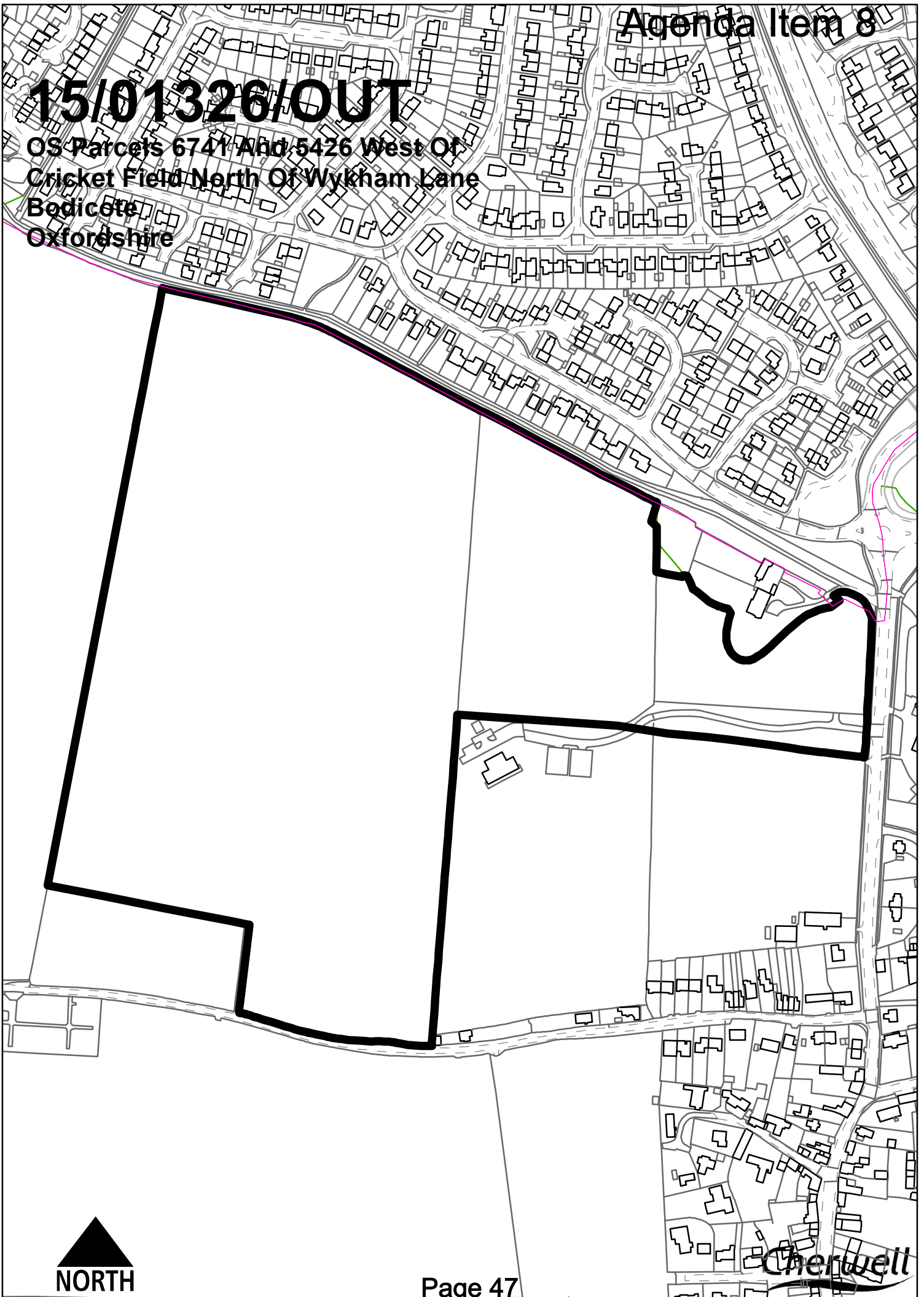


REQUIRES REBUILDING DUE TO LEAN. (CAUSED BY ROOF COLLAPSE?)

Wellan Tel 01608 685753	Wellan House, Aylesmore, Warks, CV36 5EJ
Scale NTS Proj No 14-215	Title MARK-UP OF UNSTABLE WALLS
Date APRIL '16 Drg No SK/08	Project FORMER BURGESS BUILDING CANAL STREET, BANBURY

15/01326/OUT

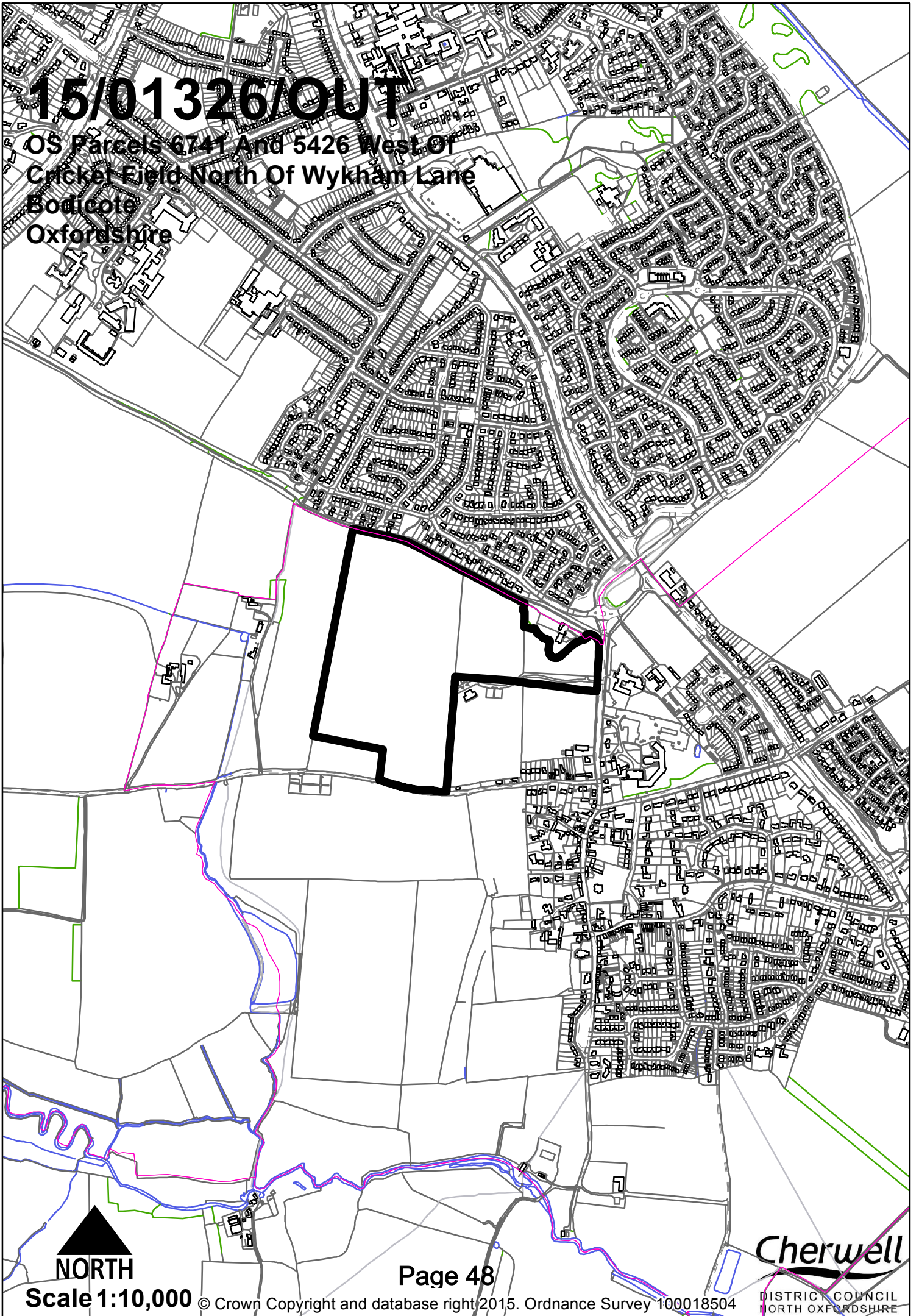
OS Parcels 6741 And 5426 West Of
Cricket Field North Of Wykham Lane
Bodicote
Oxfordshire



Scale 1:3,500

15/01326/OUT

OS Parcels 6741 And 5426 West Of
Cricket Field North Of Wykham Lane
Bodicote
Oxfordshire



Scale 1:10,000

Case Officer: Matthew Parry **Ward(s):** Adderbury, Bloxham And Bodicote

Applicant: Gladman Developments Ltd

Ward Member(s): Cllr M Bishop
Cllr C Heath
Cllr N Randall

Proposal: OUTLINE - Up to 280 dwellings (including 30% affordable housing), introduction of structural planting and landscaping, formal and informal public open space and play areas, surface water flood mitigation and attenuation, new priority junction arrangements to White Post Road, creation of section of spine road to link Bloxham Road with White Post Road as well as creation of 34 space car park and other associated ancillary works. All matters reserved except for access.

Committee Date: 19.05.2016 **Recommendation:** Approval subject to conditions and completion of a legal agreement

Reason for Committee Decision: Major Development

1. Application Site and Locality

- 1.1 The application site consists predominantly of an area of greenfield land to the south of the existing built-up edge of Banbury and to the northwest of Bodicote village. The site lies within the administrative area of Bodicote Parish. The majority of the site forms part of the countryside and is in arable use though the eastern section of the site adjacent to White Post Road is a recreation area and has more of a parkland character with a number of mature oak and beech trees though is sometimes used for sheep grazing. The application site also includes part of the Banbury Cricket Club site adjacent to White Post Road including the initial section of its access road and associated verges.
- 1.2 The site is comparatively flat though there are modest undulations within the site and it does fall slightly from the northwest (along the Salt Way) down to the southeast adjacent to Wykham Lane. This fall is characteristic of the modest rolling agricultural countryside found immediately to the south of Banbury.
- 1.3 The site is bound by established hedgerows along the majority of its boundaries and contains three hedgerows within the site running from its northern to southern boundaries. To the north, separated by a hedgerow of varying density, lies the historic trade route of Salt Way that is also a public right of way (a restricted byway). Beyond this lies the suburban 1970's era residential area known as the Timms' Estate. To the northeast is the Saltway House nursery with which the site has a dense landscaped boundary of hedgerows and trees. The eastern boundary is formed by a low hedgerow along White Post Road which connects Bodicote with Banbury. The access to Bishop Loveday Primary School lies directly opposite the site and the Cherwell District Council offices lie a little

further to the south. The site's southern boundary is jointly comprised of the Banbury Cricket Club grounds, Wykham Lane and Bodicote allotments. Beyond Wykham Lane to the south lies further undulating agricultural countryside interspersed by belts of trees and hedgerows. To the west of the site lies farmland that continues through to Bloxham Road in addition to associated farm houses and agricultural buildings.

- 1.4 In addition to the Salt Way restricted byway that passes along the northern boundary of the site, a public footpath bisects the site in a north-south alignment connecting Wykham Lane to Salt Way.
- 1.5 The application site is part of a wider parcel of land allocated in the recently adopted Cherwell Local Plan 2011-2031 Part 1 (LPP1) to which Policy Banbury 17 relates. This policy allocates a parcel of land between Bloxham Road and White Post Road for a residential-led urban extension to the south of Banbury (for up to 1,345 dwellings) to contribute towards meeting the identified housing needs of the District over the plan period. The application site comprises the eastern part of the land allocation which amounts to approximately 25% of the overall area of the allocated land. Somewhat unusually, due to a variety of different ownership interests in this land, the proposals on Banbury 17 have not come forward as part of one application as is typically the case but over three different sets of applications.
- 1.6 Land to the northwest corner of the allocated Banbury 17 site now has the benefit of full planning permission for 145 dwellings with both outline and reserved matters applications being approved on the site. Development is currently underway on what has now been called 'Victoria Park' by the developer Morris Homes and occupations are beginning to take place. Permission was granted on this part of Banbury 17 prior to the site being formally allocated in the adopted LPP1 but is still recognised in the policy.
- 1.7 The largest part of the allocated Banbury 17 land is the subject of a current planning application submitted on behalf of Gallagher Estates for up to 1,000 homes and associated infrastructure which is still undergoing consideration by officers and is likely to be brought before Committee for determination shortly. As a consequence, whilst this site and the wider Banbury 17 land are formed of predominately hedge-lined arable countryside, they sit within a strategic development context, the principle of which was approved by the Council in its adoption of LPP1.

2. Description of Proposed Development

- 2.1 The application seeks outline planning permission for up to 280 dwellings on the site with matters of scale, layout, appearance and landscaping reserved for later approval. As a result, only a limited number of plans and drawings have been submitted as part of the application with most of these illustrative. Access has not been reserved for later consideration and so access to and within the development (vehicular, cycle and pedestrian) is therefore a matter of detail to be determined as part of this outline application and the drawings provided in this respect are the final detailed proposals and should be considered as such. As part of this application Members should therefore be considering the impacts of all aspects of the proposals except matters directly related to the detailed design and layout of the scheme on the site.
- 2.2 In addition to the maximum of 280 dwellings, both formal recreation and play facilities as well as informal amenity areas are proposed in addition to surface water drainage features (attenuation ponds, swales etc) and new allotments adjacent to the existing Wykham Lane allotments. An entirely new access is proposed to the site from White Post Road which sees a new spine road proposed through the centre of the site on an east-west alignment which would then connect through to the existing four-arm roundabout in place of White

Post Road. In turn, White Post Road would take on a secondary form and meet the new spine road at a proposed priority junction just to the north of the existing vehicular access to Bishop Loveday Primary School.

- 2.3 The central spine road is then proposed to continue through to the western-most boundary of the site where it meets the Gallagher Estates application site. A 34 space car park is proposed close to the new junction between the spine road and White Post Road to provide a public car parking facility to replace on-street parking capacity lost as a result of creating the new access arrangement.
- 2.4 A replacement vehicular access to Banbury Cricket Club is proposed off the new spine road which would then quickly align with the remaining driveway to the clubhouse. A variety of new footpaths and a bridleway are also proposed within the site, some of which would link through to the Gallagher Estates land to the west.
- 2.5 A request for the Council to adopt a screening opinion was made in advance of the submission of the application. The Council concluded that the proposed development represented EIA development due to the potential for significant environmental effects arising from the development when considered cumulatively alongside other committed developments to the south of Banbury. An Environmental Statement (ES) has been duly submitted by the applicant and needs to be considered as part of assessing the proposals.

3. Relevant Planning History on the Allocated Banbury 17 Land

Land South Of Salt Way at Crouch Farm, Bloxham Road, Banbury (Victoria Park):

12/00080/OUT - OUTLINE - Residential development of up to 145 dwellings with associated access. **Refused 25.06.2012. Allowed on Appeal 23.09.2013**

14/01225/REM - Reserved matters application to Outline 12/00080/OUT - Appearance, Landscaping, Layout and Scale. **Approved 28.11.2014**

Land adjoining and South of Salt Way, Wykham Park Farm, Banbury (Gallagher Estates site):

13/00321/OUT - OUTLINE - 1000 dwellings together with a local centre including retail (A1), financial services (A2), restaurants (A3-A5), up to a combined total floorspace of 1000m², employment space (B1) up to a total floorspace of 5000m² with the B1(a) office component limited to a maximum of 2,500m², associated car parking, a community primary school (including space for community uses (D1) and assembly and leisure uses (D2)), green infrastructure including formal and informal open space, amenity space, retained hedgerows, structural landscaping, supporting infrastructure (including gas, electricity, sewerage, water, telecommunications), sustainable urban drainage systems, new connection to the A361 Bloxham Road, pedestrian and cycling connections to the surrounding footpath and cycle network and any necessary demolition and ground remodelling. **Undetermined by the Council. Appeal against Non-Determination Withdrawn 21.03.2014.**

14/01932/OUT - OUTLINE - Development of up to 1,000 dwellings together with a mixed use local centre. [including A1 retail up to 1,000 m², financial services (A2), restaurants, pubs and takeaways (A3, A4, A5), community uses (D1)]; primary school and safeguarded additional primary school land; secondary school playing field land; green infrastructure including formal (including playing fields) and informal open space, landscape and amenity space; changing and sports facilities (including D2); sustainable

drainage systems; highway, cycle and pedestrian routes; car parking; infrastructure (including utilities); engineering works including ground remodelling; demolition, site reclamation and removal of structures. Formation of a new roundabout access from the A361 together with associated alterations to alignment of Bloxham Road and provision of a section of spine road through the site up to its eastern-most boundary. **Pending Decision.**

Land west Of Cricket Field and north Of Wykham Lane, Bodicote (the application site):

15/00040/SO - Screening opinion - proposed outline application with means of access to be considered for residential development of up to 250 dwellings (use class C3), access, open space and associated infrastructure. **EIA Required 01.06.2015.**

4. Response to Publicity

4.1 The application as originally submitted was publicised by way of site notices, neighbour letters and a notice in the local press. 20 third party objections were received and the concerns raised are summarised as follows:

- The proposals would destroy the local landscape and harm wildlife;
- The proposals would have a significant negative impact on the pleasant wide open views of the countryside as experienced from neighbouring houses. There are so many homes being built in Banbury, Bodicote and Adderbury that the need for 280 more seems ludicrous;
- The proposals will significantly increase the levels of traffic using Wykham Lane which is already dangerous for vehicles and pedestrians including children attending Bishop Loveday Primary School;
- The proposals amount to the urban sprawl of Banbury that would destroy the character and setting of Bodicote;
- The additional traffic through Bodicote would harm its village character;
- The Council should not let the spine road 'wander about' at the developers' discretion – this is too important an issue and a consistent width and layout should be stipulated. This should be a 7.3m wide carriageway with 2.5m footways to either side;
- The green space associated with the recreation facilities should be provided adjacent to the Salt Way to reduce the perception of coalescence between Banbury and Bodicote;
- There is no need for this level of new housing given the amount of housing that has already been provided in Banbury, Bodicote and Adderbury;
- The access to the site is in a dangerous location opposite the school which will increase traffic movements and conflict to the detriment of child safety. There are already numerous near-misses, minor accidents and points of conflict as a result of drivers trying to progress through restrictions caused by parked cars on White Post Road;
- The spine road will inevitably become a 'rat run' for traffic trying to cross Banbury which will increase its use beyond that currently envisaged;
- Salt Way is a place of recreation and relaxation for pedestrians, joggers, dog walkers, horse riders and cyclists. The development would reduce it to little more than an alleyway and lose its rural feel due to lighting, noise and views of houses. Views from the Salt Way south over the countryside towards Bloxham would also be substantively lost. The new footpaths will not compensate for this as they would be surrounded by buildings rather than have the pleasant countryside setting/views that the Salt Way enjoys;
- The proposals would disturb badger setts and badger paths. Skylarks nest in the fields in spring. Swifts and bats are present in the area;
- There have been some instances of flooding in the fields at the south of the site adjacent to Wykham Lane;
- The spine road coming out onto an already gridlocked White Post Road makes no sense;

- The proposals are in Bodicote, not Banbury. The developer has misinformed local residents in its consultation leaflets by using an incorrect address for the site;
- Bodicote has become a dumping ground for new housing. No other village within the District seems to have to accommodate so many new homes;
- Bodicote should be protected from coalescence;
- Bodicote will not be able to retain its village status if this development goes ahead;
- No amount of hedges will disguise the new houses and the Salt Way will lose its status as a rural public right of way as well as its biodiversity interest;
- There have been numerous instances of people being injured along White Post Road in accidents between pedestrians and vehicles. This would only get worse as a result of the development.

4.2 Following receipt of amended plans and further information to support the proposals, the application was re-publicised in March 2016. In response, 404 objections were received (many of which were in the form of a signed letter template) and as such the issues raised by many of the objectors are identical. In addition to the concerns raised in response to the original consultation, the following points were made:

- The Council's procedure for consultation is predominantly electronically based. This means some residents are unable to view, access or even manage to find them and so will be unaware of the impact of the proposals;
- The proposals for the spine road would confuse the boundary between Banbury and Bodicote and further erode the distinct definition between the town and village;
- The new site access cuts through part of the land allocated in the Local Plan for new informal green space. This would reduce the green buffer between Banbury and Bodicote;
- Oxfordshire County Council's consultation response suggests that all accesses onto Wykham Lane shall be permanently stopped up – this would prevent access to the cemetery, allotments etc;
- White Post Road is subject to considerable traffic originating from Bishop Loveday Primary School and Cherwell District Council. There are numerous reports of near miss incidents from residents yet this is frequently ignored. This will only be exacerbated as a result of the intensification of traffic flows along White Post Road;
- The proposed cycle bypass has been positioned directly outside Bishop Loveday Primary School entrance/exit. This is dangerous as a cyclist could collide with a child entering/leaving the School;
- The proposed spine road removes a section of road currently used for parking and, whilst the 34 space car park now proposed is an improvement on the 26 originally proposed, it has not been assigned to anyone and cannot be policed. This could result in those spaces being used solely by school staff and council employees displacing school traffic further along Sycamore Drive, into Bodicote or on the spine road;
- The proposed spine road between the A361 and A4260 must not be viewed as an isolated road used just by residents who live on the new development. It is part of a much broader infrastructure plan and is included in OCC's Local Transport Plan 4 (LTP4). With other policies in LTP4 promoting use of Bankside and provision of a link road east of the M40 Junction 11, there is a real concern that existing town/motorway traffic will also be encouraged to use the spine road. Oxford Road is already very congested with no real understanding of how future developments could impact the roads in Bodicote;
- Policy Ban 1 in LTP4 will result in heavier traffic flows entering Bodicote. The proposed spine road sits between Salt Way Nursery and Bishop Loveday Primary School and any increase in traffic would undoubtedly affect child safety and have an adverse impact on air quality levels to the detriment of children's health;
- Increases in traffic through Bodicote will adversely affect the special character of its conservation area.

- 4.3 A further representation has been received from the landowners of a section of the Salt Way to the north of the application site. The landowners claim that they own the boundary between Salt Way and the application site which prevents new connections being created onto the Salt Way without their consent. As no such consent has been provided, it must be assumed that no new footpath/cycleway connections can be provided.
- 4.4 A letter has also been received from the Governors of Bishop Loveday Primary School. This raises a number of concerns about the proposals which are summarised as follows:
- White Post Road is exceptionally busy at school drop-off and pick-up times. Adding a further 280 houses in the vicinity will hundreds of new cars with the potential for many more to the roads in the area;
 - The new spine road will become a bypass for cars coming from the south of Banbury through to Bloxham Road increasing traffic movements past the school;
 - The school is concerned that adding the new development and the new spine will add further risks to its children, parents, staff and visitors;
 - The school has serious concerns about the safety of children from construction traffic whilst the development is being built and are seeking assurances that there would be appropriate strict controls on traffic movements at specific times;

5. Response to Consultation

Parish/Town Council:

In response to the original consultation:

Bodicote Parish Council – Objection.

- The last field of the site included in the application proposals is not included within the Banbury 17 allocation in the Local Plan. If this is included in the permission, ownership should be transferred to the Parish Council;
- White Post Road is not in Banbury but in Bodicote;
- The new spine road should not come out onto White Post Road. This would not provide a link for east-west local traffic but will become a 'rat run' for traffic coming off Oxford Road;
- It is totally inappropriate for the spine road to be access from White Post Road opposite the school. White Post Road is already gridlocked at school times and is often full of parked cars on both sides of the road;
- The spine road should connect directly to the existing roundabout rather than to White Post Road opposite the school;
- The spine road must be laid out in its entirety and not completed in a piecemeal fashion;
- The Environmental Statement concludes that the cumulative effect of the proposed development in conjunction with other committed developments will have no significant adverse impacts on the local highway network. This statement is "ridiculous";
- The proposals would be in conflict with the Council's planning policies that seek to enhance the beauty and diversity of the countryside;
- What is planned for the additional primary and secondary school children – this will adversely impact existing provision;
- Bodicote is a Category A settlement as defined in the Local Plan. No other developments should be approved other than minor residential and infill schemes. The entire development is proposed within Bodicote Parish;

In response to the re-consultation:

- Bodicote Parish Council continues to object to the proposals;

- The future of Bodicote as a village is very bleak;
- Bodicote is at risk of becoming part of Banbury which is contrary to Policy C15 of the Local Plan 1996;
- A full air quality assessment is needed to address the impact of the additional traffic travelling both ways on the new spine road as it could impact upon the health of children;
- The developers should provide a bus service along the spine road to alleviate some of the traffic problems;
- The developers need to provide an access road to the site for the contractors and their materials. This must not cause problems for the already congested White Post Road;
- Existing footpaths should be maintained and remain accessible during the period of the construction of the development as well as afterwards;
- A safety audit and transport assessment needs to be provided showing the impact of the development on the local transport network and highway safety;
- The green space to the south of the site is in Bodicote Parish and should stay with the Parish. The Parish is keen to adopt this land together with a proper commuted sum;
- There must be no access to/from Wykham Lane for the housing. This should be enshrined in any permission;
- The cycle lane crosses the exit from the school and could present a safety risk for children;
- Concerns raised about the junction between White Post Road and the new spine road – what provision will there be to prevent vehicles waiting a long time to get onto the spine road;
- The new car park is welcomed provided it is available for school dropping off and picking up. The car park should however be widened to introduce a separate entrance/exit to avoid chaos at peak school times. However, how will this car park be maintained?;
- The provision of a MUGA is something the Parish Council welcomes.

Cherwell District Council:

Community Services – A new community centre is required to serve the development somewhere on Banbury 17 which should be approximately 600sq m in floorspace. Funding is also required towards a community development worker and community events/projects. A financial contribution of £150/dwelling in addition to enabling fees are required towards public artwork on the site.

Planning Policy

Main Observations:

-The application site forms the eastern section of strategic allocation Banbury 17 as contained in the adopted Cherwell Local Plan. The eastern and western parts of the allocation are in separate ownerships.

-Policy Banbury 17 requires an integrated, co-ordinated and comprehensive planning approach to be taken, with a link road between the sites in separate ownership, and a masterplan to be prepared in consultation with the Council, Oxfordshire County Council, the Local Nature Partnership and local communities, to ensure that this is delivered.

-An Illustrative Framework Plan has been submitted as part of the application. It is understood that this has been prepared in consultation with the adjacent site promoters, and the same framework plan also now forms part of the pending outline application on the adjacent site. However it is not clear to what extent the current Indicative Framework

Plan has been the subject of wider consultation.

- The Illustrative Framework Plan indicates a spine road through the strategic allocation with the spine road connection between the two land ownerships to be made between specified coordinates.

- In terms of the framework plan as it applies to the application site, a number of elements are broadly in accordance with the requirements of Policy Banbury17.

Built development is focussed in the northern part of the site and does not intrude into the easternmost parcel indicated as public open space, the proposals include SUDs and an indicative route for a proposed bridleway along the southern boundary of the site and linking to Salt Way. The southern portion of the application site is also kept free from built development.

- The area of informal open space immediately to the north of the Bodicote Recreation Ground, intended to create a buffer between the development and Bodicote village, has been reduced by the indicative link road and junction arrangement with White Post Road and the proposed car park to serve Bishop Loveday Primary School. This will need careful consideration at the detailed stage and it should be ensured that the remaining area of open space is secured for such use. Policy Banbury 17 requires a route for an east-west link road for local traffic and it is understood that the arrangements now indicated as part of the application are the County Council's (as Highways Authority), preferred arrangements.

- The southern portion of the application site is indicated as a combination of an extension to the existing allotments, playing fields and amenity open space. This differs from Policy Banbury 17 which indicates this area as pitch provision to serve the allocation as a whole.

- It is noted that the Indicative Framework Plan indicates additional pitch provision in the western part of the allocation site outside of the application area. The spread of pitch provision may be less beneficial in operational and maintenance terms although the proposed location of playing fields in the adjoining site forming part of the allocation site are linked to the playing fields in this application by open space. The make-up of provision should be informed by the outcome of the Playing Pitch Strategy about to be undertaken.

- The framework plan alternative proposals for a combination of open space use in the southern part of the application site for the most part avoids built development in this most sensitive part of the site in terms of landscape impact. It is important to ensure that sufficient open space and recreation space in accordance with Policy BSC11 is secured, as at this stage the Illustrative Framework Plan indicates key components only.

- It should be ensured that an adequate buffer is provided between the development and Salt Way, in accordance with the requirements of Policy Banbury 17 (which suggests the buffer should be at least 20m wide).

- In view of the impact the development is likely to have on the character and setting of Salt Way, Policy Banbury 17 requires the provision of a new footpath bridleway running from east to west along the southern boundary of the development area, incorporating links with existing footpaths to form a new circular route linking back to Salt Way. The Indicative Framework Plan includes an indicative location for a proposed bridleway in accordance with this requirement. Strategic landscaping could be provided along the route of the new bridleway as it passes along the southern boundary of the site which would help to reduce the visual impact of the development from the south.

Recommendations:

The site forms part of a strategic allocation in the adopted Cherwell Local Plan Part 1 and the indicative quantum and distribution of development, provision of an integrated spine road and new bridleway and pedestrian cycle link linking with land in separate ownership to the west of the application site, general provision of open space and the avoidance of direct coalescence with Bodicote are broadly supported, being generally in accordance with Policy Banbury 17. However the issues raised under the observations

above should be taken into account as the proposals are progressed. Key components of the Illustrative Framework Plan and requirements of Policy Banbury 17 should be conditioned or secured through legal agreement as appropriate.

Ecologist - The submitted ecological appraisal for the application is fine with the appropriate aspects surveyed in appropriate depth. The field to the East bordering the road is not used for parking and recreation as stated however – it is currently used for sheep grazing, sometimes for horses and is probably more accurately described as pasture.

There are no major ecological issues on site. The most valuable features are the hedgerows, however breeding birds, badgers, reptiles and bats also need consideration.. Some of the species of open arable landscape (brown hare and farmland birds), which are also being lost adjacent, are largely dismissed as being necessarily displaced or mitigated through sub-optimal habitat provision. When considered in the context of neighbouring developments I would like to see greater effort to mitigate for the effects on these species, or where not possible, to compensate off site. Brown hares in particular are a Priority Species and as such we need to have regard for to their conservation.

In general the recommendations in the ecological report are appropriate. To retain the value of the hedgerows a wider buffer than the 2m suggested (this is anyway inconsistent with the 3m recommended later for retaining the hedgerow's value to and mitigating for reptiles). In hedgerows where there are trees a 5m buffer would be better to avoid root damage and in general more generous buffers to hedgerows would be better for wildlife. There are other indirect effects on wildlife using the hedgerows not assessed, such as an increase in domestic pets and dog walking, which a wider buffer would help ameliorate.

A scheme of biodiversity enhancements both within the proposed open space and the built environment (the ecological appraisal makes some appropriate suggestions for the built areas including green roofs and incorporation of bird and bat boxes into dwellings) should be conditioned. It should aim to show how a net gain will be achieved on site in line with National and Local policy. A CEMP should include measures for removal of any trees with bat potential, protection of the hedgerows and The Saltway and restrictions on lighting during construction. A lighting design scheme should be submitted which is in line with the Bat Conservation Trust guidelines and shows in terms of light spill how dark corridors will be maintained.

The following conditions are recommended to be imposed on any permission:

K12 Nesting Birds: No Works Between March and August Unless Agreed

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. Reason KR1

K14 Badgers: Mitigation Strategy

Prior to the commencement of the development hereby approved, including any demolition and any works of site clearance, a mitigation strategy for badgers, which shall include details of a recent survey (no older than six months), whether a development licence is required and the location and timing of the provision of any mitigation or protective fencing around setts/commuting routes, 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 KR1

K17 Biodiversity Enhancement

Prior to the commencement of the development hereby approved, including any demolition, and any works of site clearance, a method statement for enhancing biodiversity on site which includes assessment of net gain 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. Reason KR3

K20 Landscape and Ecological Management Plan (LEMP)

Prior to the commencement of the development hereby approved, a full Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the LEMP shall be carried out in accordance with the approved details. Reason KR2

K21 Construction Environmental Management Plans (CEMP) for Biodiversity

Prior to the commencement of the development hereby approved, including any demolition and any works of site clearance, a Construction Environmental Management Plan (CEMP), which shall include details of the measures to be taken to ensure that construction works do not adversely affect biodiversity, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved CEMP. Reason KR2

K23 Use of Native Species

All species used in the planting proposals associated with the development shall be native species of UK provenance. Reason KR3

Lighting

Prior to the commencement of the development hereby approved, a lighting design scheme shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, lighting shall be installed and operated in accordance with the approved details.

Reason KR2

Environmental Protection

Land Contamination:

The findings of the Phase 1 land contamination report are acceptable. The recommendations for further works to investigate and clarify the potential risk from land contamination are acceptable. As such, the following conditions should be applied to ensure these works are submitted to the LPA:

Land contamination: Intrusive Investigation

Prior to the commencement of the development hereby permitted, a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals shall be documented as a report undertaken by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place unless the Local Planning Authority has given its written approval that it is satisfied that the risk from contamination has been adequately characterised as required by this condition. Reason JR6

Land Contamination: Remediation Scheme

If contamination is found by undertaking the work carried out under condition [J13], prior to the commencement of the development hereby permitted, a scheme of remediation

and/or monitoring to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval of the scheme of remediation and/or monitoring required by this condition. Reason JR6

Land Contamination: Carry out Remediation

If remedial works have been identified in condition [J14], the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition [J14]. A verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority. Reason JR6

Land Contamination not Previously Found

If, during development, contamination not previously identified is found to be present at the site, no further development shall be carried out until full details of a remediation strategy detailing how the unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. Thereafter the remediation strategy shall be carried out in accordance with the approved details.

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

Air Quality:

Conditions are recommended to be applied to ensure air quality impacts from construction are mitigated and a low emission strategy is provided. The Peter Brett air quality assessment report (reference: 29541/001, dated July 2015) refers to construction impacts being adequately mitigated through condition. These fugitive emission controls should be included in a construction management plan, which should be required by condition.

The report has concluded there is an insignificant impact from road traffic generated from the operational site. The report refers to the inherent uncertainties in this prediction and has used predicted vehicle emission factors for the operational stage of the development. These emission factors assume a level of uptake of new vehicles and the associated improvements in vehicle emission technology which significantly improve over time. This is in line with a good practise approach but it is acknowledged that predicted improvements in air quality with vehicle technology haven't been realised so far. I'd like to see a scheme proposed that identifies and facilitates opportunities to encourage the adoption of new vehicle emission technologies as part of this development and its traffic generation. This could be in the form of a low emission strategy.

Arboriculture - The arboricultural assessment has evaluated the site well and is protecting high quality species. A tree constraints plan will be required by condition to ensure that the retained trees are well protected during construction.

Landscape Services – The current indicatively shown LAP/LEAP/NEAP provision is inadequate and does not accord with the requirements/thresholds in Policy BSC11 of the Local Plan. Financial contributions will be required towards ongoing maintenance of landscape features and play areas through a legal agreement. Initial concerns were raised regarding the adequacy of the landscape assessment that supported the application.

Following the receipt of further supporting information, the landscape impact of the proposals have now been appropriately assessed. The assessment states that the proposals will result in a significant change to the character of some views along the Salt Way to which I agree. There are only trees proposed to retain the feel of the Saltway and these are planted in a line. The growth rate of trees in year 1 is wildly optimistic. There will be very little screen in winter with a single line of trees. The houses should be set much further away from the saltway to enable trees and shrubs to be planted within the development site. In addition the hedgerow which at this point is more gap than hedge should be reinforced (the montages show mostly seasonal vegetation). Even at 10 years the trees will form little in the way of a barrier in winter. The houses are much closer to the saltway on this parcel than other parcels. There needs to be a well thought out strategy to mitigate the effects not just planting a line of trees.

Oxfordshire County Council:

Transport

Recommendation:

Objection

On the grounds that there is still no masterplan for the Banbury 17 Policy area, which means there is a risk of not being able to secure the spine road and adequate pedestrian/cycle links to the adjacent Gallagher Estates site.

Key issues:

- Banbury 17 Policy Area – Masterplan
- Contribution to Banbury Area Transport Strategy
- Public Transport / Access to bus stops
- Highways Specification Table
- Pedestrian connectivity
- Travel plan

Legal agreement required to secure:

Transport Strategy: cumulative impact of growth

- Contribution towards Banbury Area Transport Strategy, calculated on the basis of housing mix once known, towards improvements to the A4260 Upper Windsor Street/ A4260 Cherwell Street /Swan Close Road junction.

Banbury 17 Policy Infrastructure provision:

- Provision of spine road with appropriate triggers
- Provision of pedestrian and cycle routes leading from the site to adjacent existing and future built up areas, including across Salt Way

Off-site highway infrastructure: site access junction and associated pedestrian and cycle improvements in White Post Road.

Public Transport:

- a) A contribution to provide for new bus stop infrastructure (shelters, flagpole, information case) on Oxford Road for two bus stops £20,000.
- b) A contribution to provide for upgraded bus stop infrastructure (shelters, flagpole, information case) on White Post Road for two bus stops £20,000.
- c) Section 106 agreement to provide financial contribution to procuring the new bus service. Contribution towards public transport services of £1000 per dwelling, in line with

contributions from adjacent developments, to pump prime bus services serving the site totalling £280,000.

d) Arrangement to provide bus stop infrastructure within the site.

Conditions:

Design Code

A design code must be secured, in conjunction with a site Masterplan for Banbury 17. This will be needed to assist in assessing reserved matters for spine road and parcels. Exact wording to be agreed.

Spine road details

Suitable conditions are required to ensure the approval of the layout of the spine road prior to the approval of layout of adjacent development parcels, and to ensure its connection with the spine road through the rest of Banbury 17. To include bus stop positions. Wording to be agreed.

Pedestrian connections

Details of the pedestrian connection directly between the site and Salt Way to include improvement of a section of the existing public right of way to be submitted and approved, and thereafter delivered prior to an appropriate trigger. Wording to be agreed.

Footpath improvements

Details of improvements to existing Public Right of Way through the site to be approved and delivered. Wording to be agreed.

Access: Full Details

Prior to the commencement of the development hereby approved, full details of the means of vehicular, cycle and pedestrian access between the land and the highway, including, position, layout, construction, drainage and vision splays, and associated pedestrian and cycle improvements on White Post 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.

Reason DR1

Close Existing Accesses

Prior to the first use of the access hereby approved, the existing accesses onto Wykham Lane shall be permanently stopped up and shall not be used by any vehicular traffic whatsoever.

Reason DR1

Estate Accesses, Driveways and Turning Areas

Prior to the commencement of the development hereby approved, full specification details of the vehicular accesses, driveways and turning areas to serve the dwellings, which shall include construction, layout, surfacing and drainage, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the first occupation of any of the dwellings, the access, driveways and turning areas shall be constructed in accordance with the approved details.

Reason DR2

Cycle Parking Provision

Prior to the first use or occupation of the development hereby permitted, secure 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 secure cycle parking facilities shall be permanently retained and maintained for the parking of cycles in connection with the development.

Reason DR4

Travel Plan

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. The approved Travel Plan shall be implemented and operated in accordance with the approved details.

Reason DR4

Prior to the 140th occupation of the development an updated Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved updated Travel Plan shall be implemented and operated in accordance with the approved details.

Reason DR4 (to take into account the analysis of survey data from households)

Drainage

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
- Phasing

Protection of Existing Public Footpaths

Prior to the commencement of any part of the development hereby approved within 10m of the existing public footpath(s), the affected footpath(s) shall be protected and fenced to accommodate a width of a minimum of 5m in accordance with details to be firstly submitted to and approved in writing by the Local Planning Authority. Thereafter, the footpath(s) shall remain fenced and available for use throughout the construction phase in accordance with the approved details until a time that the diverted footpath(s) is/are available for use by the public in accordance with condition unless provision has been made for temporary closure under the Highways Act 1980.

Reason DR10

Informatives:

Please note the Advance Payments Code (APC), Sections 219 -225 of the Highways Act, is in force in the county to ensure financial security from the developer to off-set the frontage owners' liability for private street works, typically in the form of a cash deposit or bond. Should a developer wish for a street or estate to remain private then to secure exemption from the APC procedure a 'Private Road Agreement' must be entered into with the County Council to protect the interests of prospective frontage owners. For guidance and information on road adoptions etc. please contact the County's Road Agreements Team on 01865 815700 or email roadagreements@oxfordshire.gov.uk

Detailed comments:

Revised site access junction arrangements: These are considered broadly acceptable in line with the indicative drawing supplied 1361/22 Rev C. However, there are minor improvements recommended in the Safety Audit, which will need to be taken into account in the detailed design. Some small amendments to the cycle infrastructure proposals will be needed to ensure the safety of pedestrians, particularly around the school access. I

have some concerns about the convenience of use of the car park and consider that further thought needs to be given to the layout, especially given that there will be a high turnover of spaces and lots of manoeuvring – I am concerned that parents dropping off children will not want to use it, and that there is a possibility of traffic backing up onto the access road as a result of drivers being unable to enter the car park.

Highways Specification Table

With regard to document "24 2 16 Highways Specification Table.pdf" this document states Traffic Calming at 60m intervals – please confirm the type and style of proposed traffic calming.

The specification will need further detail added to it as part of developing the design code for the site, including radius of curvature, further detail regarding the amount and type of parking, and traffic calming. For the carriageway surfacing, OCC would require asphaltic concrete, not SMA. (This is our normal requirement).

Banbury 17 Policy Area – Masterplan

The Local Plan Banbury 17 Policy stipulates that there must be a site wide masterplan. The Banbury 17 policy area has come forward through three separate planning applications: it is a policy requirement that each provides and is accompanied by a joint Banbury 17 wide masterplan. As yet a Banbury 17 masterplan has not been submitted with any of the applications. Therefore the application is not compliant with Banbury 17 policy.

I note that the TA still refers to the Cherwell Local Plan as 'emerging'. Now that it is adopted I would have expected reference to this, as well as more detailed reference to Banbury 17 Policy requirements.

Congestion on the network and contribution to Banbury Area Transport Strategy

It is recognised that the all peak hour trips add to the Banbury transport network.

I am still concerned about a significant impact in terms of the increase in queue lengths and delay at some junctions. At OCC's request the revised TA additionally includes assessment of the junction of Oxford Road/Farmfield Road, and Swan Close Road/Bankside/Hightown Road. (Concorde Ave/Cherwell Drive was also requested but the increase in traffic at the junction caused by the development has been shown to be low enough for the junction not to require assessment.)

I disagree with the TA's assertion that the proposed development does not lead to a material traffic impact at Junction 16. Although the junction is at a high Degree of Saturation in the 2025 base scenario, the addition of the development traffic takes it close to 100% saturation (98.5%) and adds 12 vehicles (almost doubling) to the queue on Oxford Road north Left/Ahead.

A contribution toward the Banbury Area Transport Strategy is required to mitigate the cumulative impact of planned growth by funding transport infrastructure and services which cannot be attributed to a single development, but which will benefit trips from this proposed development.

The Cherwell Planning Obligations Draft Supplementary Planning Document (July 2011) provides a contribution rate towards general transport and access impacts.

