

Public Document Pack



Committee: Planning Committee
Date: Thursday 16 February 2017
Time: 4.00 pm
Venue: Bodicote House, Bodicote, Banbury, OX15 4AA

Membership

Councillor David Hughes (Chairman)	Councillor James Macnamara (Vice-Chairman)
Councillor Hannah Banfield	Councillor Andrew Beere
Councillor Colin Clarke	Councillor Ian Corkin
Councillor Chris Heath	Councillor Alastair Milne-Home
Councillor Mike Kerford-Byrnes	Councillor Alan MacKenzie-Wintle
Councillor Richard Mould	Councillor D M Pickford
Councillor Lynn Pratt	Councillor G A Reynolds
Councillor Barry Richards	Councillor Nigel Simpson
Councillor Les Sibley	Councillor Nicholas Turner

Substitutes

Councillor Ken Atack	Councillor Maurice Billington
Councillor Hugo Brown	Councillor Nick Cotter
Councillor Surinder Dhesi	Councillor Carmen Griffiths
Councillor Timothy Hallchurch MBE	Councillor Andrew McHugh
Councillor Sandra Rhodes	Councillor Bryn Williams
Councillor Barry Wood	Councillor Sean Woodcock

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 - 8)

To confirm as a correct record the Minutes of the meeting of the Committee held on Thursday 19 January 2017.

6. Chairman's Announcements

To receive communications from the Chairman.

Planning Applications

- | | |
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| 7. Co-op, 26 High St, Kidlington (Pages 11 - 76) | 15/01872/F |
| 8. OS Parcels 4083 And 6882 Adjoining And North Of Broken Furrow, Warwick Road, Banbury (Pages 77 - 101) | 16/01210/F |
| 9. Land West Of M40 Adj To A4095, Kirtlington Road, Chesterton (Pages 102 - 124) | 16/01780/F |
| 10. Land To The West Of Garners House, Main Street, Great Bourton (Pages 125 - 155) | 16/01979/F |
| 11. Land South West Of Woodbank, Mill Lane, Kirtlington (Pages 156 - 186) | 16/02295/OUT |
| 12. Farima Properties, Mercia House, 51 South Bar Street, Banbury (Pages 187 - 201) | 16/02363/F |
| 13. Duke Of Cumberlands Head, Main Street, Clifton, Banbury, OX15 0PE (Pages 202 - 210) | 16/02442/LB |
| 14. 33 Waller Drive, Banbury, OX16 9NS (Pages 211 - 216) | 16/02499/F |
| 15. Fairway Methodist Church, The Fairway, Banbury (Pages 217 - 220) | 17/00010/NMA |
| 16. Cherwell District Council, Bodicote House, White Post Road, Bodicote, Banbury, OX15 4AA (Pages 221 - 225) | 17/00030/DISC |

Review and Monitoring Reports

17. Appeals Progress Report (Pages 226 - 234)

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 8 February 2017

Cherwell District Council

Planning Committee

Minutes of a meeting of the Planning Committee held at Bodicote House, Bodicote, Banbury, OX15 4AA, on 19 January 2017 at 4.00 pm

Present: Councillor David Hughes (Chairman)
Councillor James Macnamara (Vice-Chairman)

Councillor Hannah Banfield
Councillor Andrew Beere
Councillor Colin Clarke
Councillor Ian Corkin
Councillor Chris Heath
Councillor Alastair Milne-Home
Councillor Mike Kerford-Byrnes
Councillor Alan MacKenzie-Wintle
Councillor Richard Mould
Councillor D M Pickford
Councillor Lynn Pratt
Councillor G A Reynolds
Councillor Nigel Simpson
Councillor Les Sibley
Councillor Nicholas Turner

Apologies for absence: Councillor Barry Richards

Officers: Bob Duxbury, Team Leader (Majors)
Alex Keen, Team Leader (Minors)
Gemma Magnuson, Senior Planning Officer
Matt Chadwick, Planning Officer
Nigel Bell, Team Leader - Planning / Deputy Monitoring Officer
Aaron Hetherington, Democratic and Elections Officer

137 **Declarations of Interest**

7. Site Of Former Playground, Woodpiece Road, Upper Arccott.

Councillor Colin Clarke, Declaration, as a member of the Executive and would leave the meeting for the duration of the item.

Councillor D M Pickford, Declaration, as a member of the Executive and would leave the meeting for the duration of the item.

Councillor G A Reynolds, Declaration, as a member of the Executive and would leave the meeting for the duration of the item.

Councillor Lynn Pratt, Declaration, as a member of the Executive and would leave the meeting for the duration of the item.

Councillor Mike Kerford-Byrnes, Declaration, as a member of the Executive and would leave the meeting for the duration of the item.

8. Phase 3 Apollo Office Park, Ironstone Lane, Wroxton.

Councillor Nicholas Turner, Declaration, as he leased a property which, whilst close to the development site, would have no impact on the site

9. Land Ad to Oxford Canal, Spiceball Park Road 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 Colin Clarke, Declaration, as a member of Banbury Town Council which had been consulted on the application and a separate declaration as a member of the Executive and would leave the meeting for the duration of the item.

Councillor D M Pickford, Declaration, as a member of the Executive and would leave the meeting for the duration of the item.

Councillor G A Reynolds, Declaration, as a member of the Executive and would leave the meeting for the duration of the item.

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

Councillor Lynn Pratt, Declaration, as a member of the Executive and would leave the meeting for the duration of the item.

Councillor Mike Kerford-Byrnes, Declaration, as a member of the Executive and would leave the meeting for the duration of the item.

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

10. Unit 2, Franklins House, Wesley Lane, Bicester.

Councillor Colin Clarke, Declaration, as a member of the Executive and would leave the meeting for the duration of the item.

Councillor D M Pickford, Declaration, as a member of the Executive and would leave the meeting for the duration of the item.

Councillor G A Reynolds, Declaration, as a member of the Executive and would leave the meeting for the duration of the item.

Councillor Les Sibley, Non Statutory Interest, as a member of Bicester Town Council which had been consulted on the application.

Councillor Lynn Pratt, Declaration, as a member of Bicester Town Council which had been consulted on the application and a separate declaration as a member of the Executive and would leave the meeting for the duration of the item.

Councillor Mike Kerford-Byrnes, Declaration, as a member of the Executive and would leave the meeting for the duration of the item.

Councillor Richard Mould, Non Statutory Interest, as a member of Bicester Town Council which had been consulted on the application.

138 **Requests to Address the Meeting**

There were no requests to address the Committee.

139 **Urgent Business**

There were no items of urgent business.

140 **Minutes**

The Minutes of the meeting held on 15 December 2016 were agreed as a correct record and signed by the Chairman.

141 **Chairman's Announcements**

The Chairman made the following announcements:

1. Under the Openness of Local Government Bodies Regulations 2014, members of the public were permitted to film, broadcast and report on the meeting, subject to the efficient running of the meeting not being affected.
2. The Chairman advised the Committee of application 16/02355/F, Barn at Bramshill Park Farm, Horley, which was expected to be submitted to the next meeting of the Committee and officers were of the view that a site visit prior to consideration of the application would assist the Committee. Councillor Clarke proposed that a site visit for application 16/02355/F be held before to the next meeting of the Committee. Councillor Sibley seconded the proposal.

Resolved

That a site visit for application 16/02355/F be held before the next meeting of the Committee.

142 **Site Of Former Playground, Woodpiece Road, Upper Arcott**

The Committee considered application 16/00562/DISC for the discharge of condition 12 (contamination) of 13/01882/CDC at the site of former playground, Woodpiece Road, Upper Arcott for Cherwell District Council.

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

Resolved

That authority be delegated to officers to determine application 16/00562/DISC once comments have been received from the Environmental Protection department.

143 **Phase 3 Apollo Office Park, Ironstone Lane, Wroxton**

The Committee considered application 16/02113/F for the provision of 10 No. Employment Units (B1, B2 & B8), together with associated car parking and landscaping provision at Phase 3 Apollo Office Park, Ironstone Lane, Wroxton for Apollo Business Parks LLP.

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

Resolved

That application 16/02113/F be approved subject to the following conditions:

1. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.
2. Except where otherwise stipulated by condition, the development shall be carried out strictly in accordance with the following plans and documents: Application forms, 'Design and Access Statement', Ecological Survey and Biodiversity Enhancement Scheme (dated September 2016) and drawings labelled: 2975-13B, 3120/01B, 3120/02D, 3120/03C, 2318-301 and 2318-302.
3. The development hereby approved shall be carried out strictly in accordance with the sections titled 'Reptile Mitigation Plan' and 'Biodiversity Enhancement Scheme' within the Ecological Survey and Biodiversity Enhancement Scheme for Phase 3, Apollo Business Park, Wroxton, submitted with the application, which was prepared by Philip Irving dated September 2016.
4. If, during development, contamination is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and

obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

5. Prior to the commencement of development a Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the Local Planning Authority. The approved plan shall be implemented for the duration of the construction phase of development and shall be operated in accordance with the approved details.
6. Prior to the commencement of development a scheme for the surface water drainage of the site shall be submitted to and approved in writing by the Local Planning Authority. The approved drainage scheme shall be implemented prior to the first occupation of the development and operated in accordance with the approved details.
7. Prior to the commencement of the development hereby approved, and notwithstanding the details submitted, an amended Energy Statement shall be submitted detailing the measures to be employed during the construction and operational phases of development to reduce energy use and waste, and to make efficient use of resources. Thereafter the development shall be carried out in accordance with the approved Energy Statement.
8. Prior to the first occupation of the development the access road, parking and manoeuvring areas shall be constructed, laid out, surfaced, drained (SUDS) and completed in accordance with the plans hereby approved, and shall thereafter be retained unobstructed at all times except for the parking and manoeuvring of vehicles in connection with the development.
9. Prior to the first use or occupation of the development hereby approved, and notwithstanding the details submitted, an amended Framework Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved Framework Travel Plan shall thereafter be implemented and operated in accordance with the approved details.
10. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with BS 4428:1989 Code of Practice for general landscape operations (excluding hard surfaces), or the most up to date and current British Standard, in the first planting and seeding seasons following the occupation of the building(s) or on the completion of the development, whichever is the sooner. Any trees, herbaceous planting and shrubs which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the current/next planting season with others of similar size and species.
11. 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 first occupation of the development.

12. The units hereby permitted shall be used only for purposes falling within Classes B1, B2 or B8 specified in the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) and for no other purpose(s) whatsoever.
13. Notwithstanding the provisions of Class A of Part 8, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 and its subsequent amendments, the approved building shall not be extended or altered without the prior express planning consent of the Local Planning Authority.
14. No goods, materials, plant or machinery shall be stored, repaired, operated or displayed in the open without the prior express planning consent of the Local Planning Authority.
15. No external lights/floodlights shall be fixed on buildings or erected on the land without the prior express consent of the Local Planning Authority.

144

Land Ad to Oxford Canal, Spiceball Park Road Banbury

The Committee considered application 16/02366/OUT for the Removal/Variation of conditions 4 (list of approved drawings) and 9 (enhancement of River Cherwell) to the previously approved application 13/01601/OUT - Condition 4 to be varied to reflect alterations in the access and servicing strategy for Block C, with variations to maximum deviations in block and Condition 9 to be removed as no longer justified at land adjacent to Oxford Canal Spiceball Park Road Banbury for Scottish Widows plc and Scottish Widows Unit Funds Ltd.

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

Resolved

That application 16/02366/OUT be approved subject to:

- a) The final comments of Oxfordshire County Council as highway authority and Environment Agency

- b) The applicants entering into a Deed of Variation to enable the provisions of the existing Section 106 legal agreement and Section 278 agreement with OCC to apply to this new consent
- c) the following conditions:
 - 1. It is recommended that previous condition 4 be amended to allow the substitution of alternative parameter plans to provide for the revised access arrangements
 - 2. That all previous conditions attached to permission 13/01601/OUT, except for condition 9 , shall be applied to this new consent

145

Unit 2, Franklins House, Wesley Lane, Bicester

The Committee considered application 16/02434/F for the change of use from Class A to Class B1(a) office "Incubation space for start-up business" at Unit 2, Franklins House, Wesley Lane, Bicester for Ms Karen Curtin, Cherwell District Council.

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

Resolved

That application 16/02434/F be approved subject to the following conditions:

- 1. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.
- 2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: Application Form, Supporting Planning Statement dated November 2016, Drawing Number 035/01, 035/02
- 3. The premises shall be used only for purposes falling within Class B1(a) as specified in the Schedule to the Town and Country Planning (Use Classes) (Amendment) (England) Order 2005 and for no other purpose(s) whatsoever.
- 4. At the expiration of five years from the date hereof the use specified in your application shall be discontinued and the unit shall revert back to Class A1, Class A3, Class A4 or Class A5 use as specified in the Schedule to the Town and Country Planning (Use Classes) (Amendment) (England) Order 2005 approved as part of 15/02230/F.

146

Appeals Progress Report

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

Resolved

- (1) That the position statement be accepted.

The meeting ended at 4.59 pm

Chairman:

Date:

CHERWELL DISTRICT COUNCIL

PLANNING COMMITTEE

16 February 2017

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.

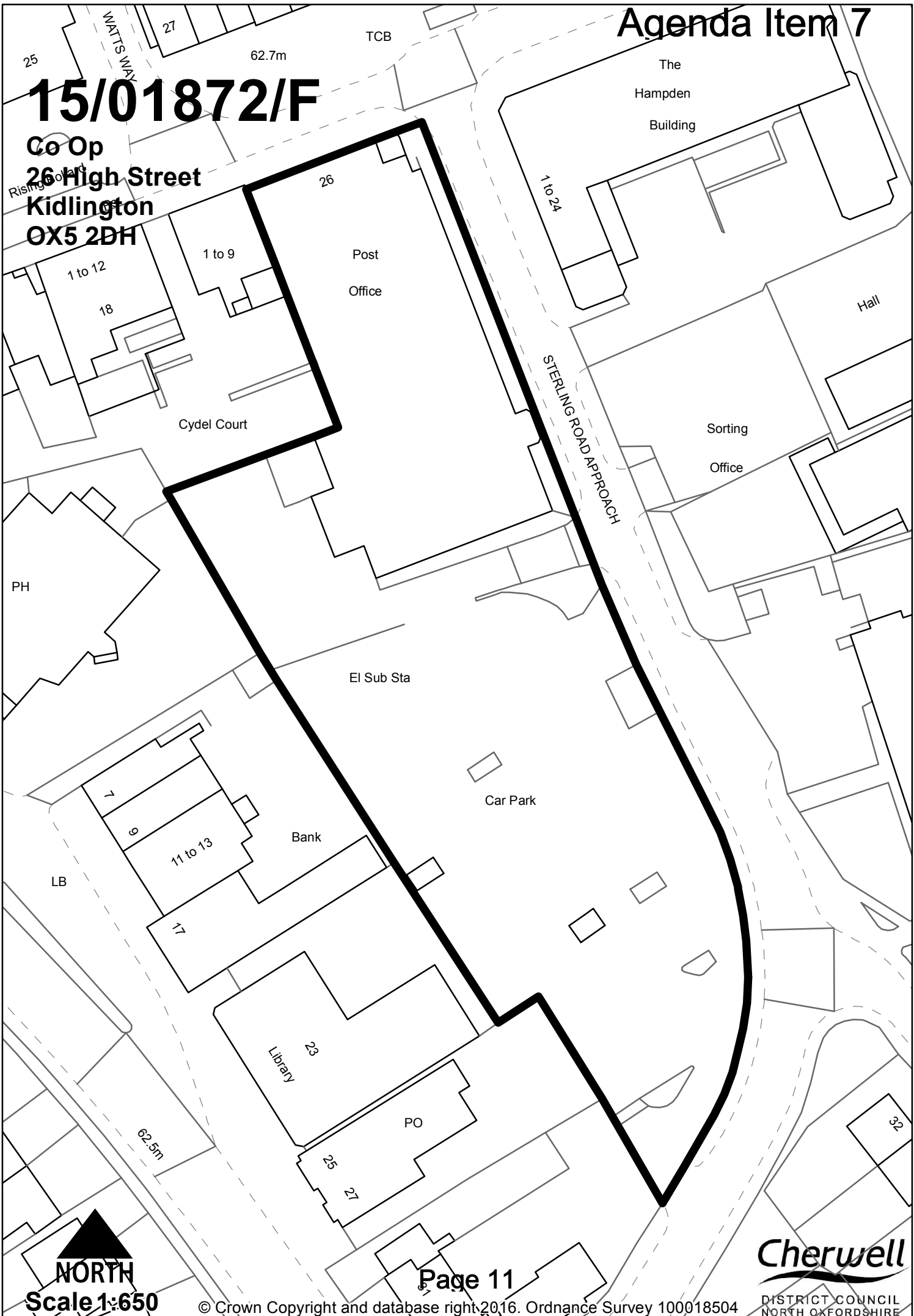
Background Papers

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	Co-op, 26 High St, Kidlington	15/01872/F	Kidlington East	Approval	Bob Duxbury
8	OS Parcels 4083 And 6882 Adjoining And North Of Broken Furrow, Warwick Road, Banbury	16/01210/F	Banbury Hardwick	Approve, subject to no new issues being raised through public consultation expiring on 9th March 2017	Nathanael Stock
9	Land West Of M40 Adj To A4095 Kirtlington Road Chesterton	16/01780/F	Fringford And Heyfords	Approval	Stuart Howden
10	Land To The West Of Garners House Main Street Great Bourton	16/01979/F	Cropredy, Sibfords And Wroxton	Approval	Caroline Ford
11	Land South West Of Woodbank Mill Lane Kirtlington	16/02295/OUT	Fringfords and Heyfords	Approval	Stuart Howden
12	Farima Properties, Mercia House, 51 South Bar Street, Banbury	16/02363/F	Banbury Cross And Neithrop	Approval	Stuart Howden
13	Duke Of Cumberlands Head Main Street Clifton Banbury OX15 0PE	16/02442/LB	Deddington	Refusal	Matthew Coyne
14	33 Waller Drive Banbury OX16 9NS	16/02499/F	Banbury Calthorpe And Easington	Approval	Michael Sackey
15	Fairway Methodist Church The Fairway Banbury	17/00010/NMA	Banbury Ruscote	Approval	Bob Neville
16	Cherwell District Council Bodicote House White Post Road Bodicote Banbury OX15 4AA	17/00030/DISC	Adderbury, Bloxham And Bodicote	Approval	Matthew Coyne

15/01872/F

Co Op
26 High Street
Kidlington
OX5 2DH

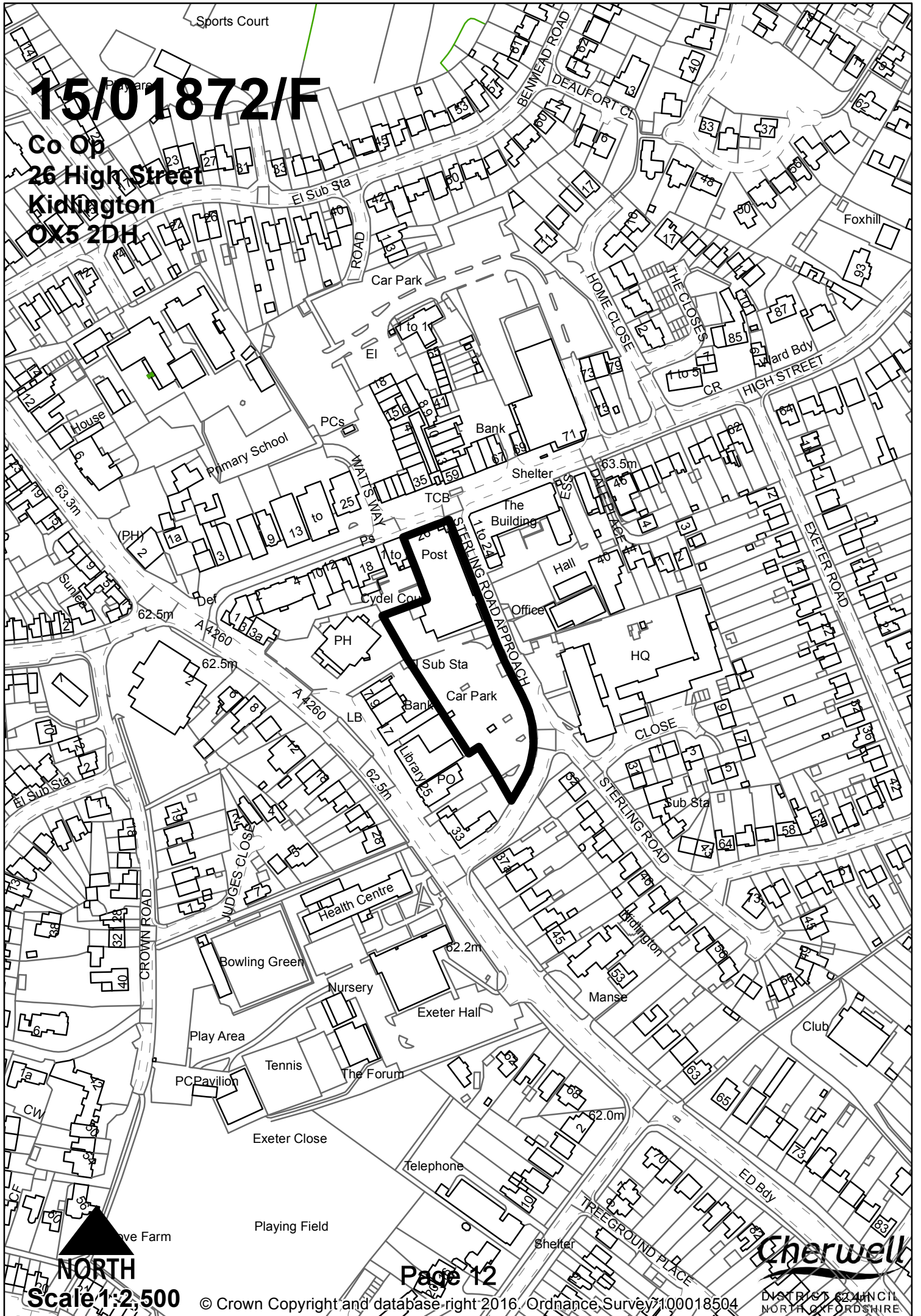


NORTH
Scale 1:650

15/01872/F

Co Op
26 High Street
Kidlington
OX5 2DH

Sports Court



NORTH

Scale 1:2,500

Co-op, 26 High St, Kidlington

15/01872/F

Ward: Kidlington East

District Councillor: Cllrs Billington, Griffiths and Prestidge

Case Officer: Bob Duxbury

Recommendation: Refusal

Applicant: Midcounties Cooperative Society and Cantay Estates Ltd

Application Description: Erection of new buildings off Sterling Road Approach to contain 44 x 2 bedroom flats, conversion of offices above existing retail store to form 8 x 2 bedroom flats, and alterations to existing retail store. Construction of new accesses, car parking, service and turning areas and landscaping

Committee Referral: Major

Committee Date: 16 February 2017

1. Current position/Site Description and Proposed Development

- 1.1 At the meeting held on 4 August 2016 this Committee resolved to grant planning permission subject to the applicants entering into a legal agreement to secure off-site infrastructure set out at para. 5.28 of the report to that Committee and to secure affordable housing and nomination rights. Subsequently the Council received a formal letter from lawyers acting on behalf of Kidlington Parish Council in accordance with the prescribed judicial review pre-action protocol criticising the officers report and the consequent decision reached.
- 1.2 Having sought Counsel's opinion the application is returned to Committee to enable further consideration of the application taking into account further retail planning and other advice and to consider the implication of the enhanced status of the Kidlington masterplan
- 1.3 The application site consists of the site of the existing Co-operative store facing onto High Street and the car park to the rear that has a long frontage to Sterling Road Approach to its east and south. The site is bounded by 3 and 4 storey housing to the east (Hampden building) the PO sorting office (single storey) and OCC Fire Service HQ (3 storey) along the eastern side of Sterling Rd Approach. A residential sits to the south (32 Sterling Road), whilst to the west are located 2 and 3 storey buildings containing a public house shops with flats over, library with offices over, a house and dentists practise. The site amounts to 1.34 acres (0.54 hectares).
- 1.4 The existing car park is privately owned and controlled and is used by customers and tenants. It is accessed at its southern end and egress is adjacent to the store. This access point also accesses a large service yard

1.5 The proposals are to

- Retain a convenience store, post office and travel shop in reduced floorspace (493 sq.metres);
- Convert space above the store to create 8 flats with own stair access, bin store and cycle store
- New service and customer access off Sterling Road to 21 customer car parking spaces and service yard
- New block containing 44 2- bedroom apartments with private balconies and roof level terrace for communal use
- Reconfigured southern access to dedicated car parking area for residents and visitors

1.6 The retained part of the Cooperative building will be remodelled to update the structure and improve its appearance from High Street and from the side. It will be less dominant in Sterling Road Approach as it will be shorter in length

1.7 The main building will be designed as four linked blocks. The buildings will be predominately 4 storeys in height but with the southern-most block reducing to three storeys to reduce the impact upon the Sterling Road house and the adjacent bungalow fronting onto Oxford Road. The building has been redesigned during the life of the application to reduce the impact upon the street scene in Sterling Road Approach, by setting the buildings back from the road edge, introducing more variation in the building line and setting back top floor flats to result in an apparent variation in building height when viewed from street level. The buildings will be constructed in brick with render and cladding panels to have a strong contemporary appearance.

2. Application Publicity

2.1 The application has been advertised by way of neighbour letters, site notices and press notice. The final date for comment was 16 May 2016.

48 letters have been received from residents of Kidlington

Material planning comments

- Four storey development out of keeping with the character of the area, will dwarf adjoining development and whole area will feel squeezed in by high buildings
- Area should be used to expand the shopping floorspace of the centre and not used for residential development
- Loss of car parking would be harmful to shops in the High St and market
- Car parking for new reduced Coop would be inadequate and cause parking congestion in other car parks and on-street
- To offset loss of parking contributions should be sought towards bus service improvements
- Loss of through route for pedestrians to Oxford Rd. Opportunity should be taken to insist upon this
- Social housing lacking in proposal

- Additional housing will place too much load on existing infrastructure-traffic, schools, and parking
- Flats should have more than 1 space each
- Too dense and overdevelopment
- Imposing design- obtrusive and incongruous contrary to Policy ESD 16
- Site better suited for older persons accommodation
- Will further diminish the vibrancy of Kidlington centre
- Reduction in retail floorspace puts in question the viability of the centre and the local village plan. Contrary to Policy Kidlington 2. No market appraisal of demand for retail floorspace
- Can the waste facilities be served adequately?
- Suggested repositioning of the bus stop from Tesco to this road frontage. Also suggested improved cycle routes
- Dangerous/awkward position for access/egress
- Concern about possible loss of PO
- Criticism of access and parking arrangements
- An enclosed space created when an opportunity for an attractive open public area could have been formed in conjunction with affordable housing
- Kidlington masterplan needed to provide context for considering applications of this nature
- Seeking mellower materials
- Lack of green space and play space should be addressed through contributions

Non material comments:

- Difficulty of accessing information and making comment
- Poor on site notification

2.2 A petition signed by 26 persons objects to the scheme for being of unreasonable height; inappropriately positioned; traffic problems and dangerous access; lack of affordable housing; parking problems and loss of parking; loss of shopping choice ; subdivision of the shopping by lack of through route

2.3 In re-consultation following the receipt of amended plans 42 further letters were received maintaining objections on many of the above grounds

Two further letters have been received recently emphasising the changed/enhanced status of the Kidlington Masterplan. Attention is also drawn to the low occupancy rate of retail premises in the High Street and opining that this demonstrates a need for additional retail space. The writers also comment on the impact of the loss of car parking, and remind us that with the proposals to meet Oxford's housing needs this should point to a strengthening of the centre at Kidlington

2.4 A letter from Cllr Griffiths is attached as appendix 1. It will be seen that she raises concerns about loss of retail floorspace, the apparent lack of affordable housing, overdevelopment and height, connectivity, and access concerns In

addition Cllr Griffiths seeks developer contributions towards outdoor play, re-routing a cycle route and on-going controls on sale/letting boards and restrictions on the use of balconies. A letter raising similar objections has also been received from Cllrs Billington and Prestidge.

With respect to the amended plans Cllr Griffiths has written to emphasise that her objections remain and that she is disappointed that there have been minimal changes despite the opposition raised. Cllr Griffiths says that the site is an important one which presents the best opportunity for some time to improve the centre of Kidlington. She considers that it is essential that any scheme is the best possible in terms of the mix of uses, its contribution to the economic viability, usability and attractiveness of the centre, and its promotion of a sense of place, as well as its physical appearance.

- 2.5 A letter has also been received from the Woodstock Action Group, who says their members use Kidlington for shopping. They object to the proposal as being contrary to underlying plans to enhance Kidlington centre and would be contrary to Policy KID2 as there is a loss of town centre uses. They also consider that the proposal is contrary to Policy ESD15 due to its design and lack of connectivity. They consider the proposal is premature to Part Two of the Local Plan and the Kidlington Masterplan. They are also concerned that no affordable housing is planned. The full text of this letter from Mr. McGurrin (dated 10/12/15) is available on the web-site. A follow-up letter from WAG dated 12.1.17 is also on the web-site drawing attention to paragraph 23 of the NPPF re ensuring the vitality of town centres and that in their opinion the proposal is contrary to those requirements.

3. Consultations

3.1 Kidlington Parish Council:

Whilst supporting the principal of appropriate mixed use residential and retail development on this site, which it sees as a sustainable location, they object to the proposal on the grounds of

- Loss of retail space
- Connectivity
- Lack of affordable housing
- Overdevelopment and height
- Insufficient shopper car parking
- Service/access arrangements
- Seeking contributions for offsite play equipment for children and adults
- Amendments to cycle routes
- Restrictive on-going controls on sales/letting boards
- Raising issues about cycle parking and outside drying areas
- Seeking a revised bus stop location
-

The wording adopted is similar to that in Cllr Griffiths letter at Appendix 1

- 3.2 In respect of the re-consultation on the amended plans the Parish Council comment that their original objection remains in place and they additionally comment that their previous comments with regards to cycle and bus issues

have not been addressed. They consider that the reduction in height of Block A is mere tokenism. They point out that there is no precedent for 4 storey development away from the High St. Finally they comment that the materials should be consistent with the development on the former market site.

In addition Kidlington PC have sent two further letters (both dated 29 December 2016) which are attached as Appendix 2

- 3.3 The letter before action from Burges Salmon, on behalf of Kidlington Parish Council, is attached as Appendix 3. Appropriate responses to the criticisms contained therein will be found in the relevant sections of the Section 5 of the report.
- 3.4 Gosford and Water Eaton PC object to the proposal on the grounds that
- It does not accord with the Cherwell Local Plan by reducing the Coop store in size when it is advocated to promote rather than being detrimental to maintaining a thriving shopping centre
 - Too tall and out of keeping with the street scene and the character of the area
 - The car park has been used as a sustainable amenity for over 30 years and it should be retained as a precedence against creating parking problems which would otherwise be caused from this development
 - Concerned about foul and surface water systems becoming overloaded

Cherwell District Council Consultees

3.5 Planning Policy Comments

Revised Comments since adoption of Kidlington Masterplan

- Policy Kidlington 2 states that shopping, leisure and other 'main town centres uses' (which includes retail and office uses) will be supported within the boundary of Kidlington Village Centre. It also states that residential development will be supported in appropriate locations in the village centre except where it will lead to a loss of retail or other main town centre uses.
- the policy states that the change of use of sites used for main town centre uses in the village centre for residential development will normally be permitted if proposals contribute significantly to the regeneration of the village centre. Mixed use schemes will be encouraged.
- Paragraph C.232 of the Local Plan explains that it is important that Kidlington Centre is supported and strengthened to help meet the aspirations of Kidlington and to ensure that the everyday shopping needs of residents are met, avoiding the need for unnecessary journeys to Oxford, Bicester and other destinations.
- Subject to any detailed changes to the application, the proposed

development would result in the loss of retail (180 square metres) and office (523 square metres) space within the village centre contrary to policy Kidlington 2. The loss of retail space would equate approximately to that of a small convenience store.

- The key policy test is whether there would be 'significant regeneration'. A material benefit would arise from mixed use development.
- Redevelopment of the retail and office space could bring about regeneration benefits should it result in a significant improvement to the appearance of the built environment. The NPPF recognises that residential development can play an important role in ensuring the vitality of centres. The comments of the Design and Conservation Team should be considered in examining the extent to which there would be improvements to the built environment. The proposed development would not produce additional mixed use development.
- The extent to which the built environment would be improved should be considered alongside the proposed loss of retail and office space. It is noted that the proposed development would retain some retail use on the ground floor (including retention of a post office and travel agent), helping to maintain a continuous shopping frontage.
- Policy Villages 2 of the adopted Cherwell Local Plan Part 1 states that a total of 750 homes will be delivered at the Category A villages (sites of 10 or more dwellings) in addition to the rural allowances for small site 'windfalls' and planning permissions as at 31 March 2014. The 2015 AMR (January 2016) shows that there are 280 dwellings, out of the 750, remaining to be identified.
- There would be benefits from the provision of new housing. Affordable housing would need to be provided to meet the requirements of Policy BSC3 (35% provision on site).
- The District has a five year land supply as shown in the Council's latest Annual Monitoring Report (2015) An appeal decision relating to an application at Kirtlington (appeal reference: APP/C3105/W/15/3134944) confirmed that the District has a five year housing land supply (subject too detailed comments on the Council's specific position).The presumption in favour of sustainable development, as advised by the NPPF, will therefore need to be applied in this context. There is not a current pressing need for additional land to be provided for housing.
- There would be a loss of car parking as a result of the proposal. The views of the County Council as Highway Authority should be taken into account in considering any potential impact on the effective operation and vitality of the village centre resulting from the loss of parking.
- The proposed development would use previously developed land in a sustainable location and is consistent with policy BSC2.

- A high quality, appropriate design, with consideration of sustainable construction, should be sought in line with the requirements of policy ESD15 and the NPPF.
- The Kidlington Framework Masterplan was adopted by the Council as a Supplementary Planning Document on 19 December 2016. Section 5 provides general design guidance. Section 6 provides guidance on how Kidlington Village Centre might be strengthened further to Local Plan policies.
- The SPD (6.1) includes the following relevant issues:

“The Village Centre operates as a local service centre and has a regular market. Co-op and Tesco are anchor stores and there is a high number of A2 uses (services, banks etc.) but limited comparison retail. There are a low number of vacant units and a low number of national multiples.”

“The centre is well located geographically at the centre of the village and is well served by car parking. However, for village of its size, the Village Centre is underperforming and the evening economy is weak. A lack of high quality frontage onto Oxford Road, poorly located bus stops, a lack of pedestrian crossings and limited vehicle access points limit footfall from passing trade.”

“There is a mishmash of architectural styles on the High Street and architectural and public realm design quality varies considerably.

“Surface car parking occupies large areas of land to the rear of the High Street. There is concern that long stay car parks are used as an informal ‘park and ride’ by bus users rather than by shoppers and as a result occupancy levels do not reflect the car parking need generated by Village Centre uses.”

- The SPD (6.2) seeks to “To strengthen the Village Centre, increasing its mix of uses and vitality and its attractiveness to local residents, employees and visitors as a place to shop, work and spend leisure time during the day and evening.”
- The SPD identifies village centre design principles (6.3.2) which it states (6.3.1), “...should be tested and developed in a comprehensive Village Centre masterplan”. The design principles include:

“...New development on the High Street should aim to bring coherence to the street scene, responding to the height and setbacks of adjacent buildings and creating a continuous frontage to the street...

...A hierarchy of streets should be established with High Street and Oxford Road reading as the principal streets and development on

Sterling Road Approach subservient to this in scale and massing...

...Key Village Centre streets and pedestrian routes (identified on Figure 6.5) should be the focus for high quality public realm Treatments...

...The potential for an improved network of secondary pedestrian routes is identified to increase connectivity between east and west, and provide opportunities for additional development frontage. This includes a new walking route between the Co-op and Red Lion car parks to enhance access to the shops on Oxford Road.

...Indicative locations for small scale single deck (2 level) car parks (including to the east of Sterling Road Approach) are suggested to decrease the surface area occupied by car parking and release sites for residential and retail development.

...In considering any proposals for redevelopment, retail service areas should be reviewed to limit conflict between pedestrians / cyclists and motor vehicles.

...New development should create active ground floor frontages to the primary and secondary pedestrian routes and streets, with particular emphasis on High Street and Oxford Road...

...The following uses would be particularly conducive in strengthening the retail offer and encouraging use of the Village Centre in the evening: retail and services, food & drink, leisure and cultural uses (e.g. gym, cinema, local museum), offices, residential, community facilities (e.g. library, healthcare, children's centre), public open space...

The frontage to High Street and the central section of Oxford Road is the focus for primary retail/ food & drink or community uses on ground floor, but could have a broader mix of uses including residential and offices above. Opportunities to increase the range of retail premises available should be supported including identifying opportunities for larger floorplate units and premises for small businesses.

...In line with Local Plan Policy Kidlington 2, there is potential for residential development in appropriate locations within the Village Centre. Sites could include land released through the reconfiguration of the northern car parks, Co-op car park and small scale development at Exeter Close subject to the satisfactory reconfiguration of existing uses. This will help to increase spending power and vibrancy within the Village Centre and will support the growth of retail, services and the evening economy..."

- Figure 6.5 of the SPD is an indicative plan to illustrate potential extent of development (subject to options testing).

- Section 6.3.4 of the SPD provides guidance on how the Village Centre might be expanded through new mixed use development including:

“...B. Co-op car park (0.3ha). The site presents an opportunity for residential, small scale retail or office above and around a car park. A new pedestrian link from the rear Co-op entrance through to the Red Lion pub could be created, strengthening the retail ‘loop’ between the High Street and Oxford Road. A deck above the car park could provide residential amenity space or additional parking...”

- The SPD states that a total of between 200 and 300 new residential dwellings could be provided in the Village Centre, accommodating a mix of tenures but assuming a high proportion of apartments. It also estimates that across the Village Centre and potential extension area, an additional 10,000 sq. m of retail space and 1,800 sq. m of office space could be provided (subject to evidence for the Local Plan Part 2 process).

- Section 5.4.5 of the SPD provides guidance on how improved design can be achieved at Kidlington having regard to the characteristics of the village. This includes:

“- Raising the standard of urban design and architecture across the village, with a particular requirement for exemplary design standards within the Village Centre, at the gateways to the village and adjacent to Conservation Areas and landscape assets.

- The provision of a connected street network, avoiding the creation of further dead-ends.

– Arranging buildings to provide an appropriate sense of enclosure to the public realm (particularly on the frontage to Oxford Road) and a clear definition of public / private boundaries.

– Ensuring set-backs, boundary treatments, building arrangements, typologies, heights and rooflines are in keeping with adjacent buildings (unless these fail to provide a positive precedent). The aim is to create a simple and coherent street scene which is of an appropriate character for the location of the site within the settlement.

– The need to avoid the loss of trees, front gardens and historic boundary treatments to the street, and the importance of introducing new elements of soft landscape to soften the street scene.

– The importance of designing appropriate car parking for the location and type of property be that on-street parking, on plot parking or small communal parking courts.

– The use of traditional building materials including limestone, brick and slate and clay tiles and high quality detailing in keeping with the character of the District in both traditional and contemporary architectural forms.”

- The SPD’s guidance should be considered in determining whether the proposed development would achieve ‘significant regeneration’ having regard to the benefits of mixed use development, provision of retail floorspace in the village centre and the quality of design.
- The SPD’s guidance on the hierarchy of streets, connectivity and improvements to the public realm is particularly relevant to what is a major scheme for Kidlington Centre and one which will be very significant in the implementation of Local Plan policy and SPD guidance for the village.
- It is understood that there remain concerns from the Council’s Design and Conservation Team about the scale and massing of buildings fronting onto Sterling Road Approach and the hierarchy of streets. In addition to considering these points, opportunities for improving public connections across the site to other parts of the village centre (particularly Oxford Road) should also be explored as envisaged by the Kidlington Framework Masterplan. The proposed development should demonstrably lead to both significant regeneration and the strengthening of the village centre.

The Policy Officer concludes that

The proposed development needs to contribute significantly to the regeneration of the village centre to comply with policy Kidlington 2. To help determine whether this would be achieved, the advice of the Design and Conservation Team should be considered in addition to the guidance contained within the adopted Kidlington Framework Masterplan. The advice of the County Council as Highway Authority should also be taken. High quality design that significantly improves the quality of the built environment and which assists the vitality of the town centre needs should be delivered from a policy perspective. Without a significant contribution to regeneration of the village centre, the proposal would be contrary to policy Kidlington 2.

3.6 **Design and Conservation Officer:**

Comments with respect to the originally submitted proposals

The development proposals are formed on a key corner of Kidlington’s Centre, on the junction of the High Street and Forward Sterling Road. The site is currently composed of retail units, office accommodation and a car-park associated with the retail area.

The High Street has a varied character, made up of 20th century buildings of a range of forms. It is predominantly low rise at two storeys, through steps up

to three and four storeys in places. The area around Sterling Road Approach is highly varied in character. This area interfaces with the residential development on Sterling Road, the mix of one and two storey residential / commercial on Oxford Road. Immediately opposite the site is the single storey Royal Mail distribution centre, the fire station and Oxfordshire County Council offices which are three storeys. While this area is very varied in its character, it clearly has a 'backland' relationship to the Village Centre and it is important that the hierarchy between these areas is maintained as part of the development process.

The applicants have pursued pre application advice for this site, where the principle of development in this area was accepted. Questions about the amount and scale of development were however raised and it is my view that these issues require further refinement to develop an acceptable scheme.

As a critique of the original submission the following comments were made:-

Remodelling of the existing Cooperative Building

The redevelopment of the Cooperative building offers the opportunity to improve the quality of the High Street. This is an important junction in the Village Centre and it is important that development takes the opportunity to improve the character of this area.

- The building is proposed to undergo significant remodelling, reducing its ground floor length by half and reconfiguring the massing of the upper floors to provide apartment accommodation.
- The proposals show three storeys of development and significant remodelling of the building. The building is set back from High Street which helps break down the scale. We would recommend that a similar approach is taken to the upper storeys of development along Sterling Road Approach as well.
- The Council is looking for active frontages along the High Street and Sterling Road Approach and we are currently uncomfortable about how this is coordinated. I would recommend that there is a reconsideration of the ground floor uses. The location of the supermarket on the corner could be swapped with the travel agent. This would provide a more inviting, lighter space for the travel agent and help mitigate the issue of providing active frontage with a food store.
- The layout of apartments could be improved to give better light, aspect and amenity space.
- The rear of this building is currently poorly resolved and has a low quality design. The stair in particular is a clumsy addition. It is important that there is an attractive entrance to the building which is light and enticing. The cycle storage should be separated from this area, and greater thought given to how the stair well could become a feature that is well integrated with the public realm.

New Apartment Buildings

The new apartment block could bring new uses to and extend the Town Centre. While we accept the principle of development of this area, it is important that development enhances the character and fits well with adjacent

areas. It is recommended that substantial changes are made to the design for this to be achieved.

- The scale and length of the apartment block is just short of 80m and runs the majority of the length of Sterling Road Approach. The length and scale of this building are monumental and it risks overwhelming the character of the route.

- We would recommend that the building is broken down into two parts to help break down the form of the building. This should be combined with a reconsideration of the height of development.

- The development proposals are for a four storey building. This feels completely out of context with the surrounding area, which includes single storey buildings, and should be reconsidered.

- It is important that the scale of development in this area is less than the majority of development found on the High Street. This is important in order to retain the hierarchy between the spaces and the legibility of the village centre.

- I would recommend that the height is reduced to three storeys and the third storey is set back from the principal building line to reduce the impact.

- The layout of this building appears to reflect the geometry of the rear boundary and have little interaction with the geometry / character of Sterling Road Approach. While this approach allows car-parking and the public realm to the rear of the building to be lined up, it leads to an odd geometry along Sterling Road Approach, combined with a series of triangular spaces which provides the interface between the building and the street.

Parking and Public Realm

It is expected that a development of this scale in the Village Centre would contribute to positive uplift of the public realm, alongside appropriate open amenity spaces for residents. The intensity of development on this site has led to a site configuration where there is little opportunity for positive landscape and public realm.

- The majority of the space left over from the building has been given over to car parking. This leaves little space for residents amenity space and parking is tight on the building. A reduction in the scale of the building and reduction in the number of units would help ease this issue.

- The space between the two buildings should be designed as an attractive area of public realm. This area is poorly organised, with access, parking, bin storage and service access, which combined with the massing and design issues associated with the rear of the Cooperative building further undermines the quality of development.

Architectural Design

There are some fundamental issues which need to be addressed in this scheme, before an acceptable approach can be delivered. My comments have therefore not focused on the architectural detail of this scheme. The architectural design takes a polite modern approach which I feel is appropriate, given the range of styles found in the adjacent area and the development brief.

Conclusions

It is my view that the proposed development is too dense for the site. This has led to significant concerns around the scale and massing of development alongside public realm issues. The scale of development along Sterling Road Approach will confuse the relationship between this area and the High Street.

While the Council is comfortable with the principle of residential apartment development in this area, a substantial reduction in the number of units is required alongside significant changes to the design and massing of the building for the proposals to be acceptable.

Comments with respect to the revised proposals

Further to my comments in January 2016 and following consultation on the development between the case officer and developer a number of changes have been made to the proposals. These include:

- Improvement to the elevation of the Coop Building on Sterling Road Approach. The proposals now indicate windows in this area which will help this building actively address the corner of this important junction
- An increased setback of the building line onto Sterling Road Approach by approximately 2m
- The reduction in scale in the southern elevation as Sterling Road Approach turns the corner to Oxford Road
- There has been a slight reduction of units and development density. 52 units are now proposed.

These are welcome changes; however, there are a number of concerns set out in my original comments of 21st January 2016 which have not been addressed. These include:

Rear Addition to Coop Building

- There have been some small changes to the materials and details in this area with an additional window into the stairwell. However I believe that an improved design solution could be found in this area which would provide a more positive entrance to the apartments.

Hierarchy in relation to Village Centre (to be informed by Kidlington MP)

- The High Street has a varied character, made up of 20th century buildings of a range of forms. It is predominantly low rise at two storey, through steps up to three and four storeys in places. The development area is part of the village centre 'backland' and it is important that the hierarchy between these areas is maintained.

Scale of Block A, B, C and D

- I believe that the scale and massing of the buildings fronting onto Sterling Road Approach could be improved. Reducing the scale and breaking up the massing of the development in this area would help this proposal fit more comfortably with its context.

Residential Amenity Space

- The view from many of the apartments will be parking dominated
- There has been a small reduction in the car-parking, resulting from the increased set back to Sterling Road Approach, however the limited amenity space is sandwiched tight between the buildings and car-park.

Conclusions

There have been a number of changes to the proposals for this site. The development proposals will bring additional people and vibrancy to the village centre and flatted development is considered appropriate in this area. The opportunities that this scheme brings needs to be balanced against the form and scale of the proposals which are high given the site context and the case officer will need to weigh up whether the changes are outweighed by the benefits this development will bring to the area. While I still have a number of concerns about the design, some improvements have been made. Consideration should be given as to how this development fits within the strategic vision for the Village Centre set out within the Kidlington Masterplan Document.

3.7 **Landscape Officer:** Comments as follows:

Provided all green features and arboricultural assets are retained and adequately protected during the build I have no objections providing a full tree survey that details tree protection is received and approved prior to consent

3.8 **Waste and Recycling Officer** Has confirmed that the applicant's intentions are acceptable

3.9 **Recreation, Health and Communities**

The following comments have been received

1. There will be a requirement for public art which can be required by condition
2. Seeking a contribution per dwelling to enhance existing community facilities to accommodate increased usage (equates to £7.7k)
3. Seeking a contribution of £22.988 towards community events and projects such as information events, newsletters and welcome packs to support new residents to integrate into the community
4. Draws attention to an identified need for improvements to play/recreation/open space in Exeter Close which has been the subject of a study and report approved by Kidlington PC members. Under normal circumstances it is pointed out that a 50 dwelling development would be expected to contribute to off site play, off site sports and off site open space and this would total approx. £286k. The identified scheme for an outdoor gym facility at Exeter Close would be £69k installation and £107K maintenance.

3.10 **Housing Investment and Growth Officer**

Initial comments received in Dec 2015

Because there has been very little, if any, development on a scale to necessitate affordable housing in this parish, with nothing in the current pipeline, the Council require the Midcounties Cooperative Society to provide on-site affordable housing as part of its development.

The affordable housing policy position in Kidlington is that any development over 10 units provides 35% of its units as affordable housing. A development of 54 units therefore has a requirement to provide 19 units of affordable housing.

The Council is mindful of the fact that, due to those being nominated to social housing being generally on lower than average incomes, it is unlikely that they would be able to afford the level of service charges likely to be levied at this development if the affordable units were to be pepper potted around. There would also be management issues to consider.

For these reasons, the Council suggests that Block B be brought forward as affordable housing, providing 15 units of a total requirement of 19. This would leave the equivalent of four units to be provided as a commuted sum

Following the completion of viability negotiations these comments have been received

After careful consideration and reviewing the information provided to, and considered by, our externally appointed consultant, with regards to the financial viability of the scheme, and discussing this with yourself, I can only reluctantly come to one conclusion.

It appears the applicant cannot provide the policy compliant affordable housing provision for this application, which should be 35% of 52 units equalling 18 flats.

The applicant has provided evidence and given a 'without prejudice' offer to provide 8 discounted private rented flats at 75% market rental value, while providing the opportunity for the Council to make nominations to these properties from the Housing Register. I would class this tenure as 'Intermediate' under the NPPF definition and therefore I find the principle acceptable within policy terms.

This will provide only 15% affordable housing on this site. Despite this, if Committee is minded to approve this application then I would support the tenure proposed given the viability situation of the proposed scheme. One note I would make, in terms of this tenure is that we must ensure that the 75% open market rent for these units should not breach the Local Housing Allowance rate for the area to ensure that whom ever we nominate to these properties (should it be awarded permission) will be affordable to them. I would also suggest that we could prioritise those applicants on the housing register who have a local connection to Kidlington.

Given the evidence provided it would seem that this is best position we can hope for in terms of securing any affordable housing on this development.

3.11 Environmental Protection Officer

- Recommends full land contamination conditions

- Seeks an air quality assessment

3.12 **Advice from the Council's retail planning consultant**

The officers have sought specialist advice from DPDS Consulting on the retail impact of the proposed development upon Kidlington village centre. Their full 14 page report is available on the Council's website, and we reproduce below their conclusions in full

District centres, such as Kidlington, are generally not performing well. The village centre is well kept, with little vacancy and without obvious signs of dilapidation. However, there are limitations. Competing centres in Summertown, Woodstock and to some extent, Headington, restrict the catchment area and the population is quite small to support a district centre. Furthermore it, has limited potential for growth given its green belt restrictions. The commercial indicators suggest that commercial development would now be difficult. Rental levels would not support the development costs and the lack of long term rental growth is a significant disincentive. We also conclude that the centre is not highly dependent on convenience turnover to anchor the centre. Rather than attracting large numbers of people to the centre, the stores appear to be trading on the visitors drawn to the centre for other reasons and who do not deem it worthwhile to make the trip to Sainsbury.

With regard to retail impact, we conclude that it is feasible that the reduction in retail floorspace would not lead to a reduction in turnover of the Co-op, but even if there were some loss of trade a substantial part of this would transfer elsewhere in the town centre. The increased spending by the residents of the new apartments would probably more or less offset any loss trade and the retail impact of the development is likely to neutral. Although there is inevitably considerable uncertainty when small amounts of turnover are under consideration, the risk of a significant adverse impact is low.

The retention of the retail floorspace through subdivision or replacement is unlikely to be practical or desirable in this particular case. The existing floorspace does not lend itself to subdivision and the creation of unit shops in a secondary location is unlikely to be fundable or to trade successfully and it is unlikely to be in the interest of the village centre.

With regard to office floorspace, its loss is unlikely to have a significant adverse impact. It has not been used since 2014 and currently makes no contribution to the centres vitality and viability. Although it can be argued that it offers future potential, it appears unlikely that this potential would be realised. Given the rental level in the town centre and the likelihood of long void periods, the refurbishment of the offices is unlikely to be undertaken and even if it were and the space let, this would be at the expense of office floorspace currently vacant. The Co-op has a realistic fall

back position through the permitted development right to convert to a residential use and this has to be taken into account.

We therefore conclude that the impact on the centre's vitality and viability is likely to be neutral and very unlikely to be significantly adverse and that reasons for refusal based on these possible objections would be unsustainable at appeal. It follows that the weight to be accorded to the loss of retail and office floorspace in assessing this against the regeneration benefits of the scheme, in accordance with policy Kidlington 2, should be limited

3.13 Oxfordshire County Council Consultees

Transport

No objection subject to conditions

Key issues:

- Low level of residential and visitor parking is of concern
- Loss of publicly available parking is of concern
- Parking layout and cycle parking is of concern but detail can be conditioned

Legal agreement required to secure:

- Contribution towards improving bus service to Langford Lane employment area (amount to be agreed)
- Access junctions via S278 agreement, to include pedestrian improvements at the accesses

Detailed comments:

A Transport Statement is provided, which shows that there would be reduction in two way peak time trips associated with the development. The proposed development is in a sustainable location, and is well connected to Oxford by frequent bus services and cycle routes. However, links to the key employment area at Langford Lane could be improved.

This is a very traffic sensitive area as it is close to a major traffic signalised junction where traffic queues past the site entrance, and opposite a main fire station. It is also on a strategic bus route with 4 buses per hour in each direction. Sterling Approach is used by frequent buses on Premium Route bus service 2/2A (four per hour in each direction). There are also other local bus services using this road (local Kidlington services K1, K2, local Woodstock via

Shipton service W10 and a route to Bicester, service 25. Any blockage to Sterling Road approach through displaced parking or inappropriate loading would impact on all of these bus routes, causing delays and making these services unreliable. There are 'no waiting' restrictions on Sterling Approach but no restrictions on loading.

Provision should be made for all deliveries – to residential and retail, including vans - within the site rather than from Sterling Road Approach. The proposals include bollards between the retail and residential car parking, and states that the bollards would be lowered to allow refuse vehicles to the through route, and large lorries to use part of the residential car park for manoeuvring. There is no indication of how deliveries to individual flats would be managed – it is unlikely (and probably undesirable) that drivers or residents will be able to lower the bollards to allow delivery lorries to use the through route. Tracking is not provided to show that delivery vans can definitely enter and leave the residential car park without needing to use the through route. However, the detailed design of the car park layout can be conditioned.

There is also a risk of overspill parking obstructing bus services onto nearby residential streets, although due to parking restrictions in the immediate vicinity this is considered to be more of a risk to residential amenity and not a highway safety matter. Parking provision is considerably lower than standards for Cherwell urban areas, although it is recognised that one allocated parking space per 2-bedroom flat is appropriate for such a sustainable location. I am, though, concerned about the low level of visitor parking – only five visitor spaces for the residential element. There are council car parks nearby, but limited availability of long-stay weekday parking. However, on balance I do not consider this sufficient reason to sustain an objection to the development on highways grounds.

Additionally there is no disabled parking provided for the residential element, and the spaces meet minimum standards, with no additional space around them where they are adjacent to a wall.

Vehicle access to the site

The residential (southern) access to the site can be provided with visibility splays that meet Manual for Streets guidance based on 85th percentile wet weather speeds. Speed survey data has been supplied to demonstrate these. There is no significant accident history at the site. It will be necessary to ensure that the existing wall on the site boundary is demolished and the new wall set back behind the visibility splay, and that the land in the visibility splay is dedicated as highway. In principle, subject to technical approval, I am satisfied with the general arrangement shown in drawing 1337/029 as shown in the Transport Statement.

Visibility splays are not shown for the northern access, although the Transport Statement states that the access meets Manual for Streets guidance, and having visited the site I am satisfied that suitable visibility can be achieved.

Raised crossings across both vehicle accesses are indicated, and this is welcomed as an improvement to pedestrian routes. Features like this have been implemented successfully in many locations in Oxford and elsewhere.

Public transport provision

The residents of the new dwellings will benefit from the high frequency bus service into Oxford. However, bus links are poor with the Airport and Langford Lane employment area, which is a considerable walking distance away. The service operates only occasionally between peak hours, and not at all in the

evenings. A contribution would be required from this development towards procuring an additional bus-vehicle to add to the commercial bus network, on a pump-priming basis over 5 years, to improve the frequency and hours of operation to bus services towards Langford Lane.

Cycle parking

It is difficult to see how the cycle parking shown provides one space per bedroom. Further details are required, but can be conditioned. Cycle parking must be easy to use and if necessary further stands across the site will be required.

Public parking loss

The loss of existing car parking available to shoppers and users of facilities in Kidlington is of concern, but as the car park is private, this is not considered grounds for a highways objection

Other infrastructure

From an education point of view off-site contributions are sought for primary education - £106,323

For secondary education it is explained that existing capacity is sufficient

Library book stock contributions of £2,000 are sought

Other requirements amounting to £25,199 are not requested as they cannot meet the requirements of REG 123 of the CIL Regs

Other Consultees

3.14 Thames Water:

Waste Comments

With the information provided Thames Water, has been unable to determine the waste water infrastructure needs of this application. Should the Local Planning Authority look to approve the application ahead of further information being provided, we request that the following 'Grampian Style' condition be applied –

“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.

Surface Water Drainage - With regard to surface water drainage it is the responsibility of a developer to make proper provision for drainage to ground, water courses or a suitable sewer. In respect of surface water it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not permitted for the removal of

groundwater.. Reason - to ensure that the surface water discharge from the site shall not be detrimental to the existing sewerage system.

Water Comments

Thames Water recommend the following informative be attached to this planning permission. Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.

Supplementary Comments

Insufficient documentation containing confirmed details of the proposed drainage plan could be located on the local authority website. In order for Thames Water to determine whether the existing sewer network has sufficient spare capacity to receive the flows from the proposed development, a drainage strategy must be submitted detailing both the foul and surface water strategies. Details of any proposed connection points or alterations to the public system, including; calculated peak foul and surface water discharge rates for both the pre and post development site, details of any pumped discharges (maximum pump rates), attenuation details with accompanying capacity requirement calculations and details of incorporated SuDS must be included in the drainage strategy. If initial investigations conclude that the existing sewer network is unlikely to be able to support the demand anticipated from this development, it will be necessary for the developer to fund an Impact Study. To ascertain, with a greater degree of certainty, whether the proposed development will lead to overloading of existing waste foul and surface water infrastructure, and, if required, recommend network upgrades. In accordance with part H of the Building Regulations Act 2002. Positive connection to a public surface water (or combined) sewer will only be consented when it can be demonstrated that the hierarchy of disposal methods have been examined and proven to be impracticable. The disposal hierarchy being :- 1st Soakaways; 2nd Watercourses; 3rd Sewer. Thames Water's preferred option would be for all surface water to be disposed of on-site using SUDs .

3.15 **Environment Agency:** No comments received

4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

Cherwell Local Plan 2011 -2031

The Submission Cherwell Local Plan (February 2015) has been through public consultation and was submitted to the Secretary of State for examination in January 2014, with the examination beginning in June 2014. The examination was suspended by the Inspector, shortly after commencing in June 2014 to allow further work to be undertaken by the Council.