Once a housing mix is provided the following will be used to calculate the contribution toward the Banbury Area Transport Strategy:

The Transport Infrastructure means the formula Matrix"

$£(A \times 442) + (B \times 638) + (C \times 994) + (D \times 1,336)$

When

A means the number of 1 Bedroomed Units

B means the number of 2 Bedroomed Units

C means the number of 3 Bedroomed Units

D means the number of 4 Bedroomed Units

Direct mitigation schemes, including public transport, are additional to the contribution to the Banbury Area Transport Strategy.

Contributions will be specified towards a specific scheme/s within the Banbury Area Strategy of Connecting Oxfordshire: Local Transport Plan 2031.

A contribution toward the Banbury Area Transport Strategy is required to mitigate the cumulative impact of planned growth by funding transport infrastructure which cannot be attributed to a single development, but which will benefit trips from this proposed development. Using the CDC Planning Obligations matrix funds are sought towards improvements to the A4260 Upper Windsor Street/ A4260 Cherwell Street /Swan Close Road junction. This junction is shown to be worsening in the Transport Assessment provided with the application, and has been identified within LTP4 within policy BAN1 as part of the Bridge Street/ Cherwell Street eastern corridor improvements.

Access to bus routes – bus stops

Over the next 10 years there will be significant changes and opportunities to the existing bus network in the area to the south of Banbury. To realise the NPPF guidance “to make the fullest possible use of public transport,” it is essential the development delivers access to the range of routes:

1. **Strategic Inter-urban route from Banbury to Oxford** runs along the Oxford Road within walking distance of the site. This is a commercially operated bus route, however there are no bus stops located close to the development site, both northbound and southbound bus stops are required for trips arising from the development site to access the bus service. A contribution is sought of £10,000 per bus stop, totalling £20,000k, towards bus stop pole and flag, shelter and a commuted sum for maintenance.

2. **Local town service.** Cuts to subsidised bus services (February 2016) will alter the existing bus services in Banbury. However, there is significant opportunity arising from the Longford Park development to serve Bodicote village and potentially White Post Road fronting the site with a local bus service. This is particularly important in the period from dwellings being occupied on site but before the Saltway spine road is open. It is noted that drawing 1361/22/C “Proposed Access Arrangement” does not show any bus stop locations. It is proposed the existing bus stops on White Post Road are upgraded to include bus stop pole and flag, shelter and a commuted sum for maintenance, contribution is sought of £10,000 per bus stop, totalling £20,000k.

3. **Bus Service serving the Saltway Spine Road** – bus stops will need to be provided within the development to access the new bus route that will travel through the Saltway development site when the spine road is open. Bus stops locations should be identified at the earliest opportunity and included in the reserve matters applications for the spine road. Based on the length of spin3 road within the development site two pairs of bus stops (and associated infrastructure) will be required.

Pedestrian links across Salt Way

Pedestrian linkage across Salt Way must be secured in order for this development to be acceptable. I note that the links have been reduced to one, at the Public Right of Way. The walking isochrones in Figure 3 must assume that this connection is provided – without this connection walking distances would be significantly increased. However, clarification on the assumed connections should be provided since it is unclear how the revised isochrones have been produced.

It should be noted that the B1 route is unlikely to continue after July 2016 – therefore this reduces the number of stops within suitable walking distance.

Revised Travel Plan

A revised travel plan has been submitted but it does not seem to take into account our previous comments which included a commitment to survey and update the travel plan once the 140th dwelling had been occupied and a number of other suggestions.

Drainage Officers – No objection subject to the following condition:

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
- Phasing

Archaeology – No objection. The site has been the subject of an archaeological geophysical survey and trenched evaluation which recorded a range of deposits dating from the Bronze Age through to the Iron Age. The evaluation phase recorded boundary ditches, enclosures pits and roundhouses dating to the Iron Age as well as a possible Bronze Age barrow. Further archaeological investigation will be required ahead of the development of the site and a condition requiring a staged programme of archaeological investigation will be required on and subsequent planning application. 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. This can be ensured through the attachment of a suitable negative condition as suggested above.

The following conditions should be imposed:

Prior to any demolition on the site, the commencement of the development and any archaeological investigation, a professional archaeological organisation acceptable to the Local Planning Authority shall prepare a first stage archaeological Written Scheme of Investigation, relating to the application area, which shall be submitted to and approved in writing by the Local Planning Authority.

Reason - To safeguard the recording and inspection of matters of archaeological importance on the site in accordance with Policy BE6 of the South East Plan 2009 and Government guidance contained within the National Planning Policy Framework.

Prior to any demolition on the site (other than in accordance with the agreed Written Scheme of Investigation) and prior to the commencement of the development and following the approval of the first stage Written Scheme of Investigation referred to in condition [F6], a programme of archaeological evaluation, investigation and recording of the application area shall be carried out by the commissioned archaeological organisation in accordance with the approved first stage Written Scheme of Investigation.

Reason - In order to determine the extent, character and significance of the surviving remains of archaeological interest and to safeguard the recording and inspection of matters of archaeological importance on the site in accordance with Policy BE6 of the

South East Plan 2009 and Government guidance contained within the National Planning Policy Framework.

Education - No objection subject to conditions

Key issues:

Based on the information currently available, this proposed development has been estimated to generate 107 primary pupils, 85 secondary pupils (including 11 sixth formers) and 2.1 pupils requiring education at an SEN school.

Primary education

□ £2,272,466 Section 106 required towards the cost of the new primary school planned for the South of Salt Way development.

Secondary education

□ £1,642,609 Section 106 required for the necessary expansion of permanent secondary school capacity serving the area, at Blessed George Napier School.

Special Educational Needs (SEN) education

□ £73,781 Section 106 required for the necessary expansion of permanent SEN school capacity serving the area, at Frank Wise School.

Legal agreement required to secure:

£2,272,466 Section 106 developer contributions towards the cost of the new primary school planned for the South of Salt way development, based on 107 pupil places directly related to this development. This is based on the pro rata cost of building a new 2.5 form entry primary school, which the county council's property consultants have calculated as £21,238 per pupil, or £11,150,000 in total. This is to be index linked from 4th Quarter 2014 using PUBSEC Tender Price Index.

Contribution towards the additional primary school land required to enable the planned South of Salt Way Primary School to accommodate the pupils generated by this development.

£1,642,609 Section 106 developer contributions towards the expansion of Blessed George Napier School by a total of 85 pupil places (including 11 sixth form places). This is based on Department for Education (DfE) advice for secondary school extension weighted for Oxfordshire and including an allowance for ICT and sprinklers at £19,158 per pupil place and £20,447 per Sixth Form pupil place. This is to be index linked from 4th Quarter 2014 using PUBSEC Tender Price Index.

Contribution towards the secondary school land required to enable Blessed George Napier Secondary School to expand. £73,781 Section 106 developer contributions towards Frank Wise (SEN) School, based on projected pupil generation of 2.1 pupils. This is to be index linked from 4th Quarter 2014 using PUBSEC Tender Price Index. The cost of expanding SEN schools has been assessed as £35,134 per pupil place.

Conditions:

Planning permission to be dependent on a satisfactory agreement to secure the resources required for the necessary expansion of education provision. This is in order for Oxfordshire County Council to meet its statutory duty to ensure sufficient pupil places for all children of statutory school age.

Informatives:

This site forms the eastern section of the strategic site allocation Banbury 17 within the Cherwell Local Plan. The Local Plan policy BAN 17 requires a master plan for the wider Banbury 17 site to be produced.

General

The contributions requested have been calculated using details of the expected development mix. As the planning application is an outline proposal and in recognition that the delivered scheme may differ from that so far assumed and assessed the council provides & requires a matrix mechanism for inclusion within the S106 agreement. The matrix sets out the contributions payable per 1, 2, 3 & 4+ bedroomed dwelling built.

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.

Detailed comments:

Primary Education

The scale of the proposed south of Salt Way developments (Ban 16 & Ban 17), and the lack of surplus places in existing primary schools in the area, requires that south of Salt Way (Ban 16 & Ban 17) provides a new primary school of an appropriate size. The school site is planned to form part of the separate application for the largest section (14/01932/OUT) of this development area (Ban 17). The expected pupil generation from the school site host development and the permitted application for up to 350 dwellings on the Banbury 16 strategic site allocation (planning application ref 14/01188/OUT) would create the need for a 2FE primary school, the land requirement for which is 2.22ha. To mitigate the impact of the additional pupils expected to be generated from this development (15/01326/OUT) would require an increased capacity school of 2.5FE size, which in turn would require a larger site of 3.01ha. The Primary Education Infrastructure Contribution has been calculated based on the expected pupil generation from this development and the cost per pupil place of delivering a 2.5FE school.

This development is also required to contribute towards the cost of securing the additional land required to mitigate the impact of this development. This equates to 0.79 hectares. Further discussion is needed with the host developer as to the value of this land. The County Council considers £375,000 per hectare to be appropriate.

Secondary Education

For secondary education, it has been identified that the existing schools in Banbury will need to expand to meet the rising pupil numbers already in the town's primary schools. The schools jointly offer 502 places per year group currently. For 2014 transfer, there was a shortage of places, and some children had to be offered places at schools outside the area. Expansion of secondary school places is therefore necessary to meet the needs of the existing population, and further additional capacity will be needed to meet the needs of housing development, and make it acceptable in planning terms.

The current combined admission numbers will be insufficient to meet demand from 2016 onwards. Increased capacity is planned in the first instance through expansions of existing schools. Although the scale of housing growth in the town, including that proposed in the Adopted Cherwell Local Plan, is expected to require a new secondary education establishment in addition, there is not yet a confirmed project for the new school, and therefore contributions from this development are sought towards the programme of expansion of existing schools.

This proposed development will be required to contribute towards this increase in secondary education capacity in two ways:

- £1,642,609 Section 106 developer contributions towards the expansion of Blessed George Napier Secondary School capacity by a total of 85 pupil places (including 11 6th-form places). This is based on Department for Education (DfE) advice for secondary school extension weighted for Oxfordshire and including an allowance for ICT and sprinklers at £19,158 per pupil place and £20,447 per Sixth Form pupil place. This is to be index linked from 4th Quarter 2014 using PUBSEC Tender Price Index.

□ As referenced in the Adopted Cherwell Local Plan Policy Banbury 17 land for secondary education purposes need to be reserved from this allocation. To allow Blessed George Napier to expand to a capacity of 1,200 places (an additional 353 places) a total of 1.855 ha of playing field land is required to be reserved on the 14/01932/OUT application area. This development (15/01326/OUT) is required to contribute towards the secondary school land required to enable Blessed George Napier Secondary School to expand in line with its pupil generation. This equates to 0.45 ha $((1.855/353) \times 85)$. Further discussion is needed with the secondary school expansion land host developer as to the value of this land. The County Council considers £375,000 per hectare to be appropriate.

Special Educational Needs

There is an insufficiency of capacity for SEN provision across Oxfordshire and within Banbury itself to meet the needs of the growing population. Demands arising from further residential development will need to be addressed. SEN contributions will be used on establishments serving, and thus directly related to, the area of the development. For Banbury developments, the nearest such establishment is Frank Wise School (in Banbury) where the council is delivering a £1.8m project to replace 24 places currently provided in temporary classrooms as well as provide 8 additional places for growth. Grant funding of £963k has been secured towards this project, leaving a balance of £837k for the county council to fund from S106 and other sources. Given the scale of growth proposed in the Adopted Cherwell Local Plan, further expansion of the school beyond that currently planned is expected in the longer term.

Section 106 developer contributions towards the expansion of permanent Special Educational Needs school capacity are calculated in line with the expected increase in SEN pupil numbers, based on 1.11% of school pupils attending SEN schools. The figure of 1.11% is derived from pupil census data on pupils attending Oxfordshire mainstream and SEN schools. This is to be index linked from 4th Quarter 2014 using PUBSEC Tender Price Index. The cost of expanding SEN schools has been assessed as £35,134 per pupil place.

Property Services – A variety of impacts on public infrastructure cannot be mitigated due to the impact of pooling restrictions on planning obligations within the CIL Regulations 2010. No objection subject to a condition requiring prior approval and provision of fire hydrants in the development.

Other External Consultees:

Environment Agency – No longer a statutory requirement to consult on this type of application. Consulted by the Council but no response received.

Natural England – No objection. No impact likely on any statutorily protected sites. Impact on statutorily protected species to be assessed by Council's own ecologist.

Thames Water

Waste Comments- Following initial investigation, Thames Water has identified an inability of the existing waste water infrastructure to accommodate the needs of this application. Should the Local Planning Authority look to approve the application, Thames Water would like the following 'Grampian Style' condition imposed. "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". Reason - The development may lead to sewage flooding; to ensure that

sufficient capacity is made available to cope with the new development; and in order to avoid adverse environmental impact upon the community. Should the Local Planning Authority consider the above recommendation is inappropriate or are unable to include it in the decision notice, it is important that the Local Planning Authority liaises with Thames Water Development Control Department (telephone 0203 577 9998) prior to the Planning Application approval.

Surface Water Drainage Comments - 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. Reason - to ensure that the surface water discharge from the site shall not be detrimental to the existing sewerage system.

Water Comments - The existing water supply infrastructure has insufficient capacity to meet the additional demands for the proposed development. Thames Water therefore recommend the following condition be imposed: Development should not be commenced until: Impact studies of the existing water supply infrastructure have been submitted to, and approved in writing by, the local planning authority (in consultation with Thames Water). The studies should determine the magnitude of any new additional capacity required in the system and a suitable connection point. Reason: To ensure that the water supply infrastructure has sufficient capacity to cope with the/this additional demand.

Supplementary Comments: Detailed discussions about the design and funding of the offsite drainage infrastructure to serve this development are still ongoing with the developer and Thames Water. Additional foul flows arising from this development are likely to lead to sewer flooding of properties without an off-site drainage solution being put in place. We consider that the Foul Drainage Analysis dated August 2015 submitted as part of the reserved matters application does not address this issue. The drainage report needs to include the details of the offsite drainage measures to avoid the risk of sewer flooding to existing residents caused by the additional flows from the development.

Sport England – No objection. The proposals would not materially reduce the amount of usable playing field land available and, subject to securing suitable provision of new on-site recreation facilities through a planning obligation to mitigate the impact of the new population, no objection is raised.

5. Relevant National and Local Planning Policy and Guidance

5.1 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. Planning legislation requires planning decisions to be made in accordance with the Development Plan unless material planning considerations indicate otherwise. The relevant planning policies of Cherwell District's statutory Development Plan are set out below:

Cherwell Local Plan 2011 - 2031 Part 1

BSC1 – District Wide Housing Distribution
BSC2 – Efficient and Effective Use of Land
BSC3 – Affordable Housing
BSC4 – Housing Mix
BSC7 – Meeting Education Needs
BSC9 – Public Services and Utilities
BSC10 – Open Space, Outdoor Sport and Recreation Provision
BSC11 – Local Standards of Provision – Outdoor Recreation
BSC12 – Indoor Sport, Recreation and Community Facilities
SLE4 – Improved Transport and Connections
ESD1 – Mitigating and Adapting to Climate Change
ESD2 – Energy Hierarchy and Allowable Solutions
ESD3 – Sustainable Construction
ESD4 – Decentralised Energy Systems
ESD5 – Renewable Energy
ESD6 – Sustainable Flood Risk Management
ESD7 – Sustainable Drainage Systems
ESD8 – Water Resource
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
ESD17 – Green Infrastructure
Banbury 17 – South of Salt Way – East

Cherwell Local Plan 1996 (Saved Policies)

C8 – Sporadic Development in the Open Countryside
C15 – Coalescence of Settlements
C28 – Design of New Development
C30 – Residential Amenity

5.2 Other Material Planning Considerations:

National Planning Policy Framework (NPPF) - National Planning Policy Framework sets out the Government's planning policies for England and how these are expected to be applied.

Planning Practice Guidance (PPG) – This sets out regularly updated guidance from central Government to provide assistance in interpreting national planning policy and relevant legislation.

Draft Banbury Masterplan – Awaiting approval by Executive but, in any event, of limited direct relevance to these proposals.

Cherwell District Council's Home Extensions and Alterations Design Guide – Principally of relevance to householder applications but is material in that it sets out appropriate residential amenity standards that are applicable to new developments too.

6. Appraisal

6.1 Officers' consider the following matters to be relevant to the determination of this application:

- Principle of Development;
- Access and Transport Impacts;
- Landscape, Visual Impact and Coalescence;
- Impact on Heritage Assets;
- Housing Mix/Affordable Housing;
- Open Space and Recreation;
- Biodiversity;
- Trees and Landscaping;
- Effect on Neighbouring Properties
- Flood Risk;
- Sustainability and Energy Efficiency;
- Impact on Public/Community Infrastructure;
- Planning Obligations.

Principle of Development

- 6.2 Planning legislation requires proposals that accord with the development plan for an area to be approved unless material considerations indicate otherwise. The development plan for Cherwell District now principally comprises of the Cherwell Local Plan 2011-2031 Part 1 (LPP1). LPP1 sets out the strategy for sustainable growth within the District over the plan period in a manner consistent with Government guidance. It is therefore a development plan document that is up-to-date and sound. Furthermore, as a 5+ year supply of housing is projected to be delivered across the District to meet identified need, the housing supply policies within LPP1 can be afforded full weight.
- 6.3 In order to meet the identified housing needs of the District up to 2031, LPP1 incorporates a strategy to principally concentrate housing growth in and around the District's largest two settlements – Banbury and Bicester. These towns are considered the most sustainable to accommodate the new housing due to proximity to services, amenities, employment and public transport links. As part of this strategy, a number of significant sites have been allocated on the edge of Banbury in LPP1 of which Banbury 17 is one. Together with Banbury 16, these provide for a significant new urban extension to the south of Banbury onto existing greenfield land.
- 6.4 The site allocated as Banbury 17 is more complicated than many other allocated sites in LPP1 as it has multiple ownership interests and has come forward as part of three planning applications. The first, in the northwest corner of Banbury 17 (at the corner between Bloxham Road and the Salt Way), has been approved and development is now underway. This was a speculative submission without development plan support and was refused though ultimately allowed at appeal by the Secretary of State. The remaining part of Banbury 17 has come forward as two applications which are both pending determination. This application relates to the smaller eastern part of Banbury 17 adjacent to White Post Road. The site area broadly accords with the boundaries of the land allocation although an element of the new access and spine road is located within an area of land shown on the LPP1 Policies Map as informal green space. It should be noted that Policy Banbury 17 requires an integrated, coordinated and comprehensive approach between the individual Banbury 17 sites despite the fact that they are in separate ownerships. Accordingly the policy requires a comprehensive masterplan to be submitted for the whole of the allocated site. Oxfordshire County Council (OCC) has raised concern about the lack of the submission of a comprehensive masterplan for the site though as part of the amended/updated information an illustrative framework plan has been submitted by both applicants of the Banbury 17 sites and officers consider this to provide a sufficient basis on which to consider the applications.

- 6.5 Officers consider Policy Banbury 17 to be material to the consideration of the proposals and the policy of primary relevance against which these proposals should be assessed. The policy provides for a total of 1,345 homes across Banbury 17 which corresponds to approximately 1,200 across the application site and the adjoining Gallagher Estates site. The provision of up to 280 dwellings on the northern half of the application site equates to a density of approximately 33 dwellings/hectare on the proposed net developable area of the site which officers are satisfied strikes an acceptable balance between efficiency of land use and ensuring that it can be comfortably delivered on the site within the parameters set out by Policy Banbury 17. The areas shown for built development on the illustrative framework plan correspond with that shown in the Policies Map for Banbury 17 and indicates that the southern half of the site will feature associated outdoor sport, recreation and amenity areas in accordance with the objectives of the policy to reduce impact on the surrounding landscape by creating a 'soft' approach to the new urban edge. A buffer of approximately 20m to the Salt Way is also indicated in line with other requirements of Policy Banbury 17.
- 6.6 The policy includes a number of other requirements including the need to mitigate the impact of the development on public infrastructure by providing new/additional education facilities on the site including a primary school and secondary school playing field land as well as a new community centre. It is a key requirement of the policy to make timely provision for a new spine road through the site linking the A4260 with the A361 to ensure that the site can be properly served by a bus and so that traffic movements associated with new residents do not give rise to unacceptable traffic increases on surrounding roads. The indicative framework plan shows the approximate position and alignment of the spine road together with associated detailed proposals for a new vehicular access arrangement.
- 6.7 As the application site is considerably the smaller of the two application sites that comprise the remainder of Banbury 17 and is less suitably located to provide the larger infrastructure elements necessary to fulfil the policy requirements, officers consider it reasonable in principle that the primary school, secondary school land, local centre and community facility are all left to be provided on the larger Gallagher Estates site. Indeed the current Gallagher Estates application on this land commits to providing this infrastructure.
- 6.8 As discussed previously and as raised by a number of objectors, the proposed spine road and new vehicular access does pass through part of the Banbury 17 site that is shown in the Policies Map as being allocated as a green space. The Policies Map however makes no allowance for the need to provide a new vehicular access from White Post Road as required by Policy Banbury 17 in order to create a central spine road. As such, in this respect the Policies Map is not wholly consistent with the wording contained in Policy Banbury 17 and there is simply no alternative but for the new vehicular access to be provided on part of the allocated green space. With this in mind, officers are satisfied that the amount, location and type of development proposed on the site is in accordance with the provisions of Policy Banbury 17 such that the principle of residential development on this part of the Banbury 17 site is acceptable and in accordance with the development plan. As a consequence, the principle of residential development on the site is established and it is now the detail of the proposals that are for consideration as part of this application.

Access and Transport Impacts

- 6.9 Policy Banbury 17 requires development on the allocated site to be served with the principal access created off the A361 but with provision of a route for an east-west link through the site to join White Post Road. The policy goes on to require early delivery of the link road along with associated junctions which should be designed to be suitable for the provision of a bus service through the site. In addition to matters of vehicular access,

Policy Banbury 17 also requires the development to provide a linked network of cycle ways and footpaths in a layout that maximises walkable neighbourhoods and integrates successfully with existing development.

- 6.10 Policy Banbury 17 has requirements that are consistent with national planning policy set out in the NPPF given that it was found sound at examination which includes an assessment of compliance with Government guidance. The NPPF states that planning decisions should take account of whether the opportunities for sustainable transport have been incorporated within a development, whether safe and suitable access to a site can be achieved for all people and whether improvements can be undertaken to the transport network that limit the significant adverse transport impacts of the development. Policy SLE4 of LPP1 is also material in that it requires new development within the District to mitigate the transport impacts of development and facilitate the fullest possible use of public transport, walking and cycling. In reflection of national policy in the NPPF, it also states that development proposals will not be supported where they would have severe traffic impacts that cannot be properly mitigated. It is against this national and local planning policy context that the proposals should be considered with respect to access and transport impacts. The application has been accompanied by a Transport Assessment (TA) as required by Policy Banbury 17 that addresses the transport implications of this development cumulatively with wider development on Banbury 17 and other committed/allocated sites which officers consider to be a robust approach.
- 6.11 As described previously, the proposals make provision for a significant change to the existing road network. The original proposals for the new spine road to connect direct to White Post Road via a priority junction were not supported by Oxfordshire County Council (OCC) as Local Highway Authority (LHA) on the basis that they were not the optimum means by which to ensure an appropriate balance between traffic flows on the spine road and White Post Road and, furthermore, did not deliver suitable provision for access to and from the site by cyclists and pedestrians. Through consultation with the LHA, further traffic modelling work was undertaken that considered the total projected vehicle movements arising from the whole of Banbury 17. In response, the proposals were subsequently amended so the spine road became the primary road connecting to/from the existing A4260 roundabout with White Post Road instead forming a minor arm with a priority junction onto it. Traffic flows along the spine road would therefore have priority with traffic on White Post Road having to enter onto it. This would require significant works to the highway by the developer, at the developer's expense, following separate technical approval of the works by OCC.
- 6.12 As already discussed, it is essential to consider these proposals against the requirements of Policy Banbury 17 as a whole and not just the impacts of these proposals alone. It is therefore fundamental to the acceptability of this application that it in no way prejudices the overall deliverability of successful development on the wider site in accordance with the allocation policy. To this end the proposed development must not only be provided with suitable access arrangements to serve itself but must also facilitate and contribute towards appropriate development coming forward in a timely manner across the whole of Banbury 17. Consequently, whilst Members should consider the individual merits of these applications proposals, in all respects including particularly transport matters, Members should be cognisant of the wider provisions of Policy Banbury 17 and its strategic importance within the development plan.
- 6.13 As a consequence of the requirements of Policy Banbury 17, a spine road is required to be provided through the site that connects, in an appropriate manner, with the remainder of the Banbury 17 land to the west. It is therefore essential that any access from the application site out towards Oxford Road is suitable to serve the whole of the development allocated by Policy Banbury 17 and not just the 280 dwellings currently proposed in this

application. However, as set out in the allocation policy, the spine road is needed to serve local traffic associated with the development and immediate surroundings rather than have a more strategic function notwithstanding some of the concerns raised by third parties in response to consultation. To this end the LHA has been involved from the outset in prescribing the specification of the spine road and the timescales in which it is needed to adequately prevent significant adverse impacts on the wider local highway network.

- 6.14 It has therefore been necessary to strike an appropriate balance between creating a spine road capable of adequately serving a bus whilst being attractive only to local traffic. In discussion with LHA officers, the applicant has proposed a carriageway width of 6.75m designed for a speed limit of 30mph which officers consider to be suitable based on advice from highway officers. A combined footway/cycle lane on one side of 3m wide and a footway of 2m on the other together with grassed verges on each side of at least 1m wide give a total spine road corridor of a minimum of 13.75m wide. The proposed detailed access arrangement is in accordance with this specification and this is then indicatively shown throughout the Banbury 17 site. The Gallagher Estates application that is currently undergoing consideration is similarly proposing this specification of spine road. Full details of the spine road and its alignment have not been provided at this stage and would follow as a reserved matter however officers consider it essential that the full details of this road are provided and approved before any other detailed design and layout submissions for the development are made to ensure the later details are fully consistent with the design objectives of the spine road. This relates to matters such as its alignment, junctions, crossings, traffic calming, parking bays and street lighting. Officers are also recommending that the full specification of the spine road together with precise details of its point of connection between the application site and the adjoining Gallagher Estates site are established within a legal agreement before planning permission is granted to ensure that there is no opportunity to deviate from this at a later date. Both Gladman Developments and Gallagher Estates (the two applicants) have put forward an agreed point of connection and officers will need to consider the precise suitability of this as part of completing the legal agreement process. If the Gallagher Estates application is later recommended for approval by officers, a similar clause would be needed in a legal agreement associated with that application to ensure the two are consistent with each other.
- 6.15 Policy Banbury 17 requires early delivery of the spine road both to ensure that the site can be served by a bus at the earliest opportunity and to prevent traffic associated with the development using Wykham Lane, Sycamore Drive or roads within Banbury that in many cases are already operating above capacity to reach either the A361 and A4260. However, a balance does need to be struck between ensuring reasonable viability of the development and the need to mitigate transport impacts. Officers consider the deliverability of the spine road to be fundamental to the acceptability of proposals on Banbury 17. However in officers' view, based on advice from the LHA and evidence in the supporting TA, in terms of sheer traffic flows alone on the local road network these application proposals do not necessitate the early delivery of the spine road in order to be acceptable purely in highway terms. Indeed in officers' view the spine road to serve these proposals alone does not become necessary until later in the development build-out programme and in any event is principally required to mitigate the transport impact of development on the wider Banbury 17 site. As a consequence, officers are satisfied that appropriate triggers to complete the spine road to the western boundary of the application site are needed as much to give clarity and certainty to the successful deliverability of Banbury 17 overall as to mitigate the individual highway impacts of development on this part of the Banbury 17 site. Officers are therefore recommending a number of triggers to be included in a legal agreement as well as by condition to ensure that the spine road is completed on the application site prior to whichever occurs the earliest of the following: 75% occupation of dwellings on the application site; 4 years from commencement of

development; or the first opening of the primary school on the Banbury 17 site. Taking such an approach provides further support for the early approval of the spine road detail (as discussed in the above paragraph) to ensure that in the event the Council is required to take injunctive action due to a breach of one of the aforementioned triggers, the full laying out of the spine road could be enforced as it would have already been approved prior to any development taking place on the site. A different but related approach with respect to triggers is likely to be necessary on the application by Gallagher Estates which will be the subject of a separate committee report and recommendation.

- 6.16 It is inevitable that the proposed development would increase the overall number of vehicular traffic movements on the highway network simply due to the additional population that it would generate. Significant local concern has been raised about the potential impact of these additional trips on the roads around Bodicote. Without mitigation in the form of improvements to the existing road network, the development is considered likely to have a significant adverse effect on the local highway network based on advice from the LHA. A financial contribution toward the Banbury Area Transport Strategy is therefore required to be secured through a legal agreement to mitigate the cumulative impact of planned growth by funding transport infrastructure and services which cannot be attributed to a single development, but which would benefit trips from this proposed development. Based on the Council's Planning Obligations Draft Supplementary Planning Document (July 2011) this is based on the following matrix dependent on the final mix of dwelling sizes approved following reserved matters stage(s):

$$\text{£(Ax 442) + (B X 638) + (C X 994) + (D X 1 ,336)}$$

When

A means the number of 1 Bedroomed Units

B means the number of 2 Bedroomed Units

C means the number of 3 Bedroomed Units

D means the number of 4 Bedroomed Units

- 6.17 Based on the results of the TA submitted as part of the application which identified where improvements are required to mitigate the impact of the development on the road network, it is expected that OCC would utilise this funding to make improvements to the A4260 Upper Windsor Street/A4260 Cherwell Street/Swan Close Road junction and the Bridge Street/Cherwell Street corridor.
- 6.18 Notwithstanding the need to make improvements to some existing junctions to prevent significant harm to the road network, particular local concern has been raised about the impact of additional traffic movements along Wykham Lane and White Post Road as well as along the spine road in close proximity to the primary school. Officers agree that any material increase in traffic using Wykham Lane is highly undesirable. However, based on advice from the LHA and evidence contained within the submitted TA, officers are satisfied that traffic movements along Wykham Lane would not materially increase as a result of the proposals once the spine road is completed and in fact could potentially even decrease. Once the spine road is completed the use of Wykham Lane by new residents on the Banbury 17 site should not be desirable given that the spine road should provide a sufficiently attractive route to dissuade use of Wykham Lane given its inherent navigability issues and safety risks. The spine road could also take a small amount of the existing traffic that currently makes use of Wykham Lane though it would not be designed to be an attractive alternative. However, until the spine road has been completed and made available for public use, some increased use of Wykham Lane is likely by residents of the proposed new houses where access is needed to the A361. However, traffic modelling suggests that this would be a relatively small minority of the projected trips and so officers are content that for an interim period this is tolerable.

- 6.19 Similarly, the overall amount of vehicular traffic using White Post Road should not materially increase in the longer term and could potentially even decrease once the spine road is completed for reasons similar to that of Wykham Lane. The new public car park should also reduce the number of vehicular trips into White Post Road for school traffic as it would be accessed from the new spine road directly rather than via White Post Road. Furthermore, the vast majority of new traffic originating from the Banbury 17 site would continue along the spine road to either the A361 or A4260 and would not divert into Bodicote, particularly once the local centre is operating on the site which would provide similar levels of convenience services to that available within Bodicote. It is however recognised that along the spine road itself both prior to and following its completion, there would be a significant increase in overall traffic movements to the north of Bodicote in comparison to the existing situation as a result of new traffic originating from development on the Banbury 17 site in addition to a small amount of diverted existing traffic. However, whilst this may potentially have some implications for village character, there is no suggestion that this would in any way be significantly harmful in transport terms. Some local concern has been raised about the potential for the completed spine road to attract other traffic, including that which OCC is encouraging to use Bankside as part of its Local Transport Plan 4. However, OCC reject these suggestions given that they project the vast majority of any diverted traffic on Bankside to exit onto the A4260 rather than head southwest on the A361 towards Chipping Norton. In any event, officers are clear that the spine road would not be designed or aligned in a manner that that would see it have any greater status than as a primary estate road and certainly not equivalent to a bypass that would encourage existing traffic to divert along it in any material numbers. Whilst increased traffic flows have the potential to increase accident risk and risk of conflict with other road users, officers are satisfied that this should not be the case with these proposals given the enhanced pedestrian crossing and cycle lane facilities to be provided as well as the new public car park and introduction of on-street parking controls which will be discussed later in this section of the report.
- 6.20 Turning to consideration of the specifics of the new access proposed, the LHA has indicated they are generally content with the proposals. Suitable provision is made for pedestrian crossings through both new refuge islands, a zebra crossing on the spine road and an upgraded toucan crossing on White Post Road which should improve the safety and convenience of pedestrian access to the primary school from Easington to the north and Bodicote to the south.
- 6.21 It is well recognised that at peak periods associated with the primary school operating hours, White Post Road becomes very congested with parked cars. Some of the parked cars are associated with staff at the primary school and some are visitors to the Cherwell District Council offices. The majority however are connected to parents/guardians of children attending Bishop Loveday Primary School who park for a short duration to either drop off children or park for a matter of minutes to accompany them to and from the school gate. The nature of the school traffic means a large number of vehicle movements condensed into a short period of time and therefore presents opportunities for a variety of conflicts between vehicular traffic and pedestrians.
- 6.22 Given the existing on-street parking congestion problems on White Post Road, officers consider that it would simply be unacceptable to add to this congestion by, amongst other things, reducing the overall level of parking capacity in the immediate area. The changes to the road layout as a result of the new access would however directly remove on-street parking capacity for approximately 22 cars. In order to ensure safe and suitable use of the new road layout a comprehensive system of on-street parking controls would be necessary to prevent on-street parking on the spine road and White Post Road in the vicinity of the new junction. Without such controls there could be a temptation for some

drivers to park directly outside the school as this could be more convenient than using the new car park. A condition is recommended to be imposed that requires the parking controls (as agreed by OCC) to be in place prior to first use of the new access. A financial contribution to cover the costs to OCC of introducing these controls is recommended to be secured by legal agreement. In order to mitigate the impact of the lost on-street parking capacity, a new public car park is proposed opposite the primary school entrance providing space for 34 cars. The proposed car park is shown only indicatively on the proposed access drawing and so its detailed layout and landscaping could be expected to change as part of a reserved matters application. Officers concur with the views of OCC in finding that the car park as indicatively shown could be awkward to access and egress given the high number of vehicle movements expected over a short duration that is typical around school opening times. Given the nature of the users of the car park it is likely that it needs to be larger than that currently shown to allow more space for manoeuvring given the intensity turnover of vehicles at certain limited times of the day with the spaces provided more suitable for parents with children.

6.23 Nevertheless there is clearly space available in the area between the spine road and Banbury Cricket Club to provide a suitably designed 34 space car park which would represent a material increase in parking capacity in comparison to the existing situation. Whilst it may be argued that the car park might be slightly less convenient for parents to use given that it is on the opposite side of White Post Road, it is likely to be more attractive to primary school staff in comparison to parking on the road given the longer duration of time over which they park. Furthermore, the overall net increase in parking capacity should outweigh any concerns about reduced convenience for parent parking particularly given that on-street parking controls would be introduced to prevent parking along the northern section of White Post Road. Concern has been raised by some local residents and governors of the primary school that the new car park is less convenient and more dangerous for children to reach the school than being dropped off along White Post Road. It is perhaps arguable that the route from the car park is a little more convoluted than being able to park directly outside the school though it should be noted that the majority of parents cannot achieve this anyway due to congestion. The proposals do however introduce a new pedestrian refuge at the spine road junction and an upgraded pedestrian crossing on White Post Road which should make crossing the road easier and safer than it is at present. Furthermore, visibility splays for pedestrians crossing the road should improve as the immediate stretch of road either side of the school entrance should be free of parked cars. With this in mind, officers are satisfied overall that the proposed increased parking provision together with the associated introduction of on-street parking controls as well as additional formal pedestrian crossings would ensure that there is no material harm caused to the functioning of White Post Road and the safety of pedestrians using it including school children.

6.24 Given that the current car park is shown only indicatively on the submitted plans, a condition has been recommended that requires detailed approval of an alternative car park layout suitable for 34 cars prior to commencement of any development. In turn, a condition has been recommended that requires the car park to be provided prior to commencement of any other development to ensure that compensatory parking provision is available from the outset in the interests of preventing increased local parking congestion. In order to ensure that the car park is available for public use without charge in perpetuity, covenants to this effect are recommended to be included in a legal agreement together with arrangements for its long term maintenance. Consideration has been given as to whether it would be more appropriate for the car park to have a separate entrance and exit to allow for better circulation of cars as suggested in a number of the third party representations. However, the LHA has advised that a vehicular entrance or exit serving the car park on White Post Road is not feasible given its proximity to the

junction with the spine road which would result in awkward and potentially dangerous vehicle manoeuvres.

- 6.25 The proposals should also significantly improve the suitability and safety of the immediate road network for cyclists and make strong provision for encouraging use of cycles by new residents of the development. As stated previously, a 3m wide combined pedestrian/cycle lane is proposed along the northern edge of the spine road which would extend round into White Post Road. This provision contributes towards the development taking the reasonable opportunities available to maximise promotion of sustainable transport modes and should also lead to a material benefit to existing cyclists using the northern section of White Post Road as it removes them from the carriageway and onto designated cycle lanes. The concerns of local residents with respect to potential conflict between cyclists and children outside the primary school are noted and the LHA has raised similar concerns in its consultation response. As a result, following discussions with highway officers at the LHA, officers are recommending that a condition be imposed that requires the submission, approval and implementation of measures (potentially in the form of signage, bollards, road markings and appropriate variation in surfacing of the cycle lane) to restrict cycle speeds along the proposed new bypass in the vicinity of the primary school entrance. Subject to such a condition, officers are satisfied that the proposals make appropriate provision for cyclists and pedestrian safety in accordance with the requirements of Policy Banbury 17.
- 6.26 Policy Banbury 17 also requires development proposals on the site to *'maximise walkable neighbourhoods'* and provide *"a linked network of cycle and footways to provide access into Banbury"*. Furthermore, it requires a new bridleway to be provided that circulates the entire Banbury 17 site to partly mitigate any harm caused to the setting and enjoyment of the Salt Way. The submitted illustrative framework plan indicates the approximate route for the new bridleway for which details of its route are recommended to be sought by condition prior to commencement of development. It is recommended that its specification (width, surfacing etc) together with the position at which the bridleway connects to the Gallagher Estates site at the western boundary are secured within a legal agreement to provide certainty to the Council that it will be delivered appropriately across the wider Banbury 17 site. A public footpath bisects the site in a north-south alignment and connects to the Salt Way. This is proposed to be safeguarded as part of the proposals with the exception of its inevitable crossing by the spine road, which may require a separate footpath order to authorise it which would be subject to public consultation. Officers see no reason why this should be objectionable. Officers would be looking for a generous soft landscaped buffer to be provided either side of the retained public footpath as part of a reserved matters application to ensure existing routes are safeguarded as enjoyable links to the wider countryside beyond.
- 6.27 Within the application site, a number of new footpath routes are shown indicatively though final details of the linkages would be addressed at reserved matters stage. There is clearly scope for them to be provided within the site in a manner that accords with the requirements of Policy Banbury 17. Proposed links between the application site and Salt Way are shown to be relatively limited on the illustrative framework plan and in officers' view there should ideally be at least one more footpath and/or cycle track connection onto the Salt Way to encourage proper integration with the existing public rights of way network, as required by Policy Banbury 17. However, there is some uncertainty about the ownership rights to the boundary between the application site and the stretch of the Salt Way immediately to the north of the application site. The applicant has not proven willing to engage with the landowner of this section of the Salt Way and so it must be considered unlikely that further connections onto the Salt Way (other than the improvement of the one existing public footpath link) can be delivered as part of this scheme. On balance however, given the significant number of links onto the Salt Way that are likely to be

provided as part of the Gallagher Estates scheme (which does not have the same ownership complications) and the level of integration between the two parts of Banbury 17 (i.e. new spine road, bridleway and other footpaths) officers are content that the overall development on Banbury 17 would adequately provide sufficient walking/cycling routes to encourage sustainable travel and integration with Banbury in accordance with the requirements of Policy Banbury 17.

6.28 As stated previously in this report, it is essential to the acceptability of proposals on Banbury 17 that the site features a bus service to provide an alternative link to the town centre and key employment sites and thus avoids reliance on the private car. In addition to designing the spine road around this service, it is also necessary for the development to make a proportionate financial contribution towards pump priming this bus service to mitigate its impact particularly in light of OCC's recent decision to withdraw all subsidies for bus services in the County. In addition to the financial contribution towards creating the new bus service, the developer is also expected to fund new bus stop infrastructure on Oxford Road and White Post Road which new residents are likely to require. Bus stop infrastructure would also be required either side of the spine road within the site to serve the new residents and these are recommended to be required by legal agreement with details of them assessed by the Council as part of the application for the detailed layout of the spine road

6.29 On the issue of transport impacts, officers have carefully considered the implications of the scheme having regard to the requirements of Policies Banbury 17 and SLE4 of LPP1, Government guidance in the NPPF/PPG and advice from highway officers at the LHA. In conclusion, subject to the conditions and covenants referred to above controlling the detailed design of the access and spine road, the timing of the completion of the spine road as well as financial contributions towards off-site highway improvements, officers have found the proposals to be acceptable given that the adverse transport impacts of development on this site are not significant subject to securing the necessary mitigation. Furthermore, officers are satisfied that the mechanism by which the spine road detail would be assessed is appropriate and that subject to the controls proposed, the spine road would be delivered in a suitably timely manner in the interests of successfully facilitating development across the whole of the Banbury 17 site without having unacceptable wider transport impacts. In reaching this conclusion officers have considered the public sector equality duty imposed on it by the Equalities Act 2010 as well as the UN Convention on the Rights of the Child. The proposed access arrangements are considered to maximise accessibility to, from and around the site by providing a range of safe inclusive transport options attractive to all and in doing so does not discriminate against groups with a protected characteristic and takes the opportunity to advance equality of opportunity with respect to access to services, amenities and employment. The best interests of children have been a primary consideration in the assessment of this application and in raising no objection to the proposals on transport grounds subject to conditions/covenants, officers are satisfied that the wellbeing of children would not be unduly affected by the development.

Landscape, Visual Impact and Coalescence

6.30 Policy Banbury 17 requires development proposals on the site to have a well-designed soft approach to the urban edge with consideration given to its landscape setting. The policy also requires the retention and enhancement of existing hedgerows and trees including those along the boundary with the Salt Way where a 20m wide green buffer is required. The policy also requires the retention of Public Rights of Way on the site.

6.31 Policy ESD13 of LPP1 is also material and requires new development to respect and enhance local landscape character. It also resists undue harm to important natural landscape features as well as significant visual intrusion into the open countryside. Policy

C15 of LP 1996 is also relevant as a 'saved' adopted policy. It resists the coalescence of settlements by preventing development in areas of open land which is important in distinguishing them.

- 6.32 The site has already been allocated as part of a residential-led urban extension to the south of Banbury through Policy Banbury 17. The principle of the incursion of development into the countryside on this site has therefore been accepted by the Council as part of the adopting the Local Plan process as it was deemed necessary in order to sustainably meet the objectively assessed housing needs of the District. As an up-to-date policy this attracts full weight in decision-taking. In establishing the principle of residential development on the site, it was accepted that development proposals would inevitably lead to loss of the countryside and in turn harm to the natural landscape. In this respect the proposals are clearly harmful given that they result in the loss of open countryside; a finite resource; in perpetuity. However, landscape capacity studies undertaken as part of the preparation of LPP1 concluded that development on this site could be assimilated more easily into the landscape than other tracts of land in the surrounding area and hence was considered suitable for allocation in landscape terms.
- 6.33 Policy Banbury 17 does however reflect the harm that would be caused to the local landscape both in terms of its character and views of it from the surrounding area. The policy therefore includes requirements to limit the visual impact of the development by restricting built development to the northern half of the Banbury 17 site, requiring new and augmented soft landscaped buffers and boundaries as well as the safeguarding of the enjoyment of existing public rights of way. In recognition of the potential impact of built development on the character of Bodicote as a separate village and the setting of its conservation area, Policy Banbury 17 also provides for an area of informal open space to be located adjacent to White Post Road to act as a small green buffer between Bodicote and Banbury. Policy Banbury 17 and Policy C15 of the LP 1996 are both adopted policies but are not necessarily entirely consistent with one another given that Policy C15 includes a clear blanket restriction on new development that could give rise to coalescence. The provisions of s38(5) of the Planning and Compulsory Purchase Act 2004 are relevant here as this establishes that where a policy contained in a development plan conflicts with another policy in the development plan the conflict must be resolved in favour of the policy which is contained in the last document to be adopted – in this case Policy Banbury 17 of LPP1. It is therefore against the requirements of this policy that the proposals should be considered with respect to coalescence.
- 6.34 Whilst new homes would appear to be set back significantly from White Post Road, views of the new houses would be apparent from the rear of existing houses on Wykham Lane as well as publicly visible from the southern section of White Post Road. This would have the effect of bringing the urban edge of Banbury visually closer to Bodicote and to this extent would reduce the perception of its identity as a separate village. However, informal green space along White Post Road as well as the existing sports fields would still provide a degree of visual separation between the two settlements. The new access and spine road would inevitably have an urbanising effect at the northern edge of Bodicote and this is recognised by officers. Whilst an area of informal green space would remain between the new spine road and Banbury it would be small and indeed smaller than that shown on the Policies Map associated with LPP1. However, as set out previously in this report, the Policies Map is not consistent with the overall requirements of Policy Banbury 17 and it makes no allowance for the space required to deliver the necessary spine road access into the site. This conflict must be resolved in favour of the actual wording of the policy itself. In reaching this conclusion officers have recognised that the need for providing the spine road in order to prevent severe harm to the local transport network outweighs any reduction in the informal green space buffer between Bodicote and Banbury. Moreover, it should be recognised that in deciding to adopt Policy Banbury 17 as part of LPP1, an

impact on the setting and identity of Bodicote as a separate village was inevitable but was considered tolerable in the context of the overall sustainability benefits associated with new housing in this location. The application proposals simply reflect the provisions of the adopted policy and, as such, there is no reason for officers to conclude that the proposals would unduly affect Bodicote's separate identity or its immediate landscape character.

- 6.35 The evidence base underpinning LPP1 included a landscape capacity study of areas around Banbury and Bicester. Amongst other things, this study concluded that residential development on the Banbury 17 would not have a substantial impact on wider landscape character given that the site was not characterised as unduly sensitive given its relatively flat topography, lack of notable natural landscape features and existing backdrop against the urban edge of Banbury. To this end, the site was considered suitable for allocation in landscape terms subject to the southern areas of the site being kept free from built development to help blend the development into the countryside beyond. The application proposals demonstrate a commitment to this policy requirement given that the southern half of the application site is set aside for both formal and informal recreational green space and officers have no doubt that 280 dwellings could be comfortably accommodated on the northern half of the site in such a way as to protect the southern area of the site from harmful built development.
- 6.36 As required by Policy Banbury 17, the application proposals were accompanied by a landscape and visual impact assessment. The implications of development on the landscape were also considered as part of the Environmental Impact Assessment. The assessments undertaken and submitted by the applicant have been reviewed by the Council's own landscape officers who generally concur with its findings that both individually and cumulatively with other development on Banbury 17 the development would not be significantly prominent in the majority of wider views from the surrounding landscape in part due to the modest height of new buildings proposed on the site (8.5m maximum height) and their distance from the southern boundary. The most significant impacts would be experienced in immediate views from the existing public footpaths during the construction phase when new strategic planting would not have had time to establish. However, the new soft landscaping proposed along the northern and southern edges of the site would mitigate some of the visual harm caused by the expansion of built development into the countryside. As this application is submitted in outline only, details of landscaping of the site will subsequently need to be submitted and approved as a reserved matter prior to any development commencing.
- 6.37 In summary, the proposals would result in the loss of open countryside which is inherently harmful to local landscape character does not amount to environmental sustainability given that it is a finite resource. However, the impact of the development on the wider landscape would not be significant having regard to the limited height of the proposed buildings on the site, the site's urban edge location, flat topography and the site's modest natural landscape value. Whilst the proposals would inevitably give rise to a degree of further actual and perceived coalescence between Bodicote and Banbury, this would not be significant in the context of the existing relationship between the two settlements and, in any event, the principle of it has already been accepted by the Council in allocating Banbury 17 for development. The proposals as submitted have taken the opportunities available to mitigate their impact on the local landscape in the manner required by the Policy Banbury 17 and as such officers are satisfied that the proposals are acceptable in this regard.

Impact on Heritage Assets

- 6.38 National planning policy in the NPPF emphasises the great weight that should be afforded to preserving heritage assets as they represent irreplaceable social resources. The NPPF states, inter alia, that the weight to be afforded to the impact on a heritage asset as a

result of a development proposal depends upon both its significance and the level of harm that would be caused. Moreover, the NPPF adds that harm to heritage assets should only be justified where outweighed by public benefits and the greater the harm and significance of the heritage asset, the greater the public benefits need to be. It is also necessary to have regard to statutory duties on the Council imposed by the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires special consideration to be given to the desirability of preserving or enhancing conservation areas as well as the preservation of the special architectural/historical interest of listed buildings. In short, having regard to the scale of the proposals and the distances to surrounding heritage assets, officers believe the proposals have the potential to impact mainly upon three heritage assets: the Salt Way (a non-designated heritage asset), Bodicote Conservation Area, and individual Grade II listed buildings in the immediate area including Bodicote House.

- 6.39 Policy Banbury 17 recognises the potential for impact on both the Salt Way and Bodicote Conservation Area. It is now established (as a result of the Secretary of State's recovered appeal decision to allow the Victoria Park development on land comprising the northwest of Banbury 17) that new development to the south of the Salt Way does not unacceptably harm its historic significance provided that the development retains a sensitive landscaped buffer between it. To this end, Policy Banbury 17 requires all built development on the site to be set at least 20m back from the Salt Way together with requirements for its existing boundary vegetation to be augmented to both help reinforce its rural character as a historic trade route as well as mitigate views of new housing to the south. The existing hedgerows along the section of the Salt Way to the north of the application site are sparser than that to the north of the rest of the Banbury 17 land. The proposals therefore provide an opportunity to 'gap up' the landscaping in a number of places to help create more of a sense of a green enclosure to the Salt Way. Whilst this does reduce the opportunity for views over parts of the open landscape to the south (which does contribute towards the sense of the rural setting of Salt Way), the denser hedgerows and trees are necessary to prevent the Salt Way from feeling unduly urbanised to avoid replicating and compounding its existing poor relationship with the Timms' Estate. The additional planting also provides an opportunity for biodiversity enhancements which will be discussed later in this report.
- 6.40 Notwithstanding the minimum 20m buffer and additional planting along the Salt Way boundary, it is inevitable that the presence of new housing would adversely affect its historic rural character. New planting would soften the views of the new homes but this would take time to establish and it would not be possible to eliminate the experience of them completely particularly in winter time. Conversely the additional planting would in time reduce views southerly views out over the countryside from the Salt Way which contributes towards its rural feel and character which is a feature of its heritage significance. Together with existing development on the Timms' Estate to the north, this would have a cumulatively significant effect on the integrity of the Salt Way as a historic rural trading route. However, as part of the requirements of Policy Banbury 17, a new bridleway is required to be provided along the entire southern boundary of Banbury 17 that would provide a public right of way with a southerly outlook over wider countryside beyond which would in part offset some of the harm caused to the public enjoyment of the Salt Way though of course its heritage significance cannot be replicated. However, officers recommend that a financial contribution is sought from the development towards improvements to the Salt Way stemming from its likely increased use. Such contributions could provide enhancements to surfacing, landscaping and possibly interpretative signage to help promote the history of the Salt Way.
- 6.41 In summary, Salt Way is a non-designated heritage asset and therefore any harm is regrettable but attracts less weight than harm to designated heritage assets such as listed buildings and conservation areas. Nevertheless, it is of local value and even with the

aforementioned mitigation measures, its significance would be adversely affected as a result of the proposed development. However, such harm was recognised as part of allocating the site and in doing so it was inherently concluded that the overall benefits of the proposals outweighed the harm that would be caused to the historic significance of the Salt Way. The proposals as submitted do however make provision for all of the requirements within Policy Banbury 17 to help mitigate the impact on the Salt Way such that, subject to conditions and a financial contribution via legal agreement, the proposals are considered to be in accordance with the development plan in this respect.

- 6.42 The proposals also have the potential to affect Bodicote Conservation Area albeit the new development itself is unlikely to be materially visible from any part of the public realm within it. In order to help preserve the setting of Bodicote Conservation Area which in part derives its distinctiveness from its village character, Policy Banbury 17 required the southern half of the land to be free from built development and an area of informal green space retained as a buffer between Banbury and Bodicote. As discussed previously in this report, it is however necessary for transport reasons for the new vehicular access and spine road to be provided on part of the land shown within the Policies Map as the informal green space buffer. This could in turn have a minor additional impact on the setting of the Bodicote Conservation Area given that this new highway arrangement would give rise to a further degree of urbanisation that would be visible from a small part of the Conservation Area at the junction between White Post Road and Wykham Lane. However, the separation distance in this respect is still relatively significant such that any adverse impact on the setting of the Conservation Area as a result of the development is likely to be limited and in turn consistent with the requirements of Policy Banbury 17. It should also be added that the proposals for the spine road could, once completed, ultimately have a minor beneficial effect on the Bodicote Conservation Area as the traffic modelling work undertaken indicates that it could reduce traffic flows through Bodicote village itself which is recognised in the Council's Conservation Area Appraisal as being a threat to its special character. Overall therefore, officers are satisfied that the effect on the heritage significance of the Bodicote Conservation Area would be limited as a result of the proposals and that, in this respect, the proposals are consistent with the requirements of Policy Banbury 17.
- 6.43 The proposed development would be in comparatively close proximity to a number of individual listed buildings all of which are Grade II. The closest of these is Bodicote House – home to the District Council offices. However, whilst the heritage significance of Bodicote House and other nearby listed buildings derives in part from their setting, the application site itself is not of historic relevance to the setting of these buildings and the development proposals would not detract from their setting given the separation distance involved. Furthermore, in the context of longer distance views of the existing 1970s era housing of the Timms Estate as well as other more recent intervening developments, the special interest of Bodicote House and other nearby listed buildings would not be appreciably harmed by the proposed development. Consequently officers have concluded that no adverse effect on the special interest of surrounding listed buildings would occur as a result of the development.
- 6.44 In conclusion on the issue of heritage impact, officers are of the view that the proposals would give rise to moderate harm to the historic significance of the Salt Way even with the mitigation measures proposed to be secured through conditions and legal agreement. However, the Salt Way is a non-designated heritage asset and the weight to be afforded to its preservation is not substantial and the overall benefits of providing a significant number of new homes in this location outweighs this harm as reflected in the provisions of Policy Banbury 17. The impact on the special character of the Bodicote Conservation Area would be limited and thus acceptable in the context of the significant wider public benefits stemming from the provision of much-needed new housing in this otherwise

sustainable location – a fact also intrinsically recognised in the decision to allocate the Banbury 17 site. The harm caused to the setting of individual listed buildings would in officers' view be negligible and therefore of no particular concern. Consequently officers are satisfied that subject to the recommended conditions and covenants, the proposals are acceptable in heritage terms in accordance with the requirements of Policy Banbury 17 and all other relevant local and national planning policies.

Housing Mix/Affordable Housing

- 6.45 Policies BSC3 and Banbury 17 of LPP1 require provision of a minimum of 30% of the new homes on the site as affordable housing. Of this 30%, a minimum of 70% is required to be affordable or social rent in tenure with the remainder intermediate housing. The proposals include a commitment to deliver this policy requirement which needs to be secured through a legal agreement as recommended by officers. It will be necessary to be mindful of likely forthcoming legislation and national planning policy changes with respect to Starter Homes as it appears likely that within the coming months they will form part of the definition of affordable housing and there may be an associated national planning policy requirement to provide a certain proportion of them on major residential development sites. In the event that Members resolve to approve the application but changes come into effect prior to a decision being issued on the application (as a result of the legal agreement pending completion), it may well be necessary to make amendments to the affordable housing covenants in the legal agreement to reflect the changes. To make allowance for such circumstances to occur, if Members resolve to approve this application it is recommended that Members delegate authority to the Head of Development Management to make any necessary changes to the legal agreement in this regard in consultation with the Committee Chairman.
- 6.46 Policy BSC4 of LPP1 requires new residential development to provide a mix of homes to meet current and expected requirements of the District in the interests of responding to housing need and creating mixed and inclusive communities. The Oxfordshire Strategic Housing Market Assessment of 2014 identified 2 and 3 bedroom homes to be in greatest need across the District over the next 15 years. To this end it is recommended that if this application is approved, a condition is imposed on the planning permission that ensures later applications for reserved matters approval come forward with new housing that responds to the identified need rather than allowing this to be driven purely by developer profit objectives. The condition requires a minimum of 40% of the market houses provided on the site to be 3 bedroom homes with a minimum of 20% as 2 bedroom dwellings. Separate housing mixes for the affordable units would be determined as part of the completion of the legal agreement based on current need but it is likely that the majority would also be 2 and 3 bedroom houses with some provision of 1 bedroom units too.
- 6.47 Policy BSC4 also includes a requirement for self-contained extra care dwellings to be provided on the site but only where a minimum of 400 dwellings are proposed on a site. The application proposals by themselves do not therefore trigger this requirement though some extra care dwellings (or equivalent) are expected on the wider Banbury 17 site through the larger Gallagher Estates scheme.
- 6.48 Consequently, subject to the imposition of the above recommended condition as well as satisfactory inclusion of relevant covenants in a legal agreement, officers find the proposals to be in accordance with the requirements of Policies BSC3, BSC4 and Banbury 17 of LPP1 with the result that they will make a strong contribution towards meeting the identified housing needs of the District.

Open Space and Recreation

- 6.49 Policies BSC10 and BSC11 of LPP1 require provision of suitable informal and formal recreation facilities on site to meet the needs of future residents of the development. The

vast majority of the necessary sports facilities would be provided within the southern half of the site where built development is restricted by Policy Banbury 17. The Council has an identified deficit of football pitches in and around Banbury and in response to this the provision on site of adult and junior pitches is recommended together with arrangements for continued maintenance. A new four team pavilion to serve these football pitches would also be required in order to ensure proper usability of these new pitches as well as an associated car park facility. Such facilities should be constructed by the developer before transfer to the District Council together with a commuted sum for long-term maintenance and it is recommended that a legal agreement make provision of this arrangement unless an acceptable alternative arrangement for long term maintenance/management can be agreed during completion of the legal agreement.

- 6.50 In addition to formal sports provision, Policies BSC10 and BSC11 require on-site provision of various forms of play facilities for children. This includes LAPs, LEAPs and NEAPs which serve children of a variety of ages. Due to the size of the development, all of these facilities would be required on the site which would need to be laid out by the developer and then transferred to the District Council once completed together with necessary maintenance contributions. Having regard to the approach taken at other surrounding recently approved developments, it is recommended that two LAPs are provided on the site (one either side of the spine road), one combined LAP/LEAP together with a multi-use games area. Details of the design and location of such facilities would follow as part of reserved matters applications however the arrangements for their provision and transfer to the Council as well as commuted payments for their maintenance should be secured within a legal agreement.
- 6.51 In addition to the sports facilities and play areas, other informal open space would be provided within the site. Part of this would include surface water drainage features such as attenuation ponds and swales as well as general landscaped areas. These would primarily be in the remaining undeveloped areas to the south of the site as well as in the buffers between the development and Salt Way as well as the remaining gap between Bodicote and Banbury. The landscaping proposals for these areas would be assessed in detail as part of reserved matters applications. Other informal green spaces would be provided in and around the new houses though the details of this would only become apparent as part of reserved matters applications. However, as all of these areas would ultimately form part of the public realm, their future maintenance needs to be secured. Arrangements for this are recommended to be included within a legal agreement. The proposed development is also likely to have an impact on existing indoor sport provision within the District given that new residents are likely to make use of these facilities. This impact cannot be mitigated on site and so, in accordance with Policy BSC12 of LPP1, a financial contribution will be necessary to be secured via the legal agreement towards improvement/expansion of the nearby Spiceball Sports Centre.
- 6.52 Having regard to the requirements of Policies BSC10, BSC11 and Banbury 17, officers are satisfied that subject to the inclusion of relevant covenants in a legal agreement to secure the necessary provision and maintenance of formal and informal recreation facilities, the needs of the residents of the new homes would be adequately served by the type, quality and quantity of facilities proposed and thus the development would mitigate its impact on existing recreation provision and provide a suitable quality residential environment within the site for future residents.

Biodiversity

- 6.53 Policies ESD10 and Banbury 17 seek net gains for biodiversity on the site in reflection of guidance contained in the NPPF. These policies are also consistent with the Council's wider statutory duty as set out in the Natural Environment and Rural Communities Act

2006 (NERC Act 2006) to have due regard to the desire to increase biodiversity as part of carrying out its functions including in its role as a planning authority.

- 6.54 An ecological appraisal has been submitted to accompany the application which the Council's ecologist is generally satisfied with in terms of its general conclusions and recommendations. In short, there are no major ecological issues on site given that the majority of the site comprises actively farmed agricultural land. The most valuable features are the hedgerows as a habitat and pathway for birds, reptiles and bats. Overall, the vast majority of existing hedgerows would be retained and augmented on the site and where some areas are lost due as part of constructing and laying out the new spine road, new planting along the Salt Way and within the southern areas of the site would more than outweigh this. Wider hedgerow buffers are however thought to be necessary than that recommended in the ecological report with a 5m buffer being more appropriate to avoid root damage and alleviate disturbance associated with domestic pets and dog walking. There are a number of badger setts on the site and where these are proposed to be disturbed by construction works, a licence will first be required from Natural England.
- 6.55 Some of the species associated with open arable landscape, particularly the brown hare, have in officers' view been dismissed a little too easily in the ecological report as being necessarily displaced. Whilst significant farmland would remain in the surrounding area, as the brown hare is a priority species as determined under the NERC Act 2006, this need to be given more careful attention. However, officers are satisfied that a scheme of biodiversity enhancements within the proposed open space can deliver the necessary environment to help prevent any material harm to this species and a condition is recommended in this respect. The submitted ecological report recommends a number of biodiversity enhancements to be incorporated into the built environment including bird and bat boxes as part of many of the dwellings as well as some green roofs. Details of this can be addressed as part of a recommended condition as well as during consideration of the detailed design of the dwellings at reserved matters stage. It is also recommended that a Construction Environment Management Plan (CEMP) be required by condition and submitted for approval prior to commencement of development that should include measures for protecting ecology on the site during construction including restrictions on works around hedgerows, restrictions on lighting during construction as well as the need for a consultant ecological to check any trees for bat potential prior to them being lopped/removed. The Council's ecologist has suggested that a condition requiring a scheme of lighting to be submitted and approved to ensure that dark corridors are created and maintained to encourage use by bats. Whilst officers' endorse this view, such considerations are best left to considering the detailed design, layout and landscaping of the development as part of the reserved matters.
- 6.56 Consequently, officers are satisfied that subject to the imposition of the recommended conditions, the proposals have the potential to deliver net biodiversity gains on the site in accordance with the requirements of Policies ESD10 and Banbury 17 of LPP1 as well as guidance in the NPPF such that the scheme is considered to be acceptable in ecological terms.

Trees and Landscaping

- 6.57 As set out previously, the application proposes details of landscaping to be a reserved matter. Therefore, no landscape scheme has been submitted and neither is it required at this stage. However, it is still necessary to consider whether the proposals would be likely to be acceptable in terms of the impact on landscape features within the site having regard to the requirements of Policies ESD10, ESD13 and Banbury 17 of LPP1 which together seek the protection of valuable existing trees on the site together with appropriate new planting. There is also a statutory requirement on the Council by virtue of s197 of the

Town and Country Planning Act 1990 to have consideration to the appropriate preservation and planting of trees as part of considering planning applications.

- 6.58 The vast majority of existing trees and hedgerows would be retained as part of the proposed development given the necessary buffers imposed by requirements within Policy Banbury 17. Existing north-south hedgerows that demarcate field boundaries within the site will inevitably have some sections removed to facilitate the creation of a spine road however the majority of their extent should be retained. There is clearly significant capacity within the site to mitigate any hedgerow loss in this respect by creating new/enhanced soft landscaped areas and corridors along and between the site's edges and so officers have no concerns in this respect.
- 6.59 The proposed new access and spine road as shown on drawing no. 1361/22 Rev. E is however in detail and so the implications for existing trees and hedgerows need to be considered. All existing trees of public amenity significance are proposed to be retained as part of these works with the exception of a mature horse chestnut just to the south of the spine road that would see significant development within its root protection area and so is proposed for removal. However, it has subsequently been found that this tree is actually in poor physiological condition and so its removal and replacement is considered good arboricultural practice. A small common lime tree along the boundary with White Post Road is also proposed to be removed though this makes little contribution to public amenity and can be easily mitigate through new planting. All trees of significance are therefore proposed to be retained and officers are satisfied that they can be suitably protected during construction through the tree protection measures recommended in the submitted arboricultural report and a condition is recommended to be imposed to ensure this.
- 6.60 A significant section of the existing hedgerow along White Post Road would need to be removed as part of creating the new access though the principle of this has been accepted as part of allocating the site. The hedgerow is not of particular importance in landscape terms though does contribute positively towards the White Post Road streetscene. Whilst its loss is inevitable and established in principle, there is significant opportunity to mitigate the impact of its loss through new planting along the site's boundaries which would be considered as part of the reserved matters.
- 6.61 Consequently officers have concluded that the proposals would not have a materially adverse effect on existing landscape features of significance due to the majority being proposed for retention together with proposals offering significant opportunities for enhancement on the site. Officers are therefore satisfied that the proposals accord with the requirements of Policies ESD10, ESD13, ESD15 and Banbury 17 of LPP1 in this respect and are therefore found to be acceptable.

Effect on Neighbouring Properties

- 6.62 Policy C30 of the LP 1996 and Policy ESD15 of LPP1 require new development to safeguard reasonable living conditions for occupants of existing dwellings with respect to daylight/sunlight, outlook, privacy and quality of indoor/outdoor space. These policies reflect guidance in the NPPF which sets out as a core planning principle the need for the planning system to *"seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings"*.
- 6.63 All new buildings would be set a significant distance away from existing dwellings. The minimum 20m buffer to Salt Way ensures that even at their closest point, the new homes would be at least 25m from any existing dwelling on the Timms' Estate which comfortably exceeds the distances expected by the Council based on that set out in its Home Extensions Design Guide. This 25m separation distance would also feature significant

augmented intervening soft landscaping that would further reduce the impact on outlook and privacy for occupants of existing dwellings to the north. Distances between new built development and existing dwellings on White Post Road and Wykham Lane would be substantial and so the proposals would not have any material adverse effect on the residential amenity associated with these properties.

- 6.64 The quality of amenity at the nearby nurseries and primary school could reduce slightly as a result of increased disturbance from traffic noise but this would not significantly prejudice their operations. In any event, the standard of amenity expected at these commercial/institutional premises is lower than that for a dwelling given that they are not places of permanent residence. Whilst existing residents and occupants of surrounding premises may in the interim experience disruption as a result of construction operations this could be partly mitigated through appropriate controls to be secured by condition in a construction environment management plan. This would include controls over hours of working, noise, dust, construction traffic etc. As discussed previously in this report, until the spine road is completed it is likely that some additional traffic movements may be experienced along White Post Road and Wykham Lane which could have an adverse effect on the enjoyment of established residential properties along these roads. However such an effect would be temporary and in any event not sufficient to be unacceptable, particularly in the context of the prospect of significant development on the site, having been accepted in principle by the Council in its decision to allocate the site.
- 6.65 As a result, subject to a condition requirement the submission, approval and implementation of a construction environment management plan, officers find that the proposals adequately protect established residential amenity in accordance with the standards expected by development plan policies and Government guidance.

Flood Risk

- 6.66 Policy ESD6 of LPP1 reflects Government guidance in the NPPF by resisting development where it would be unduly susceptible to flooding and/or increase the risk of flooding elsewhere. The site itself is not known to be at risk of either fluvial or pluvial flooding but it is nonetheless necessary for development on the site to appropriately manage surface water to ensure that it does not increase the risk of localised flash flooding in a storm event. As such, it is necessary and in accordance with both local and national planning policy for a sustainable drainage system (SuDS) to be fully incorporated into the development in a manner that mimics natural greenfield rainwater treatment so that there is no net increase in the rate of surface water discharge from the site. Full details of the SuDS on the site have not been provided at this stage given that the application is in outline but the flood risk assessment (FRA) submitted alongside the application clearly demonstrates that the ground conditions on the site and space available make SuDS viable on the site – a conclusion with which drainage officers at OCC concur. A condition is therefore recommended that requires full details of the drainage scheme to be submitted prior to commencement of development. A number of above and below ground drainage features are likely to be provided on site as part of the drainage scheme including ponds and swales which would in turn have occasional maintenance requirements such that appropriate arrangements for long term maintenance will need to be included in a legal agreement before it can be considered satisfactory. In conclusion, subject to conditions and relevant clauses in a legal agreement, officers have concluded that the proposed development would be acceptable in flood risk terms.

Sustainability and Energy Efficiency

- 6.67 In the interests of ensuring new development contributes towards the wider objectives of achieving sustainable development, new dwellings and other buildings are expected to be constructed to accord with particular energy performance and design criteria. With respect to dwellings, much of this has now been superseded by requirements in Part L of the

Building Regulations now that the former Code for Sustainable Homes (CfSH) has been cancelled by Government. Statements from Government have made it clear that in time requirements equivalent to level 4 of the former CfSH will be fully incorporated into the Building Regulations though debates continue on this at national level including through the passage of the Housing and Planning Bill. In the interim, Government guidance suggest that requirements relating to energy performance are still a matter relevant to planning though no higher than a level equivalent to the former CfSH level 4 can be sought by planning authorities. As such, officers recommend a condition requiring all dwellings on the site to accord with the energy performance standards equivalent to level 4 of the former CfSH. In addition, as Cherwell District has been identified as an area of water stress a condition is also recommended in line with the requirements of Policy ESD3 for all dwellings to be designed to be limited to a maximum usage of 110 litres/person/day.

- 6.68 With the exception of a sports pavilion, no other non-residential buildings are proposed on the application site. Policy ESD3 of LPP1 requires all non-residential buildings to be constructed to BREEAM 'very good' standard which relates to all matters associated with sustainable construction and not just energy efficiency. A condition is recommended to be imposed requiring non-residential buildings on the site to be constructed to meet the BREEAM 'very good' standard.
- 6.69 In addition to sustainable construction, Policies ESD4 and ESD5 of LPP1 are also material. Policy ESD4 requires a feasibility assessment to be carried out to determine whether there are opportunities for combined heat and power (CHP) systems to be utilised in the development. An Energy Statement submitted alongside the application however demonstrates that this is not viable given the lack of any significant 24-hour heat demand in the immediate vicinity that could make such a system commercially viable or indeed environmentally suitable. Policy ESD5 of LPP1 requires significant provision of on-site renewable energy generation as part of major new residential developments. Opportunities on the site have however been found to be limited principally to solar PV and solar thermal technologies on appropriately sited/orientated buildings as well as some opportunities for ground or air source heat pumps given that wind turbines and biomass boilers are not feasible given site circumstances. Full details of the on-site renewable energy generation measures for each new dwelling would be assessed at reserved matters stage and a condition has been recommended in this respect.

Impact on Public/Community Infrastructure

- 6.70 Policies BSC9, INF1 and Banbury 17 are all material in this respect and require development proposals to adequately mitigate their impact on transport, education, health, social and community facilities. In the interests of achieving sustainable development, it is essential that the proposed development would not give rise to harm to existing community/public infrastructure at the expense of the services/facilities enjoyed by existing residents in the local area. Where mitigation is necessary to prevent this occurring, some of this mitigation can be provided on site and other elements cannot. This is further complicated by the fact that the overall Banbury 17 site has come forward as part of separate applications rather than as a single development proposal.
- 6.71 As stated already in this report, on-site provision can be made for outdoor sports and recreation facilities together with arrangements for long term maintenance. Similarly, arrangements can be made for long term maintenance of other landscape features (including surface water drainage features) that would be in the public realm to ensure that this does not adversely affect public resources. A financial contribution will however be needed for improvements towards off-site indoor sport provision as this cannot be mitigated on site. Proposals for greater than 275 dwellings require new allotments to be provided on site and indeed the illustrative framework plan submitted as part of the

application indicates such new allotments to be provided at the south of the site adjacent to the existing allotments. In accordance with the requirements of Policy BSC11 of LPP1, provision of a minimum of 0.2ha of allotment land is required in order to mitigate the impact of the new housing and there is clearly space for this to be provided on the site together with any associated car parking and facilities. Policy Banbury 13 identifies a shortfall in cemetery provision in the town in order to meet the needs of future development. As such, the policy seeks financial contributions towards expansion of the existing Banbury Town Council cemetery in order to mitigate the impact of the development and such contributions are duly recommended to be secured via legal agreement.

- 6.72 Policy Banbury 17 makes it clear that a new primary school is required on the Banbury 17 as well as land for expansion of playing fields associated with the nearby Blessed George Napier Secondary School. These facilities cannot be provided on the application site given its size and position relative to existing facilities. As such, it is necessary for land to be designated elsewhere on Banbury 17 (as part of the Gallagher Estates site) to meet the educational needs of both sites as well as the primary school needs associated with development on Banbury 16 (from which financial contributions were secured as part of granting planning permission). As a result, land for a 2.5 form entry primary school suitable to serve all of these new homes is necessary together with financial contributions towards the built costs of the new primary school. The application proposals should therefore be required to meet an equitable proportion of the build costs of the new primary school as well as provide a contribution towards land costs for OCC in order to secure the larger land area for the primary school on the Gallagher Estates part of the Banbury 17 site. Furthermore, it is anticipated that the Blessed George Napier Secondary School would need to expand in order to increase its capacity to 1,200 pupils in order to mitigate additional secondary school pupil numbers generated by development on Banbury 17. Such an expansion would need to be funded proportionately by financial contributions from the application proposals as well as proposals on the Gallagher Estates site. In order to facilitate the expansion of the secondary school onto its existing playing fields, further playing field land is required to mitigate this impact and in a situation similar to that of the primary school provision, the new playing fields need to be on the Gallagher Estates part of the Banbury 17 site so that they are adjacent to existing school playing fields. In addition to financial contributions towards the build costs of the expansion of the secondary school, contributions are also necessary towards the additional land costs associated with providing larger playing field land on the Gallagher Estates site. Consequently officers recommend that financial contributions are sought for both school build and land costs from this development through a legal agreement before planning permission is granted.
- 6.73 In accordance with Policy Banbury 17, a community facility and local centre are also required to be provided on the site in order to create a sustainable urban extension to Banbury. However, these facilities are proposed to be provided as part of the Gallagher Estates scheme given that these proposals are for a significantly larger development which would generate this level of mitigation by itself. Nevertheless the new residents of the homes proposed as part of this application would be expected to make use of the community facility and so a financial contribution is recommended towards the part-provision of a suitably sized community facility together with a commuted sum for maintenance as well as funding towards a community development worker.
- 6.74 Given the size of the proposed development and the opportunity to deliver a good quality public realm, a scheme of public artwork is considered necessary to be provided on the site either through financial contributions to the Council or being provided directly by the developer. It is necessary to make provision for the necessary arrangements for this as part of a legal agreement. A condition is also recommended requiring the submission and

approval of details of the public artwork prior to first occupation of any homes on the site. In addition, given that the proposals would be likely to directly intensify use of the Salt Way, financial contributions are recommended to be sought to mitigate the impact of this additional use.

- 6.75 Further impact on public infrastructure is expected with respect to the transport implications of the proposed development. Whilst the development would partly mitigate its impact on own impact through the provision of the new spine road together with an upgraded access arrangement, further impacts would be experienced elsewhere on the local road network which necessitates a financial contribution to OCC for them to carry out relevant improvements to the A4260 Upper Windsor Street/ A4260 Cherwell Street /Swan Close Road junction. In addition, financial contributions are required from these proposals to part fund the cost of operating a dedicated bus service through the site to help connect new residents to Banbury town centre and other key employment sites thereby reducing dependence on the private car. Furthermore, new infrastructure improvements to upgrade existing off-site bus stops are also required as well as new bus stop infrastructure within the site.
- 6.76 It is apparent in consultation responses from Thames Water that there are concerns that there is a shortfall in existing capacity to provide both water supply and foul drainage services to the site and that off-site upgrades may be required. In recognition of this and in accordance with the suggestions of Thames Water, officers recommend the imposition of conditions that prevent any development taking place until the developer has carried out an investigation of existing capacity and identified if/where upgrades are required. Thames Water would be involved in assessing the conclusions of these investigations and advising on the approach to take thereafter to ensure sufficient capacity is available and thus avoid putting pressure on existing infrastructure to the detriment of the environment and amenity of existing residents.
- 6.77 To ensure the proposals do not adversely affect the Council's waste and recycling services, a condition is recommended that requires the provision of the three necessary waste bins for each new home prior to its occupation to ensure the cost of doing so does not fall on the District Council and in turn prejudice services for the existing local community.
- 6.78 In short, the proposals would have a significant and unacceptable impact on public/community infrastructure without the mitigation measures set out above being secured through conditions and/or a legal agreement as appropriate. Subject to satisfactorily securing the mitigation, the proposals are considered to be acceptable and in accordance with the requirements of Policies BSC9, INF1 and Banbury 17.

Planning Obligation(s)

- 6.79 In order to ensure that the development is acceptable in planning terms, a number of the impacts of the development need to be mitigated and/or controlled through covenants in a planning obligation/legal agreement. All covenants within a planning obligation are subject to statutory tests and in order to be taken into account in deciding to grant planning permission they need to be: necessary to make the development acceptable in planning terms; directly related to the development; and; fairly and reasonably related in scale and kind. Having regard to these statutory tests, officers consider that the following items need to be satisfactorily secured as part of a planning obligation before planning permission is granted:

Cherwell District Council:

- Provision of on-site outdoor sports facilities, sports pavilion and arrangements for future maintenance;

- Provision of 2 x LAPs on site, 1 x combined LAP/LEAP and 1 x multi-use games area together with commuted sums for future maintenance by the Council;
- Maintenance arrangements for informal public amenity space, trees/hedgerows and other landscape features including drainage ponds whether in the form of commuted sums to the Council or a suitable management company;
- Financial contribution towards off-site indoor sport improvements at Spiceball Sports Centre;
- Commission and provision of on-site public art in addition to arrangements for future maintenance;
- 30% affordable housing with a minimum 70% in affordable/social rent tenure and maximum 30% in intermediate tenure;
- Financial contribution towards the community centre on Banbury 17 as well as a proportionate commuted sum towards future maintenance as well as funding of part of a community development worker;
- Financial contribution towards additional burial site provision within Banbury;
- Provision of 0.2ha of allotments and associated facilities on the site together with commuted sums for future maintenance by the Council;
- Arrangements for the provision and maintenance of the new car park adjacent to White Post Road to ensure that it functions as a free public car park in perpetuity.

Oxfordshire County Council:

- Financial contributions towards the land and build costs associated with provision of a new primary school on the Banbury 17 site, contribution towards expansion of Blessed George Napier Secondary School and the costs associated with the provision of part of the compensatory secondary school playing field land on Banbury 17;
- Financial contribution towards improvements to the Salt Way;
- £1,000 per dwelling towards the cost of introducing a bus service for the site;
- Financial contribution towards improvements to the A4260 Upper Windsor Street/ A4260 Cherwell Street /Swan Close Road junction based on the Banbury Area Transport Strategy;
- Financial contribution of £20,000 towards new bus stop infrastructure on Oxford Road;
- Financial contribution of £20,000 towards upgraded bus stop infrastructure on White Post Road;
- Provision of a central spine road through the site to an agreed point that coincides with that for the spine road on the Gallagher Estates site, details of the specification of the spine road reflecting that set out within the report together with triggers for its completion from its White Post Road junction to the site's western boundary in accordance with the criteria set out in condition 49;
- Financial contribution towards variation of traffic regulations orders to introduce on-street parking controls in the vicinity of Bishop Loveday Primary School;
- Provision of bus stop infrastructure within the site;
- Provision of a new bridleway through the site to an appropriate specification to meet the Gallagher Estates site at a precise point to be agreed.

7. Conclusion

- 7.1 The principle of residential on this site as part of a wider urban extension on the allocated Banbury 17 site has been established and it is the detail of elements of the scheme that is now for consideration. The proposals as submitted would make a very significant contribution towards meeting the housing needs of the District and ensuring the Council's housing delivery trajectory in the Local Plan remains on target. For reasons set out in this report, subject to the recommended conditions and covenants in a legal agreement, the potential for significant adverse impacts arising from the development can be mitigated to an acceptable level such that the proposals amount to sustainable development in

accordance with the provisions and requirements of Policy Banbury 17 and other relevant development plan policies. In addition to being found to be in general accordance with the development plan, the proposals are also considered to be consistent with Government guidance set out in the NPPF which establishes a presumption in favour of sustainable development. Officers consider there to be no other material planning considerations of significance that indicate determining the application otherwise than in accordance with the development plan. As a consequence, officers recommend that Committee resolves to grant outline planning permission.

- 7.2 In coming to this conclusion, officers have had regard to the development plan, Government guidance as well as statutory and third party representations made in response to the application. In addition, the information contained within the submitted Environmental Statement has been considered as part of assessing the merits and impacts of the proposed development. Officers are satisfied for the reasons set out in this report that the adverse environmental effects of the development would not be significant subject to the mitigation measures secured through the recommended conditions and legal agreement clauses. This report should be considered as the Council's statement for the purposes of regulation 24(c) of the EIA Regulations 2011 (as amended).

8. Recommendation

Approval, subject to:

1. Satisfactory completion of a legal agreement to secure the items set out in paragraph 6.79;
2. Imposition of the conditions set out below;
3. Provision for authority to be delegated to the Head of Development Management to make any necessary post-committee resolution minor amendments to the conditions and legal agreement (with the Committee Chairman's prior approval) in the interests of satisfactory decision making having regard to the Development Plan and any changes in circumstances including updates to national policy/guidance.

Conditions

1 Pre-Commencement Submissions/Requirements

No development shall commence on a phase identified within an approved phasing plan (see condition 2) until full details of the layout, scale, appearance and landscaping (hereafter referred to as reserved matters) of the development proposed to take place within that phase have been submitted to and approved in writing by the Local Planning Authority.

Reason - This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 4 of the Town and Country Planning (General Development Procedure) Order 2010 (as amended).

2 Prior to the submission of any application for approval of reserved matters and submissions under any other conditions except condition 6, a phasing plan covering the entire application site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall take place in accordance with the approved phasing plan and each reserved matters application shall only be submitted in accordance with the terms of

the approved phasing plan and refer to the phase (or phases) they relate to.

Reason - To ensure the proper phased implementation of the development and associated infrastructure in accordance with Government guidance contained within the National Planning Policy Framework.

3 In the case of the reserved matters, no application for approval shall be made later than the expiration of four years beginning with the date of this permission.

Reason - This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 4 of the Town and Country Planning (General Development Procedure) Order 2010 (as amended).

4 The development to which this permission relates shall be begun not later than the expiration of two years from the final approval of all of the reserved matters relating to the development or, in the case of approval on different dates, the final approval of the last such matter to be approved.

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.

5 Except where otherwise stipulated by condition, the development shall be carried out strictly in accordance with the following plans and drawings and but only insofar as they do not relate to matters reserved for later approval:

1361/22 Rev. E

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.

6 No application for reserved matters approval shall be submitted or any submissions made under the requirements of any other condition until a Design Code and Masterplan covering the entire application site has been submitted to and approved in writing by the local planning authority. The Design Code shall include:

- a) A density plan for the site;
- b) Design influences study and character areas;
- c) The general scale, form and style of buildings within each area of the site as well as details of the means of enclosure to be used;
- d) The street form, street frontage and hierarchy for all types of street/road including details of street design and surfacing;
- e) The approach to car and cycle parking across all areas of the site;
- f) The materials to be used across the site;
- g) The treatment of all on-site hedge corridors, retained trees and public rights of way.

All subsequent applications for approval of reserved matters and other details submitted in

requirement of conditions imposed on this outline planning permission shall be in accordance with the approved Design Code and Masterplan.

Reason - To ensure the development proceeds in a manner that is consistent with national and local planning policy objectives to deliver high quality residential environments that integrate successfully with the surrounding area in accordance with the requirements of Policies Banbury 17 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1.

7 Prior to the submission of any applications for approval of reserved matters but following the approval of the Design Code (condition 6), full details of the spine road (from its junction with White Post Road through to the western boundary of the site) including its alignment, specification, junctions (other than private drives), drainage, crossings, road markings, traffic calming, footways/cycle lanes, verges, on-street parking bays, street lighting, bus stop infrastructure and associated soft landscaping shall be submitted to and approved in writing by the local planning authority in consultation with the local highway authority.

Reason - To ensure that a suitably designed spine road is approved to enable proper consideration of reserved matters on this site and to facilitate appropriate delivery of development on the wider Banbury 17 allocated site.

8 All applications for reserved matters approval relating to a phase as approved under condition 2 shall include full details of the surface water drainage scheme to be incorporated into that phase including any above and below ground control measures. The development within that phase shall thereafter take place in accordance with the approved drainage details.

Reason - To ensure that across the development SuDS is fully designed and incorporated into the scheme to ensure no net increase in localised flood risk in accordance with the requirements of Policy ESD7 of the Cherwell Local Plan 2011-2031 Part 1.

9 No development shall take place on any phase as approved under condition 2 until full details of existing and proposed ground and floor levels within that phase have been submitted to and approved in writing by the local planning authority. Thereafter the development shall be carried out only in accordance with the approved levels.

Reason - In the interests of visual amenity in accordance with the requirements of Policies ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1.

10 No development shall take place on any phase as approved under condition 2 until full design details of the play areas within that phase (including Local Areas of Play [LAPs], Local Equipped Areas of Play [LEAPs], Neighbourhood Equipped Areas of Play [NEAPs] and Multi-Use Games Areas [MUGAs]) have been submitted to and approved in writing by the local planning authority. The development shall thereafter take place only in accordance with the approved details.