Modifications were required to meet the higher level of housing need identified through the Oxfordshire Strategic Housing Market Assessment (SHMA). The proposed modifications were subject to public consultation, from 22nd August to 3rd October 2014. The examination reconvened in December 2014 and the Inspector's report was published in June 2015, and was formally adopted by the Council on 22nd July 2015. Relevant policies are

- Policy BSC1 District wide Housing distribution
- Policy BSC 2 The effective and efficient use of land
- Policy BSC3 Affordable Housing
- Policy BSC4 Housing mix Policy
- Policy SLE 2: Securing Dynamic town centres
- Policy SLE 4: Improved Transport and Connections
- Policy ESD 1: Mitigating and Adapting to Climate Change
- Policy ESD 2: Energy Hierarchy and Allowable Solutions
- Policy ESD 3: Sustainable Construction
- Policy ESD 6: Sustainable Flood Risk Management
- Policy ESD 7: Sustainable Drainage Systems (SuDs)
- Policy ESD 15: The Character of the Built and Historic Environment
- Policy Kidlington 2: Strengthening Kidlington Village Centre
- Policy Villages 1: Village Categorisation
- Policy Villages 2: Distributing Growth across the Rural Areas

Adopted Cherwell Local Plan (Saved Policies)

C28: Layout, design and external appearance of new development

C30: Design of new residential development

ENV12: Contaminated land

Kidlington Framework Masterplan SPD

This document was considered by the Council's Executive on 5th December and by full Council on 19th December 2016. It is adopted as supplementary planning guidance. Clearly the whole document has relevance to the consideration of this application, but particular attention is drawn to Section 6 entitled "Strengthening Kidlington Village Centre" which is reproduced in these papers as Appendix 4.

4.2 Other Material Policy and Guidance

National Planning Policy Framework – particular attention is drawn to the core planning principles contained in paragraph 17 (including the plan-led approach) and paragraph 23 which deals with ensuring the vitality of town centres and says that

23. Planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of

centres over the plan period. In drawing up Local Plans, local planning authorities should:

- recognise town centres as the heart of their communities and pursue policies to support their viability and vitality;
- define a network and hierarchy of centres that is resilient to anticipated future economic changes;
- define the extent of town centres and primary shopping areas, based on a clear definition of primary and secondary frontages in designated centres, and set policies that make clear which uses will be permitted in such locations;
- promote competitive town centres that provide customer choice and a diverse retail offer and which reflect the individuality of town centres;
- retain and enhance existing markets and, where appropriate, re-introduce or create new ones, ensuring that markets remain attractive and competitive;
- allocate a range of suitable sites to meet the scale and type of retail, leisure, commercial, office, tourism, cultural, community and residential development needed in town centres. It is important that needs for retail, leisure, office and other main town centre uses are met in full and are not compromised by limited site availability. Local planning authorities should therefore undertake an assessment of the need to expand town centres to ensure a sufficient supply of suitable sites;
- allocate appropriate edge of centre sites for main town centre uses that are well connected to the town centre where suitable and viable town centre sites are not available. If sufficient edge of centre sites cannot be identified, set policies for meeting the identified needs in other accessible locations that are well connected to the town centre;
- set policies for the consideration of proposals for main town centre uses which cannot be accommodated in or adjacent to town centres;
- recognise that residential development can play an important role in ensuring the vitality of centres and set out policies to encourage residential development on appropriate sites; and
- where town centres are in decline, local planning authorities should plan positively for their future to encourage economic activity.

Planning Practise Guidance

5. Appraisal

5.1 The key issues for consideration in this application are:

- Planning History
- The Principle of development including loss of retail floorspace and compliance with the Kidlington Framework Masterplan
- Scale and Design
- Neighbour Impact
- Highway Safety and Loss of Parking
- Affordable housing and Planning Obligations

Planning History

- 5.2 In 2007 outline planning permission was granted for 20 residential units over the car park with a new site access. That scheme did not affect the existing Cooperative building and was for a three storey building with the ground floor retained as private and public car parking and two floors of flats above. A legal agreement provided four shared ownership flats. No reserved matters application was ever made and therefore that permission lapsed in October 2010.

Principle of Development and Loss of retail floorspace

- 5.3 The NPPF contains a section (paras 23-27) entitled ensuring the vitality of town centres which is quoted in part at paragraph 4.2 above and is highly relevant to the determination of this application
- 5.4 The application site lies in central Kidlington within the area covered by Policy Kidlington 2 which states that

Shopping, leisure and other 'Main Town Centre Uses' will be supported within the boundary of Kidlington Village Centre. Residential development will be supported in appropriate locations in the village centre except where it will lead to a loss of retail or other main town centre uses.

The change of use of sites used for main town centre uses in the Village centre for residential development will normally be permitted if proposals contribute significantly to the regeneration of the Village centre. Mixed use schemes will be encouraged.

Proposals should be considered against Policies SLE 2, ESD 10 and ESD 15.

And has the following supporting paragraphs explaining the policy

C.232 It is important that Kidlington centre is supported and strengthened to help meet the aspirations of Kidlington and to ensure that the everyday shopping needs of residents are met, avoiding the need for unnecessary journeys to Oxford, Bicester and other destinations

C.233 Kidlington Village Centre performs a particular function in the hierarchy and network of town centres in the District. Smaller than Banbury and Bicester centres, Kidlington is however larger, in terms of the number and range of retail units than the local centres present in the larger villages in the District.

C.234 Many improvements to the village centre have been implemented in recent years in a partnership between the District Council, Kidlington Parish Council and the Kidlington Village Centre Management Board, including most recently the pedestrianisation of the core retail area throughout the day.

C.235 The 2012 Retail Study showed that significant new development should not be directed to Kidlington but that the centre needed some further environmental improvements and the evening economy should be encouraged. It is proposed to expand the geographical area defined as Kidlington Village Centre to include land on the western side of the Oxford Road and other small areas of commercial uses. The exact boundary will be determined in Part 2 of the Local Plan. The aim of the extension s to:

- Support the viability and vitality of the existing village centre
- Encourage economic activity
- Assist with the connectivity between the existing village centre and the civic, community and green open space at the Exeter Hall area
- Contribute to and maximise the benefits and improvements to the character and appearance of the village centre and the public realm

- 5.5 It will be noted that the policy states that residential development will be supported in appropriate locations except where it will lead to a loss of retail and other main town centre uses. This proposal is predominantly located on a car park, the loss of which is commented upon below. The proposal does of course impact upon the existing Co-op building which has retail use at ground floor and office use above. The proposal reduces the size of the building resulting in a reduction in retail floorspace from 1,106 sq. metres to 463 sq. metres (a reduction of 643 sq.metres) and all the office use (523 sq. metres) will be lost to the creation of 8 flats. The Co-op and its travel agent would continue to operate from the retained ground floor albeit in the reduced floorspace.
- 5.6 In a letter supporting the application The Midlands Co-operative Ltd. indicate that they need to respond to the dynamically changing retail food market and are seeking to re-size their Kidlington operation. They explicitly say they are committed to remaining in Kidlington High St and to the provision of both the travel centre and the Post Office. Therefore whilst a reduced quantum of retail floorspace is proposed to be removed the operational entities will remain. In such circumstances your officers believe that it would be difficult to resist this development on the grounds of loss of retail and other town centre uses.
- 5.7 To better inform the decision the specialist retail planning advice of DPDS has been sought (see paragraph 3.12 above for their conclusions). In their report they analyse the context, role, and health of the existing centre. This includes looking at retailer representation, current rents and yields and known retailer requirements. They identify that there is quite good national representation albeit that a couple of retailers that you might expect to see are missing. They consider that the existence of Iceland, Tesco and Coop is a good representation given the nearby location of Sainsburys.
- 5.8 The consultant's report then considers the size, layout and performance of the existing Coop store, noting its deficiencies and unattractiveness to customers. The report then adopts a conventional methodology to assess the likely impact of the partial loss of the retail floorspace. They confirm the applicant's view that the floorspace could be used much more efficiently and that much of the turnover could be retained in a smaller store. They believe that if there was any loss of turnover this would merely be diverted to other centre stores or made up by the new spending from the residents of the development.

- 5.9 The report then proceeds to address the potential for sub-dividing the existing retail unit, and concludes that this is unlikely to be attractive to potential occupiers. It also considers the re-provision of the same amount of retailing in a new build development with new flats above. This is considered to be unlikely to be viable and would be a high risk investment given the doubts that retailers would emerge at reasonable terms.
- 5.10 Of course it is also necessary to consider the loss of the potential for the redevelopment of the site more comprehensively for other retail or other town centre uses. The now adopted Kidlington Framework Masterplan in its Section 6 (Strengthening Kidlington village centre) seeks to identify opportunities to expand the village centre and suggests the development of a village centre masterplan. The Co-op car park is identified as one of the sites that could be assessed and commented upon as follows

Co-op car park (0.3ha). The site presents an opportunity for residential, small scale retail or office above and around a car park. A new pedestrian link from the rear Co-op entrance through to the Red Lion pub could be created, strengthening the retail 'loop' between the High Street and Oxford Road. A deck above the car park could provide residential amenity space or additional parking.

Plans in the Masterplan show the site as adding to the retail offer of the centre and having community uses, secondary retail and residential development, and that it also has a potential longer term opportunity for a pedestrian connection between Sterling Road Approach and Oxford Road through this site and the Red Lion PH car park.

- 5.11 When this application was considered in August 2016 only limited weight could be attached to the aspirations outlined in the then draft masterplan. The Framework Masterplan now of course carries the full weight of a SPD and must be given due weight as a material consideration. It is clear that the submitted scheme does not match the aspirations of the Framework Masterplan in that it does not include further retail development, any decked car parking, or any public realm improvements that could assist in the creation of a connection through to Oxford Road as a new secondary street/pedestrian route. This basic conflict with the aspirations of the Masterplan can be seen graphically by comparing the submitted scheme to the indicative plans in Figures 6.5 and 6.6 of the Masterplan.. The Framework Masterplan establishes design principles for the Village Centre and identifies potential development sites (including the application site). The Framework Masterplan suggests that these principles should be tested and developed through the production of a comprehensive Village Centre Masterplan which would establish detailed design guidance on the appropriate layout, scale, quality and character that is expected of future development. That document would require further studies of land ownership, site availability and the development of a car parking strategy to ensure that the proposals would be deliverable
- 5.12 The applicant has recently given us some comments on the Masterplan and on its basis as a reason for refusal. These are set out below

We would make the following comments on the adopted Masterplan, particularly in relation to this site. These comments are made on an objective interpretation of the adopted document as set out diagrammatically and within the text.

- The site is proposed for a mixed use dominated by retail uses on the ground floor. Your consultant confirmed that there is no evidence of demand for such retail floorspace and it is therefore unlikely to assist in the regeneration of the site, which is supported in the Council's Local Plan and Masterplan. The retail uses proposed in the Masterplan comprise both primary and secondary retail uses for this site although it is difficult to envisage the presence of any 'Primary' retail as it is proposed in a very much secondary location. It further contemplates the erection of a central multi storey car park to provide necessary parking as may be required by both the retail and residential components and therefore assumes that residential uses will be single aspect and likely to share parking facilities with Retail Uses. No provision is made for servicing, which would make it less likely that the site would be attractive to retailers, for which there is also no evidence of retail demand.*
- It presumes the creation of an additional boulevard to provide connectivity to Oxford Road and envisages the creation of a retail avenue comprising Primary retail on each side of this route. It also presumes that the 'Primary' retail element in a secondary location will be sited adjacent to and overlooking an existing and retained service yard to High Street Retail units. To effect the creation of a boulevard and through route it presumes that developments will be carried out simultaneously in order to avoid the prospect of a 'dead end'.*
- It further assumes the creation of additional secondary retail along the Sterling Approach Road frontage with presumably residential above together with the creation of community spaces. It also assumes that Secondary Retail as may be located on Sterling Approach Road will in some way be capable of securing rear access in order to prevent unauthorised stopping and servicing on Sterling Approach Road. Presumably the conflicts between access/car parking/safe pedestrian routes/deliveries/servicing/refuse/disabled provision/access control/secured by design etc have been properly considered in the Masterplan.*

We conclude that this site cannot accommodate the aspirations of the Masterplan on purely economic and practical grounds. It would appear that the Masterplan takes no account of market demand for retail, the lack of which is well proven by our consultants and endorsed by the Council's. It makes no allowance for the fact that the site and adjacent land has ongoing access and servicing requirements in order to maintain existing and ongoing operations. It has no regard for the prospect that the site currently has an intrinsic value and until such time that such is either equated or exceeded redevelopment will not take place. There is little incentive for a landowner to

promote development where the outcome is likely to be significant financial loss.

For any masterplan to be relevant and applicable to any extent, it needs to have regard for existing uses and present an incentive to promote regeneration in the form of new development. In this case the suggestion that a development underpinned by a use (retail) for which there is no immediate or likely future demand in a predominantly Secondary retail location renders this Framework purely speculative and would act against the achievement of regeneration. The Masterplan also disregards existing use limitations such as servicing and access and is not supported by evidence of any kind which supports the proposed uses.

In this case therefore the Council will be basing its reasons for refusal on a document which does not take into account economic and practical reality, could not withstand even a modest level of objective scrutiny, and would act against the interests of securing the regeneration of the site and the provision of housing. There is therefore no possibility of our promoting a development of the nature shown in the Masterplan: it is aspirational and should not be taken as a document which allocates the site for particular purposes and which would override the provisions of the Council's Local Plan policies. It provides only a broad framework which needs to be considered against other planning objectives and policies: it is not definitive and should not be regarded as prescriptive.

Given that the Council's own consultant has agreed that there is no retail demand, has supported the case which we have put forward and agrees that the Coop's downsizing would not harm the village centre, we would not be able to reconsider our proposed development in line with the retail objectives of the Masterplan. The development would nonetheless include residential development which would regenerate the site, would add to the vitality and activity of the village centre, and would provide benefits to existing businesses through the additional population and local customer base. These are aspects of the Masterplan which would be able to be delivered and in a relatively short timescale.

We note the objectives of connectivity. As you know, our initial observation is that such measures will potentially offer a pedestrian 'bypass' to the High Street, which we could not see would be in the interests of the High Street retailers which form the major retail (and primary shopping) area in the village centre. It clearly has the potential to reduce footfall on an already underused thoroughfare. Nevertheless, there is the potential in our proposed development to offer a pedestrian route to connect to third party land on the western boundary of the site if the Council so desires. We would be prepared to enter a legal agreement to make such a route available in the event that future connections can be made to the Oxford Road frontage through future development on third party land. Clearly, any undertaking we offer would be

limited to land within our ownership and control. Please consider this as a formal offer in relation to the current application.

Lastly, we discussed the without prejudice offer to provide discount to market housing on the site as a consequence of the viability appraisal which was undertaken and agreed by your consultant. It think it only fair to make clear that should planning permission be refused and an appeal be lodged, we would need to revisit the viability appraisal and reserve the right to reconsider the offer at that time.

We would be grateful if you could take the current application to the next available planning committee for determination.

- 5.13 In response to these practical and economic criticisms it is noted in paragraph 5.11 above that the authors of the adopted Masterplan acknowledge (at paragraph 6.3.1 of it) that further assessment work would be necessary as part of a Village Centre masterplan to establish detailed guidance for the prospective development sites. This would deal with the issues identified such as the servicing arrangements necessary for existing and future retailers etc. and enable a fuller assessment of the feasibility of the proposals contained therein. This would involve a careful analysis of such matters as the creation of walking loops for shoppers by fostering greater connectivity and whether the proposed retail opportunities that could be created would be attractive to retailers. The Framework Masterplan envisages the creation of further primary shopping frontage by encouraging this greater connectivity and ability to link shopping areas together in a better way than currently possible. In your officers opinion approval of this application at this time would therefore be premature to the opportunity to carry this out further work and would be contrary to the aspirations of the adopted Framework Masterplan.
- 5.14 The connectivity aspired to in the Framework Masterplan is undoubtedly a worthwhile goal but is not in the gift of this applicant as it would need to involve third parties who may not be willing to allow their land to be used to facilitate an improved connection between Oxford Road and Sterling Road Approach. However as note in the applicant's statement above they are willing to allow for this to be dealt with on land in their control.
- 5.15 The development has to be assessed against adopted Policy Kidlington 2. The policy says that the change of use of town centre sites for residential re-development will normally be permitted if the proposals contribute significantly to the regeneration of the town centre. The townscape of Sterling Road Approach is currently poor and detracts from the character of the village centre. Its redevelopment in the manner proposed will fundamentally change and improve this area. The question remains however, as to whether the proposed layout and land uses contribute significantly to the regeneration of the village centre.
- 5.16 It is acknowledged that the reduction in the operational floorspace of Co-op will enable them to continue to trade successfully in the High Street and would in all probability retain this retail facility and the Post Office which is currently co-

located in the premises. Our retail consultants believe that the proposal to reduce retail floorspace will not in itself have a detrimental impact upon the vitality and viability of the existing village centre. It will be noted that our retail planning consultants had based part of their assessment on the restricted and overlapping catchment areas of Kidlington, Woodstock and Summertown and their belief that there was little opportunity for the catchment size to grow. Given the published consultation on the Local Plan Part One review it is now possible to envisage scenarios where that is not correct, and that Kidlington village centre may have a greater potential catchment size to cater for. It is possible therefore that the size of the centre will need to grow. This site represents one of the prime locations in the centre where such enlargement and strengthening of the centre can take place.

5.17 In housing policy terms the Council has a five year land supply as shown in the most recently published AMR, and therefore it may be said that there is no pressing need for additional land to be released for housing. However it is known that our land supply situation may be fragile in the future and opportunities for sustainable development that causes no or limited harm should be carefully considered.

5.18 The enhanced status of the guidance contained in the Framework Masterplan, which seeks to expand upon the Local Plan policies, provides further weight to the assessment that the proposal is contrary to Policy Kidlington 2.. A key test for the overall assessment of this proposal is whether this proposal provides significant regeneration of the area and whether therefore there is a material benefit from the proposal. At paragraph 3.4 above the Planning Policy officers conclusions were

The proposed development needs to contribute significantly to the regeneration of the village centre to comply with policy Kidlington 2. To help determine whether this would be achieved, the advice of the Design and Conservation Team should be considered in addition to the guidance contained within the adopted Kidlington Framework Masterplan. The advice of the County Council as Highway Authority should also be taken. High quality design that significantly improves the quality of the built environment and which assists the vitality of the town centre needs should be delivered from a policy perspective. Without a significant contribution to regeneration of the village centre, the proposal would be contrary to policy Kidlington 2

Therefore before concluding on policy matters it is necessary to review the acceptability of the scheme in design and highway terms.

Scale and Design

5.19 High standards of design are expected in development across the District. This approach is set out in Local and National Policy Guidance. The Cherwell Local Plan, Saved Policies, National Planning Policy Framework and Planning Practice Guidance emphasise the importance of good design and provide detailed guidance as to how good design should be assessed.

Good design is a key principle of the NPPF. Chapter 7 of the NPPF provides specific guidance on design and places great importance on the design of the built environment. This has been supplemented by the recently published

Planning Practice Guidance (2014) and best practice guidance such as By Design: Urban Design in the Planning System (2000) and Better Places to Live by Design (2001). These documents provide guidance on the central urban design principles that underpin good design; including layout, form, materials and detailing.

5.20 The policy requirements set out ESD 16 of the Local Plan, provides clear guidance on the importance of high quality design which responds to the character of a place *“New development will be expected to complement and enhance the character of its setting through sensitive siting, layout and high quality design”*. *“New development proposals should respect the traditional pattern of routes, spaces, blocks, plots, enclosures and the form, scale and massing of buildings. Development should be designed to integrate with existing streets and public spaces, and buildings configured to create clearly designed active public frontages*

5.21 The remodelling of the Co-op building offers the opportunity to improve the quality of the High St and of Sterling Road Approach, in particular by addressing the unfortunate effect of the predominantly blank long flank wall to the latter street. The building is proposed to undergo significant remodelling reducing its length by half and reconfiguring the upper floors. The scheme has been amended during the life of the application. Whilst the suggestion of swapping the position of the ground floor uses, placing the travel centre on the corner, thereby allowing flank wall display windows, has not been taken up, other revisions, particularly to the rear of the building, are significant improvements and is now considered satisfactory

5.22 As noted in the Design and Conservation Officers comments at 3.6 above the scale and length of the apartment building when originally submitted was considered to risk overwhelming the character of the street. The amended proposals have been altered to increase the set back from the road, introduce considerable articulation of the building line relative to the road, and change the effective roofline when viewed from road level.

5.23 It will be noted in the more recent comments from the Design and Conservation Officer she concludes

The development proposals will bring additional people and vibrancy to the village centre and flatted development is considered appropriate in this area. The opportunities that this scheme brings needs to be balanced against the form and scale of the proposals which are high given the site context and the case officer will need to weigh up whether the changes are outweighed by the benefits this development will bring to the area. While I still have a number of concerns about the design, some improvements have been made. Consideration should be given as to how this development fits within the strategic vision for the Village Centre set out within the Kidlington Masterplan Document.

5.24 As submitted the four-storey building had a consistent roof line. The changes have the effect of re-enforcing the apparent nature of the building to look like

linked blocks rather than one large monumental block. Around the centre of the block roof gardens result in the setting back of flats from the Sterling road frontage giving the appearance that this central portion of the building is three storey when viewed from ground level, although there are flats at a fourth storey that are set well back from this elevation and therefore difficult if not impossible to see. The southern end of the block is now 3 storeys with a set-back roof garden replacing two flats. The proposed use of brick and render will also break up the bulk of the building with the fourth floor level being finished in a light coloured material to further assist in reducing the apparent scale of the building.

5.25 Some objectors have expressed concern at the principle of introducing four storey development onto this site. It should be pointed out that there are other four storey buildings in High St and therefore this is not a new feature. It is of course necessary to assess the impact of such a tall building however. Sterling Road Approach has a somewhat strange and weak character with a mix of structures on its eastern side including the single-storey PO sorting office and the three-storey Fire Service HQ., both being set back from the road frontage. In this context it is considered that the large building proposed will not over-dominate the street to an unreasonable amount, and indeed will establish a new and fundamentally different character, but one that is not considered to be objectionable

5.26 In conclusion on design matters, obviously this is a subjective assessment. Your officers are now content that with the revisions negotiated the building would be an improvement over the existing streetscene and would not cause harm to the character or appearance of the village centre. It would offer a new and distinctive built form. However, it can be seen that our urban designer continues to have reservations about the design, and notes that consideration of its acceptability is a balanced judgement, taking into account the benefits of regeneration. She also says that consideration should be given as to how this development fits within the strategic vision for the Village Centre set out within the Kidlington Masterplan Document. These latter points are the fundamental issues that need to be concluded upon. Whilst the scheme proposed is an improvement on the current situation it does not meet the aspirations of the Masterplan and indeed would frustrate them. Therefore your officers conclude that the proposal would be contrary to Policy Kidlington 2 of the adopted Cherwell Local Plan .

Neighbour impact

5.27 Attention must be paid to the residential amenity of surrounding properties. The properties most likely to have been affected by the submitted scheme were those to the south of the building, namely 32 Sterling Road and 37a Oxford Road. The proposals have now been altered to reduce the height of this end of the block proposed from 4 storeys to 3 storeys. This will significantly reduce the prospect of overlooking and loss of privacy that may otherwise have been an issue. Whilst the flats on the top floor at this end of the block have been replaced by a roof garden, this garden itself has been set back from the line of the building so that overlooking is restricted from the garden. These

arrangements are now considered satisfactory. The case officer is also content that these properties will not be over-dominated by the proposed scheme.

- 5.28 There are flats above many of the buildings along the section of Oxford Road that backs onto the existing car park. These are considered to be set sufficiently far from the proposed building to not have issues of overlooking. Loss of privacy or over-domination
- 5.29 The remodelling and reducing in size of the existing co-op building should be an improvement to the amenity of those flats in the Hampden Building (on the corner of High St. and Sterling Road Approach)

Highway Safety and Loss of Parking

- 5.30 The scheme proposes two points of access to Sterling Road approach, one being at the southern end of the site, close to the existing ingress to the existing car park, and the other opposite the Sorting office in Sterling Road Approach, about 15 metres north of the current egress from the car park and ingress/egress to the existing service yard.
- 5.31 It is proposed that the southern access will serve 44 allocated spaces for the new apartment block, and 8 allocated spaces for the flats above the Co-op store together with 5 visitor spaces. This will also allow access to the waste facilities for the blocks. The northern access will serve 21 car parking spaces meeting the needs of the shop – both staff and customer parking. It has also been designed to provide access to the service yard arrangements for the shop. The County Council has confirmed that both accesses are acceptable.
- 5.32 With regards to servicing provision this should be made for all deliveries – to residential and retail, including vans - within the site rather than from Sterling Road Approach. The proposals include bollards between the retail and residential car parking, and state that the bollards would be lowered to allow refuse vehicles to navigate the through route, and large lorries to use part of the residential car park for manoeuvring. There is no indication of how deliveries to individual flats would be managed – it is unlikely (and probably undesirable) that drivers or residents will be able to lower the bollards to allow delivery Lorries to use the through route. Tracking is not provided to show that delivery vans can definitely enter and leave the residential car park without needing to use the through route. However, the detailed design of the car park layout can be conditioned.
- 5.33 The loss of the existing car park, which is currently effectively available to shoppers not only using Co-op but other shops and services in the village centre, is significant. However the car park is privately owned and its use by others, or indeed its use at all, could be withdrawn unilaterally. Adequate parking to serve the needs of the development, both for the flats and the retained shopping floorspace is proposed. The highway authority accepts this position; refusal of planning permission for loss of car parking could not be sustained on appeal in your officers opinion.

Affordable housing and Planning Contributions

- 5.34 Section 3.10 above sets out the initial and final advice from the Strategic Housing Officer on the position with regards to affordable housing. From a point early in the assessment of the application it became obvious that the applicant was claiming that the development would not be viable if asked to provide 35% affordable housing as required by Policy BSC3 of the adopted Local Plan. As noted in Policy BSC3 in such circumstances an open book financial assessment of the proposal is required that the Council can then interrogate. The Council employed an outside independent expert (Bruton Knowles) to critique the applicants' submission and assist in subsequent negotiations.
- 5.35 The outcome of this assessment was that Bruton Knowles advised that the development was indeed unable to fund the normal requirement for affordable housing. Negotiations between the applicants and your planning and housing officers have concluded with an offer of 8 discount rented units – those over the retained shop. These are offered at 75% of market rent with full nomination rights to the Council. This arrangement would endure for 25 years. They will be offered for lease to the Council, or to a registered provider, or could be retained by the developer and managed by them but with the Council nominating tenants. In the circumstances of this case this is considered acceptable, and furthermore is the best arrangement that can be reached. In these circumstances the proposal is considered to be in compliance with Policy BSC3 of the Local Plan. This position and offer was accepted by the Committee when they considered the application in August 2016. Members will note that at the end of the applicant's correspondence reported at paragraph 5.12 it is noted that if the application was refused and an appeal lodged that they may have to reconsider the viability appraisal and may reconsider the above offer at that time. As the Section 106 matters, including affordable housing provisions are not secured at this time, should the recommendation of refusal be accepted there would need to be a second reason relating to these matters.
- 5.36 The above arrangement for affordable housing, which was seen by officers as the highest priority in seeking a Section 106 agreement, was predicated on the basis that a maximum of £200k could also be provided for all other off-site contributions. Other requests for contributions set out elsewhere in the report can be summarised as

From OCC	
- Primary school contribution of	£106,323
- Bus subsidy aimed at improving the service to Langford Lane	£52,000
- Library stock	£2,000
From CDC	
- Outdoor gym facility	£69,371
- Maintenance for above(commuted sum)	£106,776
- Community development	£22,988
- Community facility improvement	£7,700
- Public Art	can be sought by condition

- 5.37 Clearly this comes in excess of the £200k on offer. Again your officers are content, with Bruton Knowles concurrence, to advise that this overall figure is the maximum that the viability of the scheme allows and can only be improved upon at the cost of reducing the affordable housing offer. The applicant does not seek to influence how that £200k is allocated.
- 5.38 In July 2011 the Council produced a draft supplementary document (SPD) on Planning Obligations, which is still in use (pending the outcome of consultation upon the recently published new document) for the starting point for negotiations by your officers. That document has the following advice for matters of this type

As a result of viability issues the LPA may, in some cases, need to prioritise obligations so as to manage the most significant impacts of development.

3.17 The relative priority to be given to competing requirements will be always be specifically assessed with regard to the Development Plan policies, the needs of the locality and the particular characteristics of the site and its setting. The order of priority may change depending upon local identified needs in relation to the development of a particular site.

3.18 However, the LPA's general approach to priorities is set out in Table 2 'Planning Requirement Priorities' below. In the first instance, the LPA expects to address and secure requirements with a high priority. These are generally the items relating to the provision of facilities on the development site. They will be needed as a direct result of the impact which a development scheme places on its site and surroundings.

3.19 The medium priority items are generally those required to deal with the wider transport, accessibility, social, and recreation impacts arising from development within the area.

3.20 The low priority items are those where the development will place new demands on general public services and capital projects. In these instances the providing bodies may, as a result of development viability issues, need to consider securing funding from sources other than developer contributions.

And a table of priorities was attached

Table 2 Planning Requirement Priorities

High Priority

Affordable Housing
Local Open Space, Play Space and
Landscaping
Sustainable Urban Drainage
Systems
Sustainable Transport and Travel
Plans, Footpath/Cycleway Provision
and Access Improvements

Medium Priority

Transport and Accessibility
Education – Nursery, Primary and Secondary
Strategic Open Space/ Sport and Recreation

Strategic and Local Community Facilities
Strategic Flood Defence
Nature Conservation and
Biodiversity

Low Priority

Health
Police
Public art
Community development funding
Libraries
Children's Centres and Nursery
Provision

- 5.39 Using this prioritisation the Head of Development Services considers that the primary school contribution and the outdoor gym provision should be fully funded as requested, and that the remaining £24,300 should be offered to Kidlington PC for the future maintenance of the facility. This allocation of the restricted available funds was accepted by Planning Committee at their meeting in August. The Parish Council's view on this less than full commuted payment contribution was sought after the August Committee and they have indicated that they were dissatisfied with this. This may mean that we have to give further consideration at a later time about apportionment of any sum that is offered in the future. Clearly if the above apportionment had been accepted then no money would have been forthcoming for the bus subsidy, library stock, community development or improved community facilities. Members may decide that the available money should be re-allocated in some other way. However if the recommendation is accepted then the issue of Section 106 contributions will be the subject of a second reason for refusal as the heads of terms will have not been agreed or a mechanism for their payment will not have been secured.

Consultation with applicant

- 6.1 Good communications had been maintained with the agent to ensure that the issues that arose during the application process were successfully dealt with and legal agreement discussions had progressed satisfactorily. Discussions have been held with the applicants since the adoption of the Masterplan and their comments quoted at paragraph 5.12 above are their response to the comment that we were likely to be recommending refusal.

Conclusion

- 7.1 At the conclusion of the section on Planning Policy (paragraph 5.18) it was noted that the final conclusion on the compliance of the proposal with policy Kidlington 2 had to be holistic once the scale and design and highway issues had also been taken into account. It was noted in paragraph 5.26 that design is a subjective matter but that your officers are now content that with the revisions negotiated the building will be an improvement over the existing streetscene and would not cause harm to the character or appearance of the village centre. However it should also be noted that your officers concluded in that section of

the report that the proposal would be contrary to Policy Kidlington 2 of the adopted Cherwell Local Plan insofar as the aspirations of the Framework Masterplan is concerned.

The local highway authority have confirmed that they are content with the loss of the car parking, which in any event could be withdrawn from public use at any time and therefore this does not represent a defensible reason for refusal

- 7.2 The adoption of the Kidlington Framework Masterplan in December 2016 has added weight to that document and the aspirations within it. The Masterplan shows this area of the centre as being suitable for development that would strengthen the centre and aid connectivity in and around the village centre. It is intended that there would be further development of proposals for this, and other village centre sites, as part of further another masterplan exercise. Approval of this proposal at this time would be premature to that further work and would potentially frustrate the aspirations of the Framework Masterplan. Consequently, and in line with the Planning policy Officer's comments, it is concluded that this scheme, whilst demonstrating an improvement over the current form and character of the locality, it does not address appropriately the layout and land use aspirations of the Kidlington Framework Masterplan and does not provide a significant contribution to the regeneration of the village centre and hence is contrary to Policy Kidlington 2

8. Recommendation

Refusal on the grounds that

1. The proposed development is contrary to Policy Kidlington 2 of the adopted Cherwell Local Plan 2011-2031 and the aspirations of the recently adopted Kidlington Framework Masterplan supplementary planning document in that it does allow for the meeting of the objectives and aspirations of the latter document for the strengthening of the village centre through use of mixed use redevelopment opportunities and through improving connectivity between areas of the village centre, and consequently does not contribute significantly to the regeneration of the village centre as required by Policy Kidlington 2
2. In the absence of the completion of a satisfactory Planning Obligation the Local Planning Authority is not convinced that the necessary infrastructure directly required both on and off the site, including the provision of appropriate affordable housing, will be provided. Therefore the proposal would be contrary to Policies INF1, BSC3, BSC10 and BSC11 of the adopted Cherwell Local Plan 2011-2031 and the advice contained in the National Planning Policy Framework

Appendices

1. Cllr Carmen Griffiths email
2. Kidlington Parish Council letter
3. Burges Salmon Letter
4. Theme 3: Strengthening Kidlington Village Centre

From: Councillor Carmen Griffiths
Sent: 17 December 2015 09:08
To: Bob Duxbury
Cc: Planning
Subject: Planning Application 15/01872/F Co Op

Dear Bob

I hope this email finds you well.

Planning Application: 15/01872/F

I wish to object to the above planning application. Whilst I would rather the site remain a car park for the use of the residents of Kidlington, I do understand that this is a private site and support the principal of appropriate mixed use residential and retail development on this site which I see as a sustainable location.

Reasons for Objection

Loss of retail space This application is contrary to **Policy Kidlington 2** which states that *“Residential development will be supported in appropriate locations in the village centre **except where it will lead to a loss of retail** or other main town centre uses..... **Mixed use schemes will be encouraged.**”*

Almost 1/3 of essential retail space will be lost on this site. This is retail space that will never materialise again in our High St and there is no capacity to add more space to our High St in the future. The loss of retail space is be detrimental to the vibrancy of our village and the Kidlington centre. We are by the very nature of this application and others, a growing village and we need more in our High St and not less.

During public consultations the developer has said that keeping the existing retail space is not commercially viable. It may not be for the CoOp, but this space needs to be sub let allowing more retailers the opportunity to enter our High St.

Affordable Housing There is no provision within the application for on site affordable housing which is against the Local Plan policy for Kidlington that any development over 10 units provides 35% of its

units as affordable housing. I believe that this provision is essential. The developer claims that social housing in a mixed ownership property would not work, however the building can every easily be split into 3 where approximately 1/3 would be allocated solely to Social Housing making the management of it perfectly viable

Overdevelopment and height. I have concerns and strongly object to the four storey height of the proposal. At present we have no 4 storey residential sites in Kidlington and we don't want to see them now!. 4 Storey residential is out of keeping with our Village and whilst we are aware that it is Coleman Hicks vision for Kildington to have 4 storey dwellings, it is not the vision of our residents more importantly! Where 4 storey blocks do that exist is on the High Street, this is a one off vicinity where taller buildings might be expected, however, this is still only 3 storey residential over commercial. 4 Storey in Sterling Road Approach is out of keeping with the rest of Kidlington and the number of units created by the four stories contributes to an overdevelopment of the site.

Connectivity. Policy ESD 15 of the Cherwell adopted local plan *“respects routes and integrates with the existing streets”*. Policy ESD 15 also promotes *“permeable , accessible and easily understandable places by creating spaces that connect with each other”*. I believe that the submitted application contravenes both Policy ESD 15 and Policy C235 of the Cherwell Local Plan which aims to *“assist with the connectivity between the existing village centre and the civic, community and green open space of the Exeter Hall area”*.

This development halts connectivity, provides no access to other areas of public interest/access such as the health centre, library, chemist, bank and so on.

Coop car parking area. I questions the access to the Coop car parking and service area. With restricted vision and the bend being only metres away I beleive there is danger that vehicles will back up in Sterling Road Approach and large lorries will not have the capacity to turn in and out of the space. While the opening will be larger the width of the road is not and as it stands delivery trucks have to reverse into the car park. Trucks need a completely different access area in my view

Whilst this is not the concern of the developer, I believe that there is insufficient shopper parking remaining on the site. This will have a detrimental effect on the vitality of Kidlington centre and is therefore contrary to **Policy Kid 2** of the Local Plan.

Developer contributions.

Outdoor play and recreation As part of the development on this site I would like to see developer contributions towards play and outdoor recreation facilities. The development site is in very close proximity to the Exeter Close recreation site which will be used by the residents of the site and others.

Cycle routes This is as an opportunity to reroute the national cycle route 51 that passes down the partially pedestrianised High Street.

Other matters.

Since this is going to be such a large site and will be viewed by all of residents who visit this part of Kidlington it is vital that restrictions are placed on the leases pertaining to these properties via their managing agents.

I would like to see the condition placed whereby no "For Sale, Sold, To Let or Let sign are permitted on site. Already in the High St there are restrictions which is essential if our High is to retain some decorum! On smaller developments where the use of signs is permitted we already receive complaints of how unsightly it is and we must not have this 10 fold! In addition residents must have restrictions imposed forbidding washing on lines, washing over balconies and bicycle on balconies etc. To this end I also wish to see adequate and appropriate cycle storage and outside drying areas.

- In view of the sustainability of the location and expected use of buses a bus layby within the complex should be considered and would be beneficial and would also remove the danger of the stop currently located outside Tescos which is hazardous due to visibility for motorists.

These are my objections and I intend to speak at the Council meeting to represent them to council.
Thank you
Best wishes
Carmen

KIDLINGTON PARISH COUNCIL

Exeter Hall, Oxford Road, Kidlington, Oxon. OX5 1AB



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E-Mail - clerk@kidlington-pc.gov.uk

Clerk: Mrs Patricia Redpath D.M.A.

Bob Duxbury BA (Hons) MRTPI
Development Control Team Leader
Development Management
Cherwell District Council

Dear Bob,

29th December 2016

Application 15/01872/F: Midlands Cooperative Society and Cantay Estates Ltd

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination **must be made in accordance with the plan unless material considerations indicate otherwise.**

Kidlington Parish Council has always maintained support for the principal of appropriate mixed use of residential and retail development on this site.

However, the Parish Council retains its objection to this particular proposal which it believes has diverted from the adopted Part 1 Local Plan without proving that "material considerations" indicate otherwise. Planning Practice Guidance describes a material consideration as "***one which is relevant to making the planning decision in question***".

The Parish Council reminds the Planning Committee that the Kidlington Framework Master Plan was adopted by Cherwell District Council on 19th December 2016 and is therefore a material consideration.

The Parish Council supplements its earlier objections as follows:

1. LOSS OF RETAIL SPACE

Policy Kidlington 2 (Strengthening Kidlington Village Centre) states that: "residential development will be supported in appropriate locations in the village centre **except where it will lead to a loss of retail** or other main town centre uses.... Mixed use schemes will be encouraged"

The Parish Council previous objection highlighted that the loss of retail space **will** be detrimental to the vibrancy of the Kidlington centre and contends that:

- No retail impact assessment has been carried out to justify the loss of retail floor space i.e. it has not been demonstrated that the need for housing on the site outweighs the need for retail use; nor
- Despite the fact that the Co-Operative have suggested that it may not be economically viable for them to operate their retail facility as it currently stands, no evidence has been given to suggest that the use of the site for other retail purposes has been tested;

Moreover, the Monitoring Framework set out at Appendix 6 of the Local Plan includes reference to Policy Kidlington 2 and sets out local plan indicators and targets to demonstrate that the policy has been complied with. Targets include:

- Maintain or improve the balance of uses within the town centre over the plan period (p383) and
- No net loss of town centre use floorspace within Kidlington Village Centre (p384)

The Kidlington Framework Master Plan Theme 3 (6.3) refers to Policy Kidlington 2 stating that the Local Plan "recognises that it is important that the Village Centre is supported and strengthened to help meet the aspirations of Kidlington and to ensure that the everyday shopping needs of residents are met, avoiding the need for unnecessary journeys to Oxford, Bicester and other destinations."

2. DESIGN AND CONNECTIVITY

Policy ESD 15 (The Character of the Built and Historic Environment) of the Cherwell adopted Local Plan says that "Successful design is founded upon an understanding and respect for an area's unique built, natural and cultural context, new development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design." It says that new development proposals should:

"Respect the traditional pattern of routes, spaces, blocks, plots, enclosures and the form, scale and massing of buildings. Development should be designed to integrate with existing streets and public spaces, and buildings configured to create clearly defined active public frontages."

Policy ESD 15 also promotes "permeable, accessible and easily understandable places by creating spaces that connect with each other, are easy to move through". The Parish Council believes that the submitted application in the context of the Kidlington village centre contravenes both **Policy ESD 15** and **Policy C235** of the Local Plan which aims to "assist with the connectivity between the existing village centre and the civic, community and green open space of the Exeter Hall area."

This is reflected in the Kidlington Framework Master Plan which Theme 3 (3.3.6) creates the objective "to physically integrate Kidlington's neighbourhoods, village centre and employment areas", and Theme 6 (6.3.1) – "Potential for an improved network of secondary pedestrian routes ... to increase connectivity between east and west."

Much work has been done through the Kidlington Health Check Action Plan to note the necessity of good connections between the estates located on the east of Oxford Road and the High Street shopping centre to the west, with the promotion of footpaths and cycle routes through Exeter Close towards the centre. The route through the existing Co-Operative car park, though informal, has been a common pedestrian route for decades and is a valuable contribution to this connectivity.

The Council's Design and Conservation Officer did not think that the proposal was policy compliant and the revised plans submitted by the Applicant did not address the concerns of the Officer i.e. there was no meaningful reduction in density, no reduction in the number of units and no significant change to the design and massing of the proposal; **nor provision of pedestrian linkage between the High Street and the Exeter Close civic site.**

The Monitoring Framework set out in Appendix 6 of the Local Plan includes reference to ESD15 (p377) and gives a target of:

- **No permissions granted contrary to design consultee advice on design grounds**

3. **AFFORDABLE HOUSING**

There is no provision within the application for on site affordable housing which is against the Local Plan policy for Kidlington that any development over 10 units provides 35% of its units as affordable housing.

Policy BSC 3 (Affordable Housing) states that "at Kidlington and elsewhere, all proposed developments that include 11 or more dwellings (gross), or which would be provided on sites suitable for 11 or more dwellings (gross), will be expected to provide at least 35% of new housing as affordable homes on site. All qualifying developments will be expected to provide 70% of the affordable housing as affordable/social rented dwellings and 30 % as other forms of intermediate affordable homes,"

The applicant claimed that provision of affordable housing in accord with Policy BSC 3 was unviable and complied with an Open Book assessment. The offer from the Applicant on the claim

of unviability is for eight discounted private rented flats at 75% market rental value with full nomination rights to the Council for a period of 25 years. No permanent affordable housing is being offered.

Kidlington Parish Council commissioned its own assessment of the viability appraisal and whilst the Parish Council has not seen the appraisal - which was provided to its consultant on a confidential basis - the Parish Council is aware that the assessment was undertaken on a valuation of the property as existing. This approach to valuation, suggests a potential for **continuance of the existing use** which appears contradictory as a calculation on an existing use value - by its very nature - assumes a continuing demand for the property whereas the applicant justifies the loss of retail floor space as a claim for its retention being non viable.

The Planning Authority has a five year land supply within the current adopted Part 1 Local Plan with no **current** pressing need for additional land to be released for housing. Material considerations (i.e. housing need) therefore do not appear to indicate that the development plan should be departed from in this instance.

4. OVERDEVELOPMENT AND HEIGHT

In terms of Policy Villages 1, this policy states that "*proposals for residential development within the built-up villages (including Kidlington) will be considered having regard to the categorisations below.*" "Minor development, infilling or conversions" are the only type of development listed against Kidlington. The Application is not a 'minor' development within the context of the village centre of Kidlington.

The Parish Council has already commented that the Design and Conservation Officer did not think that the design was policy compliant. The revised plans submitted by the Applicant did not address the concerns of the Officer with no meaningful reduction in density, no reduction in the number of units and no significant change to the design and massing of the proposal.

Kidlington Parish Council and local residents have complained about the height of the proposal as being unsympathetic with the neighbouring street scene i.e. there are no 4 storey residential buildings in the area and Sterling Road Approach – where the development will be located - abuts Exeter Road which is normal two storey residential dwellings.

The Parish Council repeats its earlier comment that there should be:

- **No permissions granted contrary to design consultee advice on design grounds**

5. COOP CAR PARKING AREA

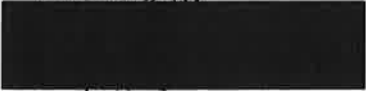
The Parish Council continues to question the access to the Coop car parking and service area as [proposed, and whether there is sufficient space for large vehicles to pass or if there is danger that vehicles will back up in Sterling Road Approach.

Furthermore the Parish Council believes that there is insufficient shopper parking remaining on the site which will have a detrimental effect on the vitality of the Kidlington Centre and is therefore **contrary to Policy Kidlington 2 of the adopted Local Plan.**

6. DEVELOPER CONTRIBUTIONS AND OTHER MATTERS

The Parish Council considers the full range of s106 contributions as requested by the Parish Council and Oxfordshire County Council be obtained for this development if permission is granted; plus affordable housing in accord with Local Plan Policy. It seeks the appropriate mix of some rented and social ownership housing. Without the full range of s106 contribution there is no justification for a planning permission as an exception to Local Plan Policy Kid 2.

Yours sincerely


Patricia Redpath
Clerk to the Council

KIDLINGTON PARISH COUNCIL

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Clerk: Mrs Patricia Redpath D.M.A.

Bob Duxbury BA (Hons) MRTPI
Development Control Team Leader
Development Mangement
Cherwell District Council

Dear Bob,

29th December 2016

Application 15/01872/F: Midlands Cooperative Society and Cantay Estates Ltd: Retail and Office Impact Assessment

The Parish Council and its planning adviser have considered the Retail and Office Impact Assessment by DPDS and have noted that Para 1.2 highlights the competing objectives within the wording of Local Plan Policy Kidlington 2 that:

"Residential development will be supported in appropriate locations in the village centre except where it will lead to a loss of retail or other main town centre uses"; and:

"The change of use of sites used for main town centre uses in the Village centre for residential development will normally be permitted if proposals contribute "significantly to the regeneration" of the Village centre. Mixed use schemes will be encouraged."

The Parish Council is therefore of the view that the test is whether the proposed development as a whole contributes **significantly to the regeneration** of the village centre. The question should be to what extent does developing the site (which is mostly a car park - currently serving parking for multiple shopping visits in the village centre as well as the Coop) with a single use scheme of 52 flats constitute **significant regeneration** of the village centre? The loss of a significant area of parking is in itself detrimental to long term policy objectives of the Local Plan Part 1 and the recently adopted Masterplan to regenerate the central shopping area.

Para 2.1 claims that the centre is large for a village but ignores the fact that Kidlington is one of only three "urban centres" within Cherwell District. Paragraph C.1218 of the adopted Local Plan Part 1 states that Kidlington is both an **urban centre and a village**".

It is a village in name only and the current centre is not considered to be large for the size of the population, and this is reflected in Para 2.2 which identifies a lack of vacancies giving clear evidence that the village centre is thriving. Furthermore Para 2.7 even describes the extremely low vacancy rate as "startling", and nothing in the DPDS assessment says anything other than the centre is in very good health (e.g. paras. 2.22, 2.23, and 3.15). Anecdotal evidence indicates that shoppers come to Kidlington BECAUSE of the good parking. Loss of the Coop car park could also have a potential impact on that situation.

Paras 2.20, 2.21 and 3.6 - If the Co-op wishes to "reduce its floorspace on the village centre" because the store is currently "not attractive to customers", why can't more be done to improve its attractiveness to customers, rather than having to lose 67% of its retail floorspace?

Para 3.6 notes that there is considerable opportunity to use the floor space more efficiently and this used to be the case in the current Coop. many items previously sold in the store have now been discontinued e.g. soft furnishings, garden equipment, cookery items, toys etc. The Coop has not provided evidence as to why these non food elements – which are still on sale in other large Coop stores e.g. Witney- have been withdrawn,

Potentially, another retailer could utilise the available floorspace better so that it is more attractive to customers.

Paras 2.23 and 4.1 - It is not correct to describe the catchment area as "quite small to support a district centre". As stated, Kidlington is one of the three (only) urban centres within Cherwell District. There is a current public consultation on where to provide the 4400 house allocation to meet "Oxford's Unmet Need". The area of search for these houses is in and around the Kidlington area. The consultation includes a review of the Green Belt that will need to be in accordance with the NPPF. This consultation as part of the Local Plan Review Part 1 represents a material change in circumstances. Whilst this is an early consultation Cherwell DC has given a commitment to addressing the unmet housing need for Oxford that has the potential for a significant impact upon Kidlington, in particular the need for the shopping centre to service a substantially larger population

Given Kidlington's current size and population, it is already used by a number of villages that form the local hinterland for retail and this need will increase with anticipated enlarged population of the area to meet Oxford's needs. The retail assessment refers to other shopping centres that take away some of the demand from Kidlington. Of these Summertown serves a completely different market and Woodstock residents frequently travel the short 3.6 miles preferring the larger Coop and alternative shops to the smaller Coop in Woodstock centre with its restricted parking. There is also now four bus services an hour between Kidlington and Woodstock which will further increase the flow of shoppers that was introduced in December 2016. It is also extremely unlikely that anyone in the Kidlington area would travel to Headington on a regular basis. The Headington shopping centre has poor parking facilities and is a difficult 6.9 mile journey away from the centre of Kidlington and even further from the Kidlington hinterland. The Retail Assessment provided no substantive evidence that these centres took away business or competed with the centre of Kidlington.

It is interesting to note that an exercise undertaken in Kidlington High Street on three consecutive Saturdays prior to Christmas – undertaken to publicise the consultation on the additional housing proposals for the area – not only revealed a large number declining to contribute because "I don't live in Kidlington" but among those who signed up and gave addresses there were people from Abingdon, Begbroke, Bicester, Bladon, Bletchingdon, Cassington, Cumnor, Eynsham, Gosford, Hampton Poyle, Islip, Kirtlington, Otmoor, Oxford, Tackley, Upper Noke, Weston On the Green, Witney, Wolvercote, Woodstock, Wooton-by-Woodstock, Wytham and Yarnton.

It is clear that in spite of the current limited retail provision of the Kidlington High Street Centre that there is an attraction from outlying areas that is probably due to the good parking facilities available, which reinforces the point that without a retention of a substantial amount of the car park opportunities to regenerate the centre are being lost.

Para 2.4 - The comment that "the commercial indicators suggest that commercial development would now be difficult" is not informed by the likely population growth of Kidlington (i.e. to help meet Oxford's Unmet Need) and the consequent increase in retail demand.

Paras 3.9, 3.12, 3.14 and 3.15 – as the population of Kidlington is likely to increase even more substantially (i.e. to help meet Oxford's Unmet Housing Needs), which will further support the vitality and viability of the village centre – hence the greater need to retain existing retail floorspace. Even with the issue of Oxford's Housing Needs the adoption of the Kidlington Masterplan as an SPD represents a material change in circumstances for dealing with the potential loss of retail space in the centre of Kidlington.

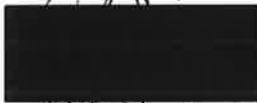
Paras 3.14, 3.15, 3.20 and 4.3 There has been no market testing so it is **not known** if there is **(3.14) "little evidence of demand" and to substantiate the "doubt there would be a ready demand"** to sub-divide the existing store – either lengthwise (i.e. fronting High Street) or sideways (i.e. fronting Sterling Road Approach).

CONCLUSION

The District Council should be seeking to **enhance** the vitality and viability of the village centre , not just avoid **significantly weakening** it at a time when the population catchment is set to increase. Once lost, it will be difficult to replace retail floorspace and car parking given that current residential land value within the village centre – e.g. the current planning application is for a single use scheme of 52 flats.

The need for the Coop (Paras 3.5 and 3.6) to rationalise its floorspace does **not**, in itself, provide a justification for the loss of overall retail floorspace within the village centre.

Yours sincerely



Patricia Redpath
Clerk to the Council

- 7 OCT 2016

For the attention of Sue Smith, Chief Executive
Cherwell District Council
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cathryn.tracey@burgess-salmon.com

Our ref: CY02/PR01/40141.6/TRACE

Your ref:

6 October 2016

When telephoning please ask for: Cathryn Tracey

Dear Sirs

Judicial Review Pre-Action Protocol: Letter Before Claim

The Claimant

- 1 We act on behalf of Kidlington Parish Council ("KPC") of Exeter Hall, Oxford Road, Kidlington, Oxon OX5 1AB, the proposed Claimant in this matter.
- 2 A planning application (with reference 15/01872) (the "Application") for the erection of new buildings off Sterling Road Approach to contain 44 x 2 bedroom flats, conversion of offices above existing retail store to form 8 x 2 bedroom flats, alterations to the existing retail store, construction of new accesses, car parking, service and turning areas and landscaping (the "Development") has been made by Midcounties Cooperative Society and Cantay Estates Ltd (the "Applicant") to Cherwell District Council (the "Council"). KPC is the relevant parish council for the area within which the proposed Development is situated and objected to the Application.

Details of the matter being challenged

- 3 The matter being challenged is the resolution of the Council's Planning Committee on 4 August 2016 to grant planning permission for the proposed Development.

The Issue

- 4 The Council's decision to grant planning permission was unlawful for the reasons summarised below.

Background

- 5 The Applicant submitted the Application for the Development, which was received by the Council on 14 October 2015 and validated on 16 November 2015.
- 6 KPC is a statutory consultee and submitted an objection to the Application dated 11 December 2015. The objection made it clear that KPC supports the principle of appropriate mixed use residential and retail development on the site, which it sees as a sustainable location. However, KPC objected to the Application on grounds summarised as follows:
 - (a) Loss of retail space contrary to Policy Kidlington 2 of the Cherwell Local Plan 2011 – 2031 (adopted on 20 July 2015) (the "Local Plan") and which would be detrimental to the vibrancy of the Kidlington centre;

WORK27385925/v.1

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- (b) Lack of demonstration by the Applicant that retaining existing retail space or providing additional space is not commercially viable;
 - (c) Lack of connectivity contrary to Policies ESD15 and C235 of the Local Plan;
 - (d) Lack of affordable housing provision contrary to the Local Plan;
 - (e) Overdevelopment and height of the proposed development;
 - (f) Service/access arrangements;
 - (g) Insufficient shopper car parking contrary to Policy Kidlington 2 of the Local Plan;
- 7 KPC also suggested various developer contributions including for offsite play equipment for children and adults and amendments to cycle routes. It also requested a restrictive planning condition limiting 'for sale' signs and for appropriate cycle storage and outside drying areas to be provided as part of the proposed development. KPC suggested that a bus layby within the complex would also be beneficial and may remove the danger of the existing bus layby within the village.
- 8 Amended plans were then submitted by the Applicant and re-consultation took place. KPC submitted a response to that re-consultation dated 29 April 2016, in which it upheld its original objection. In addition, KPC added the following comments:
- (a) KPC's previous comments seeking a bus layby and cycle links have not been addressed;
 - (b) The reduction in height in Block A is mere tokenism;
 - (c) There is no precedent for four storey residential development away from the High Street; and
 - (d) KPC wishes to see materials that are consistent with the development on the former market site.
- 9 In addition, KPC attended the Council's Planning Committee meeting on 4 August 2016 and Alan Graham, on behalf of KPC, addressed the Committee in objection to the Application.
- 10 The Council's case officer, Bob Duxbury, provided a report (the "OR") to the Planning Committee in relation to the Development which recommended that the Application should be approved. That recommendation was repeated in oral advice given by Mr Duxbury to the Planning Committee on 4 August 2016.
- 11 The following points are to be noted about the advice given to the Planning Committee:
- (a) The planning policy comments conclude (at paragraph 3.4 on page 186) that "the proposed development needs to contribute significantly to the regeneration of the village centre to comply with policy Kidlington 2. To help determine whether this would be achieved, the advice of the Design and Conservation Team should be taken...High quality design that significantly improves the quality of the built environment, thereby assisting the vitality of the town centre, would be supported from a policy perspective..."
 - (b) The Design and Conservation Officer concludes (at paragraph 3.5 on page 188) that "It is my view that the proposed development is too dense for the site...a substantial reduction in the number of units is required alongside significant changes to the design and massing of the building for the proposals to be acceptable."
 - (c) The Housing Investment and Growth Officer "reluctantly" came to the conclusion (at paragraph 3.9 on pages 189 - 190) that the principle was acceptable in policy terms and that

"Given the evidence provided it would seem that this is the best position we can hope for in terms of securing affordable housing on this development."

- (d) When considering Policy Kidlington 2, the OR notes, at paragraph 5.3 (page 196) that "the policy states that residential development will be supported in appropriate locations except where it will lead to the loss of retail and other main town centre uses." It then goes on to acknowledge that the "proposal reduces the size of the building resulting in a reduction in retail floorspace from 1,106 sq. metres to 463 sq. metres and all of the office use will be lost...". Paragraph 5.4 concludes that "whilst a reduced quantum of retail floorspace is proposed to be removed the operational entities will remain. In such circumstances your officers believe that it would be difficult to resist this development on the grounds of loss of retail and other town centre uses."
 - (e) The OR also considers whether the grant of the Application would result in the loss of opportunity for a different scheme to come forward on the same site which would comply with the aspirations in the emerging Kidlington Framework Masterplan. Paragraph 5.6 of the OR (page 197) makes clear that only limited weight can be attached to the draft masterplan. It is also stated that "There must be some doubt whether there are developers wanting to undertake the form of development described [in the masterplan] and whether it is viable."
 - (f) In relation to scale and design, no further comments are included on the development (as amended) from the Design and Conservation Officer. It is explained at paragraph 5.12 (page 198) that "The amended proposals have been altered to increase the set back from the road, introduce considerable articulation of the building line relative to the road and change the effective roofline when viewed from road level." The OR concludes at paragraph 5.15 (page 198) that the officers are "content that with the revisions negotiated the building will be an improvement over the existing streetscene and will not cause harm to the character or appearance of the village centre."
 - (g) In respect of affordable housing, paragraph 5.23 (page 200) explains that, because the Applicant made it clear that the development would not be viable if asked to provide 35% affordable housing as required by Policy BSC3 of the Local Plan, an open book financial assessment of the proposal was required. Paragraph 5.24 (page 200) states that the outcome of the assessment was that the development "was indeed unable to fund the normal requirement for affordable housing requirements." After discussing the alternative offer of 8 discounted units offered by the Applicant, the paragraph then concludes that "In the circumstances of this case this is considered acceptable, and furthermore is the best arrangement that can be reached."
 - (h) At paragraph 5.27 (page 201) the OR refers to draft supplementary planning guidance on Planning Obligations and uses advice from that guidance to prioritise the contributions which the Applicant is able to offer.
- 12 At the Planning Committee Meeting, after going through the matters set out in the OR, Mr Duxbury concluded that he believed the proposed Development to be a good scheme, the best scheme there could be and the best deal on contributions. Following representations from Councillors, Mr Duxbury also added that, in relation to the reduction in retail space, this could be increased but it would reduce the number of residential units and so would harm the economic situation. He said that if the Committee rejected this scheme he was not sure what other schemes would come forward and he was not sure if there is evidence or demand for increased retail floor space. Mr Duxbury cautioned refusal on the basis that he was not sure what else would emerge (in terms of potential redevelopment of the site), he also thought that if the contributions 'deal' was refused, an Inspector would say that the case had been proven. He also cautioned the use of the draft Kidlington Masterplan because it was not far enough through the process to give significant weight to.

- 13 Mr Duxbury advised the Committee that if they were minded to refuse the application, they should concentrate on Policy Kidlington 2, which is open to interpretation but does allow residential development if it contributes to regeneration. He also referred to Policy ESD15 and explained that design was a subjective matter but that negative views on the design were not shared by officers.
- 14 The motion to refuse the Application was then taken and had six votes for and six votes against and was decided by the Chairman's casting vote, who voted against the motion.
- 15 Mr Duxbury then queried whether there was any alternative proposal and that failure to carry through this Development could see the Co-Op pull out [of trading at the retail premises], although he added that was speculation.
- 16 The motion to approve the Application was then taken and was passed by seven votes to six.