Reason - To ensure the development is served by appropriate play facilities in the interests of sustainably providing for the amenities of the new residents in accordance with the requirements of Policies Banbury 17, BSC10 and BSC11 of the Cherwell Local Plan 2011-

2031 Part 1.

11 No development shall take place on any phase approved under condition 2 until a full arboricultural survey, method statement and arboricultural implications assessment that accords with BS: 5837:2012 (or any superseding British Standard) for all existing trees and hedgerows within and around the perimeters of that phase of the site have been submitted to and approved in writing by the local planning authority. The development shall take place within that phase only in accordance with the approved details.

Reason - To ensure the continued health of retained trees/hedges of importance in the interests of visual amenity and biodiversity in accordance with the requirements of Policies ESD10, ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1.

12 No development shall take place on any phase approved under condition 2 including works of site clearance/preparation until the site has been thoroughly checked by a suitably qualified ecologist to ensure that no statutorily protected species which could be harmed by the development have moved on to the site since the date the previous surveys supporting the application were carried out. Should any protected species be found during this check, full details of mitigation measures to prevent their harm 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 mitigation scheme.

Reason - To ensure the development does not cause harm to protected species or their habitats in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1.

13 All applications for reserved matters approval relating to a phase (as approved under condition 2) shall be accompanied by a statement setting out the measures that will be incorporated into the development proposed in that phase to demonstrate how it will accord with the principles of 'Secured by Design' (SBD). The development shall thereafter be carried out in accordance with the approved details.

Reason - To ensure the development is designed in a manner that reduces risk and fear of crime in accordance with the requirements Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1.

14 No development shall take place until a drainage strategy detailing any on and/or off site drainage works has been submitted to and approved in writing 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.

Reason - The development may lead to sewage flooding; to ensure that sufficient capacity is made available to cope with the new development; and in order to avoid adverse environmental impact upon the community

15 No development shall take place until impact studies of the existing water supply and have been submitted to, and approved in writing by, the local planning authority (in consultation with Thames Water). The studies should determine the magnitude of any new

additional capacity required in the system and a suitable connection point.

Reason: To ensure that the water supply infrastructure has sufficient capacity to cope with the additional demand.

16 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 on the site, the risks to receptors and to inform the remediation strategy proposals shall be documented as a report undertaken by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place unless the Local Planning Authority has given its written approval that it is satisfied that the risk from contamination has been adequately characterised as required by this condition.

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

17 If contamination is found by undertaking the work carried out under condition 16, prior to the commencement of the development hereby permitted, a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval of the scheme of remediation and/or monitoring required by this condition.

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

18 If remedial works have been identified in condition 17, no development shall be occupied within a phase (as approved under condition 2) (other than for construction purposes) until the remedial works have been carried out for that phase in accordance with the scheme approved. 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 before any occupation of development on that phase can take place.

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and

ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy ENV12 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

19 Prior to the commencement of the development hereby approved, including any demolition and any works of site clearance, a mitigation strategy for badgers, which shall include details of a recent survey (no older than six months), whether a development licence is required and the location and timing of the provision of any mitigation or protective fencing around setts/commuting routes, 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 that the development does not cause harm to any protected species or their habitats in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework.

20 Prior to the commencement of the development hereby approved, including any demolition, and any works of site clearance, a method statement for enhancing biodiversity on site which includes assessment of net gain 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.

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

21 Prior to the commencement of the development hereby approved, a full Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the LEMP shall be carried out in accordance with the approved details.

Reason -To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework.

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

Reason -To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework.

23 Prior to the commencement of any part of the development where within 10m of an existing public right of way, the affected public right of way shall be protected and fenced (where appropriate) to accommodate a width of a minimum of 5m in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. Thereafter, the public rights of way shall remain protected and available for use at all times in accordance with the approved details throughout the construction phase in accordance unless otherwise agreed in writing by the local planning authority.

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

24 Details of the pedestrian/cycle connection(s) to be provided directly between the site and Salt Way including details of improvements to the existing public footpath within the site (Bodicote Footpath 13 - No. 137/13) together with a timetable for their provision shall be submitted to and approved in writing by the local planning authority prior to the first occupation of any dwelling on the site. The approved pedestrian connections and footpath improvements shall be provided and retained in accordance with the approved details.

Reason - To encourage sustainable walkable neighbourhoods in accordance with the requirements of Policy Banbury 17 of the Cherwell Local Plan 2011-2031.

25 Prior to commencement of development, details of the alignment and specification of all new dedicated footpaths, bridleways and cycle tracks to be provided within the site together with a timetable for their provision shall be submitted to and approved in writing by the local planning authority. Thereafter the new paths, tracks and bridleways shall be provided in accordance with the approved details.

Reason - In the interests of the amenities of future residents and to maximise walkable neighbourhoods in accordance with the requirements of Policy Banbury 17 of the Cherwell Local Plan 2011-2031 Part 1.

26 Prior to commencement of the development and any archaeological site investigations, a professional archaeological organisation acceptable to the Local Planning Authority shall prepare a first stage archaeological Written Scheme of Investigation, relating to the application area, which shall be submitted to and approved in writing by the Local Planning Authority.

Reason - To safeguard the recording and inspection of matters of archaeological importance on the site in accordance with Government guidance contained within the National Planning Policy Framework.

27 Prior to commencement of the development and following the approval of the first stage Written Scheme of Investigation, a programme of archaeological evaluation, investigation and recording of the application area shall be carried out by the commissioned archaeological organisation in accordance with the approved first stage Written Scheme of Investigation.

Reason - In order to determine the extent, character and significance of the surviving remains of archaeological interest and to safeguard the recording and inspection of matters of archaeological importance on the site in accordance with Government guidance contained within the National Planning Policy Framework.

28 Prior to the commencement of the development, a Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the local planning authority in consultation with the local highway authority. The CTMP shall include details on at least the following matters:

- Routing arrangements for construction vehicles (which shall not be via Wykham Lane);
- Delivery/collection timetable and arrival/departure times for site workers;
- Wheel washing facilities;
- Parking/turning and storage areas within the site;
- Appropriate contact details for the contractors.

Thereafter, the development shall be carried out only in accordance with the approved Construction Traffic Management Plan.

Reason - To minimise adverse impact on the road network in accordance with the requirements of Policies SLE4 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1.

29 Full details of the approved new 34 space public car park adjacent to White Post Road (shown indicatively on dwg no. 1361/22 Rev. E) including a timetable for its completion shall have been provided and approved as part of an application for approval of reserved matters prior to commencement of any development on the site. The new car park shall be completed in accordance with the approved details and thereafter retained for free public use thereafter.

Reason - To ensure the development does not give rise to extreme parking stress on surrounding roads in accordance with the requirements of Policy SLE4 of the Cherwell Local Plan 2011-2031 Part 1.

30 All applications for reserved matters approval for a phase proposing residential development shall be accompanied by details of the significant on site renewable energy provision to serve the dwellings within that phase. No dwelling within that phase shall thereafter be occupied until it is being served by the approved on-site renewable energy generation measures and shall remain so thereafter.

Reason - In the interests of creating sustainable development in accordance with the requirements of Policy ESD3 of the Cherwell Local Plan 2011-2031 Part 1.

31 Prior to the commencement of the development, details of measures to mitigate car parking stress on surrounding roads during the period of the construction of the approved new access to the site from White Post Road shall be submitted to and approved in writing by the local planning authority. The approved temporary measures shall be put in place prior to the commencement of any part of the development and remain in place until the approved new access arrangement has been completed and the permanent new car park fully laid out and

made available for public use as per the requirements of condition 29.

Reason - To ensure severe parking stress does not occur during the construction phase of the development to the detriment of local amenity and highway safety.

Pre-Occupation Submissions/Requirements

32 No occupation of any part of the development shall take place (except for construction purposes) until the highway works shown in drawing no. 1361/22 Rev. E have been fully completed and made available for continued use by the general public.

Reason - To ensure the development is served by an appropriate form of access that does not have an unacceptable impact on the wider highway network in accordance with the requirements of Policies Banbury 17 and SLE4 of the Cherwell Local Plan 2011-2031 Part 1.

33 No dwelling shall be occupied within any approved phase until full details of the street lighting to be provided within that phase has been submitted to and approved in writing by the local planning authority. Thereafter the street lighting shall be provided as approved prior to first occupation of any dwelling within the phase and retained as approved thereafter.

Reason - To ensure a safe and satisfactory residential environment is provided and to mitigate impact on public infrastructure in accordance with the requirements of Policy ESD15, Banbury 17 and INF1 of the Cherwell Local Plan 2011-2031 Part 1.

34 Prior to first occupation of any phase as approved under condition 2, fire hydrants shall be provided or enhanced for that phase in accordance with details to be first submitted to and approved in writing by the local planning authority.

Reason - To secure the provision of essential infrastructure in the interests of reducing risk of fire damage in accordance with the requirements of Policy INF1 and BSC9 of the Cherwell Local Plan 2011-2031 Part 1.

35 Prior to the first use or occupation of the development hereby permitted, covered and secure cycle parking facilities shall be provided on the site to support the community/recreation uses and for each dwelling in accordance with details which shall be firstly submitted to and approved in writing by the Local Planning Authority. Thereafter, the secure cycle parking facilities shall be permanently retained and maintained for the parking of cycles in connection with the development.

Reason - In the interests of encouraging sustainable travel in accordance with the requirements of Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained in the National Planning Policy Framework.

36 Prior to 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. The approved Travel Plan shall be implemented and operated in accordance with the approved details.

Prior to occupation of 50% of the dwellings approved on the site, an updated Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved updated Travel Plan shall be implemented and operated thereafter in accordance with the approved details.

Reason - In the interests of sustainability, to ensure a satisfactory form of development and to comply with Policy Banbury 17 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

37 Prior to first occupation of any dwelling on the site, details of a scheme of public artwork to be installed within the site (including a timetable for its provision and future maintenance arrangements) shall be submitted to and approved in writing by the local planning authority. The public artwork shall thereafter be installed in accordance with the approved details.

Reason - In the interests of creating a high quality public realm in accordance with the requirements of Policy Banbury 17 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1.

38 No dwelling shall be occupied on the site until 3 bins for the purposes of recycling, residual and garden waste have been provided for that dwelling, in accordance with the following specification:

- One 240 litre blue wheeled bin for the collection of dry recyclable material;
- One 240 litre green wheeled bin for the collection of residual waste;
- One 240 litre brown bin for the collection of garden waste material

Reason - To provide appropriate and essential infrastructure for domestic waste management in accordance with the provisions of Policies INF1 and BSC 9 of the Cherwell Local Plan 2011 - 2031 Part 1.

39 No dwelling shall be occupied until it has been constructed to ensure that it achieves a water efficiency limit of 110 litres person/day and shall continue to accord with such a limit thereafter.

Reason - In the interests of sustainability in accordance with the requirements of Policy ESD3 of the Cherwell Local Plan 2011-2031 Part 1.

40 All dwellings on the site shall achieve an energy performance standard equivalent to at least Code Level 4 of the former Code for Sustainable Homes. No dwelling shall be occupied until it has been constructed to meet this energy performance standard unless otherwise agreed in writing by the local planning authority.

Reason - In the interests of sustainability in accordance with Policy ESD3 of the Cherwell Local Plan 2011-2031 Part 1.

41 Prior to the approved new access being brought into use, details of measures to be incorporated into the cycle lanes along White Post Road (as shown in dwg no. 1361/22 Rev. E) to reduce risk of conflict between cyclists and pedestrians outside Bishop Loveday Primary School shall be submitted to and approved in writing by the local planning authority. The new access shall not be brought into use until the cycle lanes have been constructed and made available to public use in accordance with the approved details and it shall be retained as such thereafter.

Reason – In the interests of highway safety in accordance with the requirements of Government guidance set out in the National Planning Policy Framework.

42 No occupation of any of the approved dwellings shall take place until details of the on-street parking controls to be introduced on the spine road and White Post Road in the immediate vicinity of Bishop Loveday Primary School have been submitted to and approved in writing by the local planning authority in consultation with the local highway authority. The approved on-street parking controls shall be introduced prior to the first occupation of any dwelling on the site and retained as such thereafter.

Reason – To ensure that further indiscriminate parking of cars along sections of White Post Road and the new spine road does not occur as a result of the development which would be likely to prejudice highway safety.

43 Compliance Only (Ongoing)

Notwithstanding any provisions contained within the Town and Country Planning (General Permitted Development Order) 2015 (and any Order or Statutory Instrument revoking or re-enacting that order), all water, waste, energy and communication related infrastructure to serve the proposed development shall be provided underground and retained as such thereafter unless otherwise specifically approved in writing by the local planning authority.

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

44 If, during development, contamination not previously identified is found to be present at the site, no further development shall be carried out until full details of a remediation strategy detailing how the unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. Thereafter the remediation strategy shall be carried out in accordance with the approved details.

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

the National Planning Policy Framework

45 No trees or hedgerows on the site (as existing at the date of this decision) shall be lopped, felled, uprooted or wilfully damaged unless otherwise approved in writing by the local planning authority except to directly facilitate the creation and laying out of the approved vehicular and pedestrian access arrangements from White Post Road as set out in drawing no. 5773-A-04 of the submitted Arboricultural Assessment produced by FCPR and dated April 2016.

Reason - To ensure existing landscape features of significance are retained in the interests of creating a high quality development that is sympathetic to its setting and preserves/enhances biodiversity in accordance with the requirements of Policies ESD10, ESD13 and ESD15 of the Cherwell Local Plan 2011-2031.

46 The hereby approved means of access from White Post Road shall be constructed only in accordance with the methodology and tree protection measures set out in the submitted Arboricultural Assessment (produced by FPCR and dated April 2016).

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 Banbury 17 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

47 Prior to the first use of the approved new vehicular access from White Post Road, any and all existing vehicular accesses to the site from Wykham Lane shall be permanently stopped up and shall not be used by any vehicular traffic whatsoever unless otherwise agreed in writing by the local planning authority.

Reason - To ensure that the proposals do not materially increase traffic flows along Wykham Lane to the detriment of highway safety.

48 No more than 280 dwellings shall be accommodated on the site under the provisions of this permission.

Reason - To ensure that the local planning authority can consider the wider sustainability implications for a more intensive development on the site and to ensure the Environmental Statement is appropriate to the scale of development.

49 The spine road approved under the requirements of condition 7 shall be fully completed and available for public use from its new junction with White Post Road through to the site's western boundary prior to whichever occurs earliest of the following:

- Occupation of 75% of the final number of dwellings approved on the site (as determined by reserved matters approvals);
- Four years following first commencement of any part of the approved development on the

site;

- Two months before first opening of the new primary school on the Banbury 17 site.

Reason - To ensure the satisfactory comprehensive development of the wider site allocated as Banbury 17 in the Cherwell Local Plan 2011-2031 Part 1 and to prevent significant adverse impact on the local highway network.

50 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 the submission of a recent survey (no older than one month) that has been undertaken by a suitably qualified ecologist to assess the nesting bird activity on site together with details of measures to protect the nesting bird interest on the site.

Reason - In the interests of preventing harm to protected species in accordance with the requirements of Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1.

51 Any and all non-residential buildings on the site shall meet at least BREEAM 'Very Good' based on the standard applicable at the date of this decision.

Reason - In the interests of sustainable construction in accordance with the requirements of Policy ESD3 of the Cherwell Local Plan 2011-2031.

52 No building on the site shall have a maximum height greater than 8.5m.

Reason - To ensure that the Environmental Statement robustly assessed the landscape impacts of the development.

53 Prior to first use of the approved new vehicular access arrangement (as shown on drawing no. 1361/22 Rev. E) or new public car park (condition 34), details of the means by which the existing access to Banbury Cricket Club will be stopped up to vehicles shall be submitted to and approved in writing by the local planning authority. Neither the approved new vehicular access nor public car park shall be brought into use until the existing access has been stopped up in accordance with the approved details and shall be retained as such thereafter.

Reason - In the interests of preventing risk of undue conflict between different users of the highway in accordance with the requirements of Policy SLE4 of the Cherwell Local Plan 2011-2031 Part 1.

54 The open market dwellings provided on the site shall include a minimum of the following dwelling sizes:

- 20% as two bedroom dwellings;
- 40% as three bedroom dwellings.

All applications for reserved matters approval shall reflect these requirements.

Reason - In order to provide an appropriate mix of housing on the site to respond to the

objectively assessed housing needs of the District in accordance with the requirements of Policy BSC4 of the Cherwell Local Plan 2011-2031 Part 1.

Planning Notes/Informatives:

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.

The District Council, as local planning authority, in deciding to approve this proposal has taken into account the Environmental Statement submitted with the application and any relevant representations made about the likely environmental effects by the public or consultees.

Your attention is drawn to the need to have regard to the requirements of UK and European legislation relating to the protection of certain wild plants and animals. Approval under that legislation will be required and a licence may be necessary if protected species or habitats are affected by the development. If protected species are discovered you must be aware that to proceed with the development without seeking advice from Natural England could result in prosecution. For further information or to obtain approval contact Natural England on 0300 060 2501.

Closure of Public Highway

If the permission hereby given requires work within the public highway, the applicant is advised that he/she should not commence such work before formal consent is secured from the Highway Authority by way of either (a) a Section 184 Highways Act 1980 notice, or (b) the completion of a formal agreement between the applicant and the Highway Authority. Details of the form of both a) and b) above may be obtained direct from Oxford County Council, the Highway Authority on Tel. (01865) 844300.

No development shall take place across any public footpath/right of way unless and until it has been legally stopped up or diverted.

STATEMENT OF ENGAGEMENT

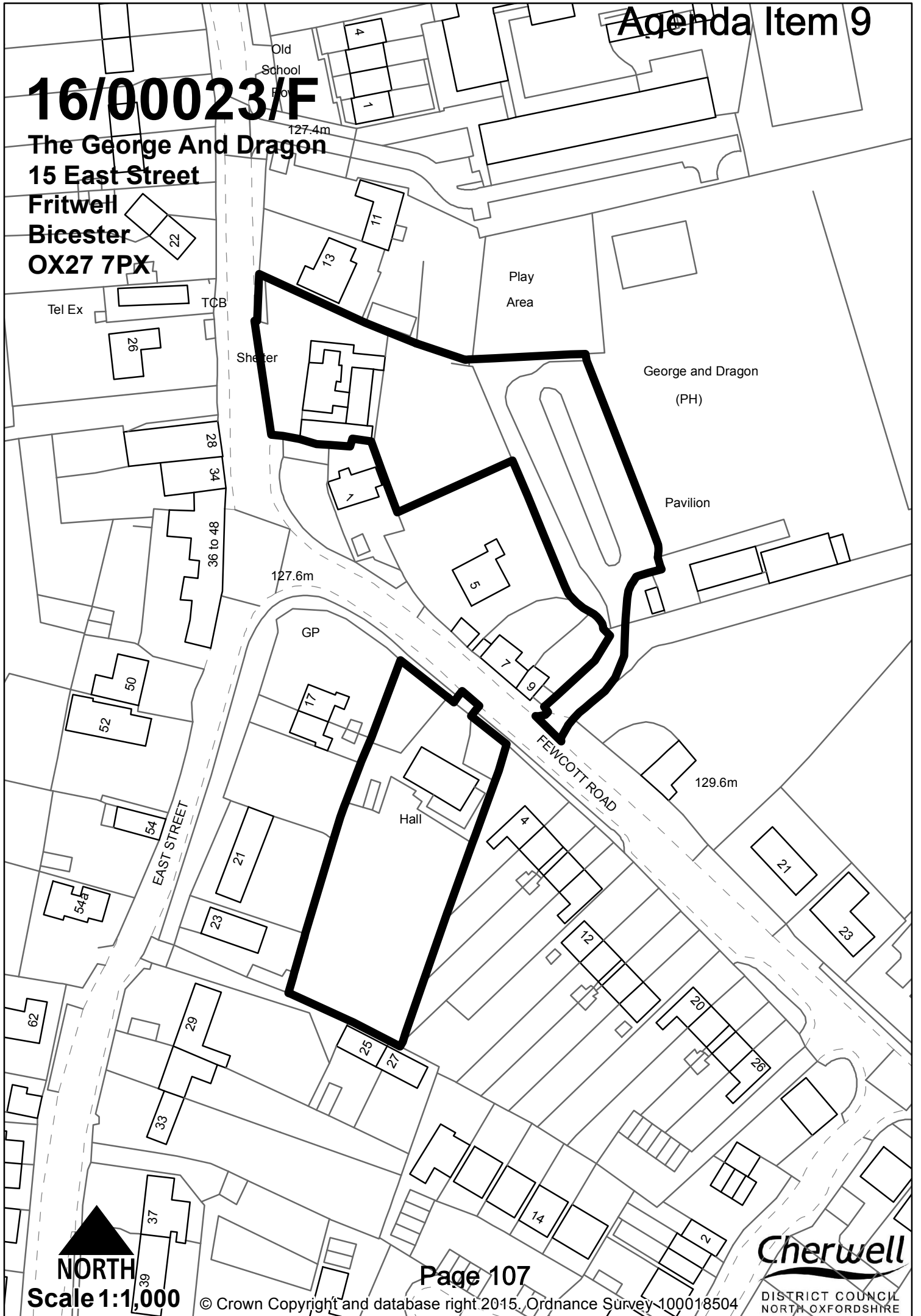
In accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), the Council has worked positively and proactively to determine this application in an efficient manner having worked with the applicant/agent where necessary to resolve any concerns that have arisen during consideration of the application in the interests of achieving more appropriate and sustainable development proposals. Consent has been granted accordingly.

CONTACT OFFICER: Matthew Parry

TELEPHONE NO: 01295 221837

16/00023/F

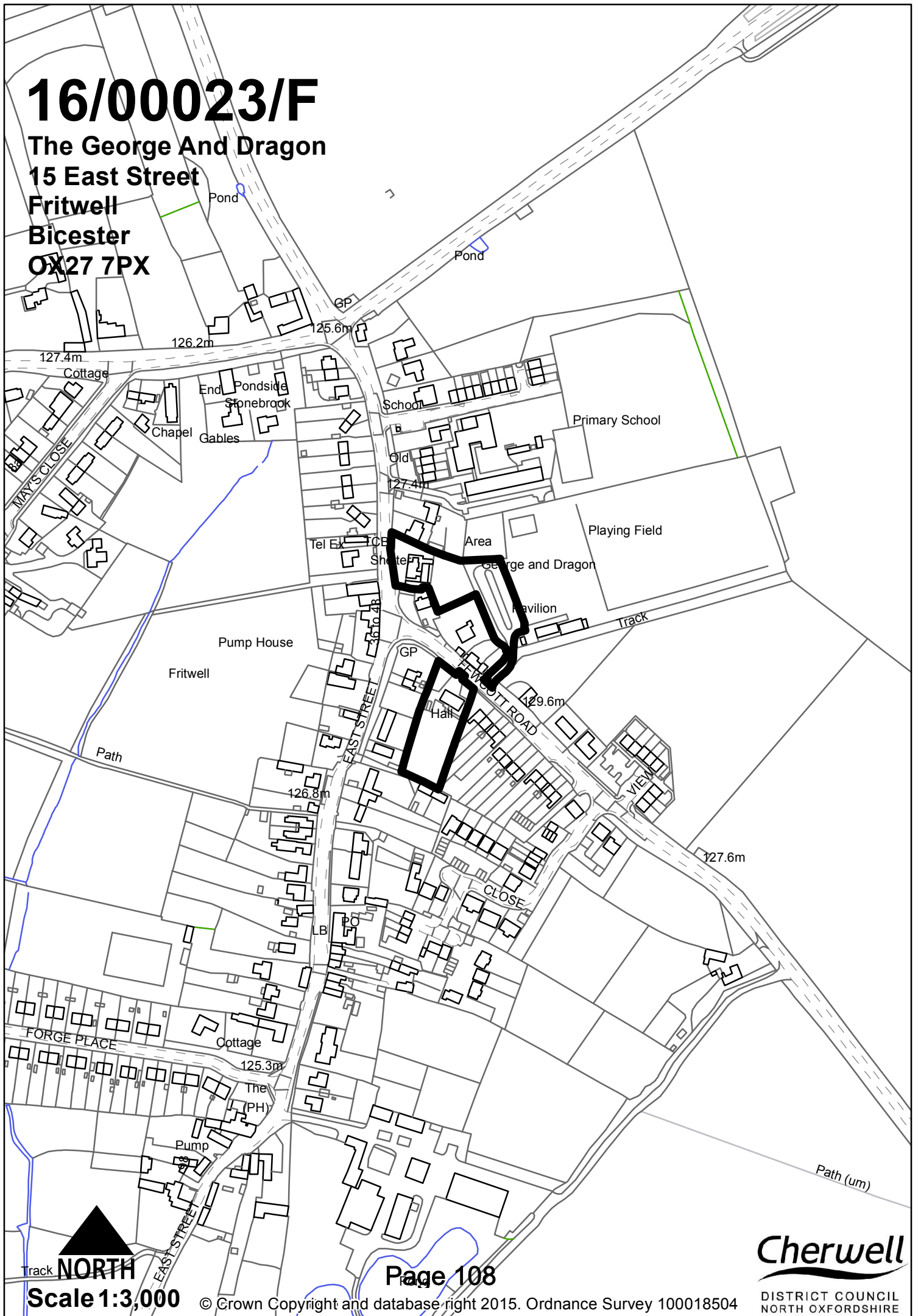
**The George And Dragon
15 East Street
Fritwell
Bicester
OX27 7PX**



NORTH
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16/00023/F

The George And Dragon
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OX27 7PX



Cherwell

DISTRICT COUNCIL
NORTH OXFORDSHIRE

The George And Dragon
15 East Street
Fritwell
Bicester
OX27 7PX

16/00023/F

Case Officer: James Kirkham **Ward(s):** Deddington

Applicant: Leywood Developments Ltd

Ward Member(s): Cllr B Williams
Cllr H Brown
Cllr M Kerford-Byrnes

Proposal: George and Dragon site - Erection of a terrace of 4 no. 3 bed cottages with parking. Erection of single storey village hall re using existing village car park and access.

Village Hall site - Demolition of existing village Hall and erection of 7 no. 3 bed houses with through access to surface parking

Committee Date: 19.05.2016 **Recommendation:** Approve

Reason for Referral: Major Development

1. Application Site and Locality

- 1.1 The development proposal is spread across 2 sites located within the village of Fritwell; the site of the former George and Dragon public house, and the site of the village hall. The former George and Dragon site is situated quite central to the village and was formerly occupied by a public house which has now been demolished. The site has a frontage onto East Street and backs onto the village car park area serving the playing fields to the east. A play area also exists adjacent to the eastern boundary of the site. The general area is residential in character featuring predominately 1 and 2 storey properties. The majority of the site is located outside the Conservation Area however the Conservation Area exists immediately to the south of the site.
- 1.2 The existing village hall site forms the other part of the site and is approximately 0.2ha. It has a frontage onto Fewcott Road. The existing village hall is located towards the front of the site in a pre-fabricated single storey building which has been extended overtime. It has an aged and functional appearance. Access is obtained directly off Fewcott Road where there is a small tarmacked surface car park. To the rear (south) is a mown lawn and a number of sheds accommodating equipment for users of the village hall. The surrounding land use is mixed residential. The site is located wholly within the Conservation Area.
- 1.3 There are notable species in the form of common swift and west European hedgehog recorded within 250metres of the site.

2. Description of Proposed Development

- 2.1 The current application is a resubmission of an earlier planning approval (14/01757/F) on the site which allowed for the demolition of the George and Dragon pub and existing village hall and the construction of 8 dwellings and a new village hall.
- 2.2 The current application seeks consent to increase the number of dwellings proposed on the site to 11 dwellings and also some minor changes to the design of the village hall building. The application is forwarded on the basis that some of the profits from the proposed housing development would provide funding to construct the new village hall building. The application is accompanied by a financial viability appraisal.
- 2.3 The former George and Dragon site would accommodate 4 dwellings along the frontage with East Street. These would consist of a terrace row of two storey properties constructed of stone under a slate roof. The single storey elements to the rear of the buildings would be rendered. Gardens would be provided to the rear of the dwellings and parking for the new dwellings would be provided in a rear courtyard. This would provide 2 parking spaces for each of the properties and would be accessed to the south of the terrace row from East Street.
- 2.4 A new village hall building would be located to the rear (east) of the proposed dwellings on the former George and Dragon site on the area which previously accommodated the pub garden. It would be an L shaped single storey building constructed of render under a tiled roof. Only very minor changes are proposed from the previous approved scheme with the largest change being removal of the limestone plinth and replacement with a rendered plinth. The village hall building would utilise the existing parking area serving the playing fields to the east of the site and would use the existing access from Fewcott Road. Some improvements to the layout of the parking and provision of parking spaces to the east of the proposed village hall are also proposed. Pedestrian access to the site would also be available from East Street.
- 2.5 The site of the existing village hall would then be used for residential development. This would accommodate 7 new dwellings. There would be 3 dwellings on the frontage of the site facing onto Fewcott Road (a pair of semis and a detached dwelling) and a terrace of 4 dwellings to the rear of the site. These would be constructed of stone under a slate roof.
- 2.6 Amended plans have been received during the course of the application. In summary the changes are:
 - The inclusion of chimneys to the residential properties
 - Alterations to the design of the property on Plot 7
 - Clarification of the use of natural stone and slates on dwellings and removal of stone plinth on village hall building
 - Provision of new footpath on East Street linking the application site to the school site
 - Alterations to footpaths in private parking area

3. Relevant Planning History

<u>App Ref</u>	<u>Description</u>	<u>Status</u>
14/00537/F	<p>George and Dragon site - Demolish existing redundant public house and erect 3x3 bed terrace housing with parking and new single storey village hall.</p> <p>Village Hall Site - Demolish existing village hall and erect 5x3/4 bed houses in 2 terraces with through access to parking and parking barn (open fronted).</p>	Withdrawn
14/01757/F	<p>George and Dragon site - Demolish existing redundant Public House and erect 3 x 3 bed terrace housing with parking and new single storey Village Hall.</p> <p>Village Hall Site - Demolish existing Village Hall and erect 4 x 3 and 1 x 4 bed houses in 2 terraces with through access to surface parking.</p>	Permitted
15/01875/F	Variation of condition 2 of 14/01757/F - alterations to window and door openings in association with reconfigured internal layout, and alterations to parking area including further landscaping and surface finishes	Permitted

4. Response to Publicity

4.1 The application has been publicised by way of site notices and letters to neighbouring properties. The following comments have been raised in relation to this consultation:

- The backland position of the dwellings is not appropriate to the area.
- Width of footpath along East Street unsuitable
- Impact of development on electricity and phone services to neighbouring properties
- Loss of privacy to 13 East Street. The proposal requires a higher fence between the properties and the windows in the side elevation should be obscurely glazed.
- Noise and disturbance including smoke pollution to occupiers of 3 Fewcott Road
- Concerns over suitability of access to village hall
- Concerns over land ownership

5. Response to Consultation

Parish/Town Council:

- 5.1 **Fritwell Parish Council** – No objections to proposal however queries why village hall is not using a more sustainable heating source and hopes the parking is adequate for village hall.
- 5.2 They later raised concerns regarding the use of timber boarding on the village hall which has now been amended to render.
- 5.3 They also raised no objections to the pavement which is necessary to keep parents and children safe however the verge is very narrow and the parish wish to retain as many verges as possible.

Cherwell District Council:

- 5.4 **Strategic Housing** – Originally requested that 4 of the dwellings be provided as affordable dwellings. However following the submission of a financial viability appraisal they raise no objection to the application. They have provided an analysis of the viability information that has been provided by the developer and stated the following:

- *They seem to be making reasonable assumption's regarding build cost, cost of lending, professional fees etc*
- *The sales values are on the low side, however even if we look to increase these to what I believe is a reasonable level their profit margin only increases to 18%. A normal expectation for a developers profit would be 20%*
- *The costs p/sqm of the Community building is quite high, but without seeing the spec to the building it is difficult to tell whether this is accurate or not, however I would deem it not to be an unreasonable level*
- *Overall I would dispute some of the figures they have used but generally what they have submitted seems to outline a position which demonstrates they cannot provide a community building as well as affordable housing. It will therefore be up to committee as to which they would prefer to see in this location*

- 5.5 Furthermore information from the applicant has been submitted to justify the cost of the community building following the above comments and comments are awaited from the Strategic Housing Officer.

- 5.6 **Conservation Officer** – comments that: *The village hall would look more traditional with a gabled rather than hipped roof (I appreciate the width of the building is very wide for 'traditional' but full gabled roofs are more traditional in this region).*

Plot 7 – the en suite might benefit from direct ventilation via a single light opening window.

Chimneys would add rhythm and interest.

The elevations could also be enlivened with the use of quoins on corners.

No barge boards – not traditional.

Flush/balanced casements preferred.

Materials need to be traditional (ie natural stone + natural slate) + taken from the palette of traditional building found within the village/conservation area.

- 5.7 **Landscape Officer** - comments that: *This proposal does not look very different from a previously approved proposal.*

We will need to see a planting plan but this can be conditioned. Also the gravel does need to be bound and not loose. I know the plan says bound gravel – just need to ensure that it is.

- 5.8 **Environmental Protection Officer** - No objections however recommends the following conditions should be applied (which mirror those discussed and applied to the previous permission granted in 2014 at 14/01757/F):

Prior to the commencement of the development hereby approved, full details of a scheme to acoustically enclose all areas of the village hall where amplified sound can be generated shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first occupation of the building, the development shall be carried out and retained in accordance with the approved details.

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

All windows and doors are to be kept shut (except for access and egress) when amplified speech or music is occurring inside the village hall or any other event/occurrence is taking place that is likely to cause a nuisance to neighbouring properties i.e. the playing of musical instruments.

The proposed outdoor paved area to the village hall shall not be used after 9pm.

The proposed village hall shall only be used for events between 09.00 and 23.00hrs Mon – Sat and 10.00 and 22.00 hrs. on a Sunday except for on 15 occasions per year (and New Year's Eve when it can be used until 2am on New Year's Day). Notice of these events is to be made available to the local residents by means of a notice board and/or website.

These are designed to prevent potential unreasonable nuisance to the nearest neighbours.

- 5.9 **Waste Officer** - Happy with the developer's proposal for waste and recycling storage. Section 106 contribution of £106.00 per property will also be required.

Oxfordshire County Council:

- 5.10 **Highways** – Originally the highway engineer raised concerns regarding the application and requested details of a footway along East Street linking the application site and the school site. Following receipt of amended plans they raise no objection to the application subject to a number of conditions. The following issues are also raised:

- 5.11 *Visibility splays are marked, but it is not completely clear that the railings are behind them – they must be. Also any land within the visibility splays will need to be dedicated.*

- 5.12 *Parking is extremely tight – especially manoeuvring in and out of Plot 1’s parking space. Getting into back gardens will be difficult past the cars. There is a risk that cars will be left on street instead. East Street suffers parking congestion at peak times, with the risk that buses and emergency access to the school could be restricted. A contribution of £2,500 will be required to cover the costs of implementing a Traffic Regulation Order to control parking on East Street should the need arise.*
- 5.13 *Fritwell Bridleway 11 passes along the southern boundary of the site. This is likely to suffer damage to its surface from increased use. Proposals to mitigate this should be discussed with the county council’s Rights of Way team.*
- 5.14 **Archaeology** – No objection subject to conditions: *The site is located in an area of archaeological interest as identified by an archaeological evaluation undertaken on the site. The report for this evaluation has been submitted along with this application. The evaluation recorded a number of medieval linear features and a programme of archaeological monitoring and recording (watching brief) will need to be undertaken during the development. A written scheme of investigation for this watching brief has been agreed with County Archaeology and submitted with this application. We would, therefore, recommend that, should planning permission be granted, the applicant should be responsible for ensuring the implementation of an archaeological monitoring and recording action (watching brief) to be maintained during the period of construction in line with the agreed and submitted written scheme of investigation. This can be ensured through the attachment of a suitable negative condition.*
- 5.15 **OCC Education** – No objection: *Based on the information currently available, this proposed development has been estimated to generate 4.29 primary pupils, 2.86 secondary pupils (including 0.33 sixth formers) and 0.08 pupils requiring education at an SEN school.*
- 5.16 Primary education - *OCC is not seeking Education contributions to mitigate the impact of this development on primary school infrastructure. Existing school capacity is forecast to be sufficient, taking into account this proposed development and other development already approved.*
- 5.17 Secondary education - *OCC is not seeking Education contributions to mitigate the impact of this development on secondary school infrastructure. This is solely due to Regulation 123 of the Community Infrastructure Regulations 2010 (as amended), and the need to reserve our ability to seek contributions from larger developments than this in the area in future.*
- 5.18 *Special Educational Needs (SEN) education - OCC is not seeking Education contributions to mitigate the impact of this development on SEN school infrastructure. This is solely due to Regulation 123 of the Community Infrastructure Regulations 2010 (as amended), and the need to reserve our ability to seek contributions from larger developments than this in the area in future.*
- 5.19 **OCC Property Services** - *OCC is not seeking property contributions to mitigate the impact of this development on infrastructure. This is solely due to Regulation 123 of the Community Infrastructure Regulations 2010 (as amended).*
- 5.20 **OCC Ecologist** – No objections.

- 5.21 **OCC Drainage** - No objection to the proposal, but note that there appears lacking any formalised sustainable drainage strategy for the site in the application documents: *We note that the applicant intends to use soakaways to dispose of surface water drainage and would request further details of this aspect of the design. Has the use of permeable paving for the driveways / parking areas been considered?*
- 5.22 *Some preliminary soakage tests have been carried out, which have produced indicative values, but further testing is required to comply with BRE 365 for detailed design purposes. (as noted in the applicant's Ground Investigation Report). As such recommend a condition requiring full details.*

6. Relevant National and Local Planning Policy and Guidance

6.1 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. Planning legislation requires planning decisions to be made in accordance with the Development Plan unless material planning considerations indicate otherwise. 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
- SLE4: Improved transport and connections
- BSC1: District wide housing distribution
- BSC2: Effective and efficient use of land
- BSC12: Indoor Sports, Recreation and Community Facilities
- 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

Cherwell Local Plan 1996 (saved policies)

- C28: Layout, design and external appearance of new development
- C23: Features in conservation areas
- C30: Design of new residential development
- C33: Retention of undeveloped gaps
- ENV1: Development likely to cause detrimental levels of pollution

6.2 Other Material Planning Considerations:

National Planning Policy Framework (The Framework) – the National Planning Policy Framework sets out the Government’s planning policies for England and how these are expected to be applied.

Planning Practice Guidance (NPPG) – This sets out regularly updated guidance from central Government to provide assistance in interpreting national planning policy and relevant legislation.

7. Appraisal

7.1 Officers’ consider the following matters to be relevant to the determination of this application:

- Relevant Planning History
- Principle of Development;
- Design, Layout and Heritage
- Residential Amenity
- Highways
- Affordable Housing
- Effect on Infrastructure
- Other matters

Relevant Planning history

7.2 Planning permission for 8 dwellings and a replacement village hall on the application site has already been granted under planning application 14/01757/F. This consent remains extant and could be implemented without further planning permissions. The site area remains identical in the current application and whilst the number of dwellings has increased in the current application the dwellings proposed are now smaller and the position of buildings remains similar to that previously permitted. The presence of this earlier consent is a material consideration in determining the application.

7.3 The proposed development of the houses and the new village hall are linked. Essentially some of the profits made from the new dwellings will fund the construction and delivery of the new village hall building. Since the earlier approval further works have been undertaken to establish more accurate costing for the village hall and these are substantially higher than originally expected. Therefore to make the combined project financially viable a different mix and number of dwellings are proposed.

Principle of Development

7.4 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. In this case the development plan consists of the Cherwell Local Plan Part 1 (2015) and the Saved Policies of the Cherwell Local Plan (1996).

- 7.5 The National Planning Policy Framework (NPPF) is a material planning consideration and states that development that accords with an up-to-date development plan should be approved and proposed development that conflicts should be refused unless material considerations indicate otherwise (para. 12). At the heart of the NPPF is a presumption in favour of sustainable development. For decision making this means approving development which accords with the development plan without delay and where a development plan is absent, silent or relevant policies are out of date, granting permission unless:
- Any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the framework taken as a whole, or
 - Specific policies in the framework indicate development should be restricted
- 7.6 The Council can demonstrate a 5 year supply of deliverable housing sites that follows the requirements of the recently adopted Local Plan. Therefore the policies which control housing in the Local Plan are considered to be up to date and can be given significant weight in determining this planning application.
- 7.7 Policy Villages 1 of the Local Plan Part 1 provides a categorisation of the villages in the district to direct unplanned and small scale development in the rural areas to the villages which are best placed to accommodate small scale growth. This includes Fritwell as a Category A village which is amongst the most sustainable rural settlements. Policy Villages 1 states within the built up limits of Category A villages minor development, infilling and conversions of buildings may be considered acceptable subject to other material considerations.
- 7.8 The proposed development can be considered to be 'minor development' and given the relationship with the surrounding built development and the previous use of the sites, the sites are considered to lie within the built up limits of Fritwell. Paragraph C.262 of the Local Plan Part 1 states that in assessing whether proposals constitute acceptable 'minor development' a number of criteria will be considered including the size of the village and level of service provision, the sites context within the existing built development and whether it is in keeping with the character and form of the village. Whilst the number of dwellings has increased from the previous proposal it is contained within the same application site. It has a strong relationship with the surrounding built environment and whilst Fritwell is one of the smaller Category A settlements given the above factors the proposals are considered to be acceptable in terms of number of dwellings. Furthermore Fritwell has not seen significant levels of housing growth in recent years and so the cumulative impact of the levels of growth are not considered to be a significant issue in this case.
- 7.9 As noted above the current application is being forwarded on the basis that the proposed housing development would fund the new village hall facility and the increase in the number of dwellings on the site is required to deliver the level of funding required to deliver the village hall whilst still being a commercial proposition for a developer. This enabling factor further tips the balance in favour of the amount of housing proposed. Overall taking into account all these factors the level of housing development proposed is considered to be acceptable.

- 7.10 In relation to the replacement village hall the existing village hall building is rather dilapidated and is in need of replacement or significant levels of repairs. The new village hall is substantially larger than the existing facility and would provide a flexible community space and would be suitable for a wider range of community uses. Whilst the village hall will not be replaced on the same part of the site as the existing site it would be provided on the adjacent site and would still be well related to the existing village. The design and layout of the building has been undertaken in consultation with the Village Hall Committee and remains very similar to that previously approved under 14/01757/F. When viewed as a whole the proposed development will therefore not result in the loss of the community facility but will result in a significant enhancement to the villages' facilities. This is supported by Policy BSC12 of the Cherwell Local Plan Part 1 which states the Council will support the provision of community facilities to enhance the sustainability of communities and will protect and enhance the quality of existing facilities. As with the earlier approved planning applications on the site it is important that the provision of the village hall be secured through a planning condition to ensure that it is delivered prior to the first occupation of any of the dwellings and the housing cannot be occupied without the village hall. Overall the principle of providing a replacement village hall on the site is therefore considered to be acceptable.
- 7.11 The application would result in the loss of the site of a former public house however the loss of the public house was already accepted under the previously approved planning application and the former building has been demolished. Therefore as the loss of this use is already permitted it is not considered to be a constraint to the current application.
- 7.12 Overall subject to other material considerations the principle of developing the site for residential development and a replacement village hall building is considered to be acceptable so long as the provision of the replacement village hall is adequately secured and linked to the housing development.

Design, Layout and Heritage

- 7.13 The former George and Dragon site lies predominantly adjacent to the Conservation Area with the most southerly part within the Conservation Area. The existing village hall site falls wholly within the Conservation Area.
- 7.14 The Conservation Area is defined as a designated heritage asset. The NPPF requires Local Planning Authorities take account of the desirability of sustaining and enhancing the significance of heritage assets and seeks to ensure that new development should make a positive contribution to local character and distinctiveness. It goes on to state when considering the impact of proposed development on the significance of a designated heritage asset, great weight should be given to the assets conservation. It goes onto state that where development proposals will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. Policy ESD 15 of the Cherwell Local Plan echoes this advice. Furthermore Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area.

- 7.15 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 respect the traditional pattern of routes, spaces and plots and the form, scale and massing of buildings. It also states development should contribute positively to an area's character and identity by creating or reinforcing local distinctiveness and respecting local topography. Saved Policy C28 and C30 of the 1996 Local Plan seeks to ensure the layout, scale and design of development is of a high standard.
- 7.16 The proposed residential development (Plots 1 to 4) on the former George and Dragon site would provide a frontage onto East Street. The position of the buildings remains similar to the earlier approval. The row of terrace properties would be situated forward of the adjacent properties on East Street however the building line is not uniform in this area. Furthermore the siting of the new dwellings closer to the frontage of the site enhances the sense of enclosure which exists within the Conservation Area close to the junction between Fewcott Road and East Street and is more characteristic of a historic row of terrace cottages. Therefore it is considered this would positively contribute to the setting of the conservation.
- 7.17 The dwellings would have a simple linear frontage which is in keeping with the simple appearance of rural cottages and would have a small kink in the frontage which would add to the informal appearance of the row of traditional terrace properties. The use of casement windows and chimneys add a sense of rhythm to the buildings. The applicant had initially stated that the dwellings would be constructed of Bradstone however given the historic constraints of the site and strong use of limestone within the Conservation Area this was not considered to be acceptable. Therefore the applicant has been advised that the dwellings would need to be constructed of natural stone under a slate roof as this would be appropriate for the context and design concept of the proposed dwellings. The single storey elements would be finished in render. It is recommended full details of this be conditioned along with the full architectural detailing (such as eaves, verge and lintel details) of the properties to ensure they are suitably detailed to respect the character and appearance of the area and setting of the Conservation Area. The parking for the dwellings is located to the rear of the dwellings however it is still conveniently placed for occupiers of the dwellings with rear access gates. This reduces the visual impact of the parking in the street scene and allows for a more continuous frontage. The dwellings on the frontage of this site are therefore considered to be acceptable in terms of design and layout.
- 7.18 With regards to the proposed new village hall building, this is set back from the road frontages and located outside of the Conservation Area. The position and design of the village hall remains very similar to that previously approved and there are not considered to be any changes in circumstance which would justify a different conclusion being reached on this matter. The Conservation Officer has raised concerns regarding the hipped roof of the proposed village hall building and has suggested a gable ended property would be more appropriate. However the form of the village hall remains as previously permitted and the hipped nature of the roof reduces its bulk and massing and also reduces the impact on the amenity of the neighbouring properties. The village hall would be constructed of render under a tiled roof. The wider area has a mix of predominantly limestone and rendered properties.

Given the position of the site, outside of the Conservation Area, and the set back position of the building from the road frontage this choice of material is therefore considered to be acceptable.

- 7.19 The residential development on the existing village hall site would have road frontage onto Fewcott Road. Currently this site is occupied by the old village hall building which is single storey and detracts from the character and appearance of the Conservation Area. The current application therefore provides an opportunity to enhance the area.
- 7.20 The frontage dwellings would be set back from the frontage and would broadly respect the building line of the existing properties on the southern side of Fewcott Road. The frontage dwellings on Plots 5 and 6 would follow a similar design approach to the dwellings on Plots 1-4 and would have a traditional vernacular design constructed of traditional materials. The dwelling on plot 7 would have a different design to the other dwellings with a gable fronting onto the road. This has been amended during the course of the application as there were concerns that the originally proposed dwelling appeared cramped and incongruous given its width, design and detached relationship with the other properties. Whilst gable fronted properties are not a predominant features within the Conservation Area it is noted that there are a number of other examples of buildings with gables onto the road. Furthermore the dwelling would be seen in the context of the other new dwellings on the site and be seen adjacent the more modern rendered properties to the south east of the site and would act as a transition site. Given these issues the re-orientation of the roof of the property is considered to be acceptable when balanced against the overall visual benefits of the frontage development on this site.
- 7.21 The dwellings on plot 8 to 11 are located in a back-land position which remains similar to the earlier approved scheme and so this is considered to be acceptable with regard to the impact on the character and appearance of the Conservation Area. The design of the dwellings retains a traditional appearance and the use of materials is considered to be acceptable in this regard. The parking areas to the front of the dwellings are not considered to be ideal and would be a rather dominant aspect of the development. However in this case siting the parking away from the frontage of the site is beneficial as it reduces the impact on the public views within the Conservation Area. Furthermore given the back land position of the parking it would be largely screened by the proposed buildings and the areas could be softened with appropriate use of materials and landscaping. Therefore on balance it is considered to be acceptable.
- 7.22 Overall the development is considered to preserve and enhance the character and appearance of the Conservation Area and positively contribute towards local distinctiveness. The design and layout of the development is therefore considered to be acceptable in regard to Policy ES15 of the Local Plan Part 1, Saved Policies C28 and C30 of the Cherwell Local Plan 1996 and advice in the NPPF.

Residential Amenity

- 7.23 Both the NPPF and Policy ESD15 of the Local Plan Part 1 seek to ensure development proposals provide a good standard of amenity for both existing and proposed occupants of land and buildings.
- 7.24 The proposed development on the former George and Dragon site would be situated adjacent to residential properties. The occupier of 13 East Street to the north of the site, adjacent to the side elevation of Plot 1, has raised concerns over the loss of privacy to the bathroom window which exists on the ground floor side elevation of that property. Whilst it is noted that there may be some loss of privacy to the existing window on the side elevation of 13 East Street this window is obscurely glazed and the windows in the side elevation of Plot 1 could be conditioned to be obscurely glazed. The first floor windows on the rear elevation of the terrace row will overlook the neighbouring properties gardens to some extent however given the distance and orientation of the properties this is not considered to be significant and would be relatively common in a built up area. The dwellings on Plots 1 and 4 are considered to be a sufficient distance from the properties on the opposite side of East Street to ensure they would not result in a significant loss of privacy, light or over domination. The row of terrace properties is also considered to be a sufficient distance from the property to the south of the site, 3 Fewcott Road, to not result in significantly loss of amenity.
- 7.25 Concerns have been raised by the occupier of 3 Fewcott Road in relation to the impact of the new village hall building on their residential amenity in terms of noise and disturbance. The use, position and overall massing of the building remains very similar to that previously approved and so are considered to be acceptable. In terms of noise and disturbance this has been considered by the Council's Anti-Social Behaviour Manager. Whilst it is agreed that the village hall could lead to some noise nuisance, as with the earlier application the levels can be controlled by planning conditions requiring some acoustic protection of the village hall building, ensuring windows and doors are closed when amplified music is played and restricting the use of the outdoor area adjacent to this property at night time. It should be noted that the previous use of the site as a public house was not controlled in these respects. The Anti-social Behaviour Manager has also requested that the opening hours of the village hall be restricted however this was not a condition of the earlier permission and officers therefore consider it would be unreasonable to require it in this case as there has been no material change in circumstances. Therefore with the conditions as recommended at the end of this report, the development is considered to be acceptable in this respect.
- 7.26 With regards to the residential development on the site of the existing village hall the proposed development on plot 4 would be situated to the west of the rear elevation of 17 East Street. The distance between the main rear elevation of 17 East Street and the two storey side elevation of plot 4 would be 12.2 metres. Whilst this is below the normal back to flank distance the Council would normally require, in this case it is noted that the dwelling at 17 East Street has a large garden to the side (north) of the building which would reduce the impact on the garden area. Furthermore 17 East Street has a relatively wide plot and the proposed side elevation of the dwelling would only occupy part of this and would not be located directly on the boundary. On balance therefore it is consider that whilst the proposed

development will lead to some loss of outlook and amenity to the rear of 17 East Street this is not considered to be significant to justify refusal in terms of being overly dominant.

- 7.27 The backland properties, plots 8 to 11, will overlook the gardens of the properties on Fewcott Road and East Street however given the orientation of the dwellings and the distances involved this is not considered to result in a significant loss of privacy or level of overlooking to the gardens or properties which would justify refusal, particularly in the context of the approved (extant) scheme. The window to window distances between plots 8 to 11 and Nos 25 and 27 East Street to the rear of the site is also considered acceptable. The gable side to plot 8 and the distance to the rear of No. 21 East Street is also acceptable at approximately 18m to prevent the dwellings appearing overly dominant.
- 7.28 Overall, on balance, the proposal is therefore not considered to significantly impact on the amenity of the neighbouring properties and is considered to comply with Policy ESD15 and advice in the NPPF in this respect.

Highways

- 7.29 Paragraph 32 of the NPPF states that planning decisions should take account of whether safe and suitable access to a 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. Policy SLE4 of the Cherwell Local Plan Part 1 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. It goes on to state that development which is not suitable for the roads that serve the development and which have a severe traffic impact will not be supported.
- 7.30 The proposed access to the development sites remain very similar to that previously approved. OCC Highways have been consulted and have raised no concern regarding the accesses serving the site. The proposed village hall will utilise the existing village car park which is already located immediately adjacent to the proposed building. Some minor works are proposed in this area including the provision of a drop off zone and a small amount of additional parking. This arrangement remains identical to the previously approved application and is considered to remain acceptable.
- 7.31 During the course of the application discussions have taken place with the applicant regarding the provision of a footpath along the eastern side of East Street which would link the development site with the access to the school. The proposed development would lead to an increase in the number of dwellings on the site and it is considered very important that there is a pedestrian link between the site and the school as this part of East Street becomes very busy at peak times and is used by children and parents. Unfortunately it has become clear during the course of the application that the area is not wide enough to accommodate a standard width footpath given the extent of the highway in this location. However OCC Highways have indicated that they are likely to accept a below standard width footpath in this location as any footway is considered to be advantageous to pedestrian safety particularly at school drop off and pick up times when finding a safe place for residents to cross the road and

back again to access the school would be particularly challenging and present a hazard for pedestrians. Therefore it is recommended that full design details and the provision of this footway be controlled through condition.

- 7.32 The application site provides for 2 allocated parking spaces for each of the new dwellings and the Highway Engineer is satisfied with this level of provision. However it is noted that parking is extremely tight particularly on the former George and Dragon site where on street parking is already limited at certain parts of the day and this may cause issues with buses and emergency access to the school. Therefore OCC have requested a contribution of £2,500 be provided by the developer to cover the cost of implementing a Traffic Regulation Order to control parking on East Street should the need arise.
- 7.33 OCC Rights of Way have also stated that the public bridleway which exists at the entrance to the new village hall site should not be obstructed or altered without the permission of the County Council. These matters can be covered by informatives on any grant of planning permission.
- 7.34 Overall the development is therefore considered to be acceptable from a highway perspective subject to full details being secured by condition.

Affordable Housing

- 7.35 Policy BSC3 of the Cherwell Local Plan Part 1 states that all developments that include 11 or more dwellings (gross) will be expected to provide at least 35% of new housing as affordable homes on the site. This provision expects 70% of the affordable housing as affordable/social rented dwellings and 30% as other forms such as shared ownership. It goes on to state where developers consider that individual proposals would be unviable with this requirement an open book financial analysis of the development will be required and that further negotiations considering the housing mix and tenure will be considered.
- 7.36 Based on the policy requirement the proposed development should provide 4 of the units as affordable housing (3 x affordable rent and 1 x shared ownership). However in this case the applicant is stating that the scheme is unviable with the provision of affordable housing and has therefore submitted a viability appraisal in respect of the scheme to evidence this.
- 7.37 As outlined above the proposed development is a combined project. Essentially the housing development is, at least in part, an 'enabling development' to fund the construction and delivery of the village hall building. The delivery of the village hall prior to the occupation of any of the dwellings would need to be controlled through a planning condition to ensure this benefit of the scheme was secured and the housing was not constructed in isolation. In considering the application it is important to note that without the replacement village hall being provided the development would be contrary to local and national planning policy which seeks to protect existing community facilities. Therefore as well as the housing being required to finance the new village hall, there is also a planning policy requirement for any redevelopment of the existing village hall site to involve the provision of alternative facilities.

- 7.38 The consideration of financial viability is a material consideration in determining planning applications. In considering viability in determining planning applications the Planning Practice Guidance (PPG) advises that local planning authorities should look to be flexible in applying policy requirements where possible (Paragraph: 001 Reference ID: 10-001-20140306). The PPG advises that a site is viable if the value generated by its development exceeds the costs of developing it and also provides sufficient incentive for the land to come forward and the development to be undertaken (Paragraph: 016 Reference ID: 10-016-20140306). It also states that viability should provide competitive returns to willing developers to enable the development to be deliverable (Paragraph: 024 Reference ID: 10-024-20140306). It is important to note that without a developer receiving a suitable profit from a development, developments are unlikely to be delivered given the risks involved.
- 7.39 The submitted viability appraisal provides a breakdown of the associated costs of constructing the housing and the new village hall against the potential sales values of the residential properties. This takes the construction costs of the village hall as a cost of the development however there are no associated sales figures in relation to this building given the enabling aspect of the development. The viability assessment outlines a position where the scheme would deliver a developer profit which is below the normal expectation for a developer even without any affordable housing provision which would further impact on the viability of the scheme. The main aspect affecting the viability of the scheme is the construction costs associated with the village hall which is an abnormal cost which would not normally be associated with a residential development of this scale. Therefore the applicant argues that development cannot provide affordable housing whilst still delivering the village hall and providing a competitive developer return in order for the development to come forward.
- 7.40 The Viability Appraisal submitted has been reviewed by the Councils Strategic Housing Officer. They have assessed the various inputs to the appraisals and consider that the applicant has made reasonable assumptions regarding the build costs of the dwellings, costs of lending and other development costs such as professional fees. They have raised some concerns regarding the sales values of the properties which they consider to be on the low side. However even taking increased sales values into account, which they think would be reasonable, this would not provide a level of developer profit which would normally be expected for such a development. Therefore this does not impact on the overall conclusions of the viability assessment. They have also queried the build costs associated with the village hall building and further information has been requested and submitted by the applicant to justify these costs. Comments from the Strategic Housing Officer are awaited on this information to understand whether there could be any contribution to affordable housing.
- 7.41 In considering this matter the history of the site is also relevant. The earlier approved application on the site for 8 dwellings does not require the provision of any affordable housing as at the time the application was determined the government guidance indicated no affordable housing could be sought on development sites of fewer than 10 units. Furthermore the condition of the existing village hall is poor and its replacement would be a significant community benefit for the wider community. At the current time the village have no other funding mechanism to deliver such a facility.

7.42 On balance, taking all these matters into account, the benefits of providing a new village hall are considered to outweigh the conflict with the affordable housing policy and it is considered that it has been adequately demonstrated, subject to the receipt of further comments on the cost of the replacement village hall from the Housing Officer, through the submission of a viability appraisal that the development would not be able to deliver affordable housing in addition to the new village hall. The development is therefore considered to be acceptable in this regard.

Effects on Infrastructure

7.43 OCC have confirmed that whilst the proposal will have some impact on community infrastructure such as education, libraries, museums and adult day care they do not wish to pursue a contribution in this case given the pooling restriction relating to the S106 contributions for such projects. They therefore need to reserve their ability to seek pooled contributions from larger developments than this that may occur in the area in future. Therefore in this instance they are not pursuing any contributions to these facilities.

Other matters

7.44 Policy ESD6 states the Council will manage and reduce flood risk and Policy ESD7 states that all development will be required to use sustainable drainage systems (SuDs). The site is located in Flood Zone 1 which is the lowest zone of flood risk and is not identified on the Environment Agency maps as an area of surface water flooding. OCC Drainage have considered the application and have requested that further details of the sustainable drainage strategy for the site be secured through conditions. It is therefore recommended that conditions be added in this respect.

7.45 The site is located in an area of archaeological interest and an evaluation of the site recorded a number of medieval linear features and a programme of monitoring and recording which will need to be undertaken during the development. The scheme of investigation which has been submitted with the application is considered to be acceptable by the County Archaeologist and it is recommended a condition be applied to ensure the works are undertaken in accordance with this.

7.46 One of the local residents has raised concerns that the proposed frontage development on the former George and Dragon site would affect the electricity and phone service to their property which currently exist in overhead cables over the development site. In relation to this matter the developer would be responsible for contacting the service providers to arrange for these services to be relocated. This matter would fall outside of the scope of the planning application.

8. Conclusion

- 8.1 The principle of developing the site for residential purposes and a replacement village hall facility is considered to be acceptable subject to the village hall replacement being secured through a condition. The layout of the development retains the same principles as the earlier approval on the site which remains extant. The design and appearance of the buildings would preserve and enhance the character and appearance of the area and the Conservation Area and would also promote local distinctiveness. The access points and parking areas would be adequate to serve the development. The proposed development would not provide any affordable housing development as the provision of the village hall building would impact on the viability of the scheme. Subject to further comments from the Strategic Housing Officer in relation to the submitted viability appraisal agreeing the build costs of the village hall, the benefits of the new village hall are considered to outweigh the absence of affordable housing. Overall the development is therefore considered to constitute a sustainable form of development and it is recommended that planning permission be granted.

9. Recommendation

Approve subject to:

- a) receipt of final comments from the Strategic Housing Officer raising no objections**
- b) the applicant entering into a legal agreement in respect of the financial highway contribution sought by OCC**
- c) the following conditions:**

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 documents: Application form and drawing numbers 14-GDF-SL01, 15 GDF SP05 A, 15 GDF SP04 C, 15 GDF SP04 B, 14 GDF P2 H, 14 GDF P3 F, 14 GDF P5 B, 14 GDF P4 E, 14 GDF P3-1 A, 14 GDF P2-1 A, 15 GDF PE01 E, 15 GDF BS1 A, 15 GDF PE02 B and 15 GDF WD1 A.

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.

Conditions relating to whole site

- 3 Prior to the commencement of the development hereby approved, a plan showing full details of the finished floor levels for the proposed buildings in relation to existing ground levels on the site and in relation to the ground levels and ridge and eaves height of surrounding 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 ESD15 of the Cherwell Local Plan Part 1 2015 and Government guidance contained within the National Planning Policy Framework.

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

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

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy ESD15 of the Cherwell Local Plan Part 1 2015 and Government guidance contained within the National Planning Policy Framework.

- 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.

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 2015 and Government guidance contained within the National Planning Policy Framework.

- 6 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 - To ensure the satisfactory appearance of the completed development and to comply with Policy ESD15 of the Cherwell Local Plan Part 1 2015 and Government guidance contained within the National Planning Policy Framework.

- 7 No development shall commence on site other than in accordance with the submitted written scheme of investigation (WSI for an Evaluation - The George and Dragon and Village Hall Sites, Fritwell, Oxfordshire prepared by Oxford Archaeology Ltd (October 2015)). Once the watching brief has been completed its findings shall be reported to the Local Planning Authority, as agreed in the Written Scheme of Investigation, including all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication.

Reason - To safeguard the recording of archaeological matters within the site in accordance with Policy ESD15 of the Cherwell Local Plan Part 1 2015 and advice the NPPF (2012).

- 8 No development shall commence 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.

Reason: To protect the development and area against flooding and manage surface water in accordance with ESD7 of the Cherwell Local Plan Part 1 2015 and advice in the NPPF.

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

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

- 10 Prior to the commencement of the development hereby approved, full details of the proposed footway linking the development and the access to Fritwell Primary School along the south east side of East Street, including a timetable for its provision, as indicatively shown on drawing number 15 GDF SP04 Rev C, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the footway shall be constructed and retained in accordance with the approved details and timetable.

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

- 11 Prior to the commencement of the development hereby approved, an Arboricultural Method Statement (AMS) and Tree Protection Plans and details, 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 details shall include details of all trees to be retained. Thereafter, all works on site shall be carried out in accordance with the approved AMS and tree protection measures.

Reason - To ensure the continued health of retained trees/hedges and to ensure that they are not adversely affected by the construction works, in the interests of the visual amenity of the area, to ensure the integration of the development into the existing landscape and to comply with Policy ESD15 of the Cherwell Local Plan Part 1 2015 and Government guidance contained within the National Planning Policy Framework.

Conditions relating to the replacement village hall building only

- 12 Prior to the commencement of the development on the village hall hereby approved, full details of a scheme to acoustically enclose all areas of the village hall where amplified sound can be generated shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first occupation of the building, the development shall be carried out and retained in accordance with the approved details.

Reason: To protect the amenity of the neighbouring properties in accordance with Policy ESD15 of the Cherwell Local Plan Part 1 2015.

- 13 Prior to any works above slab level of the development hereby approved, samples of the render to be used in the construction of the walls of the village hall building 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 2015 and Government guidance contained within the National Planning Policy Framework.

- 14 Prior to any works to the roof structures of the development hereby approved, samples of the tiles to be used in the construction of the village hall 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 2015 and Government guidance contained within the National Planning Policy Framework.

- 15 Prior to the first use of the village hall a car park management plan for the village hall and associated car park shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be operated in accordance with these details.

Reason: To aid management of the shared car park with the village hall, playing fields and scout hut and in the interests of highway safety in accordance with the NPPF.

- 16 All windows and doors are to be kept shut (except for access and egress) on the village hall building hereby approved when amplified speech or music is occurring inside the village hall.

Reason: To protect the amenity of the neighbouring properties in accordance with Policy ESD15 of the Cherwell Local Plan Part 1 2015.

- 17 The external amenity space serving the village hall to the south west of the building as shown on drawing number 15 GDF SP04 Rev B shall not be used after 2100hrs or prior to 0800hrs.

Reason: To protect the amenity of the neighbouring properties in accordance with Policy ESD15 of the Cherwell Local Plan Part 1 2015.

- 18 The village hall shall be used only for purposes falling within Class D1 as 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: To provide and protect the community facility in accordance with Policy BSC2 of the Cherwell Local Plan Part 1 2015 and advice in the NPPF.

Conditions relating to the new dwellings only

- 19 Prior to the commencement of the development hereby approved, full specification details of the vehicular accesses, parking and turning areas to serve the dwellings, which shall include construction, layout, surfacing and drainage, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the first occupation of any of the dwellings, the access, parking and turning areas shall be

constructed 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.

- 20 Prior to any construction of the dwellings above slab level, a stone sample panel (minimum 1m² in size) shall be constructed on site in natural stone, and shall be inspected and approved in writing by the Local Planning Authority. Thereafter, the external walls of the dwellings 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 ESD15 of the Cherwell Local Plan Part 1 (2015), Saved Policy C28 of the Cherwell Local Plan (1996) and Government guidance contained within the National Planning Policy Framework.

- 21 Prior to any works above slab level of the development hereby approved, samples of the render to be used in the construction of the rear elements of the dwellings hereby permitted 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 2015 and Government guidance contained within the National Planning Policy Framework.

- 22 Prior to any works to the roof structures of the development hereby approved, samples of the slate to be used in the construction of the roof of the dwellings 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 2015 and Government guidance contained within the National Planning Policy Framework

- 23 Notwithstanding the details shown on the approved plans, further details of the architectural detailing of the exterior of the dwellings, including the design of the eaves and verge treatment shall be submitted to and approved in writing by the Local Planning Authority prior to the construction of the dwellings above slab level. The development shall thereafter be carried out in accordance with the approved details.

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 ESD15 of the Cherwell Local Plan Part 1 (2015), Saved Policy C28 of the

Cherwell Local Plan (1996) and Government guidance contained within the National Planning Policy Framework.

- 24 Notwithstanding the details on the approved plans, prior to the insertion of any windows and doors, 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 and their surrounds 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 ESD15 of the Cherwell Local Plan Part 1 2015 and Government guidance contained within the National Planning Policy Framework.

- 25 Prior to the occupation of any dwelling on the site 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 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 ESD15 of the Cherwell Local Plan Part 1 2015 and Government guidance contained within the National Planning Policy Framework.

- 26 Prior to the first occupation of any of the residential units hereby approved, the replacement village hall shall be completed and ready for use.

Reason: To provide and protect the community facility in accordance with Policy BSC2 of the Cherwell Local Plan Part 1 2015 and advice in the NPPF.

- 27 Prior to the first occupation of the development hereby approved, the first floor windows in the side elevations of the dwellings hereby permitted shall fully glazed with obscured glass that complies with the current British Standard, and retained as such thereafter.

Reason: To protect the amenity of the neighbouring properties in accordance with Policy ESD15 of the Cherwell Local Plan Part 1 2015 and advice in the NPPF.

- 28 Notwithstanding the provisions of Classes A to E (inc.) of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 and its subsequent amendments, the approved dwelling(s) shall not be extended or altered, 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 this site in order to safeguard the amenities of the occupants of the

adjoining dwellings and to ensure and retain the satisfactory appearance of the completed development in accordance with Policy ESD15 of the Cherwell Local Plan Part 1 2015 and Government guidance contained within the National Planning Policy Framework.

PLANNING NOTES

1. The Local Highways Authority have advised the following in respect of the works to the public bridleway at the entrance to the new village hall site:

a) Temporary obstructions. No materials, plant, temporary structures or excavations of any kind should be deposited / undertaken on or adjacent to the Public Right of Way that may obstruct or dissuade the public from using the public right of way whilst development takes place. Reason: To ensure the public right of way remains available and convenient for public use.

b) Route alterations. No changes to the public right of way direction, width, surface, signing or structures shall be made without prior permission approved by the Countryside Access Team or necessary legal process. Reason: To ensure the public right of way remains available and convenient for public use.

c) Vehicle access (construction): No construction / demolition vehicle access may be taken along or across a public right of way without prior permission and appropriate safety/mitigation measures approved by the Countryside Access Team. Any damage to the surface of the public right of way caused by such use will be the responsibility of the applicants or their contractors to put right / make good to a standard required by the Countryside Access Team. Reason: To ensure the public right of way remains available and convenient for public use.

The applicant should note that part of the proposed development lies within the highway boundary. For the development to proceed, a Stopping Up Order under Section 247 of the Town and Country Planning Act would be required. The applicant would need to make an application to the county council if and when planning permission is granted: contact Nick Blacow at highway.records@oxfordshire.gov.uk

Please note the Advance Payments Code (APC), Sections 219 -225 of the Highways Act, is in force in the county to ensure financial security from the developer to off-set the frontage owners' liability for private street works, typically in the form of a cash deposit or bond. Should a developer wish for a street or estate to remain private then to secure exemption from the APC procedure a 'Private Road Agreement' must be entered into with the County Council to protect the interests of prospective frontage owners.

2. The Sustainable Urban Drainage System as required by condition 8 shall also include:

- Discharge Rates
- Discharge Volumes
- Maintenance and management of SUDS features
- Sizing of features and attenuation volume
- Infiltration in accordance with BRE365

- Detailed drainage layout with pipe numbers
- SUDS - Soak away, permeable paving
- Network drainage calculations
- Phasing
- Limiting the surface water run-off generated by the 100 year (+allowance for climate change) critical storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site.

STATEMENT OF ENGAGEMENT

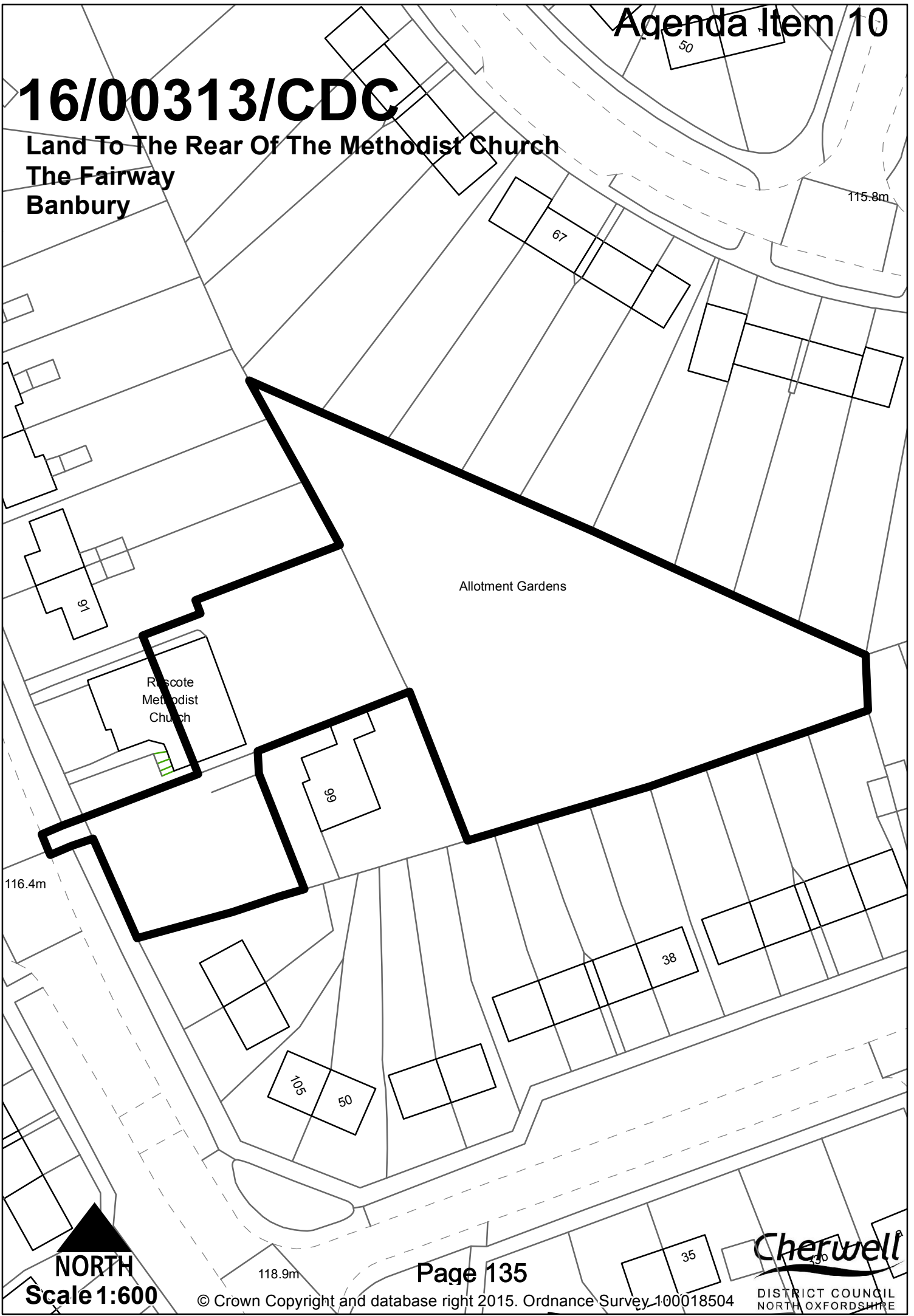
In accordance with the Town and Country Planning (Development Management Procedure) Order 2015 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council having worked with the applicant/agent in a positive and proactive way as the decision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

CONTACT OFFICER: James Kirkham

TELEPHONE NO: 01295 221896

16/00313/CDC

Land To The Rear Of The Methodist Church
The Fairway
Banbury



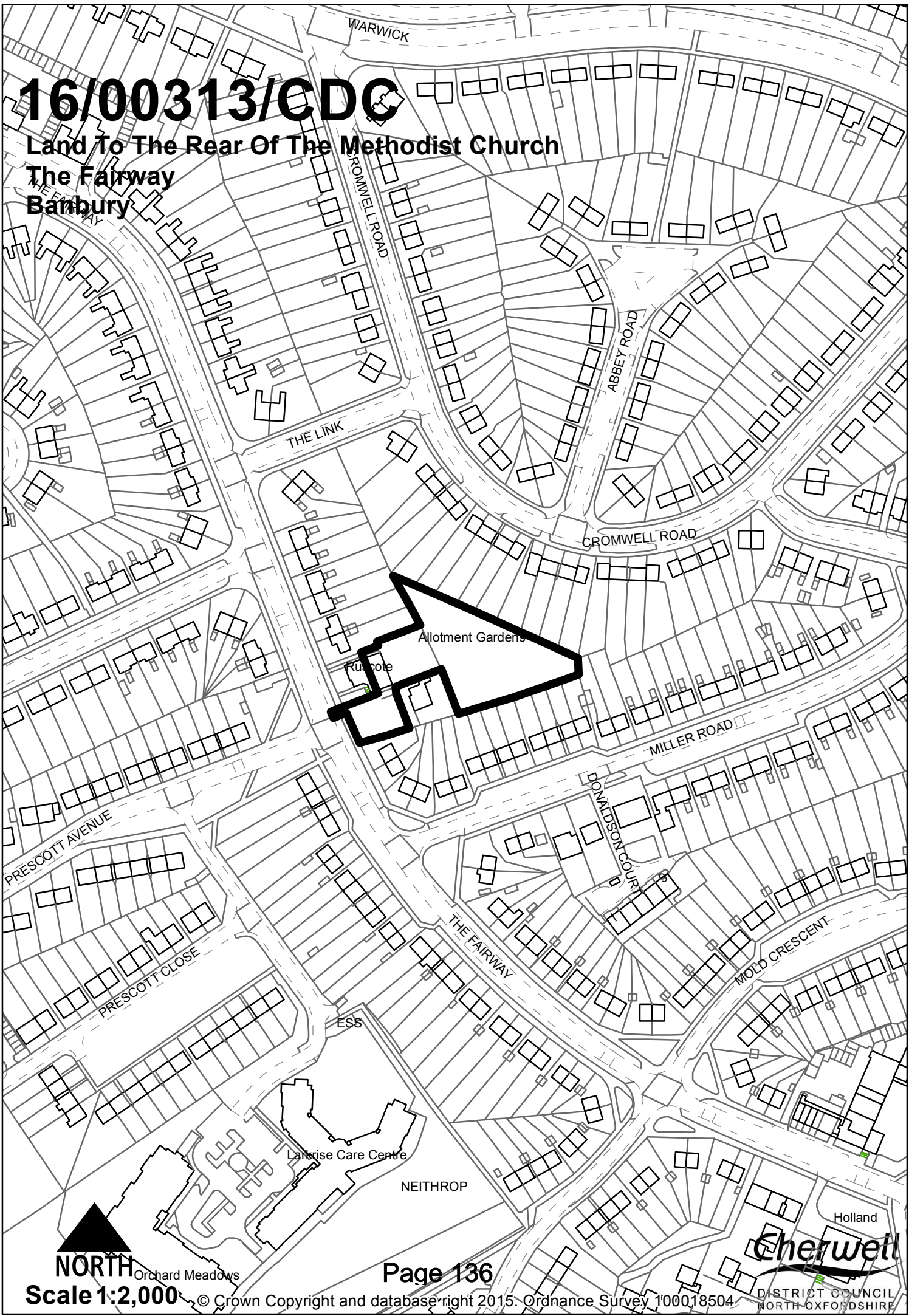
Allotment Gardens

Rescote
Methodist
Church

NORTH
Scale 1:600

16/00313/CDC

Land To The Rear Of The Methodist Church
The Fairway
Banbury



NORTH Orchard Meadows

Scale 1:2,000

Case Officer: Bob Neville **Ward(s):** Banbury Ruscote

Applicant: Cherwell District Council - 'Build!'

Ward Member(s): Councillor Barry Richards
Councillor Sean Woodcock
Cllr Mark Cherry

Proposal: Variation of Condition 2 of 13/01372/CDC - Revised design and siting of plots 10 and 11 only

Committee Date: 19/05/2016 **Recommendation:** Approval subject to conditions and completion of an appropriate legal agreement securing the units as affordable in perpetuity

Reason for Referral: Major Development, and Cherwell District Council is the applicant

1 Application Site and Locality:

1.1 The application site is a triangular parcel of land situated to the rear of The Methodist Church on The Fairway; itself currently being rebuilt following approval of 13/01153/CDC. The site is in a predominantly residential area in Banbury with access being taken from the Fairway.

2 Description of Proposed Development:

2.1 Permission was granted in December 2015 for the 'Erection of 11no. residential units, upgrading the existing vehicular access and parking for the church facility as well as extending this access for the purpose of the proposed residential units', under reference 13/01372/CDC. This application seeks permission for the variation of condition 2 of 13/01372/CDC to allow for the re-siting and redesign of two of the plots (10 and 11) of the approved scheme, following it becoming apparent that there was an error in the site ownership boundary between the development site and the retained building ('The Manse', 99 The Fairway) adjacent to the west.

2.2 The application was initially submitted with a scheme showing amended plots 10 and 11 to be three storey in their nature, with two full floors of accommodation and rooms in the roof space. The units were subsequently reduced back down to two storey height during the course of the application, following concerns being raised by officers with regard to the impact that proposals would have on the amenity of neighbouring properties. Further amendments were also made to the fenestration detailing during the course of the application, again in response to concerns relating to detrimental impacts on neighbour amenity through loss of privacy.

2.3 The scheme now before Committee for determination proposes the revised design of plots 10 and 11 to be a pair of semi-detached properties two storey in height with a hipped roof arrangement, as opposed to the gabled end arrangement originally permitted. The properties would be of timber construction with a render finish, under a fibre cement slate roof; as with the previously approved scheme. The units would occupy a similar size footprint and be of a similar height to the units previously approved, however they would be relocated eastwards into the site, away from The Manse. The relationship between the proposed units and

neighbouring residential properties is discussed in more detail in the 'Neighbour Amenity' section of this report below.

3 Relevant Planning History:

<u>App Ref</u>	<u>Description</u>	<u>Status</u>
01/02437/F	Relaxation of condition 1 of 97/00162/F to allow the retention of The Banbury Family Centre permanently	PER
97/00162/F	New single storey prefabricated system building with flat roof to the rear of the existing Methodist Church. To be used as family centre for children under eight years old and their families.	PER
04/01608/F	Relaxation of condition no. 2 of application no. 01/02437/F, to allow Community Resource Centre operated by the Methodist Church within class use D1.	PER
13/01153/CDC	Demolish existing single-storey church facility and provide a new-build two storey church building with a two bedroom residential unit on the first floor.	PER
13/01372/CDC	Erection of 11no. residential units, upgrading the existing vehicular access and parking for the church facility as well as extending this access for the purpose of the proposed residential units	PER

4 Publicity:

- 4.1 The application has been advertised by way of neighbour letter, site notice and press notice. The final date for comment was the 31.03.2016. Two letters of objection have been received from local residents as a result of this consultation process. Full details of all the representations received are viewable on the Council's web-site. As noted above the proposals were amended during the course of the application; it was not considered necessary to carry out any re-publicity or re-consultations following the submission of revised details, as the amendments had the effect of reducing the scale of the proposed development and did not introduce any new considerations.
- 4.2 Planning issues raised in the correspondence received include:
- Over domination
 - Loss of light
 - Loss of privacy
 - Out-of-keeping with existing surrounding properties
 - Drainage and floodrisk at the site
 - Highway safety

- 4.3 The planning issues raised in the objections will be addressed within the relevant sections of the main body of this report. As noted earlier the full contents of all the representations received are viewable on the Council's web-site.
- 4.4 Further issues were raised with regard to the transparency and fairness of the application process, the engagement with the community and the availability of information associated with the application.
- 4.5 With regard to these matters: the application is before the democratically elected Planning Committee for determination, in line with existing working practices for applications of this nature; the application is for amendments to a previously approved scheme and was publicised in accordance with statutory requirements; and full details of all application documents are available online and available to view at the Council offices.

5 Consultations:

Parish/Town Council:

Banbury Town Council: No comments received

Cherwell District Council:

Private Sector Housing: No comments received

Oxfordshire County Council:

Major Planning Applications Team: No comments received

6 Relevant National and Local Planning Policy and Guidance

6.1 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. Planning legislation requires planning decisions to be made in accordance with the Development Plan unless material planning considerations indicate otherwise. The relevant planning policies of Cherwell District's statutory Development Plan are set out below:

Cherwell Local Plan 2011 - 2031 Part 1

BSC 3: Affordable Housing

ESD 10: Protection and Enhancement of Biodiversity and the Natural Environment

ESD15: The Character of the Built and Historic Environment

Banbury 10: Bretch Hill Regeneration Area

Cherwell Local Plan 1996 (Saved Policies)

C28: Layout, design and external appearance of new development

C30: Design of new residential development

6.2 Other Material Planning Considerations:

National Planning Policy Framework (The Framework) - National Planning Policy Framework sets out the Government's planning policies for England and how these are expected to be applied.

Planning Practice Guidance (NPPG) – This sets out regularly updated guidance from central Government to provide assistance in interpreting national planning policy and relevant legislation.

7 Appraisal

7.1 Officers' consider the following matters to be relevant to the determination of this application:

- Principle of Development;
- Visual Amenity;
- Neighbouring Amenity;
- Highway Safety and Parking.

Principle of Development

- 7.2 In determining the acceptability of the principle of new dwellings regard is paid to Government guidance contained within the Framework. This explains that the purpose of the planning system is to contribute to the achievement of sustainable development. This is defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs.
- 7.3 Policy PSD1 contained within the CLP 2031 echoes the Framework's requirements for 'sustainable development' and that planning applications that accord with the policies in the Local Plan (or other part of the statutory Development Plan) will be approved without delay unless material considerations indicate otherwise.
- 7.4 Cherwell District Council has an up-to-date Local Plan which was adopted on 20th July 2015 and can demonstrate a 5.6 year housing land supply. The presumption in favour of sustainable development, as advised by the Framework, will therefore need to be applied in this context.
- 7.5 The site sits within a residential area of Banbury, one of the most sustainable settlements in the District, and is within walking distance of local shops and a leisure centre and is also served by a regular bus service. It is considered that locating residential development in highly sustainable locations such as this is consistent with the Government's aims to create sustainable communities.
- 7.6 The principle of development has been established through the granting of permission 13/01372/CDC; this current application seeks to vary the conditions of this permission to allow for the amendment of the design and layout of plots 10 and 11 only. The amendments now sought would not result in a form of development that should no longer be considered acceptable in principle, subject to further considerations discussed below.

Visual Amenity

- 7.7 The Government attaches great importance to the design of the built environment within the Framework. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. These aims are also echoed within Policy ESD15 of the CLP 2031 and Saved Policy C28 of the CLP 1996 which looks to promote and support development of a high standard which contribute positively to an area's character and identity by creating or reinforcing local distinctiveness and being sympathetic to the context.
- 7.8 The previous scheme (13/01372/CDC) was considered acceptable in terms of visual impact and its integration with the existing residential development in the area, with the officers commenting:

“The properties in the surrounding area were constructed c.1960’s. They are predominantly pairs of two storey, semi-detached buildings. In design terms, they are typical of residential housing of the time.

The proposed development replicates the surrounding housing in terms of scale but proposes a modern design for the site. This approach allows the applicant to use modern methods of construction and enables the site to be promoted for ‘self-build’.