Proposed grounds of challenge

- 17 The decision to grant planning permission for the Development was unlawful because:
- (a) **Ground 1:** there has been a failure to observe the correct statutory procedure for determining planning applications i.e. there has been a failure to give adequate reasons for the decision to depart from the policy set out in the development plan.
 - (b) **Ground 2:** there has been a failure to take proper account of material considerations and irrelevant considerations have been taken into account.
- 18 Ground 1
- 18.1 Section 70(2) of the Town and Country Planning Act 1990 requires that in dealing with an application for planning permission, an authority shall have regard to:
- (a) the provisions of the development plan, so far as material to the application,
 - (b) any local finance considerations, so far as material to the application, and
 - (c) any other material considerations.
- 18.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 then states that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 18.3 At no point was the Planning Committee reminded of the above test. It was not explained in the OR, nor was it referenced at the Committee meeting.
- 18.4 It is clear from the above extracts from the OR that various aspects of the Development do not comply with the Local Plan. These include Policy BSC3 (Affordable Housing), Policy ESD15 (The Character of the Built and Historic Environment), Policy Kidlington 2 (Strengthening Kidlington Village Centre) and Policy Villages 1 (Village categorisation).
- 18.5 Non-compliance with the Local Plan is of course not fatal to a proposed development. However, material considerations must then indicate why the decision should not be made with regard to the provisions of the development plan.
- 18.6 In respect of the departure from Policy BSC3, the reason given to depart from the policy is that the Development would be unviable if it had to comply and that this had been demonstrated through a viability appraisal. It was stated that the offer from the Applicant of eight discounted private rented

flats at 75% market rental value with full nomination rights to the Council for a period of 25 years was "the best position we can hope for". No permanent affordable housing is being offered. The Council has a five year land supply and the planning policy comments in the OR include a statement that there is not a current pressing need for additional land to be released for housing. Material considerations (i.e. housing need) therefore do not appear to indicate that the development plan should be departed from in this instance.

- 18.7 In respect of the departure from Policy ESD15, it is clear from the OR that the Council's Design and Conservation Officer did not think that the proposal was policy compliant. The revised plans submitted by the Applicant did not address the concerns of the Officer i.e. there was no meaningful reduction in density, no reduction in the number of units and no significant change to the design and massing of the proposal. Despite this, officers concluded that the design was considered satisfactory. It is not clear what the material considerations were that justified approving a scheme which was described by the Council's own Design and Conservation Officer as not acceptable.
- 18.8 Policy Kidlington 2 was discussed on a number of occasions throughout the OR and during the Committee meeting. Mr Duxbury concluded that because the retail offer itself was not being lost, rather that over half of the retail floor space was being lost, it would be "difficult to resist" the development on grounds of loss of retail and other town centre uses. No other reasons seem to be given for departing from the clear policy wording, which states "Residential development will be supported in appropriate locations in the village centre expect where it will lead to a loss of retail or other main town centre uses."
- 18.9 In terms of Policy Villages 1, this policy states that "proposals for residential development within the built-up villages (including Kidlington) will be considered having regard to the categorisations below." "Minor development, infilling or conversions" are the only type of development listed against Kidlington. The Application is not a 'minor' development within the context of the village centre of Kidlington. However, this policy and any departure from it have not been obviously considered in either the OR or by the Planning Committee. As a result, no material considerations have been given for departing from this policy.
- 19 Ground 2:
- 19.1 Section 70(2) of the Town and Country Planning Act 1990 requires that in dealing with an application for planning permission, an authority shall have regard to:
- (a) the provisions of the development plan, so far as material to the application,
 - (b) any local finance considerations, so far as material to the application, and
 - (c) any other material considerations.
- 19.2 Planning Practice Guidance describes a material consideration as "one which is relevant to making the planning decision in question".
- 19.3 There has apparently been no consideration of the following issues, which KPC submits are material considerations that should have been taken into account in the decision making process:
- (a) No retail impact assessment has been carried out to justify the loss of retail floor space i.e. it has not been demonstrated that the need for housing on the site outweighs the need for retail use;
 - (b) Despite the fact that the Co-Operative have suggested that it may not be economically viable for them to operate their retail facility as it currently stands, no evidence has been given to suggest that the use of the site for other retail purposes has been tested;

- (c) The Monitoring Framework set out at Appendix 6 of the Local Plan includes reference to Policy Kidlington 2 and sets out local plan indicators and targets to demonstrate that the policy has been complied with. Targets include:
- (i) Maintain or improve the balance of uses within the town centre over the plan period; and
 - (ii) No net loss of town centre use floorspace within Kidlington Village Centre.

The Monitoring Framework acts as a useful guide to encourage compliance with policy and has not been considered at all in the decision making process; and

- (d) The National Planning Policy Framework is a material consideration which has not been taken into account. Particularly relevant paragraphs include the following:
- (i) Paragraph 17: [Planning should] "be genuinely plan-led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of the area. Plans should be kept up-to-date, and be based on joint working and co-operation to address larger than local issues. They should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency".
 - (ii) Paragraph 23: "Planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres over the plan period. In drawing up Local Plans, local planning authorities should:
 - recognise town centres as the heart of their communities and pursue policies to support their viability and vitality;
 - promote competitive town centres that provide customer choice and a diverse retail offer and which reflect the individuality of town centres;
 - allocate a range of suitable sites to meet the scale and type of retail, leisure, commercial, office, tourism, cultural, community and residential development needed in town centres. It is important that needs for retail, leisure, office and other main town centre uses are met in full and are not compromised by limited site availability. Local planning authorities should therefore undertake an assessment of the need to expand town centres to ensure a sufficient supply of suitable sites;
 - recognise that residential development can play an important role in ensuring the vitality of centres and set out policies to encourage residential development on appropriate sites; and
 - where town centres are in decline, local planning authorities should plan positively for their future to encourage economic activity".

19.4 Irrelevant considerations also appear to have been taken into account in the decision-making process, as follows:

- (a) The OR and Mr Duxbury at the Planning Committee meeting considered that the (unevidenced) assumption that no other schemes were likely to come forward on the site was a reason to grant this Application; and

- (b) Despite the fact that Mr Duxbury makes it clear that the draft Kidlington Masterplan should not be afforded much weight, he bases the prioritisation of contributions in the OR on the draft Supplementary Planning Document on Planning Obligations, without providing any caution over the fact that this is also a draft document.

Details of the action that the defendant is expected to take

- 20 For the reasons summarised above, KPC requests the Council to take the following steps:
- (a) Undertake not to issue a grant of planning permission for the Development unless and until it has considered the issues raised in this letter and provided a substantive reply;
 - (b) Undertake not to issue a grant of planning permission for the Development unless and until the application has been put back before the Planning Committee for reconsideration and decision with advice which addresses the issues raised in this letter; and
 - (c) Remit the Application to the Planning Committee for reconsideration (with advice which addresses the issues raised in this letter).

Details of any Interested Parties

- 21 A copy of this letter has been sent to:

The Midcounties Co-operative, Co-operative House, Warwick Technology Park, Gallows Hill, Warwick CV34 6DA

Cantay Estates Ltd, Hawridge Place, Hawridge, Chesham, Bucks, HP5 2UG

Mr Nik Lyzba, JPPC Chartered Town Planners, Bagley Croft, Hinksey Hill, Oxford, Oxfordshire OX1 5BD

Oxfordshire County Council, County Hall, New Road, Oxford OX1 1ND

ADR proposals

- 22 In view of the nature of the challenged decision, there is considered to be limited scope for ADR. However, the purpose of writing this letter before claim ahead of the Council's formal grant of planning permission is to enable the Council to address our client's concerns through its own internal decision-making procedures, without having to resort to litigation.

The details of any information sought and any documents that are considered relevant and necessary

- 23 Please could you provide us with copies of any internal communications relating to this matter (i.e. in addition to those which are available on the public planning file) including any emails, memoranda and other recorded communication concerning the issues identified in the grounds for challenge set out above.
- 24 In addition to those specific requests, we remind the Council that it has a duty of candour in judicial review proceedings and it must therefore consider whether there are any further documents or any information that should be disclosed having regard to the proposed grounds set out above.

The address for reply and service of court documents

- 25 The address for reply and service of court documents is as follows:

Burgess Salmon LLP

One Glass Wharf
Bristol
BS2 0ZX

Tel: 0117 307 6063
Fax: 0117 902 4400

Email: cathryn.tracey@burges-salmon.com

Please mark any correspondence for the attention of Cathryn Tracy (CY02/PR01/40141.6).

Proposed reply date

- 26 In view of what we understand to be the imminence of the issuing of the grant of planning permission for the Development, which would prevent the Council from taking the second and third steps set out above, and the short time limit for making an application for permission to apply for a judicial review in a planning case, we would propose a staggered response as follows:
- (a) A response to confirm whether the Council will give the first of the undertakings requested in relation to the issue of the planning permission by 5pm on Monday 10 October 2016; and
 - (b) A substantive response to the matters raised in this letter within 14 days, i.e. by 5pm on Friday 21 October 2016.

Planning Court

- 27 Under CPR 54.21(2), the proposed claim, if brought, would be a Planning Court claim as it relates to the judicial review of a planning permission. It should be classified as a significant claim as it raises important points of law regarding misdirection as to the development plan and it is likely to generate significant public interest in and around Kidlington due to the nature of the scheme involved and the level of opposition raised to the Application previously.

Yours faithfully



BURGES SALMON LLP

6.0

Theme 3: Strengthening Kidlington Village Centre

6.1 Summary of key issues:

- The Village Centre operates as a local service centre and has a regular market. Co-op and Tesco are anchor stores and there is a high number of A2 uses (services, banks etc.) but limited comparison retail. There are a low number of vacant units and a low number of national multiples.
- The centre is well located geographically at the centre of the village and is well served by car parking. However, for village of its size, the Village Centre is underperforming and the evening economy is weak. A lack of high quality frontage onto Oxford Road, poorly located bus stops, a lack of pedestrian crossings and limited vehicle access points limit footfall from passing trade.
- There is a mishmash of architectural styles on the High Street and architectural and public realm design quality varies considerably.
- Surface car parking occupies large areas of land to the rear of the High Street. There is concern that long stay car parks are used as an informal 'park and ride' by bus users rather than by shoppers and as a result occupancy levels do not reflect the car parking need generated by Village Centre uses.
- Village Centre expansion is identified in the Local Plan to the west of Oxford Road. However the highway continues to act as a barrier and reported demand for retail premises is low.
- Local Plan Policy Kidlington 2 supports residential development in appropriate locations in the Village Centre.

6.2 Objectives

To strengthen the Village Centre, increasing its mix of uses and vitality and its attractiveness to local residents, employees and visitors as a place to shop, work and spend leisure time during the day and evening.

6.3 Relevant policies

Proposals will be required to have particular regard to the following Local Plan policies:

- Policy SLE 2: Securing Dynamic Town Centres
- Policy SLE 4: Improved Transport and Connections
- Policy BSC 2: The Effective and Efficient use of Land
- Policy ESD 15: The Character of the Built and Historic Environment
- Policy ESD 17: Green Infrastructure
- Policy Kidlington 2: Strengthening Kidlington Village Centre

The Local Plan recognises that it is important that the Village Centre is supported and strengthened to help meet the aspirations of Kidlington and to ensure that the everyday shopping needs of residents are met, avoiding the need for unnecessary journeys to Oxford, Bicester and other destinations.

Shopping, leisure and other 'Main Town Centre Uses' will be supported within the boundary of Kidlington Village Centre. Residential development will be supported in appropriate locations in the Village Centre except where it will lead to a loss of retail or other main town centre uses. The change of use of sites used for main town centre uses in the Village Centre for residential development will normally be permitted if proposals contribute significantly to the regeneration of the Village Centre. Mixed use schemes will be encouraged.

Paragraph C235 of the Local Plan states that it is proposed to expand the geographical area defined as Kidlington Village Centre to include land on the western side of the Oxford Road and other small areas of commercial uses. The exact boundary will be determined in Part 2 of the Local Plan. It states that the aim of the extension is to:

- Support the viability and vitality of the existing Village Centre.
- Encourage economic activity.
- Assist with the connectivity between the existing Village Centre and the civic community and green open space at the Exeter Hall area.



Figure 6.1 Food and drink- Brixton Market



Figure 6.2 Food and drink



Figure 6.3 Markets

- Contribute to and maximise the benefits of improvements to the character and appearance of the Village Centre and the public realm.
- It is appropriate therefore that this Framework supports these objectives without predetermining the identification of a precise boundary in Local Plan Part 2.

6.4 Opportunities

6.3.1 Redefine the character of Kidlington Village Centre

The Village Centre should be the focus for significant change and improvement which will bring obvious benefits to local businesses and residents and will be important in changing wider perceptions of Kidlington for the better.

In line with Local Plan Policy Kidlington 2, the designated boundary of Kidlington Village Centre should be expanded to include land to the west of Oxford Road and Exeter Close. The rear of Exeter Close, North Kidlington School, the Fire Station and Sorting Office, and historic properties on Banbury Road several of which contain retail/ office uses should be considered for inclusion within the boundary. These areas form the setting of the core Village Centre and contain or have potential to accommodate town centre and community uses.

The Framework establishes design principles for the Village Centre and identifies potential development sites which are listed below. Particular importance is placed on environmental improvements and encouragement of the evening economy. These principles should be tested and developed in a comprehensive Village Centre masterplan. This will establish detailed design guidance on the appropriate layout scale, quality and character that is expected of future development drawing from the planned District Design Guide SPD in relation to residential development. It will require further background studies to understand land ownership, site availability and develop a strategy for car parking to ensure the proposals are deliverable.

6.3.2 Village Centre design principles

Development within the Village Centre should be of an exemplary standard, reflecting the public role of the Village Centre and its importance in shaping perceptions of the village as a whole. The following principles should be considered in greater detail through the Village Centre masterplan in support of the proposals within the Framework, Local Plan Policy Kidlington 2 and ESD 15.

Townscape

- The existing character of the centre of Kidlington is mixed. There is little architectural coherence, with varied materials, heights and styles. New development on the High Street should aim to bring coherence to the street scene, responding to the height and setbacks of adjacent buildings and creating a continuous frontage to the street.
- Locally appropriate materials (limestone and local brick, slate or clay tile roofs) should be the primary materials used on elevations fronting the public realm.
- The potential expansion of Village Centre uses to the west of Oxford Road should be reflected in buildings of an appropriate character and increased scale (up to 3-4 storeys) to provide enclosure to the street.
- A hierarchy of streets should be established with High Street and Oxford Road reading as the principal streets and development on Sterling Road Approach subservient to this in scale and massing.

Connectivity and public realm

- Key Village Centre streets and pedestrian routes (identified on Figure 6.5) should be the focus for high quality public realm treatments. This includes the transformation of Oxford Road from a traffic dominated highway to a pleasant, people friendly street (further details are provided below) to support the proposed expansion of Village Centre uses to the west of Oxford Road. On the High Street the public realm character of the western section could be extended eastwards to reduce the dominance of the carriageway.



Figure 6.4 Example of a characterful new Village Centre at Poundbury, Dorset

- The potential for an improved network of secondary pedestrian routes is identified to increase connectivity between east and west, and provide opportunities for additional development frontage. This includes a new walking route between the Co-op and Red Lion car parks to enhance access to the shops on Oxford Road.
- Potential locations for improved public squares are identified at Watts Way Piazza, the junction of Oxford Road/High Street and the entrance to Exeter Close. Where redevelopment proposals come forward for these areas it will be expected that they assist in delivering these improvements to help achieve Policy Kidlington 2 and ESD 15 of the Local Plan. The largest space at Watts Way has the potential to become a focus for Village Centre daily life and special events. Small scale retail/residential development on the existing car park would create a new frontage to the square which would define and enlarge the public space.

6.0 Theme 3: Strengthening Kidlington Village Centre

Car parking and servicing

- Indicative locations for small scale single deck (2 level) car parks are suggested to decrease the surface area occupied by car parking and release sites for residential and retail development. A survey of car parking use and need would assist in establishing the opportunities to reconfigure car parking provision and management in the town centre, but not to the detriment of Village Centre trade.
- As a supporting action to the spatial proposals of the Framework free car parking could be managed (potentially through permits or tokens or a reduction in long stay parking) to ensure that it is used by those visiting Village Centre shops and facilities rather than purely for park and ride to Oxford.
- In considering any proposals for redevelopment, retail service areas should be reviewed to limit conflict between pedestrians/cyclists and motor vehicles.

Development and new uses

- New development should create active ground floor frontages to the primary and secondary pedestrian routes and streets, with particular emphasis on High Street and Oxford Road.
- The following uses would be particularly conducive in strengthening the retail offer and encouraging use of the Village Centre in the evening: retail and services, food & drink, leisure and cultural uses (e.g. gym, cinema, local museum), offices, residential, community facilities (e.g. library, healthcare, children's centre), public open space.
- The frontage to High Street and the central section of Oxford Road is the focus for primary retail/ food & drink or community uses on ground floor, but could have a broader mix of uses including residential and offices above. Opportunities to increase the range of retail premises available should be supported including identifying opportunities for larger floorplate units and premises for small businesses.

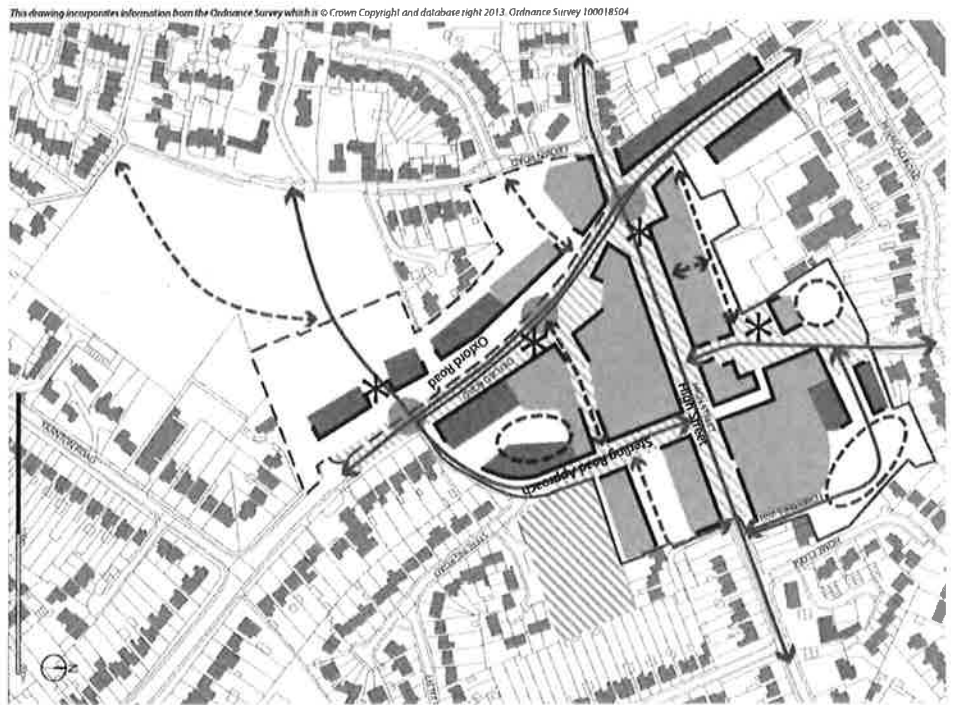


Figure 6.5 Indicative plan to illustrate potential extent of development [subject to options testing]

- Kidlington Village Centre boundary
- ▭ Local Plan proposed extension to Village Centre boundary
- ▭ Existing/proposed active frontages
- Primary retail area
- Community uses, secondary retail and residential
- Potential location for small scale multi-storey car park/decked car parks
- ▨ Potential longer term opportunity site
- Primary pedestrian route
- - - Potential for secondary pedestrian route
- ⋯ Potential longer term opportunities for pedestrian connections
- New/improved crossings
- ▨ Public realm improvements
- ★ Public squares

- The growth of A3 uses (food & drink) and the evening economy should be supported, to provide greater choice for local residents and an attractive destination for after work leisure time and weekends. In particular evening economy and high quality food and drink establishments could be supported along Oxford Road, where a cluster has already developed.
- In line with Local Plan Policy Kidlington 2, there is potential for residential development in appropriate locations within the Village Centre. Sites could include land released through the reconfiguration of the northern car parks, Co-op car park and small scale development at Exeter Close subject to the satisfactory reconfiguration of existing uses. This will help to increase spending power and vibrancy within the Village Centre and will support the growth of retail, services and the evening economy.
- Over time, the current single storey houses to the west of Oxford Road could be replaced with 2-3 storey buildings with retail or community uses, to mirror the scale of the eastern side of the street and create a stronger sense of enclosure to denote entry to the Village Centre. Any future redevelopment should be of high quality with well landscaped public spaces and tree planting.
- To the south, the focus is on community facilities and creating a strong link to Exeter Close.
- Office uses (B1) should focus on small to medium scale premises with an emphasis on supporting local residents wishing to start up their own business.

6.3.3 Transform Oxford Road from highway to street
Land to the west of Oxford Road is identified within the area of search for an expanded Village Centre. However, the character of Oxford Road is currently dominated by the highway, is not conducive to east-west pedestrian movement and is not an appropriate character for a Village Centre location.

Public realm improvements to Oxford Road are proposed to change the character from 'highway' to village centre 'street' signifying arrival into the Village Centre. Pedestrian priority will be increased between Exeter Close and Benmead Road, providing the right setting for high street uses to flourish and creating stronger east-west walking and cycling routes towards the Canal.

The detail of public realm proposals will need to be developed in consultation with the County Council as Highways Authority to ensure that Oxford Road's status as a priority route and any approved proposals emerging from the Local Transport Plan and its Oxford Transport Strategy can be accommodated.

Development proposals for central Kidlington should include consideration of the following in conjunction with both the County and District Councils:

- A new toucan crossing between the tower and Lyne Road to encourage greater access between east and west for pedestrians and cyclists.
- Moving the northern bus stops southwards so they are located close to the shops.
- Reconfiguring Oxford Road south of Lyne Road, by introducing on-street parking, street trees, bus stops, wider pavements and informal crossing points so that traffic is naturally slowed.
- Using the space created in front of the parade of shops for outside seating.

- Raised traffic platforms at pedestrian crossing points and junctions on Oxford Road to reinforce the 30mph speed limit.

Figure 6.6 illustrates one potential way to alter the character of Oxford Road to support the expansion of retail uses and to improve pedestrian and cycle connectivity and access to bus services. Such a scheme should tie in with planned Cycle Premium Route and Bus Rapid Transit improvements along the Oxford Road corridor. The potential impacts would need to be fully tested with the County Council as Highway Authority before implementation and should not significantly increase traffic congestion or delay public transport services.

6.0 Theme 3: Strengthening Kidlington Village Centre

- A. Junction reconfigured to allow for additional cycle and pedestrian 'oucan' crossings and segregated on street cycle route.
- B. Space outside Black Bull and adjacent buildings decluttered and redesigned to create extension to public square.
- C. Highways markings removed to reinforce pedestrian zone character. Cycling access reintroduced within pedestrianised zone.
- D. Bus stops relocated to be closer to retail and facilities.
- E. Highway and service road reconfigured to allow for segregated cycle route, on-street parking, wide pavements outside retail units to east and west.
- F. Red Lion and Co-op car parks linked by a new pedestrian connection.
- G. Southbound bus stop relocated from eastern end of High Street.
- H. Public realm upgrade to reduce dominance of the carriageway.
- I. Potential locations for raised traffic platforms to reinforce the speed limit.

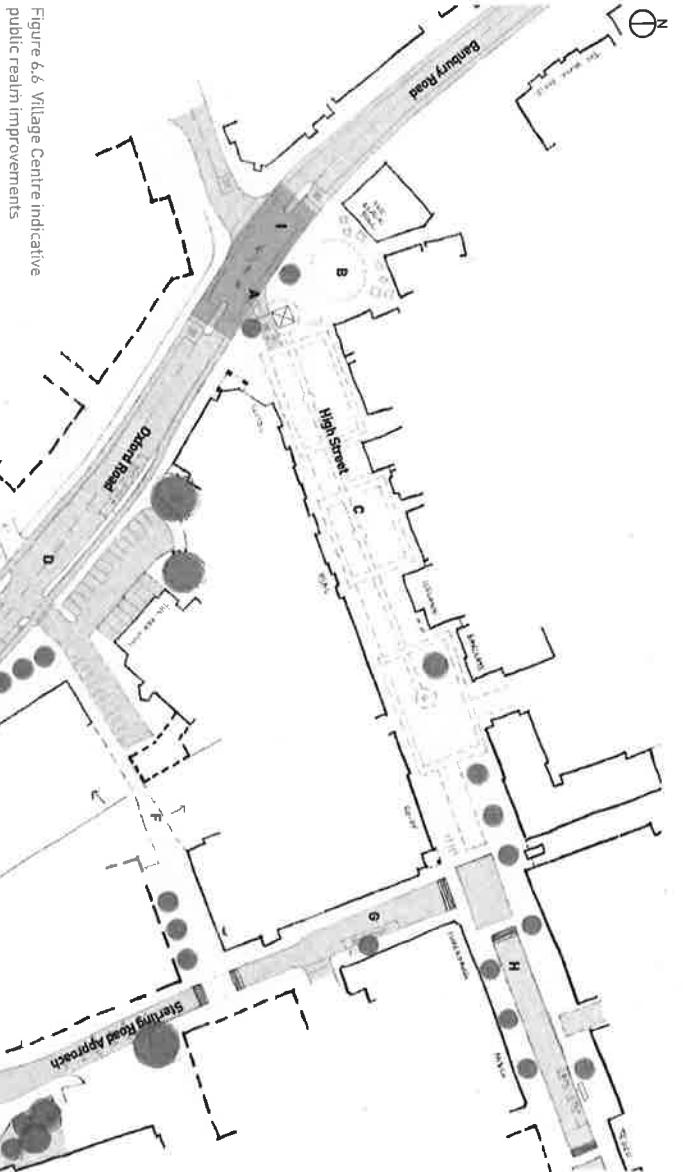
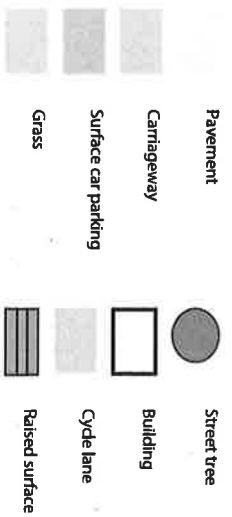


Figure 6.6 Village Centre indicative public realm improvements



Figure 6.7 Village Centre existing highway arrangements



6.3.4 Expand the Village Centre through new mixed use development

The following sites could be considered for redevelopment to enhance the character and mix of uses within the Village Centre (subject to assessment through Local Plan Part 2). A comprehensive approach will be required for their development:

- A. The Skoda garage is a large site (0.4ha) on a highly prominent corner site to the west of Oxford Road. The current building scale, car park forecourt and advertising banners are detrimental to the appearance of the Village Centre. The site would be ideal for a new retail anchor, community or arts facility such as a theatre providing an attractive western frontage to the square. The site could be developed in a manner which encourages links west to the Canal.
- B. Co-op car park (0.3ha). The site presents an opportunity for residential, small scale retail or office above and around a car park. A new pedestrian link from the rear Co-op entrance through to the Red Lion pub could be created, strengthening the retail 'loop' between the High Street and Oxford Road. A deck above the car park could provide residential amenity space or additional parking.
- C. Rationalisation and redevelopment of car parks to the north of the High Street could provide smaller retail units and residential. This should be designed to create an attractive frontage to the public square and a strong walking route between the remaining car parks, Curtis Road and High Street. Car park decks could be used where this provides a viable means of releasing development land while retaining parking.
- D. Exeter Close. Potential reconfiguration of the site (3.7ha) to create an enhanced community hub and flagship recreation space with new accommodation for community and health facilities currently located on the site. There may be potential for small scale residential development here. (See Chapter 7.0).

Smaller potential development sites include:

- E. Several low rise and/or low quality properties with high street frontage have potential for redevelopment of around 3 storeys in height, to create a cohesive retail parade. Development should provide for primary retail on the ground floor, with offices or residential above.

In the longer term the following opportunity sites could be considered for redevelopment subject to site availability:

- F. Properties to the west of Oxford Road between Lyne Road and Exeter Close are predominantly residential and presumably in multiple ownerships. Site assembly would be necessary to deliver a comprehensive and coherent scheme. The focus should be on providing a strong, continuous frontage of retail/ community uses onto the street with residential or office uses above.
- G. Fire station and post office sorting office site, if surplus to future operational requirements.

Development quantum

Assuming all sites are available for development in the longer-term and subject to an assessment through Local Plan Part 2 an initial estimate suggests:

- Between 200 and 300 new residential dwellings could be provided in the Village Centre, accommodating a mix of tenures but assuming a high proportion of apartments.
- An additional 10,000 sq. m of retail space and 1,800 sq. m of office space could be provided (subject to evidence for the Local Plan Part 2 process).

The development capacity, mix of uses (particularly the split between upper floor office and residential) and development viability should be assessed in detail as part of a Village Centre masterplan.



Figure 6.8 Potential Village Centre sites

6.0 Theme 3: Strengthening Kidlington Village Centre

6.3.5 Early project opportunities

In addition to the above land use possibilities, ancillary projects, marketing and management arrangements could be used to help strengthen the Village Centre. While these are not objectives that can be secured through this Supplementary Planning Document they are included in the Action Plan and highlighted below as important elements in improving central Kidlington as a place to visit and to work and live in.

Prior to significant development the following opportunities could be explored:

- Shop front improvements such as introducing canopies to shops around the Oxford Road square to create an appealing and consistent appearance.
- Extended events programme e.g. themed Sunday or evening markets, arts or craft events or outdoor music.
- Development of niche food offer.
- Projects to incentivise local spending.
- Potential to establish a business organisation and designate a Business Improvement District.

- Supporting the growth of the weekly market and increasing the range of specialist markets. This could include expansion of the market into the Oxford Road square to give it greater prominence to passing trade.

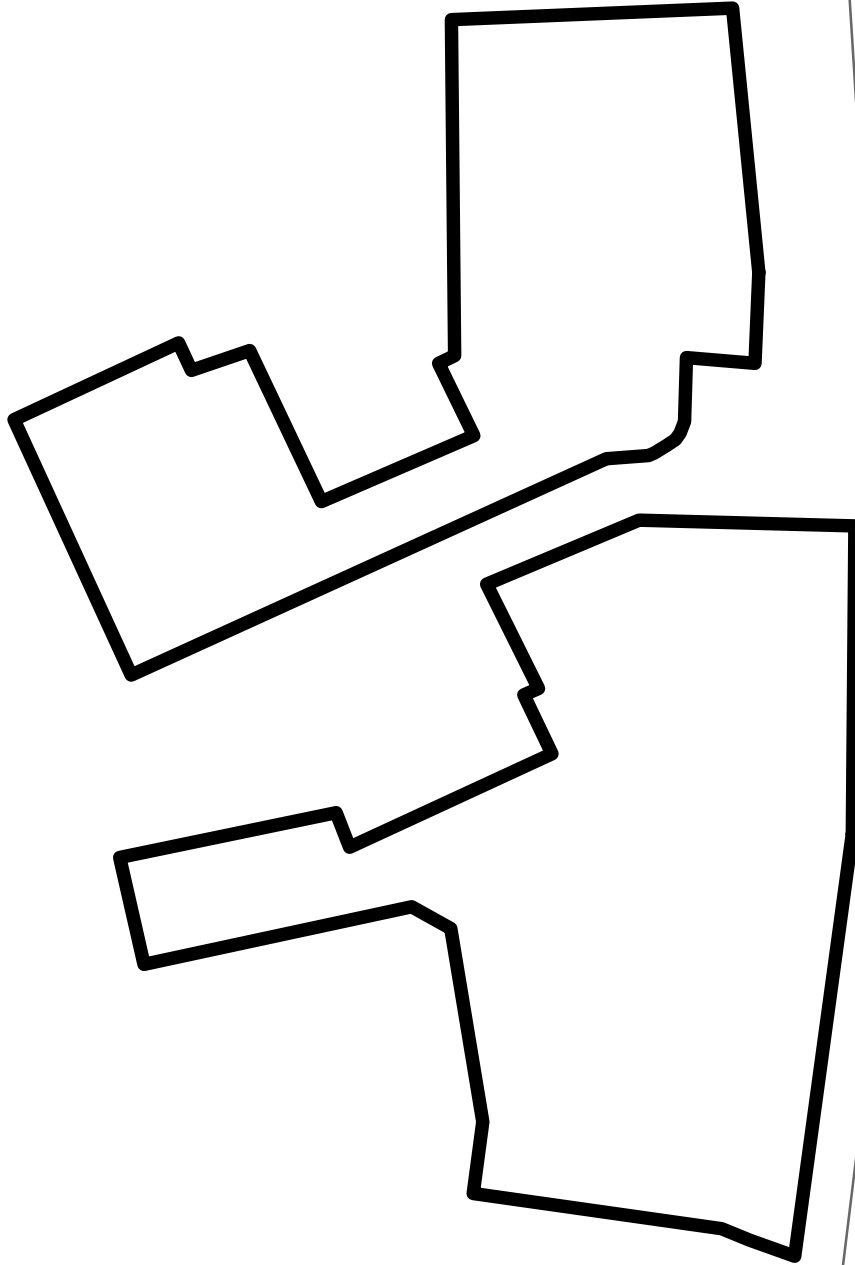
- Improving the Watts Way square by introducing small retail kiosks on the southern side of the square to bring activity.
- Setting up a working group with retailers / landowners at the western end / north side of the High Street to investigate opportunities for land assembly to enable a new rear access route, rationalisation of parking and retail servicing and provision of affordable commercial premises to the rear of the high street.

CDC and KPC may wish to re-establish the Village Centre management board linked with local business organisation 'Kidlington Voice' or create a formal Business Improvement District (BID)¹ to manage these projects.

¹ A BID is a business led partnership with a 5 year remit, created through a ballot process to deliver additional services to local businesses. It operates within a defined area in which a levy is charged on all business rate payers in addition to the business rates bill. This levy is used to develop projects which will benefit business in the local, in addition to the services provided by local authorities. For further information refer to: <https://www.gov.uk/guidance/business-improvement-districts>

16/01210/F

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



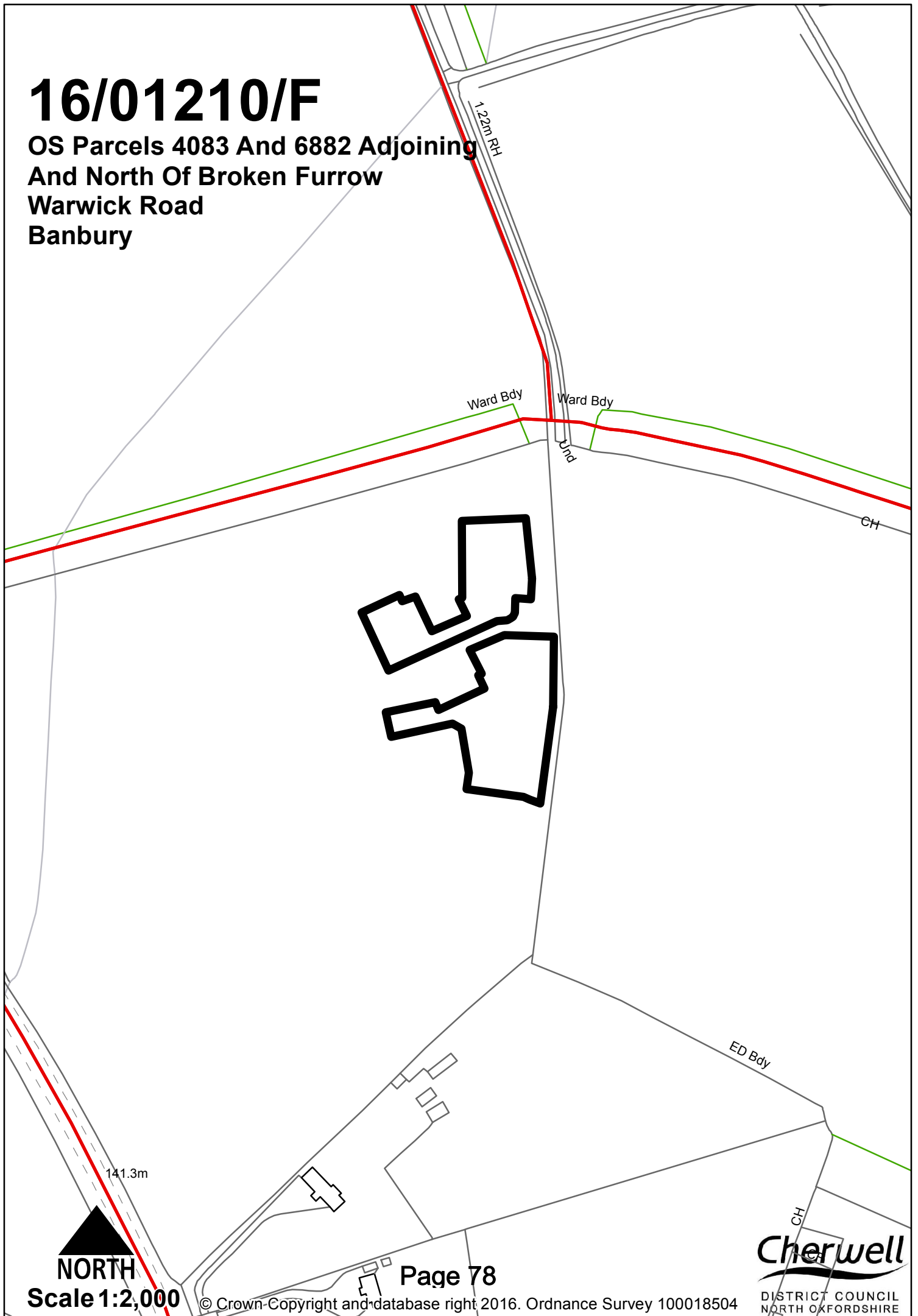
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NORTH
Scale 1:750

16/01210/F

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



NORTH
Scale 1:2,000

Case officer: Nathanael Stock (01295 221886)

Applicant: Persimmon Homes Ltd

Proposal: Erection of 20 No. houses, associated highways access and parking

Ward: Banbury Hardwick

Ward Councillors: Cllr Anthony Ilott
Cllr J A Donaldson
Cllr Nicholas Turner

Reason for Referral: Major Development

Expiry Date: 15 March 2017

Committee Date: 16 Feb 2017

Recommendation: Approve, subject to no new issues being raised through public consultation expiring on 9th March 2017, subject to an appropriate Section 106 agreement, and subject to conditions

1. APPLICATION SITE AND LOCALITY

- 1.1. The application relates to a site now allocated for development within Banbury 5, to which Policy Banbury 5 of the Cherwell Local Plan 2011-2031 applies. The site as a whole (including the land within the blue line on the submitted application) covers an area of some 20.2ha and forms the greater part of the approx. 26ha allocated site to the north of Dukes Meadow Drive and to the east of Warwick Road. The current proposal relates to a minor part of the western field on the northern side of the site adjacent to Warwick Road.
- 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

2.1. The current application seeks approval for a re-plan of part of the site approved and under construction for 118 dwellings (ref. 15/00462/REM), and comprises the replacement of 12 approved plots with 20 dwellings, i.e. a net increase of 8 dwellings.

3. RELEVANT PLANNING HISTORY

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

<u>App Ref</u>	<u>Description</u>	<u>Decision</u>	<u>Date</u>
05/00002/SO	Screening Opinion request	Screening Opinion requesting EIA	29-Mar-05
06/01600/OUT	OUTLINE - Residential development (up to a maximum of 400 dwellings) with associated vehicular access	Application Refused	03-Nov-06
06/02158/F	Bat Roost	Application Refused	24-Jan-07
05/00003/SCOP	Scoping Opinion - Residential development and associated uses	Scoping Opinion Issued	07-Nov-05
12/00021/SO	Screening Opinion - Proposed development including up to 380 residential dwellings along with associated access, landscaping and infrastructure	Screening Opinion requesting EIA	08-Jun-12
12/00004/SCOP	Scoping Opinion - Proposed development including up to 380 residential dwellings along with associated access, landscaping and infrastructure	Scoping Opinion Issued	27-Jul-12
12/01789/OUT	Outline application for up to 350 dwellings, together with new vehicular access from Warwick Road and associated open space	Application Permitted	02-Sep-14
14/00341/DISC	Clearance of condition 5 of 12/01789/OUT	Application Permitted	20-Feb-15
15/00065/DISC	Discharge of Condition 7 (energy strategy) of 12/01789/OUT	Application Permitted	02-Nov-15
15/00097/DISC	Clearance of condition 35 of 12/01789/OUT - access construction	Application Permitted	30-Apr-15
15/00462/REM	Reserved Matters to outline	Application	13-Nov-15

	application 12/01789/OUT - 118 dwellings together with new vehicular access from Warwick Road and associated open space (Phase 1)	Permitted	
15/00024/SO	SCREENING OPINION - Reserved Matters to outline application 12/01789/OUT - 118 dwellings together with new vehicular access from Warwick Road and associated open space (Phase 1)	Screening Opinion not requesting EIA	13-Apr-15
15/00187/DISC	Discharge of Conditions 6 (phasing plan), 9 - 13 (land contamination), 14 (landscaping), 16 (scheme for the protection of retained trees), 20 (levels, boundary treatments and means of enclosure), 21 (earthworks), 22 (tree pits), 23 & 24 (archaeology), 26 (update to badger mitigation strategy), 27 (bat mitigation works), 28 (Landscape and Ecology Management Plan (LEMP)), 29 (mitigation for other protected species), 31 (recent ecology survey), 32 (drainage strategy), 33 (water supply infrastructure impact studies), 34 (foul drainage), 38 (Travel Plan), 42 (Construction Environment Management Plan), 44 (car park to public open space area), 45 (full design details of LAPs and LEAPs) and 46 (footpath design details) of 12/01789/OUT	Pending Consideration	
15/00257/DISC	Discharge of Conditions 17 (method of supervision and programme of works for the landscaping), 37 (Construction Management Travel Plan) and 43 (Construction Environment Management Plan (CEMP)) of 12/01789/OUT	Pending Consideration	
15/01298/F	Variation of Condition 2 of 12/01789/OUT - extension of time of six months	Application Returned	
15/00336/DISC	Discharge of Condition 39 (lighting) of 12/01789/OUT	Pending Consideration	

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)	Pending Consideration	
15/00082/SO	Screening Opinion to - Reserved matters application for 232 dwelling dealing with appearance, landscaping, layout and scale. This application will form the 2nd phase of our proposals for the site pursuant to outline approval 12/01789/OUT.	Screening Opinion not requesting EIA	30-Oct-15
15/00495/DISC	Discharge of Conditions 2 (stone sample panel), 4 (slate sample), 10 (landscaping), 12 (LAPs/LEAPs) and 13 (levels) - Application 15/00462/REM	Pending Consideration	
16/00371/REM	Reserved Matter to 12/01789/OUT - Demolition of the Bat House located within Briars Close and erection of replacement Bat House	Application Permitted	19-Apr-16
16/00504/CDC	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)	Application Permitted	24-May-16
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)	Application Permitted	24-May-16
16/00017/NMA	Handing of Plots 67 and 68, and handing of Plots 72 and 73 (proposed non material amendments to application 15/00462/REM)	Application Permitted	20-Apr-16

16/00029/NMA	Erection of a semi-submerged gas governor (proposed non-material amendment to 15/00462REM)	Application Permitted	23-May-16
16/01095/OUT	Variation of Condition 2 of 12/01789/OUT	Application Returned	30-Nov-16
16/00046/SO	Variation of Condition 2 of 12/01789/OUT	Screening Opinion not requesting EIA	29-Jun-16
16/01210/F	Erection of 20 No. houses, associated highways access and parking	Pending Consideration	
16/00050/SO	Reserved matters for erection of 21 no. houses, associated highways access and parking.	Screening Opinion not requesting EIA	28-Jul-16
16/01484/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) (revised scheme of 16/00515/CDC)	Application Permitted	30-Sep-16
16/01485/CDC	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) (revised scheme of 16/00504/CDC)	Application Permitted	30-Sep-16
16/01722/M106	Modification of Section 106 - Application 12/01789/OUT	Pending Consideration	
16/00498/DISC	Discharge of Condition 3 (energy strategy), 4 (brick sample) and 5 (roof tile sample) of 16/01485/CDC	Application Permitted	02-Feb-17
16/00499/DISC	Discharge of Conditions 3 (energy strategy), 4 (brick sample) and 5 (roof tile) of 16/01484/CDC	Application Permitted	02-Feb-17
16/00511/DISC	Discharge of Conditions 8 (specification of parking and	Pending	

	manoeuvring), 12 (details of ground and finished floor levels) and 18 (cycle store /parking facilities) and Partial Discharge of Condition 9 (landscaping scheme) of 16/01484/CDC	Decision
16/00512/DISC	Discharge of Conditions 8 (specification of parking and manoeuvring), 12 (details of ground and finished floor levels) and 18 (cycle facilities) and partial discharge of condition 9 (landscaping scheme) of 16/01485/CDC	Pending Decision

4. PRE-APPLICATION DISCUSSIONS

- 4.1. No formal pre-application discussions have taken place with regard to this proposal though informally the proposals have been discussed at some length.

5. RESPONSE TO PUBLICITY

- 5.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments is 27.02.2017, although the proposals have previously / already been advertised as a Reserved Matters application.
- 5.2. No comments have been raised by third parties.

6. RESPONSE TO CONSULTATION

- 6.1. Below is a summary of the consultation responses received at the time of writing this report. Responses are available to view in full on the Council's website, via the online Planning Register.

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

- 6.2. **Banbury Town Council:** No objections

STATUTORY CONSULTEES

- 6.3. **Environment Agency:** No comments received
- 6.4. **Thames Water:** Thames Water would recommend that petrol / oil interceptors be fitted in all car parking/washing/repair facilities. Failure to enforce the effective use of petrol / oil interceptors could result in oil-polluted discharges entering local watercourses.
- 6.5. Surface Water Drainage - With regard to surface water drainage it is the responsibility of a developer to make proper provision for drainage to ground, water courses or a suitable sewer. In respect of surface water it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not permitted

for the removal of groundwater. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. The contact number is 0800 009 3921. Reason - to ensure that the surface water discharge from the site shall not be detrimental to the existing sewerage system.

- 6.6. Thames Water would advise that with regard to sewerage infrastructure capacity, we would not have any objection to the above planning application.
- 6.7. 'We would expect the developer to demonstrate what measures he will undertake to minimise groundwater discharges into the public sewer. Groundwater discharges typically result from construction site dewatering, deep excavations, basement infiltration, borehole installation, testing and site remediation. Any discharge made without a permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 1991. Should the Local Planning Authority be minded to approve the planning application, Thames Water would like the following informative attached to the planning permission:"A Groundwater Risk Management Permit from Thames Water will be required for discharging groundwater into a public sewer. Any discharge made without a permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 1991. We would expect the developer to demonstrate what measures he will undertake to minimise groundwater discharges into the public sewer. Permit enquiries should be directed to Thames Water's Risk Management Team by telephoning 02035779483 or by emailing wwriskmanagement@thameswater.co.uk. Application forms should be completed on line via www.thameswater.co.uk/wastewaterquality."

Water Comments

- 6.8. Thames Water recommends the following informative be attached to this planning permission. Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.
- 6.9. On the basis of information provided, Thames Water would advise that with regard to water infrastructure capacity, we would not have any objection to the above planning application.
- 6.10. **Natural England** "has no comments to make on this application".
- 6.11. **OCC Highways**: Objection on the grounds of lack of information –
- The application is a full application, so needs to include a transport statement and travel plan statement
 - A possible pedestrian access is intended that might go across third party land
 - An agreement is required under Section 106 of the Town and Country Planning Act 1990 to secure funds for improvements to local bus services
 - Vehicle tracking for a refuse vehicle of not less than 11.6m in length is needed
- 6.12. **Legal agreement required to secure:**
- 6.13. Should the Local Planning Authority be minded to grant full planning permission for the proposed developments, the following legal agreements would be required:

- 6.14. An agreement would be required under Section 38 of the Highways Act 1980 to enable Oxfordshire County Council, in its role as the Local highway Authority, to adopt all or part of the access roads serving the development as public highway maintainable at public expense.
- 6.15. An agreement would be required under Section 106 of the Town and Country Planning Act 1990 is required to secure the sum of £20,000 towards the improvement of local bus services operating between the development and Banbury town centre.

Conditions recommended:

- 6.16. *New Estate Roads* - Prior to the first occupation of any of the dwellings hereby approved, all of the estate roads and footways (except for the final surfacing thereof) shall be laid out, constructed, lit and drained in accordance with Oxfordshire County Council's 'Conditions and Specifications for the Construction of Roads' and its subsequent amendments.

Reason: In the interests of highway safety in accordance with the National Planning Policy Framework

- 6.17. *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: In the interests of highway safety

- 6.18. *Turning Area for Service Vehicles* – Prior to the commencement of the development hereby approved, vehicle tracking shall be submitted to and approved in writing by the Local Planning Authority that will show that a refuse vehicle of not less than 11.6m in length can enter and exit the development safely in forward gear. Thereafter, and prior to the first occupation of the development, construction of the turning areas shall commence in accordance with the approved details.

Reason: In the interests of highway safety in accordance with the National Planning Policy Framework

- 6.19. *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
- Sizing of features – attenuation volume
- Infiltration in accordance with BRE365

- Detailed drainage layout with pipe numbers
- SUDS – Permeable Paving, Rainwater Harvesting, Green Roof
- Network drainage calculations
- Phasing
- The plans must show that there will be no private drainage into the public highway drainage system

Reason: In the interests of highway safety in accordance with the National Planning Policy Framework

- 6.20. *Cycle Parking* - 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.

- 6.21. *Pedestrian Access: Full Details* – Prior to the commencement of the development hereby approved, full details of the means of pedestrian access between the land and the highway, including, position, layout, construction, and drainage 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 sustainable transport and highway safety in accordance with the National Planning Policy Framework

- 6.22. *Construction Traffic Management Plan (CTMP)* – Prior to the commencement of the development hereby approved, a Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to first occupation of the development, construction shall only commence in accordance with the approved details (see section on informatives below).

Reason: In the interests of highway safety

- 6.23. *Travel Information Pack* – Prior to the first occupation of the development hereby approved, a Travel Information Pack prepared in accordance with the Department of Transport’s Best Practice Guidance Note “Using the Planning Process to Secure Travel Plans” and its subsequent amendments shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved Travel Information Pack shall be implemented and operated in accordance with the approved details.

Reason: In the interests of maximising the opportunities for sustainable travel

Informative Notes recommended:

- 6.24. *Cycle Parking* – For more information on providing on-site residential cycle parking, including in garden sheds, please see the guidance produced by Cambridge City

Council and their partnering organisations which can be found within the following link: <https://www.cambridge.gov.uk/cycle-planning-and-policy>.

6.25. CTMP – A Construction Traffic Management Plan (CTMP) will need to incorporate the following in detail:

- The CTMP must be appropriately titled, include the site and planning permission number.
- Routing of construction traffic and delivery vehicles is required to be shown and signed appropriately to the necessary standards/requirements. This includes means of access into the site.
- Details of and approval of any road closures needed during construction.
- Details of and approval of any traffic management needed during construction.
- Details of wheel cleaning/wash facilities – to prevent mud etc., in vehicle tyres/wheels, from migrating onto adjacent highway.
- Details of appropriate signing, to accord with the necessary standards/requirements, for pedestrians during construction works, including any footpath diversions.
- The erection and maintenance of security hoarding / scaffolding if required.
- A regime to inspect and maintain all signing, barriers etc.
- Contact details of the Project Manager and Site Supervisor responsible for on-site works to be provided.
- The use of appropriately trained, qualified and certificated banksmen for guiding vehicles/unloading etc.
- No unnecessary parking of site related vehicles (worker transport etc.) in the vicinity – details of where these will be parked and occupiers transported to/from site to be submitted for consideration and approval. Areas to be shown on a plan not less than 1:500.
- Layout plan of the site that shows structures, roads, site storage, compound, pedestrian routes etc.

A before-work commencement highway condition survey and agreement with a representative of the Highways Depot – contact 0845 310 1111. Final correspondence is required to be submitted.

- Local residents to be kept informed of significant deliveries and liaised with through the project. Contact details for person to whom issues should be raised with in first instance to be provided and a record kept of these and subsequent resolution.
- Any temporary access arrangements to be agreed with and approved by Highways Depot.
- Details of times for construction traffic and delivery vehicles, which must be outside network peak and school peak hours.

OCC Highways - Detailed comments:

6.26. Transport Statement

Although this development does not propose enough dwellings to warrant a full transport assessment and full residential travel plan, it does require a statement for both. Please see the link to our guide below, "Transport for New Developments: Transport Assessments and Travel Plans," in particular, please have a look at pages 30-31 for details of what are required. The document can be accessed at: <https://www.oxfordshire.gov.uk/cms/content/travel-plans-statements-and-advice>.

6.27. Access Road to the Site but Outside of the Red Line Boundary

The layout of this part of the site, including the main access road as drawn on Plan No. P0918-59 does not appear to match the layout described on the illustrative masterplan submitted with Application No. 12/01789/OUT. However, the layout of the access roads and the pedestrian access does appear to correspond with the one that was drawn in the application Design Code that was submitted with the outline application. The access road will need to be constructed in accordance with this design code and any technical audit completed by Oxfordshire County Council's Road Agreements team if the applicant intends for it to be adopted as public highway under Section 38 of the Highways Act 1980.

6.28. Financial Contribution

A financial contribution will be required under Section of the Town and Country Planning Act 1990 to secure the sum of £20,000 which will help fund improvements to local bus services operating between the proposed development and Banbury town centre. This is based on a formula of £1,000 per dwelling and will be pooled with monies from other development s in the local area that are also contributing on this basis.

6.29. Allocated Parking

Residents must have a space of at least 6m of highway/driveway width behind perpendicular parking spaces to allow them to reverse out of parking spaces safely, turn, and exit the development safely in forward gear. The residents of the dwelling in plot No. 11, who will use the two allocated parking spaces east of it, have space of 4m in width to manoeuvre a vehicle in. This must be rectified to ensure that these spaces are usable so as to minimise the risk of unsuitable on-street parking.

6.30. Cycle Parking

The dwellings within plots 16, 17 and 18 do not appear to have garden sheds and do not have allocated garages. Therefore, it is unclear where people residing in these dwellings will park bicycles. An amended plan needs to be submitted which shows what the applicant proposes as cycle parking for these dwellers.

6.31. Pedestrian Access to the south-east of the Development

Plan P-0918-59 displays what appears to be a proposed pedestrian access just south-east of Plot 16. Part of this access route falls outside of the red line boundary of the site. If the applicant does intend this to be a pedestrian access to the site, they will need to demonstrate that they have the appropriate right of access over what might be third party land.

NON-STATUTORY CONSULTEES

- 6.32. **CDC Recreation & Leisure:** As this application is for a partial re-plan of application 12/01789/OUT, there are no changes to the recreation and leisure requirements already agreed under the corresponding S106 agreement.
- 6.33. **CDC Waste & Recycling:** The developer will have to satisfy the local authority that they have adequate provision for waste and recycling storage, before the application is agreed. 1.4 sqm for flats and 1.8 sqm for households. If the developer needs any more advice please refer to: Waste and Recycling guidance which can be found on the Cherwell District Council website <http://www.cherwell.gov.uk/index.cfm?articleid=1735> Section 106 contribution of £106.00 per property will also be required. Thanks
- 6.34. **CDC Arboriculture:** No comments
- 6.35. **OCC Archaeology:** No objection – The archaeological mitigation required on this site has now been undertaken and no further fieldwork will be required. The final mitigation report has now been submitted and there are no further archaeological constraints to this proposal.
- 6.36. **CDC Landscape:** I have no specific objection to the re-configuration of the housing units. I wonder why a post and rail fence is needed between the housing and the hedgerow buffer?
- 6.37. **CDC Building Control:** Based upon there being adequate access for the fire service vehicles (as usual) I have not adverse comments
- 6.38. **CDC Strategic Housing:** This application is for a re-plan of an existing permission on a wider residential site, and therefore I have no objection.
- 6.39. In terms of this specific application, there is a requirement for 21% affordable housing across the wider site, reduced from the normally 30% given the Build! team's development of 11no supported housing units on a part of the site purchased from Persimmon Homes. The proposed additional 8 units here would require additional affordable housing provision.
- 6.40. This affordable housing would normally be required to be provided on site. However in this instance, given the wider scheme development I am willing to accept the additional affordable housing being delivered on parcel 2 of the wider Warwick Road development (12/01789/OUT), so technically this will be an 'off-site' provision.
- 6.41. As such the parcel 2 reserved matters application will need to be amended to take account of these 1-2 additional affordable housing units as well as the affordable housing due to be provided under the 2012 permission above.
- 6.42. As I understand there will need to be a bridging agreement between the two S106's to ensure that the appropriate affordable housing is secured under this application and delivered in practice under the existing 2012 permission.
- 6.43. The further detail of these units will be reviewed upon submission of the reserved matters for Parcel 2 for the wider scheme.

7. RELEVANT PLANNING POLICY AND GUIDANCE

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

7.2. The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the ‘saved’ policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District’s statutory Development Plan are set out below:

CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2031 Part 1)

- BSC1 - District Wide Housing distribution
- BSC3 - Affordable Housing
- BSC4 - Housing Mix
- BSC10 - Open Space, Outdoor Sport & Recreation Provision
- BSC11 - Local Standards of Provision - Outdoor Recreation
- ESD1 - Mitigating and Adapting to Climate Change
- ESD2 - Energy Hierarchy
- ESD3 - Sustainable Construction
- ESD7 - Sustainable Drainage Systems (SuDS)
- ESD13 - Local Landscape Protection and Enhancement
- ESD15 - The Character of the Built and Historic Environment
- BAN5 - Land North of Hanwell Fields
- INF1 - Infrastructure

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C14 - Countryside Management Projects
- C15 - Prevention of coalescence of settlements
- C28 - Layout, design and external appearance of new development
- C30 - Design of new residential development
- C31 - Compatibility of proposals in residential areas
- ENV1 - Development likely to cause detrimental levels of pollution
- ENV12 - Development on contaminated land
- TR1 - Transportation funding

7.3. Other Material Planning Considerations

- National Planning Policy Framework (“the Framework”)
- Planning Practice Guidance (“nPPG”)

8. APPRAISAL

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

- 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;
- Impact on Residential Amenity;
- Ecological Implications;
- Flood Risk;
- Sustainability and Energy Efficiency;

- Planning Obligations;

Principle of Development

- 8.2. The principle of development on this land has been established through the granting of outline consent (ref. 12/01789/OUT) and the subsequent approval of Reserved Matters (ref. 15/00462/REM). The proposal would yield 8 additional homes beyond the supply envisaged by Policy BSC1 of the CLP 2031 Part 1).
- 8.3. In providing 20 dwellings on land where previously 12 were permitted, the proposal would find support in Policy BSC2 which seeks an effective and efficient use of land.

Design, Layout and Appearance

- 8.4. The proposed dwellings achieve a similar form and layout to the approved scheme. One dwelling (Clayton) rather than three would face westward towards Plots 78-79 (AH units), with three new dwellings (Morden) facing south towards Plots 96-99 (Souter). Ten dwellings (Clayton x 4, Morden x 3 and Hanbury x 3) rather than six would face east towards the perimeter of the Phase 1 site area. Two dwellings (Morden) rather than one would face west towards Plots 63-65. Finally, three dwellings (Souter) rather than one Clayton would face south towards the main distributor road through the site.
- 8.5. The revised layout includes more parking at right angles to the highway to the front of dwellings. While this is not desirable, and the Council's Urban Design Officer has objected to this aspect of the proposals, it is noted that the approved layout includes 24 parking spaces of this type, and the current proposal would add a further 10. In light of this, and the location of these parking spaces within the 'belly' of the development as opposed to being on the main road through the development or on the perimeter of the built form, it is considered that the proposal is acceptable in this respect. A revised plan has been sought to move the parking spaces for new Plot 6 to be adjacent to that plot as opposed to c. 17-18m away from its front door adjacent to new Plot 9.
- 8.6. The current proposal would increase the extent of the site's built form and a minor reduction in semi-natural / undeveloped green space. However, this is not considered in itself to be an issue and neither the Council's Recreation & Leisure Officer nor its Landscape Officer has any objections to the proposal in this regard.
- 8.7. 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. The current proposals would not impact upon the approved layout in these respects. In addition, the current proposal generally conforms to the requirements of the agreed Design Code for the development.
- 8.8. Overall, therefore, the proposal accords with Policies Banbury 5 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1, Policies C28 and C30 of the 1996 Plan and paragraph 64 of the Framework.

Impact on Heritage Assets

- 8.9. 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

- 8.10. Similarly, surrounded by the larger part of the Banbury 5 development, and not significantly extending the built form of the development, and having no impact on the existing and/or approved landscape buffers to 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

- 8.11. There are no trees protected by Tree Preservation Order on the site or within its vicinity. Several unprotected trees lie east of the site's 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

- 8.12. Policy BSC4 of the CLP 2031 Part 1 sets out that new residential development will be expected to provide a mix of homes to meet current and expected future requirements in the interests of creating socially mixed and inclusive communities. From the developer's perspective, the aim of the proposal is to increase the number of dwelling types which have shown better sales results so far.
- 8.13. In terms of housing mix, the proposal would result in the replacement of 2x 4 beds and 10x 3 beds with a development of 12x 3 beds and 8x 2 beds. When viewed in the context of the overall Phase 1 development, the proposal would result in the replacement of a mix of 14% 2 beds, 43% 3 beds, 37% 4 beds and 6% 5 beds with a development of 21% 2 beds, 42% 3 beds, 32% 4 beds and 6% 5 beds. This shows an increase of 7% in the number of 2 beds across Phase 1 and a reduction of 5% in the number of 4 beds.
- 8.14. Overall, therefore, it is considered that the current proposal finds support from CLP Policy BSC4.

Accessibility, Highway Safety and Parking

- 8.15. OCC Highways raises several objections to the current proposal, as set out in paragraphs 6.11f of this report. Four grounds are given, namely the lack of a transport statement and travel plan statement, a lack of clarity over a pedestrian access shown going off plan to the SE corner of the site, a lack of vehicle tracking plan for refuse vehicles, and the need for financial contributions under Section 106 of the TCP Act 1990.
- 8.16. In respect of the lack of transport and travel plan statements, it is considered that since this is a re-plan of an approved development it is reasonable to require the proposed new dwellings and future occupants thereof to be subject of the same travel plan requirements. This can be addressed through conditions imposed on any approval. It is not considered reasonable to refuse the current application on lack of a transport statement, especially given OCC Highway's detailed comments reported at para 6.26 of this report.
- 8.17. OCC Highways' comment re the possible pedestrian access that may go across third party land is made in error and through lack of knowledge of the context to this proposal. The land referred to forms part of the Banbury 5 allocation and land owned by the applicant.

- 8.18. OCC's request for financial contributions is noted but, as discussed later in this report, the amount requested is not considered reasonable for a development of 8 further units.
- 8.19. In respect of vehicle tracking for refuse vehicles, the currently proposed road layout is no different from the approved road layout, and the said tracking plans have been provided in respect of the previously approved layout and are therefore not required to be submitted.
- 8.20. While not forming an objection, the OCC Highways officer notes the inadequate turning area for proposed new plot 11 – this can be amended through imposition of a condition to any approval given.
- 8.21. Overall, therefore, subject to conditions, it is considered that the proposal is acceptable in highway safety terms.

Impact on residential amenity

- 8.22. Except in the case of new plot 20 and the approved Souter between Plots 20 and 10-12 (approx.. 12.5m), and in the case of new plots 16-18 and new plot 14 (approx.. 10.5m from the rear elevations of the former to the garden of the latter), the proposal accords with the Council's guideline separation distances of 14m from principal to side elevation and 22m from principal to principal elevation. In the two named cases, these relationships are similar to others elsewhere in the approved Phase 1 development and are not considered so harmful as to warrant refusal of the application on this basis. It is therefore considered that the proposals accord with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 in amenity terms.

Ecological implications

- 8.23. The application site has been subject to previous ecological assessment and is covered by conditions applied to the consent for the Phase 1 development. 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

- 8.24. 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

- 8.25. 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. The application site is covered by conditions applied to the consent for the Phase 1 development and it is considered that these issues can be addressed satisfactorily through imposition of the same conditions to any consent given.

Planning Obligations

- 8.26. Section 106 requests have been made in respect of improvements to local bus services (£20,000) and waste and recycling facilities (£106 per new property = total of £848). The former is not considered a reasonable and proportionate sum for 8 new dwellings. Instead, the required sum should be pro-rata the same as paid per dwelling for the overall development of 350 dwellings. This equates to £11,429.
- 8.27. No other requests for financial contributions have been received. It would have been reasonable to make requests in respect of primary education, public art, open space and play areas, sports facilities, community facilities and policing (all required as part of the original Section 106 agreement).

9. PLANNING BALANCE AND CONCLUSION

- 9.1. Subject to conditions as set out, the current proposal is considered an acceptable form of development that would accord with the approved Design Code and the requirements of the outline consent in terms of scale, layout and appearance, and would safeguard the living conditions of neighbouring and future occupiers, and would not adversely affect highway safety.

10. RECOMMENDATION

That permission is granted, subject to no new issues being raised in response to public consultation finishing on 9th March 2017, subject to an appropriate Section 106 agreement, and subject to the following conditions:

1. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.

Reason - To comply with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: "P.0918_59 Rev H" (Site layout), "P.0918_60 Rev C", "P.0918_61 Rev B" (site location plan), "P.0918_62 Rev C" (Enclosures), "P.0918_64B" (Garages), "P.0918_65A" (Enclosure details), "P.0918_63D-1", "P.0918_63D-2", "P.0918_63D-3", "P.0918_63D-4", "P.0918_63D-5", "P.0918_63D-6" and "P.0918_63D-7".

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

3. Notwithstanding the details submitted, the walls providing means of enclosure to new Plots 1, 9, 10 and 15 shall be laid in English Garden Wall bond.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy ESD15 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. Notwithstanding the plans hereby approved, no development shall commence above slab level on the respective plots (namely new plots 15-18 inclusive) until

a sample of the slate to be used in the construction of the roofs of the plots stated in approved drawing "P.0918_60 Rev C" (Materials Plan) to have natural slate roofs has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out fully 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. Notwithstanding the details submitted, no development shall commence above slab level until a revised schedule of external surfaces (including facing brick and roof tile) has been submitted to and approved in writing by the local planning authority. Thereafter the development shall be carried out fully 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.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting or amending those Orders with or without modification), no development with Part Classes A - E (inclusive) shall take place on the dwellinghouses hereby permitted or within their curtilage.

Reason – To ensure and retain the satisfactory appearance of the completed development and to comply with Policy ESD15 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. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting or amending those Orders with or without modification), no additional windows, doors or any other openings shall be inserted at first floor level or above in the any of the dwellings of hereby approved.

Reason – To safeguard the living conditions of neighbouring residents and future occupiers of the development and to comply with Policy ESD15 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.

8. Before the respective dwelling is first occupied the first floor side-facing openings to Plots 6, 8, 16 and 18 and the first floor rear-facing openings to Plots 1, 5, 9, 13, 14 and 15 shown to serve a 'landing' shall be glazed with obscure glass (at least Level 3) only and fixed with a ventilation stay restricting the opening of the window to no more than 30 degrees from the elevation in question, and must be permanently maintained as such at all times thereafter.

Reason – To safeguard the living conditions of neighbouring residents and future

occupiers of the development and to comply with Policy ESD15 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.

9. Notwithstanding the details submitted, no development shall commence above slab level on the plots named in this condition until amended plans for Plots 5 and 15 shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out fully 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

10. No walls, gates, fences or planting shall be erected or allowed to grow on or adjacent to the highway boundary exceeding 0.9 metres in height above the level of the adjacent carriageway.

Reason: To afford adequate visibility at the access/junction and to cater for the expected volume of traffic joining the existing highway network and in the interests of highway safety, and to accord with Policy ESD15 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.

11. Prior to the commencement of the development hereby approved, and notwithstanding the submitted details, an amended landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme for landscaping the site shall include:-

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

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

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

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

12. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with BS 4428:1989 Code of Practice for general landscape operations (excluding hard surfaces), or the most up to date and current British Standard, in the first planting and seeding seasons following the occupation of the building(s) or on the completion of the development,

whichever is the sooner. Any trees, herbaceous planting and shrubs which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the current/next planting season with others of similar size and species.

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

13. No development shall commence on site until details of the existing and proposed ground levels and finished floor levels of the development have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be implemented fully in accordance with the approved details.

Reason – To ensure and retain the satisfactory appearance of the completed development and to safeguard the living conditions of neighbouring residents and future occupiers of the development and to comply with Policy ESD15 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.

14. New Estate Roads - Prior to the first occupation of any of the dwellings hereby approved, all of the estate roads and footways (except for the final surfacing thereof) shall be laid out, constructed, lit and drained in accordance with Oxfordshire County Council's 'Conditions and Specifications for the Construction of Roads' and its subsequent amendments.

Reason: In the interests of highway safety in accordance with the National Planning Policy Framework

15. 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: In the interests of highway safety

16. Turning Area for Service Vehicles – Prior to the commencement of the development hereby approved, vehicle tracking shall be submitted to and approved in writing by the Local Planning Authority that will show that a refuse vehicle of not less than 11.6m in length can enter and exit the development safely in forward gear. Thereafter, and prior to the first occupation of the development, construction of the turning areas shall commence in accordance with the approved details.

Reason: In the interests of highway safety in accordance with the National Planning Policy Framework

Framework

17. 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
- Sizing of features – attenuation volume
- Infiltration in accordance with BRE365
- Detailed drainage layout with pipe numbers
- SUDS – Permeable Paving, Rainwater Harvesting, Green Roof
- Network drainage calculations
- Phasing
- The plans must show that there will be no private drainage into the public highway drainage system

Reason: In the interests of highway safety in accordance with the National Planning Policy Framework

18. Cycle Parking – 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.

19. Pedestrian Access: Full Details – Prior to the commencement of the development hereby approved, full details of the means of pedestrian access between the land and the highway, including, position, layout, construction, and drainage 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 sustainable transport and highway safety in accordance with the National Planning Policy Framework

20. Construction Traffic Management Plan (CTMP) – Prior to the commencement of

the development hereby approved, a Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to first occupation of the development, construction shall only commence in accordance with the approved details (see section on informatives below).

Reason: In the interests of highway safety

21. Travel Information Pack – Prior to the first occupation of the development hereby approved, a Travel Information Pack prepared in accordance with the Department of Transport's Best Practice Guidance Note "Using the Planning Process to Secure Travel Plans" and its subsequent amendments shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved Travel Information Pack shall be implemented and operated in accordance with the approved details.

Reason: In the interests of maximising the opportunities for sustainable travel

Informative Notes:

Cycle Parking – For more information on providing on-site residential cycle parking, including in garden sheds, please see the guidance produced by Cambridge City Council and their partnering organisations which can be found within the following link: <https://www.cambridge.gov.uk/cycle-planning-and-policy>.

CTMP – A Construction Traffic Management Plan (CTMP) will need to incorporate the following in detail:

- The CTMP must be appropriately titled, include the site and planning permission number.
- Routing of construction traffic and delivery vehicles is required to be shown and signed appropriately to the necessary standards/requirements. This includes means of access into the site.
- Details of and approval of any road closures needed during construction.
- Details of and approval of any traffic management needed during construction.
- Details of wheel cleaning/wash facilities – to prevent mud etc., in vehicle tyres/wheels, from migrating onto adjacent highway.
- Details of appropriate signing, to accord with the necessary standards/requirements, for pedestrians during construction works, including any footpath diversions.
- The erection and maintenance of security hoarding / scaffolding if required.
- A regime to inspect and maintain all signing, barriers etc.
- Contact details of the Project Manager and Site Supervisor responsible for on-site works to be provided.
- The use of appropriately trained, qualified and certificated banksmen for guiding vehicles/unloading etc.

• No unnecessary parking of site related vehicles (worker transport etc.) in the vicinity – details of where these will be parked and occupiers transported to/from site to be submitted for consideration and approval. Areas to be shown on a plan not less than 1:500.

• Layout plan of the site that shows structures, roads, site storage, compound, pedestrian routes etc.

A before-work commencement highway condition survey and agreement with a representative of the Highways Depot – contact 0845 310 1111. Final correspondence is required to be submitted.

• Local residents to be kept informed of significant deliveries and liaised with through the project. Contact details for person to whom issues should be raised with in first instance to be provided and a record kept of these and subsequent resolution.

• Any temporary access arrangements to be agreed with and approved by Highways Depot.

• Details of times for construction traffic and delivery vehicles, which must be outside network peak and school peak hours

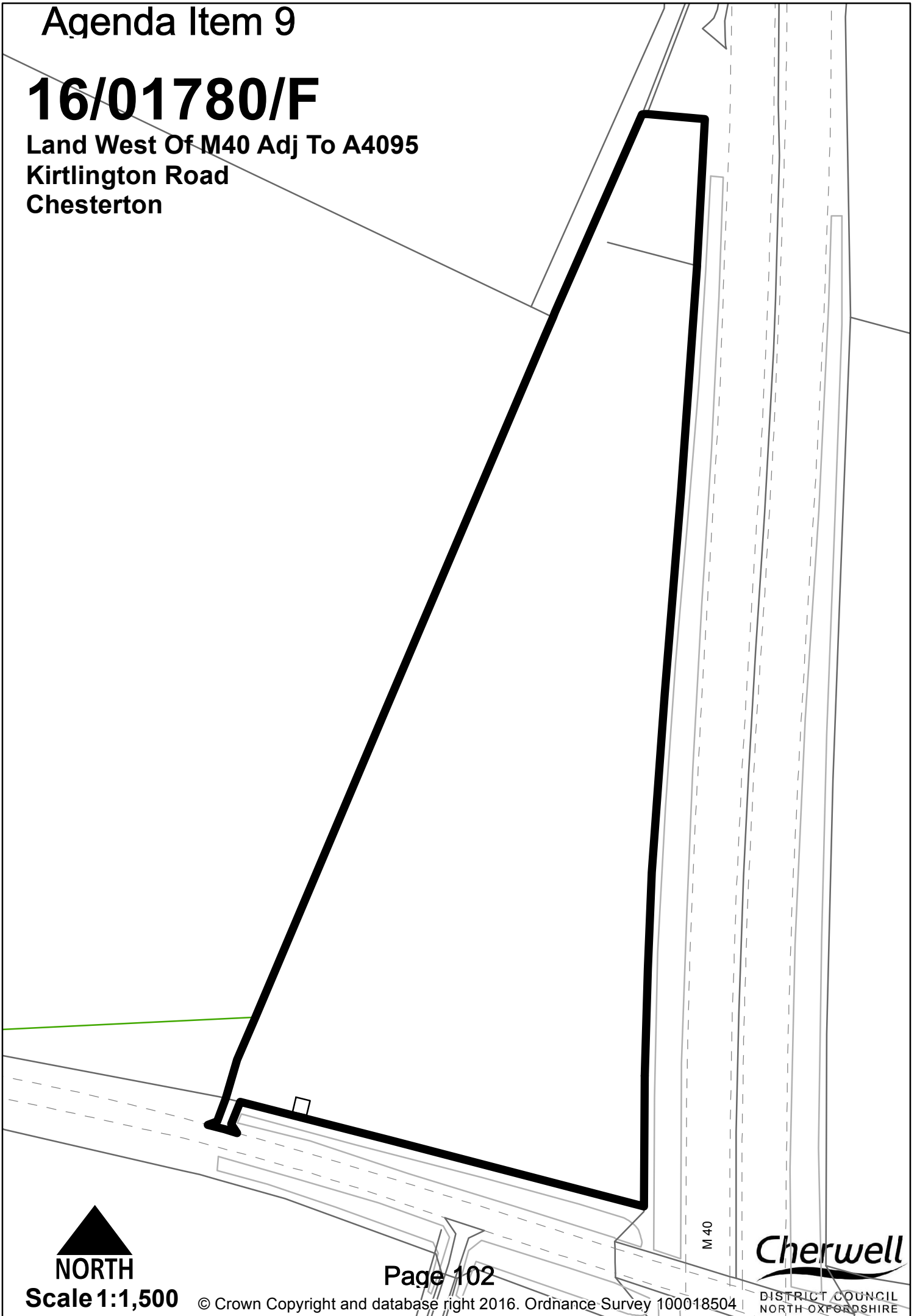
CASE OFFICER: Nathanael Stock

TEL: 01295 221886

Agenda Item 9

16/01780/F

Land West Of M40 Adj To A4095
Kirtlington Road
Chesterton

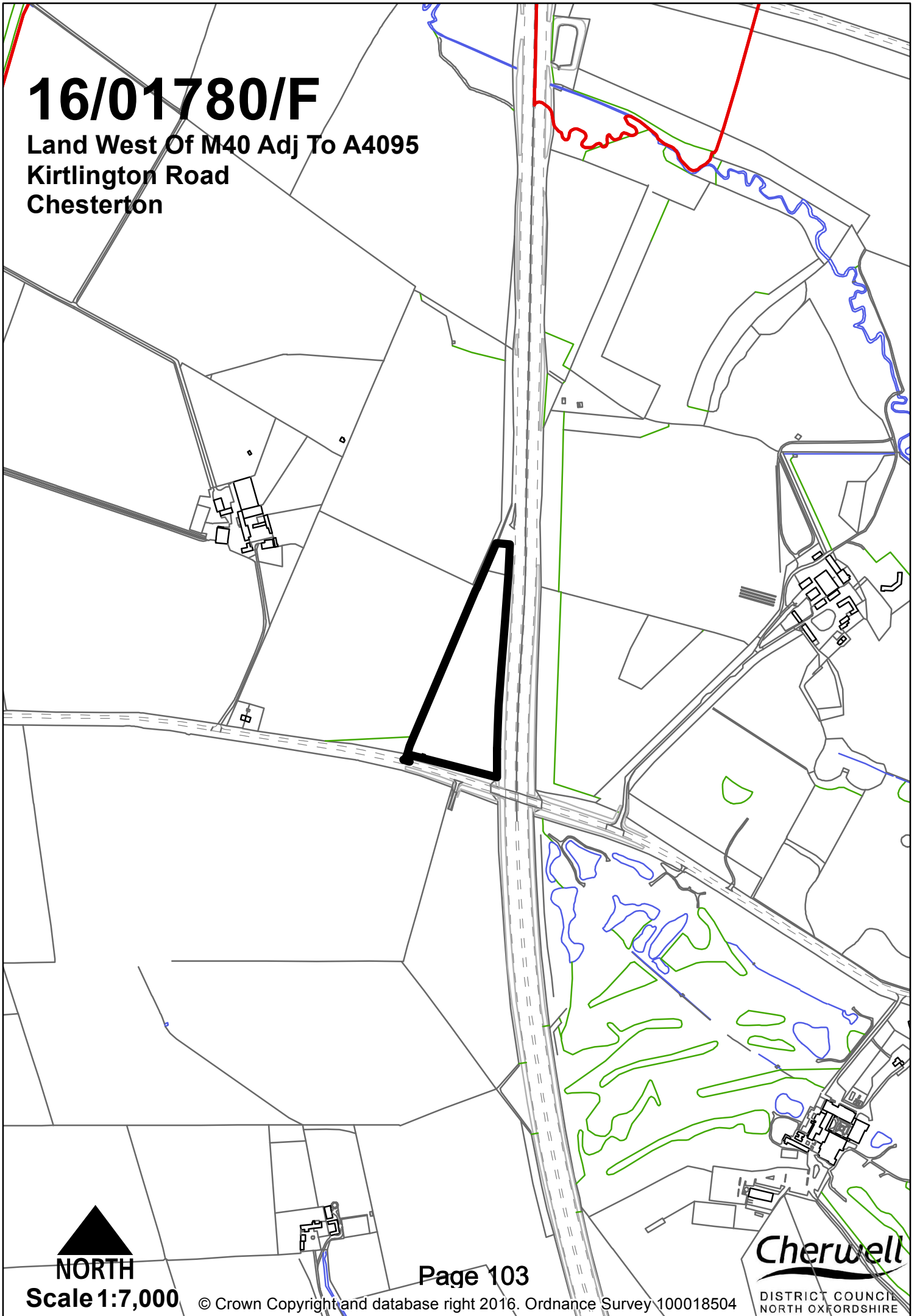


NORTH

Scale 1:1,500

16/01780/F

Land West Of M40 Adj To A4095
Kirtlington Road
Chesterton



NORTH
Scale 1:7,000

Case Officer: Stuart Howden **Contact Tel:** 01295 221815

Applicant: Clifford Smith and Robert Butcher

Proposal: Change of use of land to use as a residential caravan site for 8 gypsy families, each with two caravans and an amenity building. Improvement of existing access, construction of driveway, laying of hard standing and installation of package sewage treatment plant.

Expiry Date: 2nd December 2016 **Extension of Time:** 17th February 2017

Ward: Fringford And Heyfords **Committee Date:** 16th February 2017

Ward Councillors: Cllrs Corkin, Macnamara and Wood

Reason for Referral: Major Development

Recommendation: Approve

1. APPLICATION SITE AND LOCALITY

- 1.1 The site is located to the north of the A4095 (Kirtlington Road) and the east of the site runs adjacent to the M40, but the site sits at a higher level to this Motorway as the Motorway is within a cutting. To the north and west of the site is open countryside. The site is located approximately 1.1 KM to the north west of Chesterton as the crow flies. The 2.7 hectare site comprises of an agricultural field and a small structure to the very south of the site. Access is achieved off the Kirtlington Road at the south west corner of the site.
- 1.2 The site is not within close proximity to any listed buildings and is not within a Conservation Area. Public Footpath 161/11/10 is shown to run along the western boundary of the site, but the walked route is noted by the OCC Public Rights of Way Officer to likely run on the other side of this boundary. The site has some ecological potential as protected species have been recorded within the vicinity of the site, including the Common Kestrel, Small Heath Butterfly and Brown Hare.

2. DESCRIPTION OF PROPOSED DEVELOPMENT

- 2.1 Planning permission is sought for a change of use of the site to a traveller caravan site comprising 8.No pitches, each containing a mobile home, touring caravan and an amenity building. The amenity buildings are proposed to be constructed from timber under a green felt roof and measure approximately 5 by 4 metres and be a height of approximately 3.6 metres. The structures within the pitches are proposed to sit on permeable hard standing, whilst the rear of each pitch will contain a private garden area. A driveway would run along the western boundary of the site and the drive would also head in an easterly direction at the southern end of the site. 5 of the pitches would be accessed from the driveway running west to east, whilst the other 3 pitches would be to the north of the site and would be accessed from the driveway

running south to north. The driveway is proposed to be constructed from permeable hard standing. The pitches would be divided by fencing.

- 2.2 Works to the access to the south west of the site are also proposed, including its widening in order for two vehicles to pass within the site entrance.
- 2.3 The installation of a package sewage treatment plant is proposed to the north of the site, which would receive waste water from the pitches and would process it until a clear effluent is discharged into the environment. Details provided in relation to specification and dimensions of this plant are limited. A Noise Survey has also been submitted during the course of the application, which proposes mitigation in the form of a landscaped bund and acoustic fence to mitigate the noise impact from the M40.
- 2.4 The proposed pitches, sewage treatment plant and hard standing would not fill the whole site area and there would still be access to the remaining field as a result of the proposal.
- 2.5 A screening opinion (ref: 16/00075/SO) issued by Cherwell District Council on December 2016 stated that an Environment Statement was not required for this application.
- 2.6 This planning application first came before members at Planning Committee in December 2016. At that time the application proposed 9 pitches. Officers had reported the application for refusal as it was considered that the proposed development would be adversely affected by noise from the M40 and insufficient information had been submitted to display that this harm could be appropriately addressed. Furthermore, the proposal was recommended for refusal by officers because it was considered that the bund or bund/fence recommended in the Noise Survey to mitigate the noise would result in detrimental harm to the rural character and appearance of the area. In addition, the application had not been supported by a Flood Risk Assessment therefore the application had not clearly demonstrated that the development and its future users would be safe over the lifetime of the development.
- 2.7 However in view of the recognised need for additional traveller pitches in the District and in response to receipt of late information, the recommendation was changed to one of deferral to allow for a proper assessment of the additional information supplied (this being details of the bund and the need), as well as an opportunity for the applicant to address other officer concerns with the development. The Planning Committee resolved to defer the application on this basis.
- 2.8 A bund or bund/fence is no longer proposed so as to reduce the impact of the development upon the character and appearance of the area, and the number of pitches has been reduced to 8. Furthermore, a Flood Risk Assessment has been submitted. The applicant has also indicated a willingness to accept a temporary consent; this is considered in the "Appraisal" section of this report.

3. RELEVANT PLANNING HISTORY

- 3.1 There is no planning history directly related to this application.

4. PRE-APPLICATION DISCUSSIONS

- 4.1 No formal pre-application discussions have taken place with regard to this application.

5. RESPONSE TO PUBLICITY

5.1 This application has been publicised by way of a two site notices displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records.

5.2 The Local Planning Authority has received 40 letters of objection in respect of the proposed development. The concerns raised by third parties are summarised as follows:

- Consideration has not been given to alternative sites;
- Contrary to policy as it is located within the open countryside;
- Not an identified site in the Local Plan;
- Not sustainable development as it offers no economic, social or environmental improvements;
- Not sustainably located;
- Housing would not be accepted on this site;
- Too close to the village of Chesterton;
- Chesterton does not have the capacity;
- The village has limited facilities and services and no bus service;
- The school is almost full and does not have the capacity required for this application;
- Would be to the detriment of the village of Chesterton;
- Would be of no benefit to Chesterton;
- Would set a precedent for housing outside the village;
- Would harm the character of the area;
- Would be visible from Public Footpaths and Kirtlington Road;
- Loss of enjoyment for users of the Public Footpath to west of the site;
- The local road network cannot accommodate the extra traffic this will create;
- Access is dangerous;
- Required length of visibility splay could not be achieved;
- There is no footpath next to the site along the Kirtlington Road and the development would be car reliant;
- Noise and air pollution to future residents as the site is located next to the M40;
- Loss of privacy to existing residents;
- Will create noise nuisance;
- Would cause harm to protected species;
- Would increase the flooding risk;
- Consideration needs to be given to drainage;
- Questionable whether the site has an adequate water supply;
- No access to electricity and current supply overloaded;
- No sewage facilities;
- The applicant should update the facilities at the existing park (Newlands Caravan Site);
- Concerns about how the existing park (Newlands Caravan Site) is run;
- Would be 18 families instead of 9 and could be up to 72 people living on the site;
- Will not be managed properly and will go beyond what consent allows for;
- Site nearby was closed due to lack of demand and now contains park homes;
- Burden on Council with refuse collection;
- Waste disposal arrangements should be provided;

- Should be the inclusion of a communal recreation area;
- No consultation with local community before submission;
- Travellers would not successfully integrate with the local community;
- Fear of crime and anti-social behaviour;
- Loss of private view;
- Devaluation of property prices.

5.3 The comments received can be viewed in full on the Council's website, via the online Planning Register.

6. RESPONSE TO CONSULTATION

6.1 Below is a summary of the consultation responses received at the time of writing this report. Responses are available to view in full on the Council's website, via the online Planning Register.

PARISH/TOWN COUNCIL

6.2 CHESTERTON PARISH COUNCIL: **Object** to the application on the following grounds:

- The proposal constitutes a residential development in an agricultural area. Incidentally, when the Parish Council supported a residential development in the village on agricultural land adjacent to a playing field the application was refused twice by the LPA;
- Could set a precedent for future changes of use;
- The proposal is a result of concerns raised by the owner of Newlands Caravans Site at Bloxham, which is due to close;
- This proposal is excessive;
- Chesterton School is near capacity and could not accommodate the volume of entrants the proposal would bring;
- Chesterton is not in practice a Category A Village and is wrongly classified;
- Is it the case that mains water and electricity services are connected to the site?
- Would cause further traffic problems on the A4095;
- Chesterton had a site for travellers, but is now residential because it was deemed not to be required.

STATUTORY CONSULTEES

6.3 ENVIRONMENT AGENCY: **No comments received.**

6.4 OCC HIGHWAYS AUTHORITY: **Object** to the proposal. The Local Highways Authority (LHA) note that the proposed access is along Public Footpath 161/11/10 and discussions will therefore need to be entered into with OCC's Countryside Access Team and legal permissions sought from the relevant parties. The LHA note that if permission is to be granted, then conditions should be attached for full details of the means of access, full specification of the parking and manoeuvring areas, full details of waste storage/collection and that hard-standing being constructed from a permeable material or provision must be made within the site for surface water to discharge to soakaway/SuDS feature.

6.5 THAMES WATER: **No objections.** In relation to the Package Treatment Plant, foul water for this development is not draining into Thames Water assets and therefore does not affect Thames Water.

6.6 HIGHWAYS AGENCY: **No comments received.**

NON-STATUTORY CONSULTEES

6.7 CDC ECOLOGY OFFICER: **No comments received.**

6.8 CDC ENVIRONMENTAL PROTECTION OFFICER: **Objects** to the application. Before the submission of the noise survey, the Environmental Protection Officer (EPO) noted that the noise levels will be very high for the residents being adjacent to the M40. The EPO went on to state that there is no mitigation proposed and no noise report has been produced to show that the noise can be mitigated to acceptable levels and that the site is unsuitable for such a development. A noise survey was subsequently submitted by the applicant's agent. However, the EPO still has concerns with the proposal and noted that whilst (with mitigation) the noise levels can be reduced to a lower level inside the caravans, they are still above the recommended limits for bedrooms at night. The EPO also notes that the levels to the outside amenity are well above the top end of recommended levels. The EPO states that if permission is granted there should be conditions in place to ensure that the site is built with the mitigation proposed in the noise report and that the mobile homes provided are in accordance with BS3632:2015 as recommended in the report.

6.9 OCC GYPSY & TRAVELLER SERVICES: **No comments received.**

6.10 CDC LANDSCAPE TEAM: **No objections** in respect of landscape and visual impact subject to conditions including a detailed landscaping scheme, the retention of the hedgerows on the southern roadside boundary and western boundary, with the filling of gaps in these hedgerows. The Landscape Officer has also requested rabbit guards for proposed hedgerow plants and trees, and that hedgerows and their root protection areas are protected with fencing during the construction period.

6.11 CDC LICENSING: **No objections.** The site owner will need to apply for a caravan site licence if planning permission is granted. In order for the licence to be granted the site owner must comply with the licence conditions.

6.12 CDC PLANNING POLICY: **No objection** in principle, subject to detailed consideration of the noise impact from the adjacent M40 and consultation with the Council's Environmental Protection Team. Policy BSC 6 of the Cherwell Local Plan Part 1 provides for 19 net additional pitches from 2012-2031. Since the adoption of the Local Plan, 20 pitches have been lost. This has now increased the requirement to 35 pitches (2015 AMR). The current published five year land supply position for gypsies and travellers is reported in the 2015 AMR. Currently it is 0 years for the period 2016-2021 (base date: 1 April 2016). Policy BSC 6 provides a sequential and criteria based approach for identifying suitable locations for new traveller sites whether through site allocations in the Local Plan Part 2 or in the determination of planning applications. The proposed site is within 3km of Chesterton which is a Category A village, one of the more sustainable villages in the District (Policy Villages 1).

6.13 CDC RECREATION & LEISURE: **No comments received.**

6.14 RAMBLERS ASSOCIATION: **No comments received.**

6.15 OCC RIGHTS OF WAY: **No objections** to the proposal. Public Footpath 11/161/10 is shown on the Definitive Map (the legal document showing the position and status of the public rights of way) to run along the western boundary of the site. However, the footpath is currently provided for and walked on the other side of the field boundary, outside the site. The footpath was diverted via a Side Roads Order (SRO) in 1987 associated with the building of the M40. The alignment of the path of the SRO is consistent with the position that was laid out on the ground and is currently used, therefore suggesting that the path was recorded incorrectly on the Definitive Map. The applicants will need to consider the alignment of the footpath as shown on the Definitive Map even though this may be incorrect. There should be no structures placed across the line of the path that may obstruct it. The design of the access into the site will also need to take the footpath into account. If permission is granted, conditions will need to be attached to ensure that the footpath is not adversely affected.

6.16 CDC WASTE & RECYCLING: **Object** to the development. The developer has stated that there are no plans to incorporate areas to store and aid the collection of waste. The developer will have to demonstrate that they have adequate provision for waste and recycling, before the application is agreed. Section 106 contribution of £106 per property will also be required.

7. RELEVANT PLANNING POLICY AND GUIDANCE

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

7.2 The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the ‘saved’ policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District’s statutory Development Plan are set out below:

CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2031 Part 1)

- PSD1 - Presumption in Favour of Sustainable Development
- BSC6 - Travelling communities
- ESD1 - Mitigating and Adapting to Climate Change
- ESD6 - Sustainable Flood Risk Management
- ESD7 - Sustainable Drainage Systems
- 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 (CLP 1996)

- C8 - Sporadic development in the countryside
- C28 - Layout, design and external appearance of new development
- ENV1 - Development likely to cause detrimental levels of pollution

7.3 Other Material Planning Considerations:

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Planning Policy for Traveller Sites (August 2015) (PPTS). This document sets out the Government's planning policy specifically for traveller sites and should be read in conjunction with the NPPF
- Designing Gypsy & Traveller Sites (2008) (although this document was withdrawn by the Government on 1st September 2015, it remains a useful starting point for considering the design and layout of proposed travellers sites)
- Gypsies and Travellers: Planning Provisions – Briefing Paper January 2016. Provides useful background information and summarises changes to the updated PPTS. It is noted however that as this is only a Briefing Paper; it carries very limited weight and should not be relied upon as a substitute for specific advice
- Annual Monitoring Report 2015 (AMR)
- Cherwell, West Oxfordshire and South Northamptonshire Gypsy and Traveller Needs Assessment (2012/2013) (GTAA)
- The European Convention on Human Rights (ECHR) Articles 8 and Article 14 of Protocol 1
- Housing Act (2004)
- The Equality Act (2010)
- Noise Policy Statement for England (NPSE) (2010)

8 APPRAISAL

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

- Principle of the Development;
- Visual Impact and Effect on Landscape Character;
- Highway Safety;
- Residential Amenity;
- Ecological Impact;
- Flooding Risk and Drainage;
- Other Matters.

Principle of the Development

- 8.2 Paragraph 14 of the National Planning Policy Framework (NPPF) states that a presumption of sustainable development should be seen as a golden thread running through decision taking. There are three dimensions to sustainable development, as defined in the NPPF, which require the planning system to perform economic, social and environmental roles. These roles should be sought jointly and simultaneously through the planning system.
- 8.3 Policy PSD1 contained within the Cherwell Local Plan Part 1 echoes the NPPF'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.
- 8.4 The national planning policy context for the provision of sites for the travelling community is found in the guidance issued in August 2015 'Planning Policy for Traveller Sites' (PPTS) (revises the original 2012 guidance) which should be read in conjunction with the NPPF.

- 8.5 A Briefing Note issued in January 2016 “Gypsies and Travellers: Planning Provisions” sets out the planning policies relating to gypsy and traveller provision in an informative way for Members of Parliament. This highlights a change to the definition of “traveller” set out in the revised version of PPTS.
- 8.6 The Government’s overarching aim is to ensure fair and equal treatment for travellers in a way that facilitates the traditional and nomadic way of life that they have whilst at the same time respecting the amenity and appearance of the settled community.
- 8.7 The definition of Gypsies and Travellers reads as follows: *“Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependants’ educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling show people or circus people travelling together as such”*. It goes on to state: *“In determining whether persons are “gypsies and travellers” for the purposes of this planning policy, consideration should be given to the following issues amongst other relevant matters:*
- a) *whether they previously led a nomadic habit of life;*
 - b) *the reasons for ceasing their nomadic habit of life;*
 - c) *whether there is an intention of living a nomadic habit of life in the future, and if so, how soon and in what circumstances.”*
- 8.8 In relation to this planning application, it is the case that the site is proposed to be used as a settled base by members of the travelling community. That said, the proposed residents of the site currently reside at a recognised traveller site in the District (Newlands Caravan Site, just outside Bloxham). Furthermore, the applicant has stated that the site would be used by gypsies and travellers and each pitch is proposed to accommodate a touring caravan and these would be used for nomadic purposes. The gypsy/traveller status of future occupiers can be made a condition of any consent granted, in line with Government guidance. Officers are therefore satisfied that the application is for a site that would be used by gypsies/travellers.
- 8.9 Policy C of the Government guidance advises that when assessing the suitability of sites in rural or semi-rural settings, local planning authorities (LPAs) should ensure that the scale of such sites does not dominate the nearest settled community. In this instance Chesterton, with a population of approximately 850, is the nearest settled community being some 1.1KM to the south east of the site. Officers are of the opinion that the proposed number of pitches at the site is relatively modest (in the region of 36 pitches were provided at Newlands Caravan Park in Bloxham), and so would not result in a development that dominates the nearest settlement of Chesterton.
- 8.10 Policy H of the same guidance states that LPAs should consider the following matters:
- a) the existing level of local provision and need for sites;
 - b) the availability (or lack) of alternative accommodation for the applicants;
 - c) other personal circumstances of the applicant;
 - d) that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites;

- e) that they should determine applications for sites from any travellers and not just those with local connections.

8.11 Policy H goes on to advise that LPAs should strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. When considering applications LPAs should attach weight to the following matters:

- a) effective use of previously developed (brownfield), untidy or derelict land;
- b) sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness;
- c) promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children;
- d) not enclosing sites with excessive hard landscaping, high walls or fences that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community.

8.12 In January 2013 the final report for a district-wide Gypsy and Traveller Housing Needs Assessment (GTAA) was completed. This informs the Council in terms of the district provision for gypsy and travellers up to 2031 (GTAA) and has been used to inform Policy BSC6 within the Cherwell Local Plan Part 1. The GTAA calculated that Cherwell had a population of 851 gypsies and travellers at the time of the report (not all of whom lived on authorised traveller sites). It goes on to outline that there were 70 authorised pitches throughout the District which were spread over seven sites at that time.

8.13 The most recent Annual Monitoring Report (AMR) 2015 (December 2015) outlines that at the 31st March 2015 the total number of authorised pitches in Cherwell for Gypsies and Travellers was 61. It states that the District currently has a 2.9 year land supply for accommodation of gypsies and travellers for the period 2015-2020 and a 0.0 year land supply for the period of 2016-2021. The AMR further outlines that there is an overall requirement of an additional 23 pitches (taking into account all those that have been completed or projection completions in the period 2016-2021). It is worth highlighting that since the publication of the AMR 11 new pitches were approved at Corner Cottage and The Stable Block in Mollington last month (ref: 16/01740/F and 16/01760/F).

8.14 Given the above evidence there is clearly an identified need for additional gypsy traveller pitches, whether that be on existing sites or the bringing forward of new sites. Moreover it should also be noted that the lack of authorised pitches within the district is further exacerbated with the closure of the Smith's traveller site (Newlands Caravan Park) at Bloxham on 31st January 2017; this will result in the loss of 36 previously authorised pitches. In addition to this, there are currently no identified sites that could provide alternative accommodation. Officers consider that the significant unmet need in the District, the lack of suitable and available alternative sites, and the lack of allocated sites in the Development Plan to meet the identified need should be afforded considerable weight in the determination of this application.

8.15 Policy BSC 6 of the Cherwell Local Plan Part 1 states that to meet the need set out above, and in order to provide and maintain a five year supply of deliverable traveller sites,

allocations will be made in Local Plan Part 2 and planning permissions will be granted for suitable traveller sites. Policy BSC6 also goes to state that: *“In identifying suitable sites with reasonable accessibility to services and facilities the following sequential approach will be applied:*

- 1) *Within 3km road distance of the built-up limits of Banbury, Bicester or a Category A village.*
- 2) *Within 3km road distance of a Category B village and within reasonable walking distance of a regular bus service to Banbury or Bicester or to a Category A village.*

Other locations will only be considered in exceptional circumstances.

The following criteria will also be considered in assessing the suitability of sites:

- a) *Access to GP and other health services;*
- b) *Access to schools;*
- c) *Avoiding areas at risk of flooding;*
- d) *Access to the highway network;*
- e) *The potential for noise and other disturbance;*
- f) *The potential for harm to the historic and natural environment;*
- g) *The ability to provide a satisfactory living environment;*
- h) *The need to make efficient and effective use of land;*
- i) *Deliverability, including whether utilities can be provided;*
- j) *The existing level of local provision;*
- k) *The availability of alternatives to applicants.”*

8.16 Under Policy Villages 1 of the Cherwell Local Plan Part 1, Chesterton is identified as a Category A village which allows for minor development, infill and conversions. Category A villages are considered the most sustainable settlements in the District’s rural areas and have physical characteristics and a range of services within them to enable them to accommodate some limited extra housing growth. The site is located approximately 1.1KM by road from Chesterton therefore the site meets the first criteria as set out in Policy BSC6 relating to sequential tests.

8.17 Whilst Chesterton has a primary school, nursery, church and public house, it is acknowledged that Chesterton Parish Council has raised concerns in relation to the sustainability of the village, and it is recognised that Chesterton does not have as many services and facilities as a number of other Category A settlements and that the bus service through the village is now limited. That said, the site is also approximately 2.5 KM road distance away from the built up limits of the town of Bicester which contains GP and health services, schools, shops, recreational facilities, a library and many other services. The site also benefits from good access to the highway network. Having regard to the unmet need and the criteria of Policy BSC6, the site is therefore considered acceptable in general sustainability terms.

8.18 Despite the referendum on the 23rd July 2016 where the United Kingdom opted leave the European Union, the European Convention on Human Rights is still in force to date. Under Article 8 there is a positive obligation to facilitate the gypsy way of life (Paragraph 96 of Chapman v UK (2001)). The Article 8 rights of those travellers previously residing on the

Newlands Caravan Site are clearly engaged. The applicants' agent states that Newlands Caravan Site accommodated several members of the Butcher family and that these would all be accommodated on this proposed site, and at least half of the pitches provided would be guaranteed to accommodate travellers previously at the Newlands Caravan Site. The travellers who resided at Newlands Caravan Site are in the process of being evicted by the land owner, and if this application at Chesterton were to be refused, this could lead to a long term roadside existence for these families and make access to health and education more difficult. Weight should be given to this matter.

- 8.19 The Equality Act 2010 places a general equality duty on decision makers in respect of planning permission. Travellers are believed to experience one of the worst health and education statuses in England. The Local Planning Authority has a duty to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations between people of different racial groups. Article 14 requires that the Convention rights shall be secured without discrimination on any ground including race.
- 8.20 Given the above, officers are of the opinion that the principle of creating 8 pitches on the site would be compliant with Policy BSC6 of the Cherwell Local Plan Part 1 and Government guidance contained within the NPPF, and would contribute towards the Council's requirement for a five year supply of deliverable sites. However the acceptability of the proposal is subject to further material planning considerations, notably the suitability of site for gypsies/travellers, which will be discussed below.

Visual Impact and Effect on Landscape Character

- 8.21 ESD13 of the Cherwell Local Plan Part 1 notes that development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to the local landscape character cannot be avoided. Policy ESD13 also states that: "*Proposals will not be permitted if they would:*
- *Cause undue visual intrusion into the open countryside;*
 - *Cause undue harm to important natural landscape features and topography;*
 - *Be inconsistent with local character;*
 - *Impact on areas judged to have a high level of tranquillity;*
 - *Harm the setting of settlements, buildings, structures or other landmark features; or*
 - *Harm the historic value of the landscape."*
- 8.22 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."*
- 8.23 Saved Policy C28 of the Cherwell Local Plan 1996 reflects Government guidance in relation to the design of new development by seeking to ensure that such development is in harmony with the general character of its surroundings and is sympathetic to the environmental context of the site and its surroundings. Saved Policy C8 of the Cherwell Local Plan 1996 seeks to protect the character of the open countryside from sporadic development.

- 8.24 The proposed development would clearly be visible from the public footpath to the west of the site and despite a hedgerow along the southern boundary of the site, it will be visible from the A4095, notably from the bridge section over the M40 and through the access. Undoubtedly the proposal, with the addition of mobile homes and day rooms, hardstanding and domestic paraphernalia would be alien within this landscape and would have an urbanising effect on this agricultural field within the open countryside. The proposal would therefore cause harm to the rural character and appearance of the landscape.
- 8.25 The Council's Landscape Team has raised no objections to the proposal in terms of the landscape and visual impact subject to conditions including a landscaping scheme. The Landscape Officer wants to see the southern roadside hedgerow retained and maintained to a height of 3.5 metres in order to screen the site and the planting of trees within this hedgerow at irregular spacing. The Landscape Officer has also requested that the western boundary hedgerow is retained and maintained to a height of 3.5 metres and the planting of trees within this hedgerow at irregular spacing for the benefit of visual receptors using the Public Right of Way through the site. Officers hold the view that the retention of the hedgerows on the western and southern boundaries of the site and the planting of trees within gaps of these hedgerows would reduce the visual impact of the development. Thus, should planning permission be granted, a landscaping scheme and the retention and maintenance of the hedgerows on the southern and western boundary of the site will be recommended as conditions. The Landscape Officer has also requested that all hedgerows and their root protection areas are protected with fencing during the construction period so as to protect these hedgerows which will contribute in screening the proposed development.
- 8.26 Whilst the aforementioned landscape conditions would reduce the visual impact of the development somewhat, officers consider that the proposal would nevertheless cause harm to the rural character and appearance of the landscape. In particular, views from the east and from the bridge over the M40 would be extensive, and any new planting would take time to establish before it provided an effective screen for the development. This harm weighs against the proposal.
- 8.27 The application no longer proposes a bund and acoustic fencing along the eastern boundary with the M40, Such a feature would appear as a substantial, alien and engineered structure in the countryside and officers have previously expressed concern about the visual impact of such a feature. Whilst its removal from the scheme is welcome in visual amenity terms, it must be borne in mind that should permission be granted and a bund later found to be necessary to make the noise impact acceptable, it could be difficult for the Local Planning Authority to resist an application to re-instate the bund. This risk of potential harm also weighs against the proposal.

Highways Safety

- 8.28 Policy ESD15 of the Cherwell Local Plan Part 1 states that: *"New development proposals should be designed to deliver high quality safe, attractive, durable and healthy places to live and work. Development of all scales should be designed to improve the quality and appearance of an area and the way it functions."*

- 8.29 The Local Highways Authority (LHA) has objected to the proposal. Public Right of Way 161/11/10 runs along the western boundary of the site and is accessed via the access into this site. The LHA has noted that in order to change the surface of this access, and thereby change the surface of the Right of Way and pass vehicles over it, the relevant permissions would need to be secured from the relevant parties. Officers do not consider that this constitutes a reason for refusal. As noted by OCC Rights of Way, whilst the Public Footpath line of the definitive map runs along the western side of the boundary within the site, the walked Public Footpath currently runs outside the site along the western boundary. This is because the Public Footpath was diverted via a Side Roads Order (SRO) in 1987 associated with the building of the M40. Whilst the Public Footpath crosses the site at the current access and the proposed works to the access would likely result in a temporary diversion of this footpath at the access, this could be achieved via an agreement with OCC and would not require a permanent diversion.
- 8.30 In relation to the access, the LHA has noted that any improvements to the access would require the applicant to enter into a Section 278 agreement with OCC, for works done on the highway. This matter can be dealt with by means of a suitably worded planning condition requesting full details of the works proposed to the access.
- 8.31 The LHA has also stated a detailed plan showing the access will need to be submitted for approval, which meets the required standards for an access off a 60mph A road. Should permission be granted, full details of the access will be secured by condition in the interests of highway safety. A 6 metre radii is currently being proposed, but the LHA has noted that in order for a refuse vehicle to pull up into the entrance way, it would be beneficial to increase the radii, to allow for easier pulling in and pulling out. The LHA has stated that the access way will, however, allow for 2 cars to pass each other, which will prevent vehicles having to reverse back out onto the A4095, minimising rear shunt collisions.
- 8.32 In relation to visibility splays, the LHA has stated that for a 60mph road, splays of 2.4m x 215m should be demonstrated and the LHA hold the view that these visibility splays are achievable given that the section of the road that the access opens on to is straight.
- 8.33 The LHA would like to see further information regarding parking for each pitch and has stated that each unit will need to have manoeuvring space so that vehicles can leave in a forward gear from their plot. Given the pitches are relatively spacious officers are of the opinion that this can be achieved.
- 8.34 The LHA has stated that suitable areas for storage and collection of waste on the site should be provided, that are not in conflict with vehicle users, but allow easy access for refuse vehicles. Officers are confident that this can be accommodated on the site without being in conflict with vehicle users and being overly prominent from the public domain and should permission be granted a condition will be recommended requesting full details the waste storage/collection area.
- 8.35 Thus, given the above, officers consider that the proposal would not cause detrimental harm to the safe and efficient operation of the highway subject to conditions.

Residential Amenity

- 8.36 Paragraph 17 of the NPPF notes that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
- 8.37 Saved Policy ENV1 of the adopted Cherwell Local Plan states that development which is likely to cause materially detrimental levels of noise, vibration, smell, smoke other types of environmental pollution will not normally be permitted.
- 8.38 Policy ESD15 of the Cherwell Local Plan Part 1 states that: *“Development should consider the amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation, and indoor and outdoor space.”*
- 8.39 The site is not within close proximity to any residential properties therefore it is considered that other residential properties would not be directly affected by the proposal.
- 8.40 With regard to the layout of the proposal, the proposed pitches would be relatively spacious and officers are of the view that these pitches are all of a sufficient size and would allow for some privacy and amenity space for each pitch and would avoid the overcrowding of the site.
- 8.41 However, the eastern boundary of the site runs adjacent to the M40 therefore there is the potential for significant nuisance for the proposed residents in terms of noise and fumes. A noise survey has been submitted by the applicant’s agent to address this issue. This states that the present noise levels across the site are relatively high during day and night, and that the mobile homes, particularly within the northern part where noise levels are higher, would be unlikely to meet the recommended noise standards for residential development without additional mitigation measures being implemented.
- 8.42 To address this, and following the Planning Committee meeting in December 2016, an amended site layout was submitted with the northern extremity of the pitches being moved further south and boundary mitigation provided alongside the motorway, this being an earth bund or bund and fence of at least 5 metres in height. Double glazing, with minimum sound insulation was also recommended. It was concluded within the applicant’s noise report that with appropriate mitigation measures implemented, a good to reasonable standard of noise would be achieved within the homes and these measures would ensure that there are no significant impacts. Reference was also made to the new residential development off Southam Road to the north of Banbury and adjacent to the M40, by the applicant’s agent, where a similar noise barrier has been constructed on the boundary.
- 8.43 However, the Council’s Environmental Protection Officer (EPO) maintained their objection to the proposal. The EPO has stated even though the noise levels within the caravans can be reduced to a lower level with the inclusion of a bund, they will be still (just) above the recommended limits for bedrooms at night. The EPO goes on to state that the levels of noise in the outside amenity are well above the top end of the recommended levels. The EPO notes that the internal noise at night may just be acceptable on its own, but when this is combined with the external noise (even with mitigation) the EPO does not consider that the proposed development is appropriate on this site and would give rise to significant adverse impacts on the health and wellbeing of residents of the new development which the Noise PPG and NPSE advises should be avoided.
- 8.44 Officers concluded that even with the bund or bund/fence, the proposal would fail to provide a good standard of amenity for the proposed future occupiers of the site and would give rise to

significant adverse impacts on the health and wellbeing of these proposed future occupiers. As such, the drawings submitted showing the inclusion of a bund, which would have caused significant additional visual harm in any event, were not accepted as a formal amendment to the application.

- 8.45 The latest set of drawings display a reduction in the number of pitches from 9 to 8, an amended layout for the pitches, and crucially a bund or bund/fence is no longer proposed. The reduction in the number of pitches and alteration in the layout has meant that the pitches would be further away from the motorway boundary than in the previous scheme submitted to the Local Planning Authority. The removal of this bund or bund/fence from the scheme substantially reduces the impact of the proposal upon the character and appearance of the locality, but it will mean that there will be greater levels of noise for the proposed occupiers of this site, and at a level which all the available evidence indicates will be well in excess of the recommended industry standards for residential accommodation. Overall it is considered that the proposal would fail to provide a good standard of amenity for the proposed future occupiers of the site and would give rise to significant adverse impacts on the health and wellbeing of these proposed future occupiers. This weighs against the proposals.
- 8.46 A third party has raised concerns in relation to air pollution from vehicles using the M40 affecting the proposed residents of the development, but the Environmental Protection officer has raised no objections in relation to this matter. It is worth noting that the M40 is sited to the east of the site and the prominent wind direction is west to east.

Ecological Impact

- 8.47 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"*.
- 8.48 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."*
- 8.49 Comments have not been received from the Council's Ecology Officer during the consultation process and an Ecology Survey has not been submitted alongside this application. Regard is had to Government advice contained within the PPG in relation to biodiversity by officers.
- 8.50 The site is not within a 'sensitive area', is not within 2KM of an SSSI and there are no ponds or ancient woodlands on the site or within close proximity to the site. There is nothing that appears to raise the likelihood of protected species being present on the site, apart from the hedgerow along the boundary of the site. However, the widening of the access at the southern end of the site would result in the loss of a small section of a hedgerow and this has the potential to harm protected species. As the application also proposes hard standing on the site, there is also the potential for some limited harm here as well. However, it is considered that this matter can be appropriately dealt with by a condition minimising the loss of existing hedgerow and that the harm could be adequately mitigated.

Flooding Risk and Drainage

- 8.51 The site is identified as being within Flood Zone 1, which is land which has a less than 1 in 1,000 annual probability of river flooding. Policy ESD6 of the Local Plan and the Framework states that a Flood Risk Assessment is required for proposals of 1 hectare or more in in Flood Zone 1. The site exceeds 1 hectare, and after the deferral of the planning application at planning committee in December 2016, a Flood Risk Assessment has been submitted alongside this application in line with the requirements of Policy ESD6 of the Cherwell Local Plan Part 1 and the NPPF.
- 8.52 Policy ESD7 of the Cherwell Local Plan Part 1 requires the use of Sustainable Drainage Systems (SuDS) to manage surface water drainage systems. This is all with the aim to manage and reduce flood risk in the Cherwell District.
- 8.53 Comments have not been received from the Environment Agency or OCC Drainage within the consultation period. Given the low risk of flooding on the site, the main consideration is the potential for the development to increase surface water run-off and cause flooding off site. The submitted Flood Risk Assessment states that the proposal would use SuDs to ensure that the rate of surface water run-off would not exceed the green field rate and that the hard standing would not be impermeable and officers hold the view that this would safeguard against an increase in flooding off-site. However, it is considered necessary to attach a condition stating that the hard-standing being constructed from a permeable material or that provision must be made within the site for surface water to discharge to soakaway/SuDS feature so as to prevent flooding off-site.

Other Matters

- 8.54 Concerns have been raised in relation to the primary school at Chesterton being near full capacity and that there would be no more places at the school as a result of this proposal. It is worth noting however, that if the proposal were for 8 market dwellings instead of 8 traveller pitches, this would fall below the threshold in the PPG for contributions towards schooling. It is therefore considered unreasonable to justify the refusal of the planning application on such grounds.
- 8.55 The installation of a package sewage treatment plant is proposed to the north of the site, which would receive waste water from the pitches and would process it until a clear effluent is discharged into the environment. In the absence of objections from the relevant statutory bodies this arrangement is considered acceptable, but as details in relation to specification and dimensions of this plant are limited and should permission be granted, full details of this will be conditioned.
- 8.56 Concerns have been raised by third parties in relation to the matter of electricity supply, but this is a matter for the applicant and utility companies. Concerns have also been raised in relation to the matter of water supply, but this is not a material issue in this case and it is not likely to involve above ground infrastructure. Temporary arrangements could be entered into if desired without the need for permanent infrastructure, such as generators, gas canisters, and water bottles. In any case the applicant has indicated that a connection to the water network already exists on site.

- 8.57 Reference has been made to Bicester Trailer Park by third parties, which is within close proximity to Chesterton, and it has been noted that this is no longer used as a traveller site, but as a residential park home site, because there was no demand from travellers. Whilst there are park homes on this site, and these benefit from planning permission, the site also still contains 8 authorised gypsy pitches and these have been counted toward the District's supply of existing sites.
- 8.58 Third parties have noted that the proposal would set a precedent for housing outside the village. However, each case is assessed on its own merits and the policy context in respect of gypsies and travellers is clearly different to that in which standard housing is assessed.
- 8.59 It is noted by third parties that if planning permission is to be granted, the site would not be well managed and the use of the site will exceed what has actually been granted. However, this is not relevant to the determination of this planning application as consideration needs to be given to what is proposed in this planning application. Any future breaches of planning control, or proposals to extend the site, would need to be assessed on their own merits.
- 8.60 Whilst a number of issues have been raised by third parties, the following are not material planning considerations in this case:
- Fear of crime to surrounding properties as a result of the proposal;
 - Would create anti-social behaviour;
 - Loss of private view; and
 - Devaluation of property.

9. CONCLUSION AND PLANNING BALANCE

- 9.1 The proposal seeks permission for a change of use of the site to a traveller caravan site comprising 8.No pitches. The site is within 3KM of the Category A village of Chesterton as well as the town of Bicester and benefits from a good access to the highway network. In terms of general sustainability the proposal is in compliance with Policy BSC6 of the Cherwell Local Plan and is considered acceptable in principle.
- 9.2 In terms of the suitability of the site for gypsies/travellers, as the site is located less than 3KM to a Category A village and the town of Bicester, it has relatively good access to health services and schools. In addition, the site is not located within close proximity to a conservation area or very close proximity to any listed buildings and is not considered to cause harm to the historic environment.
- 9.3 That said, the proposed development, would give rise to very high levels of noise that would impact upon the health and wellbeing of residents of the proposed development, and this should be afforded significant weight. Furthermore, even with the mitigation measures suggested by the Council's Landscape Team, the proposal would have an urbanising effect on this agricultural field within the open countryside and would cause harm to the rural character and appearance of the landscape.
- 9.4 However, there is a clear, significant and as yet unmet identified need for new gypsy and travellers pitches in the District up to 2031, and this issue is further exacerbated with the closure of the Newlands Caravan site at Bloxham, which will result in the loss of a further 36 previously authorised pitches, adding considerably to the immediate need for new sites within

the District. In addition to this, there are currently no identified sites that could provide alternative accommodation, and no sites have yet been proposed for allocation. Officers consider that the significant unmet need in the Cherwell District, the immediate need resulting from the closure of the Newlands Caravan Site, the lack of suitable and available alternative sites, and the lack of allocated sites within the development plan to meet the identified need should be afforded substantial weight in the determination of this application.

- 9.5 The applicant's agent has stated that they are willing to accept a temporary permission on the site for the use for a period of 3 years. This would ideally allow time for alternative and more suitable permanent sites to come forward, but this would need to be reviewed at the end of the 3 year period. It would also allow for the actual noise impacts resulting from the M40 to be properly monitored, experienced and assessed. Officers are satisfied that a temporary consent can be granted because the works that would be of a more permanent nature (e.g. hard surfacing, fencing, package treatment plant) could be removed at the end of the consent if required, and the land restored to its former condition.
- 9.6 Whilst it is very clear to officers that the site is not an ideal one for such a proposal, especially given its siting within close proximity to the M40, officers consider that in this case this harm is outweighed by the immediate need for new gypsy and traveller pitches in the District, such that a temporary consent is justified in this case. Thus, it is concluded that given the circumstances, a 3 year temporary permission should be granted and the application is therefore recommended for approval.

10. RECOMMENDATION

That permission is **granted**, subject to the following conditions:

1. The development to which this permission relates shall be begun not later than the expiration of one year beginning with the date of this permission.

Reason – In view of the immediate need for the development, which overrides normal planning considerations which would normally lead to a refusal of planning consent and 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 submitted with the application;
 - Design & Access Statement by Philip Brown Associates submitted with the application;
 - Site Plan at 1:2500 scale print at A4 submitted with the application;
 - Drawing titled 'Site Layout Plan' at 1:1000 Scale received from the applicants' agent by e-mail on 27th January 2017; and
 - Drawing Number PBA4 received from the applicants' agent by e-mail on 30th January 2017.