The approach to design is considered to be appropriate for the site; the surrounding architecture is ordinary and simply replicating is not necessary. The housing on this site would be set back from the main road, therefore the change in architectural style would not appear abrupt in the main street scene”.

This application does not propose a significant change to the general principle of development and design approach, to that which has previously been assessed and considered acceptable; just an amendment to the design detail and siting of plots 10 and 11.

- 7.9 As noted above, the scale and design of the plots 10 and 11 have been amended during the course of the application reducing the units down from three storey units to two storey, amending fenestration detailing, and revising the roof from a gable end to a hipped design; therefore lessening the impact on neighbouring properties. Whilst the proposed units have a different roof design, it is considered that the general approach is still one of a modern design and is still consistent with the design approach previously considered acceptable. The development of plots 10 and 11 would still employ similar finish materials and would not appear out-of-place within the context of the wider scheme.
- 7.10 Conditions were applied to permission 13/01372/CDC with regards to materials and landscaping. Whilst this application only seeks amendments to plots 10 and 11, it is considered appropriate to re-apply all conditions to ensure the satisfactory appearance of the completed development and in the interests of visual amenities.
- 7.11 The proposed amendments to the previously approved scheme assessed within this application are not considered to be to the detriment of the visual amenities of the site or wider residential area. As such the proposal is considered to comply with government guidance on requiring good design contained within the National Planning Policy Framework, Policy ESD 15 of the CLP 2031 and Saved Policy C28 of the CLP 1996.

Neighbour Amenity

- 7.12 Policy C30 of the CLP 1996 requires that a development must provide standards of amenity and privacy acceptable to the Local Planning Authority. These provisions are echoed in Policy ESD15 of the CLP 2031 which states that: ‘new development proposals should consider amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation and indoor and outdoor space’.
- 7.13 The amendments to the approved scheme sought within this application relate to plots 10 and 11 only, and as such it is considered that the only properties that would likely be affected by the proposals, above the extent which was previously assessed and considered acceptable, would be The Manse 99 The Fairway (west) and properties along Miller Road (36-44) (south).
- 7.14 The proposals would result in a reduction in the overall width of the two units (~4.1m) whilst increasing the depth (~2.1m) and ridge height (~0.1m). The units would be sited some 4.5m further away from the rear of the Manse than the units previously approved, but would bring the built form some ~2.25m closer to the rear elevations of properties along Miller Road.
- 7.15 With regard to the potential impacts on the Manse it is considered that the proposed re-siting of units 10 and 11 would result in an improved relationship between the properties, compared to that which was previous considered acceptable with the approval of 13/01372/CDC. Fenestration detailing has been amended to avoid any direct over-looking between the properties and is considered acceptable in this regard.

- 7.16 Whilst the proposals would result in the built form being sited closer to properties along Miller Road, due to their long gardens, the properties would be situated more than 24.5m from the proposed dwellings. Therefore, it is not considered that the proposed development would result in harmful overlooking or over-dominance of these properties or affect their general outlook.
- 7.17 On balance, it is considered that given the context of the site, and the nature and design of the proposed new dwellings on plots 10 and 11 and their relationship with existing neighbouring properties, the proposed development would not result in any significant detrimental impact on the neighbour amenity above that which had previously been considered acceptable, and is therefore acceptable in this regard.

Highway Safety and Parking

- 7.18 Whilst no comments have been received from the County Council with regard to the current application, the Highways Authority did not object to the previously approved scheme (13/01372/CDC), following the submission of further and revised details and the addition of conditions relating to access, parking and manoeuvring areas to the permission.
- 7.19 The amended scheme proposes no change to the access or level of provision of parking for the site as previously assessed and considered; only a reorientation and re-siting of two parking spaces to the front of units 10 & 11. It is considered that subject to the conditions previously imposed on permission 13/01372/CDC being re-applied to any new permission, that the proposed development would not be to the detriment of the safety and convenience of highway users and would therefore be acceptable in this regard.

Other Matters

- 7.20 Permission 13/01372/CDC was also subject to a legal agreement securing the units as affordable in perpetuity. It is considered appropriate that any such further permission should be the subject to the same requirements. A deed of variation to the existing legal agreement has therefore been sought and is being progressed at the time of writing this report.
- 7.21 Proposed drainage, and floodrisk, have been raised as issues in an objection to the application. The site is not in an area at high risk of flooding. These matters were assessed and the scheme considered acceptable by the County Council's Drainage Engineers during the determination of 13/01372/CDC. The proposals would not result in a significant change to the previously approved layout and it is considered that the proposed amendments to units 10 and 11 are unlikely to significantly exacerbate the likelihood of flooding on site. Also in this regard the proposals would also require a separate Buildings Regulations approval in which building standards, including adequate drainage, will be assessed.

8. Conclusion

- 8.1 It is considered that the proposed amendments to plots 10 and 11, of the previously approved scheme (13/01372/CDC), assessed within this application are an acceptable form of development that introduce no new considerations that would result in the overall scheme being no longer considered acceptable. The proposals cause no significant harm to neighbour amenity; the design and scale is sympathetic to the character of the context of the wider scheme and would provide much needed affordable housing within the district. As such, it is considered to comply with the above mentioned policies and is recommended for approval as set out below.

9. Recommendation - Approval subject to conditions (as detailed below) and completion of an appropriate legal agreement securing the dwelling units as affordable in perpetuity.

1. The works to which this consent relates shall be begun not later than the 14th December 2018.

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: 300 Rev. A, 303 Rev. B, 304 Rev. D, 323 Rev. A and 324.

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 tiles to be used in the construction of the roofs 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 ESD 15 of the Cherwell Local Plan 2011-2031, 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 render to be used to finish the external walls 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 ESD 15 of the Cherwell Local Plan 2011-2031, 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, a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme for landscaping the site shall include:-

- i). details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas,
- ii). 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,
- iii). 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 ESD 15 of the Cherwell Local Plan 2011-2031, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

6. 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 ESD 15 of the Cherwell Local Plan 2011-2031, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

7. Prior to the commencement of the development hereby approved, 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 dwelling.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy ESD 15 of the Cherwell Local Plan 2011-2031, saved Policies C28 and C30 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

8. Notwithstanding the provisions of Classes A, B and C of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 and its subsequent amendments, no new window(s) or other openings, other than those shown on the approved plans, shall be inserted in the walls or roof of the northwest elevations of Plot 1 and Plot 2 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 this site in order to safeguard the amenities of the occupants of the adjoining dwellings in accordance with saved Policies C28 and C30 of the Cherwell Local Plan 1996 and 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 this site in order to safeguard the amenities of the occupants of the adjoining dwellings in accordance with saved Policies C28 and C30 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 and its subsequent amendments, no gate, fence, wall or other means of enclosure shall be erected, constructed or placed between the dwelling(s) and the highway 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 ESD 15 of the Cherwell Local Plan 2011-2031, saved Policy C28 of the Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

11. Prior to the commencement of the development hereby approved, the proposed means of access between the land and the highway shall be widened to a minimum of 4.8m plus a 1.5m footway, formed, laid out and constructed strictly in accordance with Oxfordshire County Council's specification and guidance.

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 specification details of the estate accesses, driveways and turning areas to serve the dwellings, which shall include construction, layout, vision spays, surfacing, and drainage, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the first occupation of any of the dwellings, the access, driveways and turning areas shall be constructed in accordance with the approved details.

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.

13. Prior to the commencement of the development hereby approved, full specification details (including construction, layout, vision splays, 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.

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

14. Prior to the first use or occupation of the development hereby approved, 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.

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, full details of signage/markings to be used to indicate allocated and unallocated parking spaces 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 - In the interests of highway safety and to comply with Government guidance contained within the National Planning Policy Framework

16. Retained Tree

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 completion of the development.

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 ESD 15 of the Cherwell Local Plan 2011-2031, saved Policy C28 of the Cherwell Local Plan 1996 and Government

guidance contained within the National Planning Policy Framework.

17. Prior to the commencement of the development hereby approved, an Arboricultural Method Statement (AMS), undertaken in accordance with BS:5837 and in line with the recommendations put forward in the submitted Arboricultural Impact Report, 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 ESD 15 of the Cherwell Local Plan 2011-2031, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

18. The development hereby approved shall be carried out strictly in accordance with the recommendations and specifications set out in the Tree Protection Plan prepared by Marishal Thompson Group on 12/10/11.

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 ESD 15 of the Cherwell Local Plan 2011-2031, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

PLANNING NOTES:

1. 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. The applicant is advised to contact Thames Water Developer Services on 0845 850 2777 to discuss the options available at this site.
2. 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 0845 850 2777
3. Where a developer proposes to discharge groundwater into a public sewer, a groundwater discharge permit will be required. Groundwater discharges typically result from construction site dewatering, deep excavations, basement infiltration, borehole installation, testing and site remediation. Groundwater permit enquiries should be directed to Thames Water's Risk Management Team by telephoning 020 8507 4890 or by emailing wwriskmanagement@thameswater.co.uk. Application forms should be completed on line via www.thameswater.co.uk/wastewaterquality. Any discharge made without a permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 1991.

4. 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.
5. 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.
6. The applicant is advised to refer to the principles and standards of the Association of Chief Police Officers (ACPO) crime prevention initiative for the built environment, Secured by Design (SBD). If you have any specific questions, please contact Ian Carmichael (Crime Prevention Design Advisor) at Thames valley Police.
7. If the permission hereby given requires work within the public highway, the applicant is advised that he/she should not commence such work before formal consent is secured from the Highway Authority by way of either (a) a Section 184 Highways Act 1980 notice, or (b) the completion of a formal agreement between the applicant and the Highway Authority. Details of the form of both a) and b) above may be obtained direct from Oxford County Council, the Highway Authority on Tel. (01865) 844300.
8. Oxfordshire Fire and Rescue Service recommends that new dwellings should be constructed with sprinkler systems.
9. With reference to condition 11, the guidance referred to is available at <http://www.oxfordshire.gov.uk/cms/content/dropped-kerbs>.

STATEMENT OF ENGAGEMENT

In accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) 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 achieve an acceptable scheme, as set out in the application report.

CONTACT OFFICER: Bob Neville

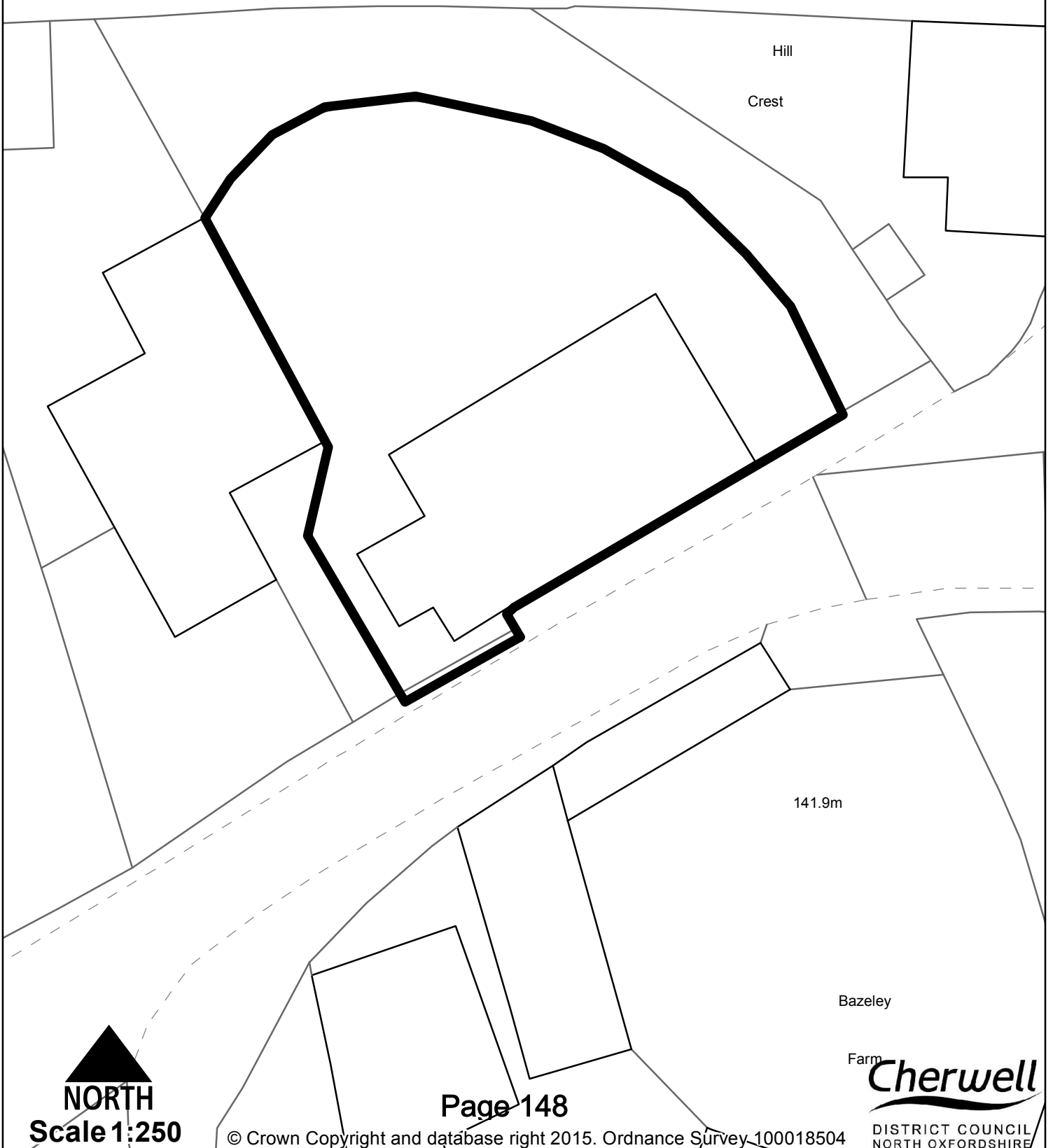
TELEPHONE NO: 01295 221875

Agenda Item 11

The Poplars

16/00367/F

The Plough Inn
Thorpe Road
Wardington
Oxfordshire
OX17 1SP



Hill

Crest

141.9m

Bazeley

Farm

Cherwell

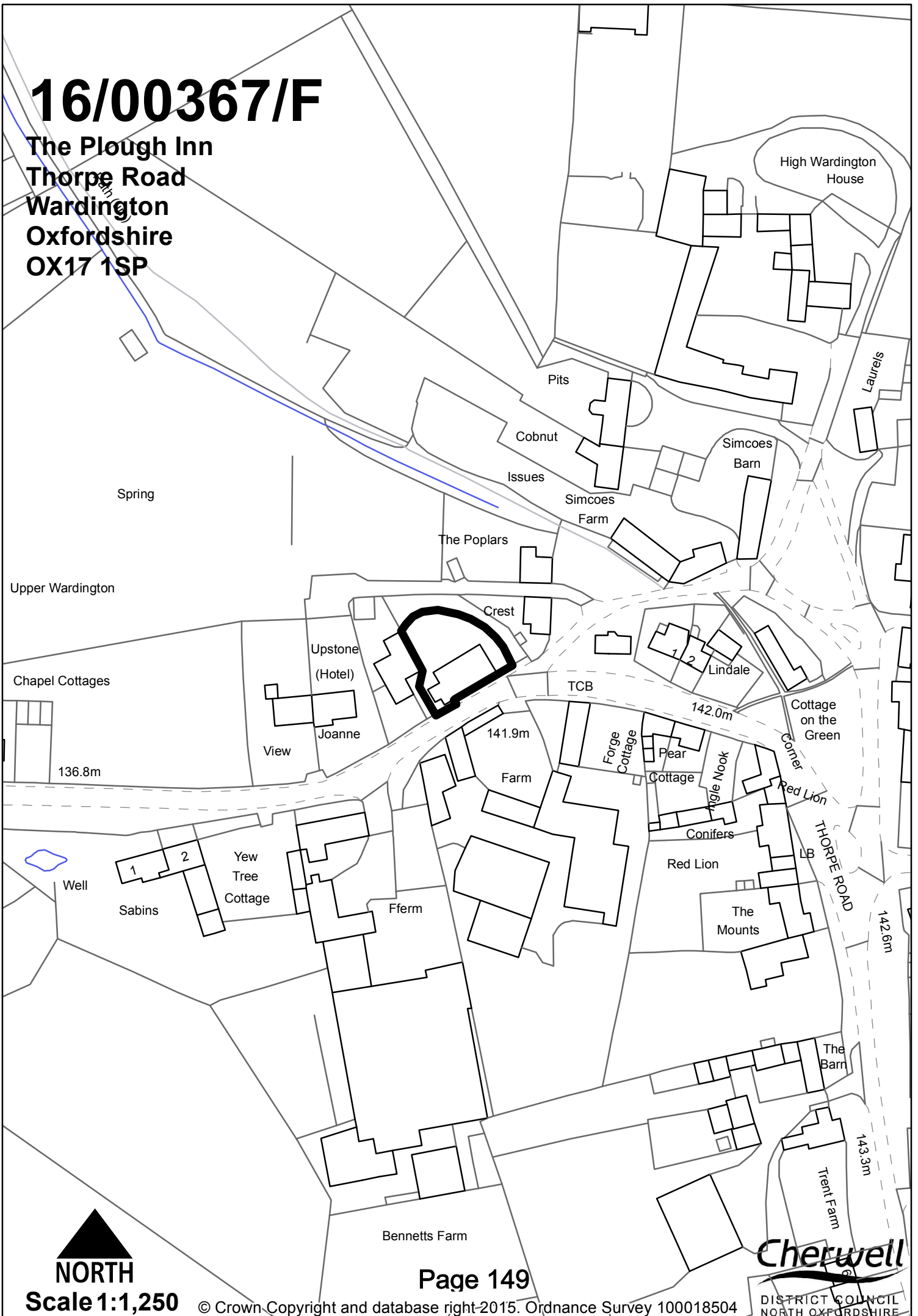
DISTRICT COUNCIL
NORTH OXFORDSHIRE



Scale 1:250

16/00367/F

The Plough Inn
Thorpe Road
Wardington
Oxfordshire
OX17 1SP



NORTH

Scale 1:1,250

**The Plough Inn
Thorpe Road
Wardington
Oxfordshire
OX17 1SP**

16/00367/F

Ward: Cropredy, Sibfords & Wroxton **District Councillors:**

Cllr Atack
Cllr Reynolds
Cllr Webb

Case Officer: Matthew Chadwick

Recommendation: Approval

Applicant: Mr & Mrs Merry

Application Description: Change of use from public house to dwelling, including small rear 1st floor extension

Reason for Committee Referral: Public interest

Committee Date: 19.5.2016

1. Site Description and Proposed Development

- 1.1 The application site is The Plough Inn, a freehold public house located within the village of Wardington. The public house is located to the south of Wardington and is situated on Thorpe Road. The Plough Inn is a two storey building constructed from ironstone rubble under a tiled roof.
- 1.2 Planning permission is sought for change of use from public house (A4) to a private dwelling (C3), with a first floor extension to the rear of the property. The extension would be located on the northeast corner of the building and would be finished in materials consistent with the existing building.
- 1.3 The site is located within the Wardington Conservation Area and there are a number of Grade II Listed Buildings located within 50m of the site, including Bennett's Farmhouse and Bazeley Farmhouse. The site lies within 50m of Potentially Contaminated Land.

2. Application Publicity

- 2.1 The application has been advertised by way of advertisement, neighbour letter and site notice. The final date for comment was 14th April 2016. Seventeen letters have been received as a part of this process, with sixteen letters objecting to the application and one letter in support of the application. The following issues have been raised:
 - Loss of important community asset;
 - Pub not operating to full potential;
 - Pub not marketed at a fair value;
 - Loss of local employment.

3. Consultations

- 3.1 Wardington Parish Council: Object to the change of use to private dwelling as the village would lose a community facility and believe that the potential of the public house is not being realised.

Cherwell District Council Consultees

- 3.2 Conservation Officer: Until the C20 Upper and Lower Wardington were separate settlements and this partition can still be read today. The building is recorded on the 1875 and 1899 OS maps as a 'Beer House' (BH).

The proposed changes to the building are limited and although they do not affect the visual impact the building will have on the streetscape they will impact on the historic massing of the building and reduce its architectural significance. Historic buildings have traditional proportions – the width of a gable being about 6 meters. The proposed widening of the rear wing in particular and the increase in ridge height create a structure more redolent of a C20 house in an urban housing estate than a building in the historic centre of a rural Oxfordshire village.

The building has been assessed and is considered suitable for non-designated heritage asset status and therefore is protected under the NPPF.

This is the last public house in Upper Wardington and my view is that the application should be refused and an Article 4 Direction served to protect the property against change of use.

Recommend refusal and contra to policy

NPPF Paragraph 135 – The proposed changes and loss of this building as a public amenity will cause harm to the significance of the building and loss to the character of the conservation area.

Recommend the serving of an Article 4 Direction.

Oxfordshire County Council Consultees

- 3.3 Highways Liaison Officer: No objections, subject to a condition requiring four parking spaces.

Other Consultees

- 3.4 North Oxfordshire Campaign for Real Ale Branch (CAMRA): We note that this application claims that the pub is not viable on the basis of figures from the current owners and marketing information from an agent. This is not an independent viability case and does not show the pub cannot be made viable with additional investment or different management. In the absence of an independent viability case showing that the existing use cannot be made viable, the loss of community facility is not justified.

The Plough is the only pub in Upper Wardington, but even taken together with Wardington the population of a little over 600 is almost the same as neighbouring Bourton parish, which manages to support two pubs. In any case, there is nothing in the NPPF to suggest that protection only applies where there is only one such facility in a village. In addition, S29 of the adopted local plan explicitly refers to proposals that will involve the loss of existing village services, not the complete loss.

We further note that the pub is being advertised at the price of £375,000. This is higher than the price at which the property was being offered when the 2003 planning application was refused, despite the intervening recession. The officer's report at that time notes of the price, "This figure contrasts with the value placed on the property as shown in the balance sheet of £155,176. Without any inspection of the premises it appears that the price at which the property is being offered reflects its likely value for conversion to a private dwelling and not its value as a going concern ..." How can a higher price now be regarded as any more realistic of its value as a going concern? It should also be noted that those property particulars state both that the business is profitable and operating very limited hours, and advises, 'Get the pub "open" and add

food to achieve the “unbridled” potential of this rare opportunity’. That a business requires investment to achieve its full potential is not a marker for non-viability.

We are unaware of a website for the pub, nor does it have an official presence on Facebook or Twitter; all free (or low cost) methods to promote a business in the modern age.

The Planning Officer's report for the refused 2003 application notes: *However considerable concern has been raised by local residents over the management of the pub. CAMRA advises that the management of a pub has a considerable impact on whether people will use a premises or not and from the responses received it would appear that the current owners no longer have the support of a significant proportion of the village. What has changed since then?*

Without an independent viability case showing that the pub could not be made viable under different management, this application should be refused.

4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

Cherwell Local Plan (2011-2031) Part 1

- SLE1: Employment Development
- BSC12: Indoor Sport, Recreation and Community Facilities
- ESD15: The Character of the Built and Historic Environment
- Villages 1: Village Categorisation

Cherwell Local Plan 1996 (Saved Policies)

- H21: Conversion of buildings within settlements
- S29: Loss of existing village services
- C28: Layout, design and external appearance of new development
- C30: Design Control

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;
- Principle of Development;
- Effect on Visual Amenity;
- Impact on heritage assets;
- Effect on Residential Amenity;
- Highways Safety.

Relevant Planning History

5.2 03/00387/F – Change of use of Public House to single dwelling – Refused, for the following reason:

- On the basis of the information submitted with the application it has not been

demonstrated to the satisfaction of the Local Planning Authority that the public house could not be viable in the long term and in such circumstances the loss of this village facility would be contrary to Saved Policy S29 of the Cherwell Local Plan 1996 which seeks to prevent the loss of existing village facilities which serves the need of the community.

The application was recommended for refusal by officers and went before North Area Planning Committee, where it was refused for the above reason.

Principle of Development

- 5.3 The principle of development on this case is dependent on two matters; the principle of residential development on the site and the loss of the public house. The principle of residential development on the site shall be dealt with first.
- 5.4 Paragraph 14 of the National Planning Policy Framework 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.
- 5.5 Paragraph 12 of the NPPF notes that the development plan is the starting point of 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.
- 5.6 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 need to be applied in this context.
- 5.7 The principle of residential development in Wardington is assessed against Policy Villages 1 in the Cherwell Local Plan Part 1. Wardington is recognised as a Category B village in the Cherwell Local Plan 2011 – 2031 Part 1. Within Category B villages, residential development will be restricted to the conversion of non-residential buildings, infilling and minor development comprising small groups of dwellings on sites within the built up area of the settlement.
- 5.8 Saved Policy H21 states that within settlements the conversion of suitable buildings to dwellings will be favourably considered unless conversion to a residential use would be detrimental to the special character and interest of a building of architectural and historic significance. In all instances proposals will be subject to the other policies in this plan.
- 5.9 The proposed development would involve the conversion of a Public House (A4) to a private dwelling house (C3). The Plough Inn is located within the built up limits of Wardington and therefore in this respect the proposed development is acceptable in principle, subject to the loss of the village service and its acceptability in terms of other material planning considerations.
- 5.10 Turning now to the loss of the public house, Policy BSC12 of the Cherwell Local Plan 2011 – 2031 Part 1 does not specifically refer to public houses, however the policy does cover the provision of community facilities and states that the Council will encourage the provision of community facilities to enhance the sustainability of communities and will seek to protect and enhance existing facilities.
- 5.11 Saved Policy S29 of the Cherwell Local Plan 1996 covers the loss of existing village services. The policy states that proposals that will involve the loss of existing village services which serve the basic needs of the local community will not normally be

permitted. The policy does go on to state, however, that it is also recognised that it will be difficult to resist the loss of such facilities when they are proven to be no longer financially viable in the long term.

5.12 Paragraph 70 of the NPPF states that:

To deliver the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:

- *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;*

- *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.*

5.13 The Plough Inn is located within the village of Wardington. The Hare and Hounds is the only other pub in the village and is located approximately 910m away from The Plough Inn and is situated just off the main A361 which links Banbury in the south to Daventry in the north. There are a number of other public houses located within nearby villages, including The Brasenose Arms and Red Lion Inn in Cropredy, The George and Dragon in Chacombe and The Griffin in Chipping Warden, all of which could be accessed by a short car journey.

5.14 On 12th April 2016, CAMRA sought to have The Plough Inn registered as an Asset of Community Value on the register of assets held by Cherwell District Council. The Council has an eight week period in which to decide whether the public house is to be registered as an asset or not. At the time of writing this report, this decision had not been reached by the Council. The Assets of Community Value and associated Community Right to Bid schemes were introduced as part of the *Localism Act 2011*. Community assets can be nominated by parish councils or groups with a connection to the local community. Once an asset is listed by a council, it is held on the register for a five year period and if the owner of the asset intends to sell the said asset, the group that has listed the asset can trigger a six month moratorium to raise funds and bid on the asset. The scheme does not give first refusal to the community group, it just gives the group the right to bid for the asset.

5.15 The nomination of The Plough Inn as an Asset of Community Value and the objections to the application from CAMRA, Wardington Parish Council and a significant number of local residents are evidence that The Plough Inn is an important and valued village service in Wardington. The change of use of The Plough Inn to residential would undoubtedly result in the loss of a village service that would be difficult to regain and there have been a significant number of objections received during the consultation process that raised issues regarding the loss of the public house. The Plough Inn appears to be used by a number of residents of Wardington and the closing of the public house would limit some local residents from accessing a public house if they relied on walking to the destination.

5.16 However, when assessing whether the proposal would '*reduce the community's ability to meet its day to day needs*' it is important to take into account the availability of alternative provision of public houses in the locality. As stated previously, the residents of Wardington would still have use of The Hare and Hounds which would be within walking distance for the majority of residents, and there are a significant number of other establishments in the neighbouring villages that are accessible by car within a 5 mile radius. As such, although the matter is finely balanced, it is considered that the loss of The Plough Inn would not significantly reduce the community's ability to meet its day-to-day needs. The principle of the loss of The Plough Inn therefore may comply with

Saved Policy S29 of the Cherwell Local Plan 1996, providing that the public house is no longer a viable business, an issue that will be addressed next.

- 5.17 CAMRA have objected to the application and have raised issues regarding the viability of the public house and have advised that an independent assessment should be conducted. This has been done on behalf of the Council as part of this application by Bruton Knowles, a leading property consultant. Further, concerns regarding the valuation of the pub were raised and it is suggested that under different management The Plough Inn could be a viable business.
- 5.18 The change of use of The Plough Inn was first proposed in 2003, under application 03/00387/F. The applicants – who are still the current owners – argued that the business was not viable at this time, however the application was refused as the Council was not satisfied that the public house was not viable in the long term and so the proposal was considered to be contrary to Saved Policy S29 of the Cherwell Local Plan 1996.
- 5.19 The public house has continued to operate in the intervening years but the applicants have stated that the public house is no longer viable to run and have submitted information with this application to justify this change of use, including a supporting statement with the financial records of The Plough Inn from 1999 until 2015.
- 5.20 The Plough Inn has been marketed with GA Select, a property agent that specialises in public houses, hotels and other leisure facilities. The Plough Inn has been on the market with GA Select since 27th April 2012 and was initially marketed at a value of £395,000 before being reduced to £375,000. The Inn remains on the market at this price with GA Select at the time of writing of this report.
- 5.21 The report prepared by Bruton Knowles highlights the competition faced by The Plough Inn from a significant number of other public houses and eateries in the surrounding area, the potential styles of operation in which the public house could operate, and the business levels and resulting viability of The Plough Inn. The public house relies predominately on wet sales, with these sales accounting for around 90% of the total. The Plough Inn does offer food, though this offering has been limited. The report states that the only viable trading model for The Plough Inn would be as a gastropub, however the building in which the public house is situated is considered to not be physically large enough to accommodate the necessary space required to operate a successful gastropub. Furthermore, the site is more constrained by its lack of external trading space and car parking provision, which would require cars to park kerbside on a narrow road, creating potential highway safety issues. By taking into account the limited and constrained nature of both The Plough Inn and its facilities, looking at the competing outlets in the local market and studying the financial records provided from 1999-2015, the property consultant considers that The Plough Inn is no longer viable as a public house. With the findings of the property consultants' report and the information submitted with the application, officers concur that The Plough Inn is no longer viable in the long term as a public house.
- 5.22 Therefore, by reason of the number of other alternative services available in the locality and the findings by the Council's property consultant on the viability of The Plough Inn, it is considered that the principle of the change of use of The Plough Inn from a public house (A4) to a private dwelling (C3) is acceptable, subject to other material planning considerations. Furthermore, the principle of a conversion to residential use on the site is acceptable in principle, given its location within the built-up limits of Wardington. The proposal is therefore considered to comply with Policies BSC12 and Villages 1 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policies H21 and S29 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Effect on Visual Amenity

- 5.23 Policy ESD15 of the Cherwell Local Plan Part 1 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.”*
- 5.24 Saved Policies C28 and C30 of the Cherwell Local Plan 1996 exercise control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context as well as compatible with the existing building. Proposals to extend an existing building should be compatible with the scale of the existing building, its curtilage and the character of the street scene.
- 5.25 A small first floor extension on the eastern elevation is proposed, along with a number of changes to the existing fenestration to the rear of the building on the north elevation. The ridge height of the extension will be slightly lower than that of the existing ridge line of the main body of the building and the extension will be constructed of ironstone to match the existing on the east elevation, whilst being finished in render to the rear which will match the materials used on that elevation. The proposed extension would add a dormer window onto the eastern elevation of the building and the existing uPVC fenestration to the rear shall be replaced with timber, with some windows replacing doors and some new openings created.
- 5.26 Although the concerns of the Council’s Conservation Officer are noted, it is considered that these proposals are minor and sympathetic to the context of the development and would be finished in materials that would match the existing building. Therefore, the proposals would comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 and C30 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Impact on heritage assets

- 5.27 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that special attention shall be paid in the exercise of planning functions to the desirability of preserving or enhancing the character or appearance of a Conservation Area.
- 5.28 The site is located within the Wardington Conservation Area. The Conservation Officer has recommended that the application be refused as it is considered that the change of use to residential would result in a loss of a village service and would cause harm to the character of the conservation area, and the Conservation Officer goes on to state that The Plough Inn is the last public house left in Upper Wardington.
- 5.29 The Conservation Officer’s comments on the proposal are noted and as previously stated, it is considered that the loss of The Plough Inn would have an impact on the village. However – on balance – this impact is outweighed by the public house no longer being viable as an ongoing concern. Therefore, whilst the loss of the public house may cause some limited harm to the historic understanding and legibility of Upper Wardington as a separate settlement, in the context of the business being unviable in the long term, this harm is not sufficient to justify refusal in this case. A condition can be applied requiring the existing public house signage to be retained in the development, and this will aid in ensuring the historic importance of the building as a village facility remains legible.
- 5.30 The extension and changes to the fenestration of the rear of the building are considered to preserve and enhance the heritage asset, due to the minor scale of the proposals and the use of materials to match the existing dwelling. The change of use to residential is

not considered to have a significant detrimental impact on the conservation area. The proposals would therefore comply with Policy ESD15 and Government guidance contained within the National Planning Policy Framework.

Effect on Residential Amenity

- 5.31 Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1 states that new development proposals should consider amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation and indoor and outdoor space.
- 5.32 The extensions would not be overdominating or cause a loss of light to neighbouring properties. The extensions to the east may cause a very minor increase in terms of overlooking of the garden of Hill Crest to the northeast of the site, though as there are already windows in the east elevation on the first floor it is not considered that this impact would be detrimental to the residential amenities of the occupiers of Hill Crest. The extensions and changes in fenestration would increase the amount of windows on the north elevation of the building; however these would predominately look out across an open field to the north. The change of use of the building from a public house to a residential use would not be considered to cause harm to the residential amenities of neighbouring dwellings.
- 5.33 The proposals would therefore comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C30 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Highways Safety

- 5.34 The Highways Liaison Officer has offered no objections to the proposals, subject to a planning condition that the number of parking spaces provided on site is four. However given the existing use could generate greater demand for parking than the proposed use as a single dwelling, and given the constraints of the site, such a condition is considered unnecessary and unreasonable. It is considered that the proposal would not have a detrimental impact on Highway Safety in accordance with Government guidance contained within the National Planning Policy Framework.

Engagement

- 5.35 With regard to the duty set out in paragraphs 186 and 187 of the Framework, where problems or issues have arisen during the application these have been discussed with the applicant's agent. It is considered that the duty to be positive and proactive has been discharged through the efficient and timely determination of the application.

Conclusion

- 5.36 The application site is located within the built up area of Wardington and therefore the conversion of the building to residential is acceptable in this respect. The loss of the public house is considered to be a finely balanced matter. However on balance it is considered to be acceptable given the evidence submitted, the independent appraisal conducted by property consultants Bruton Knowles and also the significant availability of alternative provision to serve the previous catchment the pub would have served. The alterations to the building are considered to be acceptable and would not cause harm to the visual amenities of the area or the Wardington Conservation Area. The Local Highway Authority have raised no objection. On balance the application is considered to be a sustainable form of development in line with the objectives of the NPPF and local planning policy.

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 development shall be carried out strictly in accordance with the following plans and documents: Application Forms and Drawing Numbers: 3732/map and 3732/20A submitted with the application.

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 stone sample panel (minimum 1m² in size) shall be constructed on site in natural ironstone to match the stonework on the existing building, which shall be inspected and approved in writing by the Local Planning Authority. Thereafter, the external walls of the development to be constructed of stone shall be laid, dressed, coursed and pointed in strict accordance with the approved stone sample panel.

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

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 extension 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 2011 – 2031 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, samples of the render to be used in the construction of the walls of the extension 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 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

6. Prior to the commencement of the development hereby approved details of how, as far as practicable, the existing public house signage will be retained and

incorporated into 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 these approved details and any public house signage agreed to be retained shall be maintained as such thereafter.

Reason – To preserve the character and appearance of the conservation area and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

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

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 ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

8. Notwithstanding the provisions of Classes A to D (inc.) of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 and its subsequent amendments, the approved dwelling shall not be extended or altered without the prior express planning consent of the Local Planning Authority.

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

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. It is considered that the duty to be positive and proactive has been discharged through the efficient and timely determination of the application.

**CONTACT
OFFICER:**

Matthew Chadwick

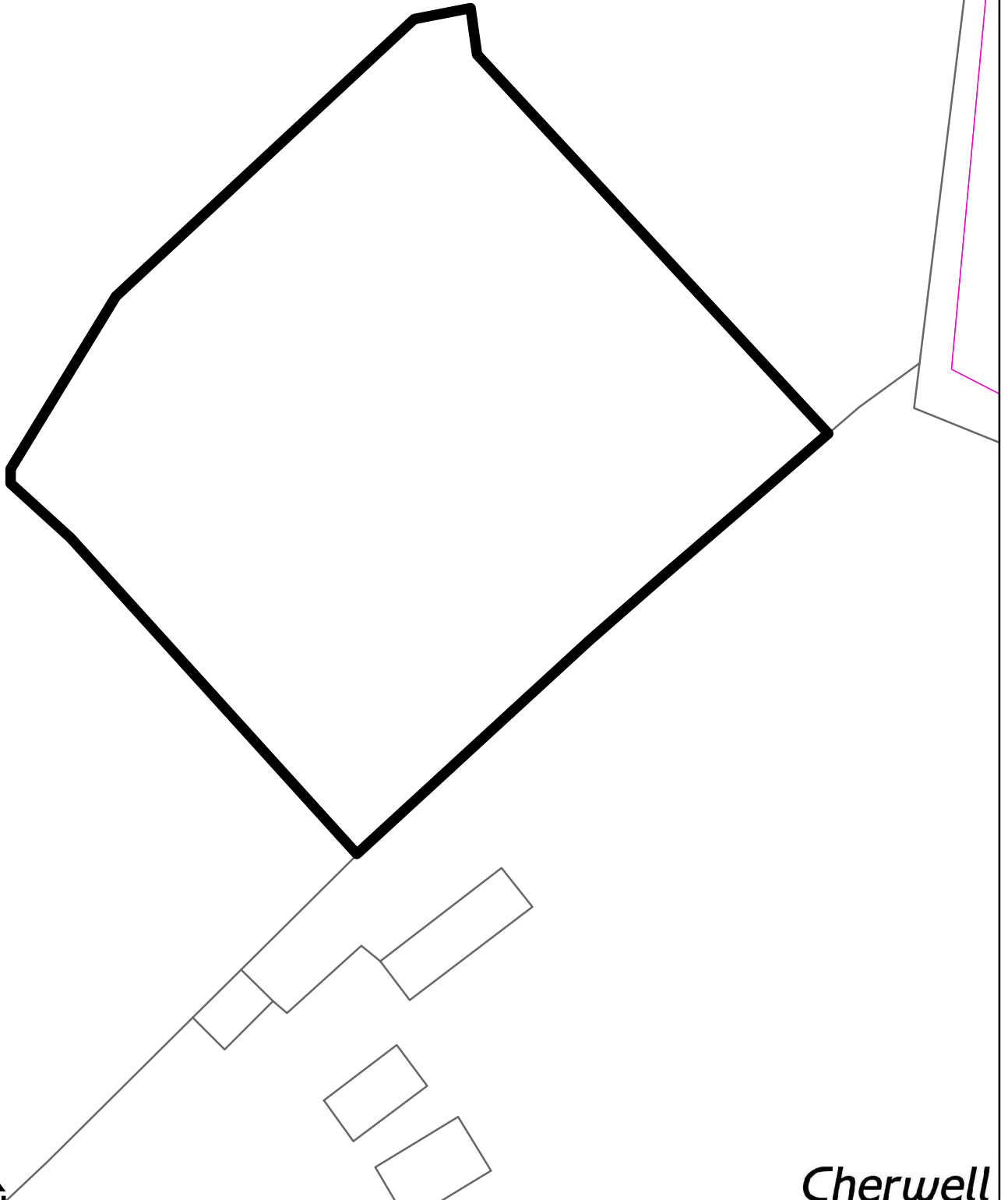
**TELEPHONE
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Agenda Item 12

16/00504/CDC

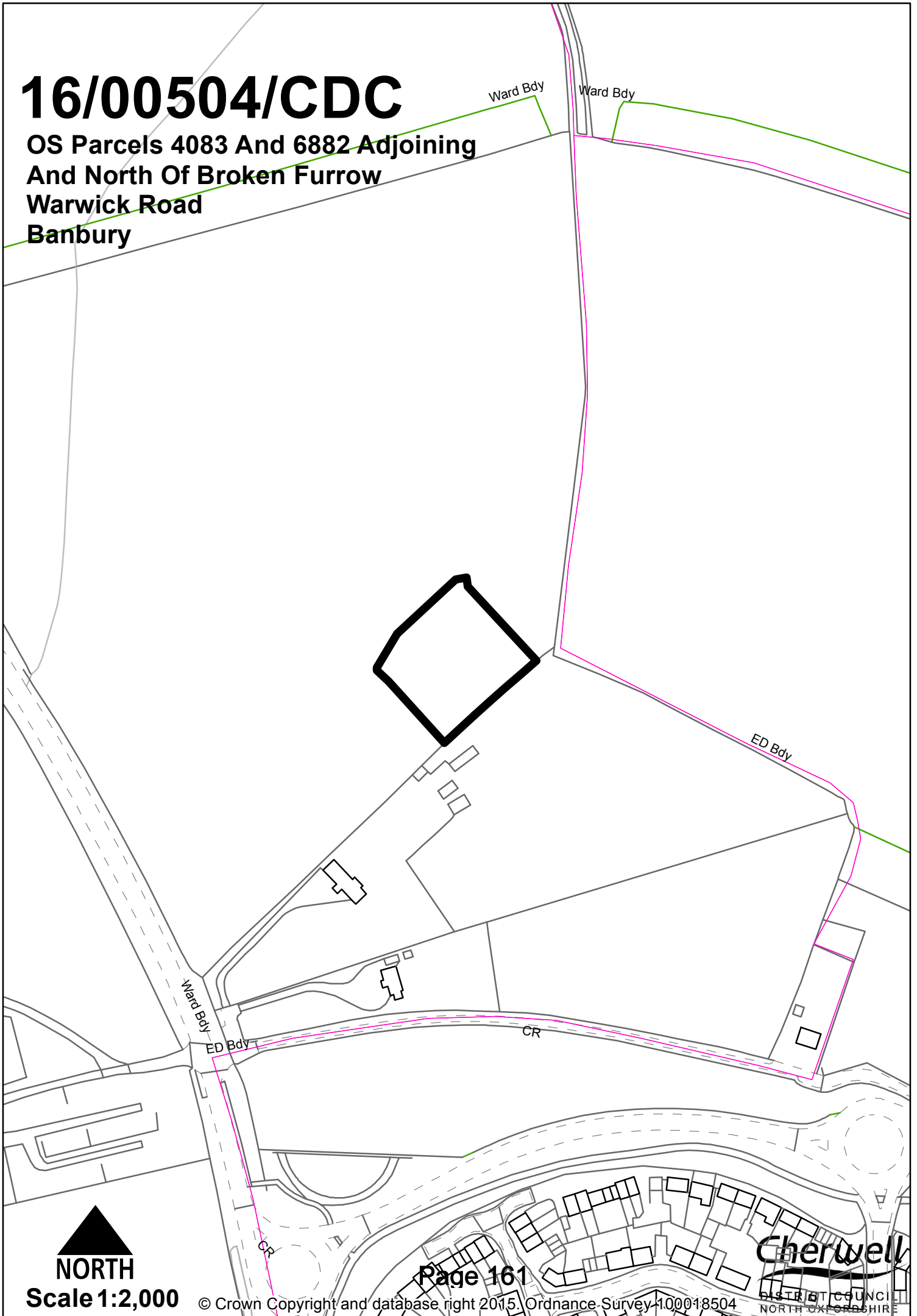
OS Parcels 4083 And 6882 Adjoining
And North Of Broken Furrow
Warwick Road
Banbury



NORTH
Scale 1:500

16/00504/CDC

OS Parcels 4083 And 6882 Adjoining
And North Of Broken Furrow
Warwick Road
Banbury



Scale 1:2,000

Case Officer: Nathanael Stock **Ward(s):** Banbury Hardwick

Applicant: Ms Kim Swallowe

Ward Member(s): Cllr J Donaldson, Cllr T Ilott, Cllr N Turner

Proposal: Erection of single storey buildings to provide 6 one bed flats for adults with learning difficulties and autistic spectrum condition, associated parking area, shared landscaped gardens, secured courtyard area, and staff and communal accommodation in an additional unit (seven units in total)

Committee Date: 19.05.16 **Recommendation:** Approve

Reason for referral: Cherwell District Council is the applicant

1. Application Site and Locality

- 1.1 The application relates to a small area within the western part of a larger site (approx. 26ha) allocated for development, to which Policy Banbury 5 of the Cherwell Local Plan 2011-2031 applies.
- 1.2 The larger site gently undulates across the two agricultural fields from the Warwick Road to lower points in the south west and north east corners and to higher points to the north between the two fields and to the south east. A significant tree boundary runs along the whole of the north of the application area and to the south of the eastern most field. Trees and hedges also run along the remainder of the field boundaries.
- 1.3 There are two public footpaths that run across the site, one across the western side of the western field from the Warwick Road towards Hanwell and one which runs along the northern boundary of the eastern field for a short distance before turning towards Hanwell. There are records of bats and badgers on the site and there are also notable habitats including lowland mixed deciduous woodland and a broadleaved woodland plantation. Other site constraints include naturally occurring contaminants, a minor aquifer and known records of minerals.
- 1.4 The site's surroundings consist of the Hanwell Fields development to the south, amenity space, which is not public, to the east (and which falls within the site allocation), agricultural fields to the north which separate the site from Hanwell and agricultural fields to the west, west of Warwick Road.