Reason: For the avoidance of doubt, to ensure that the development is carried out only

as approved by the Local Planning Authority and to comply with Government guidance contained within the National Planning Policy Framework.

3. The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of 'Planning policy for traveller sites' August 2015.

Reason: This consent is only granted in view of the very special circumstances, which are sufficient to justify overriding normal planning policy considerations which would normally lead to a refusal of planning consent and in accordance with Policies ESD13 and ESD15 of the Cherwell Local Plan Part 1, saved Policy ENV1 and C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

4. No more than 16 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 8 shall be static caravans or mobiles homes) and 8 utility day rooms shall be stationed on the site at any one time and these shall be sited within the pitches as displayed on the drawing titled 'Site Layout Plan' at 1:1000 Scale received from the applicants' agent by E-mail on 27th January 2017.

Reason: This consent is only granted in view of the very special circumstances, which are sufficient to justify overriding normal planning policy considerations which would normally lead to a refusal of planning consent and to limit the visual impact of development in accordance with Policies ESD13 and ESD15 of the Cherwell Local Plan Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

5. On or before the 17th February 2020, the use hereby permitted shall be discontinued and all associated operational development shall be removed, and the land shall be restored to its former condition.

Reason: In order not to prejudice the consideration of future proposals for the land and in view of the special/personal circumstances of the case which are such as to override basic planning objections to the development in accordance with Policies ESD13 and ESD15 of the Cherwell Local Plan Part 1, saved Policy ENV1 and 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 and notwithstanding the details shown on the approved plans, full details of the package sewage treatment plant(s) required to serve the development, including siting, technical specification, operation and appearance, 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 safeguard against pollution and in the interests of the visual amenities of the area, to comply with Policies ESD8, ESD13 and ESD15 of the Cherwell Local Plan Part 1, saved Policy C28 and ENV1 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 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, and prior to the first occupation of the development, the means of access shall be provided and retained in accordance with the approved details, and the vision splays shall be constructed in accordance with the approved details and the land and vegetation within the vision splays shall not be raised or allowed to grow above a maximum height of 0.6m above carriageway level.

Reason: In the interests of highway safety and to comply with Policy ESD15 of the Cherwell Local Plan part 1 and Government guidance contained within the National Planning Policy Framework

8. Prior to the first use or occupation of the development hereby permitted, waste storage and collection points 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 waste store/collection points shall be retained and maintained for the storage of bins in connection with the development.

Reason: In the interests of sustainability and highway safety, to ensure a satisfactory form of development and to comply with Policy ESD15 of the Cherwell Local Plan Part 1 and Government guidance contained within the National Planning Policy Framework.

9. Except to allow for the widening of the access and vision splays required under condition 7, the existing hedgerows along the southern and western boundary of the site shall be retained and properly maintained at a height of not less than 3.5 metres, and if any hedgerow plant dies within the 3 year period of this consent, it shall be replaced and shall thereafter be properly maintained in accordance with this condition.

Reason: In the interests of the visual amenities of the area, to provide an effective screen to the proposed development, and in the interests of ecology, to comply with Policies ESD10, ESD13 and ESD15 of the Cherwell Local Plan Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

10. All hard-standing areas and surfaces within the site must be constructed from a permeable material, or prior to the first use or occupation of the development provision must be made within the site for surface water to discharge to a soakaway/ SUDS feature.

Reason: In the interests of highway safety and flood prevention and to comply with Policy ESD7 of the Cherwell Local Plan Part 1 and Government guidance contained within the National Planning Policy Framework.

11. No commercial activities shall take place on the land, including the external storage of materials and no vehicle over 3.5 tonnes shall be stationed, parked or stored on this site without the prior approval in writing of the Local Planning Authority.

Reason: In order to safeguard the amenities of the area and in the interest of highway safety in accordance with Policies ESD13 and ESD15 of the Cherwell Local Plan Part

1, saved Policy C28 of the Cherwell Local Plan 1996 and the NPPF.

12. Notwithstanding the provisions of Class A, Part 2, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), no gates, fences, walls or other means of enclosure shall be erected on the site without the express planning permission of the Local Planning Authority.

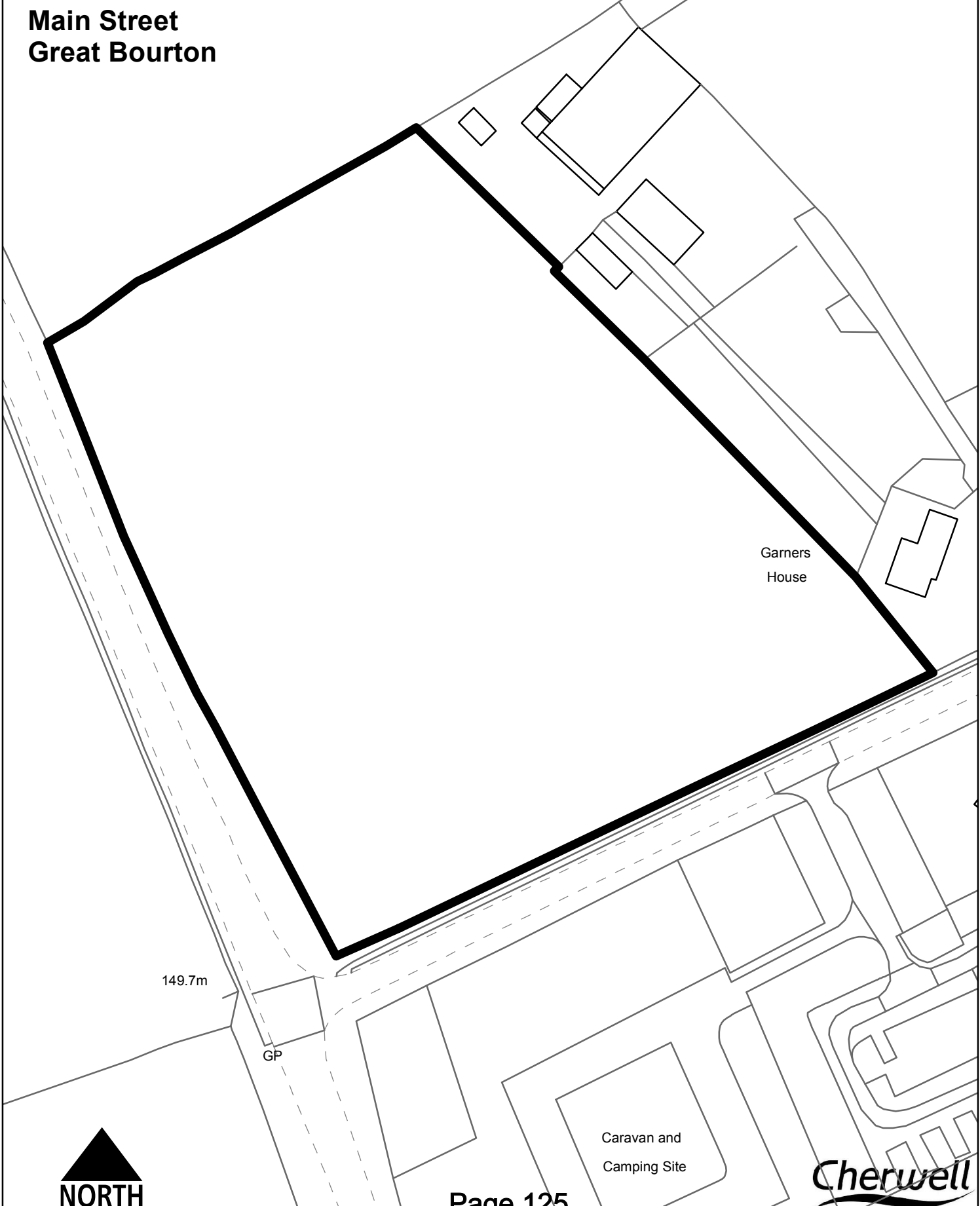
Reason: In order to safeguard the amenities of the area and in the interest of highway safety in accordance with Policies ESD13 and ESD15 of the Cherwell Local Plan Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and the National Planning Policy Framework.

PLANNING NOTES

1. Planning permission only means that in planning terms a proposal is acceptable to the Local Planning Authority. Just because you have obtained planning permission, this does not mean you always have the right to carry out the development. Planning permission gives no additional rights to carry out the work, where that work is on someone else's land, or the work will affect someone else's rights in respect of the land. For example there may be a leaseholder or tenant, or someone who has a right of way over the land, or another owner. Their rights are still valid and you are therefore advised that you should seek legal advice before carrying out the planning permission where any other person's rights are involved.
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 0800 009 3921. This is to ensure that the surface water discharge from the site shall not be detrimental to the existing sewerage system.
3. Under the Caravan Sites and Control of Development Act, 1960, the site owner will need to apply for a caravan site licence and in order for the licence to be granted the site owner must comply with the licence conditions. For further advice and guidance, please contact Public Protection at Cherwell District Council by email: public.protection@cherwell-dc.gov.uk or tel: 01295 227990.
4. 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 01635 268881.

16/01979/F

Land To The West Of Garners House
Main Street
Great Bourton



Garners House

149.7m

GP

Caravan and
Camping Site

Cherwell

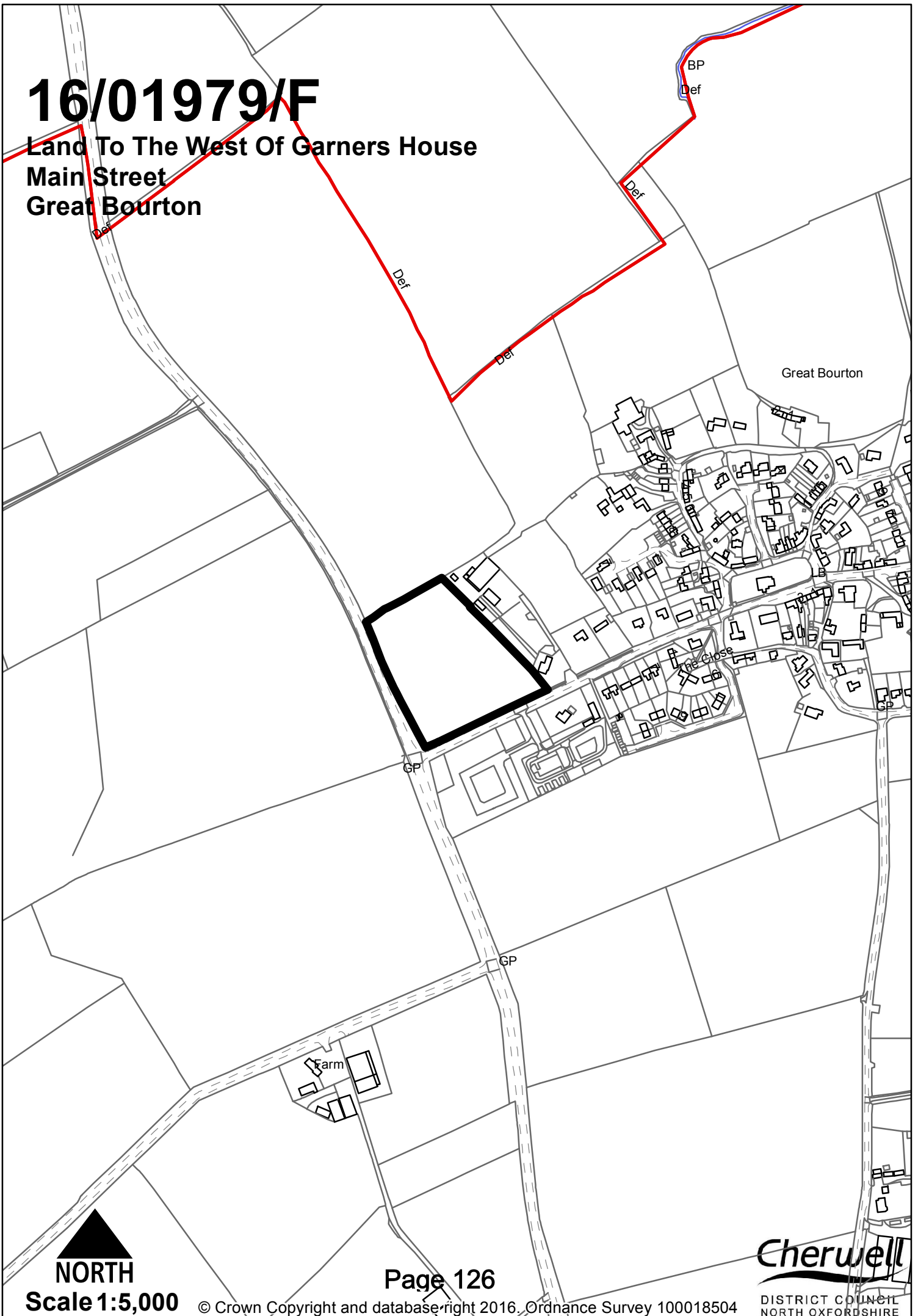
DISTRICT COUNCIL
NORTH OXFORDSHIRE



NORTH
Scale 1:1,100

16/01979/F

Land To The West Of Garners House
Main Street
Great Bourton



NORTH
Scale 1:5,000

Case Officer: Caroline Ford **Ward(s):** Cropredy, Sibfords And Wroxton

Applicant: Hayfield Homes Ltd and Mr and Mrs Townsend

Ward Member(s): Cllr Ken Atack
Cllr George Reynolds
Cllr Douglas Webb

Proposal: Erection of 43 No dwellings, a new community hall, associated infrastructure and two vehicular accesses from Main Street on land west of Garners House, Main Street, Great Bourton

Committee Date: 16.02.2017 **Recommendation:** Approval

Committee Referral: Major application

1. Application Site and Locality

- 1.1 The site is a 1.9ha grassed field situated to the western edge of Great Bourton. The A423 Southam Road runs to the western boundary of the site and to the south are Main Street, leading into the village and a caravan site beyond this. To the north are agricultural fields and to the east is Garners House, with some buildings and various uses; beyond which the rest of the village lies. There are a number of public rights of way within the site, one of which runs within the site boundary. The site is enclosed by field hedgerows along the north, south and west and to the east, by a mixture of hedgerow and low post and rail fences.
- 1.2 In terms of recorded site constraints, as mentioned, the site has a public right of way running through it and the site has some potential to be contaminated. Swifts have been recorded within the vicinity and beyond this; there are no other site constraints.

2. Description of Proposed Development

- 2.1 The application seeks full planning permission of a residential development on the site to include 43 dwellings and associated infrastructure including road infrastructure, open space and a play area. The application also proposes a new community hall. Two vehicular accesses are proposed, one providing access to the residential part of the site and one providing access to the community hall.

3. Relevant Planning History

<u>App Ref</u>	<u>Description</u>	<u>Status</u>
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13/01318/OUT	OUTLINE - Development of 35 dwellings and a community hall, public open space and associated infrastructure, car-parking and landscaping	Refused
14/01843/OUT	OUTLINE - Development of 33 dwellings and a community hall, public open space and associated infrastructure, car-parking and landscaping (resubmission 13/01318/OUT).	Permitted

4. Response to Publicity

4.1 The application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper and by neighbour letter. 10 representations have been received. The following comments are raised:

- The Cherwell Local Plan 2011-2031 identifies the need for 750 homes in the villages, mainly in the Category A villages of which Great Bourton is not one. It does recognise that small windfall sites will come forward during the plan period but a development of 43 dwellings is not 'small'.
- The Local Plan makes reference to only permitting small scale growth of villages. The application must be assessed against the local plan.
- There has been a material change in circumstances since the approval of the outline application and as it is a new application it must be determined on its own merits.
- The development offends the policies of the local plan and should be refused.
- Reference is made to the refused planning application 16/1468/OUT at Cropredy and the relevance to the current application.
- CDC has a 5 year housing land supply therefore it remains that there is no pressing housing need for additional land release.
- The site is not previously developed, would not contribute to enhancing the built environment and it is not well located to services and facilities.
- The development is disproportionately large increasing the number of houses in the village by 25%.
- The proposed development would extend the village envelope and would adversely affect the character of the village and the surrounding landscape.
- The proposal would alter the appearance of the village and of the approach south along the Southam Road and would destroy local farming environments.
- The design does not fit in well with the existing village character.
- The design and layout fails to show an understanding of the way villages evolve. The development is on the fringe of the village adjoining a rural landscape. The proposed development is closer to the highway than adjacent properties with higher density and massing appearing distinct and different and would sit at odds with the properties around it.
- The proposal appears to reflect an urban housing estate rather than the rural location. The character of the village should be protected.
- The presence of terraced housing is particularly out of character. Most historic terraces have evolved by adjoining houses rather than in a modern town house form. Their inclusion in a development at the perimeter of the village seems wrong.
- The proposal would form an isolated modern estate at odds with the rest of the village.
- The development should respect its rural village location and be in proportion and sympathetic.
- There would be no connection to the existing community.

- The affordable housing is desirable and the smaller properties would be of benefit to a range of people (not just building executive homes).
- No evidence of need within the village for a development of this scale, which must have a detrimental effect on the character of the village.
- The entry to the village will feel far more suburban.
- The proposed village hall is not needed and will be expensive to run. The existing hall is appropriate to the size of population and well used.
- The developer suggests that more houses are required to enable delivery of a community hall.
- The majority of villagers are not happy about the prospect of trying to run larger premises. To meet the costs would involve more hiring out, reducing availability for the local population.
- The increase in number of homes cannot be linked to the delivery of the Community hall.
- Increased traffic at the exit onto the Southam Road and increased congestion and the associated implications is also a concern.
- The position of the accesses to the housing development and the hall are close to the busy junction with the A423. There is likely to be increasing congestion from more housing in the area.
- Traffic calming measures would be unnecessary if the new houses were not to be built. It is not clear that they would improve the situation anyway.
- The development would not be sustainable – all facilities, with the exception of the pub and hall will involve car journeys as Great Bourton has no other services.
- There is now no public transport serving the village apart from one bus per week.
- Previous applications sought to improve bus services therefore helping to address the sustainability issue. The bus services withdrawal means there is a sustainability issue and even more car traffic being generated.
- The offered transport initiatives including cycle vouchers are negligible in value in terms of being a realistic sustainable transport option. The offer of cycle vouchers could undermine the Local Plan's sustainability credentials.
- Concern over light pollution from development on this site.
- The local sewage system, school and surgery are at capacity. The Council should not be countenancing growth in population in areas where it knows there is no service provision for such growth.
- The increased scale on this site will create a greater burden on the local community and infrastructure.
- There is no need for another play area to upkeep and maintain when both villages have expensively equipped newly upgraded ones. The short lease does not mean it could not be renewed.
- It would add light pollution.
- A management company is to be used for maintenance but it appears likely this matter will fall back onto the Parish Council in the future.
- Concern raised over the public consultation undertaken and over the history of the applicant.

A further letter has been received in response to the Case Officer's letter to the applicant's agent in respect to the application raising the following points:

- It is clear that the Officer intends to recommend approval. The advice given indicates a fundamental error and misunderstanding of the legal position. The Officer appears to have assumed that the existence of the previous extant outline permission justifies the grant of permission subject only to design and other details. Permission on that basis would be entirely irrational, unreasonable and open to legal challenge.
- This is a new application and CDC finds itself in a fresh decision making situation.

- The starting point for the consideration of the application is the applicable Local Plan. The Cherwell Local Plan points towards a refusal of this application.
- The Officer is clearly aware of the Local Plan but her error lies in relation to the law governing the application of material considerations and how they apply in this case. The Courts have given guidance on this matter. Applying the local plan, it is plain that the application should be refused. That must be the outcome of this application unless there are material considerations that require a departure from the plan.
- The Courts have considered what is or might be a material consideration and a number of principles have emerged.
- Giving overwhelming weight to the extant outline permission, allowing it to outweigh the local development plan and other material considerations is wrong and indicates a misunderstanding of the law. The outline permission is relevant or material only to the question of whether, absent the current application succeeding, the alternative lawful use for the land would be more harmful or contrary to policy.
- It is wrong to treat the existence of planning consent for the same site as the starting point for a new application.
- The previous decision has relevance; however it is not material in the way it has been regarded.
- The law is clear that where planning circumstances have changed since the original grant of permission, the Planning Authority is in a fresh decision making situation.
- There have been a number of changes in planning circumstances since outline permission was granted for the site. These changes justify and require the rejection of this application, contrary to the previous outline permission. These include: the fact the Council now has a five year housing land supply, that there is limited change of a successful appeal and that there is now no local support for the scheme. For these reasons, the outline permission granted in 2015 would not be granted now.
- It has been open for a reserved matters application to be made before the expiry of permission in April 2017. They have chosen not to do so and the reason given is financial. It is not the function of the planning authority to allow incremental increases in development size and therefore harm to allow developers to make a bigger profit.
- There must be an assessment as to the relative harm from a larger scale of development. The current application is 30% larger and so the harm is commensurately increased.
- There are other material considerations, including the NPPF, which identifies a 'presumption in favour of sustainable development'. It is clear that the proposed development is not sustainable and statutory consultees have expressed this view.
- It is also material that the site is in an Area of High Landscape Value and situated between the main centre of Great Bourton and the Southam Road. This should be given more weight given the substantial developments under construction along the Southam Road, which put the preservation of Great Bourton as a separate settlement under greater pressure.
- Inconsistent decision making can lead to unwelcome outcomes, including other unsuitable developments which would become more difficult to refuse.
- There is no indication of any discussion or negotiation of any S106 obligations for this application. There should be a larger S106 obligation given the greater burden this proposal would have on the locality.

With regard to the amended plans, the following comments are made:

- How can you cram 43 houses and a community hall in a small field in a village with no amenities.
- Vehicles would be exiting onto Main Street at a dangerous place.
- 43 houses means around 86 people coming and going onto Main Street.
- The amendments do not change the view expressed earlier. Previous objections remain.

- The application is contrary to Policy Villages 1. The outline permission for 33 homes would not now be granted as it is contrary to the Local Plan.
- The AMR shows how Cherwell will meet its 5 year housing supply requirement. There are 28 developments in Cherwell villages with planning permission for 10 or more units. The outline permission for this site is the only one in a Category B village.
- The new application is 10% larger than the outline permission. If this were a new application for 10 houses in total, it would still be contrary to the Local Plan because it is both outside the built up limit of the village and not for fewer than 10 homes. If 10 homes cannot be approved in isolation because the development is too large, then an increase of that size should also be rejected.
- Provision of affordable housing can be a significant way of balancing the harm of development by provision of public benefit. In this case, it seems that the amount of affordable homes is adding to the harm of the development by increasing the density. There is no evidence that the need for affordable housing in Great Bourton has been assessed or that there is a current need for 15 units in the village. It is not a benefit to the village and does not therefore mitigate the harm of the development, to provide a concentration of affordable housing in excess of the local need. This is particularly so in an unsustainable location with limited local services and no public transport. This view was expressed by the Planning Inspector in relation to an appeal in Kirtlington.
- There is no sign that the demand for affordable homes, for local qualifying families with a connection to Great Bourton has been assessed, or whether the mix of size and tenure provided here is appropriate for that local need.
- Local residents have a legitimate expectation that Planning Committee makes decisions on planning applications in accordance with the Council's published plans and policies.
- Concern is raised over the amended response from the Parish Council.

Stagecoach makes the following points:

- Stagecoach service 66 has been operated with financial support from Warwickshire County Council (WCC). Service 77/277 was previously jointly funded by WCC and Oxfordshire. Oxfordshire withdrew their funding from July 2016.
- Stagecoach Midlands has notified its intention to withdraw from the service 66 contract from December 2016 due to the cost of the service despite subsidies from WCC. WCC is looking to re-procure a limited service to Banbury via Great Bourton.
- Whilst a commitment exists for 33 dwellings, based on the facts pertaining at the time, the change in public transport represents a material change in circumstances, that all stakeholders would want to be aware of as they consider if a further 10 dwellings is justifiable in a locality, which essentially, can only be car dependent for a large number of journeys.
- Given progress on delivering allocated sites at Banbury and in villages where a reasonable mode choice exists, to the extent any further supply might need to be identified to meet Cherwell's housing needs, it is considered this should be directed towards more sustainable locations.
- The current consent is considered to be ample to meet immediate locally arising housing needs, including that for affordable housing, given the size of the settlement.

5. **Response to Consultation**

The Bourtons Parish Council:

- The Parish Council has been involved in steps leading to this latest application and had supported the previous application for 33 dwellings for a number of reasons including new residents to support the community, the provision of affordable homes, the provision of play, the potential for improved traffic calming measures and the creation of a bus layby to enable public transport running along the A423 Southam

Road to be able to stop at Great Bourton (it is hoped that this bus layby could still be provided to accommodate future bus service provision).

- The Parish Council have worked with Hayfield Homes to work towards achieving a development that would be acceptable to the village and bring certain benefits. Their first proposal was generally supported by the Parish, however many changes were introduced after discussions with the Planning Department including the increase in the number of homes.
- A further village survey has been undertaken. This has elicited a low response rate, however the comments, alongside those expressed at the Developers consultation, indicate that the majority of responders are against the new development and the Parish much reflect these opinions.
- The Parish Council is therefore unable to support the application for the following reasons:
 - The increase in the number of homes would make the development too large, dominant and imposing at the entrance to the village.
 - The extended length of terraced houses at the entrance to the development creates the impression of an urban estate which is out of place in a rural village. The presence of terraces in the centre of the village was created over time in an evolutionary way and this is not represented in this modern terrace.
 - The provision of the affordable housing in a single area is not acceptable and could lead to problems in the future. The development should be tenure blind.
 - The introduction of parking courts is seen as a typically urban design feature and could encourage on street parking as well as potential anti-social issues. These should be avoided.
 - The terraced housing is positioned very close to the existing boundary hedge and will create a dominating presence. Maintenance of the hedge would be difficult. These houses should be set back to make them more visually acceptable – other houses at this end of Main Street have front gardens and drives.
 - Anxiety is raised by residents that the development would cause light pollution.
 - Occurrences of flash flooding in Cropredy from run off of surface water down the Bourton Hill has given rise to some opposition for fear of aggravating that circumstance. Preference would be to see the previous swales returned to the scheme with the permeable paving roadways.
 - Some concerns expressed by residents about the increased traffic flow and dangers at the Southam Road junction could be partly ameliorated by changes to the road layout (for example an increase in the width of the splay at the entrance to the site, a left filter lane at the Main Road/ Southam Road junction, the movement of the 30mph zone to the interchange with the 50mph limit).
 - With regard to the community hall; the Parish Council has always supported the provision of a new hall as it considers the existing hall to be restricted in many ways. However it accepts that the latest village survey does not support that view.
 - The Parish Council cannot support the application in its current form. Some new housing would be of benefit but it is considered that substantial and significant changes to the current application must be made in terms of number of houses, site layout, design and style, if villagers are to feel that their views have been heard and reflected.

In response to the amended plans, the Parish Council have resubmitted their comments as summarised above with additional comments highlighted. The additional comments are as follows:

- It is noted that there are fewer large houses and there is an increase in smaller inexpensive houses.

- The Parish Council recognises that to build a bus layby in the current circumstances of zero service would be a misapplication of funds, and would prefer that to be spent on a left turn filter lane, utilising some of the grass verge at the south bound exit from the village road onto the A423, if that could be agreed with OCC Highways.
- From the feedback received, the overriding concern is the number of dwellings and the increase from the original proposal. The Parish Council concurs with this view.
- In discussions with the Planning Officer, we understand that terraced houses are seen as a desirable feature in modern local development and that this terrace is seen to reflect some of the local housing stock. Now that the terrace has been reduced to 6 rather than 10 houses and the repositioning with two detached houses on the frontage, the impact is diminished. The modifications to the design, layout and housing style have reduced the effect of the dominant nature of the entrance to the village and setting back the properties from the frontage, more sympathetically reflects the existing housing nearby.
- The concern regarding the location of the affordable housing has been addressed and it is now more widely dispersed.
- The problem identified of parking courts has been addressed and some visitor parking laybys have been created throughout the site.
- The change in layout has addressed the issue of proximity to the boundary hedge. The houses facing Main Street are now set back from the boundary and the PC are pleased to see that all the properties visible from Main Street, including the properties overlooking the open space are now built of stone. The detailed landscaping and planting schemes, which are included in this application, with widespread addition of a rich variety of native trees will greatly improve the present biodiversity of the site and enhance its appearance.
- The problem of flash flooding has been addressed by paving all the major roads within the site with porous block pavers underlain with retentive SUDs. There will be soakaways in rear gardens and storm water storage crates below permeable driveways.
- The current traffic calming measures are seen as ineffective, and sometimes dangerous, can be re-examined and improvements made within the scope of this development. The PC acknowledge that none of the traffic calming schemes approved by the Highways department will relieve all traffic problems currently experienced, it will provide an opportunity to agree a new design to reduce the speed of vehicles through the village.
- Although the latest village survey does not support that view, the first survey which had a higher response demonstrated that more residents were in favour of a new community hall than against it.
- The Parish Council believes that some new housing development would benefit the village and bring advantages to the local community and are pleased to see that substantial and significant changes to the application have been made to the site layout, design and style.
- The Parish Council deeply regret that there is no change to the number of houses but it is recognised that the new scheme now achieves a broader housing choice.
- The current version of the proposal has addressed many of the concerns raised by residents. This has partly been achieved by the applicant's willingness to communicate with a view to achieving the best possible outcome.
- The Parish Council, with independent professional advice is of the opinion that ultimately in the future, there will be housing development of some substance on this site since its availability is now in the public domain. At another time, there may not be the opportunity to be involved and to achieve as good a result. It is believed that if this development is approved, it will not necessarily lead to further development on other potential sites in the village and absorbing a new development now, may defend the village from further development.

- In principle the Parish Council supports the application but with some reduction in the number of dwellings.

Cherwell District Council:

Planning Policy:

Objection for the following reasons:

Great Bourton is a Category B, satellite village, (Policy Villages 1). Category B settlements are considered suitable for minor residential development (typically but not exclusively for less than 10 dwellings) within the built up limits of the village, in addition to infilling and conversions.

As at March 2016, the Parish had extant permission for one dwelling. For the period 2011-2016 there are six recorded housing completions

Policy Villages 2 provides that a total of 750 homes will be delivered at the Category A villages on new sites of 10 or more dwellings (in addition to the rural allowance for small site 'windfalls' and planning permissions as at 31 March 2014). This proposal does not fall to be considered under Policy Villages 2 and there is no provision in Policy Villages 1 for development outside built up limits of Great Bourton.

On 12 May 2016, an appeal decision (ref: APP/C3105/W/15/3134944/14/02139/OUT) was received which confirmed that the District had a five year housing land supply (subject to detailed comments on the Council's specific position). The Local Plan's policies for the supply of housing should therefore be considered to be up-to-date. There is no pressing housing need for additional land release at this time.

The site lies outside the built-up limits of the village and would extend development in to the countryside and is contrary to adopted Development Plan policies. The scale of the proposed development, in this less sustainable location, also causes concern regarding the impact it will have on the character of the village and the capacity of its services and facilities. However, there would be benefits from the provision of new houses (including affordable housing), the site has permission for 33 dwellings and it is noted that a community hall is proposed.

The original approved 33 dwellings were considered by the Council's Planning Committee in February 2015 when the district had a published 5 year land supply position of 3.4 years (as at June 2014). These 33 dwellings are now contrary to up to date planning policy in the Local Plan. However, they have permission and presently contribute to the district's five year housing land supply (above five years). Were permission for the current proposal not to be granted, the existing permission would remain extant and would continue to do so with the submission of an application for reserved matters approval by April 2017. There is merit in retaining this supply of homes (with or without a community hall) but the expiry of the permission would mean that development would not occur in a location that falls outside the local plan strategy.

The overall scheme now proposed, including the additional homes, is in conflict with local plan policies. It is understood that the additional homes are proposed for viability reasons in the interest of providing a community hall proposed by the applicant in the original application (not a requirement). The community hall is a proposal associated with a proposed development that falls outside of planning policy. The potential benefits to the local community from a new hall are acknowledged. However, those and the wider benefits of the proposal (including meeting wider housing need) must be considered in the context of the scheme being contrary to the local plan strategy, thereby leading to growth in less sustainable locations in the rural area. The potential loss to the housing land supply if the original scheme is not implemented must be considered in the context that there is an existing permission that could be delivered as originally envisaged by the applicant and the opportunity there has been to submit an

application for reserved matters approval. Furthermore, since that scheme was submitted it is understood that there have been improvements to the health of the housing market in Cherwell and the original scheme would have been considered to be viable in February 2015 to contribute to the five year housing land supply (NPPF, para. 47, footnote 11).

Strategic Housing:

- The increase in the total number of dwellings on the site has increased the number of affordable housing required to 15 to reflect the 35% ratio required in Great Bourton.
 - The support of the RP is noted but there are still concerns with the tenure mix and the affordable rent/ shared ownership split requires revision in line with the mix suggested.
 - The affordable units should be split up and not clustered together.
 - The car parking for the affordable units appears dense and it is suggested this be re-planned.
 - Requirements for the standard of build are provided.
-
- In relation to the amended plans, the following points are made:
 - The amendment to the layout still provides the required number of affordable housing units, and the size and tenures of the affordable also remains acceptable.
 - The previously clustered units have now been separated over the site in a more appropriate way.
 - In addition, the car parking layout is also considered to be an improvement, and provides enough spaces for all the affordable units.
 - 50% of the affordable rented units must meet requirement M4(2) Accessible and Adaptable Dwellings requirement. 100% of the affordable housing units are to be to the Governments Nationally Described Space Standard (Technical Housing Standards).
 - The Registered Provider to take on the affordable housing needs to be agreed with the Council.

Urban Design:

- It is important that development on this main route through the District is not let down by poor design or detailing.
- Buildings generally address and align with roads, why does the Village Hall have to be set at an angle to the road?
- Query over the angle of the terraces and the roof junctions that may result.
- Query over the materials to be used.
- Query over street scenes including the positioning of windows, chimneys.
- Advice provided in relation to the quality of materials, window and other detailing.
- The off centre porch to the village hall does not positively contribute to the form of the building.

Landscape Planning Officer:

- Some concerns with the proposed planting plans including the species chosen.
- Suggestions are made with regard to the community hall landscaping.
- Concerns raised with regard to the Local Area of Plan
- Comments made with regard to the submitted management plans to require additional information.

In relation to the amended plans the following comments are made:

- The planting is mostly fine (subject to a few amendments).
- There is concern regarding the pedestrian access to the hall from the car park.

- Concern regarding the position of the local area of play, it would be better located tucked away, there are a few detailed amendments required to the detailed LAP scheme.

Arboricultural Officer:

- The retained trees show suitable protection which should be a condition with professional supervision to ensure compliance at each stage.
- The tree landscaping is appropriate and the pit detail needs to have a root barrier installed when used adjacent to hard surfaces.

Environmental Protection:

- No objection to the scheme from a noise and nuisance point but the CEMP required in the previous outline permission should be provided and agreed prior to the commencement of development.
- No comments received regarding contaminated land.

Ecology:

- An updated walkover of the site was undertaken by the ecological consultant in September 2016 and no evidence of badgers were present on site. Should the site clearance works be delayed beyond 6 months from the date of the survey, then an updated badger check will be required.
- The report provides suitable timing of works to remove the sections of hedgerow to create site access to avoid the nesting bird season.
- Regarding biodiversity enhancements within the proposed layout, it is noted that the SUDS features which were included on the outline plans do not appear in the detailed plans. We would recommend these are included as the provision of swales and attenuation features are often very beneficial to biodiversity. It also appears that the proposed open space and SUDS feature on the western boundary is much smaller in area compared to the outline plans. The outline plans are preferred due to the provision of these features which provide a wildlife corridor along the western boundary of the site and provide connectivity in the local area and we strongly encourage the inclusion of SUDS as shown on the outline plans as biodiversity enhancement and due to the loss of semi-improved grassland as a result of the proposed development.
- The provision and locations of 5 x Schwegler sparrow terrace boxes and 5 x Schwegler 1FR bat tubes within the proposed development (as shown in Appendix 1 of the LEMP) are welcomed. The provision of 5 x swift boxes to be placed in suitable locations, at least 5m from the ground under eaves due to known records of nesting swifts in the village are strongly recommended.
- The timing of the wildflower grass cutting appears to be different in the LEMP and in the Landscape Management and Maintenance Plan. The grass should be cut twice annually as a maximum and after the wildflowers have set seed to maximise the biodiversity value. The timing of the hedgerow cuts should also avoid the nesting bird season, or include a check by a suitably qualified ecologist prior to cutting. We welcome that one third of hedgerows will be cut each year, but seek clarification on this as the LEMP states that one third will be left uncut (whereas this should be two thirds left uncut). I would also recommend that annual monitoring and review of the habitat management prescriptions should be built into the LEMP to identify the requirement of additional management measures.
- Finally I would recommend that the lighting scheme should avoid light spill onto the existing and proposed hedgerow planting along the site boundaries.

Recreation and Leisure Team:

- There is no requirement for the hall based on the application scale. If the developer is seeking to transfer the centre to the Parish Council upon completion, together with the appropriate commuted sum, there is no further community requirement.
- Public Art requirement of £7525 to secure suitable public art as part of the development process. This could be functional artworks, standalone sculptural work or a community arts activity with temporary elements to celebrate the new Hall and extended community.
- In response to the amended plans, the Recreation and Leisure Team have confirmed that their comments remain as set out above.

Business Support Unit:

- It is estimated that this development has the potential to attract New Homes Bonus of approximately £352,059.33 over 6 years under current arrangements for the Council including an additional sum paid per affordable home. The community hall has the potential to secure business rates of approximately £4,356 under current arrangements for the Council.

Waste:

- Adequate provision for waste and recycling storage is required. A S106 contribution is required.

Oxfordshire County Council:

Transport: Objection with the key issues being:

- Detailed plans of both accesses need to be submitted to justify the visibility splays used and to show how they can be accommodated. Traffic surveys should be conducted to ascertain speeds along the road.
- Refuse tracking for the appropriately sized vehicle is required.
- Great Bourton must now be considered to be an unsustainable location for residential development due to the inadequate public transport provision.
- There are some layout issues that must be addressed.
- The proposed drainage design is of discharging gullies directly into a drainage layer beneath the roads and this is not acceptable to OCC. The design should be based on SUDs principles using porous block paving, swales or dry attenuation ponds.

Other comments include:

- S106 requirement is for a contribution towards sustaining and improving bus services to and from the village, S278 works to construct the accesses and a change to the speed limit via the alteration of the existing Traffic Regulation Order. Conditions are also required.
- The kissing gates to be installed at either end of the footpath are acceptable and the details submitted are suitable.
- There would no overall concern if the development site were not lit on road safety grounds.
- It would not be justifiable to provide lay-bys on the Southam Road given the bus service has been removed. The Bourtons Parish Council is aware of the contribution sought towards public transport enhancement and has been involved in considering how this could be spent with OCC. As such, the public transport services contribution can still be sought to be used towards improving bus service provision to the village.
- The applicant has offered a number of measures to promote sustainable transport in response to the change in public transport service provision, which include cycle vouchers and the installation of electric charging points. The proposals sound reasonable and mean the development would be catering for emerging markets and

new greener technologies. Whilst electric cars do not remove journeys from the road network or alleviate congestion, they do assist in cutting down on emissions and encouraging users to think more carefully about journeys they make. It is realistic to believe that some residents would cycle to Banbury so the cycle voucher will encourage individuals to consider more sustainable methods of travel.

- Trip generation from the additional number of dwellings are unlikely to place a strain on the highway network from a traffic and safety point of view.
- Cycle parking is required on plot and for the community centre.
- A travel information will be required to be developed and provided to every household.

Education and Property:

- A deed of variation to the existing agreement attached to the outline permission is required to incorporate this application and take account of the additional dwellings. This relates to education contributions only.

Ecology:

- The District Council should seek advice from their in house ecologist.

In relation to the amendments, the following additional comments are made:

Transport:

- Objection. The key issues remaining are:
- The access construction and layout needs finalising with the Road Agreements Team.
- Refuse tracking for an 11.4m vehicle should be revised and drag distances addressed.
- The developer will need to show service crossings and a segregation concrete barrier on the adoption plans.
- We require some safety mitigation measures along the primary access road, to reduce vehicle speeds.
- Traffic Regulation Order (TRO) consultation is needed for the relocation of the 30mph limit.
- A Road Safety Audit will have to be done for the relocation of the build out and implementation of speed cushion on the road narrowing.
- We require the Sheffield Stand to be used for cycle parking, as opposed to cycle hoops.
- The proposed development's drainage design of discharging gullies directly into a drainage layer beneath the roads is not acceptable to Oxfordshire County Council in this location.
- There are a number of outstanding detailed queries including the road surfacing and the position of a visitor space.

Other External Consultees:

Thames Water:

- No objection with regard to sewerage infrastructure capacity. A note is provided with regard to surface water drainage and a planning note is further recommended in relation to water pressure.

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 – The Effective and Efficient use of Land
BSC3 – Affordable Housing
BSC4 – Housing Mix
BSC10 – Open Space, Outdoor Sport and 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 and Allowable Solutions
ESD3 – Sustainable Construction
ESD5 – Renewable Energy
ESD6 – Sustainable Flood Risk Management
ESD7 – Sustainable Drainage Systems
ESD10 – Protection and Enhancement of Biodiversity and the Natural Environment
ESD13 – Local Landscape Protection and Enhancement
ESD15 - The Character of the Built and Historic Environment
Policy Villages 1 – Village Categorisation
Policy Villages 2 – Distributing Growth Across the Rural Areas
INF1 - Infrastructure

Cherwell Local Plan 1996 (Saved Policies)

C8 – Sporadic development in the open countryside
C28 – Layout, design and external appearance of new development
C30 – Design control

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;
- Scale of the development;
- Landscape and Visual Impact;
- Design and layout;
- Housing Mix/Affordable Housing;
- Transport
- Trees, Landscaping and open space;
- Effect on Neighbouring Amenity;
- Ecological Implications;
- Flood Risk and drainage;
- Sustainability and Energy Efficiency;
- Planning Obligations;
- Local Finance Considerations;
- Planning Balance

Principle of the Development

7.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the District comprises the adopted Cherwell Local Plan 2011-2031 and the saved policies of the Cherwell Local Plan 1996.

7.3 The site is not allocated for development in any adopted or emerging policy document forming part of the Development Plan and the site sits outside the built up limits of the village.

Adopted Cherwell Local Plan

7.4 The Cherwell Local Plan 2011-2031 seeks to allocate sufficient land to meet District Wide Housing needs. The overall housing strategy is to focus strategic housing growth at the towns of Banbury and Bicester and a small number of strategic sites outside of these towns. With regard to the villages, the Local Plan notes that the intention is to protect and enhance the services, facilities, landscapes and the natural and historic built environments of the villages and rural areas. It does however advise that there is a need within the rural areas to meet local and Cherwell wide needs. Policy BSC1 seeks to distribute the required housing for the District, including the allocations at Banbury and Bicester. In relation to the villages and rural areas, 2,350 homes are allocated for the 'Rest of the District'. Of these 2,350 homes, 1,600 are allocated by Policy Villages 5 at Former RAF Upper Heyford. This leaves 750 homes identified for development elsewhere. Policy Villages 2 provides for these 750 homes to be delivered at Category A villages. The Policy advises that these sites would be identified through the preparation of the Local Plan Part 2, through the preparation of Neighbourhood Plans where applicable and through the determination of applications for planning permission. A number of criteria are listed and these must be considered through the determination of a planning application.

7.5 The Local Plan seeks to identify a sustainable hierarchy of villages to set a framework for considering how proposals within villages will be determined. Policy Villages 1 provides a categorisation of the District's villages to ensure that unplanned, small scale development within villages is directed towards those villages that are best able to accommodate limited

growth, ensuring that unanticipated development within the built up limits of a village is of an appropriate scale for that village, is supported by services and facilities and does not unnecessarily exacerbate travel patterns that are overly reliant on the private car and which incrementally have environmental consequences. Category A and B villages are those identified as being the most sustainable in the hierarchy of villages in the District with development restricted by Policy Villages 1 to conversions, infilling and minor development.

- 7.6 The Local Plan also considers the issue of village clustering. It identifies that some villages, which may not necessarily have many services and facilities of their own, are geographically close to villages which do have services and facilities. Larger Villages, known as 'service centre' villages, in combination with the smaller 'satellite' villages can be considered to form a 'functional cluster'. Clustering allows for the support of community facilities, the possibility for small sites to come forward for development in satellite villages where sites in service centres may be limited, the reduction in length of car journeys and where appropriate, the use of developer contributions to support the delivery of infrastructure to needs in any village in a cluster. It is explained that clustering is not intended to form part of the development strategy in Policy Villages 2 as the services and facilities in most satellite villages are too limited to sustainably accommodate the development of larger allocated sites.
- 7.7 Policy Villages 1 identifies that in assessing whether proposals constitute acceptable 'minor development', regard will be had to the following criteria:
- The size of the village and the level of service provision;
 - The sites context within the existing built environment;
 - Whether it is in keeping with the character and form of the village;
 - Its local landscape setting; and
 - Careful consideration of the appropriate scale of development, particularly in Category B (Satellite) villages.

National Policy

- 7.8 The National Planning Policy Framework confirms that there is a presumption in favour of sustainable development. For decision making this means approving proposals that accord with the development plan without delay. The Framework advises that there are three dimensions to Sustainable Development; economic, social and environmental. With regard to housing, the Framework supports the need to boost significantly the supply of housing to meet the full, objectively assessed need for housing and requires Local Planning Authorities to identify and update annually a supply of specific, deliverable sites sufficient to provide five years' worth of housing against the housing requirements, with an additional buffer of 5% to ensure choice and competition in the market for land.

Five Year Land Supply

- 7.9 The Council's 2015 Annual Monitoring Report (AMR) concludes that for the 5 year period 2016-2021, the District has a 5.6 year supply of housing based upon the housing requirement of 22,840 homes for the period 2011-2031 (1142 homes a year), which is the objectively assessed need for the District contained in the 2014 SHMA. This includes a 5% buffer. The

five year supply position was confirmed by the Planning Inspectorate in a decision issued in May 2016 relating to an appeal at Kirtlington. As the District can demonstrate a five year housing land supply, the various housing supply policies in the Local Plan are thus up to date and accord with National Policy.

Principle of residential development in Great Bourton

- 7.10 Great Bourton is a Category B village, as classified by Policy Villages 1 of the Cherwell Local Plan. As such, the Local Plan allows for development within the built up limit of the village in the form of minor development, infilling and conversions. The proposed development sits outside the built up limits of the village and the proposal does not represent minor development, infill development or a conversion scheme therefore does not comply with Policy Villages 1.
- 7.11 The proposal also does not comply with Policy Villages 2 given that the village is not a category A village where larger scale development within the rural areas is directed.
- 7.12 Notwithstanding the above, it is important to note that outline planning permission has been granted for development on the current application site. This application was submitted in 2014, with outline permission sought for a residential development of 33 dwellings, a community hall, public open space and associated infrastructure. At the time that this application was submitted, the Council's Local Plan 2011-2031 had not been adopted, albeit, the policies of that plan, as a Submission document were considered in detail, including those relating to village categorisation and the housing strategy for the District. The Officer assessment at that time referred to the conflict with policies for the supply of housing, however given that at that time, the Council was not able to demonstrate a five year housing land supply, which, in accordance with Paragraph 49 of the NPPF meant that policies for the supply of housing could not be considered up to date, it identified and assessed other factors in the overall planning balance. On balance, it was considered that the benefits of the scheme would outweigh the adverse impacts caused. Upon the completion of a S106 legal agreement, the application was subsequently approved and a decision issued on the 07 April 2016. This has established the principle of a residential development for 33 dwellings on this site. The other identified factors will be discussed through this report.
- 7.13 In the view of Officers, given that there is an extant permission for 33 dwellings in outline (subject to the submission of reserved matters by 07 April 2017); this must set the context for the consideration of a proposal for 43 dwellings and it is a material consideration. It is however necessary to highlight the changes in circumstances since the previous approval. Firstly, the Council's Local Plan 2011-2031 is now a fully adopted document forming part of the Development Plan. In addition, as the Authority can demonstrate a five year housing land supply as referred to above, all policies for the supply of housing can be considered to be up to date. Given the conflict with the policies in the Plan and the Council's housing strategy this carries weight against this proposal.
- 7.14 Additionally, with regard to the number of rural homes allowed for by Policy Villages 2 - 750 (at Category A Villages), a significant number have already been delivered or are committed, leaving a relatively small number to be provided over the rest of the plan period. Recent appeal decisions received by the Council confirm that an overprovision of the rural housing allocation at an early stage in the plan period would prejudice the sustainable growth strategy

set out in the Local Plan and leave limited ability to respond to later changes in housing need in individual settlements without fundamentally compromising the overall sustainable strategy contained within the Local Plan. It is however important to note that the approved 33 dwellings are included within the Council's five year housing land supply.

- 7.15 Lastly, whilst the village continues to have the same limited level of facilities as considered in 2015, and its relationship with Cropredy which provides a greater level of services and facilities remains, the sustainability of the village has reduced given that it is no longer served by a regular bus service. This, and other transport sustainability matters, will be discussed in more detail later in this report.
- 7.16 It is also important to highlight other relevant policies. Policy BSC2 of the Cherwell Local Plan 2011-2031 confirms that housing development in Cherwell will be expected to make effective and efficient use of land. This is relevant given that the site has an extant permission for residential development. If it can be shown that a higher density development could be physically accommodated on the site without causing additional harm, either to matters of sustainability or the wider landscape, then it could be concluded that additional dwellings on such a site would mean land is being used more efficiently. Additionally, the delivery of a mix of housing, including affordable housing (in accordance with Policies BSC3 and BSC4) remains a high priority in order that a five year supply of housing can be maintained.
- 7.17 To conclude this section of the report, it is considered that the proposal would conflict with Policy Villages 1 and Villages 2 of the Cherwell Local Plan 2011-2031 and would propose development on the edge of a village that cannot be considered highly sustainable. The application site does however benefit from an extant outline planning permission (until April 2017), granted on the basis of the circumstances at that time, and thus it is likely that residential development will occur on this site. As such, it is necessary to consider the other impacts of the development so that the planning balance can be undertaken.

Scale of the development

- 7.18 The committee report for the extant permission identified that The Bourtons Parish (Great and Little Bourton), have a combined total of 310 properties. On the basis for a scheme of 33 dwellings, this was identified as approximately a 10% increase in the number of properties in the Parish. A scheme for 43 dwellings would represent approximately a 14% increase in the number of properties in the Parish. Third party objections have indicated around a 25% increase in the number of properties in Great Bourton when considered alone. The scheme for 33 dwellings was concluded to be acceptable in terms of the scale of development proposed. A scheme for 43 dwellings is large for the village, given its categorisation, and reliance upon other settlements to fulfil its need for services and facilities; however it is necessary to consider the overall additional level of harm that these additional 10 dwellings would cause.

Landscape and Visual Impact

- 7.19 Policy ESD13 of the Cherwell Local Plan advises that development will be expected to respect and enhance local landscape character and a number of criteria are highlighted including that development is expected not to cause visual intrusion into the open countryside, must be consistent with local character and must not harm the setting of settlements, buildings or structures. The Framework highlights that the protection and enhancement of the natural, built and historic environment is part of the environmental role of sustainable development and one

of the core planning principles also refers to recognising the intrinsic character and beauty of the countryside. The Framework also emphasises the importance of development responding to character and history with good design being a key aspect of sustainable development.

- 7.20 The approved outline application was supported by an LVIA, which concluded that residential development could be accommodated on the site without significant harm to the character and visual environment of the localised and wider area. The Officer report noted the impact of development on the character of the village in terms of bringing development closer to the Southam Road and therefore making the village more prominent and changing the rural nature of the village. However, overall taking into account the conclusions reached, along with the mitigation measures proposed, the limited identified overall harm further led to the conclusion that 33 dwellings could be accommodated without causing serious harm to the landscape and wider visual amenities of the area providing care was taken at the reserved matters stage.
- 7.21 The current application is not accompanied by an LVIA, however given that there is an extant permission for residential development on the site, where a landscape and visual assessment has been made and accepted, Officers consider that the assessment must concentrate upon the impact of this particular development upon the landscape and visual amenities of the area rather than the principle of development on the site.
- 7.22 In these terms, given the number of dwellings has increased, there is likely to be some greater impacts. The dwellings are positioned back from the site boundary, which allows for the boundary hedgerows to be retained and the dwellings positioned around the edge of the site are detached, giving a less formal character. The height of the dwellings does not exceed 9.1m, which is not excessively high albeit this is likely to exceed the height of the boundary hedgerows (which is likely in any event from a housing development on this site). The proposal also indicates landscaping around the edge of the site, which will further aid in reducing the impact of the development. In the view of Officers, the proposed development of 43 dwellings would be unlikely to have a significantly worse impact upon the landscape and visual amenities of the area than the impact that would be caused by a development of 33 dwellings and that the scheme currently proposed, including the position of the dwellings on the site and the landscaping proposals, mean that development can be acceptably accommodated on this site. Officers therefore consider that there would be limited overall conflict with Policy ESD13 and the Framework in respect to the landscape and visual harm from this scheme.

Design and Layout

- 7.23 Policy ESD15 provides guidance as to the assessment of development and its impact upon the character of the built and historic environment. It seeks to secure development that would complement and enhance the character of its context through sensitive siting, layout and high quality design meeting high design standards and complementing any nearby heritage assets. The National Planning Policy Framework is clear that good design is a key aspect of sustainable development.
- 7.24 As discussed above, the development of the site would extend the village towards the Southam Road, and would result in a relatively large cul-de-sac, which would contrast with the existing settlement pattern, which is characterised by a central core, with development having

dispersed along the main street and north and southwards. As concluded under the original application, this would carry some weight against the proposal. That said, the approved outline scheme would result in this same impact, therefore it would be unreasonable for this scheme to be resisted on this basis. It is therefore important that the proposal itself, in terms of the design and layout provides for an acceptable locally distinctive scheme for this site.

- 7.25 The outline application for 33 dwellings was accompanied by an indicative layout, which identified a large number of detached dwellings and Officers expressed a number of concerns. However, as that plan was indicative, Officers considered it appropriate to secure an acceptable design and access statement, setting suitable design standards to guide future reserved matters on the basis that it had been demonstrated that 33 dwellings could be accommodated on the site. The design and access statement was duly amended and contained a greater analysis of the village in order to inform future proposals and also proposed that the open space and community hall be repositioned such that the open space sat on the corner between Main Street and the Southam Road. Officers considered this had some advantages in softening the impact from the west, however it did illicit some concern from the Parish Council in terms of the interrelationship of the open space and community hall with the rest of the village.
- 7.26 Initial discussions between the applicant and Officers, indicated that their proposal to accommodate 33 dwellings would involve the provision of predominantly detached market homes, of a large scale and with a cluster of affordable housing, which would be very clearly distinguishable from the market units. On this basis, Officers raised concern with the design, layout and the mix of units and identified the need for a locally distinctive development required by policy. Suggestions were made to secure a strong frontage to the development, with a continuous stretch of houses to be reflective of the form of development within the core of the village and to frame the open space. The applicant considered the advice provided and determined that additional units could be accommodated on the site hence the submission of a full application for 43 units.
- 7.27 The original submission raised a number of concerns in relation to the layout and detailed house types and these were raised with the applicant's agent. Following discussions between the applicant, their Urban Designer and the Case Officer, an amended scheme has been submitted and these are the plans for consideration now. Generally, Officers are now content with the scheme considering that the layout represents an acceptable scheme that will show local distinctiveness and provide a high quality development. The scheme number remains at 43 units and Officers consider that the proposals demonstrate appropriately that this number can be accommodated on the site.
- 7.28 The scheme includes a largely continuous frontage at the entrance to the site and framing the public open space. These terraces would be formed from units of different sizes and types, creating a varied street scene of both market and affordable units. This arrangement of units has attracted objection from third parties and the Parish Council, with the view expressed that this form of development is out of character and more reflective of an urban housing estate, pointing out that continuous frontage within the village core would have evolved over time. Officers would disagree that the continuous frontage proposed is urban; the alternative being many detached houses with adjacent garaging, which is notoriously 'suburban'. Whilst it is accepted that the historic core would have evolved over time, the character that has resulted is a strong arrangement of dwellings creating local distinctiveness. In the view of Officers, and

as required by Policy, it is very important that new development, particularly in a village location, reinforces local distinctiveness and the form of development proposed is considered to achieve this. These frontages would be wholly constructed of stone and thus would create a strong building line, framing the open space and respecting the historic pattern of buildings in the village. Officers would further note that this design approach has been very successfully adopted elsewhere, including at Adderbury (Aynho Road and Milton Road).

- 7.29 The original scheme sought to cluster all the affordable units in one place. The amended scheme has dispersed the location of the affordable housing, with the four shared ownership units relocated away from the 11 affordable rented units. This, in itself is acceptable in terms of the resulting clusters of housing in layout terms and the design of the units is now generally indistinguishable from the market units.
- 7.30 Beyond the linked frontage and the arrangement of the affordable units, the layout represents a largely regular arrangement of units, including detached and semidetached units. All units generally benefit from a road frontage, with a small courtyard also provided in one area, albeit this has been designed to provide space for landscaping such that it can form a well-designed space. Parking provision is provided generally to the side of the units and is provided in the form of garaging, uncovered spaces or in small rear courtyards where a continuous frontage is achieved. Parking is conveniently located and visitor spaces are also provided, both within parking courts and on street. The units are generally spaced to meet the Council's space standards and this is acceptable, albeit some garden spaces are smaller and more awkwardly shaped than might be expected. Nevertheless, the layout is now considered to be acceptable in nature.
- 7.31 The house types proposed have also been amended through the consideration of the application. The house types have all been simplified and are generally now considered to be appropriate for this sensitive site. The house types are generally balanced, with acceptable detailing and fenestration which would be suitably provided and details such as the position of chimneys has been considered. A number of porch types are proposed and details of these can be secured via condition. As referred to above, the design of the affordable units are generally indistinguishable from the market units. The detailing of the dwellings can be sought via planning condition.
- 7.32 The plans propose 22 units to be constructed from stone, which represents 51% stone across the site. This is a higher level of stone than is normally achieved on development sites but is appropriate in a village setting, where stone forms the historic building material. The stone units would form the frontage of the site and others positioned in key locations. Otherwise, brick is proposed and this is considered acceptable. Materials samples are to be sought via planning condition.
- 7.33 The proposed community hall is positioned fronting the village road, which is considered to be acceptable in terms of this community building's presence to the village. The design of the village hall is also considered to be acceptable and it will be constructed from stone which is appropriate.
- 7.34 The proposed plans include details of the boundary treatments proposed, which generally includes stone walls in prominent areas and close boarded fencing between gardens. There are a small number of areas where Officers have picked up where amendments may be

required to the boundary treatment proposals as well as the need for details of the elevations of the boundary treatments to be provided. A condition is therefore recommended in relation to this matter.

- 7.35 Overall, Officers consider that the layout and design of the proposal now represents an acceptable scheme that demonstrates local distinctiveness, will be constructed from an appropriate palette of materials and proposes acceptable house types in design terms. The proposal is therefore considered to represent good design and comply with Policy ESD15 of the Cherwell Local Plan and the Framework.

Housing Mix/ Affordable Housing

- 7.36 The NPPF advises that in order to create sustainable, inclusive and mixed communities, Local Planning Authorities should plan for a mix of housing, reflect local demand and set policies for meeting affordable housing need. Policy BSC4 of the Local Plan requires new residential development to provide a mix of homes in the interests of meeting housing need and creating socially mixed and inclusive communities. Policy BSC3 requires development within locations such as Great Bourton to provide 35% affordable housing on site and provides detail on the mix that should be sought between affordable/ social rent and shared ownership.
- 7.37 The proposal provides 35% affordable housing on the site, in the mix requested by the Council's Investment and Growth Team. The proposal also provides for a range of market units, with a mix of predominantly 3, 4 and 5 bed units (and one 2 bed unit). The mix proposed is considered to be acceptable generally, particularly as a high proportion of 3 bed units are proposed, which provides the opportunity for smaller units and helps to meet the requirements of Policy BSC4 as a mix of homes to meet current and future requirements in the interests of meeting housing need is met. The housing mix achieved by this scheme for 43 dwellings includes the provision of smaller house types that are likely to more closely meet the requirements of Policy BSC4 than a scheme formed predominantly of detached units.

Transport

- 7.38 The National Planning Policy Framework is clear that transport policies have an important role to play in facilitating sustainable development with encouragement provided to sustainable modes of transport to reduce reliance on the private car. It is also clear that applications should be accompanied by a Transport statement if it would generate significant amounts of movement. This is reflected in Policy SLE4 of the Local Plan. Policy SLE4 and Villages 2, both emphasise the need for consideration to be given to whether safe and suitable access can be achieved.
- 7.39 The original planning application 14/01843/OUT gave permission for 33 dwellings and trip generations given at that time were considered to be acceptable. The applicant has made a comparison between this and the revised proposals for 43 dwellings. The conclusions reached indicate that there would be approximately 5-6 extra trips on the network during the peak hours, which equates to an extra 50-55 trips per day. This is not an insignificant number, but nevertheless the Highway Authority has confirmed that these extra trips would not have an adverse impact upon the highway network from a traffic and safety point of view.
- 7.40 The proposal seeks permission for two accesses from the Main Street through the village. One to serve the main area of the development and a second to serve the community hall. At

the moment, the 30mph speed limit in the village begins close to the existing traffic calming feature which is adjacent to the proposed entrance to the community hall. A Traffic Regulation Order is therefore required to change the speed limit along the site frontage and to change the existing traffic calming features (and a contribution is sought towards this process). Due to the fact that this TRO must progress through a formal consultation process, the advice has been that visibility splays of 43m cannot be assumed to be safe. The amended plans confirm that visibility splays of 71m and 60m can be provided and it has been confirmed that the Highway Authority are satisfied that as this is a straight stretch of road, suitable visibility splays can be achieved and it is likely that both accesses will be within a 30mph stretch of road. The accesses themselves are considered to be acceptable; however an amendment to the roadway material has been requested. The creation of the accesses will require approval under S278 as will changes to the current position of the traffic calming features.

- 7.41 Overall, the Highway Authority is generally content with the layout of the site, subject to a number of amendments, which have been sought. The right of way is maintained running along the northern boundary of the site, albeit a number of trees are proposed to be planted near the path and so confirmation has been sought that these will not be planted on the definitive route. The current stiles are proposed to be replaced with kissing gates, details of which have been provided. Some queries have been raised in relation to the tracking plans provided and additional information has been sought in relation to these matters given that amendments could affect the site layout. In respect to the site layout, amendments have been sought in relation to the position of a visitor space, which is provided too close to the main site junction, the provision of safety mitigation measures along the primary access road to reduce vehicle speeds and relating to the cycle parking to be provided for the community hall. Officers are content that it is likely that these matters can be resolved by the provision of additional information or through the technical approvals process to ensure that safe and suitable access to the site can be achieved for all people.
- 7.42 As referred to above, the bus services serving Great Bourton have recently been withdrawn due to the removal of subsidies. At the time that the outline permission for the site was approved, both services were available and contributions were sought to enhance bus services as well as to provide new bus infrastructure along the A423 Southam Road. This along with the location of Great Bourton (approximately 3 miles from Banbury) and the lack of a technical highway objection allowed the conclusion to be reached that although the site could not be considered wholly sustainable, there were factors that would increase the sustainability of the site and this was then taken into account in the overall planning balance.
- 7.43 The removal of the bus services has reduced the sustainability of the village further than that considered as part of the outline permission, and given this position, the ability to seek the provision of enhanced bus infrastructure on the Southam Road would not now be justified. The village remains relatively closely related to Cropredy and the services and facilities there. It is however expected that occupiers of the site will be reliant on the private car and this attracts weight against the proposal.
- 7.44 Taking into account the current position on public transport, the applicant has offered to implement a number of measures to promote sustainable transport in the form of cycle vouchers for each home and the provision of electric charging points for each dwelling (either in the garage or a charging point mounted adjacent to the front door). The Highway Authority have considered these requests and advised that they are reasonable proposals giving the

opportunity for the development to cater for emerging markets and new greener technologies of the future. Furthermore, it is considered that Banbury, as the main employment hub, is conveniently located, so it is realistic to believe that residents would cycle to it, so the cycle voucher would encourage people to consider more sustainable methods of travel. It is considered that these additional sustainable transport measures should be secured through the planning permission and that this should attract a minor level of weight in favour of the proposal.

- 7.45 The Parish Council have sought to suggest that the provision of a left turn filter lane, utilising some of the grass verge at the south bound exit from the village road onto the A423. This has not been requested by the County Council as Highway Authority and does not form part of the proposals. Officers have however raised this matter with Highway Authority Officers and Members will be updated at Committee.

Trees, Landscaping and Open Space

- 7.46 Policy ESD10 of the Local Plan refers to the protection and enhancement of ecology and the natural environment. It requires the protection of trees amongst other ecological requirements. Policy ESD13 also encourages the protection of trees and retention of landscape features. Policy BSC11 sets out the Council's requirements for local outdoor space provision and play space.
- 7.47 The proposal provides an area of open space adjacent to the entrance to the site and the community hall. The area of open space extends to approximately 0.14ha which is sufficient in terms of area for the number of dwellings proposed on the site to meet the requirements of Policy BSC11. The Local Area for Play sits within this area of open space and whilst this sits somewhat awkwardly leaving limited open land for general use and the Landscape Officer has raised some concern in relation to the position proposed, this is not considered to be unacceptable on balance. The edge of the site also incorporates a green verge between the houses and the hedgerow, which would again aid in softening the edge of the site.
- 7.48 The applicant has submitted a landscaping scheme, which has been assessed by the Council's Landscape Officer. The amended scheme, responding to the comments received has been assessed and a number of detailed points remain outstanding. These are likely to be resolvable and have been raised with the applicant's agent. These matters can be addressed by way of the imposition of a 'notwithstanding' planning condition or by being resolved in advance of a permission being issued, should the proposal achieve a resolution to approve.
- 7.49 The proposal is accompanied by an Arboricultural Impact Assessment and Method Statement which has been updated to refer to the amended layout which itself has set the housing back from the hedgerow in order to provide more space for the existing trees/ hedgerow. The document seeks to propose tree protection measures for the existing trees and hedgerows that form the current site boundaries (other than where hedgerows will be removed to facilitate the provision of site accesses and the appropriate vision splays) and sets guidelines for site construction practices and where specific construction techniques are required (such as no dig surfaces). No comments have been received from the Council's Arboricultural Officer to this amended document, albeit in relation to the originally submitted version, no objections were received subject to the use of planning conditions to secure the tree protection

provisions and the appropriate level of supervision. It is advised that the tree pits would need to provide root barriers when used adjacent to hard surfaces. In the view of Officers the protection of the existing trees and hedgerows can be acceptably achieved with the imposition of planning conditions.

Effect on Neighbouring Amenity

- 7.50 Policy ESD15 advises of the need for new development to consider the amenity of both existing and future development and this reflects the Core Principle of the Framework, which confirms the need for a good standard of amenity for all existing and future occupants of land and buildings to be secured.
- 7.51 As discussed above, the Council's guidance in respect to space standards sought between residential units to protect living amenity is generally met therefore protecting the amenity of residential units on the site. Garners House is the only residential unit off site that is likely to experience any impact in terms of residential amenity (due to the distance between any other existing residential property). This property sits close to the site boundary and is unlikely to be affected by loss of light, loss of privacy or over dominance given the relationship and distances between the house and the new development proposed. The car park for the community hall does sit adjacent to the boundary with this property and this may have the result that some noise and disturbance could be experienced. A new mixed native hedgerow is proposed along the site boundary with Garners House and this will provide some mitigation and on balance it is not considered that there would be such harm caused to the amenity of Garners House so as to warrant the layout being considered unacceptable.
- 7.52 The land to the east of the site, to the north of Garners House contains some commercial uses. This includes land for the storage of touring caravans, part of the site for use by a stone mason and the storage of materials. The development proposes 7 dwellings backing onto the land and one dwelling side on (plot 25). In the view of Officers, given the relationship, the impacts are unlikely to be so significant that this proposal could be resisted on these grounds, particularly as the principle of residential development on this site has previously been accepted.

Ecological Implications

- 7.53 The Framework sets out that Planning should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and provide net gains in biodiversity where possible. Policy ESD10 reflects the requirements of the Framework to ensure protection and enhancement of biodiversity. The Authority also has a legal duty set out at the Natural Environment and Rural Communities Act 2006 (NERC 2006) which states that "every public authority must in exercising its functions, have regard ... to the purpose of conserving (including restoring / enhancing) biodiversity"
- 7.54 The 2015 application was accompanied by a Phase 1 Habitat Survey, which concluded that the site was of low ecological value and that biodiversity enhancements would be required. The current proposal is not accompanied by such a survey and as the previous survey is now dated, an updated walkover survey, specifically to record potential badger setts and other evidence of badger activity was undertaken. This did not find any evidence of badgers. The submitted ecological management plan makes a number of recommendations including proposed biodiversity enhancement measures (including bat and bird boxes), the timing for

hedgerow removal (outside the bird nesting season), the use of native species in the landscaping scheme and suggested hedgerow and landscape management.

7.55 The Council's Ecologist has considered the proposals and advises that an updated badger walkover will be required if site clearance works are delayed beyond 6 months from the date of the survey and that the statements relating to the timing of the removal of hedgerows and the provision of bird and bat boxes are appropriate (albeit that Swift boxes are also requested). Concern has also been raised in relation to the fact that there are no SUDs features now proposed, which have benefits to biodiversity and given the drainage concerns still raised (discussed below), this matter will require additional work by the applicant. The provision of a LEMP accompanies the application and the Ecologist has noted some discrepancies in what is said compared to other documents. These would need to be corrected in order to be agreed.

7.56 Overall, based on the proposed biodiversity enhancements, and the low ecological value of the site, it is considered that there is unlikely to be harm caused to the biodiversity value of the site and that the enhancement measures are generally positive to secure net gains. There are a number of matters required to be updated in respect to landscape management and secured and these matters have been raised with the applicant's agent.

Flood Risk and drainage

7.57 A flood risk assessment is submitted with the application in line with the requirements of Policy ESD6 of the Local Plan and the Framework, given the site extends to over 1ha in area and is within Flood Zone 1. Policy ESD7 of the Local Plan requires the use of Sustainable Urban Drainage Systems to manage surface water drainage systems. This is all with the aim to manage and reduce flood risk in the District.

7.58 The application is supported by a flood risk assessment which concludes that the site sits within flood zone 1 and thus could accommodate development in principle without being at risk of flooding. The outline permission reached the same conclusion, finding that based on the information provided, a suitable drainage scheme could be achieved, based on SUDs principles and that further information was required to inform the reserved matters layout. The indicative layout proposed at the outline stage showed a balancing pond feature and swales.

7.59 Given that this is a full permission, the drainage scheme must be considered in detail in order that it can be taken into account in the site layout. The FRA indicates that infiltration is a viable method of dealing with surface water drainage from the site and the submitted scheme indicates the use of porous paving and soakaways. There are however no above ground drainage features (as mentioned this does not therefore bring any biodiversity enhancements) and Oxfordshire County Council Drainage Team have objected to the drainage scheme proposed in this location. Officers have sought to clarify the objection with the Drainage Team and have alerted the applicant to the continuing objection. It is understood that this matter is likely to be resolvable; however it is important that the matter is resolved in advance of a decision being issued given that it is possible that the drainage scheme change could affect the layout of the site. The proposed resolution seeks to ensure that this matter is resolved in advance of a decision being made; albeit, it is hoped that progress will be made in advance of committee so that an update can be provided to Members then.

Sustainability and Energy Efficiency

- 7.60 The Cherwell Local Plan includes a number of energy policies in order to seek development which mitigates and adapts to the future predicted climate change. This relates to locating development in sustainable locations as well as seeking to reduce energy use, making use of renewable energy and sustainable construction techniques. The policies are however now out of date taking into account more recent Government guidance. Energy efficiency of homes is now a matter for the Building Regulations. Policy ESD3 does however require all new homes to achieve a water efficiency standard of no greater than 110 litres/person/day. Mitigating and adapting to climate change in order to move to a low carbon economy is a key part of the environmental role of sustainable development set out in the Framework.
- 7.61 The proposal is not accompanied by information to demonstrate compliance with the energy policies of the local plan; however it is noteworthy that the site does not meet the scale of development set out within Policy ESD5 for the provision of onsite renewables. A condition is proposed to be recommended to meet the higher Building Regulations Standards for water consumption as set out within Policy ESD3 (110 litres/ person/ day).

Other Matters

- 7.62 The site has some records of naturally occurring contaminants and planning conditions were imposed as part of the outline permission to secure site assessments relating to contaminated land. As part of the current application, a site investigation report has been submitted, which has concluded that there would be no risk to future residential occupiers from recorded concentrations of contaminants on the site. It also concludes that radon gas protection measures are required but that there is limited other risk. Comments are awaited from the Council's Environmental Protection team in relation to this matter as to whether planning conditions are required.
- 7.63 As a detailed proposal, detailed finished floor levels have been submitted. Officers initially raised some queries with the levels proposed taking into account the differences between the levels proposed and the existing land levels. Having received amended plans, there are still some outstanding queries with levels, which appear, in some areas, to have increased still further. Officers have therefore queried the finished floor levels with the applicant's agent. This matter is however a detailed consideration that can be resolved through the re-consideration of the proposed levels.
- 7.64 A number of other detailed conditions; including securing a construction traffic management plan and refusing bins will be required.

Effect on Infrastructure and Planning Obligations

- 7.65 A S106 Legal agreement is required to be entered into to secure mitigation resulting from the impact of the development both on and off site. This would ensure that the requirements of Policy INF1 of the Local Plan can be met, which seeks to ensure that the impacts of development upon infrastructure including transport, education, health, social and community facilities can be mitigated. This includes the provision of affordable housing. The Authority is also required to ensure that any contributions sought meet the following tests, set out at Regulation 122 of the Community Infrastructure Regulations 2011 (as amended):
- Necessary to make the development acceptable in planning terms;

- Directly relate to the development; and
- Fairly and reasonable related in scale and kind to the development

7.66 As a S106 exists for the site in relation to the outline proposal, Officers have sought to update this in respect to the current proposed development. The agreement will secure the following matters:

- Affordable Housing (35% with minimum 70% affordable/ social rent and 30% intermediate tenure together with arrangements for provision)
- The provision of the Local Area of Play and a commuted sum for maintenance with arrangements for transfer to the District Council
- Commuted sums for maintenance of open space matters including hedgerows, and informal open space with arrangements for transfer to the District Council
- Community hall (discussed below)
- A contribution of £33,000 towards sustaining and improving bus services to and from Great Bourton
- Transport matters to be secured through a S278 agreement
- Contributions towards primary and secondary education provision

7.67 Officers consider that these matters are CIL Regulation 122 compliant and can be secured through the legal agreement. Officers anticipate ongoing discussion with the applicant in respect to this matter. Progress has been made on drafting the required S106 by the Council's Solicitors and this will be progressed prior to and following committee to reach an executed agreement should the application receive a positive resolution at committee.

7.68 Like the extant planning permission, the proposal includes the provision of a new Community Hall for the village and this was supported by the Parish Council under the previous application. Officers advised Committee at that stage that the provision of the Hall should be given only very limited weight in the planning balance given this scale of development would not usually require the provision of a new Hall and therefore it could be not be considered to be 'fairly and reasonably related in scale and kind to the development'. It was however noted that there are some limitations to the existing hall, in terms of disabled access and parking thus the provision of a new hall would assist in overcoming these limitations and contributing to increased social sustainability. The provision of the Hall was nevertheless secured through the legal agreement. A number of third party comments have raised concern in relation to the provision of a new hall and the desire of the community for such a new facility. The Parish Council also highlight the local view that does not generally support the hall. Whilst the concerns raised are noted, the extant permission secures a Hall and therefore it would be unreasonable for this to be resisted now. The applicant has also offered £5000 towards the potential running costs of the new hall for a period of 3 years to cover an interim period prior to the new hall becoming established and a decision being taken on the existing village hall. The Hall will again be secured through the S106 agreement, however again, Officers would emphasise that this should not be given weight in the planning balance in respect to this proposal.

Local Finance Considerations

7.69 Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. This can include payments under the New Homes Bonus. The scheme has the potential to generate approximately £352,059.33 over 6 years for the Council under current arrangements once the homes are occupied together with additional payments for the affordable units. With a further small figure of £4,356 from Business Rates from the Community Hall for the Council under current arrangements. However, officers recommend that such funding is given no weight in decision making in this case given that the payments would have no direct relationship to making this scheme acceptable in planning terms and Government guidance in the PPG states that it is not appropriate to make a decision based on the potential for the development to raise money for a local authority or other Government body.

8. Planning Balance and Conclusion

- 8.1 The overall purpose of the Planning system is to seek to achieve sustainable development as set out within the Framework. The three dimensions of sustainable development must be considered, in order to balance the benefits against the harm in order to come to a decision on the acceptability of a scheme.
- 8.2 Based on the assessment above, it is clear that the principle of this development cannot be considered to be compliant with Planning Policy regarding the supply of housing and the Council's overall strategy for where development is sustainably accommodated. Furthermore, the village cannot be considered a wholly sustainable location in transport terms due to the loss of bus services and the fact that residents would be reliant on the private car. This impact would be worsened by the provision of additional residential dwellings on the site over and above those already committed. These matters carry weight against the proposed development.
- 8.3 Nevertheless, the site benefits from an outline planning permission for residential development and a community hall, granted based upon the circumstances at the time it was considered. This permission remains extant. The proposal now for consideration seeks permission for 10 additional dwellings. Based on the assessment above, Officers are content that these additional dwellings could be accommodated on the site without additional serious harm being caused in terms of landscape and visual impact, on transport grounds or in respect to any other detailed matter (and outstanding matters can be controlled via planning condition or by seeking additional information in advance of a permission being granted). Officers also consider that the scheme represents a well-designed proposal, that shows local distinctiveness in its character, form and the materials proposed (including a high proportion of stone) and that a range of dwelling types and sizes will be secured which helps to achieve the aims of Policy BSC4 in terms of housing mix. The proposal would also contribute to the Council's five year housing land supply and provide 15 affordable housing units. These matters would carry weight in favour of the proposal.
- 8.4 Overall, on balance, Officers consider that taking into account the extant outline planning permission for residential development on the site, the proposal for 43 dwellings can be satisfactorily accommodated without causing significant additional harm over and above that

accepted by the approval of outline permission. Officers therefore have concluded that this proposal is acceptable and in compliance with the policies outlined and assessed through this report. The application is thus recommended for approval.

9. Recommendation

Approval; subject to the following:

- a) The completion of a legal agreement in accordance with the Heads of Terms outlined at paragraph 7.66, including delegation provided to Officers to negotiate the agreement;
- b) The resolution of concerns raised by the Highway Authority and Drainage Team with regard to details of the proposal;
- c) The application being re-advertised as a Departure from the Development Plan;
- d) The following conditions:

TO FOLLOW

Planning notes

1. TO FOLLOW

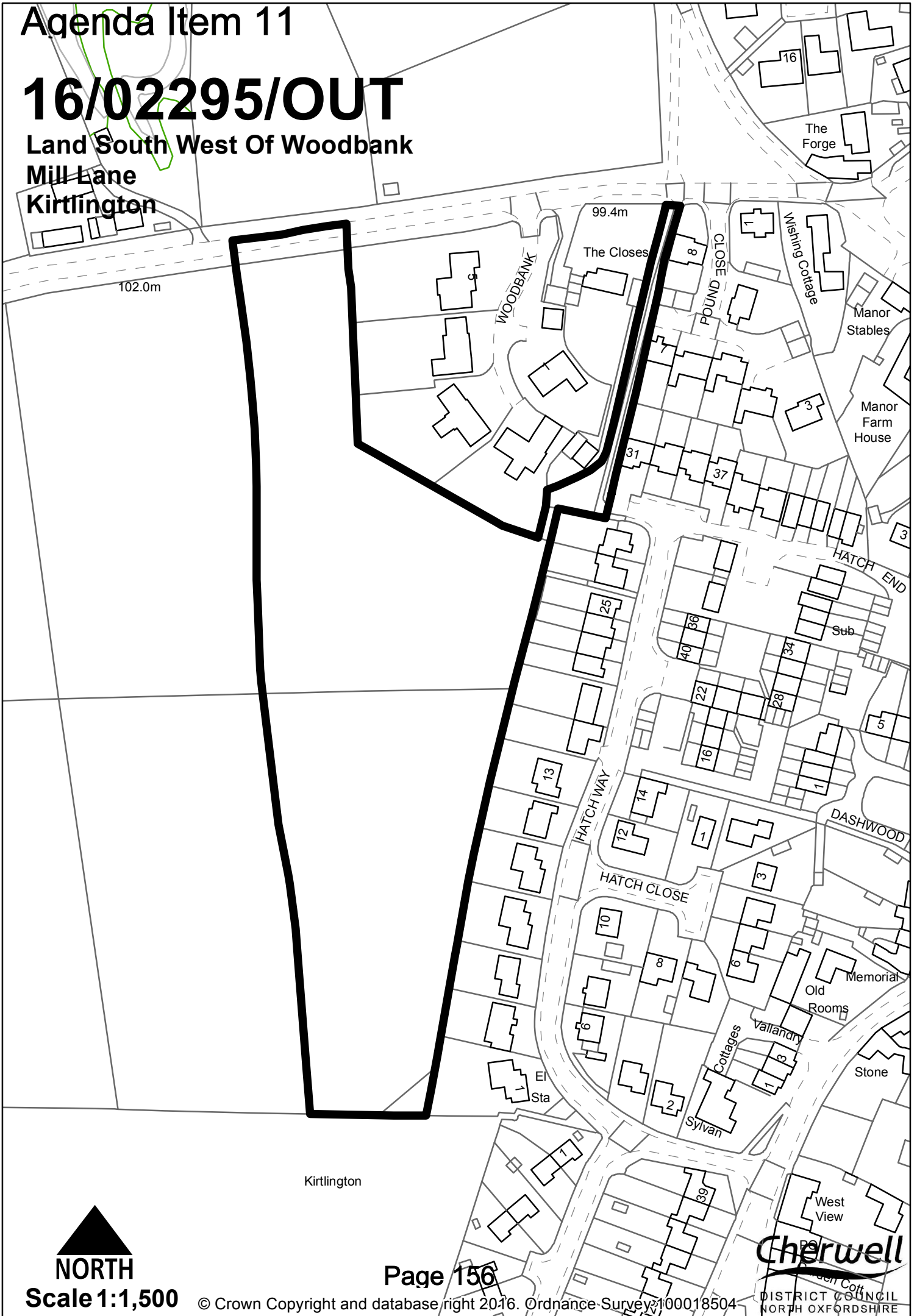
CONTACT OFFICER: Caroline Ford

TELEPHONE NO: 01295 221823

Agenda Item 11

16/02295/OUT

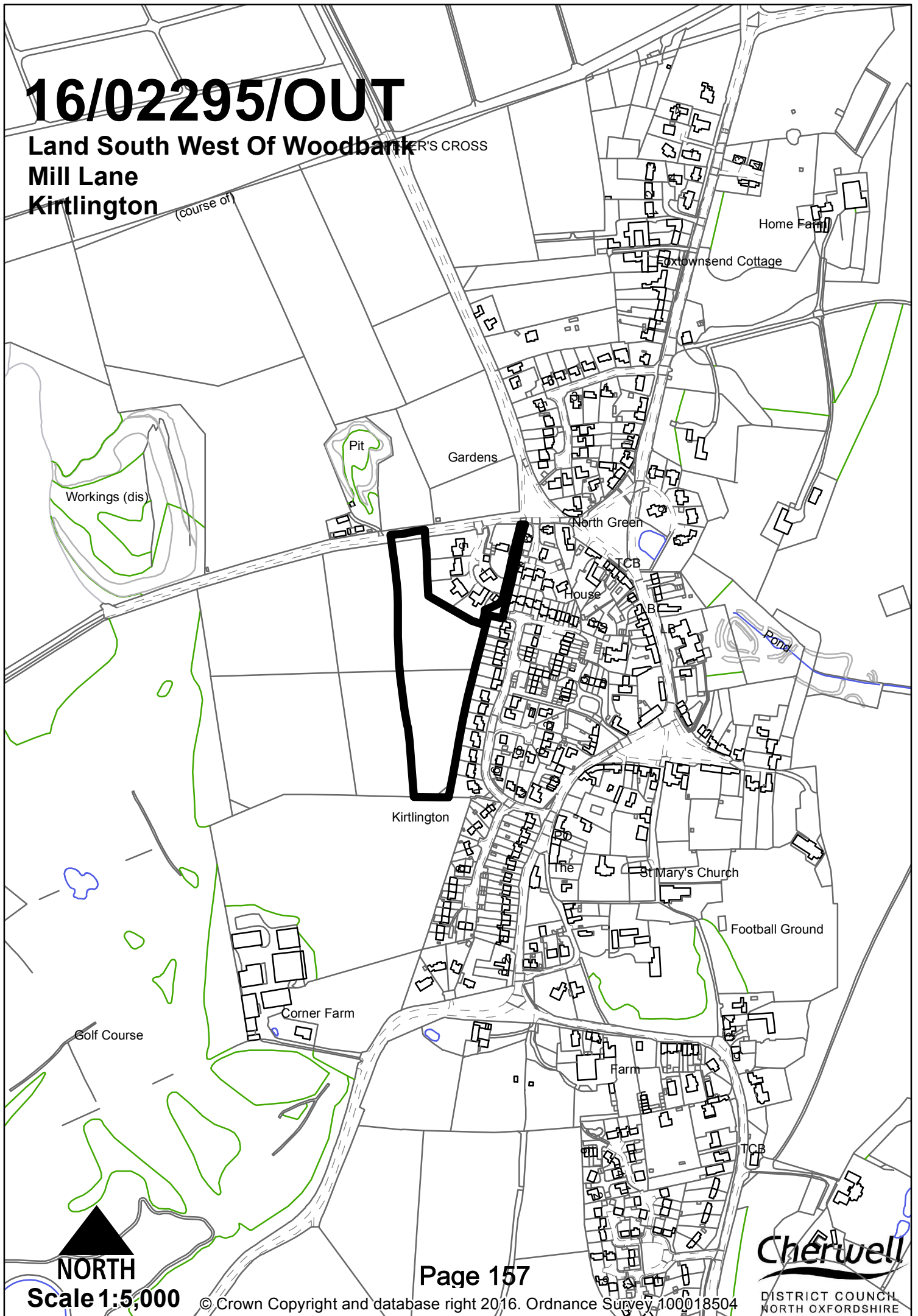
Land South West Of Woodbank
Mill Lane
Kirtlington



Scale 1:1,500

16/02295/OUT

Land South West Of Woodbank
Mill Lane
Kirtlington



NORTH

Scale 1:5,000

Case Officer:	Stuart Howden	Contact Tel:	01295 221815
Applicant:	Mr E & G King		
Proposal:	OUTLINE – Erection of 10 No dwellings		
Expiry Date:	16 th February 2017	Extension of Time:	17 th February 2017
Ward:	Fringfords and Heyfords	Committee Date:	16 th February 2017
Ward Councillors:	Cllrs Corkin, Macnamara and Wood		
Reason for Referral:	Major development		
Recommendation:	Approval		

1 APPLICATION SITE AND LOCALITY

- 1.1 The application site lies at the western extent of the village of Kirtlington and to the south of Mill Lane (which is a Public Bridleway (270/11/70)). The relatively flat site comprises 1.74 hectares of agricultural field and there are no buildings or structures on the site. The site does not constitute part of the built form of the village. To the east of the site are the boundaries of the properties on Hatch Way and Pound Close, and the site wraps around the properties on Woodbank (which is sited on a former quarry). To the north, south and west of the site is open countryside. Part of the site includes Public Footpath 270/10/10 that runs between Woodbank and Pound Close, linking Mill Lane and Hatch Way.
- 1.2 A small section of the north east of the site lies within the Kirtlington Conservation Area and the Grade II listed buildings of Wishing Cottage and Manor Farm House are situated within close proximity to the site to the east. The site is on land that is potentially contaminated. The site has some ecological potential as the Kirtlington Quarry SSSI is situated within 2KM of the site.

2 DESCRIPTION OF PROPOSED DEVELOPMENT

- 2.1 Outline planning permission is sought for the erection of 10 No dwellings on the site and all matters are reserved apart from access. A Planning Statement and Design and Access Statement have been submitted alongside the application as well as various supporting technical documentation and an indicative site layout plan.
- 2.2 Two accesses to the site are proposed off Mill Lane, one being a pedestrian access along Public Footpath 270/10/10 which runs between Pound Close and Wood Bank, and the other being the vehicular access to the site and this would be situated on the west side of Woodbank. The access road would run from the north of the site to the south. The indicative site layout plan submitted displays a mixture of housing types, including detached dwellings,

semi-detached dwellings and terraced dwellings. 9 of these dwellings are shown to have their backs facing towards Hatch Way, whilst the other dwelling is shown to the south of the site and is north facing. The indicative site layout plan also shows the provision of landscaping including a new pond to be provided to the west of the access road.

- 2.3 A screening opinion issued by Cherwell Council in December 2016 (15/00097/SO refers) concluded that an EIA (Environmental Impact Assessment) was not required for the proposed development.

3 RELEVANT PLANNING HISTORY

- 3.1 There is no planning history directly related to the application site, but the following history relating to neighbouring sites is considered relevant:
- 3.2 14/02139/OUT - OUTLINE - Demolition of existing bungalow and agricultural buildings and residential development of up to 75 dwellings including highway works, landscaping and public open space – REFUSED on 25th March 2015 and DISMISSED at appeal on 12th May 2016. The application site for this previous scheme is located to the south of the current site. The proposed development, by virtue of its scale, size and form was considered to fail to respect the traditional settlement pattern of Kirtlington, and result in an incongruous, unsustainable form of development which would have poorly related to the remainder of Kirtlington and cause demonstrable harm to the character of the village and visual amenities of the immediate locality. The refusal of the planning application was appealed, but the Planning Inspector subsequently dismissed the appeal. The Inspector concluded that the proposal would have caused significant damage to the character and appearance of the area and the rural setting of the village of Kirtlington. Importantly, the Inspector noted that the scheme for 75 dwellings in Kirtlington was not in compliance with the overall housing strategy in the Cherwell Local Plan Part 1 and that allowing this amount of housing to be developed would amount to an undesirable over-concentration of new housing development in Kirtlington that would prejudice a more even planned and sustainable distribution of housing development across the District's Category A Villages. Thus, the proposal was considered to be undesirable, unnecessary and so unsustainable additional development in this rural location.
- 3.3 14/01531/OUT – Outline – Demolition of existing bungalow and agricultural buildings and residential development of up to 95 dwellings including highway works, landscaping and public open space – Appealed due to non-determination, but DISMISSED at appeal on 27th August 2015. This application again related to the site to the south of the current application and this appeal was dismissed for similar reasons to the planning application referred to above.
- 3.4 09/01431/F – Erection of five detached residential units and access – APPROVED on 9th December 2009. This relates to the development of Woodbank which used to be an industrial site within an old quarry. Consent was granted to develop 5 dwellings on the site. It was considered that the site was within the built up limits of Kirtlington and was in accordance with the now replaced policy H13 within the Cherwell Local Plan 1996.

4 PRE-APPLICATION DISCUSSIONS

- 4.1 16/00229/PREAPP – Residential development for 10 dwellings – Closed on 19th September 2016. A scheme for 10 dwellings on the same application site was submitted to the Local Planning Authority, but officers raised concerns with the proposal. It had not been demonstrated that the proposal would sympathetically integrate with the distinctive linear form of this village and it was therefore considered that the proposal would represent a harmful intrusion into the countryside. Officers concluded that the proposal would also cause harm to the character and appearance of the open countryside.

5 RESPONSE TO PUBLICITY

- 5.1 This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records.

- 5.2 At the time of writing the Local Planning Authority has received letters of objection in respect of the proposed development from 54 members of the public. The concerns raised by third parties are summarised as follows:

- Will set a precedent;
- Lack of services in the village and bus service has been reduced;
- Enough housing being built in other areas;
- Poor housing mix;
- Reference to SHLAA (the site was discounted in the SHLAA);
- Reference to Appeal for application at Land off Lince Lane;
- The site is of high landscape value;
- The site contributes to the setting of the village;
- Harm the rural appearance of the area;
- Would go against the linear pattern of development;
- It is unknown how the developer will proceed with the application;
- The development turns its back on the village and is detached from the village;
- Loss of enjoyment of Bridleway on Mill Lane
- Existing properties create a strong boundary to the village;
- New footpaths would change the rural character of this part of the village;
- Will exacerbate traffic in and around the village;
- Mill Lane is a bridleway and there is potential for conflict with more cars using Mill Lane and such a highway is unsuitable for the amount of traffic as a result of the proposal;
- The exit on to the A4095 from Mill lane is unsafe;
- The access along North Green is inadequate;
- Would cause harm to the amenities of neighbouring properties including overlooking and loss of privacy;
- Loss of private view;
- A restrictive covenant on the use of the land to the west of the site could be overturned in the future;
- An archaeological report should have been submitted alongside the application;
- Would damage hedgerows along the site;
- Would harm protected species;

- Would harm the TPO'd Beech Trees;
- The site is high quality agricultural land;
- There is no social housing provision and the scheme is deliberately for 10 dwellings to avoid the requirement of affordable housing;
- Lack of capacity at the local school;
- The village has an inadequate sewerage system;
- Surface water run off concerns;
- The electricity supply is unstable and the new development would impact upon this;
- The development is close to an overhead electricity line;
- Due to the geology of the site, it will difficult to build the development;
- The pond will soak away due to the low water table in the area;
- Construction traffic could cause highway safety concerns;
- Devaluation of property price;
- Ownership dispute;
- Danger of golf balls flying onto the site.

5.3 The comments received can be viewed in full on the Council's website, via the online Planning Register.

6 RESPONSE TO CONSULTATION

6.1 Below is a summary of the consultation responses received at the time of writing this report. Responses are available to view in full on the Council's website, via the online Planning Register.

PARISH/TOWN COUNCIL

6.2 KIRTLINGTON PARISH COUNCIL: **Object** to the application for the following reasons:

- Vehicular access –
 - Mill Lane is insufficient to take two way traffic and it is questionable whether this road meets highway standards;
 - There are no footpaths from the North Green to the site. The Parish Council opposes any widening or improvements of the tracks around North Green, The Pound and of Mill Lane as this would have a detrimental effect on the rural character of this part of the village;
 - The access to this development would impact upon the setting of the Kirtlington Conservation Area;
 - In law, only the residents of the properties at Pigeons Lock have right of vehicular access down Mill Lane;
 - It is considered that the addition of more vehicles using Mill Lane and North Green will exacerbate the hazards that already exist;
- The site access drawing (produced by Connect Consultants, Dwg No 16120-010) does not provide an adequate level of detail;
- Concerns regarding the over-urbanisation of Mill Lane through the introduction of kerbs, and seeks reassurance that the detailed design of the site access will respect the rural nature of Mill Lane;
- An archaeological survey has not been carried out;
- The secondary pedestrian access would have an adverse impact on Beech trees (3 of which are subject to a TPO);

- No affordable housing is proposed and the applicant has limited the scheme to 10 dwellings to avoid the provision of such housing;
- This development does not respect the historic settlement pattern of the village. The historic western boundary of the village is formed by what was one of the main routes through the village, the Woodstock Way. The current settlement pattern strongly respects the line of this historic route and does not encroach beyond it;
- This development is contrary to the Parish Council's resolution that there should be no development west of the old Woodstock Way, which was passed in light of work being carried out on the definition of the village's settlement boundary to inform the Mid-Cherwell Neighbourhood Plan (NP) process;
- Loss of farming land would have an adverse impact on the setting to the village, particularly when viewed from the west and south;
- The reasons for the rejection of the site in the Strategic Housing Land Availability Assessment are still relevant;
- The services within the village are limited (i.e. schooling places and the shop is small);
- The proposal would cause detrimental harm to the character and appearance of the area;
- The applicant's offer of a perpetual covenant could be easily overturned in the future;
- Water pressure problems, sewage issues and electricity supply issues;
- The infiltration basin would not allow for adequate hedging on the western boundary;
- The proposal would set a precedent for further development of the village westwards;
- Details demonstrating that adequate site access for waste collection has been considered are required.

STATUTORY CONSULTEES

6.3 MID CHERWELL NEIGHBOURHOOD FORUM: **Object** to the application for the following reasons:

- The proposal represents an extension to the settlement which is unacceptable as it is self-contained and unconnected with the rest of the settlement;
- The site is not brownfield land and is therefore contrary to policy PD01 which encourages development on brownfield land;
- The development will seriously damage the rural character of Mill Lane contrary to policy PT02;
- The screening of the development may be insufficient to meet policy PD06;
- The proposal contains no affordable housing or social housing, both of which are needed in the locality.

6.4 ENVIRONMENT AGENCY: **No comments received.**

6.5 NATURAL ENGLAND: **No objections.**

6.6 OCC HIGHWAYS AUTHORITY: **No objections** subject to conditions and a section 106 agreement to secure:

- Contribution of £2,250 to provide improvements to the bus stop infrastructure; and
- Contribution of £10,000 to enhance the bus service

6.7 THAMES WATER: **No objections** in relation to sewerage infrastructure capacity and water infrastructure capacity.

NON-STATUTORY CONSULTEES

- 6.8 OCC ARCHAEOLOGY: **No comments received.**
- 6.9 CDC ARBORICULTURAL OFFICER: **No objections.**
- 6.10 CDC CONSERVATION: **Object** to the application. The proposal is a self-contained development. The layout of the overall site remains alien to the traditional settlement pattern of villages within the district and the proposal fails to integrate into the existing streetscape/public space. Further the location of the proposed development is without the village envelop on land that has always had an agricultural use.
- 6.11 CDC ECOLOGY: **No comments received.**
- 6.12 CDC ENVIRONMENTAL PROTECTION: **No objections in principle.** An assessment for land contamination would be required to demonstrate that the site is suitable for the proposed end use. As a minimum a desk study and site walkover report would be required and this can be conditioned.
- 6.13 CDC LANDSCAPE SERVICES: **No objections** in principle and generally in agreement with the Landscape Visual Impact Assessment submitted. 10 dwellings trigger the requirement for a Local Area of Play.
- 6.14 CDC PLANNING POLICY: **No comments received.**
- 6.15 CDC RECREATION & LEISURE: Contributions should be sought for off-site sports and community provision.
- 6.16 CDC STRATEGIC HOUSING: **No comments received.**
- 6.17 THAMES VALLEY POLICE DESIGN ADVISOR: **No comments received.**
- 6.18 CDC URBAN DESIGN: **No comments received.**
- 6.19 CDC WASTE & RECYCLING: The developer will need to provide adequate storage for waste and recycling.

7 RELEVANT PLANNING POLICY AND GUIDANCE

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 7.2 The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the ‘saved’ policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District’s statutory Development Plan are set out below:

CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2031 Part 1)

- 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 – Brownfield land and Housing Density
- BSC3 – Affordable Housing
- BSC4 – Housing Mix
- 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
- ESD1 – Mitigating and Adapting to Climate Change
- ESD2 – Energy Hierarchy and Allowable Solutions
- ESD3 – Sustainable Construction
- ESD6 – Sustainable Flood Risk Management
- 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 and Historic Environment
- ESD17 – Green Infrastructure
- Villages 1 – Village Categorisation
- Villages 2 – Distribution Growth Across the Rural Areas
- INF1 – Infrastructure

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- H18 – New dwellings in the countryside
- TR1 – Transportation funding
- C8 – Sporadic development in the open countryside
- C28 – Layout, design and external appearance of new development
- C30 – Design of new residential development
- ENV1 – Environmental pollution
- ENV12 – Potentially contaminated land

7.3 Other Material Planning Considerations:

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Annual Monitoring Report (AMR) 2015
- Strategic Housing Land Availability Assessment (SHLAA) Update 2014
- Oxfordshire Wildlife & Landscape Study 2004
- Connecting Oxfordshire: Local transport Plan 2015-2031
- Home Extensions and Alterations Design Guide (2007)

7.4 The Mid-Cherwell Neighbourhood Plan Area extends across several parishes including Kirtlington, and work is under way on the preparation of a draft Neighbourhood Plan for the area. Draft Policies were published for public comment in January 2017, but as yet no formal consultation has been undertaken in respect of a draft Plan, and no Plan has been submitted to Cherwell District Council. As such, in accordance with Paragraph 216 of the NPPF, officers consider that little weight can be attached to the Neighbourhood Plan at this stage.

8 APPRAISAL

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

- Principle of the Development;

- Landscape and Visual Impact and Local Character;
- Design and Appearance;
- Impact upon Historic Environment;
- Accessibility, Highway Safety and Parking;
- Effect on Neighbouring Amenity;
- Ecology and Trees;
- Potentially Contaminated Land;
- Flooding Risk and Drainage;
- Sustainability and Energy Efficiency;
- Planning Obligations;
- Local Finance Considerations;
- Other Matters.

Principle of the Development

- 8.2 Paragraph 14 of the National Planning Policy Framework (NPPF) states that a presumption of sustainable development should be seen as a golden thread running through decision taking. There are three dimensions to sustainable development, as defined in the NPPF, which require the planning system to perform economic, social and environmental roles. These roles should be sought jointly and simultaneously through the planning system.
- 8.3 Paragraph 12 of the NPPF notes that the development plan is the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise. Cherwell District Council has an up-to-date Local Plan which was adopted on 20th July 2015.
- 8.4 Cherwell District Council can demonstrate a five-year supply of deliverable housing sites therefore the presumption in favour of sustainable development, as advised by the NPPF, will therefore need to be applied in this context.
- 8.5 Policy Villages 2 of the Cherwell Local Plan Part 1 states that: *“A total of 750 homes will be delivered at Category A villages. This will be in addition to the rural allowance for small site ‘windfalls’ and planning permissions for 10 or more dwellings as at 31 March 2014”*. Kirtlington is identified as a Category A village, and so is considered suitable in principle to accommodate some additional housing under Policy Villages 2. Category A villages are considered the most sustainable settlements in the District’s rural areas and have physical characteristics and a range of services within them to enable them to accommodate some limited extra housing growth.
- 8.6 The site is clearly not within the built up limits of the village of Kirtlington being within an agricultural field separate from the existing residential development to the west of the site, but it has been recognised at a recent appeal decision that ‘at Category A villages’ could mean adjacent to the settlement boundary. As the proposal is for 10 dwellings on land outside, but immediately adjacent to the built up limits of the village, it can be considered under Policy Villages 2 of the Cherwell Local Plan Part 1.
- 8.7 Policy Villages 2 states that sites will be identified through the preparation of Local Plan Part 2, through the preparation of Neighbourhood Plans where applicable, and through the determination of applications for planning permission. An Issues and Options paper for the preparation of Local Plan Part 2 is currently being prepared. In identifying and considering sites, particular regard will be given to the following criteria:
- *“Whether the land has been previously developed land or is of less environmental value;*

- *Whether significant adverse impact on heritage and wildlife assets could be avoided;*
- *Whether development would contribute in enhancing the built environment;*
- *Whether best and most versatile agricultural land could be avoided;*
- *Whether significant adverse landscape impacts could be avoided;*
- *Whether satisfactory vehicular and pedestrian access/egress could be provided;*
- *Whether the site is well located to services and facilities;*
- *Whether necessary infrastructure could be provided;*
- *Whether land considered for allocation is deliverable now or whether there is a reasonable prospect that it could be developed within the plan period;*
- *Whether land the subject of an application for planning permission could be delivered within the next five years; and*
- *Whether development would have an adverse impact on flood risk.”*

8.8 The acceptability of the proposal when tested against these criteria, and other material planning considerations, is discussed below. In particular, consideration in respect to the relationship to the existing built and natural environment will be discussed later in the report. However it is first important to consider the matter of scale and quantity of development, and in particular whether the proposal is in accordance with the overarching housing strategy of the Cherwell Local Plan 2011-2031 Part 1.

8.9 Paragraph 212 of the Inspector’s report in the examination into the Cherwell Local Plan Part 1 notes that the plan’s overall strategy sustainably focusses most new development in the two towns of Bicester and Banbury and that it properly seeks to alter the local pattern of recent housing growth, as a disproportionate percentage (almost half) has taken place in the smaller settlements. This is reinforced by the Council’s Annual Monitoring Report (published 31st March 2015) which identifies that significant progress has already been made to meeting the allocation of 750 homes to be delivered at Category A villages as over 500 of these have already been identified through permissions.

8.10 Whilst of the 750 houses in total to be delivered at Category A villages may not represent a strict limit, as noted by the Inspector for the scheme at Land off Lince Lane, Kirtlington (ref: 14/01531/OUT), any significant increase over and above 750 could lead to unconstrained growth which would result in non-compliance with the strategy for rebalancing housing growth away from the villages and rural areas.

8.11 Kirtlington is one of 23 Category A villages and is the 11th largest Category A village in terms of parish population size (a population of approximately 988), and a pro rata share of the Policy Villages 2 allocation based on parish population size would be 17 dwellings. This does not represent a limit on the amount of housing that could be accommodated at Kirtlington, but the size of the village in relation to others is a factor to take into account in the distribution of development under Policy Villages 2, and in particular determining the amount of development that is appropriate and sustainable in any one village location.

8.12 As noted by Planning Inspectors in relation to appeals at Lane off Lince Lane, Kirtlington (ref: 14/01531/OUT) and Land north of Green Lane, Chesterton (15/00454/OUT), if disproportionate numbers of housing are provided in one single Category A settlement early within the plan period, it would leave other Category A settlements unable to meet their housing needs (including for affordable housing) later on in the plan period without being in conflict with Policy Villages 2.

- 8.13 In this case, it is considered that the provision of 10 homes (being the minimum permissible to qualify under Villages 2) in this one location would still leave scope for development in other Category A villages in terms of numbers or timing and would not be contrary to the housing strategy for villages as set out in the Cherwell Local Plan.
- 8.14 The provision of 10 dwellings at Kirtlington would result in an increase in the population and it is acknowledged that the village shop is limited in scale and Kirtlington CE Primary School is operating close to capacity and there are limited opportunities for employment. That said, Kirtlington has an hourly bus service to Oxford and Bicester and the Oxfordshire County Council School Organisation Officer has raised no objections to the proposal. As the scheme is only for 10 dwellings it is considered that the proposal would not undermine other strategies in the Local Plan with regard to matters such as employment, transport and public services and utilities, and represents a proportionate addition to the village relative to its present sustainability.
- 8.15 Given the above, the principle of the development could be acceptable, but this is subject to other material considerations which will be discussed below.

Landscape and Visual Impact and Local Character

- 8.16 Government guidance contained within the NPPF requiring good design states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Further, permission should be refused for development of poor design that fails to take the opportunities for improving the character and quality of an area and the way it functions.
- 8.17 Paragraph 61 of the NPPF states that: *“Although visual appearance and the architecture of individual buildings are very important factors, securing high quality design goes beyond aesthetic considerations. Therefore planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.”*
- 8.18 Policy ESD15 of the Cherwell Local Plan Part 1 states that: *“New development proposals should:*
- *Contribute positively to an area’s character and identity by creating or reinforcing local distinctiveness and respecting local topography, including skylines, valley floors, significant trees, historic boundaries, landmarks, features or views.*
 - *Respect the traditional pattern routes, spaces, blocks, plots, enclosures and the form, scale and massing of buildings. Development should be designed to integrate with existing streets and public spaces, and buildings configured to create clearly defined active public frontages.”*
- 8.19 Policy ESD13 of the Cherwell Local Plan Part 1 states that: *“Development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided. Proposals will not be permitted if they would:*
- *Cause undue visual intrusion into the open countryside;*
 - *Cause undue harm to important natural landscape features and topography;*
 - *Be inconsistent with local character;*
 - *Harm the setting of settlements, buildings, structures or other landmark features;*
 - *Harm the historic value of the landscape.”*

- 8.20 Saved Policy C28 of the Cherwell Local Plan 1996 exercises control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context.
- 8.21 Kirtlington is linear in form, following the Oxford Road / B4095 along a slight ridge above the River Cherwell to the west and adjacent to Kirtlington Park to the east. The settlement has developed along a pre-existing north-south route. A network of smaller lanes branches off this main route. The character of the streets has evolved over many centuries of use, producing robust and attractive places which have been able to adapt to the demands of modern life. The setting of the village has not been undermined by the 20th century additions that fit comfortably with the traditional settlement pattern. The character of the village is interlinked with the wider landscape which defines the edges of the village and reinforces the settlements distinctive linear form.
- 8.22 As the proposed scheme would be accessed from Mill Lane, which connects with, and runs to the west of the main north-south route through the village, the proposed development form would be disconnected from the main village structure. The proposed scheme would also turn its back on the existing development within the village. Whilst the development would be linear in nature, officers consider that the proposal would therefore fail to authentically integrate with the linear form of this village and there would be some harm to the area's established character.
- 8.23 In relation to the matter of linearity, the applicant's agent has stated that development has taken place at Woodbank which is accessed from Mill Lane. However the considerations for the planning application (ref: 09/01431/F) in relation to this approved development were different as this development is on the site of a former quarry and this was considered to be a brownfield site which was part of the built up limits of the village. That said, unlike the scheme to the south of the site for 75 dwellings, the current housing scheme would be relatively modest in its scale and would follow the phasing of more recent development in the village in that it would be more gradual and restricted. Furthermore, given that the development would only require one access road with the housing facing in a single direction (as shown on the indicative plan) and being single depth, it considered by officers that the proposal would not appear as a self-contained estate but rather as a small cul-de-sac, not dissimilar to others in the village. It is therefore considered that the harm to the established character of the village would not be significant.
- 8.24 It is acknowledged reference has been made to the Strategic Housing Land Availability Assessment (SHLAA) (August 2014) by third parties and that this site formed part of a larger site included for consideration, but which was rejected in the SHLAA. It was stated in the SHLAA that the traditional pattern of Kirtlington is linear and that this site would extend the village well beyond any existing development to the west of the village. Whilst the SHLAA is a material consideration in the determination of this application, the site that was assessed was considerably larger than the one put forward in this current planning application therefore the impact upon the village pattern would not be so significant in comparison to the site put forward in the SHLAA.
- 8.25 The landscape around the site and village is located within the Wooded Estate Land character type within the Oxfordshire Landscape Study 2004, and this notes the area is characterised by rolling topography, arable farming and small villages with a vernacular style. The application site is typical of this landscape character.
- 8.26 The application is accompanied by a Landscape and Visual Impact Assessment (LVIA) which has considered the potential impacts on the landscape character and amenity of the site and the surrounding area. In terms of the visual assessment carried out by Smeeden Foreman,

fieldwork was undertaken to identify a number of viewpoints in the immediate and wider setting of the site. The LVIA acknowledges that the development will be visible from the nearest viewpoints, including from Mill Lane to the north west of the site and PRoW 270/10/30 to the south of the site, and that the proposed dwellings would also be visible in outline from Lince Lane to the south of the site. The LVIA goes on to note that views from the south of the site would only be partial due to hedgerows on the southern boundary of the site. The LVIA also states that from most points on Mill Lane, views towards the application site will be improved by the landscaping that could be planted on the western boundary and this scheme will soften the harsh edge of existing properties on Hatch Way, thereby creating a much more sympathetic transition between built form and the rural landscape. The LVIA concludes that views towards the application site and the existing edge of Kirtlington will be visually softened and sympathetically integrated with foreground views of Kirtlington's rural context.

- 8.27 The Council's Landscape Team note that they generally accept the findings of the visual assessment. The Council's Landscape Team hold the view that there will be a degree of harm at the construction phase and the early years of establishment and growth of the structural vegetation on the western boundary of the site for visual receptors on Mill Lane. The Landscape Team note that the landscape buffer on this boundary will need to be designed sensitively with the appropriate native tree and hedgerow species. The Landscape Team has also noted that the hedgerows on the northern and southern boundaries of the site will also need to be retained and maintained at a height of 3 metres. The Landscape Team has requested a landscape plan as a condition, but given that landscaping is a matter to be assessed at the reserved matters stage, it is not considered necessary or reasonable to condition this matter at the outline stage.
- 8.28 Officers hold the view that due to the planting to the south of the site, views from PRoW 270/10/30 to the south of the site would be partial and that longer distance views from the south on Lince Lane would not be clear given the distance of the viewpoint, intervening landscaping and the narrowness of the site. Officers are in agreement that the southern boundary of the site should be retained and maintained. In relation to views from Mill Lane to the north of the site these would be somewhat screened by hedging and existing development on Woodbank, but clear views would be gained from the access into the site.
- 8.29 Moving to north west of Mill Lane, it is considered that views of the site would be achieved, even more so in the early years of the development without establishment and growth of vegetation on the western boundary. Officers are not in agreement with the LVIA where it states the rear boundaries of properties on Hatch Way create a 'harsh' edge to the village and that the proposed development would 'greatly improve' the existing edge formed by properties on Hatch Way. In fact, the rear of Hatch Way provides a clear distinction between the village and countryside and the development on this site would make this distinction less clear impacting upon the rural village setting. Such a distinction also reinforces the distinctive linear form of the village. Furthermore, the introduction of housing, an access road and associated domestic paraphernalia would have an urbanising effect on this part of the open countryside. However whilst it is considered that there would be some harm to the setting of the village, given the development would not extend significantly into the countryside and given the amount of undeveloped agricultural land that would remain to the west, it is considered the harm would not be significant. An acceptable landscaping scheme can be agreed at reserved matters stage to ensure the right balance is struck between preserving a clear and distinct edge to the village whilst mitigating and softening the visual impacts of the development.
- 8.30 Kirtlington Parish Council has raised concerns that a sizeable infiltration basin would not allow for a viable depth of planting to be incorporated along the western site boundary to help screen the proposed development from the west, but officers hold the view that both adequate vegetation and a sufficiently sized infiltration basin can be achieved on the site.

- 8.31 It is noted by third parties that the western boundary of the village is formed by what was historically one of the main routes through Kirtlington (Woodstock Way). However, this route has been breached by development to the northern end of the village by Hatch Way and it is no longer possible to walk the historic route at this point, with the Right of Way having been diverted along Hatch Way before re-joining the historic route at Oxford Close. Given the relationship of the site to the historic route and existing development, it is considered that the proposed development would not significantly undermine the understanding of this route.
- 8.32 Works would be required to introduce a vehicular access to the site as well as upgrade the footpath on to Hatch Way and Mill Lane so as to connect the site to the village. This would result in additional hard standing and the loss of trees/hedgerows. It is considered that the works to the public footpath from Mill Lane and Hatch Way could be undertaken in such a way that would not urbanise the character of these paths, but great care will need to be taken. In relation to the vehicular access and associated visibility splays, this would result in a loss of the hedgerow to the front of the site and there would be some harm caused by this. The impact on protected trees is considered later in this report.
- 8.33 Thus, whilst it is accepted that there would not be a wider landscape harm, it is considered that the proposal would cause some harm to the rural setting of the village as well as harm to the immediate locality as a consequence of the development on this agricultural land. The development would also fail to authentically integrate with the historic linear pattern of development in the village, given its back-to-back relationship with existing development.

Design and Appearance

- 8.34 Policy ESD15 of the Cherwell Local Plan Part 1 provides guidance as to the assessment of development and its impact upon the character of the built and historic environment. It seeks to secure development that would complement and enhance the character of its context through sensitive siting, layout and high quality design meeting high design standards and complementing any nearby heritage assets. The National Planning Policy Framework is clear that good design is a key aspect of sustainable development.
- 8.35 The application is in outline form with all matters reserved for later consideration. The application is however accompanied by an indicative layout, which seeks to demonstrate that the development proposed can be accommodated on the site, and a Design and Access Statement and Planning Statement, which should set acceptable design principles so that future acceptable detailed proposals for the site can be achieved.
- 8.36 The illustrative layout submitted indicates that up to 10 dwellings can be accommodated on the site, with an access lane running north to south with 9 of the dwellings sited to the east of this lane and the other dwelling at the very end and facing northwards. Open space and landscaping is shown to the west of this access lane. The site would be linked to Hatch Way and Mill Lane via a footpath to the west of the site.
- 8.37 As noted above, given that the development would only require one access road and with the housing being sited on one side of the lane, it is considered by officers that the proposal would not appear as a self-contained estate but instead would read as a small cul-de-sac development not dissimilar in layout and size to others in the village. The site is linear and narrows to the north and south and as such the indicative layout is likely to be the most desirable on this site.
- 8.38 The indicative layout suggests inspiration has been taken from a group of farm buildings, with a mix of cottages, converted barn-style dwellings, and two higher status (farmhouse-like) properties. The approach taken is questionable as farm buildings do not tend to be linear in their layout, but instead are likely to be arranged around a courtyard. Traditional buildings in

Kirtlington are typically simple with their character coming from the unity of their materials and details. The character of the village is defined by small terraced cottages which, whilst having an informal character, are united by their consistent building line and use of materials.

- 8.39 That said, appearance, layout and scale are all reserved matters and so whilst officers have reservations about the approach indicated in the site layout plan, given the general layout and quantum of development is acceptable, acceptable details can be agreed at the Reserved Matters stage.

Impact upon Historic Environment

- 8.40 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that the Local Planning Authority gives special regard to the desirability of preserving a listed building or its setting.
- 8.41 Section 12 of the NPPF (Conserving and Enhancing the Historic Environment) states that in determining planning applications, Local Planning Authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and the desirability of new development making a positive contribution to local character and distinctiveness. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Proposals that preserve those elements of significance should be treated favourably.
- 8.42 Paragraph 132 of the NPPF states that: *"Significance can be harmed through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification."*
- 8.43 Policy ESD15 of the Cherwell Local Plan Part 1 states that development should: *"Conserve, sustain and enhance designated and non-designated 'heritage assets' including buildings, features, archaeology, conservation areas and their settings, and ensure new development is sensitively sited and integrated in accordance with advice in the NPPF and PPG."*
- 8.44 Kirtlington Conservation Area is situated to east of the site and a small section of the north east of the site, this being the footpath, is within the conservation area. There are also a number of Grade II listed buildings within close proximity to the site in this conservation area, including Wishing Cottage and Manor Farm House.
- 8.45 In relation to the nearby listed buildings, there are intervening buildings on Woodbank and Hatch Way that visually separate the site from the listed buildings therefore it is considered that a sensitive proposal would not materially alter the way these listed buildings are appreciated. Thus it is considered that the proposal could be undertaken on the site without causing harm to the significance and setting of any listed buildings.
- 8.46 In relation to the Kirtlington Conservation Area, it is considered that the path to Mill Lane within the conservation area can be upgraded without urbanising it and materially changing its rural character. In addition, the main body of the site where the housing would be proposed is sited behind relatively modern housing outside of the conservation area and views of the conservation area are not highly visible from Mill Lane to the north and west of the site due to this existing development. It is therefore considered that the proposal would not harm the significance and setting of Kirtlington Conservation Area.

8.47 It is noted that third parties have stated that site has archaeological potential, but the site is not recognised as an area of archaeological interest on the Council's records. Furthermore, the County Council Archaeologist has raised no comments regarding the scheme. It is therefore considered that the proposal is unlikely to have an invasive impact upon any known archaeological sites or features. As such there are considered to be no archaeological constraints to this scheme.

Accessibility, Highway Safety and Parking

8.48 Policy ESD15 of the Cherwell Local Plan Part 1 states that: *“New development proposals should be designed to deliver high quality safe, attractive, durable and healthy places to live and work. Development of all scales should be designed to improve the quality and appearance of an area and the way it functions.”* Policy SLE4 states that: *“All development where reasonable to do so, should facilitate the use of sustainable modes of transport (and) development which is not suitable for the roads that serve the development and which have a severe traffic impact will not be supported.”*

8.49 Access to the site will be from Mill lane (a public bridleway) from two points of the site, but only one access will be used for vehicular traffic. The transport statement states that vision splays of 2.4m x 34m could be provided, and the Local Highways Authority has stated that this is acceptable at this location, in accordance with Manual for Streets. Further details of the access can therefore be conditioned.