2. Description of Proposed Development

The applicant seeks planning permission for the erection of single storey buildings to provide six one bed flats for adults with learning difficulties and autistic spectrum condition, plus associated parking area, shared landscaped gardens, secured courtyard area, and staff and communal accommodation in an additional unit (resulting in seven units in total). The buildings, one linear and one L-shaped, would be laid out in a horseshoe shape, would have a hipped roof, of 2.55m height to eaves and 5.55m overall height. Single depth parking is

proposed to the front, interspersed with pedestrian accesses and some soft landscaping. A detached bin store is proposed adjacent to the driveway to parking for Plots 42, 43 and 60 – 62 to the Persimmon development, and a shared landscaped garden is proposed to the rear of the buildings. Access is gained via road between Plots 20 and 41 of the Persimmon development and which would connect to land belonging to Broken Furrow in accordance with the masterplan for the overall site.

3. Relevant Planning History

<u>App Ref</u>	<u>Description</u>	<u>Status</u>
12/00021/SO	Screening Opinion - Proposed development including up to 380 residential dwellings along with associated access, landscaping and infrastructure	EIAYES
12/01789/OUT	Outline application for up to 350 dwellings, together with new vehicular access from Warwick Road and associated open space	PER
15/00462/REM	Reserved Matters to outline application 12/01789/OUT - 118 dwellings together with new vehicular access from Warwick Road and associated open space (Phase 1)	PER
15/01589/REM	Reserved Matters application for 232 dwellings dealing with appearance, landscaping, layout and scale (this development forming the 2nd phase of development which received Outline permission under 12/01789/OUT)	PCO
16/00371/REM	Reserved Matter to 12/01789/OUT - Demolition of the Bat House located within Briars Close and erection of replacement Bat House	PER
16/00515/CDC	Erection of single storey building to provide 5 one bed flats for adults with acquired brain injury, associated parking area, secured courtyard area, and staff and communal accommodation in an additional unit (six units in total)	PCO

4. Response to Publicity

The application was publicised by way of a site notice (20.04.2016) and neighbour notification letters. The last date for comment was 11.05.2016.

No responses received.

5. Response to Consultation

Parish/Town Council:

None received to date

Cherwell District Council:

Strategic Housing – Supports; comments: This is an application which proposes a supported housing scheme which is a joint project between the District Council and the County Council.

I am supportive of this application as it will provide much needed specialised housing for those people who have learning difficulties and provide a safe and secure environment for those people to enjoy an independent and fulfilling life.

The land itself was secured by the Council as part of the original agreement for the wider outline permission as part of the affordable housing requirement in order to deliver this scheme.

Recreation & Leisure – I can confirm that we would not expect this development to contribute towards the cost of indoor or outdoor sports provision in the area.

Oxfordshire County Council:

Highways – Objection, based on the original submission. Comments: The application has come at the back of a pre application consultation ref 16/00033/PREAPP in which some issues that required consideration at full application stage were flagged. As set out in the pre application, more information is still required to determine the implications of the application proposals.

Appropriate provision must be made for car parking, not only in terms of number but in terms of need that reflects the land use and development. Most adults with learning difficulties and autistic tendencies also manifest additional special needs such as physical and/or sensory disabilities. On this basis, I would be pleased for an explanation of the rationale for car parking levels proposed by the application as requested for in the pre application response.

I have noticed that access from the car park to the dwellings shall be via a block paved main entrance which leads onto a landscaped courtyard. More information is required of the landscaped courtyard construction details. All paved areas are required to have a suitable ground surface – that is firm enough to be wheeled over, not covered with loose laid material such as gravel or shingle and has a maximum crossfall of 1:40 as stipulated in the government's "Approved Document M: access to and use of buildings" to ensure accessibility and social inclusion for wheel chair users.

It appears that pedestrians would be expected to share the vehicle access and manoeuvring areas without dedicated pedestrian facilities particularly for those accessing the site from the south as illustrated by the Drawing number HW-MA-00-ZZ-DR-A-00103 which suggests a potential for future access. This doesn't appear to be suitable particularly because many of the residents are likely to need assistance on walking journeys to and from the site either in wheelchairs or being supported by a carer. We would expect to see an extension of pedestrian facilities in particular from the south into the car park (with a dedicated crossing up to the main entrance) included in the proposal.

Should the local planning authority decide to grant planning permission, then...conditions should be applied [in relation to] cycle parking provision, construction of the courtyard, and tracking for refuse collection vehicles.

Archaeology – No objection; comments: the proposed sites have been the subject of a phased programme of archaeological investigation as part of a larger development.

These investigations have been completed and the final report is being produced. No further archaeological investigations are required and as such therefore no archaeological constraints to these schemes.

Other External Consultees:

Water authority (Thames Water) – No objection; no conditions recommended

6. Relevant National and Local Planning Policy and Guidance

6.1 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. Planning legislation requires planning decisions to be made in accordance with the Development Plan unless material planning considerations indicate otherwise. The relevant planning policies of Cherwell District's statutory Development Plan are set out below:

Cherwell Local Plan 2011 - 2031 Part 1

ESD15 - The Character of the Built and Historic Environment
PSD1 - Presumption in Favour of Sustainable Development
SLE4 - Improved Transport and Connections
BSC1 - District Wide Housing distribution
BSC2 - The Effective and Efficient Use of Land
BSC3 - Affordable Housing
BSC4 - Housing Mix
BSC9 - Public Services and Utilities
BSC10 - Open Space, Outdoor Sport & Recreation Provision
BSC11 - Local Standards of Provision - Outdoor Recreation
BSC12 - Indoor Sport, Recreation and Community Facilities
ESD1 - Mitigating and Adapting to Climate Change
ESD2 - Energy Hierarchy
ESD3 - Sustainable Construction
ESD4 - Decentralised Energy Systems
ESD5 - Renewable Energy
ESD7 - Sustainable Drainage Systems (SuDS)
ESD10 - Protection and Enhancement of Biodiversity and the Natural Environment
ESD13 - Local Landscape Protection and Enhancement
ESD15 - The Character of the Built Environment
ESD17 - Green Infrastructure
INF1 - Infrastructure
BAN5 - Land North of Hanwell Fields

Cherwell Local Plan 1996 (Saved Policies)

C28 - Layout, design and external appearance of new development

C30 - Design of new residential development

TR1 - Transportation funding

6.2 **Other Material Planning Considerations:**

National Planning Policy Framework (“the Framework”) - National Planning Policy Framework sets out the Government’s planning policies for England and how these are expected to be applied.

Planning Practice Guidance (“nPPG”) – This sets out regularly updated guidance from central Government to provide assistance in interpreting national planning policy and relevant legislation.

7. **Appraisal**

7.1 Officers’ consider the following matters to be relevant to the determination of this application:

- Principle of Development;
- Design, Layout and Appearance;
- Impact on Heritage Assets;
- Landscape and Visual Impact;
- Trees and Landscaping;
- Housing Mix/Affordable Housing;
- Accessibility, Highway Safety and Parking;
- Effect on Neighbouring Amenity;
- Ecological Implications;
- Flood Risk;
- Sustainability and Energy Efficiency;
- Planning Obligations;

Principle of Development

7.2 The Framework explains that the purpose of the planning system is to contribute to the achievement of sustainable development. This is defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs.

7.3 The Framework positively encourages sustainable development. Paragraph 17 states that planning should actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling and to focus significant development in locations which are or can be made sustainable. Paragraph 111 states that Local Planning Authorities should encourage the effective use of land by re-using land that has been previously developed.

7.4 The application site is located within the land allocated for developed as ‘Banbury 5’. Policy Banbury 5 states that “approximately 544” dwellings will be provided within this larger area. Outline planning permissions issued to date within ‘Banbury 5’ total 510 dwellings.

- 7.5 The application site forms part of the Persimmon site, which has outline planning permission as part of application 12/01789/OUT for 350 dwellings. Although the current proposal and the concurrent one (ref. 16/00504/CDC) would result in additional dwellings over and above the 350 approved under 12/01789/OUT, these are full planning applications not linked to that outline consent. In addition, they would not exceed the 544 for the overall site.
- 7.6 While it is intended that the remaining approx. 34 of the “approximately 544” would be provided within the land belonging to Broken Furrow (immediately south of the application site) it is clear from the use of the word “approximately” within the policy that this number is not fixed, whereas the extent of land allocated for development is fixed.
- 7.7 The proposal therefore complies with Policy Banbury 5 and is acceptable in principle, subject to consideration against other policies in the development plan.

Design, Layout and Appearance

- 7.8 Policy Banbury 5 requires the layout that maximises the potential for walkable neighbourhoods and enables a high degree of integration and connectivity, includes new footpaths and cycleways to link with existing networks with a legible hierarchy of routes. Aside from the above, the specific design and place shaping principles listed in Banbury 5 do not apply to the application site by virtue of its size, location and relationship to surroundings.
- 7.9 Since the application site forms part of the Persimmon land, the Design Code approved for that site is relevant to the current application. The Design Code provides detailed guidance on the layout and architectural design approach for different character areas.
- 7.10 Under the Design Code’s Regulating Plan (page 34-35), the application site is within a CA2 – Core Housing character area. A medium density is required (page 36), although what medium density means is not defined. Key requirements for this area include: Frontage onto the street; windows of habitable rooms to provide surveillance; predominantly 2 – 2.5 storeys, variable ridge heights; traditional building details reflecting the vernacular of Hanwell; no blank walls onto the public realm; frontage parking / landscape frontage court; buildings set back 1 – 6 metres from the street; casement windows; vertical panelled doors; with low level landscaping to front boundaries, comprising hedge, low level brick wall or metal railing. Materials are to be varying shades of red brick, with grey/back concrete tiles (page 54).
- 7.11 The originally submitted scheme showed a clear deviation from the Design Code. The amended proposals continue to show some deviation, in respect of frontages (not being onto the street) and heights (the dwellings are single storey only, although form a minor proportion of the overall development is assessed as part of the Persimmon site).
- 7.12 However, the amended proposals are much improved on the original submission, in respect of windows of habitable rooms providing surveillance, landscaped frontage parking, and buildings being sited closer to the highway. A number of significant changes have been made to the proposals in response to DM officer comments. These are largely in relation to the overall configuration and layout of the site, but include:

- Reconfiguration of the buildings to provide frontage onto the street. This has helped the buildings have a more positive relationship with the public realm and will provide a greater sense of privacy to future residents
- The improvement in parking configuration, removing the duplication of hard standing and increasing the area that can be given to landscape elements
- Movement of the refuse buildings to less prominent areas of the scheme, without impacting on the functionality of these spaces

7.13 The LPA accepts that some variation is appropriate given the applicant's brief for supported housing with special needs requirements, and the site is set back from the main highway through the Persimmon site, providing a link through to Broken Furrow, and is small in size relative to the wider Persimmon site. It is therefore considered, on balance, that the amended proposal is acceptable in terms of design and layout.

7.14 The submitted elevation drawings show a simple form of building, and it is to the benefit of the development's appearance that window frames are shown to be symmetrical / balanced and this should be conditional to any approval.

7.15 However, the buildings continue to show an institutional character and there remain scope for improvements to be made, including the articulation of the main façade, the organisation and proportions of doors and windows, the lack of focus on the communal entrance to the buildings. It is considered that conditions may be imposed on any permission given for additional detailing to the front façade of the building as well as externally facing materials such as bricks and tiles.

7.16 In summary, it is considered that the proposals have been improved significantly and although, using the Urban Design Officer's words, still based "on a cookie cutter approach to design" and retaining an institutional character that is purely functional, are now considered sufficiently compliant with Policies ESD15 of the Cherwell Local Plan 2011-2031 and C28 and C30 of the 1996 Plan to recommend for approval, subject to conditions as noted above.

Impact on Heritage Assets

7.17 By virtue of the scale of development proposed, and the location of the site, the proposals would not materially affect designated heritage assets, and are therefore acceptable in this regard.

Landscape and Visual Impact

7.18 Similarly, surrounded by the larger part of the Banbury 5 development, the proposals would not have a significant impact on wider visual amenity or the character or appearance of the local landscape.

Trees and Landscaping

7.19 There are no trees protected by Tree Preservation Order on the site or within its vicinity. Several unprotected trees line the site's south-eastern boundary. The proposed development

would not conflict with the root protection areas of those trees, and the proposals are thus considerable in this regard.

Housing Mix/Affordable Housing

- 7.20 The proposed dwellings are proposed not to be market dwellings, but to be available only to those with acquired brain injuries. However, given the scale of development relative to the wider Banbury 5 site, (1) it is not considered reasonable to restrict occupancy by way of legal agreement, and (2) it is not considered necessary for the mix to be fully compliant with CLP Policy BSC4 in this regard.

Accessibility, Highway Safety and Parking

- 7.21 Under the amended plans, access is off highway, with single depth parking at right angles to the road. Other than one space for mini-van, a total of ten parking spaces are proposed, of which five are disabled parking spaces. This level of provision is considered acceptable. The local highway authority (LHA) objected to the original submission principally on the grounds of the difficulty pedestrians would face in accessing the building. These concerns are addressed in the amended proposals. The LHA recommends conditions are imposed on any consent to require cycle parking provision and tracking for refuse collection vehicles. The former is considered reasonable, at least for staff if not for future occupants. Refuse would be collected from communal bins sited close to the highway, with turning for vehicles provided in the highway approved under Phase 1 of the Persimmon development (ref. 15/00462/REM) and it is not considered reasonable for that requirement to be duplicated in this application.

Effect on Neighbouring Amenity

- 7.22 The proposed dwellings would be of single storey in height and sited at a sufficient distance not to materially impact on the living conditions of neighbours to the south-east. Under the amended plans, the proposed dwellings are sited at a sufficient distance for future occupiers not to be significantly affected by approved two storey dwellings in the Persimmon development either through privacy, loss or outlook; and, in turn, those approved dwellings would not be significantly affected by the proposal. It is therefore considered that the amended proposals accord with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 in amenity terms.

Ecological Implications

- 7.23 As the site forms part of the wider Persimmon site, it has been subject to previous ecological assessment and is covered by conditions applied to the consent for that wider site. No comments have been received to date from the Council's ecological officer Dr Watkins in respect of the current application but at pre-application stage Dr Watkins advised,

"The badger mitigation plans for the wider site will ...need to be taken into account in the design of fencing, etc.

“A biodiversity enhancement scheme for the buildings and gardens would be expected. This could be conditioned but it is always helpful to have proposals for this up front so we can assess if an overall net gain for biodiversity is likely to be achieved.”

7.24 The Framework advocates a net gain in biodiversity wherever possible. Subject to the above mentioned conditions, which it is considered reasonable to impose on any consent given, the proposals are considered in ecology terms and therefore in accord with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 in this regard.

Flood Risk

7.25 Similarly, the application site has been subject to previous assessment in this regard. By virtue of its size, and having regard to the comments of the water authority, the proposals are considered not to raise significant implications in this regard or to necessitate the inclusion of flood risk or drainage related conditions. It is noted that development will be subject to certain restrictions or requirements under separate legislation, e.g. Building Regulations.

Sustainability and Energy Efficiency

7.26 Within Banbury at the northern edge of Banbury, the proposed development is situated in a relatively sustainable location that will help to reduce the need to travel. It is the intent of Policies ESD2 to ESD5 to reduce energy use, promote energy efficiency, incorporate sustainable design and construction technology and decentralised energy systems, and including renewable energy provision. Although only make a limited provision in this regard, given the scale and purpose of the proposed development it is considered that these issues can be addressed satisfactorily through conditions to any consent given.

Planning Obligations

7.27 Section 106 requests have been made in respect of provide a community arts project with new residents, informal open space maintenance and mature tree maintenance. Given the scale and purpose of the development, it is not considered reasonable to require these contributions.

Engagement

7.28 With regard to the duty set out in paragraphs 186 and 187 of the Framework, an on-going dialogue has been maintained by Council officers looking to address problems or issues that have arisen during the course of both the pre-application discussions and the current applications. It is considered that the duty to be positive and proactive has been discharged through the interaction between parties in bringing forward a scheme that could be considered acceptable to the Authority.

8. Conclusion

8.1 It is considered that the proposal assessed within this application is an acceptable form of development that causes no significant or demonstrable harm to neighbour amenity, highway safety or ecology; and the design and scale is broadly compliant with the Design Code for the

site and, on balance, considered acceptable subject to certain conditions. The application is therefore recommended for approval as set out below.

9. 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 forms, Design and Access Statement, Site Location Plan, Ecological Appraisal (Willmott Dixon Housing Ltd, February 2016), Tree Survey Report (RGS, March 2016) and drawings numbered "17015-HANW-5-SK017", "HW-MA-00-GF-DR-A-00112 P09", "HW-MA-00-R1-DR-A-00114 P03", "HW-MA-00-ZZ-DR-A-00103 P03", "HW-MA-00-ZZ-DR-A-00105 P08", "HW-MA-00-ZZ-DR-A-00131 P06", "HW-MA-00-ZZ-DR-A-00132 P06", "HW-MA-00-ZZ-DR-A-00133 P06" and "HW-MA-00-ZZ-DR-A-00134 P06".

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. Unless otherwise agreed in writing, prior to the occupation of any dwellings an Energy Strategy shall be submitted to and approved by the Local Planning Authority. This strategy shall be in line with the mandatory requirements of Code 4 in respect of ENE1 2010.

Reason – To ensure sustainable construction and reduce carbon emissions in accordance with Government guidance contained within the National Planning Policy Framework.

4. Prior to the commencement of the development hereby approved above slab level, samples of the brick to be used in the construction of the external walls 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

5. Prior to the commencement of the development hereby approved above slab level, 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 C28 of the Adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

6. Notwithstanding the details submitted, no development shall commence above slab

level until amended design details for the front façade of the building and the entrance gates have been 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.

7. Prior to the commencement of the development hereby approved above slab level, 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.

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

8. No development shall take place above slab level 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 (which shall be native species of UK provenance), 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) the reinforcement of the existing hedgerow along the Western, Eastern and Southern boundaries
- (d) details of the hard surface areas, pavements, pedestrian areas, crossing points and steps.
- (e) Details of the minor artefacts/structures (i.e. surfaces, benches, fencing, walling etc.) which comprise public art works

Reason – In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to conserve and enhance biodiversity and prevent the spread of non-native species and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

9. 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.

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

10. 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.

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.

11. Prior to the commencement of the development above slab level, full details of existing and proposed ground and finished floor levels and all boundary treatments and means of enclosure 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 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

12. Prior to the commencement of the development above slab level, an update to the mitigation strategy for badgers, which shall include details of a recent survey (no older than six months on the date of the submission to the Local Planning Authority), whether a development licence is required and the location and timing of the provision of any protective fencing around setts/commuting routes, 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 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.

13. The development hereby approved shall be implemented fully in accordance with the Landscape and Ecology Management Plan (LEMP) approved pursuant to Condition 27 of 12/01789/OUT.

Reason – 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.

14. Prior to the commencement of the development above slab level, a method statement for biodiversity enhancements on site together with the long term maintenance 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.

Reason –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.

15. Prior to the commencement of the development above slab level, details of the proposed street lighting scheme to be installed, which shall include column height, luminaire type, positions, aiming angles and cowl and deflectors to direct light sources, to demonstrate that there is no light spillage from the site, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out and thereafter maintained in accordance with the approved details. Once installed the lighting scheme shall be inspected by a qualified lighting engineer and certified as being correctly installed prior to the first occupation of the development, the certificate shall then be submitted to the Local Planning Authority.

Reason – In order to safeguard the amenities of the area 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 implemented fully in accordance with the Construction Environment Management Plan (CEMP) approved pursuant to Condition 42 of 12/01789/OUT.

Reason – To ensure the environment is protected during construction in accordance with Policy ENV1 of the Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework

17. 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.

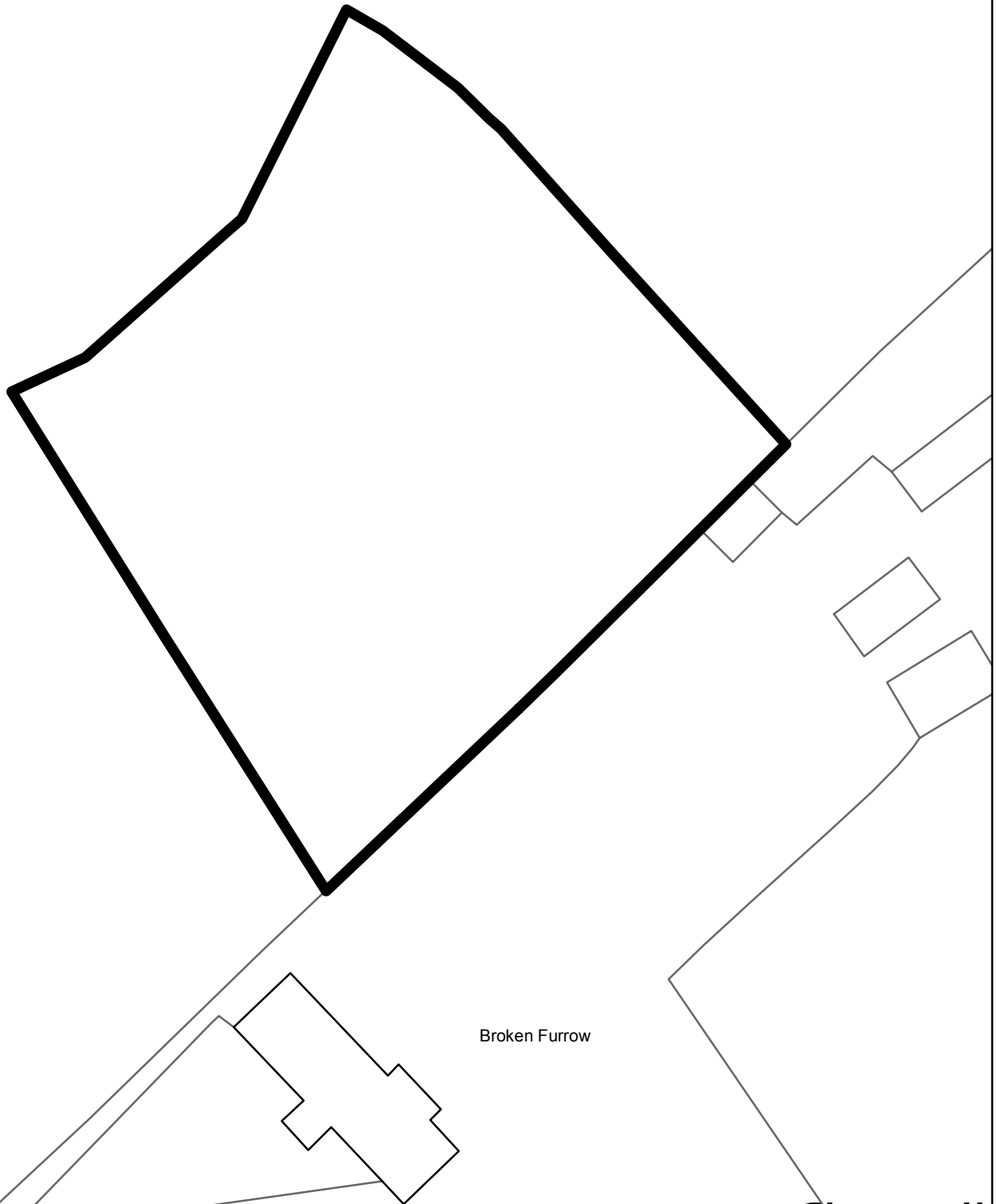
Reason – In the interests of sustainability, to ensure a satisfactory form of development and to comply with Government guidance contained within the National Planning Policy Framework.

CONTACT OFFICER: Nathanael Stock

TELEPHONE NO: 01295 221886

16/00515/CDC

OS Parcels 4083 And 6882 Adjoining And
North Of Broken Furrow
Warwick Road
Banbury



Broken Furrow

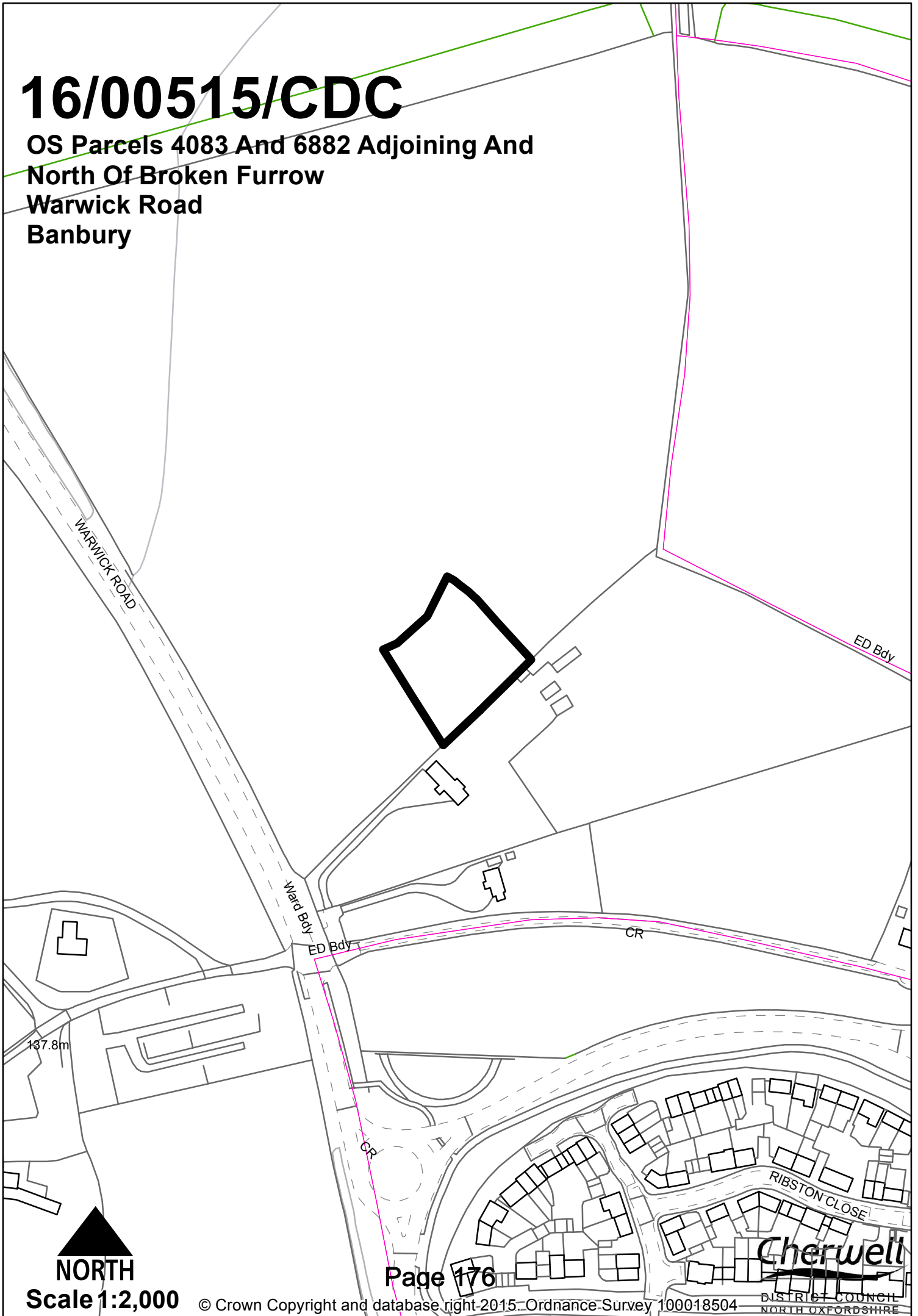


NORTH

Scale 1:500

16/00515/CDC

OS Parcels 4083 And 6882 Adjoining And
North Of Broken Furrow
Warwick Road
Banbury



137.8m

NORTH

Scale 1:2,000

Case Officer: Nathanael Stock **Ward(s):** Banbury Hardwick

Applicant: Ms Kim Swallowe

Ward Member(s): Cllr J Donaldson, Cllr T Ilott, Cllr N Turner

Proposal: Erection of single storey building to provide 5 one bed flats for adults with acquired brain injury, associated parking area, secured courtyard area, and staff and communal accommodation in an additional unit (six units in total)

Committee Date: 19.05.16 **Recommendation:** Approve

Reason for referral: Cherwell District Council is the applicant

1. Application Site and Locality

- 1.1 The application relates to a small area within the western part of a larger site (approx. 26ha) allocated for development, to which Policy Banbury 5 of the Cherwell Local Plan 2011-2031 applies.
- 1.2 The larger site gently undulates across the two agricultural fields from the Warwick Road to lower points in the south west and north east corners and to higher points to the north between the two fields and to the south east. A significant tree boundary runs along the whole of the north of the application area and to the south of the eastern most field. Trees and hedges also run along the remainder of the field boundaries.
- 1.3 There are two public footpaths that run across the site, one across the western side of the western field from the Warwick Road towards Hanwell and one which runs along the northern boundary of the eastern field for a short distance before turning towards Hanwell. There are records of bats and badgers on the site and there are also notable habitats including lowland mixed deciduous woodland and a broadleaved woodland plantation. Other site constraints include naturally occurring contaminants, a minor aquifer and known records of minerals.
- 1.4 The site's surroundings consist of the Hanwell Fields development to the south, amenity space, which is not public, to the east (and which falls within the site allocation), agricultural fields to the north which separate the site from Hanwell and agricultural fields to the west, west of Warwick Road.

2. Description of Proposed Development

The applicant seeks planning permission for the erection of a single storey building to provide five, one bed flats for adults with acquired brain injury, plus associated parking area, secured courtyard area, and staff and communal accommodation in an additional unit (resulting in six units in total). The building would be laid out in a horseshoe shape, would have a hipped roof, of 2.55m height to eaves and 5.55m overall height. Single depth parking is proposed to the

front, interspersed with pedestrian accesses and some soft landscaping. A detached bin store is proposed adjacent to the garages of Plot 20 to the Persimmon development, and a communal space is proposed to the rear of the building. Access is gained via road between Plots 20 and 41 of the Persimmon development and which would connect to land belonging to Broken Furrow in accordance with the masterplan for the overall site.

3. Relevant Planning History

<u>App Ref</u>	<u>Description</u>	<u>Status</u>
12/00021/SO	Screening Opinion - Proposed development including up to 380 residential dwellings along with associated access, landscaping and infrastructure	EIAYES
12/01789/OUT	Outline application for up to 350 dwellings, together with new vehicular access from Warwick Road and associated open space	PER
15/00462/REM	Reserved Matters to outline application 12/01789/OUT - 118 dwellings together with new vehicular access from Warwick Road and associated open space (Phase 1)	PER
15/01589/REM	Reserved Matters application for 232 dwellings dealing with appearance, landscaping, layout and scale (this development forming the 2nd phase of development which received Outline permission under 12/01789/OUT)	PCO
16/00371/REM	Reserved Matter to 12/01789/OUT - Demolition of the Bat House located within Briars Close and erection of replacement Bat House	PER
16/00504/CDC	6 one bed flats for adults with learning difficulties and autistic spectrum condition. Units single storey with shared landscaped gardens and associated parking zones. Staff accommodation and communal areas included in an additional unit (7 units in total)	PCO

4. Response to Publicity

The application was publicised by way of a site notice (20.04.2016) and neighbour notification letters. The last date for comment was 11.05.2016.

No responses received.

5. Response to Consultation

Parish/Town Council:

Cherwell District Council:

Urban Design – No objections to amended proposal: The development site forms part of the Ban 5 allocation in the Cherwell submission Local Plan. The Hanwell Fields development forms a strategic development site to the north of Banbury and south of the village of Hanwell. The site is located on the northeast edge of Banbury, four miles northeast of the Banbury Town Centre. The two small sites form part of this residential housing allocation. While well connected with the rest of the development area, the sites form a discrete pocket, which has the potential to have a separate and independent character.

An Outline Application was approved in 2013 and was followed by Design Code which was formally approved by the Council in 2015. The two Reserve Matters applications are for supported living units for adults with learning difficulties on the autistic spectrum and learning difficulties and adults with acquired brain injuries. While two applications have been submitted for two sites, the areas lie adjacent to one another separated by a low key street, have a clear spatial relationship to one another and similar issues which need to be grappled in terms of design and layout.

Design Codes

A Design Code was produced for the Persimmon area of the site in 2014 and formed a key condition of the Outline Application. These were developed by the applicant and approved by the planning committee for the site in 2015. The Design Code provides detailed guidance on the layout and architectural design approach for different character areas. Key requirements for this area include:

- Frontage onto the street
- Windows of habitable rooms to provide surveillance
- 1-6m set back from the street
- 2 – 2.5 storeys
- Corner buildings at junctions
- Various building details

There has been a clear deviation from the design codes within this application. The LPA accept that some variation is appropriate given the change in brief from single family dwellings to supported housing, with special needs requirements. There does however need to be a clear balance of the issues, to ensure that the development fits comfortably with its surroundings and meets the high design standard set out in the National and Local planning policy guidance.

Through the planning process a number of significant changes have been made to the proposals in response to our comments. These are largely in relation to the overall configuration and layout of the site, but include:

- Reconfiguration of the buildings to provide frontage onto the street. This has helped the buildings have a more positive relationship with the public realm and will provide a greater sense of privacy to future residents

- The improvement in parking configuration, removing the duplication of hard standing and increasing the area that can be given to landscape elements
- Movement of the refuse buildings to less prominent areas of the scheme, without impacting on the functionality of these spaces

Advice was also given on improving the architectural character of the buildings. These have an institutional character and I believe that improvements can be made in this area. The articulation of the principal facades is poor and some additional work on this area would greatly uplift the scheme. Key issues include:

- The main façade is poorly articulated. The organisation and proportions of doors and windows does little to articulate the façade and gives an institutional feel
- A – The entrance area is a key element of the façade and would greatly benefit from greater architectural articulation. The entrance needs to be the key element that your eye is drawn to
- No details have been provided on the entrance gate and this should be conditioned as a high quality ironwork, with creative detail to add interest
- B – The communal entrance to the units is poorly articulated and the eye is drawn to the staff entrance. I am concerned that the return on the wall connecting the two blocks creates an awkward space.

Conclusions

The proposed site is highly appropriate for the uses proposed. The proposals put forward have improved significantly over the last few weeks. The architectural design is still however based on a cookie cutter approach to design gives an institutional character that is purely functional. Further consideration of design issues at this stage will help develop an enduring area that enriches the lives of those who live there.

Landscape Services – No objections; Section 106 request, towards informal open space maintenance and mature tree maintenance

Strategic Housing – Supports; comments: This is an application which proposes a supported housing scheme which is a joint project between the District Council and the County Council. I am supportive of this application as it will provide much needed specialised housing for those people who have learning difficulties and provide a safe and secure environment for those people to enjoy an independent and fulfilling life.

The land itself was secured by the Council as part of the original agreement for the wider outline permission as part of the affordable housing requirement in order to deliver this scheme.

Recreation & Leisure – Section 106 request: To provide a community arts project with new residents. To work with Cherwell DC arts development team to determine the scale and nature of the community arts programme. Contribution to be in the region of £160 per dwelling. Trigger: On completion and 100% occupation

Oxfordshire County Council:

Highways – Objection, based on the original submission. Comments: The application has come at the back of a pre application consultation ref 16/00033/PREAPP in which some issues that required consideration at full application stage were flagged. As set out in the pre application, more information is still required to determine the implications of the application proposals.

The level of car parking provision seems to be representative of the type of development in particular the number of DDA parking spaces allocated on site, including space for a van.

Whilst I am pleased that adequate pedestrian facilities have been provided around the site, it appears that pedestrians wishing to access the site would be expected to share the vehicle access and manoeuvring areas without dedicated pedestrian facilities linking them to the building. This doesn't appear to be suitable particularly because many of the residents are likely to need assistance on walking journeys to and from the site either in wheelchairs or being supported by a carer. I would expect to see more detail about how safe and suitable access can be provided for people walking to and from the site tying the development up to the outer community.

The application documents do not include a Flood Risk Assessment, hence unable to comment fully on how the proposed drainage may affect flood risks both on and off site and residual risks or comment on flooding issues. For a site of such size it could be anticipated that a flood risk assessment has been completed. Also, according to the SUDS hierarchy Infiltration to ground should be the first option to consider for developments. A spread of infiltration tests are required to demonstrate that infiltration techniques are not a viable option.

Should the local planning authority decide to grant planning permission, then...conditions should be applied [in relation to] cycle parking provision and tracking for refuse collection vehicles.

Archaeology – No objection; comments: the proposed sites have been the subject of a phased programme of archaeological investigation as part of a larger development.

These investigations have been completed and the final report is being produced. No further archaeological investigations are required and as such therefore no archaeological constraints to these schemes.

Other External Consultees:

Water authority (Thames Water) – No objection; no conditions recommended

6. Relevant National and Local Planning Policy and Guidance

6.1 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. Planning legislation requires planning decisions to be made in

accordance with the Development Plan unless material planning considerations indicate otherwise. The relevant planning policies of Cherwell District's statutory Development Plan are set out below:

Cherwell Local Plan 2011 - 2031 Part 1

ESD15 - The Character of the Built and Historic Environment
PSD1 - Presumption in Favour of Sustainable Development
SLE4 - Improved Transport and Connections
BSC1 - District Wide Housing Distribution
BSC2 - The Effective and Efficient Use of Land
BSC3 - Affordable Housing
BSC4 - Housing Mix
BSC9 - Public Services and Utilities
BSC10 - Open Space, Outdoor Sport & Recreation Provision
BSC11 - Local Standards of Provision - Outdoor Recreation
BSC12 - Indoor Sport, Recreation and Community Facilities
ESD1 - Mitigating and Adapting to Climate Change
ESD2 - Energy Hierarchy
ESD3 - Sustainable Construction
ESD4 - Decentralised Energy Systems
ESD5 - Renewable Energy
ESD7 - Sustainable Drainage Systems (SuDS)
ESD10 - Protection and Enhancement of Biodiversity and the Natural Environment
ESD13 - Local Landscape Protection and Enhancement
ESD15 - The Character of the Built Environment
ESD17 - Green Infrastructure
INF1 - Infrastructure
BAN5 - Land North of Hanwell Fields

Cherwell Local Plan 1996 (Saved Policies)

C28 - Layout, design and external appearance of new development
C30 - Design of new residential development
TR1 - Transportation funding

6.2 Other Material Planning Considerations:

National Planning Policy Framework ("the Framework") - National Planning Policy Framework sets out the Government's planning policies for England and how these are expected to be applied.

Planning Practice Guidance ("nPPG") – This sets out regularly updated guidance from central Government to provide assistance in interpreting national planning policy and relevant legislation.

7. Appraisal

7.1 Officers consider the following matters to be relevant to the determination of this application:

- Principle of Development;
- Design, Layout and Appearance;
- Impact on Heritage Assets;

- Landscape and Visual Impact;
- Trees and Landscaping;
- Housing Mix/Affordable Housing;
- Accessibility, Highway Safety and Parking;
- Effect on Neighbouring Amenity;
- Ecological Implications;
- Flood Risk;
- Sustainability and Energy Efficiency;
- Planning Obligations;

Principle of Development

- 7.2 The Framework explains that the purpose of the planning system is to contribute to the achievement of sustainable development. This is defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs.
- 7.3 The Framework positively encourages sustainable development. Paragraph 17 states that planning should actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling and to focus significant development in locations which are or can be made sustainable. Paragraph 111 states that Local Planning Authorities should encourage the effective use of land by re-using land that has been previously developed.
- 7.4 The application site is located within the land allocated for developed as 'Banbury 5'. Policy Banbury 5 states that "approximately 544" dwellings will be provided within this larger area. Outline planning permissions issued to date within 'Banbury 5' total 510 dwellings.
- 7.5 The application site forms part of the Persimmon site, which has outline planning permission as part of application 12/01789/OUT for 350 dwellings. Although the current proposal and the concurrent one (ref. 16/00504/CDC) would result in additional dwellings over and above the 350 approved under 12/01789/OUT, these are full planning applications not linked to that outline consent. In addition, they would not exceed the 544 for the overall site.
- 7.6 While it is intended that the remaining approx. 34 of the "approximately 544" would be provided within the land belonging to Broken Furrow (immediately south of the application site) it is clear from the use of the word "approximately" within the policy that this number is not fixed, whereas the extent of land allocated for development is fixed.
- 7.7 The proposal therefore complies with Policy Banbury 5 and is acceptable in principle, subject to consideration against other policies in the development plan.

Design, Layout and Appearance

- 7.8 Policy Banbury 5 requires the layout that maximises the potential for walkable neighbourhoods and enables a high degree of integration and connectivity, includes new footpaths and cycleways to link with existing networks with a legible hierarchy of routes. Aside from the above, the specific design and place shaping principles listed in Banbury 5 do not apply to the application site by virtue of its size, location and relationship to surroundings.

- 7.9 Since the application site forms part of the Persimmon land, the Design Code approved for that site is relevant to the current application. The Design Code provides detailed guidance on the layout and architectural design approach for different character areas.
- 7.10 Under the Design Code's Regulating Plan (page 34-35), the application site is within a CA2 – Core Housing character area. A medium density is required (page 36), although what medium density means is not defined. Key requirements for this area include: Frontage onto the street; windows of habitable rooms to provide surveillance; predominantly 2 – 2.5 storeys, variable ridge heights; traditional building details reflecting the vernacular of Hanwell; no blank walls onto the public realm; frontage parking / landscape frontage court; buildings set back 1 – 6 metres from the street; casement windows; vertical panelled doors; with low level landscaping to front boundaries, comprising hedge, low level brick wall or metal railing. Materials are to be varying shades of red brick, with grey/back concrete tiles (page 54).
- 7.11 The originally submitted scheme showed a clear deviation from the Design Code. The amended proposals continue to show some deviation, in respect of frontages (not being onto the street) and heights (the dwellings are single storey only, although form a minor proportion of the overall development is assessed as part of the Persimmon site).
- 7.12 However, the amended proposals are much improved on the original submission, in respect of windows of habitable rooms providing surveillance, landscaped frontage parking, and buildings being sited closer to the highway. A number of significant changes have been made to the proposals in response to DM officer comments. These are largely in relation to the overall configuration and layout of the site, but include:
- Reconfiguration of the buildings to provide frontage onto the street. This has helped the buildings have a more positive relationship with the public realm and will provide a greater sense of privacy to future residents
 - The improvement in parking configuration, removing the duplication of hard standing and increasing the area that can be given to landscape elements
 - Movement of the refuse buildings to less prominent areas of the scheme, without impacting on the functionality of these spaces
- 7.13 The LPA accepts that some variation is appropriate given the applicant's brief for supported housing with special needs requirements, and the site is set back from the main highway through the Persimmon site, providing a link through to Broken Furrow, and is small in size relative to the wider Persimmon site. It is therefore considered, on balance, that the amended proposal is acceptable in terms of design and layout.
- 7.14 The submitted elevation drawings show a simple form of building, and it is to the benefit of the development's appearance that window frames are shown to be symmetrical / balanced and this should be conditional to any approval.
- 7.15 However, the buildings continue to show an institutional character and there remain scope for improvements to be made, including the articulation of the main façade, the organisation and proportions of doors and windows, the lack of focus on the key entrances to the buildings. In addition no details have been provided with regard to the entrance gate. It is considered that conditions may be imposed on any permission given for additional detailing to the front façade

of the building, the entrance gates, as well as externally facing materials such as bricks and tiles.

- 7.16 In summary, it is considered that the proposals have been improved significantly and although, using the Urban Design Officer's words, still based "on a cookie cutter approach to design" and retaining an institutional character that is purely functional, are now considered sufficiently compliant with Policies ESD15 of the Cherwell Local Plan 2011-2031 and C28 and C30 of the 1996 Plan to recommend for approval, subject to conditions as noted above.

Impact on Heritage Assets

- 7.17 By virtue of the scale of development proposed, and the location of the site, the proposals would not materially affect designated heritage assets, and are therefore acceptable in this regard.

Landscape and Visual Impact

- 7.18 Similarly, surrounded by the larger part of the Banbury 5 development, the proposals would not have a significant impact on wider visual amenity or the character or appearance of the local landscape.

Trees and Landscaping

- 7.19 There are no trees protected by Tree Preservation Order on the site or within its vicinity. Several unprotected trees line the site's south-eastern boundary. The proposed development would not conflict with the root protection areas of those trees, and the proposals are thus considerable in this regard.

Housing Mix/Affordable Housing

- 7.20 The proposed dwellings are proposed not to be market dwellings, but to be available only to those with acquired brain injuries. However, given the scale of development relative to the wider Banbury 5 site, (1) it is not considered reasonable to restrict occupancy by way of legal agreement, and (2) it is not considered necessary for the mix to be fully compliant with CLP Policy BSC4 in this regard.

Accessibility, Highway Safety and Parking

- 7.21 Under the amended plans, access is off highway, with single depth parking at right angles to the road. Other than one space for mini-van, a total of ten parking spaces are proposed, of which five are disabled parking spaces. This level of provision is considered acceptable. The local highway authority (LHA) objected to the original submission principally on the grounds of the difficulty pedestrians would face in accessing the building. These concerns are addressed in the amended proposals. The LHA recommends conditions are imposed on any consent to require cycle parking provision and tracking for refuse collection vehicles. The former is considered reasonable, at least for staff if not for future occupants. Refuse would be collected from communal bins sited close to the highway, with turning for vehicles provided in the

highway approved under Phase 1 of the Persimmon development (ref. 15/00462/REM) and it is not considered reasonable for that requirement to be duplicated in this application.

Effect on Neighbouring Amenity

7.22 The proposed dwellings would be of single storey in height and sited at a sufficient distance not to materially impact on the living conditions of neighbours to the south-east. Under the amended plans, the proposed dwellings are sited at a sufficient distance for future occupiers not to be significantly affected by approved two storey dwellings in the Persimmon development either through privacy, loss or outlook; and, in turn, those approved dwellings would not be significantly affected by the proposal. It is therefore considered that the amended proposals accord with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 in amenity terms.

Ecological Implications

7.23 As the site forms part of the wider Persimmon site, it has been subject to previous ecological assessment and is covered by conditions applied to the consent for that wider site. No comments have been received to date from the Council's ecological officer Dr Watkins in respect of the current application but at pre-application stage Dr Watkins advised,

"The badger mitigation plans for the wider site will ...need to be taken into account in the design of fencing, etc.

"A biodiversity enhancement scheme for the buildings and gardens would be expected. This could be conditioned but it is always helpful to have proposals for this up front so we can assess if an overall net gain for biodiversity is likely to be achieved."

7.24 The Framework advocates a net gain in biodiversity wherever possible. Subject to the above mentioned conditions, which it is considered reasonable to impose on any consent given, the proposals are considered in ecology terms and therefore in accord with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 in this regard.

Flood Risk

7.25 Similarly, the application site has been subject to previous assessment in this regard. By virtue of its size, and having regard to the comments of the water authority, the proposals are considered not to raise significant implications in this regard or to necessitate the inclusion of flood risk or drainage related conditions. It is noted that development will be subject to certain restrictions or requirements under separate legislation, e.g. Building Regulations.

Sustainability and Energy Efficiency

7.26 Within Banbury at the northern edge of Banbury, the proposed development is situated in a relatively sustainable location that will help to reduce the need to travel. It is the intent of Policies ESD2 to ESD5 to reduce energy use, promote energy efficiency, incorporate sustainable design and construction technology and decentralised energy systems, and including renewable energy provision. Although only make a limited provision in this regard,

given the scale and purpose of the proposed development it is considered that these issues can be addressed satisfactorily through conditions to any consent given.

Planning Obligations

7.27 Section 106 requests have been made in respect of provide a community arts project with new residents, informal open space maintenance and mature tree maintenance. Given the scale and purpose of the development, it is not considered reasonable to require these contributions.

Engagement

7.28 With regard to the duty set out in paragraphs 186 and 187 of the Framework, an on-going dialogue has been maintained by Council officers looking to address problems or issues that have arisen during the course of both the pre-application discussions and the current applications. It is considered that the duty to be positive and proactive has been discharged through the interaction between parties in bringing forward a scheme that could be considered acceptable to the Authority.

8. Conclusion

8.1 It is considered that the proposal assessed within this application is an acceptable form of development that causes no significant or demonstrable harm to neighbour amenity, highway safety or ecology; and the design and scale is broadly compliant with the Design Code for the site and, on balance, considered acceptable subject to certain conditions. The application is therefore recommended for approval as set out below.

9. 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 forms, Design and Access Statement, Site Location Plan, Ecological Appraisal (Willmott Dixon Housing Ltd, February 2016), Tree Survey Report (RGS, March 2016) and drawings numbered "17015-HANW-5-SK017", "HW-MA-00-GF-DR-A-00111 P08", "HW-MA-00-R1-DR-A-00113 P02", "HW-MA-00-ZZ-DR-A-00102 P09", "HW-MA-00-ZZ-DR-A-00104 P07", "HW-MA-00-ZZ-DR-A-00121 P06", "HW-MA-00-ZZ-DR-A-00122 P06" and "HW-MA-00-ZZ-DR-A-00123 P06".

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. Unless otherwise agreed in writing, prior to the occupation of any dwellings an Energy Strategy shall be submitted to and approved by the Local Planning Authority. This strategy shall be in line with the mandatory requirements of Code 4 in respect of ENE1 2010.

Reason – To ensure sustainable construction and reduce carbon emissions in accordance with Government guidance contained within the National Planning Policy Framework.

4. Prior to the commencement of the development hereby approved above slab level, samples of the brick to be used in the construction of the external walls 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

5. Prior to the commencement of the development hereby approved above slab level, 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 C28 of the Adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

6. Notwithstanding the details submitted, no development shall commence above slab level until amended design details for the front façade of the building and the entrance gates have been 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.

7. Prior to the commencement of the development hereby approved above slab level, 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.

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

8. 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 (which shall be native species of UK provenance), 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) the reinforcement of the existing hedgerow along the Western, Eastern and Southern boundaries
- (d) details of the hard surface areas, pavements, pedestrian areas, crossing points and steps.
- (e) Details of the minor artefacts/structures (i.e. surfaces, benches, fencing, walling etc.) which comprise public art works

Reason – In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to conserve and enhance biodiversity and prevent the spread of non-native species and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

9. 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.

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

10. 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.

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.

11. Prior to the commencement of the development above slab level, full details of existing and proposed ground and finished floor levels and all boundary treatments and means of enclosure 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 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

12. Prior to the commencement of the development above slab level, an update to the mitigation strategy for badgers, which shall include details of a recent survey (no older than six months on the date of the submission to the Local Planning Authority), whether a development licence is required and the location and timing of the provision of any protective fencing around setts/commuting routes, 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 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.

13. The development hereby approved shall be implemented fully in accordance with the Landscape and Ecology Management Plan (LEMP) approved pursuant to Condition 27 of 12/01789/OUT.

Reason – 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.

14. Prior to the commencement of the development above slab level, a method statement for biodiversity enhancements on site together with the long term maintenance 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.

Reason –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.

15. Prior to the commencement of the development above slab level, details of the proposed street lighting scheme to be installed, which shall include column height, luminaire type, positions, aiming angles and cowl and deflectors to direct light sources, to demonstrate that there is no light spillage from the site, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out and thereafter maintained in accordance with the approved details. Once installed the lighting scheme shall be inspected by a qualified lighting engineer and certified as being correctly installed prior to the first occupation of the development, the certificate shall then be submitted to the Local Planning Authority.

Reason – In order to safeguard the amenities of the area 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 implemented fully in accordance with the Construction Environment Management Plan (CEMP) approved pursuant to Condition 42 of 12/01789/OUT.

Reason – To ensure the environment is protected during construction in accordance with Policy ENV1 of the Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework

17. 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.

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.

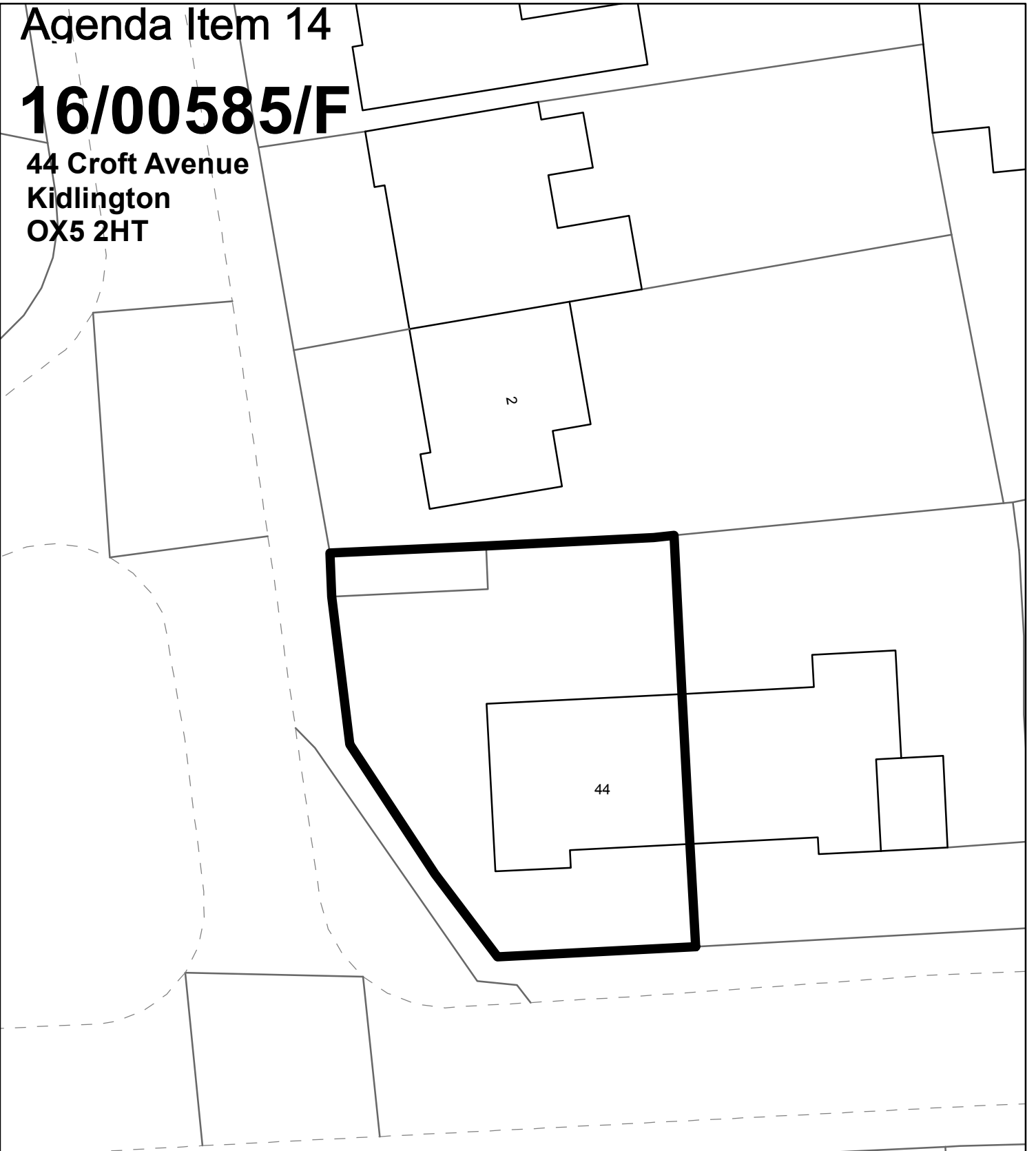
CONTACT OFFICER: Nathanael Stock

TELEPHONE NO: 01295 221886

Agenda Item 14

16/00585/F

44 Croft Avenue
Kidlington
OX5 2HT



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Scale 1:250

16/00585/F

44 Croft Avenue
Kidlington
OX5 2HT



Scale 1:1,250

Case Officer: James Kirkham **Ward(s):** Kidlington East

Applicant: Mrs Anne Mc-Donald

Ward Member(s): Cllr M V Billington
Cllr N Prestidge
Councillor Carmen Griffiths

Proposal: Proposed alterations to form 3 no 1bed flats with parking and ancillary space

Committee Date: 19 May 2016 **Recommendation:** Approve

Reason for Referral: Application called-in by Councillor Carmen Griffiths

1. Application Site and Locality

- 1.1 The application site is situated in an established residential area of Kidlington. The property is a two storey semi-detached dwelling constructed of brick under a concrete tile roof. The property has had a two storey side extension to the western side of the property added in the late 1980's.
- 1.2 The property is located on the corner plot where Mulcaster Avenue turns into Croft Avenue. The property faces onto Croft Avenue with parking provision situated to the south of the dwelling. An area of public open space exists to the west of the site on the opposite side of Mulcaster Avenue.

2. Description of Proposed Development

- 2.1 The current application seeks permission to convert the existing dwelling into 3 no. flats/dwellings. These would be contained within the existing footprint of the dwelling and would involve the existing ground floor garage being converted into residential accommodation. The only other changes to the external appearance of the dwelling would be some alterations to the position of windows and doors on the building.
- 2.2 The proposal also includes the provision of an extended area of parking to the front of the dwelling to accommodate 3 parking spaces and an additional 4th parking space to the rear of the property accessed from Mulcaster Avenue.

3. Relevant Planning History

<u>App Ref</u>	<u>Description</u>	<u>Status</u>
88/00163/F	Demolish garage, extend new garage to provide dining room and bedroom over	Permitted and implemented

	garage	
00/00377/F	Erection of a single garage and new vehicle access (as amended by revised plans received 25.04.2000)	Permitted but not implemented
16/00126/F	Extension and alteration to form 4 no. 1 bed flats with accompanying parking, ancillary and amenity space	Withdrawn

4. Response to Publicity

4.1 The application was publicised through neighbour notification letters and also through a site notice placed near the site. At the time of drafting this report 18 letters of objection had been received. These have raised the following concerns:

- Flats are out of keeping with the character of the area which is a low density family housing area
- Parking and bin store area would have an urbanising impact on the area
- Over development of the site. Density out of keeping with the area
- Loss of family accommodation
- No need for additional flats
- Flats should be in purpose built blocks in appropriate locations with adequate amenity space
- Loss of residential amenity
- Increase in noise and disturbance to neighbouring properties
- Inadequate amenity space for future residents
- Issues with bins storage and rubbish
- Unneighbourly form of development
- Poor visibility from parking area and dangerous access located on the sharp corner in the road
- Increase in traffic and car movements on dangerous corner plot
- Depth of parking spaces is not sufficient resulting in vehicles overhanging the pavement to the detriment of pedestrian safety
- Inadequate levels of parking
- This will set a precedent for other conversions within the area
- Poor drainage in the local area

- Concerns over lack of neighbour notification.

5. Response to Consultation

Ward Councillor

- 5.1 **Councillor Griffiths** - I would like to object to the planning application 16/00585 for the following reasons.
- 5.2 Saved Policies C30 and C31 - This proposed development is out of keeping with the residential area. There are no other conversions of houses to flats in the area . I feel that the approval of this application will set a precedent and it will be only a matter of time before the majority of other homes in this street and Mulcaster Avenue would also be converted into flats. This is not something that we want for Kidlington and indeed this point has been raised by both myself and the Parish council when commenting on the proposed Master Plan. Only purpose built flats exist in near by areas such as Blenheim Drive for which adequate amenities were provided and which were built many years ago.
- 5.3 Whilst there is the bare minimum provision of parking, this development is close to the bend and allows no provision for visitor parking other than on the already over occupied road.
- 5.4 The proposed extension of this building is not compatible with the scale of existing dwellings. The other half of this semi detached dwelling is far smaller meaning that the scale of this proposed building is out of scale and too large.

Parish/Town Council:

- 5.5 **Kidlington Parish Council** – Object. The proposals are contrary to the Adopted Local Plan Policy C30 in which it states:
- (ii) That any proposals to extend an existing dwelling is compatible with the scale of the existing dwelling, its curtilage and character of the street scene.
- 5.6 In additional the Parish consider the proposal is contrary to Saved Policy C31 of the Local Plan which states in existing residential areas any development which is not compatible with the residential character of the area, or would cause an unacceptable level of nuisance or visual intrusion, will not normally be permitted.

Oxfordshire County Council:

- 5.7 **Highways** – No objection subject to a condition regarding the laying out of the parking prior to the first occupation.
- 5.8 The number of spaces being provided on site is satisfactory, with 4 being planned for. This means that the flats would have a visitor space if needed. From the plans, it looks as though flat 1 will access the building from the side and would therefore have the rear parking space. This leaves flats 2 and 3 with parking at the front of the property, close to their access also at the front of the building.
- 5.9 Whilst the already consented parking space at the rear meets the recommended dimensions, the 3 spaces proposed at the front, do not. The length of the driveway from the building to the footway, is only 4.3m and we require at least 4.8m for a parking space. This also doesn't take

into account any space needed to walk between the building and the car and in situations such as this, we would recommend 5m in length. Any cars parked here would likely encroach over onto the adjacent footway. However, on this occasion, I believe this may be relaxed in recognition of similar arrangements across the neighbourhood where a majority of properties have hardstanding for car parking seemingly less than 5m. The width of the drive way proposed is 7.4m, which is actually suitable for 3 cars (need a width of 2.4m each).

- 5.10 Reversing off the driveway at the front of the building does seem acceptable, given that the driver will be facing the building and will therefore be able to see approaching vehicles and pedestrians coming down Mulcaster Avenue, as well as vehicles/pedestrians coming from Croft Avenue. The access to the rear of the property has already been consented under a separate planning permission; therefore, no comments can be made.
- 5.11 The cycle parking would need to be submitted in more detail outlining the nature and amount of parking proposed. It should be secure and covered.
- 5.12 A Section 184 Agreement to provide the dropped kerb will be separate to any planning permission given. In OCC's guidance on dropped kerbs it does state that 'a crossing will not usually be approved, or an existing crossing widened, so that it covers the full width of your property'. The plans are not proposing the whole extent of the frontage for a dropped kerb, however this may be taken into consideration, given the proximity of the plot to the corner between Croft Avenue and Mulcaster Avenue. For more information see our guidance page <https://www.oxfordshire.gov.uk/cms/content/dropped-kerbs>

Other External Consultees:

- 5.13 **Thames Water** – Thames Water advise that with regard to sewerage infrastructure capacity they would not have any objection to the application.

6. Relevant National and Local Planning Policy and Guidance

6.1 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. Planning legislation requires planning decisions to be made in accordance with the Development Plan unless material planning considerations indicate otherwise. The relevant planning policies of Cherwell District's statutory Development Plan are set out below:

Cherwell Local Plan 2011 - 2031 Part 1

- BSC2 - Effective use of land and housing density
- ESD1 - Mitigating and adapting climate change
- ESD7 - Sustainable drainage systems

ESD10 - Protection and enhancement of biodiversity and the natural environment
ESD15 - The character of the built and historic environment
Villages 1 - Village categorisation

Cherwell Local Plan 1996 (Saved Policies)

C28 - Layout and Design of new development
C30 - Design Control

6.2 Other Material Planning Considerations:

National Planning Policy Framework (The Framework) – the National Planning Policy Framework sets out the Government’s planning policies for England and how these are expected to be applied.

Planning Practice Guidance (NPPG) – This sets out regularly updated guidance from central Government to provide assistance in interpreting national planning policy and relevant legislation.

Kidlington Draft Masterplan

7. Appraisal

7.1 Officers’ consider the following matters to be relevant to the determination of this application:

- Planning History
- Principle of Development;
- Character and Appearance;
- Residential Amenity;
- Parking and Access
- Other matters

Planning History

7.2 The current application follows an earlier application to convert the property to 4 flats (16/00126/F). This application included a number of extensions to the property and also a higher number of residential units. The application was withdrawn after officers raised concerns regarding the amount of development proposed and the combined visual impacts of the development on the character and appearance of the area. The current application has been amended by reducing the number of flats proposed and no longer includes any extensions to the property.

Principle of Development

7.3 The application site is located within the built up limits of Kidlington. Policy Villages 1 of the Cherwell Local Plan provides a framework for housing growth in the rural areas and includes Kidlington as a Category A village. Category A villages are amongst the most sustainable to accommodate new housing growth and the policy states minor development, infilling and conversions may be appropriate within the built up limits. Therefore Kidlington is considered

to be an appropriate settlement in principle for conversion of the existing building to flats, such as this proposal, subject to other material planning considerations outlined below.

Character and Appearance

- 7.4 Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 states new development will be expected to complement and enhance the character of its context through sensitive siting and layout and states all development will be required to meet high design standards. It goes on to state development should respect the traditional pattern of plots and also respect the form, scale and massing of buildings. Development should be designed to integrate with existing streets and buildings clearly configured to create defined active public frontages. Saved Policy C28 and C30 of the 1996 Local Plan also seek to ensure high quality development, consistent with Paragraphs 58 and 60 of the NPPF which state that development proposals should respond to the local character and surroundings and reinforce local distinctiveness. Paragraph 64 states 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.
- 7.5 In the current application no extensions are proposed to the dwelling and the only alterations to the external appearance of the building is the conversion of the existing integral garage to living accommodation and some minor alterations to the location and size of the windows on the side and rear elevation of the building. Therefore the impact of these alterations on the character and appearance of the area is considered to be acceptable.
- 7.6 Bins stores and cycle parking are proposed to the side of the property and would be screened from the street by the existing boundary treatment to the side garden.
- 7.7 In relation to other visual impacts of the development the area of parking which exists to the front of the site facing onto Croft Avenue would be extended across a wider part of the frontage. Small pockets of landscaping would be provided either side of this parking area which would help reduce its impact and soften its appearance. Whilst the provision of more hard standing on the frontage would not be ideal and would have some urbanising impact on the character and appearance of the area, this by itself would not in officers views justify refusal of the application given the particular circumstances of the site and the existence of similar hard-surfaced frontages to other dwellings in the area. The provision of a 4th parking space to the rear of the site has previously been approved and is not considered to result in a significant visual impact on the area.
- 7.8 In terms of the concerns which have been raised in respect to the conversion to flats changing the character of the area, this is more difficult to define. The Development Plan is the starting point for determining applications, but Cherwell's Local Plan does not have any specific policy regulating the subdivision of properties. The area does have an established residential character and the character of the uses proposed would continue to be residential and appropriate for such an area. Whilst it is accepted that large numbers of property conversions can change the character of an area, as the current application would only result in the conversion of one property to flats, with minimal external alteration, it is not considered that it could be argued that the proposal would have a significant adverse impact on the character of

the area. This is particularly the case given the conclusions regarding the visual impacts of the development. Each case has to be considered on its own merits and therefore the concerns regarding the development setting a precedent are not considered to weigh significantly against the proposal.

- 7.9 The proposed development is therefore considered to be acceptable with regard to the impact it would have on the character and appearance of the area.

Residential Amenity

- 7.10 Both the NPPF and Policy ESD15 of the Local Plan seek to ensure development proposals provide a good standard of amenity for both existing and proposed occupants of land and buildings relating to privacy, outlook, natural light and indoor and outdoor space.
- 7.11 As the proposal would not include significant alterations to the building the impact on the outlook, light and privacy to the neighbouring properties is not considered to be significant. Neighbours have raised concerns in relation to the potential increase in noise and disturbance to neighbouring properties as a result of the development. The proposed development may slightly increase the level of activity at the application site however given the built up residential character of the area and the arrangement of the site this is not considered to result in significant levels of noise and disturbance to neighbouring properties. Internal noise transmission to the neighbouring property from the flats would be covered by building regulations.
- 7.12 It is also important to consider the amenity of future residents of the flats. The Council has informal guidance on internal space standards in its Subdivision guidance. However this document can only be given very limited weight now considering the new advice contained in the NPPG which states: *Where a local planning authority (or qualifying body) wishes to require an internal space standard, they should only do so by reference in their Local Plan to the Nationally Described Space Standard. (Paragraph: 018 Reference ID: 56-018-20150327).*
- 7.13 However it is still proper to consider whether future residents would have adequate living space to provide a good standard of amenity and this is consistent with paragraph 17 of the NPPF and Policy ESD15. A good starting point for this is considered to be the National Space Standards, however as the Council have not adopted these through a Local Plan Policy they can only be applied very flexibly. The development has been considered against the space standard and practicalities of the layout shown on the submitted plans. Whilst not all the flats would comply with the space standard it is considered that they would be large enough to provide an adequate level of amenity for future residents.
- 7.14 The provision of outdoor space is also a relevant consideration and in this case this is proposed to be provided through the use of some shared amenity space to the rear and side of the property. Whilst some flats do not have access to outdoor amenity space, such as those in town centres, given the location of the proposed flats in a residential area of Kidlington it is considered that outdoor amenity space for leisure and drying of clothes etc is more important. It is considered that the level and arrangement of outdoor amenity space in this case, on balance, would be acceptable so long as the area to the rear of the ground floor

flat with the bedroom facing over the communal garden is separated from the rest of the communal space to ensure that adequate levels of amenity are provided for the future resident of this flat. It is also recommended that the side facing living area window of the other ground floor unit be obscurely glazed to protect their amenity.

- 7.15 In conclusion on this matter the proposed development, on balance, is considered to adequately protect the amenity of existing residents whilst providing an adequate level of amenity for future residents.

Parking and Access

- 7.16 The application site is located on a 90 degree bend where Croft Avenue meets Mulcaster Avenue. The current application proposes to provide 3 parking spaces to the front of the site, adjacent to Croft Avenue, and a further parking space to the rear of the site accessed from Mulcaster Avenue.
- 7.17 Considerable local objection has been raised regarding the safety of the access points given the location near the sharp bend and also the level of parking provided. OCC Highways have considered the application and have raised no objection to the application subject to conditions.
- 7.18 It is considered that the proposed level of parking provision, 4 spaces, would be adequate to serve the 3 x 1 bedroom properties and would also be situated conveniently for potential occupiers of the dwellings. The parking spaces to the front of the site do not meet the recommended dimensions in terms of length as they are only 4.3m and OCC normally require 5 metres when in front of a building. However on this occasion OCC Highways have noted that there are similar arrangements across the neighbourhood where a number of properties have less than the standard length driveways. This is also the case for the existing driveway serving the property. Therefore whilst this is not considered to be an ideal situation it is not considered to result in a level of harm which would warrant refusal of the application.
- 7.19 In relation to the proximity of the access to the sharp corner the OCC Highways have confirmed they raise no objection to this and a driver will be able to have adequate visibility of vehicles and pedestrians. Furthermore it is noted that the existing parking area serving the existing dwelling is located immediately adjacent to this corner and so any conflict that may arise is already likely to occur and this is not considered to significantly exacerbate this. Furthermore given the sharp nature of this bend vehicle speeds are likely to be low.
- 7.20 The current application shows an area for cycle parking however further details of the cycle parking are required to be secured by condition to ensure residents have access to appropriate facilities, to promote sustainable modes of transport.

Other matters

- 7.21 Residents have raised concerns regarding the adequacy of the drainage system, however Thames Water have been consulted on the application and have raised no objection to the proposal.

7.22 In respect of the publicity of the application, the application was publicised in the usual manner with neighbour letters sent to adjoining properties and the displaying of a site notice near the site to provide wider publicity to the general public. The Council has therefore fulfilled its statutory requirements for the publicity of the application.

8. Conclusion

8.1 In conclusion Kidlington is amongst one of the most sustainable rural settlements in the district where planning policy allows for the conversion of buildings subject to other material considerations. The proposal's impact on the character and appearance of the area is considered to be acceptable and the proposal would protect the amenity of the neighbouring properties whilst providing an adequate level of amenity for future occupiers. Suitable levels of parking are considered to be provided and OCC have raised no objection to the impact on highway safety. Overall the development is considered to constitute a sustainable form of development and it is therefore recommended planning permission be granted.

9. Recommendation

Approve, subject to:

Conditions

- 1 The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.

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

- 2 Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the details provided by the following plans and documents: Application Form, Location Plan, drawing numbers 2035-2-95, 2035-2-100, 2035-2-101, 2035-2-110, 2035-2-111, 2035-2-120, 2035-2-200, 2035-2-210 and 2035-2-220 submitted with the application.

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

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

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

- 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 1996 and Government guidance contained within the National Planning Policy Framework.

- 5 Prior to the occupation of any part of the development hereby approved, full details of the enclosures along all boundaries of the site and to divide the communal amenity space in the interests of residential amenity, 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 - 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 Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policies C28 and C30 of the Adopted Cherwell Local Plan 1996, and Government guidance contained within the National Planning Policy Framework.

- 6 Prior to the first occupation of the development hereby approved, the parking areas shall be provided in accordance with the plan approved (Drawing No: 2035-2-95), and shall be constructed from porous materials or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the site. Thereafter, the parking areas shall be retained in accordance with this condition and shall be unobstructed except for the parking and manoeuvring

of vehicles at all times.

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

- 7 Prior to the first occupation of the development hereby permitted full details of the location, type, design, and appearance of the proposed cycle parking serving the dwellings shall be submitted and approved in writing by the local planning authority. The cycle parking shall be provided in accordance with the approved details prior to the first occupation of any part of the development.

Reason: To ensure the development provides opportunities for sustainable modes of transport in accordance with the NPPF.

- 8 Prior to the first occupation of any of the dwellings hereby approved, the ground floor window serving the living/dining area in the side (west) elevation of Flat 1 (as shown on drawing number 2035-2-100) shall be fully glazed with obscured glass that complies with the current British Standard, and retained as such thereafter.

Reason: To protect the amenity of the neighbouring properties in accordance with Policy ESD15 of the Cherwell Local Plan Part 1 2015 and advice in the NPPF.

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. It is considered that the duty to be positive and proactive has been discharged through the efficient and timely determination of the application.

CONTACT OFFICER: James Kirkham

TELEPHONE NO: 01295 221896

Cherwell District Council

Planning Committee

19th May 2016

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 **15/01104/F – St Pauls Church, Warwick Road, Banbury, OX16 2AN.** Appeal by Mr P Elliott against the refusal of planning permission for demolition of existing hall and parts of existing church, erection of replacement new hall and ancillary accommodation providing a direct link between church and new building. Minor alterations to landscaping and relocation of entrance gate.

15/01827/Q56 – Grain Silos, Godington Hall, Godington, OX27 9AE. Appeal by Mr J Kevill against the non-determination of conversion of 2 agricultural grain silos to 2 single storey residential properties.

15/02074/OUT – Former Lear Corporation, Bessemer Close, Bicester. Appeal by Vanderbilt Homes & International Wood Agency Ltd, against the refusal of planning permission for demolition of existing industrial buildings and erection of 21 affordable dwellings and 49 open market dwellings, with associated new access, open space and landscaping.

15/02084/F – 13 The Glebe, Hook Norton, Banbury, OX15 5LD. Appeal by Paul Allen against the refusal of planning permission for proposed two bedroom detached dwelling - Re-submission of 15/02084/F.

15/02313/F – 4 Warborough Court, Mill End, Kidlington, OX5 2EG. Appeal by Mr S Nicholls against the refusal of planning permission for proposed extension and alterations to dwelling.

16/00089/F – 24A Fergusson Road, Banbury, OX16 3HQ. Appeal By Mr T Beckett against the refusal of planning permission for the erection of a single storey dwelling.

16/00092/F – Land adjacent to 2 Ardley Road, Fewcott. Appeal by Mr J Smith against the refusal of planning permission for the erection of three dwellings and associated works.

16/00349/F – 28 Grange Park, Steeple Aston, Bicester, OX25 4SR. Appeal by Mr and Mrs Smith against the refusal of a rear extension, part single and part two storey extension (revised scheme of 15/01958/F).

2.2 **Forthcoming Public Inquiries and Hearings between May 19th and June 9th 2016.**

None.

2.3 **Results**

Inspectors appointed by the Secretary of State have:

1) Dismissed the appeal by Mr G Noquet against the removal of conditions 3 and 4 of planning permission 13/00781/F to allow occupation of holiday let cottage as a separate dwelling. Bishops End, Burdrop, Banbury, OX15 5RQ. 15/01103/F - (Delegated).

The appeal relates to an application (15/01103/F) under Section 73, which sought planning permission for the conversion of the 'bottle store' into a one bedroom and bathroom self-contained holiday letting cottage without complying with conditions 3 and 4 attached to 13/00781/F.

Conditions 3 seeks to ensure the 'building is used for holiday lets only and remain ancillary to the property 'Bishop Blaize'

Condition 4 seeks to ensure the unit is 'not let or occupied for a period exceeding eight weeks in any calendar year'

The Inspector identified the following as the main issues:

1. Whether future occupants would be provided with acceptable living conditions, having particular regard to noise, smell and amenity provision;

2. The effect of the proposal on the trading potential/viability of the public house

In relation to acceptable living conditions the inspector concluded that the occupation of the building on a permanent basis would be inappropriate having regard to the living conditions that would prevail for future residents, based on the small amount of living space available internally and externally and the intimate relationship with the large car park to the rear, the parking at the front and the pub itself.

In relation to the effect of a separate dwelling on the viability of the public house the Inspector concluded that this would have implications for the running of the public house and thus its viability. The Inspector makes reference to para. 123 of the Framework which recognises that development will often create some noise and that existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses. Were the appeal building to be occupied as a separate dwelling, the intimate relationship of the two uses would have the potential to result in conflict of interests at times. In turn that could have implications for the trading practices of the public house and its on-going viability contrary to one of the main thrusts of the Framework, namely that of supporting a prosperous rural economy. Also potential conflict with saved Policy S29 of the CLP1996.

2) Dismissed the appeal by Mr Justin Grainger against the refusal of listed building consent for internal alterations, external alterations (including insertion of six rooflights), demolition of attached outbuildings and erection of single storey extension. Chancel Cottage, Fir Lane, Steeple Aston, Bicester, OX25 4SF. 14/01601/LB. – (Delegated).

The appeal relates only to the listed building application which was refused. The appeal was dismissed.

The proposed development included - internal alterations, external alterations (including the insertion of six roof lights), demolition of attached outbuildings and erection of a single storey extension to the rear.

Key issues identified by the inspector:

- Effect of the works on any features of special architectural or historic interest of the Grade II listed building, Chancel Cottage, its setting and the setting of the surrounding listed buildings, including the grade II* St Peter's and St Paul's Church.

Inspector's Conclusions:

- The cottage has a simple vernacular and simple 18th Century single pile plan. The cottage and other buildings in the street provide a sense of enclosure to the street with an open church yard opposite. The substantial footprint, bulk and mass of the proposed extension added to the turn in position in relation to the rear range which changes the experience and form of the building. It is not simply a matter of depth, projecting past the flank wall of the front range, but the bulk, scale and mass and positioning of the extension that contributes to the effect it has on the listed building. Creating a more complex footprint and plan form that obscures the original vernacular.
- Rooflights – this would result in the loss of historic fabric and result in a greater domestic appearance of this part of the building, which once included a stable block. The skylights would be visible from the street and church yard. Their number and regimented layout would be considered to harm the appearance and therefore significance of the listed building.
- Setting – The proposed extension would be seen within the complex of buildings that form the village and would be seen in glimpses as one passes along Fir Lane and various locations within the church yard but not be prominent from the street level. It would however, be visible from

the allotments and public access thereto. From here the extension would be a significant feature in the close views of the building and would adversely affect the setting.

- Harm caused is less than substantial. In the context of paragraph 134 of the NPPF the public benefits identified do not outweigh the totality of the harm to the significance, to which he gave great weight and importance. The Inspector went on further to say 'A less ambitious scheme which addresses the poor condition of the property and addresses the main issues could enable the use of the building for residential purposes'.

3) Dismissed the appeals by Mr J Kent-Baguley against the refusal of planning permission for alterations and erection of second floor extension above first floor and rear two storey extension (Dual Application). 12 and 12a South Street, Banbury, OX16 3LB. 15/01741/F + 15/01742/F. – (Delegated).

The appeals related to two similar proposals for extensions to adjoining properties, including two storey rear extensions and second floor extensions above the existing first floor. The Inspector identifies the main issues as being the effect on the character and appearance of the Grimsbury Conservation Area, and the effect of the extensions on the living conditions of the occupiers of the neighbouring properties.

On the first issue, the Inspector noted that "one of the main features (of the Conservation Area) is the eclectic mix of architectural styles and variations in the number of floors in neighbouring properties. These are a reflection of the first owners developing their plots on the basis of their financial capability, which gives the area its distinctive character. It is the survival of a group of streets of diverse scale, mass and architectural detailing, all related to historical importance, that is the principal characteristic of the CA". The Inspector concluded that the proposed second floor extensions would cause harm to this distinctive character, and in particular the historic roof form and rhythm of the buildings. The Inspector considered that whilst incremental changes to the roof pitch and height may appear minor, incremental changes can have a significant effect on the significance of a heritage asset. The Inspector also noted the similar materials and traditional building techniques proposed may prove difficult to acquire, leaving the extension to stand out as an incongruous addition. There were no public benefits sufficient to outweigh this harm.

The Inspector also considered that the granting of these appeals would make it more difficult to resist similar proposals in future further eroding the historic character and appearance of the Conservation Area.

On the second issue relation to the two storey rear extensions, the inspector states that both proposals, due to height, length, mass and proximity to the shared boundary and neighbouring windows, would have a significant over dominating and over bearing effect, unacceptably reducing light and outlook for the occupiers of No 11 in respect of No 12a and of No 12a in respect of No 12.

The inspector concludes that the proposed developments conflict with Policy ESD15 of the CLP2031 and Saved Policies C28 and C30 of the CLP1996 and concludes that they would not be in conformity with the development plan as a whole.

4) Dismissed the appeal by Mr & Mrs R Needle against the refusal of outline planning permission for the erection of a single storey dwelling. Le Wannik, Harrisville, Steeple Aston, Bicester, OX25 4RP. 15/01289/OUT. (Delegated)

The Inspector concluded that the main issue in the appeal was the effect of the proposed development on highway safety with regard to visibility and the geometry of the junction of Harrisville and South Side.

The Inspector noted that the junction with South Side was insufficient for two vehicles to pass and any vehicle wishing to turn into Harrisville would have to wait on South Side whilst others emerge. The Inspector also highlighted that the presence of on street parking on South Side to the east of the junction with Harrisville has the effect of narrowing the carriageway so that two vehicles would be unable to pass. In addition, the Inspector stated that at the junction of Harrisville with South Side there is a parking bay immediately to the east and an area of tarmac filled with refuse bins and the Inspector considered that any car in the parking bay would significantly impair visibility for vehicles leaving Harrisville, as would refuse bins. Additionally, the Inspector noted that these features would also obstruct forward visibility to the Harrisville junction for vehicles travelling westbound along South Side. Furthermore, the Inspector stated that the lack of a footway on the Harrisville side of South Side and the narrow footway on the opposite side of the road creates a potential for conflict between vehicles and pedestrians.

Accident records were provided by the appellant and these did not reveal any incidents at the junction in the last 10 years, but the Inspector stated that this does not mean that a material increase in traffic would not lead to increased highway danger.

Taking all of these factors into consideration, the Inspector concluded that the addition of one dwelling would materially increase the level of traffic using the junction and that the proposal would give rise to a significant harm to highway safety, contrary to Policy ESD15 of the CLP2031 and Government guidance contained within the National Planning Policy Framework which seeks to ensure that developments have a safe and suitable access for all people. This decision endorses the application of the first bullet point of Policy ESD15 to the consideration of highway safety in assessing development proposals.

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:

Denise Taylor, Group Accountant, 01295 221982,
Denise.Taylor@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, Law and Governance, 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, Law and Governance, 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	
None	
Report Author	Tom Plant, Appeals Administrator, Development Directorate
Contact Information	01295 221811 tom.plant@cherwell-dc.gov.uk