8.50 Mill lane is not adopted as a vehicular highway and the County Council is not required to maintain this highway, but the Local Highways Authority has stated that this is not considered to be a severe safety issue. The Local Highways Authority has noted that the Local Planning Authority should consult the Council's Waste & Recycling Officer to see if there are any implications for refuse vehicles servicing the site. Officers are awaiting a response from the Waste & Recycling Officer, but it is considered that such a matter is unlikely to justify a reason for refusal.

8.51 The Local Highways Authority has noted that the footpath linking to Mill lane and to the end of Hatch way is important to minimise the walking distances to local facilities including bus stops and the village post office/shop, but they have noted that this would benefit from upgrading to widen the surfaced area. Given the anticipated increased usage, and in order to maximise the connectivity between the development and the village centre, the upgrading of this path should be conditioned.

8.52 In relation to the traffic impact, the Local Highways Authority has stated that the expected level of trip generation from the development is low, with 4 and 5 2-way vehicle trips respectively in the AM and PM peak hours. The Local Highways Authority has stated that this is unlikely to have a detrimental impact on the surrounding highway network and is therefore acceptable given that it is unlikely to have a 'severe impact' on congestion or road safety.

8.53 The Local Highways Authority has stated that the current bus stop infrastructure is substandard at both northbound and southbound stops near to the post office on the A4095 Oxford Road has therefore requested a Section 106 contribution of £2250 to provide improvements to the bus stop infrastructure. This contribution is comprised of £1,090 for a pole, flag, and timetable case at the southbound stop and £1,160 for the relocation of the northbound stop. The County Council has a strategy of collecting contributions towards the

cost of enhancing this service towards a Connector level of service, as defined in the Local Transport Plan, with two daytime buses per hour in both directions with some evening and Sunday buses. A contribution at £1000 per dwelling is sought from this development via a Section 106 agreement (i.e. £10,000). The Local Highways Authority has noted that such a Section 106 contribution would be in accordance with the policies in Connecting Oxfordshire: Local transport Plan 2015-2031.

- 8.54 Regulation 123(3) of the Community Infrastructure Levy Regulations 2010 sets out limits on the pooling of S106 obligations from April 2015 or from when CIL is introduced if earlier. This only applies to infrastructure as defined by the Planning Act 2008 (i.e. physical facilities) and not matters such as bus service subsidy. It is therefore considered that the improvements to bus infrastructure would support the sustainability of the village and the development and such a sum should be sought if the application is to be approved.
- 8.55 The proposed development appears to primarily affect public bridleway 270/11/70 (Mill Lane), from which it is proposed to take the main vehicular access. The Local Highways Authority has noted that the further use of this bridleway by vehicles is not something that is preferred, but in this case the increase in use is considered to be acceptable given the small number of houses proposed. However, the Local Highways Authority has stated that to access the site, the applicant would need to prove private rights of access. Whether or not the applicant/developer has rights of access over Mill Lane and whether this can be extended to future occupants of the development is a civil matter and is not a material planning consideration.
- 8.56 A third party has raised concerns in relation to construction traffic potentially causing highway safety concerns and a Construction Traffic Management Plan would be requested as a condition should planning permission be granted so as to ensure the safe movement of traffic into and around the construction site.

Effect on Neighbouring Amenity

- 8.57 Policy ESD15 of the Cherwell Local Plan Part 1 states that new development proposals should consider the amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation, and indoor and outdoor space. Paragraph 17 of the NPPF notes that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Saved Policy C30 of the Cherwell Local Plan 1996 states that design control will be exercised so that new housing development or any proposal for the extension or conversion of any existing dwelling provides standards of amenity and privacy acceptable to the Local Planning Authority.
- 8.58 Properties adjacent on the eastern boundary of the site on Woodbank and Hatch Way are most likely to be affected by the proposed development and these require consideration. However, officers are of the opinion that a scheme for 10 dwellings on the site could be achieved without causing undue harm to any neighbouring properties. It is considered that the proposed dwellings in the indicative layout appear to be sited a sufficient distance away from neighbouring properties so as to prevent undue harm to any neighbouring properties in terms of loss of light, loss of privacy or overlooking, or the creation of an overbearing effect. Whilst a proposed access track is proposed to the rear of the dwellings on Woodbank and Hatch Way, this would be set away from these rear boundaries and it is considered that the

vehicular activity on this track would not cause materially detrimental levels of nuisance for neighbouring properties.

- 8.59 There is potential for noise from the construction phase, but such noise would be short lived and the Council can take action against statutory nuisance under separate Environmental legislation, if required

Ecology and Trees

- 8.60 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”*.
- 8.61 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.”*
- 8.62 Policy ESD10 of the Cherwell Local Plan Part 1 reflects the requirements of the Framework to ensure protection and enhancement of biodiversity. The Authority also has a legal duty set out in the Natural Environment and Rural Communities Act 2006 (NERC 2006) which states that *“every public authority must in exercising its functions, must have regard ... to the purpose of conserving (including restoring / enhancing) biodiversity.”*
- 8.63 Natural England has raised no objections to the proposal and has noted that the proposal as submitted will not damage or destroy the interest features for which the Kirtlington Quarry SSSI has been notified.
- 8.64 In relation to protected species, the application is accompanied by a Phase 1 Ecological Survey which includes a walk over of the site. This report identifies four main habitat types: improved grassland; ruderal vegetation; hedgerow with trees; and individual trees. The report notes that the proposal would retain the majority of habitats on the site including trees and hedgerows and that the main loss of habitat would be the improved grassland which is noted to be of low ecological value. The report identifies that there is low potential for the site to support badgers, great crested newts, reptiles, water voles and otters, and whilst the site is likely to support nesting birds the proposal can enhance the site for nesting and foraging.
- 8.65 The ecological report did identify that there was potential for the site to be used by bats for foraging and commuting and such additional surveys were undertaken to assess if any mitigation was required. The Bat Transect Survey has confirmed that the site is used by foraging and commuting bats and this is noted as taking place along the northern and eastern boundaries of the site. It is stated that the proposed layout allows for the retention of the hedgerows and trees and that it is anticipated that the use of the site by bats will not be significantly affected by the development.

- 8.66 Furthermore, the survey makes recommendations in order to enhance biodiversity on the site, including the creation of areas of wildflower grassland within areas of public open space and appropriate native tree and shrub species within any proposed landscape planting.
- 8.67 The Council's Ecology Officer was consulted, but comments have not been received from the Ecology Officer within the consultation period. Regard is had to Government advice contained within the PPG in relation to biodiversity by officers. The Ecology Report submitted alongside the application is comprehensive and officers see no reasons to disagree with the findings and conclusions within it. Officers would expect to see a detailed biodiversity enhancement scheme and this matter could be conditioned should the application be approved. It is therefore considered that the proposal is unlikely to cause harm to any protected species or their habitats, subject to conditions
- 8.68 On the matter of trees, Policy ESD10 of the Cherwell Local Plan part 1 requires the protection of trees amongst other ecological requirements. Policy ESD13 of the Cherwell Local Plan Part 1 also encourages the protection of trees and retention of landscape features.
- 8.69 There are a number of established trees on the site, which are mainly focussed around the perimeter of the site as well as just outside the site. The report notes that there are no Tree Preservation Orders (TPO) on the site where development is proposed, but that there are three Beech Trees covered by a TPO which are located within the proposed footpath link. The Local Highways Authority has recommended that this footpath link from the site to Hatch Way and Mill Lane is upgraded and this work is considered necessary so that the site is well connected. Thus, there is potential for harm to these TPO'd Beech Trees if such works to the footpath are undertaken. As the applicant is not proposing the removal of these trees it is likely that details of tree protection measures can be secured by condition. However, for the avoidance of any doubt, if members resolve to approve the application officers will seek further assurance from the applicant that the upgrading works can be carried out without harm to the protected trees, prior to issuing any planning permission.
- 8.70 In relation to other trees on the site the report notes that the development would not impact upon the trees on the site and the Council's Arboricultural Officer has raised no objections to the proposal. It is considered that the scheme for 10 dwellings on the site could be undertaken without causing harm to these other trees within the main body of the site.

Potentially Contaminated Land

- 8.71 Saved Policy ENV12 of the Cherwell Local 1996 states that development on land which is known or suspected to be contaminated will only be permitted if adequate measures can be taken to remove any threat of contamination to future occupiers of the site and the development is not likely to result in contamination of surface or underground water resources. The site is on land which is potentially contaminated and given the sensitivity of the proposed use, the Council's Environmental Protection Officer has noted that an assessment for land contamination is required to demonstrate that the site is made suitable for the proposed end use. To ensure that risks from land contamination to future users of the land and neighbouring land are minimised, such an assessment should be conditioned.

Flooding Risk and Drainage.

- 8.72 A Flood Risk Assessment (FRA) is submitted with the application in line with the requirements of Policy ESD6 of the Local Plan and the Framework, given the site extends to over 1ha in area and is predominantly in Flood Zone 1. Land within Flood Zone 1 is land which has a less than 1 in 1,000 annual probability of river flooding.
- 8.73 Policy ESD7 of the Local Plan requires the use of Sustainable Urban Drainage Systems to manage surface water drainage. This is all with the aim to manage and reduce flood risk in the District, without increasing flood risk elsewhere.
- 8.74 The FRA notes that the risk of flooding is low from all sources of flooding as a result of the proposed development. The FRA states that, subject to the drainage strategy submitted being carried out which includes an infiltration basin and road swales, there are no essential mitigation measures. However it recommends mitigation measures to provide further protection to the development and reduce any residual risk as far as practicable, such as raising the finished floor levels of the proposed dwellings above the access road levels and installing concrete ground floors with damp proof membranes. The FRA concludes that the site is suitable for residential use without unacceptable risk of flooding from all sources to the site itself and elsewhere as long as the essential and recommended mitigation measures are implemented.
- 8.75 The Environment Agency has been consulted, but to date has not commented on the proposals. The Local Highways Authority, with the advice of OCC Drainage, has stated that the infiltration rate is likely to be the same as the adjacent site, but that this will need to be checked via approved testing methods and calculations adjusted to suit the actual infiltration rates observed. The Local Highways Authority has stated that the developer would need to produce a maintenance schedule for the development to make sure the drainage system remains in working order for the life of the development. Given the comments from highways and that the scheme is at outline stage, a surface water drainage strategy should be required by condition should permission be approved.
- 8.76 In relation to sewerage infrastructure capacity, a number of concerns have been raised by third parties in relation to this matter and that the proposal would make existing issues worse. However, Thames Water, who is a statutory consultee and the Water Authority in this case, has raised no objections to the proposal and it is therefore considered that it would not be reasonable to justify a refusal on such grounds.

Sustainability and Energy Efficiency

- 8.77 Policy ESD1 of the Cherwell Local Plan Part 1 states that measures should be taken to mitigate the impact of development within the District on climate change, and Policy ESD2 of the Cherwell Local Plan Part 1 seeks to achieve carbon emission reductions. Policy ESD3 of the Cherwell Local Plan Part 1 encourages sustainable construction and states that all non-residential development will be expected to meet at least BREEAM 'Very Good' with immediate effect.
- 8.78 The application has not been accompanied by a Sustainability and Energy Statement and sustainability should be built into the proposal and it should be demonstrated how the

proposal complies with Policies ESD1-3 of the Cherwell Local Plan Part 1. This is a matter that would be addressed by condition if the application were to be recommended for approval.

Planning Obligations

- 8.79 Policy INF1 of the Local Plan states that: *development proposals will be required to demonstrate that infrastructure requirements can be met including the provision of transport, education, health, social and community facilities.*
- 8.80 The Authority is also required to ensure that any planning obligation sought meets the following tests, set out at Regulation 122 of the Community Infrastructure Regulations 2010 (as amended):
- Necessary to make the development acceptable in planning terms;
 - Directly relate to the development; and
 - Fairly and reasonable related in scale and kind to the development.
- 8.81 The NPPF advises that in order to create sustainable, inclusive and mixed communities, Local Planning Authorities should plan for a mix of housing, reflect local demand and set policies for meeting affordable housing need. Policy BSC3 requires developments of 11 or more dwellings within locations such as Kirtlington to provide 35% affordable housing on site and provides detail on the mix that should be sought between affordable/social rent and shared ownership. 10 dwellings are proposed and this falls below this threshold. However Policy BSC3 also notes that affordable housing should be sought on sites suitable for 11 or more dwellings gross. Officers are of the opinion that the addition of further dwellings on the site would likely cause further harm to this sensitive edge of village location, and given the constraints and layout of the site, officers are satisfied that the site would not be suitable to accommodate more than 10 dwellings. Thus, affordable housing is not being sought on the site.
- 8.82 Policy BSC11 of the Cherwell Local Plan Part 1 states that: *“Development proposals will be required to contribute to the provision of open space, sport and recreation, together with secure arrangements for its management and maintenance. The amount, type and form of open space will be determined having regard to the nature and size of development proposed and the community needs generated by it. Provision should usually be made on site in accordance with the minimum standards of provision set out in ‘Local Standards of Provision – Outdoor Recreation’. Where this is not possible or appropriate, a financial contribution towards suitable new provision or enhancement of existing facilities off site will be sought, secured through a legal agreement.”*
- 8.83 With regard to Policy BSC11, this highlights that schemes for 10 or more residential units trigger the requirement for a Local Area for Play (LAP) of a minimum size of 100 square metres of play activity with 300 metres of landscape buffer and it is considered that this can be provided on the site. Thus, a LAP would be sought if the application were to be approved. Contributions would also be sought for the maintenance of the LAP, retained hedgerows, ditch, pond and proposed informal open space (see below table for commuted sums and rates for 15 year maintenance contribution).

Typologies	Commuted sum/rate
LAP	27,501.52
Informal Open Space	9.32/m2
Balancing Pond	11.63/m2
Hedgerow	14.35/m2

8.84 As noted above, contributions are also being sought for the improvements to the bus stop infrastructure at Kirtlington. It is considered that the improvements to bus stop infrastructure would support the sustainability of the village and the development, in accordance with Policy PSD1, SLE4, ESD1, Villages 2 and INF1 and such a sum should be sought if the application is to be approved.

8.85 The Council's Recreation and Health Team have requested contributions for off-site sports and community provision. However, the Planning Practice Guidance notes that there are specific circumstances where contributions for affordable housing and tariff style section 106 planning obligations should not be sought including for schemes of 10 units or less and which have a maximum combined gross floor space of no more than 1,000 square metres. As the scheme is only for 10 houses, contributions toward off-site sports and community provision are not being sought.

8.86 Whilst acknowledging that local school places are limited, Oxfordshire County Council's School Organisation Officer has not requested contributions given the relatively small scale of the scheme. Furthermore, the County Council's Infrastructure Funding Negotiator has not requested any contributions to mitigate the impact of this development on infrastructure.

Local Finance Considerations

8.87 Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a Local Planning Authority must have regard to a local finance consideration as far as it is material. This can include payments under the New Homes Bonus. The scheme has the potential to generate £88,248.66 for the Council under current arrangements once the homes are occupied. However, officers recommend that such funding is given only limited weight in decision making in this case given that the payments would have no direct relationship to making this scheme acceptable in planning terms and Government guidance in the PPG states that it is not appropriate to make a decision based on the potential for the development to raise money for a local authority or other Government body.

Other Matters

8.88 The applicant has offered to bind the remainder of the field to the west with a covenant via a Section 106 agreement or unilateral undertaking that restricts any further development. However, such an agreement cannot prevent a planning application being submitted on the site, and any future proposals for development on adjacent land would be assessed on their own merits. Therefore officers afford this no weight in the assessment of the application.

8.89 Third parties have noted that the site is on high quality agricultural land and that this should be preserved. The site has a grade 3 agricultural land classification, whilst high quality agricultural land is either grade 1, 2 or 3a. It is not clear whether the land is grade 3a.

However the amount of land proposed to be developed is relatively small, and is immediately adjacent the built limits of the village. There is no evidence to suggest that developing this site would significantly limit the availability of best and most versatile agricultural land in the area. Therefore it is considered that the site would not result in the unacceptable loss of the best and most versatile agricultural land.

- 8.90 A third party has stated that the pond will soak away due to the low water table in the area. It must be noted that the intention of the pond is to serve as part of a Sustainable Drainage System to manage surface water drainage and run-off from the development. Full details of the design and construction of this can be secured by condition.
- 8.91 It is noted that Kirtlington Golf Club have raised concerns in relation to the potential of golf balls flying onto the site. That said, the golf course is over 200 metres from the site therefore the potential for a golf ball to stray this far from the course is considered to be very low. It is also worthwhile noting that there are existing houses within closer proximity to the golf club.
- 8.92 Reference has been made to the emerging Mid Cherwell Neighbourhood Plan and the policies within this by third parties. However, this emerging Plan is at a very early stage and the policies within this carry very limited weight.
- 8.93 Concerns have been raised from third parties in relation to electricity supply as well as the point that there is an overhead electricity line on the site. This is a matter for the utilities provider and is not a material planning consideration. The matters of devaluation of property price, cost of building the proposal and loss of private view, which were also raised as concerns by third parties, are not material planning considerations in this case.

9. CONCLUSION AND PLANNING BALANCE

- 9.1 The overall purpose of the planning system is to seek to achieve sustainable development as set out within the Framework. The three dimensions of sustainable development must be considered, in order to balance the benefits against the harm in order to come to a decision on the acceptability of a scheme.
- 9.2 The proposal seeks permission for a residential development on the edge of a Category A Village. The principle of the proposal therefore falls to be considered against Policy Villages 2 of the Cherwell Local Plan and a full range of other policies relating to detailed matters. Policy Villages 2 sits alongside the wider strategy of the Local Plan which seeks to direct residential development to the most sustainable settlements in the District and it includes a number of criteria in order to assess this.
- 9.3 In terms of the environmental dimension, whilst the proposed development on the site would not cause wider landscape harm, it is considered that the proposal would cause localised harm to the rural setting of the village as well harm to the immediate locality as a consequence of the development on this agricultural land. Due to the relationship with existing development it would also fail to authentically integrate with the linear settlement pattern of the village. However, the Local Plan allows for some housing development (for 10 or more dwellings) at the District's most sustainable villages, such as Kirtlington, under Policy Villages 2 and it is very likely that some environmental harm will occur as a result of such residential proposals. In this case due to its small scale, linear layout of the site, and the amount of undeveloped agricultural land remaining to the west, it is considered that the proposal would

not cause significant adverse landscape impacts or significant harm to the character and appearance of the area, and acceptable details can be secured at reserved matters stage.

9.4 In terms of the social dimension, it is considered that the proposal would cause some harm to the enjoyment of users of the nearby Public Rights of Way of Mill Lane. That said, the proposal would bring some social benefits including a contribution to the District's ongoing five year supply, and in general spatial terms the site is well located to the village and its services and facilities which would be accessible by walking and cycling. Furthermore, the proposal would not represent an undesirable overconcentration of new housing development in Kirtlington that would prejudice a more even planned and sustainable distribution of housing development across the District's Category A village. New development also commonly brings economic benefits including some construction opportunities.

9.5 Thus, it is considered that the economic and social benefits of the scheme, which is in compliance with the housing strategy of the recently adopted Cherwell Local Plan Part 1, would outweigh the environmental and social impacts. It is therefore concluded that the proposal constitutes sustainable development and is in accordance with Policy Villages 2 of the Cherwell Local Plan Part 1, and the application is therefore recommended for approval.

9. RECOMMENDATION

That permission is **granted**, subject to:

- a) It being demonstrated that the footpath link proposed to connect the site to Hatch Way and Mill Lane would not cause unacceptable harm to the protected Beech Trees;
- b) It being demonstrated that refuse vehicles would be able to adequately service the site;
- c) The applicants entering into a Section 106 agreement to the satisfaction of the District Council to secure financial contributions as outlined in paragraphs 8.53 and 8.83 of the report;
- d) The following conditions:
 1. No development shall be commenced until full details of the layout, appearance, scale and landscaping (hereafter referred to as reserved matters) 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 Part 3 of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

2. In the case of the reserved matters, the application for approval shall be made not later than the expiration of three 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 Part 3 of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

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

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 Part 3 of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

4. 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:
 - Application Form submitted with the application; and
 - Drawing Numbers 009a and 012 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.

5. The development hereby approved shall proceed strictly in accordance with the recommendations and mitigation measures outlined in Section 7 of the Flood Risk Assessment (ref: MA10405-FRA-R02 dated November 2016) prepared by Millward received accompanying the application unless otherwise previously approved in writing by the Local Planning Authority.

Reason - To protect the development and its occupants from the increased risk of flooding and to safeguard against an increase in flood risk elsewhere, in order to comply with Policies ESD6 and ESD7 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

6. The development hereby approved shall be carried out in accordance with the recommendations set out in section 4 of the Ecology Report (ref: SF2556) by Smeeden Foreman dated July 2016.

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

7. 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.

8. If a potential risk from contamination is identified as a result of the work carried out under condition 7, 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.

9. If contamination is found by undertaking the work carried out under condition 8, 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.

10. If remedial works have been identified in condition 9, the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 9. A verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.

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

11. Prior to the commencement of the development hereby approved, 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. The scheme shall include:

- Discharge Rates
- Discharge Volumes
- Maintenance and management of SUDS features
- Sizing of features – attenuation volume
- Infiltration in accordance with BRE365
- Detailed drainage layout with pipe numbers
- SUDS
- Network drainage calculations
- Phasing

The scheme shall subsequently be implemented in accordance with the approved details prior to the first occupation of the development, or such other timetable as has been submitted to and agreed in writing by the Local Planning Authority.

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

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

Reason - In the interests of highway safety and to mitigate the impact of construction vehicles on the surrounding highway network, road infrastructure and local residents,

particularly at morning and afternoon peak traffic times and in accordance with Policy ESD15 of the Cherwell Local Plan Part 1 and Government guidance contained within the National Planning Policy Framework.

13. Prior to the commencement of the development hereby approved, including any demolition, and any works of site clearance, a method statement and timetable for enhancing biodiversity shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the biodiversity enhancement measures shall be carried out and retained in accordance with the approved details.

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

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

Reason – To ensure the continued health of retained trees/hedges and to ensure that they are not adversely affected by the construction works, in the interests of the visual amenity of the area, to ensure the integration of the development into the existing landscape and to comply with Policy ESD13 of the Cherwell Local Plan 2011-2031 Part 1, C28 of the adopted Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

15. Prior to the commencement of the development hereby approved, full details of the means of access between the development and Mill Lane, including, position, layout, construction, drainage and vision splays shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to first occupation of the development, the means of access and its vision splays shall be provided and thereafter retained 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 Policy ESD15 of the Cherwell Local Plan Part 1 and Government guidance contained within the National Planning Policy Framework.

16. Prior to the commencement of the development hereby approved, full design, layout, construction and surfacing details of the footpath link to be provided between the site and Hatch Way along with details of works to improve the existing public right of way (270/10/10) connecting Hatch Way to Mill Lane shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to first occupation of the development, the footpath link and improvement works shall be provided and thereafter retained in accordance with the approved details.

Reason - In the interests of connectivity and sustainability, to ensure a satisfactory standard of construction and layout for the development and to comply with Policies SLE4, ESD15 and Villages 2 of the Cherwell Local Plan Part 1 and Government guidance contained within the National Planning Policy Framework.

17. Prior to or as part of the first reserved matters submission, an Energy Statement shall be submitted to and approved in writing by the Local Planning Authority. The Energy Statement should:

- be structured according to the energy hierarchy in ESD2 with information provided on each element of the hierarchy
- inform and be reflected in the reserved matters
- include a description of the development, number and type of residential units
- Demonstrate sustainable construction methods as per Policy ESD 3
- Consider the use of renewable energy to supply the development

Thereafter, the development shall be carried out in strict accordance with the recommendations and measures contained in the approved Energy Statement.

Reason - In the interests of sustainability, and to deliver low carbon development to mitigate the impacts on climate change, in accordance with Policies ESD1 to 3 of the Cherwell Local Plan 2011-2031: Part 1 and the National Planning Policy Framework.

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

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

PLANNING NOTES

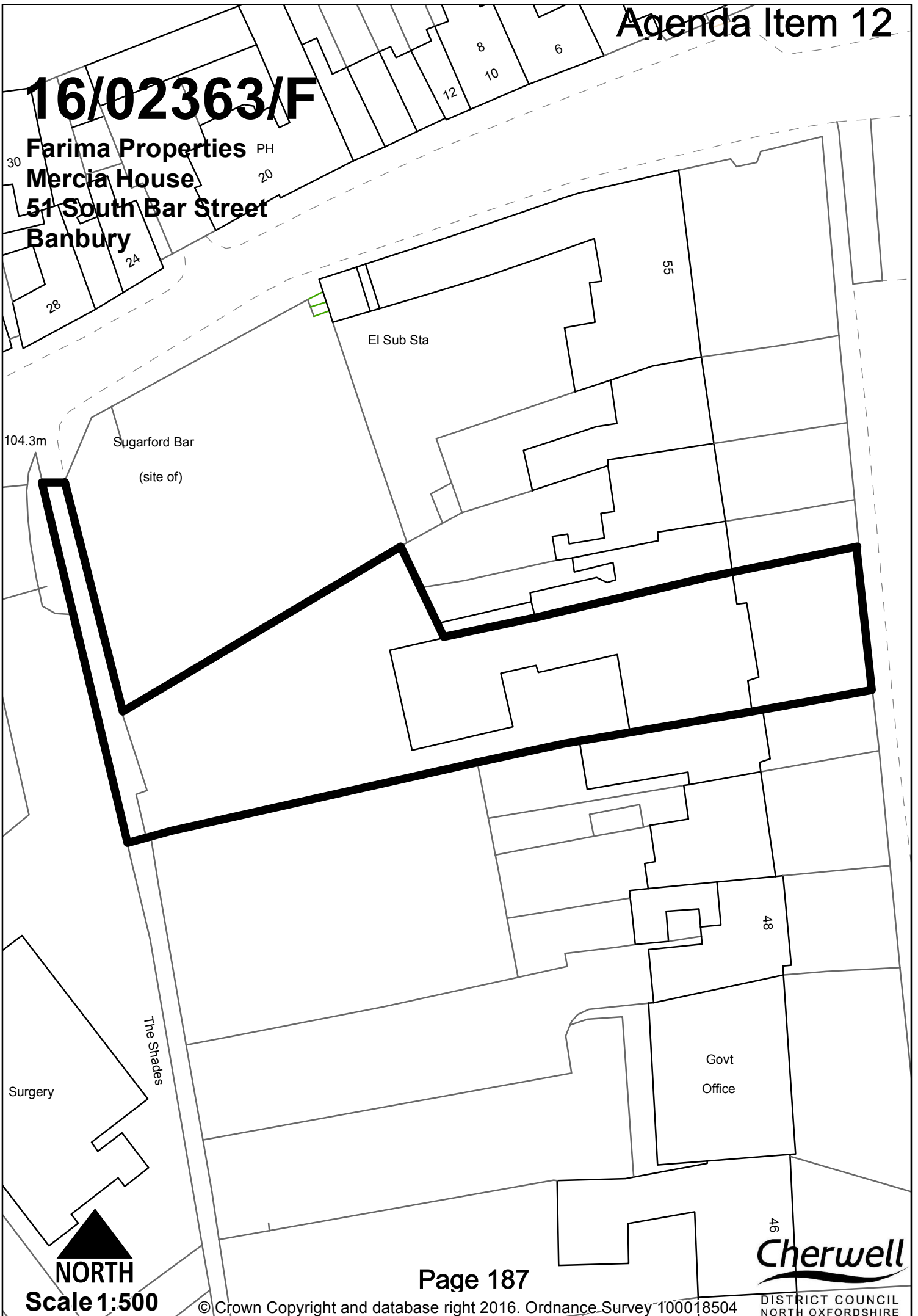
1. Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.
2. With regard to 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. The contact number is 0800 009 3921. This is to ensure that the surface water discharge from the site shall not be detrimental to the existing sewerage system.

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

16/02363/F

**Farima Properties PH
Mercia House
51 South Bar Street
Banbury**



104.3m

Sugarford Bar
(site of)

El Sub Sta

53

48

Govt
Office

The Shades

Surgery

46

Cherwell

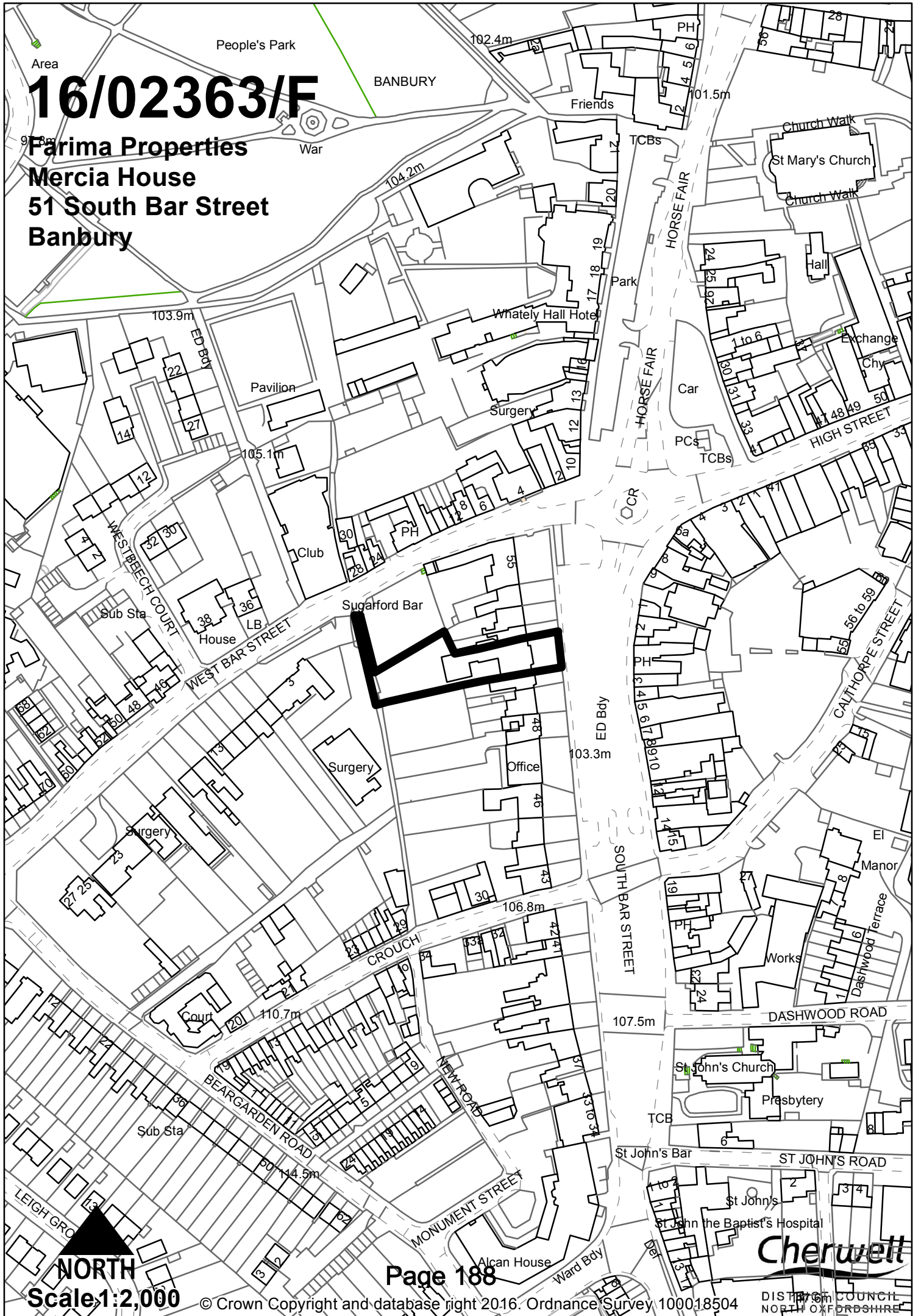
DISTRICT COUNCIL
NORTH OXFORDSHIRE

NORTH

Scale 1:500

16/02363/F

Farima Properties
Mercia House
51 South Bar Street
Banbury



NORTH
Scale 1:2,000

Case Officer: Stuart Howden **Contact Tel:** 01295 221815

Applicant: Farima Properties

Proposal: Conversion of existing office building to form 10 No residential apartments; new aluminium windows to rear building; painting existing East façade off white; some alterations to existing windows on South and West Elevations; bin storage and cycle storage areas – re-submission of 16/00120/F

Expiry Date: 21st February 2017 **Extension of Time:** N/A

Ward: Banbury Cross And Neithrop **Committee Date:** 16th February 2017

Ward Councillors: Cllrs Banfield, Dhesi and Milne-Home

Reason for Referral: Major Development

Recommendation: Approve

1. APPLICATION SITE AND LOCALITY

- 1.1 51 South Bar Street forms part of a terrace of buildings and is constructed from brick. The three storey building is set back from South Bar Street which it fronts and parking is situated to the rear of the site and is accessed via a tarmacked track off West Bar Street. The main building dates back to the 19th Century, but a large modern extension is situated to the rear of the building. The building is in a business use (B1 use), but is currently vacant.
- 1.2 The building is Grade II listed and lies within the Banbury Town Conservation Area. A number of Grade II listed buildings are situated within close proximity to the site including the next door properties of No.49/50 and No.52/53 South Bar Street. The locally listed building of 3 West Bar Street is situated to the rear of the site. The site lies within an Area of High Archaeological Interest and on potentially contaminated land. The protected species of the common swift has been recorded within close proximity to the site. A Public Right of Way (120/25/10) is situated to the rear of the site.

2. DESCRIPTION OF PROPOSED DEVELOPMENT

- 2.1 Planning permission is sought to change the use of the site from offices (B1) to a residential use (C3 use). The building is proposed to accommodate 10 residential units (5.No 1 bedroom apartments and 5.No 2 bedroom apartments).
- 2.2 As part of this conversion external alterations to the building are proposed. This includes:
 - The re-painting of the front façade in white;

- The replacement of two fire exit doors with windows at first floor level;
- The reduction in scale of an existing opening on the south elevation at ground floor level;
- The replacement of a door and window in the south elevation at ground floor level with a new window;
- An opening smoke vent on the south roof slope on the extension to the rear of the building;
- The replacement of all aluminium windows with aluminium double glazed windows on the extension to the rear of the building;
- The introduction of obscure glazing to a ground floor window on the west side elevation of the extension to the rear of the building;
- The introduction of two windows at first floor level in the north elevation of the extension to the rear of the building;
- A roof light on the northern roof slope of the building;
- The replacement of an existing dome light with a double glazed flat roof light.

2.3 Consent is also sought for the addition of 17 wall mounted lights, a bin storage area and a cycle storage area all to the rear of the building. 15 parking spaces are proposed to the rear of the site.

2.4 An application for listed building consent has been submitted alongside this application for planning permission (ref: 16/02364/LB). This application is subject to a separate assessment, and the decision is currently delegated to officers.

3. RELEVANT PLANNING HISTORY

3.1 88/00825/NLB – Demolition of hut and small rear extension. Development of new three storey office extension to rear of existing two storey extension – APPROVED (implemented).

3.2 16/00120/F – Conversion of existing office buildings to form 9 No new dwellings; some minor alterations to existing windows on south and west elevations along with bin storage and cycle storage areas – APPROVED on 17th March 2016 (not implemented). The principle of the change of use was considered acceptable and it was considered that the proposal would not cause harm to the significance and setting of the Grade II listed building or harm to the character and appearance of the Banbury Conservation Area. This consent is extant. The scheme was fairly similar to the scheme put forward in this application, but another residential unit is now proposed in the building and the following additional changes are also proposed in this application:

- The painting of the front façade in white;
- The replacement of a door and window in the south elevation at ground floor level with a new window;
- An opening smoke vent on the south roof slope in the extension to the building;
- The replacement of all aluminium windows with aluminium double glazed windows on the extension to the building;
- The introduction of two windows at first floor level in the north elevation of the extension to the rear of the building; and
- The replacement of an existing dome light with a double glazed flat roof light.

4. PRE-APPLICATION DISCUSSIONS

- 4.1 15/00251/PREAPP – Conversion of existing building to 11no. 1 and 2 bedroom apartments - Response sent on 8th December 2015. It was noted that a statement that demonstrates the marketing undertaken of the property and which seeks to demonstrate the lack of demand for the building to continue to be used for office purposes should be submitted alongside the application. It was also noted that the Local Planning Authority will be keen to ensure the building has a reasonable beneficial use that will continue to maintain the building to the standard expected for this listed building. A planning application (ref: 16/00120/F) was later submitted at the site with 2 fewer units than proposed at the pre-app stage and the loss of the office use was considered acceptable in principle.

5. RESPONSE TO PUBLICITY

- 5.1 This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records.
- 5.2 No comments have been raised by third parties.

6. RESPONSE TO CONSULTATION

- 6.1 Below is a summary of the consultation responses received at the time of writing this report. Responses are available to view in full on the Council's website, via the online Planning Register.

PARISH/TOWN COUNCIL

- 6.2 BANBURY TOWN COUNCIL: **No comments received.**

STATUTORY CONSULTEES

- 6.3 OCC HIGHWAYS AUTHORITY: **No objections** subject to further details of the cycle storage prior to the commencement of the development.
- 6.4 THAMES WATER: **No objections** in relation to sewerage infrastructure capacity and water infrastructure capacity.

NON-STATUTORY CONSULTEES

- 6.5 CDC ARBORICULTURAL OFFICER: **No objections.**
- 6.6 BANBURY CIVIC SOCIETY: **No comments received.**
- 6.7 BANBURY HISTORICAL ASSOCIATION: **No comments received.**
- 6.8 CDC BUILDING CONTROL: **No comments received.**
- 6.9 CDC BUSINESS SUPPORT UNIT: **No comments received.**
- 6.10 CDC CONSERVATION OFFICER: **No objections** in principle to the conversion into 10 units.
- 6.11 CDC ECOLOGY OFFICER: **No comments received.**

- 6.12 CDC ENVIRONMENTAL PROTECTION OFFICER: **No comments received.**
- 6.13 CDC LANDSCAPE SERVICES: **No objections** in principle. An offsite contribution towards play provision will be required because 10 units triggers play provision. The established clipped Yew hedge on the frontage should be retained and maintained, as part of the setting of the building and the street scene.
- 6.14 CDC PLANNING POLICY: **No objections.**
- 6.15 OCC PROPERTY: **No objections** subject to a condition that requires the provision of fire hydrants.
- 6.16 CDC RECREATION & LEISURE: **No comments received.**
- 6.17 RAMBLERS ASSOCIATION: **No comments received.**
- 6.18 OCC RIGHTS OF WAYS: **No comments received.**
- 6.19 THAMES VALLEY POLICE DESIGN ADVISER: **No comments received.**
- 6.20 CDC WASTE & RECYCLING: *“The developer has said there is adequate storage for waste and recycling but they will have to satisfy the local authority that it is accessible and large enough. This needs to be detailed so the authority can assess. Guidance for flats is 1.4 sqm per dwelling, and so the bin store area will need to be a minimum 14 sqm.”*

7. RELEVANT PLANNING POLICY AND GUIDANCE

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 7.2 The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the ‘saved’ policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District’s statutory Development Plan are set out below:

CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2031 Part 1)

- PSD1 - Presumption in Favour of Sustainable Development
- SLE1 - Employment Development
- SLE2 - Securing Dynamic Town Centres
- BSC1 - District Wide Housing Distribution
- BSC2 - The Effective and Efficient Use of Land – Brownfield and Housing Density
- BSC11 - Local Standards of Provision - Outdoor Recreation
- BSC4 - Housing Mix
- ESD1 - Mitigating and Adapting to 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
- Policy Banbury 7 - Strengthening Banbury Town Centre

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- H21 - Conversion of buildings in settlements
- C28 - Layout, design and external appearance of new development
- C30 - Design of new residential development
- ENV12 - Development on contaminated land

7.3 Other Material Planning Considerations:

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Banbury Conservation Area Appraisal (October 2014)
- Banbury Vision and Masterplan (December 2016), in particular the sections on Economy, Town Centre, and the Environment

8 APPRAISAL

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

- Principle of the Development;
- Impact upon the Setting and Significance of the Listed Buildings;
- Impact upon the Setting and Significance of the Nearby Locally Listed Building;
- Impact upon the Character and Appearance of the Area;
- Residential Amenities;
- Highway Safety;
- Archaeology;
- Affordable Housing and Infrastructure Contributions;
- Other Matters.

Principle of the Development

- 8.2 Paragraph 14 of the National Planning Policy Framework (NPPF) states that a presumption of sustainable development should be seen as a golden thread running through decision taking. There are three dimensions to sustainable development, as defined in the NPPF, which require the planning system to perform economic, social and environmental roles. These roles should be sought jointly and simultaneously through the planning system.
- 8.3 Paragraph 12 of the NPPF notes that the development plan is the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. Cherwell District Council has an up-to-date Local Plan which was adopted on 20th July 2015.
- 8.4 Cherwell District Council can demonstrate a five-year supply of deliverable housing sites therefore the presumption in favour of sustainable development, as advised by the NPPF, will therefore need to be applied in this context.
- 8.5 Policy SLE1 of the Cherwell Local Plan Part 1 states that: *"In cases where planning permission is required existing employment sites should be retained for employment use unless the following criteria are met:*

- *The applicant can demonstrate that an employment use should not be retained, including showing the site has been marketed and has been vacant in the long term;*
- *The applicant can demonstrate that there are valid reasons why the use of the site for the existing or another use is not economically viable;*
- *The applicant can demonstrate that the proposal would not have the effect of limiting the amount of land available for employment....*

Regard will be had to whether the applicant can demonstrate that there are other planning objectives that would outweigh the value of retaining the site in an employment use.”

- 8.6 The applicant’s agent has noted that the offices have been empty since September 2012 and that the rear extension element was marketed for leasehold in May 2013. Whilst the submission fails to demonstrate that other employment uses for the building have been properly considered, it should be noted that a change of use to residential would generally be acceptable under permitted development rules (Part 3 of The Town and Country Planning (General Permitted Development) (England) Order 2015). It is only because the building is listed that planning permission is required. It is considered that this restriction to listed buildings exists so as to protect the historic fabric and character of these heritage assets. In addition, the approval of this application would bring back this listed building and site into use. Whilst the change of use would lead to the loss of employment space, it is also worth highlighting that the main building was originally used as a residential property and it could be argued that the main building, in terms of its historic interest, serves itself better to residential use than commercial use.
- 8.7 Importantly, planning permission was granted for the change of this building into a residential use last year and this consent is extant. This is a significant material consideration in the assessment of this application.
- 8.8 The site is identified as being within Banbury ‘Town Centre’ within the Cherwell Local Plan Part 1. Policy SLE 2 of the Cherwell Local Plan Part 1 notes that: *“Retail and other ‘Main Town Centre Uses’ will be directed towards the town centres of Banbury and Bicester and the village of Kidlington in accordance with Policies Bicester 5, Banbury 7 and Kidlington 2”*. Policy Banbury 7 (Strengthening Banbury Town Centre) of the Cherwell Local Plan states that residential development will be supported in appropriate locations in the town centre except where it will lead to a loss of retail or other main town centre uses. Furthermore Policy Banbury 7 states that: *“The change of use of sites used for main town centre uses in the town centre for residential development will normally be permitted if proposals contribute significantly to the regeneration of the town centre.”*
- 8.9 The site is in B1 use (office) and this is considered to be a ‘main town centre use’ in the NPPF. As noted in Policy Banbury 7, such proposals (change of use to residential from ‘main town centre use’) will normally be permitted if the proposals contribute significantly to the regeneration of the town centre. Whilst it has not been argued by the applicant’s agent that the proposal would contribute to the regeneration of the town centre, the proposal would bring this building back into use. Again, it is also important to note that planning permission was granted for the change of this building from an office use into a residential use last year and this permission is extant.

- 8.10 Being a housing scheme within the town centre of Banbury, the proposal represents a scheme with an urban focus. This goes a long way to establishing the sustainability credentials, particularly with regard to the economic and social roles. Reliance on private transport is also far reduced contributing to the environmental role but this also covers the effect on the built and historic environment, as discussed below. In addition, saved Policy H21 of the Cherwell Local Plan 1996 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.”*
- 8.11 For the reasons above, the principle of the proposal could be acceptable in this case. That said the acceptability of the scheme is also dependent on it not causing harm to the significance and the setting of the listed buildings and nearby locally listed building, as well as not causing harm to the character and appearance of the area, residential amenities, highways safety, archaeology, public health or ecology. These issues are discussed below.

Impact upon the Setting and Significance of the Listed Buildings

- 8.12 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard to the desirability of preserving a listed building or its setting should be taken.
- 8.13 Paragraph 132 of the NPPF states that: *“When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation. The more important the heritage asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of designated heritage assets of the highest significance, notably scheduled monuments, protected wreck sites, battlefields, grade I and II* listed buildings, grade I or II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.”*
- 8.14 Paragraph 134 of the NPPF advises that harm to the significance of a designated heritage asset needs to be weighed against the public benefits of the proposed development.
- 8.15 Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 states that new development proposals should: *“Conserve, sustain and enhance designated ‘heritage assets’ (as defined in the NPPF) including buildings, features, archaeology, conservation areas and their settings, and ensure new development is sensitively sited and integrated in accordance with advice in the NPPF and NPPG.”*
- 8.16 The main building of 51 South Bar Street was originally built as a house in the 19th Century. As noted in the Banbury Conservation Area Appraisal, the western side of South Bar Street (known as The Green) was developed in the 18th Century with high status housing for the merchant classes and in the 1830s this area was a preferred residential area.

- 8.17 The Conservation Officer has raised no objections in principle to the external alterations proposed, including the new windows on the north elevation of the extension element of the building, the addition of two new roof lights and the smoke vent, and these are considered to be minor and sympathetic alterations to the listed building. Furthermore, the addition of the lights, bin storage and cycle storage areas to the rear of the site are considered to have a negligible impact upon the significance and setting of the listed building. The building would retain its appearance as a high status former residential property fronting onto South Bar Street, and so its significance would be preserved in this respect.
- 8.18 It is considered that the proposal would not cause harm to the significance and the setting of the Grade II listed building or the setting and significance of the nearby Grade II listed buildings.

Impact upon the Setting and Significance of the Nearby Locally Listed Building

- 8.19 The Non-Designated Heritage Asset of 3 West Bar is situated to the rear of the site, but it is considered that the proposed alterations are relatively minor and would not materially alter the way this building is experienced. It is therefore considered that the proposal would not cause harm to the significance, setting and character of this nearby locally listed building.

Impact upon the Character and Appearance of the Area

- 8.20 Government guidance contained within the NPPF requiring good design states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Further, permission should be refused for development of poor design that fails to take the opportunities for improving the character and quality of an area and the way it functions.
- 8.21 Paragraph 137 of the NPPF states that Local Planning Authorities should look for opportunities for new development within Conservation Areas to enhance or better reveal their significance.
- 8.22 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.”* It also echoes the requirement of the NPPF for new development to preserve or enhance the character, significance and appearance of designated heritage assets such as Conservation Areas.
- 8.23 Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that in carrying out its functions as the Local Planning Authority in respect of development in a conservation area: *special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.*
- 8.24 Saved Policy C28 of the Cherwell Local Plan 1996 reflects Government guidance in relation to the design of new development by seeking to ensure that such development is in harmony with the general character of its surroundings and is sympathetic to the environmental context

of the site and its surroundings, and the nature, size and prominence of the development proposed.

- 8.25 The proposed lights, bin storage area and cycle storage areas would be visible from the Public Footpath (120/25/10) to the rear of the site and partially visible from West Bar Street. The lights, cycle storage and bin storage areas are considered acceptable in principle as these features would have limited impact upon the character and appearance of the area due to their scale and siting, but further details are required in relation to cycle storage and wall mounted lights.
- 8.26 It is considered that the alterations to the openings are minor changes that would have a negligible impact upon the building and the contribution it makes to the character and appearance of the area, and would not be any greater than those already permitted under the extant consent (16/00120/F).
- 8.27 The Landscape Officer has noted that the established clipped Yew hedge on the front should be retained and maintained as part of the setting of the building, but the Landscape Officer's desire to preserve this hedge is not directly related to the proposed development and this has therefore not been requested as a condition. The Council's Arboricultural Officer has raised no objections to the proposal in principle and has noted that the proposed works will have a negligible impact on any trees of amenity value on the site.
- 8.28 Given the above, it is considered that the proposal would not cause harm to the character and appearance of the Banbury Conservation Area or detrimental harm to the visual amenities of the locality.

Residential Amenities

- 8.29 The site is surrounded by a number of commercial uses. It is not proposed to extend the building in any way but bin and cycle storage areas are proposed. Given the siting of these proposed features it is considered that the proposal would not cause adverse harm to any residential properties in terms of loss of light or the creation of an overbearing effect.
- 8.30 Two fire doors are proposed to be replaced by windows, but these fire doors are already glazed. Two roof lights are proposed, but the views out of these roof lights of neighbouring properties would be highly restricted due to the height of these windows. Two new first floor windows are also proposed on the northern elevation of the extension element to the rear of the building, but the properties immediately to the north are not in residential use. It is therefore considered that the proposal would not cause harm to any residential properties in terms of loss of privacy or overlooking.
- 8.31 Whilst comments have not been received from the Environmental Protection Officer during the consultation period, the Environmental Protection Officer commented on the previous application at the site for the conversion of the building to 9 residential units (ref: 16/00120/F). In this previous application, the Environmental Protection Officer raised no objections to the application and noted that the sound insulation details for the proposal are satisfactory. It is therefore considered that the proposal would provide a good standard of amenity for future occupiers.

Highways Safety

- 8.32 Policy ESD15 of the Cherwell Local Plan Part 1 states that: *“New development proposals should be designed to deliver high quality safe, attractive, durable and healthy places to live and work. Development of all scales should be designed to improve the quality and appearance of an area and the way it functions.”*
- 8.33 The Local Highways Authority has raised no objections to this proposal. The on-site parking would equate to 1 space per bedroom and the Local Highways Authority is of the opinion that this proposed on-site parking is commensurate for this number of units of this scale in this location. The Local Highways Authority has noted that these parking bays are laid out in a way that provides sufficient space for turning and manoeuvring.
- 8.34 OCC guidelines for cycle storage are one space per bedroom, plus one space per unit for visitors. This results in a total requirement of 25 spaces, equivalent to 12 stands. The Local Highways Authority has noted that these stands should ideally be 1m apart, but that 850mm can be accepted as a minimum. The Local Highways Authority note that as the cycle parking is for residents it is normal practice to provide an enclosed space to accommodate cycles, such as a lockable unit. This is because it is more secure and it protects the bikes from the elements. The Local Highways Authority has therefore requested more details of the cycle parking provision which should demonstrate that at least 24 cycles can be parked on the site.
- 8.35 However, such details were not requested by the Local Highways Authority in the previous application at the site and officers have significant concerns that such an outbuilding to house the cycles could cause harm to the significance and setting of the listed building. Given the town centre location of the site as well as the adequate car parking provision for the use, demonstration of storage for at least 24 cycles on the site is not considered necessary by officers. Instead the amount of cycle parking shown on the submitted plans (7 spaces) is considered appropriate and acceptable to serve the development, subject to details.
- 8.36 Thus, given the above it is considered that the proposal would not have an adverse impact upon highway from a traffic and safety point of view.

Archaeological Impact

- 8.37 Comments have not been received from the County Council’s Archaeologist during the consultation period, but in the previous application at the site for the conversion of the building into 9 residential units (ref: 16/00120/F), the Planning Archaeologist raised no objections to the proposal and noted that the proposal would not appear to have an invasive impact upon any known archaeological sites or features. Given the similarities between this current scheme and the previous scheme, it is considered that these comments are still relevant and that there are no archaeological constraints to this scheme.

Affordable Housing and Infrastructure Contributions

- 8.38 Policy BSC3 of the Cherwell Local Plan Part 1 states that: *“At Banbury and Bicester, all proposed development that include 11 or more dwellings (gross), or which would be provided on sites suitable for 11 or more dwellings (gross), will be expected to provide at least 30% of new housing as affordable homes on site.”* Whilst 10 houses are proposed (1 less than the

threshold for contributions), it is considered that no more dwellings could be accommodated without likely causing harm to the character and significance of the listed building.

- 8.39 Policy BSC11 highlights that for schemes for 10 residential units or over, there is a requirement for a Local Area for Play (LAP) to be provided. However, there is insufficient space for this on site and the Landscape Officer has requested an offsite contribution of £23,068.60. However, the Planning Practice Guidance notes that there are specific circumstances where contributions for affordable housing and section 106 planning obligations should not be sought including for schemes of 10 units or less and which have a maximum combined gross floor space of no more than 1,000 square metres. As the scheme would fall short of both of these thresholds, it is not considered necessary or reasonable to request this sum.

Other Matters

- 8.40 Given the nature of the proposal (i.e. the conversion of a building within the centre of Banbury, with limited works to the roof of the original part of the building) it is considered unlikely that it would cause adverse ecological harm or harm to public health as a result of land contaminants. Furthermore, it is worth noting that the Council's Waste Resource Manager raised no objections to the previous proposal at the site for a relatively similar scheme (16/00120/F), and further details of the bin storage area can be secured by condition, to ensure it is adequate to serve the development.
- 8.41 Oxfordshire County Council has raised no objections to the proposal subject to a condition that requires the provision of fire hydrants. However, the matter of fire safety is not a material planning consideration and is addressed under Building Regulations, therefore such a condition has not been attached.

9. CONCLUSION

- 9.1 The principle of the proposal is considered acceptable and the proposal is considered to be of a design, scale and style that is sympathetic to the character and appearance of the Banbury Conservation Area. The proposal is also considered not to cause harm to the significance and setting of the listed building or adjacent listed buildings or detrimental harm to residential amenity, public health, protected species, highway safety or archaeology and is therefore compliant with the policies outlined in section 7 of this report. Overall, the proposal is considered to have no significant adverse impacts and constitutes sustainable development therefore the application is recommended for approval.

10. RECOMMENDATION

That permission is **granted**, subject to the following conditions:

1. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.

Reason - To comply with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

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

- Application Form submitted with the application;
- Design and Access Statement (Ref: WG299-DaS Rev A – October 2016) by Walker Graham Architects submitted with the application; and
- Drawing Numbers: WG299-001; WG299-003 Revision J; WG299-004 Revision H; WG299-005 Revision D; WG299-010; WG299-011; and WG299-016 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 installation of the wall mounted lights hereby approved, full details of the design, appearance, luminance and siting of the proposed wall mounted lights shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the details 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, to preserve the character and appearance of the Banbury Conservation Area and to comply with Policy ESD15 of the Cherwell Local Plan Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

4. Notwithstanding the details shown on the approved plans, prior to the commencement of the development of the bin storage area hereby approved, full details of the design, appearance, materials and siting of the bin storage shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the details 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, 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, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

5. Notwithstanding the details shown on the approved plans, prior to the commencement of the development of the cycle storage hereby approved, full details of the design, materials, appearance and siting of the cycle storage shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the details 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, to preserve the character and appearance of the Banbury Conservation Area and to comply with Policy ESD15 of the Cherwell Local Plan Part 1, saved Policies 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, full details of the new and altered doors, windows and roof lights 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. The doors, windows and rooflights shall be installed within

the building in accordance with the approved details and retained as such thereafter.

Reason – To ensure that the completed development is in keeping with and conserves the special character of the existing historic building and to comply with Policy ESD15 of the Cherwell Local Plan Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

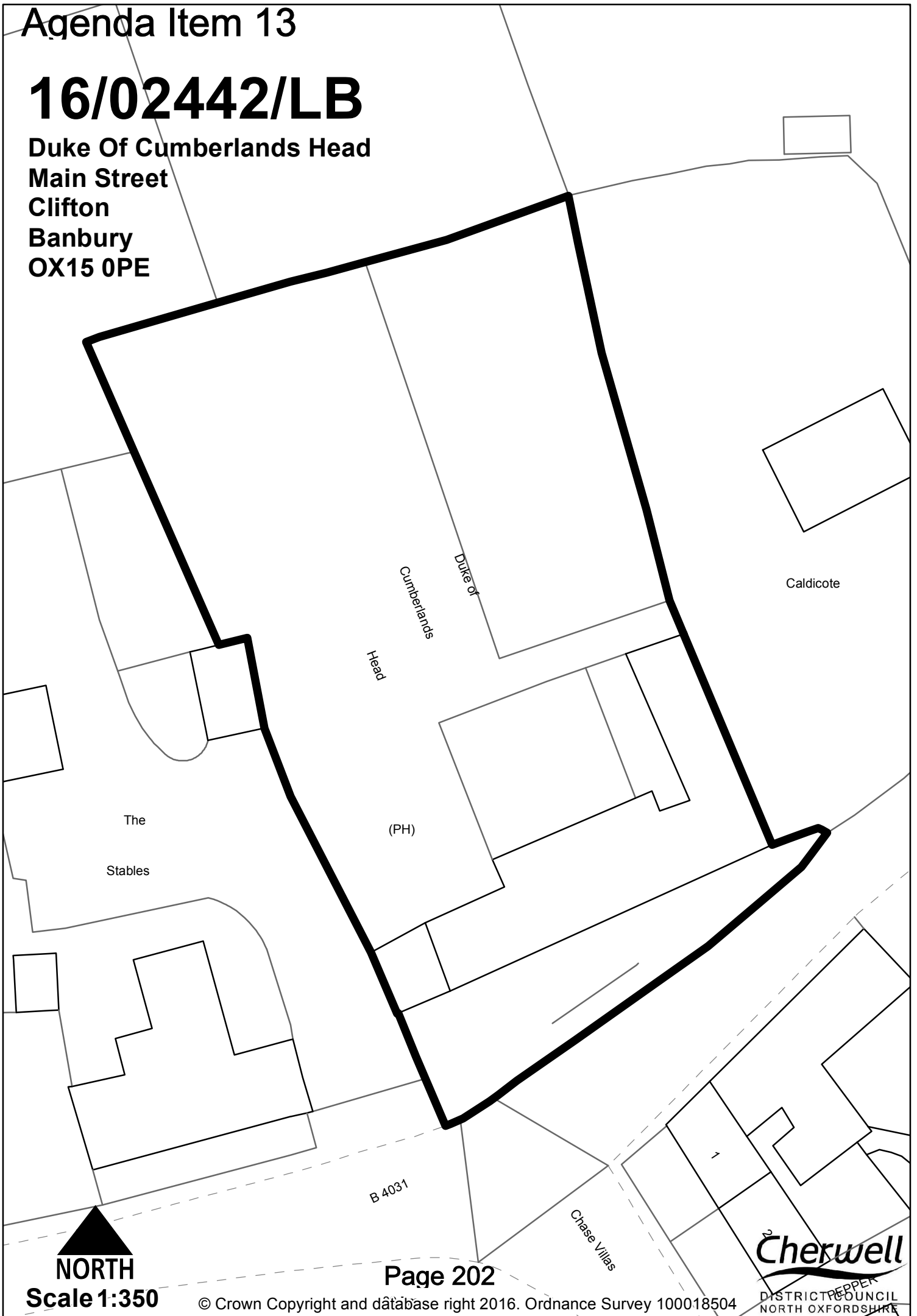
PLANNING NOTES

1. Planning permission only means that in planning terms a proposal is acceptable to the Local Planning Authority. Just because you have obtained planning permission, this does not mean you always have the right to carry out the development. Planning permission gives no additional rights to carry out the work, where that work is on someone else's land, or the work will affect someone else's rights in respect of the land. For example there may be a leaseholder or tenant, or someone who has a right of way over the land, or another owner. Their rights are still valid and you are therefore advised that you should seek legal advice before carrying out the planning permission where any other person's rights are involved.
2. The applicant is reminded that this building is included in the Statutory List of Buildings of Architectural or Historic Interest, and no works to the exterior or interior of the building, which materially affect the character may be carried out without the prior express consent of the Local Planning Authority (given through the submission of an application for, and subsequent grant of Listed Building Consent). This consent gives approval only to those works shown on the plans and details submitted to and approved in this application.
3. The applicant is further reminded that the carrying out of unauthorised work to a listed building is an offence, punishable by a fine, imprisonment or both, as detailed in Section 9 of the Planning (Listed Buildings & Conservation Areas) Act 1990.
4. The County Archaeologist has indicated that the proposal does not appear to directly affect any presently known archaeological sites. However, the County Council's records do show the presence of known archaeological finds nearby and this should be borne in mind by the applicant. If archaeological finds do occur during development, the applicant is requested to notify the County Archaeologist in order that he may make a site visit or otherwise advise as necessary. Please contact: County Archaeologist, Historic and Natural Environment Team, Infrastructure Planning, Speedwell House, Speedwell Street, Oxford, OX1 1NE (Telephone 01865 328944).
5. Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.

Agenda Item 13

16/02442/LB

Duke Of Cumberlands Head
Main Street
Clifton
Banbury
OX15 0PE



NORTH

Scale 1:350

Page 202

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Cherwell
DISTRICT COUNCIL
NORTH OXFORDSHIRE

Duke Of Cumberlands Head
Main Street
Clifton
Banbury
OX15 0PE

16/02442/LB

Case Officer: Matthew Coyne **Ward(s):** Deddington

Applicant: Mr Tim Catling

Ward Member(s): Cllr Bryn Williams, Cllr Hugo Brown, Cllr Mike Kerford-Byrnes

Proposal: Opening the rear wall of the fireplace to link two rooms

Committee Date: 16th February 2017 **Recommendation:** Refuse

Reason for Referral: Ward Member call-in by Cllr Bryn Williams

1. Application Site and Locality

- 1.1. The application site relates to a Grade II Listed building located within the predominantly residential village of Clifton. There are a number of buildings in the vicinity of varying ages, styles and sizes. The site is located adjacent to the main road and has a car park and outdoor space to the rear - which is accessed via a coach-house style part of the building. To the north of the site, there are open fields.
- 1.2. The building itself has two storeys and is constructed of stone with a thatch roof. In addition, there is a single storey wing, extending to the west side, which has a slate roof. The building has been altered and extended previously, including replacement windows, alterations to the roof at the rear, and the addition of a porch at the front.

2. Description of Proposed Development

- 2.1 The application seeks permission for the opening of the rear wall of the fireplace to link through to both rooms. This was originally submitted as part of a previous application (but was subsequently removed from the proposal following Officer concerns).
- 2.2 The application is before Members due to the level of public support for the proposal, contrary to the recommendation.

3. Relevant Planning History

- 3.1. 16/01475/LB: Alterations and single storey rear extension APPROVED 07 November 2016.
- 3.2. 16/01474/F: Alterations and single storey rear extension APPROVED 07 November 2016.

The above applications originally included the proposal to knock through the fireplace. This element was removed following consultation with the Conservation

Officer and concerns raised by the Case Officer. Following the removal of this part of the scheme, it was considered that the proposal would, on balance, be acceptable (despite there still being some harm caused to the character and historic significance of the listed building, it was considered this was outweighed by the public benefit).

4. Response to Publicity

4.1. This application has been publicised by way of a site notice displayed near the site and by advertisement in the local newspaper.

4.2. 12 letters of support were received as part of the consultation process (it was also noted that a number of other letters were received regarding the previous scheme but were not directly provided as part of this application). The letters of support are summarised by the following:

- The proposal is required to secure the viability of the pub
- The proposal would improve the ambiance and would integrate the room with the main part of the building.
- By not allowing this change it drastically reduces the earning capacity in terms of the number of covers that could be offered.
- The business needs to survive in order to protect the building. Without the business, the building will at worst be lost completely.

4.3. The comments received can be viewed in full on the Council's website, via the online Planning Register.

5. Response to Consultation

5.1 Below is a summary of the consultation responses received at the time of writing this report. Responses are available to view in full on the Council's website, via the online Planning Register.

DEDDINGTON PARISH COUNCIL:

5.2 Deddington Parish Council raised no objections to the proposal and stated that they support this planning application '*as it will help to keep a business in the parish*'.

CHERWELL DISTRICT COUNCIL:

5.3 The Conservation Officer objects to the application and makes the following comments:

The proposed development was removed from a previous listed building consent application.

The proposal is to remove part of the historic fireplace dividing the lounge area from the bar area of the building and replace with a through fireplace which is accessible on both sides of the building. The fireplace is specifically mentioned in the list description '*Large inglenook fireplace with chamfered bressumer*'.

The building is grade II listed and is of 17th century construction.

A Heritage Statement was produced as part of the application and this states that it is reputed to have been a public house since 1774. The Heritage Statement has been produced by an individual with an MSc in Historic Conservation, but no further information is available about her background. The Heritage Statement gives a brief overview of the history of the building and describes the structure in detail, but the assessment of significance is inadequate – it focuses on the use of the building as a public house and does not consider the significance of the chimney / fireplace which forms the basis of the application.

- In relation to the building as a whole it states *'It appears likely that the primary building was 2 bays with a possibly agricultural building added to the east in the early 18th century, later extended west and north with the addition of an outshut'* and identifies the significance of the building as a whole *'Much of the historic fabric has disappeared from this site over the years, although most of the floor plan and some of the roof timbers survive. Clearly, the building has been extended during the 18th century, and this may have happened quite early on. However, the primary significance is that this building has remained a public house for almost 250 years'*
- The fabric of the chimney is considered *'The narrow coursed stonework of the east chimney continues from ground floor to attic, including the gable wall, with the exception of the part in room F2, which appears to have been rebuilt. It appears the spine beam in this room has been reset due to the brick and cement construction around the eastern end. It is a possibility that the wall and chimney were an addition, although an early addition. However, consideration has been given as to whether this was an external wall, but on reflection, due to the nature of the easternmost roof the former is more likely. The straight joint on the ground floor would also concur with this theory.'* The only reference to the significance of the chimney states *'Considering how this business has failed over previous years, every effort should be made to ensure this becomes viable for the long-term once more, and if this takes just a small alteration to heat a room therefore encompassing this within the pub then this intervention has my approval'*

The Heritage Statement should have considered significance in relation to

- The original use (vernacular cottage / barn?) and its current and historic use as a public house.
- The plan form and layout of the building in relation to its use as a public house.
- The historic fabric of the existing fireplace.

The Heritage Statement could potentially have used the Conservation Principles for assessing significance of historic fabric and considered evidential, historic, aesthetic and communal values. If this approach had been taken it would have been possible to fully address the issue raised by one of the respondents relating to the rebuilding of the fireplace in the 1960s and the significance of this.

The National Planning Policy Framework provides guidance in paragraphs 133 and 134 relating to how harm (whether substantial or less than substantial) is to be weighed against the public benefits of the proposal.

It is my view that **the harm is significant, but less than substantial** on the basis that

- The chimney and fireplace form part of the original historic fabric of the original building
- The inglenook fireplace is specifically mentioned in the listed building description
- The chimney and fireplace may form a fundamental structural element of the building
- The existing configuration of the building with separate rooms reflects that of historic pub buildings in general ‘..... *legislation and licensing controls encouraged the plan form that became prevalent, with multiple entrances and numerous rooms for different styles of drinking, often divided by low partitions rather than solid walls, served increasingly from a single bar*’. (Historic England ‘Designation Listing Selection Guide: Commerce and Exchange Buildings’)

As the harm is less than substantial (substantial harm has a very high test) paragraph 134 is relevant ‘*Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits to the proposal, including securing its optimum viable use*’

There is clearly strong public feeling about the continued use of the building as a public house. A substantial number of letters have been received in support of the proposed development from the local community citing its importance to the community and claiming that the pub will be unviable as a business without the proposed alterations.

I fully concur with this and there is a clear public benefit to retaining it in use as a pub which is considered to be its optimum viable use.

The case has not, however, been made that the public house would not be able to function as a business without the proposed alteration. There are a number of suggestions from the local population that the proposed works will expand the volume / capacity of the pub and allow extra ‘covers’ – it is unclear what is meant by this as the proposal will not allow for any additional floor space. There are also concerns expressed that the business will fold and the building be demolished if these works do not take place. It is understood that these concerns relate to incidents in the recent history of the pub and therefore the issues are very emotive, but there is no basis for these concerns.

It is my view that the proposed works are considered to be a ‘want’ rather than a ‘need’ in relation to the operation of the building as a public house and that the public house will viable without this alteration, particularly in light of the alterations already consented as part of recent application 16/01474/F and 16/01475/LB.

There is therefore an **objection** to the proposals.

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

Cherwell Local Plan 1996 (Saved Policies)

C18: Development proposals affecting a listed building

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:

- Impact on Heritage Assets

7.2 The proposal would involve the partial demolition of the rear wall of the fireplace to open it out to both rooms. This was originally submitted as part of a previous application (but was subsequently removed from the proposal following Officer concerns). Despite the removal of this element from the proposal, it was still considered that there would be some harm caused to the listed building by those proposals. However, given that one of the most harmful elements had been removed from the proposal, it was considered to be, on balance, acceptable (and that the public benefit would outweigh the remaining harm).

7.3 Saved Policy C18 of the CLP 1996 states that in determining an application for Listed Building Consent, the Council will have special regard to the desirability of preserving the building or its setting or any features of special architectural or historical interest. The Council will normally only approve internal and external alterations or extensions to a Listed Building which are minor and sympathetic to the architectural and historic character of the building.

7.4 Paragraph 134 of The Framework states that 'where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits for the proposal, including securing its optimum viable use'.

- 7.5 It is considered that the information provided within the Heritage Statement fails to address the harm caused by the proposed works. The Conservation Officer also considers this to be the case and states that *the assessment of significance is inadequate – it focuses on the use of the building as a public house and does not consider the significance of the chimney / fireplace which forms the basis of the application*. Having regard to this, the Conservation Officer has found that there would be significant harm caused to the historic fabric of the building, but would be classed as ‘less than substantial’ (with substantial harm having a very high test) as per Paragraph 134 of The Framework.
- 7.6 The inglenook fireplace is specifically mentioned in the listed building description which demonstrates that it is a noteworthy feature within the building. Having regard to saved Policy C18 of the CLP 1996 (which states that in determining an application for Listed Building Consent, the council will have special regard to the desirability of preserving the building or its setting or any features of special architectural or historical interest) it is considered that the chimney and fireplace form part of the original historic fabric of the original building and this proposal is unsympathetic to its significance. It is, therefore, considered that the proposal would be contrary to Saved Policy C18 of the CLP 1996.
- 7.7 The Conservation Officer advises that the existing configuration of the building with separate rooms reflects that of historic pub buildings in general ‘..... *legislation and licensing controls encouraged the plan form that became prevalent, with multiple entrances and numerous rooms for different styles of drinking, often divided by low partitions rather than solid walls, served increasingly from a single bar*’. (Historic England ‘Designation Listing Selection Guide: Commerce and Exchange Buildings’). Having regard to this, the proposed alteration is considered to have a detrimental impact on the significance of the building by unsympathetically altering the configuration of the existing building.
- 7.8 Further to the above, the Conservation Officer also considers that the inglenook fireplace may be a fundamental structural element of the building and, whilst there may be engineering solutions to overcome this, it has not been demonstrated that there would be no further harm caused to the historic fabric of the listed building by carrying out these works.
- 7.9 Whilst it is noted that there is considerable public support for the proposal, it has not been demonstrated that the public house would not be able to function as a business without the proposed alteration. The Conservation Officer states that a number of public representations made reference to the proposal’s ability to expand the volume / capacity of the pub and allow extra ‘covers’ – However, the proposal will not allow for any additional floor space. Whilst it is appreciated that the representations may actually be referring to the room being used more than before, no justification has been provided which demonstrates that the business would be unviable without the proposed works or that the room would not be used once the previous permissions/listed building consent have been implemented.
- 7.10 Whilst there have also been a number of representations raising concerns that the business will fold and the building be demolished if these works do not take place. It is considered that there is no basis for these concerns. The applicants have recently received planning permission and listed building consent for internal alterations and a single storey rear extension for its continued use as a pub.

7.11 Whilst Officers are sympathetic to the concerns raised by local residents, no justification has been provided which demonstrates why the public house would not be able to function as a business without the proposed alteration or how these works would make the business viable. In addition to the above, the Heritage Statement submitted with the application fails to address the harm caused by the proposed works and the assessment of its significance is 'inadequate'. Having regard to the above, the proposal is considered to be detrimental to the listed building and the significance of a feature of special architectural or historical interest. The proposal is thus considered to be contrary to Saved Policy C18 of the CLP 1996 and Paragraph 134 of The Framework.

8. Conclusion

8.1 Overall, the works that are the subject of this application are considered to have a detrimental impact on the fabric of the Listed Building. Whilst Officers are sympathetic to the concerns raised by local residents, no justification has been provided which demonstrates why the public house would not be able to function satisfactorily as a business without the proposed alteration or how these works would make the business viable. In addition to the above, the Heritage Statement submitted with the application fails to address the harm caused by the proposed works and the assessment of significance is 'inadequate'.

8.2 Having regard to the above, the proposal is considered to be detrimental to the Listed Building and the significance of a feature of special architectural or historical interest. The proposal is thus considered to be contrary to Saved Policy C18 of the CLP 1996, Policy ESD15 of the CLP 2031 (Part 1) and Government guidance contained within The Framework (specifically Paragraph 134).

9. Recommendation

9.1. That Listed Building Consent be refused, for the following reason:

The proposed alteration to the inglenook fireplace is considered to be detrimental to the Grade II Listed Building and the to the significance of a feature which has a special architectural or historical interest. It has not been demonstrated that the public benefits of the proposal would outweigh the demonstrable harm caused to the historic significance of the Grade II Listed Building. The application therefore fails to accord with saved Policy C18 of the Cherwell Local Plan 1996; Policy ESD15 of the Cherwell Local Plan 2031 (Part 1); and Government guidance contained within the National Planning Policy Framework (specifically paragraph 134).

**CONTACT
OFFICER:**

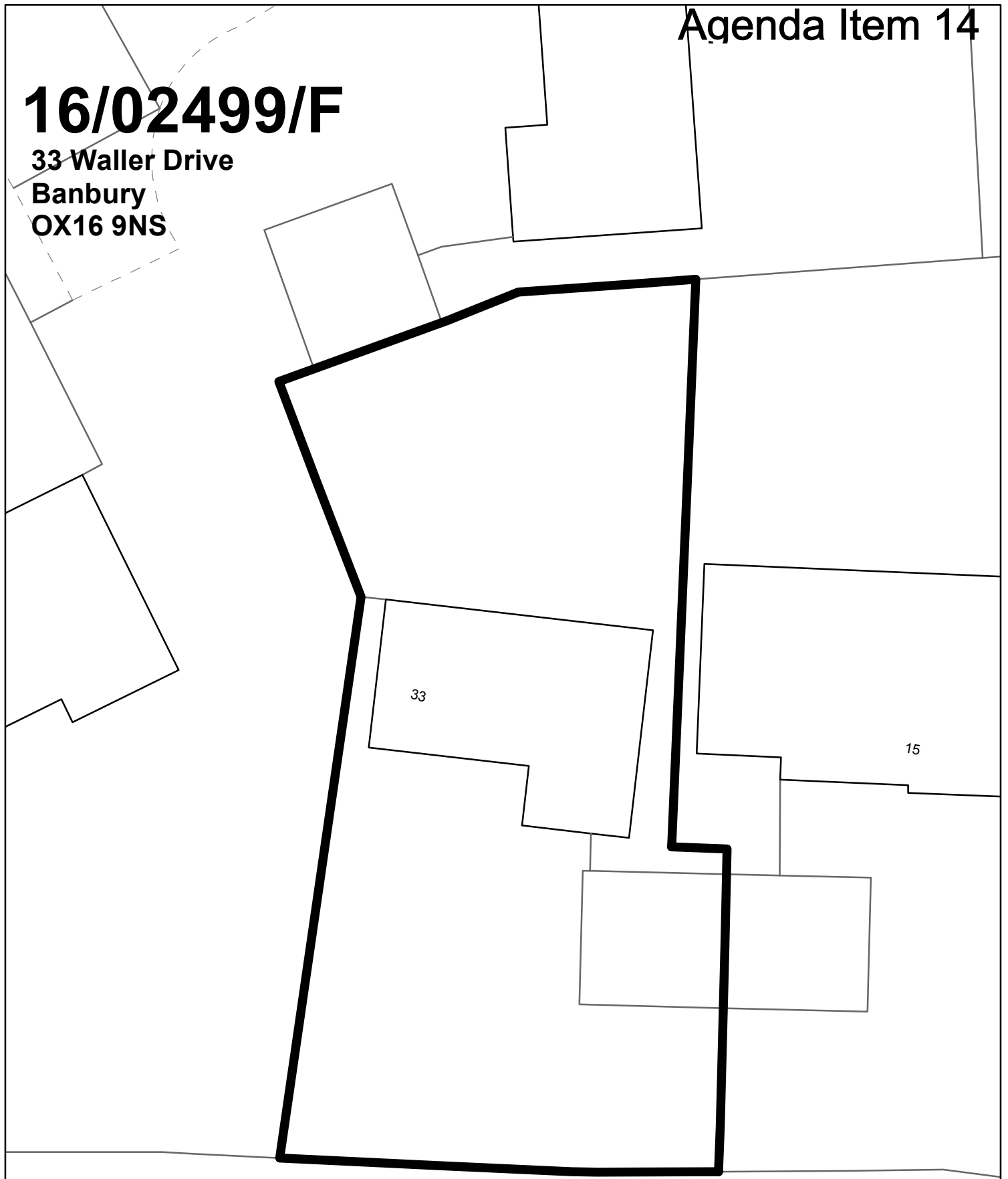
Matthew Coyne

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16/02499/F

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Banbury
OX16 9NS**



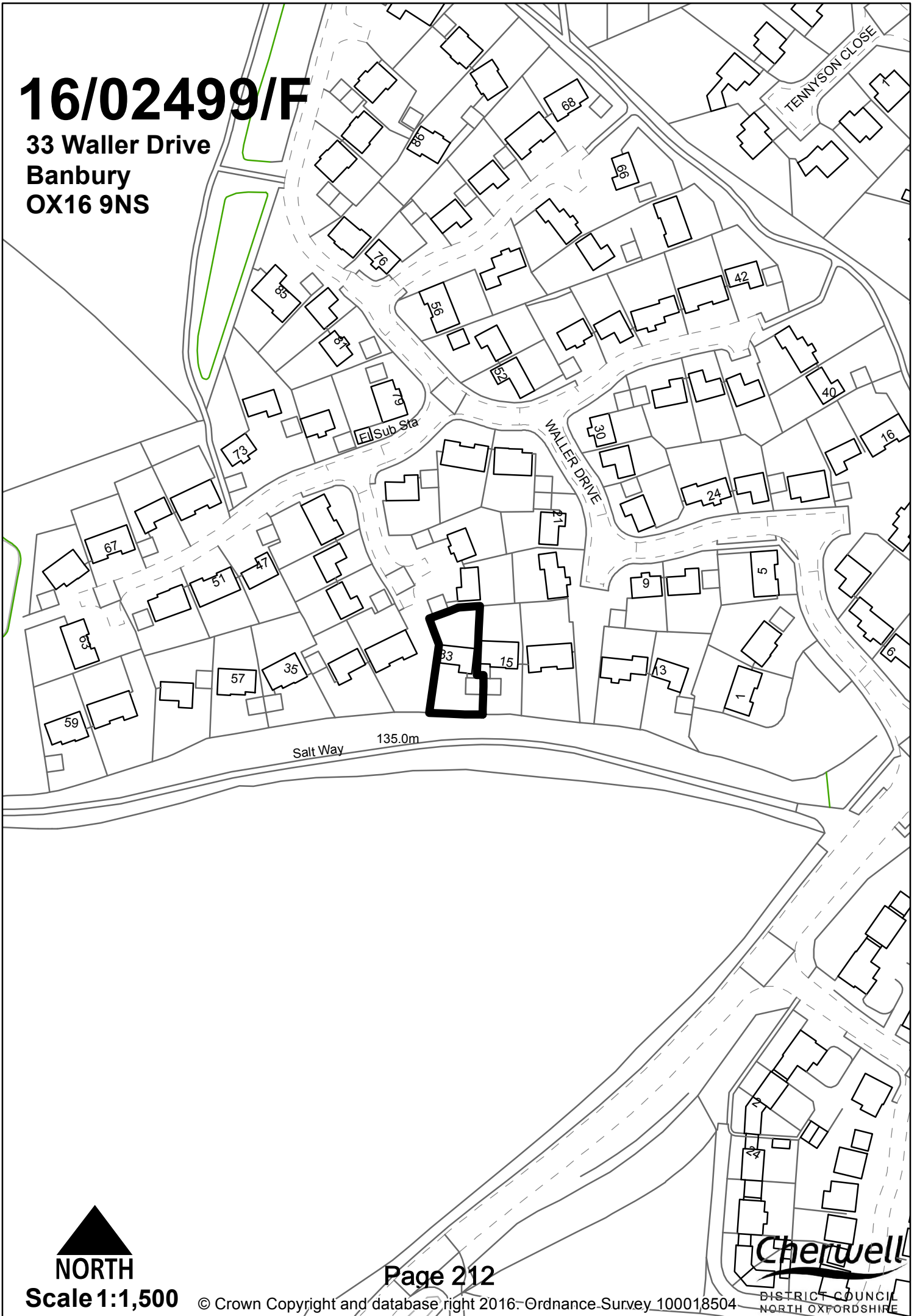
1350

NORTH

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16/02499/F

33 Waller Drive
Banbury
OX16 9NS



NORTH

Scale 1:1,500

Case Officer: Michael Sackey **Ward(s):** Banbury Calthorpe And Easington

Applicant: Mr & Mrs B Dhesi

Ward Member(s): Cllr Colin Clarke
Cllr Kieron Mallon
Cllr Nigel Morris

Proposal: Single storey front and side extension and two storey rear extensions

Committee Date: 16.02.2017 **Recommendation:** Approve

Reason for referral: One of the joint applicants is an elected member.

1. Application Site and Locality

1.1 The application relates to a two storey detached dwelling with a detached garage, constructed of brick with a tiled roof, facing south on to Waller Drive. There are no changes in the levels across the site that would significantly affect the application assessment. The site which lies within the built form of Banbury is bounded by residential properties to the north and east. The application site is not listed or within a designated Conservation Area.

2. Description of Proposed Development

2.1. The current application is for single storey front and side extensions and a two storey rear extension. The proposed front extension would measure approximately 1.6m in depth, 2.5m width with an overall lean to roof height of 4.3m. The proposed side extension would measure approximately 2.8m depth, 1.3m width with an overall roof height of 3.9m sloping down to an eaves height of 3m. The proposed two storey rear extension would measure approximately 3.5m depth 10.6m width with an overall roof height sloping down to an eaves height of 7.3m sloping down to an eaves height of 5m.

3. Relevant Planning History

3.1. CHN.552/92 : Wholly residential 80 two storey detached houses and 10 bungalows with roads, sewers & ancillary services and construction of access 18th November 1992

4. Response to Publicity

This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records.

One letter of objection has been received, though the comments made relate to non-planning issues, i.e. are not material considerations for a planning application.

5. Response to Consultation

Parish/Town Council:

Objection, these proposals would be out of keeping with street scene, contrary to saved policies C28 & C30 of the Local Plan.

Oxfordshire County Council:

Local Highway Authority - No objections

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

Cherwell Local Plan 1996 (Saved Policies)

Policy C28 – Layout, design and external appearance of new development

Policy 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:

- Design, Layout and Appearance;
- Visual Impact;
- Highway Safety and Parking;

Design, and impact on the character of the area

7.2 The proposed single storey front and side extensions would be set down in height in relation to the existing dwelling and although visible from the public realm would not be unduly prominent in relation to the existing dwelling and are considered subordinate in relation to the existing dwelling.

- 7.3 The proposed two storey rear extension introducing two end gables to the rear would have a greater impact on the street scene, visible from Waller Drive as the front elevation faces south away from the road, but would be set down in height in relation to the existing dwelling. Although the two storey rear extension is of a significant scale and visible from the highway, the proposal would be well massed and would be of a harmonious form and overall is considered sufficiently subservient in relation to the existing dwelling.
- 7.4 The materials proposed for the overall development are considered to be acceptable and would match those of the existing dwelling.
- 7.5 The proposal would therefore be in keeping with the existing dwelling and would not adversely affect the visual amenity of the locality. The proposal would thus accord with retained Policy C28 of the Cherwell Local Plan 1996 (Saved Policies) and Policy ESD15 of the Cherwell Local Plan 2011 - 2031 Part 1.

Residential amenity

- 7.6 The proposed development would be set off the boundaries of the neighbouring properties and would comply with the 45 degree rule with regards to the adjacent neighbours.
- 7.7 The proposed development would have an impact on the neighbour to the North at 31 Waller Drive in terms of privacy, but given the relationship between 31 Waller Drive and the neighbours at 15 and 19 Waller Drive and with regards to a two storey rear extension which could be achieved by the way of the property's permitted development rights which would have a similar impact, it is considered not to be significant to the extent that warrants refusal of the current application.
- 7.8 Overall, having regard to its scale and siting, along with the spatial relationship with the neighbours, the proposal would not have a significant impact either through loss of light or outlook and would not result in the direct overlooking on to the neighbouring properties.
- 7.9 The proposal would thus accords with Policy C28 of the Cherwell Local Plan 1996 (Saved Policies) and Policy ESD15 of the Cherwell Local Plan 2011 - 2031 Part 1.

Impact on highway safety

- 7.10 The Local Highway Authority has raised no objections to the proposed development. The comments of the objector are noted. However, the intended use of the dwelling would be a separate matter to the current application to be investigated should it become appropriate to do so.
- 7.11 The proposals do not affect existing parking provision within the site and although the proposal would result in additional bedrooms (or rooms capable of being used as bedrooms), the proposal would not affect existing parking provision. The proposals are therefore acceptable in highway safety terms.

Engagement

With regard to the duty set out in paragraphs 186 and 187 of the Framework, it is considered that the duty to be positive and proactive has been timely discharged, in accordance with the Framework.

8. Conclusion

- 8.1 The proposal would be an acceptable addition to the existing dwelling, would respect the character and visual amenity of the site's surroundings and respond appropriately to the site's characteristics. This proposal would not adversely affect residential amenity and there is satisfactory parking provision. The proposal would thus comply with Policies C28 and C30 Cherwell Local Plan 1996 (Saved Policies), Policy ESD15 of the Cherwell Local Plan 2011 - 2031 Part 1 and the relevant paragraphs of the Framework.

9. Recommendation

- 9.1 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 application shall be carried out strictly in accordance with the following plans and documents: Application forms, drawings No "P/16/155/001" and "P/16/155/003"

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

- 3 The materials and architectural detailing to be used in the construction of the external surfaces of the development hereby permitted shall match, in material and colour, those used in the existing building, and shall be retained as such in perpetuity.

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 and Policy ESD15 of the Cherwell Local Plan 2011 - 2031 Part 1.

CONTACT OFFICER: Michael Sackey

TELEPHONE NO: 01295 221820

17/00010/NMA

Fairway Methodist Church
The Fairway
Banbury
OX16 0RS



Ruscote
Methodist
Church

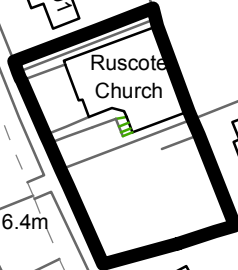
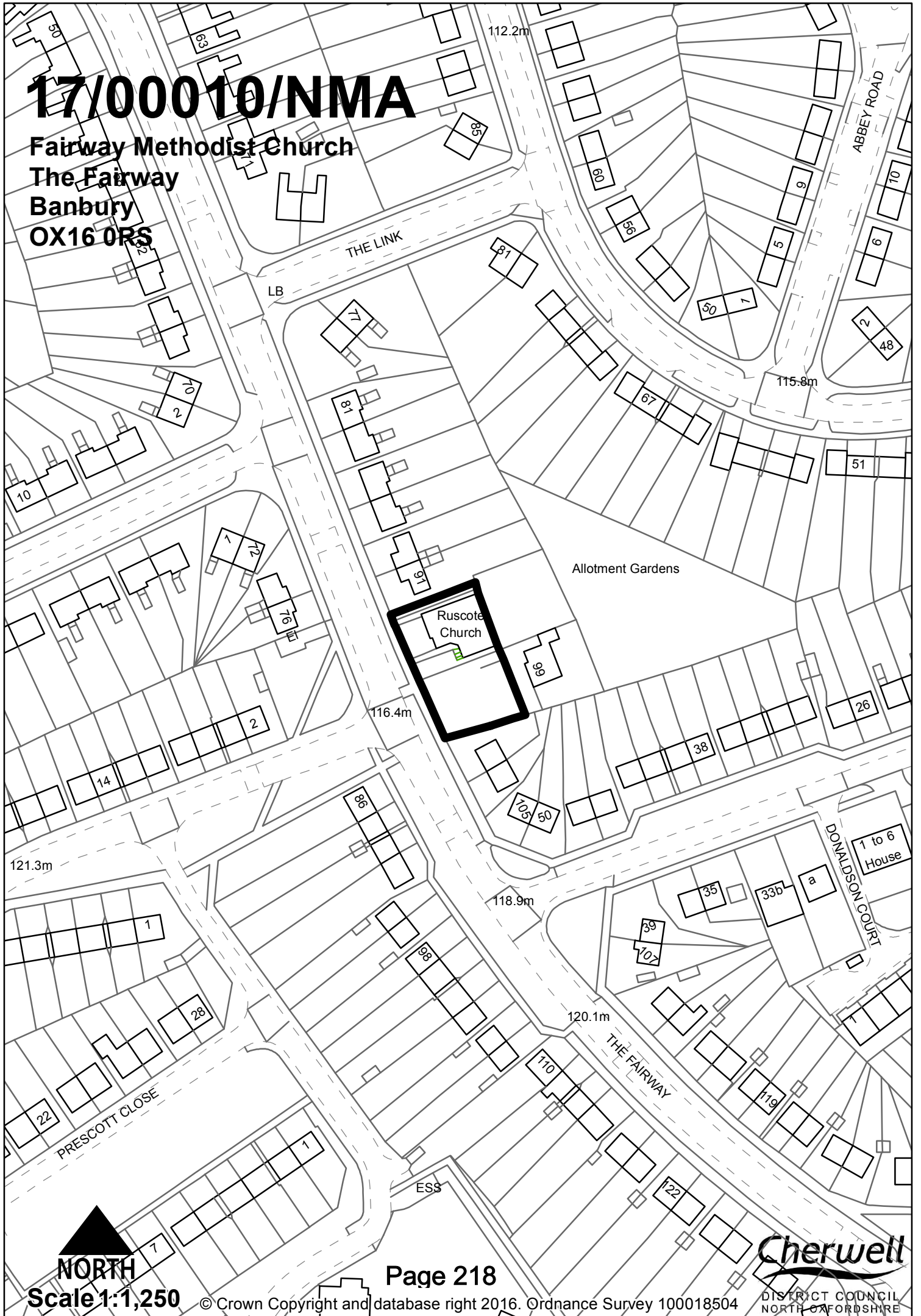
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17/00010/NMA

Fairway Methodist Church
The Fairway
Banbury
OX16 0RS



Ruscote Church



NORTH

Scale 1:1,250

Fairway Methodist Church
The Fairway
Banbury

17/00010/NMA

Case Officer: Bob Neville **Contact:** 01295 221875

Applicant: Trustees For Methodist Church Purposes

Proposal: Amendment to application 13/01153/CDC - Area hatched on drawing 007/06 rev E to be 600x600x50mm grey concrete paving slabs with 10mm gap filled with pea shingle for drainage of surface water. There will also be a planted border against the church elevation.

Expiry Date: 15.02.2017 (Extension of time agreed until 20.02.2017)

Ward: Banbury Ruscote **Committee Date:** 16.02.2017

Ward Councillors: Cllr Barry Richards
Cllr Sean Woodcock
Cllr Mark Cherry

Reason for Referral: CDC Application

Recommendation: Approval

1 APPLICATION SITE AND LOCALITY

1.1 The application relates to a Methodist Church site located within a predominantly residential area in the suburbs of Banbury.

2 DESCRIPTION OF PROPOSED DEVELOPMENT

2.1 The application seeks non-material amendments to a previous consented scheme 13/01153/CDC, for the replacement of the original church building.

2.2 The amendments now sought are for an area to the front of the site, previously to be laid to grass, to now be hardstanding, covered by 600 x 600 x 50mm grey concrete paving slabs, with 10mm gap filled with pea shingle for drainage of surface water. There will also be a planted border against the church elevation.

2.3 At the time of application the consented scheme had largely been implemented.

3 RELEVANT PLANNING HISTORY

3.1 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. Permitted 07.10.2013.

4 APPLICATION PUBLICITY AND CONSULTATION

- 4.1 Given the nature of the application, a Non-Material Amendment, there is no requirement for the application to be publicised or consulted upon.

5 APPRAISAL

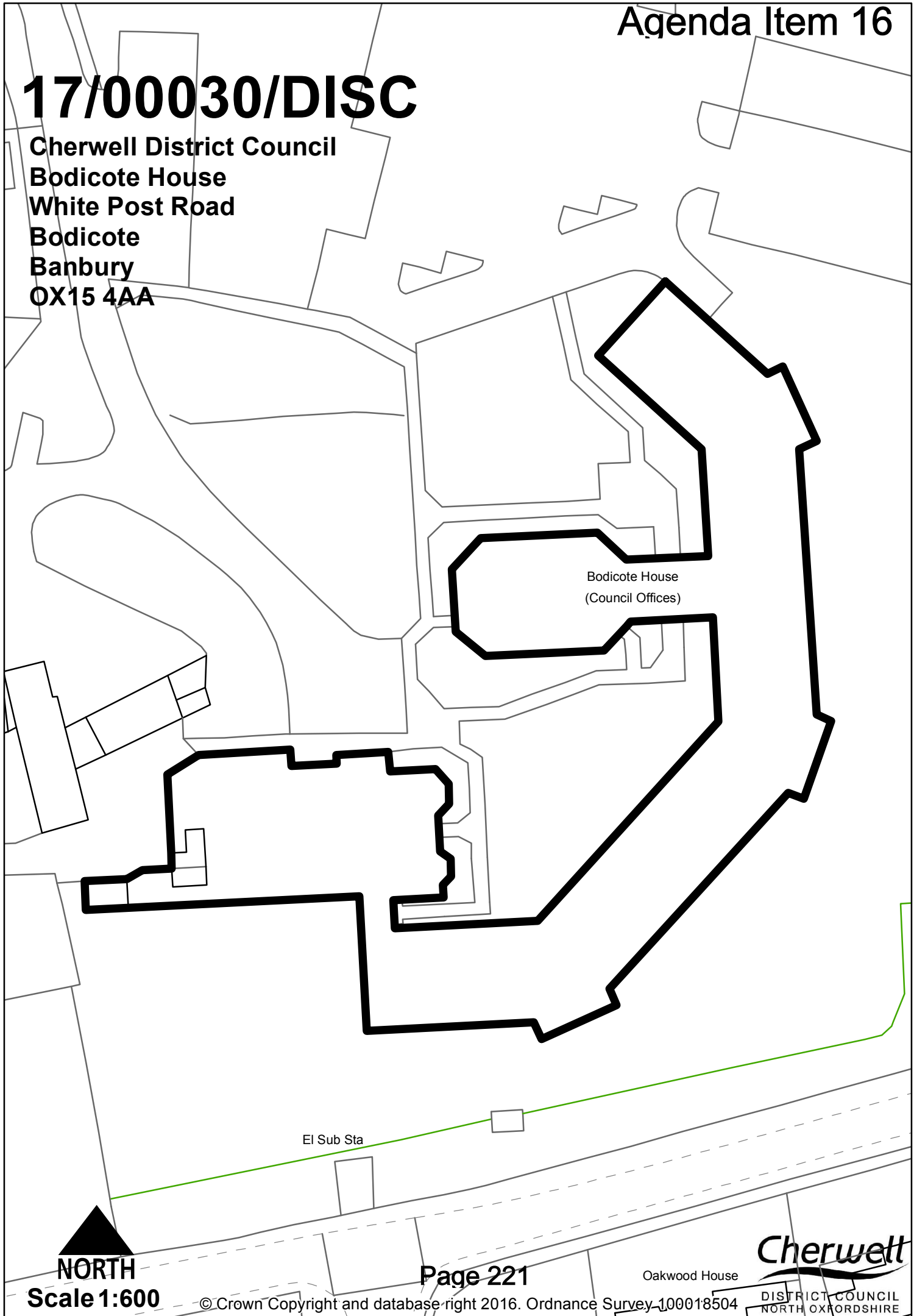
- 5.1 The key issue for consideration in this application is does the proposed change constitute a non-material amendment to the approved development?
- 5.2 Section 96A of the Town and Country Planning Act 1990 (as amended) states that: *'A local planning authority in England may make a change to any planning permission relating to land in their area if they are satisfied that the change is not material'*. Further that: *'In deciding whether a change is material, a local planning authority must have regard to the effect of the change, together with any previous changes made under this section, on the planning permission as originally granted.'*
- 5.3 There is no statutory definition of 'non-material'. This is because it will be dependent on the context of the overall scheme – an amendment that is non-material in one context may be material in another. The definition of non-material is therefore the responsibility of each planning authority to determine on a case by case basis. The judgement on "materiality" in any particular case is one of fact and degree, also taking into account the likely impacts of the amendment. Materiality is considered against the development as a whole, not just a part of it. The benchmark for forming the judgement on materiality is always the original planning permission.
- 5.4 The proposals seek to change an area to the front of the site to be hard landscaped as opposed to the soft landscaping (grassed area) approved under the original consent (13/01153/CDC). No conditions were considered necessary to be applied to the original permission in terms of approval of landscaping details.
- 5.5 The area would sit behind a low brick boundary wall at the front of the new church building. The area of hard-standing would replicate the situation at other residential properties within the Fairway and would not appear out-of-place in the context and had the application originally been submitted with a hard surfaced area to the front it is officer's opinion that planning permission would still have been granted. Whilst a hard-surfaced area to the front would change the general appearance from the public domain, it is considered that that the overall change in appearance in the context of the overall scheme would not be so significant in this instance.
- 5.6 Given the above, it is considered that the changes proposed, in the context of the overall development, are not material ones. They would not raise any new significant planning issues, in terms of highway safety, visual amenity or residential amenity. Therefore, having regard to the circumstances of the proposed changes, and for the reasons above, the proposed amendments are considered to fulfil the criteria for a non-material amendment.

6 RECOMMENDATION

- 6.1 That Cherwell District Council, as Local Planning Authority, hereby approves the non-material amendments described in the application in accordance with drawing numbers: 007/06 E.

17/00030/DISC

**Cherwell District Council
Bodicote House
White Post Road
Bodicote
Banbury
OX15 4AA**



Bodicote House
(Council Offices)

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NORTH

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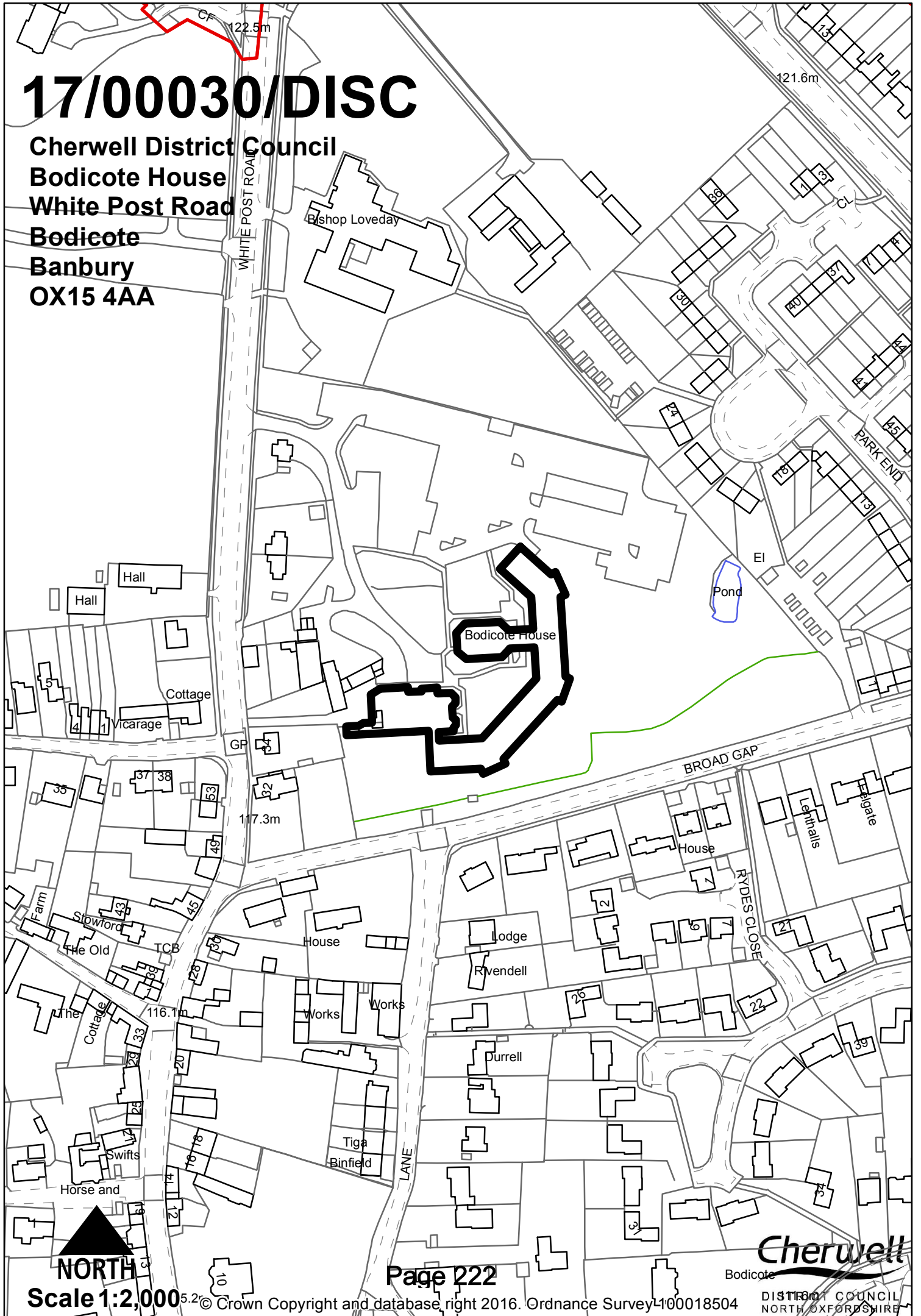
Oakwood House

Cherwell

DISTRICT COUNCIL
NORTH OXFORDSHIRE

17/00030/DISC

Cherwell District Council
Bodicote House
White Post Road
Bodicote
Banbury
OX15 4AA



NORTH

Scale 1:2,000

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

Applicant: Baily Garner

Ward Member(s): Cllr Mike Bishop, Cllr Chris Heath, Cllr Andrew McHugh

Proposal: Discharge condition 4 (waterproof membrane) of 16/00936/LB

Committee Date: 16th February 2017

Recommendation: Approval

Reason for Referral: CDC owned property

1. Application Site and Locality

- 1.1 The application site is the Old Bodicote House, a large stone built house. The building is Grade II listed (of 18th – 19th Century) and has been linked to a 20th Century Council office building. The application specifically relates to the electrical room which is situated in the Old House and is accessible through the main entrance and from an entrance at the rear courtyard.
- 1.2 Listed Building Consent was granted (application 16/00936/LB refers) for the removal of the existing walkway; provision of a new fire rated enclosure for the electrical equipment; and the repair and making good of the damp to the external wall.

2. Description of Proposed Development

- 2.1 The application seeks permission for the discharge of Condition 4 from Listed Building Consent 16/00936/LB. Condition 4 required full details on the waterproof membrane (or other suitable damp prevention method), to be submitted to and approved in writing by the LPA prior to the commencement of development.
- 2.2 The application is before the Committee as the Council has an interest in the land and buildings.

3. Response to Publicity

- 3.1 This application has been publicised by way of a site notice displayed near the site and by advertisement in the local newspaper.
- 3.2 At the time of writing this report, no comments had been raised by third parties.

4. Response to Consultation

- 4.1 Below is a summary of the consultation responses received at the time of writing this report. Responses are available to view in full on the Council's website, via the online Planning Register.

CHERWELL DISTRICT COUNCIL:

- 4.2 The Conservation Officer raises no objections to the principle of this development.

There are no objections in principle to the proposed DryRoom membrane being applied to the walls as the product details https://www.google.co.uk/?gws_rd=ssl#q=DryRoom+membrane indicate that the product allows for the free movement of water through the walls of the building and will therefore not cause a long term problem for the structure of the building. Further information may be required about how the drainage (recommended in the product details) will be dealt with.

It should, however, be noted that this system is usually used to deal with rising damp or in cellars or basements. It appears from closer inspection of the damp area that the problem is being caused by the drainage system / rainwater goods on the single storey roof. It would be far better to resolve the cause of the damp and avoid the need for expensive solution.

5. Appraisal

- 5.1 Condition 4 requires full details of the waterproof membrane (or other suitable damp prevention method), to be submitted to and approved in writing by the LPA. This condition was attached to the original consent on the basis of the advice received from the Conservation Officer.
- 5.2 The Conservation Officer advises that the proposed waterproof membrane system would not cause a long term problem to the structure of the building, nor would it be detrimental to the historic fabric of the Listed Building. For the purposes of the application, Officer's consider that the details provided satisfy the requirements of Condition 4.
- 5.3 Whilst the details submitted to discharge this condition are considered acceptable by Officer's, the applicants should consider whether this solution will address the cause of the damp within the building. In the first instance, consideration should be given to whether the damp is being caused by a faulty drainage system / rainwater goods on the single storey roof.

6. Conclusion

6.1 The application is before Members as Cherwell District Council has an interest in the land/buildings. The proposed details submitted for the discharge of Condition 4 (and the proposed approach) is considered to be appropriate by Officers. The applicants should, however, consider whether the damp is being caused by a faulty drainage system / rainwater goods on the single storey roof.

7. Recommendation – Approval

In accordance with details contained within document titled: 'Specification of Works' 27527 Rev B (18/01/2017). The development shall then be carried out fully in accordance with the approved details.

CONTACT OFFICER: Matthew Coyne **TELEPHONE NO:** 01295 221652

Agenda Item 17

Cherwell District Council

Planning Committee

16th February 2017

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 **16/01407/O56 – 25 Bankside, Kidlington.** Appeal by Ms Sheeham against the refusal of prior approval for the conversion of existing office (Class B1) to residential use (Class C3) comprising 6 apartments.

16/01633/F – Green House, Brill Road, Horton-Cum-Studley. Appeal by Mr Greenslade against the refusal of planning permission for erection of four bay garage with home office and storage.

16/01728/F – 66 Bath Road, Banbury, OX16 0TR. Appeal by Mr Booth against the refusal of planning permission for the demolition of existing rear extension, and erection of rear extension.

16/01970/F – Land Adj to 26 Balliol Road, Bicester, OX26 4HP. Appeal by Mr and Mrs Bedwell against the refusal of planning permission for the construction of a new dwelling (resubmission of 15/01338/F).

16/02228/F + 16/02229/LB – Springfields, 24 Station Road, Cropredy, OX17 1PP. Appeal by Mr and Mrs Gault against the refusal of planning and listed building consent for the retrospective removal of conditions 3 (stain fence), 4 (gates colour) and 5 (ivy growth) of planning application 16/00992/F and listed building consent application 16/00993/LB.

2.2 Forthcoming Public Inquires and Hearings between 16th February 2017 and 16th March 2016.

Planning Hearing commencing Tuesday 14th March at 10am Council Chamber, Cherwell District Council, White Post Road, Bodicote, OX15 4AA. Appeal by Investfront Ltd against the refusal of planning permission for the redevelopment of site (function hall) to provide 8 no. two bedroom dwellings. The Oxfordshire Inn, Heathfield, Kidlington, OX5 3DX - 16/01109/F.

2.3 Results

Inspectors appointed by the Secretary of State have:

1) Allowed the appeal by Adalta Real PLC & McDonald`s Restaurant Ltd against the refusal of planning permission for a freestanding single storey restaurant with associated drive-thru, car parking and landscaping; installation of customer order display and canopy. Land adjacent to Esso Station, Baynard`s Green, OX27 7SG. 15/00758/F - (Delegated).

The appeal related to the construction of a freestanding single storey restaurant with associated drive-thru, car parking and landscaping.

The appeal was allowed.

All parties and the Inspector agreed that as the restaurant was to serve the needs of the road user, principally those travelling along the A43, the sequential test was of little relevance. It was also concluded that it was not a requirement of policy to sequentially consider alternative sites along the A43.

The Inspector considered that the main issues are;

- Whether there is justification for the development in this location having regard to local and national policies; and,
- The effect of the development on the character and appearance of the area.

The Council relied upon saved LP Policy TR8 which required that new sites for commercial facilities for the motorist will be permitted only where the need can be clearly demonstrated. The Inspector set out that the relevance of LP Policy TR8 to this appeal is predicated upon its consistency with the Framework. The Council argued that as Paragraph 31 of the Framework states that the primary function of roadside facilities should be to support the safety and welfare of the road user there should be a demonstration of need. The Inspector sets out however that where need is not the primary function, Paragraph 31 does not prohibit the provision of roadside facilities and as such the Framework does not require a demonstration of need and concludes that LP Policy TR8 is somewhat inconsistent with the Framework. LP policy TR8 was given limited weight.

Whilst acknowledging that the development may become a destination in its own right, accessed by the private car the Inspector concluded that these trips would generally be outside of peak traffic flow along the A43. In relation to staff travel arrangements the Inspector accepted that the majority of staff would travel by private car and despite the appellants offer to use a travel plan this was considered as unenforceable and as such was given little weight in the Inspectors reasoning. Given the lack of objection from the LHA and Highways England the application could not be refused on transport grounds.

In relation to character and appearance the Inspector concludes that the site has a localised visual envelope and sits within an appropriate context for the development proposed. Despite being within an area previously designated as an AHLV the inspector concludes that the immediate context of the appeal site is now typified by transport infrastructure, the scale of the development would be appropriate for the area and it would not appear out of context. The Inspector adds that there would be no undue visual intrusion into the landscape, and it would not result in sporadic development that adversely affected the open rural character of the Countryside. It was concluded that the proposal would not be contrary to LP Policy ESD13 or saved LP Policy C8 neither would it conflict with Paragraph 17 of the Framework.

The Inspector gives weight to the fact that the proposal would create jobs and economic growth, the key focus of the Framework. Weight is also given to environmental and social benefits arising from the development.

Whilst the development would represent limited encroachment into previously undeveloped land and that it is likely to attract destination journeys as well as incurring travel for staff where there is no sustainable alternative modes of transport the Inspector concludes that the balance lies with the fact that she found no significant conflict with those relevant Local Plan policies that are consistent with the Framework or the Framework itself and the other benefits of the proposal.

2) Dismissed the appeal by Papa John's (GB) Ltd against the refusal of planning permission for change of use from shop (Use Class A1) to a hot food takeaway (Use Class A5) with internal and external alterations. 24 Church Street, Bicester, OX26 6AZ. 15/01724/F – (Delegated).

The development proposed was the change of use from a shop (Use Class A1) to a hot food takeaway (Use Class A5) with internal and external alterations. The principal issue identified was the effect the development would have on highway safety.

The Inspector noted that there was high demand for parking spaces on Church Street opposite the site. It was concluded that due to the nature of takeaways, customers would generally stop off for shorter periods of time to collect hot food and will wish to park as close as possible to the premises. The Inspector considered that nearby car parks at Chapel Street and Market Square would not be used by customers collecting orders. The Inspector was not convinced that there would be sufficient unrestricted on-street parking spaces during the opening hours of the takeaway, particularly during busy periods. This lack of

availability would encourage short-term illegal parking creating a hazard to both pedestrians and other vehicles.

As part of the appeal, the Inspector was referred to possible alternative uses of the building which could have a greater traffic impact than the last retail use; these included food retail or a Class A3 use. It was, however, concluded that customers for such uses would be more likely to use parking facilities a greater distance away from the site, particularly in the case of a restaurant use where patrons would spend more time at the premises.

On the basis of this assessment, the Inspector agreed with the Council that the proposal would result in '*significant harm to highway safety*'. The appeal was therefore dismissed.

3) Allowed the appeal by Mr Kent-Baguley against the refusal of planning permission for the alterations and erection of one semi-detached dwelling. 31 Crouch Hill Road, Banbury, OX16 9RG. 15/02146/F – (Delegated).

The appeal related to the construction of an end-of-terrace dwelling.

The application had been refused on three grounds – impact on the character of the area, impact on the living conditions of neighbours, and impact on local highway safety. The local highway authority withdrew its objections during the appeal, leaving the former two considerations.

The Inspector disagreed that the new dwelling would appear cramped or contrived and concluded that it would be compatible with the form and character of the area, and that its plot size would not be inconsistent with those of surrounding dwellings.

In terms of neighbour impact, the proposed dwelling will be 10.4 metres from and face directly towards the side elevation of the neighbour no.32, and much closer to that neighbour's garden. Officers concluded that first floor windows to the new dwellings will look directly down into the neighbour's garden causing loss of amenity. The Inspector disagreed, finding the relationship acceptable, but appearing only to consider the view from the proposed dwelling towards existing windows in the neighbouring dwelling, as opposed to the impact on the neighbour's private rear amenity space.

The appellant had offered to fix shut the first floor windows to limit any overlooking. The Inspector disagreed with this too, finding that opening windows would not afford harmful overlooking of the neighbour provided they were obscurely glazed. The Inspector felt the Council's guidance on separation distances was not relevant. In allowing the appeal, the Inspector declined to withdraw permitted development rights for extensions, meaning that the new dwelling may be altered and extended in the future, further harming the neighbour's amenity. For instance, under the new property's permitted development rights, new first floor openings may be inserted into the front elevation of the new dwelling without obscure glazing, nullifying the inspector's imposed condition. Based on the assessment above, the Inspector allowed the appeal.

4) Allowed the appeal by Mr and Mrs Perry against the non-determination for alterations and two storey extension to form enlarged dwellinghouse. Sundown, Crowcastle Lane, Kirtlington, OX5 3HP. 16/00002/F – (Committee).

The non-determination appeal related to a proposal for substantial extensions to a bungalow to form a two-storey dwelling.

The main issue was the proposal's effect on the character and appearance of the area.

Officers had recommended to Planning Committee that it resolve to refuse the application on the grounds of its scale, form and siting. In resolving to refuse, members had added design to the Council's concerns.

The Inspector held that Crowcastle Lane is comprised of a mix of dwelling types of varying architectural styles, designs and ages and that, "*there is not a regular pattern of development or a particularly consistent height to the built form*". The Inspector also disagreed with the Council with regard to the visual prominence of the appeal proposal, despite its proximity to the highway relative to other dwellings in the locality, concluding it "*would not be a highly conspicuous form of development...or be significantly incompatible*", and found that its flat roof design was not visually incongruous. In addition, she gave weight to the '*fallback position*' afforded by the granted Certificate of Lawfulness of Proposed Development for a similar scheme, although did not consider this a turning factor.

In allowing the appeal, the Inspector agreed with the Council that conditions should be imposed relating to the use of a first floor outside space and to preclude further extensions, in order to protect the living conditions of neighbouring residents.

The Inspector refused a costs application. She concluded that the Council did not act unreasonably in initially making the application invalid, was clear in communicating the reasons for the actions it took and considered the appropriate local and national planning policies, including the particular paragraphs of the National Planning Policy Framework. The Inspector agreed with the Council as to why it had not informed the appellant of the Planning Committee date. She also considered that Planning Committee Members were not duty bound to follow the advice of their professional Officers "*as long as a case can be made to support this position*", that Officers had explained the Planning Committee's decision in its statement of case, and that it had therefore been reasonable in this instance for design to be included in the Council's resolution to refuse. The Inspector concluded that the Council had not acted unreasonably, that its concerns were not vague or generalised and that the Council had "clearly set out" why it considered the proposal contrary to policy.

5) Allowed the appeal by Mr and Mrs Stubbs against conditions imposed for lime motor render only for the external walls. Arlie Hill, Banbury Hill, Shutford, OX15 6PE. 16/00413/F – (Delegated).

This appeal related to a condition of a planning approval for partial demolition of the existing dwelling and erection of a new two storey extension.

The condition had required *“the external walls of the planning unit” to be “rendered in all respects in lime mortar only”*.

The Inspector agreed with the Council that the additions to the dwelling were substantial and would fundamentally change the scale and appearance of the dwelling. The Inspector found conflict between the appealed condition (4) and another imposed on that consent (3). In its appeal statement, the Council had acknowledged that the condition had been poorly worded and was unclear in its intention and therefore imprecise, and the Inspector agreed.

The Council argued in its appeal statement that the objectives of the condition were reasonable and that the Inspector should vary the condition to use clearer and more precise wording. The Inspector disagreed. Despite finding that although the approved additions were substantial in scale and fundamentally changed the dwelling’s character, that the dwelling is located on the eastern edge of the village and that the east facing elevation was of substantial depth, the Inspector concluded that the condition was not necessary or reasonable and failed to meet the tests for conditions set out in paragraph 206 of the National Planning Policy Framework, or – by implication – that it was not necessary for the mortar used in the stonework to include lime. This decision is at odds with all other comparable appeal cases and the Council’s approach to mortar used with natural stonework in the District. In coming to his decision, the Inspector appears to have confused lime render of surfaces with lime mortar used in stonework, though it is acknowledged that the wording used in the condition may not have helped in this regard.

The Inspector also allowed the appellant’s costs application, finding that the Council had acted unreasonably. The Inspector agreed with the Council that the condition was unreasonably and imprecisely worded, but disagreed with the Council that the condition was necessary. The Inspector placed weight on the fact that a previous (2012) decision for similar proposals had not required lime coloured mortar to be used. In addition, the Inspector appeared to agree with the Council that the objectives of Condition 4 were achieved through Condition 3.

The Council will continue to require the use of lime mortar in natural stonework, but will learn the lessons regarding the clarity and precision of conditions it imposes.

6) Dismissed the appeal by Mr Gardener against the refusal of reserved matter to application 14/01981/OUT, erection of five detached dwelling. Land at Home Farm Close, OX25 2LZ. - 16/01053/REM – (Delegated).

The appeal related to a reserved matters application for the erection of five dwellings. The details for consideration were layout, scale and appearance. The Inspector identified the main issue as being the effect on the character and appearance of the area.

The appeal site forms part of a field on the edge of the village that would sit behind a row of existing dwellings. The housing which the appeal scheme would sit behind is a row of modest terraced houses and the appeal scheme proposed five dwellings of a significantly larger scale and a more complex form than the nearby development.

The appellant stated that the layout of the development was intended to create a courtyard effect. This was acknowledged by the Inspector, however it was considered that the development would be of significant massing on the site and the elongated forms of the buildings would be more akin with estate development of large houses. The siting of Plots 1 and 2, backing onto the open countryside was considered to result in a harsh edge to the village which would be visible from the countryside.

The Inspector accepted that given the size of the site, there is scope for the housing to be larger than the terraced housing located nearby, however the scale of development proposed was considered to be excessive in this sensitive, edge of settlement location.

The Inspector concluded that the development would harm the character and appearance of the area. The development would be contrary to Policies ESD13 and ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1 and saved Policies C28 and C30 of the Cherwell Local Plan 1996.

7) Dismissed the appeal by Mr Barakzai against the refusal of planning permission for replacement of existing porch and concrete roof over bay; demolition of garage and erection of single storey rear and two storey side extension. 55 Croft Avenue, Kidlington, OX5 2HT. 16/01294/F – (Delegated).

The main issue identified by the Inspector, in respect of this appeal, was the effect the proposed two storey extension would have on the character and appearance of the local area.

The Inspector considered that as the extension would be not set down in height, set back from the front elevation nor set off the side boundary with 57 Croft Avenue; it would result in a terracing effect, detracting from the character of the pairs of semi-detached dwellings, which make up the majority of Croft Avenue, and the openness of the locality.

The Inspector found that although there were a number of similar extensions on Croft Avenue he was satisfied that they did not create a significant precedent. The Inspector therefore concluded that the appeal should be dismissed as the proposed extension would be contrary to Policies C28 and C30 of the Cherwell Local Plan 1996 and Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1.

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